

## **Family and Medical Leave Act of 1993 (FMLA) Policy**

**5.7 Family and Medical Leave Act of 1993 (FMLA) Policy** - In compliance with the FMLA, Auburn University will grant an eligible employee up to 12 work weeks of unpaid, job-protected leave within each calendar year (beginning on January 1 and concluding on December 31) for any one or a combination of the following reasons:

- 1) The birth of a child or to care for their newly-born child.
- 2) The placement of a child with the employee for adoption or foster care.
- 3) The care of a family member (spouse, minor child, or the employee's parent) who has a serious health condition (as defined below).
- 4) The employee's serious health condition which renders the employee unable to perform their job duties.

Employees can take FMLA leave for their biological child, adopted child, foster child, stepchild, legal ward, or other child for whom they have day-to-day and financial responsibility. A child must be under age 18, or over 18 and incapable of self-care because of a physical or mental disability.

**Married Co-workers** – If two spouses are both eligible employees of Auburn University, they are each entitled to up to 12 work weeks in a calendar year for the birth of a child or to care for their newly-born child, or for the placement of a child for adoption or foster care.

### **Military Family Leave:**

**Qualifying Exigency Leave** - Eligible employees with a spouse, son, daughter, or parent on active duty or call for active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include 1) short-notice deployment, 2) attending certain military events, 3) arranging for alternative childcare and school activities, 4) addressing certain financial and legal arrangements, 5) attending certain counseling sessions, 6) rest and recuperation, 7) attending post-deployment reintegration briefings, and 8) additional activities agreed to by the University and the eligible employee.

**Military Caregiver Leave** - FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is the employee's spouse, minor child, parent or next-of-kin who is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious illness or injury incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability

retired list.

5.7.1 **Eligibility** - Employees are eligible if they have been employed with the University for at least 12 months and have worked at least 1250 hours over the preceding 12 months. For salaried employees, a 60% (or greater) appointment for 12 months would equal at least 1250 hours. For part-time biweekly employees, actual hours worked as reported on biweekly time sheets will be calculated to determine if 1250 hours were worked in the preceding 12 months

5.7.2 Employees must substitute any accrued paid sick leave for the FMLA leave if the absence is for reasons as covered by the University's sick leave policy. Employees using salary continuation (short term disability) along with the Auburn University On-Job Injury program for FMLA qualifying reasons will be placed on FMLA leave, which will run concurrently with the short term disability or On-Job Injury Program. Employees may choose to substitute accrued paid vacation leave for FMLA leave that would otherwise be unpaid. The maximum FMLA leave allowed in 12 months is 12 weeks whether paid or unpaid.

5.7.3 Certification of the attending health care provider must be provided when FMLA is for your own or immediate family member's serious health condition.

FMLA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

Eligible employees may take FMLA leave intermittently (in blocks of time), or by reducing your normal weekly or daily work schedule, when medically necessary for your own or immediate family member's serious health condition. Intermittent leave is not permitted for birth of a child, to care for a newborn, or for placement of a child for adoption or foster care. Employees who require intermittent or reduced-schedule leave should try to schedule their leave to minimize disruption of their unit's operation.

#### 5.7.4 **Definitions**

a) **Family Member** - The employee's child, parent or spouse. These terms are defined as follows:

1) **Child** - A biological, adopted, or foster child, a stepchild, a legal ward or child or a person standing in loco parentis who is either under 18 or who is 18 or older and incapable of self-care because of a mental or physical disability.

2) **Parent** - A biological parent or any individual who stood in loco parentis when the employee was a child as defined above. The term does not include parents-in-law.

3) **Spouse** - A husband or wife as defined or recognized under appropriate state law.

b) **Next-of-kin** – Nearest blood relative.

c) **Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or (2) continuing treatment by a health care provider. **“Continuing treatment”** includes a period of incapacity of more than three consecutive calendar days, as well as any incapacity due to pregnancy, prenatal care, a chronic health condition, a permanent or long-term condition, multiple treatments for restorative surgery.

d) **Health Care Provider** - Includes, but is not limited to, a doctor of medicine or osteopathy, clinical psychologist, podiatrist, dentist, optometrist, chiropractor, or licensed nurse practitioners. The University requires that a medical certification be obtained from the attending health care provider for any request for FMLA leave for a serious health condition of self or family member. Medical certification forms ([WH380E](#) for employee; [WH380F](#) for family member) can be obtained from supervisors or the Department of Human Resources.

#### 5.7.5 Procedures

a) Eligible employees requesting FMLA leave should contact their immediate supervisor to obtain a leave request form ([HR8](#)) and a medical certification form (WH380E or WH380F); or military family leave certification for serious injury or illness ([WH385](#)); or military family leave certification of exigency ([WH384](#)).

b) The leave request form is to be completed at least 30 days in advance for foreseeable leave; for unforeseeable circumstances, the employee must inform their supervisor as soon as possible, but not more than two days after the beginning of the absence.

c) The medical certification form is to be completed by the attending health care provider and returned to the supervisor before the leave begins, if possible, and within 15 business days. The supervisor will attach the medical certification to the leave request form when submitting it to the Department of Human Resources.

d) Supervisors who have questions about the employee's eligibility, the required forms, types of health care provider, or other aspects of the FMLA leave request should contact the Department of Human Resources before approving the FMLA leave. Form [WH381](#) is to be completed by the department giving the employee approval of the request, and notice of their rights and responsibilities, within five business days of the employee notifying the University of the need for FMLA, with a copy sent to Department of Human Resources.

e) Forms for FMLA leave can be found on the [HR web site](#).

5.7.6 **Health or Life Insurance** - During the FMLA leave, the University will maintain the employee's

coverage for health and life insurance as follows:

a) If there is a sufficient amount in the pay period, the premium will be deducted from the employee's paycheck.

b) If the employee is not in a pay status, the amount of the premium normally deducted for the particular pay period must be received in the Auburn University Payroll and Employee Benefits Office on or before the last day of the month for salaried employees and on or before the biweekly pay date for hourly employees. Payment must be by check or money order made payable to Auburn University.

**5.7.7 Other Benefits** - Employees will not accrue any annual or sick leave while on unpaid leave for any reason. Employees receiving pay through an approved On-the-Job-Injury claim will continue to accrue leave at their regular rate. Those employees on intermittent or a reduced work schedule will accrue leave in proportion to the hours worked.

**5.7.8 Reinstatement** - An employee taking leave under this policy will be returned to the employee's same position if possible, and, if not possible, to an equivalent position. If the employee would have been terminated (e.g., layoff or termination of a temporary position), the employee will not be returned to his or her former position. For an employee taking FMLA leave for his or her own serious health condition, the University requires a certification from the health care provider that the employee is able to return to work.

#### **5.7.9 Rights and Obligations**

a) The University reserves the right to request periodic reporting from the employee as to the status of the leave and the intent to return to work. The University may also request that a medical condition be recertified but no more often than every 30 days.

b) The University may request that a second opinion be obtained from an independent medical provider selected by the University. The University will pay for the second opinion. If that opinion differs with the first one, a third opinion (by a provider agreed to by the University and the employee) will be obtained and will be considered final and binding. The University will pay for the third opinion.

c) This policy does not create any employment rights for any individual other than specifically stated in this policy.

d) Outside employment during FMLA leave is prohibited, and may result in disciplinary action, up to and including immediate termination of employment.

e) This policy is intended to comply with the Family and Medical Leave Act and should be interpreted in light of regulations implementing the act. In particular, terms used in this policy have the meanings they are given in the regulations implementing the FMLA.

f) Employees must inform their supervisor that they need family or medical leave and when they expect to be absent. However, supervisors must not ask or inquire about the reasons for the employee's leave request. Instead, to ensure the employee's privacy, Human Resources will make any necessary inquiries and evaluate whether the leave request should be approved. Human Resources is responsible for ensuring that all medical information provided by employees is maintained in the strictest confidence.

g) Employees and employers have various rights and obligations under the FMLA. For further information, a copy of the FMLA regulations is available for review in the Department of Human Resources.