

**3359-11-02 Family and medical leave, leave of absence, paid maternity leave, paid paternity leave, paid adoptive and foster parent leave and vacations for employees other than bargaining unit faculty.**

(A) Family and medical leave.

- (1) Under the Family and Medical Leave Act of 1993 ("FMLA"), up to twelve weeks of leave without pay during any twelve-month period are provided to eligible employees for certain family and medical reasons. Employees are eligible if they have been employed by the university for at least twelve months, this twelve-month period need not be consecutive, and worked at least one thousand two hundred fifty hours (0.6 FTE) over the twelve-month period preceding the leave. FMLA leave without pay will be granted for any of the following reasons:
  - (a) The birth of a child, the care of a newborn child, or placement of a child with the employee for adoption or foster care;
  - (b) A serious health condition of the employee that renders him or her unable to perform his/her job functions; or
  - (c) In order to care for an employee's child, spouse, or parent who has a serious health condition.
  - (d) A "qualifying exigency" arising out of the fact that the employee's spouse, child or parent is called to covered active duty (or notified of an impending call or order to active duty) with the armed forces, including the national guard and reserves. Covered active duty means duty during deployment of the armed forces member to a foreign country. A qualified exigency may include short-notice deployment, attending military events, arranging for alternative childcare, addressing financial and legal arrangements, seeking counseling, attending post-deployment activities, and other similar circumstances.
  - (e) Leave related to a child's birth or placement for adoption or foster care must be completed within the twelve-month period beginning on the date of the birth or placement.
- (2) A leave of absence of up to twenty-six weeks in any single twelve-month period (rolling forward) will be granted to eligible employees for the following purposes:
  - (a) To care for a covered family member or next-of-kin (nearest blood relative) who has a serious injury or illness incurred by the service member in the line of duty on active duty in the armed forces (or existed before the active duty began and was aggravated in the line of active duty in the armed forces) and that may render the service member medically unfit to perform his/her duties. The service

member must be:

- (i) Undergoing medical treatment, recuperation or therapy;
  - (ii) In outpatient status; or
  - (iii) On the temporary disability retired list for the serious illness, or injury.
- (b) To care for a veteran who is a covered family member or next-of-kin (nearest blood relative) who has a qualifying serious injury or illness incurred by the member in the line of duty on active duty in the armed forces (or existed before the member's active duty began and was aggravated by service in the line of active duty in the armed forces) and that manifested itself before or after the member became a veteran. The veteran must be undergoing medical treatment, recuperation, or therapy for the serious injury or illness and have been a member of the armed forces during the five years preceding the date on which the veteran underwent the medical treatment, recuperation, or therapy.
- (c) Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed twenty-six weeks in any single twelve-month period.
- (3) Subject to the provisions of the applicable policies, paid vacation leave or paid sick leave may, at the employee's option, be substituted for leave without pay while on FMLA leave.
- (4) If the employee fails to provide at least thirty days' advance notice when the leave is clearly foreseeable, leave may be delayed until at least thirty days after the date the employee provides notice to the employer. If the employee fails to provide a medical or other certification to support a request for leave, leave may be delayed until certification is provided. If the employee never produces certification then the leave is not FMLA leave. The university may, at its own expense, request a second and/or third opinion. If the employee or employee's family member fails to authorize his/her health care provider to release all relevant medical information pertaining to the health condition at issue, as requested by the health care provider for the second/third opinion, the university may deny the taking of FMLA leave. However, if the university requests a second and/or third opinion, and the employee authorizes his/her health care provider to release the relevant medical information, the employee is provisionally entitled to the FMLA leave pending the employer's receipt of the relevant medical information.
- (5) Group health benefits will be continued for the duration of an FMLA leave. Upon return, an employee will be restored to his or her original or an equivalent position with equivalent pay, benefits and other employment terms.

- (6) A "rolling" twelve-month period measured retrospectively from the date an employee uses any FMLA leave shall be used to determine the "twelve-month period" in which the twelve weeks of FMLA leave entitlement occurs.
  - (7) Family and medical leave may be used on a continuous basis. It may also be used on an intermittent basis, or as a reduced work schedule as provided by law. Application for FMLA is made to human resources, and approval of the request made by human resources.
  - (8) When intermittent or reduced work schedule leave is foreseeable due to planned medical treatment, the employee must make reasonable efforts to schedule the treatment so as not to unduly disrupt the university's operation, and the university may temporarily transfer the employee to an alternative position for which the employee is qualified, if it better accommodates these recurring periods of leave.
  - (9) Nothing in this section shall be deemed to create any additional benefits, rights, or entitlements to employees beyond those provided by the provisions of the FMLA or applicable law of the state of Ohio. For the purpose of implementing this FMLA policy, the definitions and provisions of the FMLA in effect at that time shall be followed when necessary to ensure compliance with the law.
- (B) Maternity leave. Upon delivery, an employee who is on active pay status shall, in the ordinary course of recovering from either a vaginal birth without complication, be entitled to use up to six weeks of accrued sick leave, or if a vaginal birth with complication as verified by a physician or cesarean birth, be entitled to use up to eight weeks of accrued sick leave, as long as the employee has accrued the requisite amount of leave, and if less, then shall be entitled, to use such lesser amount. In any event, the use of such accrued sick leave shall be at the employee's option to use however much time as the employee deems appropriate. If, upon delivery of the child, the employee is not in active pay status, but becomes in active pay status within six weeks, in the case of a vaginal birth without complication, or eight weeks, in the case of a vaginal birth with complication as verified by a physician or cesarean birth, the employee shall be entitled to use accrued sick leave upon being in active pay status for the remainder of the six- or eight-week period, as applicable. In any event, after using (or not using) such accrued sick leave, a full-time employee is granted twenty working days of paid maternity leave not taken from the accrued sick leave. In addition to the paid maternity leave for full time employees, an eligible employee who thereafter is physically unable to perform her duties may elect paid sick leave on the same terms that sick leave is available for any other illness, injury, or disability. In addition, the employee is entitled to FMLA leave if a pre- or post-delivery employee wishes to be absent from work for a period of time longer than the period of actual physical disability (see family and medical leave in paragraph (A) of this rule). Use of maternity leave shall count as part of the twelve-week FMLA leave.

- (C) Paternity leave. A full-time employee who is on active pay status upon a pregnant spouse's delivery is granted, within one-hundred and eighty days of the delivery, twenty working days of paid paternity leave which will not be taken from accrued sick leave, but counted as part of FMLA leave.
- (D) Adoptive and foster parent leave. Upon the adoption of a child or arrival of a foster child, a full-time employee who is on active pay status is entitled to twenty working days of paid leave which will not be taken from accrued sick leave, but counted as part of FMLA leave.
- (E) Leaves of absence for non-bargaining unit faculty, contract professionals, and exempt staff. Leaves of absence without compensation for employees other than bargaining unit faculty may be granted by the board upon recommendation of the president.
- (F) No member of the faculty shall be absent from proper duties at the university for any cause other than sickness, except upon permission of the president, upon recommendation of the faculty member's dean or administrative superior.
- (G) Academic year and vacations.
  - (1) Full-time faculty members on a nine-months' appointment are expected to be on duty during the fall and spring semester and continuing through spring commencement exercises, and are entitled to all academic vacations during that period.
  - (2) Faculty members and designated others on a full-time, twelve-month appointment (effective July first) have one hundred seventy-six hours of vacation as arranged with the dean or administrative supervisor as described in rule 3359-11-03 of the Administrative Code, vacation policy for full-time, twelve-month faculty, contract professionals, and unclassified exempt staff.

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Ted A. Mallo  
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