

**FAMILY AND MEDICAL LEAVE POLICY  
FOR EPA EMPLOYEES  
THE UNIVERSITY OF NORTH CAROLINA  
AT CHAPEL HILL  
Effective August 2, 1993**

**I. PURPOSE**

The Family/Medical Leave Act was adopted by Congress in 1993 to balance the demands of the workplace with the needs of employees and their families. This policy provides a mechanism for employees to access and the University to administer the benefits made available by this legislation.

Under this policy, employees may use vacation or sick leave (if available) or leave without pay for absences from work due to childbirth, adoption, or a serious health condition of an employee or an employee's spouse, child, or parent. A physician's certification is required if a serious health condition is involved. An employee's job and benefits are protected while an employee takes leave under this policy.

**II. DEFINITIONS**

**Parent** - A biological or adoptive parent or an individual who was in the position or place of a parent when an employee was a child.

**Children** - A son or daughter who is under 18 years old or is 18 years old or older and is incapable of self-care because of a mental or physical disability as defined by the Americans with Disabilities Act and who is:

- a biological child; or
- an adopted child; or
- a foster child (a child for whom an employee performs the duties of a parent); or
- a step-child (a child of an employee's spouse from a former marriage); or
- a legal ward (a minor child placed by the court under the care of an employee as guardian); or
- a child or an employee to whom an employee is in the position or place of a parent.

**Spouse** - A husband or wife.

**Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility, or that involves continuing treatment by a health care provider. If inpatient care is not required, absence from work (or school, in the case of a child), or incapacity from normal activities is part of the definition of "serious health condition." The period

of actual physical disability associated with childbirth is considered a serious health condition and must be taken as family/medical leave, whether as paid or unpaid leave.

**Work Week** - The number of hours an employee is regularly scheduled to work each week. Note: For purposes of this policy only, the work week for full-time EPA employees is considered to be 40 hours per week.

**Reduced Work Schedule** - A work schedule involving less hours than an employee is normally scheduled to work. For example: A full-time employee requests a schedule of 30 hours a week, rather than 40 hours a week.

**Intermittent Work Schedule** - A work schedule in which an employee is not at work every scheduled work day, but works on an irregular basis, usually to accommodate some form of regularly scheduled medical treatment.

### III. ELIGIBILITY

Employees who have worked with the University or State government in a permanent or temporary capacity for at least 12 consecutive months without a break in service and who have worked at least 1040 hours (at least 20 hours per week) during the previous 12-month period are eligible for up to 12 work weeks of leave under this policy in any 12-month period. The 12-month period is computed by counting back 12 months from the date the leave begins. Note: For faculty on nine-month appointments, completion of the nine-month service period shall be deemed to satisfy this requirement.

For employees who are eligible, leave can be taken for any of the following reasons:

1. The birth of a child and to care for the child following birth, so long as the leave is taken within 12 months of the birth of the child.
2. To care for a child placed with an employee for adoption, so long as the leave is taken within 12 months of the placement.
3. To care for an employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition.
4. Because an employee has a serious health condition that makes an employee unable to perform the essential functions of an employee's position.

Students are not eligible for family/medical leave.

Leave without pay beyond the 12-week period or for employees who are not covered by this policy is administered pursuant to existing University policy regarding leave without pay. Employees on leave without pay that is not administered under the

Family and Medical Leave Policy who participate in the State of North Carolina Health Insurance Plan or a health maintenance organization are required to pay the full premium (including the University's contribution) in order to continue health insurance coverage during the period of leave without pay.

#### **IV. LEAVE CHARGES**

An employee has several options on how leave is taken under this policy, including vacation leave (if available), sick leave (if available), and leave without pay. In some cases, the specific situation will limit the options which are available.

Before going on leave without pay for medical reasons concerning the employee, an employee first must exhaust all available sick leave. The employee then may choose to exhaust available vacation leave or use any portion of it before going on leave without pay. (If an employee's illness extends beyond the required 60-day waiting period for short-term disability, an employee may choose to exhaust the balance of available vacation leave or to begin drawing short-term disability benefits, if an employee has been approved for the Disability Income Plan.)

For the illness or injury of an employee's child, spouse, or parent, an employee may choose to exhaust available sick and/or vacation leave, or any portion, or go on leave without pay.

For the birth of a child, an employee may choose to exhaust available vacation and/or sick leave, or use any portion of it, or go on leave without pay. These options are available to both parents. However, sick leave may be used by the parent(s) only during the period of the mother's physical disability prior to and following the birth of a child.

For the adoption of a child, an employee may choose to exhaust available vacation leave, or any portion, or go on leave without pay.

Periods covered by paid leave and leave without pay (including leave without pay while drawing short-term disability benefits) count toward the 12 work weeks of leave to which an employee is entitled under this policy.

An employee may work a reduced or intermittent work schedule because of an employee's own serious health condition. When it is determined to be medically necessary, an employee also may request permission to work on a reduced or intermittent schedule to care for the employee's spouse, child, or parent who has a serious health condition.

Reduced or intermittent work schedules are possible under this policy for child birth or for adoption only when the employee and supervisor agree to such a schedule.

If a reduced or intermittent work schedule is foreseeable based on planned medical treatment, the Department Chair may temporarily reassign an employee to a vacant position with the same pay and benefits, and which better accommodates the reduced or intermittent work schedule. The employee is entitled to be reinstated to his/her former position once the reduced or intermittent work schedule and/or temporary reassignment has ended.

An employee is entitled to 12 work weeks of leave in a 12-month period. Since a work week consists of the number of hours an employee is regularly scheduled to work each week, a reduced or intermittent work schedule may result in an employee being on Family and Medical Leave for more than 12 calendar weeks. For example, an employee normally works 40 hours each week. The employee asks for a reduced work schedule of 20 hours per week. Under family/medical leave, the reduced work schedule may continue for up to 24 calendar weeks.

The employee's department is responsible for monitoring the length of Family/Medical Leave.

If an employee works a reduced or intermittent work schedule and does not use paid leave to make up the difference between the normal work schedule and the new temporary schedule to bring the number of hours worked up to the regular schedule, the department must submit a Form PD-7 showing a change in the number of hours an employee is scheduled to work. The department must inform the employee that a reduced or intermittent work schedule in which paid leave does not bring the employee up to his/her regular schedule of hours worked will result in the employee earning leave at a reduced rate. The Comments section of the PD-7 must indicate that this reduction is being processed under the Family/Medical leave policy, if applicable, and that the employee is to remain on the health plan.

## **V. EMPLOYEE RESPONSIBILITY**

An employee must complete Form HR-74, "Request for Family and Medical Leave," and submit the completed form to his/her Department Chair to apply for leave under this policy.

For planned medical treatment necessitated by the serious health condition of an employee or an employee's spouse, child, or parent, an employee must make a reasonable effort to schedule treatment in the least disruptive way possible. If practicable, an employee should give at least 30 days' advance notice of the need for leave.

For birth or adoption an employee shall, if at all possible, give the supervisor at least 30 days' advance notice of the need for leave, subject to the actual date of birth or adoption. If 30 days' notice is not possible, an employee should give written notice of the need for leave as soon as practicable.

An employee should notify the Department Chair in writing if an employee will not be returning from leave as planned. Failure to report back to work at the end of the scheduled leave may be considered as a voluntary resignation.

## **VI. CERTIFICATION**

A request for leave due to a serious health condition of an employee, or an employee's child, spouse, or parent must be supported by a physician's certification which includes the date the serious health condition began; the probable duration of the condition; appropriate medical facts regarding the condition; and a statement that the leave is needed to care for the child, spouse, or parent, and an estimate of the amount of time that care will likely require; or a statement that an employee is unable to perform the essential functions of the position, whichever is appropriate.

Where a reduced or intermittent work schedule is requested due to planned medical treatment, the tentative date(s) on which treatment is to be given and the approximate duration of treatment and its possible effects on the employee must be included in the physician's certification.

In the event the Department Chair needs additional information or has reason to believe a second opinion is appropriate, the Department Chair may require an employee to submit to a second medical examination. The second physician shall be designated and paid by the department.

If the second opinion is different from the first certification, the Department Chair shall require an employee to be available for a third medical examination. The third physician shall be designated by both the employee and the department, and will be at the department's expense. The third physician's opinion is final and binding on the department and an employee. The department may require, on a reasonable basis, subsequent recertifications, at its expense, during the period of leave.

For purposes of adoption, a request for leave under this policy must be supported by reasonable proof of the adoption. Reasonable proof includes documentation from the licensed adoption agency or court documents.

All medical documentation under this policy is kept in the Benefits Department of the Office of Human Resources. Medical documentation under this policy is kept separate from employee personnel files and is confidential.

## **VII. EMPLOYMENT AND BENEFITS PROTECTION**

An employee's job and certain benefits are protected during the period of family/medical leave, whether taken as vacation leave, sick leave, leave without pay, or any combination.

An employee must be reinstated to the same position held when the leave began, or one of similar pay, benefits, and other conditions of employment. During the period of leave, the department may require reports from the employee at reasonable intervals on his/her status and intention to return. Before returning from leave, an employee must have a physician or other health care provider's certification that he/she is able to return to work and perform the essential functions of the position.

The University shall maintain coverage for an employee under the State of North Carolina's group health insurance plan or health maintenance organizations for the duration of family/medical leave at the level and under the conditions coverage would have been provided had an employee not taken leave. Coverage is maintained even if an employee uses leave without pay for some or all of the leave period.

If an employee fails to return at the end of the period of leave, the University may recover its portion of the health insurance premiums paid on an employee's behalf unless the failure to return is due to the continuation, recurrence, or onset of serious health condition, or other circumstances beyond an employee's control. If an employee returns to work and remains at work for at least 30 calendar days following the end of the period of family/medical leave, the employee is not required to repay the health insurance premiums.

All benefits (e.g. leave earnings, retirement service credit) will continue to accrue during any period of paid leave. However, no benefits will accrue during any period of leave without pay. An employee must be reinstated without loss of benefits that had accrued when the leave began.

For additional information on family and medical leave, contact your Human Resources Facilitator or call Human Resources Administration at 962-3894.