



## Family and Medical Leave Policy

In accordance with the Family and Medical Leave Act of 1993 (FMLA), as amended, Mercer University provides up to 12 workweeks of unpaid, job-protected leave to eligible employees for specified family and medical reasons during a rolling 12-month calendar or up to 26 workweeks for the care of a covered service member during a single 12-month period. FMLA leave may be paid, unpaid or a combination of paid and unpaid leave as specified in this policy. Even if an employee has paid sick and/or vacation leave available to cover absence(s), if the need for absence is for a FMLA qualifying reason, this policy will be followed.

### Administration

The Human Resources Office is responsible for administering the FMLA policy, including all notifications and forms, and monitoring compliance with all FMLA regulations.

### Eligibility Requirements

To be eligible for FMLA leave, an employee must meet both of the following requirements:

- Employed by Mercer for at least 12 months (need not be consecutive; breaks must not exceed 7 years);
- Worked at least 1,250 hours during the 12 months immediately preceding the start of the FMLA leave.

### Qualifying Reasons

Eligible employees may take up to 12 workweeks of FMLA leave during a rolling 12-month calendar for one or more of the following reasons:

- The birth of a child or placement of a child with the employee for adoption or foster care during the 12-month period following the birth or placement;
- To care for a spouse, child\*, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the essential functions of their job;
- For qualifying exigencies related to the foreign deployment of a covered military member who is the employee's spouse, child, or parent.

*\*children under the age of 18 or 18 years of age or older and incapable of self-care because of a mental or physical disability*

Eligible employees may take up to 26 workweeks of FMLA leave during a single 12-month period to care for a covered service member with a serious injury or illness that was incurred in the line of duty while on active duty when the employee is the spouse, child, parent or next of kin of the covered service member. This military caregiver leave is available to an eligible employee once per covered service member, per serious injury or illness.

### Serious Health Condition

For this policy, a serious health condition includes an illness, injury, impairment, or physical or mental condition of the employee or covered family member that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- a period of incapacity requiring absence of **more than 3 consecutive work days** that also involves continuing treatment by (or under the supervision of) a health care provider; or

- a period of incapacity resulting in intermittent absences that persist **more than 1 day/month** on a recurring basis that also involves continuing treatment by (or under the supervision of) a health care provider.

### **Employee Notice Requirements**

When the need for leave is foreseeable, employees must provide at least 30 calendar days advance notice to Human Resources. When the need for leave is unforeseen or there is a need for intermittent leave occurring more than 1 day/month on a consistent basis, the employee must provide notice as early as circumstances permit, generally within two working days of learning of the need for leave. All employees must comply with their department's normal absence notification procedures.

Employees must provide sufficient information for the University to determine if the need for leave qualifies for FMLA protection and the anticipated timing and duration of the leave. Employees must also inform the University if the requested leave is for a reason for which FMLA leave was previously taken or certified.

When the requested leave is for (1) a serious health condition of the employee, (2) to provide care for a spouse, child or parent with a serious health condition, (3) a qualifying exigency, or (4) military caregiver, the employee will be required to provide a completed certification form within 15 calendar days of receipt of the notice of FMLA rights. It is the employee's responsibility to furnish a complete and sufficient certification and if necessary, furnish any authorization that may be required to release a complete and sufficient certification to support the employee's FMLA request. Recertification of medical conditions may also be requested at reasonable intervals. Failure to provide the certification when requested may result in FMLA leave being denied and/or disciplinary action.

If approved for FMLA leave, employees are required to report periodically on their status and intent to return to their position.

### **University Notice Requirements**

Within 5 business days of receiving notice of an employee's need for leave, Human Resources will inform the employee if they are eligible under the FMLA policy. If eligible, the employee will receive a written notice of their rights and responsibilities under the FMLA policy, as well as notification of any additional required documentation or certifications. If the employee is not eligible for FMLA leave, the University will provide a reason for the ineligibility.

### **Calculation of FMLA Leave**

FMLA leave begins the **first** day of absence for an approved, qualifying event. The amount of FMLA leave available to an employee at the time of their leave request will be measured on a rolling 12-month calendar. As such, each time an employee takes FMLA leave, the remaining leave entitlement will be the balance of the 12 workweeks which have not been used during the immediately preceding 12 months.

FMLA leave for the care of a covered service member with a serious injury or illness that was incurred in the line of duty while on active duty will be for a single 12-month period.

### **Intermittent Leave/Reduced Schedule**

Under certain circumstances, FMLA leave may need to be taken on an intermittent basis (in separate blocks of time) or on a reduced schedule by reducing the employee's usual working hours per workweek or workday, to include:

- When medically necessary for employee's own qualifying serious health condition as certified by a healthcare provider; or
- To care for the employee's spouse, child, parent or covered service member with a qualifying serious health condition as certified by a healthcare provider; or

- Qualifying exigencies; or
- The birth of a child or placement of a child with the employee for adoption or foster care during the 12-month period following the birth or placement, only if approved in advance by the supervisor and/or Dean and Human Resources.

Where the leave is because of a serious health condition of the employee or for the care of a covered family member with a serious health condition, the employee must provide a medical certification indicating the need for intermittent leave or reduced work schedule.

Employees must make reasonable efforts to schedule leave for planned medical appointments so as to not unduly disrupt the University's or department's operations. Where the period(s) of leave is foreseeable, the employee may be required to temporarily transfer to an available alternative position or assume different job responsibilities during the period of intermittent leave or reduced schedule which better accommodates the known recurring period(s) of leave.

During intermittent leave or working a reduced schedule, employees must continue to follow all regular department/division policies regarding call-in procedures and requesting leave with their supervisor or the supervisor's designee. Employees must notify their supervisor or the supervisor's designee when the requested leave is for an approved FMLA event. Working outside of the employee's regular work schedule, including working through a lunch period, must have prior supervisor approval. Working from home must have prior approval from Human Resources and the employee's supervisor(s).

### **Pay During FMLA Leave**

Although FMLA leave is unpaid, the University will apply all available paid leave or leave accruals to absences related to the FMLA qualifying event, beginning with the first day of absence for the qualifying event, to keep the employee in a pay status for as long as possible. All available paid leave or leave accruals must be exhausted before an employee will be moved to an unpaid status.

#### I. Staff

For eligible classified non-exempt staff, professional/administrative exempt staff, and MERC staff, the University will generally first apply all available sick leave accruals followed by vacation leave accruals for absences related to an approved FMLA event.

#### II. Faculty

For eligible faculty who do not accrue sick leave, a period of paid leave will be given for absences related to an approved FMLA event based on the following:

<b>Years of Service at Mercer</b>	<b>Amount of Paid Leave</b>
1 to 5 years	up to 8 weeks
5+ to 10 years	up to 10 weeks
10+ years	up to 12 weeks

- A. For faculty on contracts less than 12 months, the FMLA leave period is generally only counted during the base contract term as determined by the Dean of the respective school/college. Based on the academic calendar for the particular school/college, official academic breaks are also generally not counted as FMLA leave.
- B. For faculty on 12-month contracts, any available vacation leave accruals will be applied upon exhaustion of the paid leave mentioned above.

### **III. Application of Paid Leave, Leave Accruals and Holiday Pay**

- A. The application of faculty paid leave, leave accruals and most holiday pay will run **concurrently** with FMLA leave and will not extend the 12-week FMLA leave period.
- B. All available paid leave or leave accruals must be exhausted before an employee will be moved to an unpaid status for the remainder of the approved FMLA leave period.
- C. The University counts the application of sick or vacation leave accruals only against regular workdays.
- D. During a continuous FMLA leave period, officially designated holidays occurring during the application of paid leave or leave accruals will be considered as holiday pay (as outlined in the University's Holiday Policy), but will still tracked as FMLA leave.
- E. If a holiday falls during a week when an employee has worked and taken intermittent FMLA leave, the holiday will not count as FMLA leave.
- F. If an employee's work site is officially closed for 1 week or more, for a designated holiday period or other closure, and the employee is generally not expected to report for work, this period of time will not count against the employee's FMLA leave entitlement.

### **No Work Permitted While on Leave**

Employees approved for FMLA leave are not permitted to perform any department or University work responsibilities without prior approval from Human Resources and the employee's supervisor(s).

### **Maintenance of Employee Benefits**

During FMLA leave, an employee's current coverage under the University's group health plan will be maintained under the same terms and conditions as before the start of FMLA leave. The employee must continue to pay any share of health plan premiums they would have paid, either by prepayment or at the same time payment would have been due. The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's approved FMLA leave.

### **Return from FMLA Leave**

Upon return from FMLA leave, most employees will be restored to their original position or to an equivalent position with equivalent pay, benefits and other employment terms. Where the leave was because of the employee's serious health condition, the employee will be required to present a return-to-work authorization from their healthcare provider indicating when they are able to resume work and the employee's ability to perform the essential functions of their position with or without reasonable accommodation.

### **Additional Information**

In compliance with the law, the University will not interfere with, restrain, or deny the exercise of any right provided under the FMLA, or discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA. Any concerns regarding FMLA issues should be directed to the Associate Vice President for Human Resources. An employee may also file a complaint with the U.S. Department of Labor or may file a private lawsuit. FMLA does not affect any Federal or State law prohibiting discrimination or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights. An employee who fraudulently obtains Family and Medical Leave is not protected by the FMLA's job restoration or maintenance of health benefits provisions and may be subject to appropriate disciplinary action.