

Family and Medical Leave Act

POLICY:

Utica University will provide eligible employees with time off (paid and unpaid) necessitated by illness or family care in accordance with the Family and Medical Leave Act (FMLA) of 1993, as amended. Guidelines for taking leave are fully explained in the Procedure section, below.

SCOPE:

This policy and FMLA laws and regulations apply to all Utica University faculty and staff.

REASON FOR POLICY:

Utica University is committed to providing paid and/or unpaid leave to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA), as amended. This policy is designed to ensure compliance with federal laws and regulations.

DEFINITIONS:

Covered Active Duty

- In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member of the Armed Forces to a foreign country.
- In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign county under a call or order to active duty under a provision of law referred to in [10 U.S.C.§101\(a\)\(13\)\(B\)](#).

Covered Service Member

- A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Eligible Employee – An employee who has been employed by Utica University for at least 12 months and has worked at least 1,250 hours with the University during the previous 12-month period immediately prior to the leave.

Eligible Employee (under military service) – An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member.

Incapacity and Treatment – A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to that condition.

Next of Kin – An individual’s nearest blood relative.

Parent – An employee’s biological parent or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

Qualifying Exigency – An emergency, demand, or need that may include short notice deployment, attending certain military events, arranging for alternative childcare, attending school activities, rest and recuperation, addressing certain financial and legal arrangements, attending certain counseling sessions, or additional activities attending post-deployment reintegration briefings.

Serious Health Condition – An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility or continuing treatment by a health care provider.

Serious Injury or Illness

- In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.
- In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in “Covered Service Member” definition above, a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on activity duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Son or Daughter – A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

- under 18 years of age; or
- 18 years of age or older and incapable of self-care because of mental and/or physical disability

Spouse – A husband, wife, or domestic partner as defined by the University’s [Domestic Partner Benefits](#) policy.

Veteran – a person who served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

PROCEDURE:

Leaves Covered Under This Policy

a. Eligible employees may take up to a total of 12 work weeks of leave during any 12-month period, measured from the first date leave is used, for one or more of the following circumstances:

i. The birth of a child or in order to care for that child; or

ii. The placement of a child with an employee for adoption or foster care; or

iii. A serious health condition that makes the employee unable to perform the essential functions of their job; or

iv. A serious health condition affecting the employee's spouse, child, or parent (not parent "in-law") for which the employee is needed to provide care; or

v. A qualifying exigency arising out of the fact that an employee's spouse, child, or parent is on covered active duty or is called to covered active duty status in the National Guard or Reserves.

b. Eligible employees may take up to 26 work weeks of leave during a single 12-month period to care for a spouse, child, parent, or next of kin who is a covered service member of the Armed Forces as defined above.

c. During the single 12-month period described in paragraph b above, an eligible employee shall be entitled to a combined total of 26 work weeks of leave as outlined in paragraphs a and b above.

Leave for the birth of a child or the placement of a child for adoption or foster care may not be taken intermittently or on a reduced leave schedule unless agreed to in writing by Utica University. This type of leave must end within 12 months of the birth or placement.

Leave due to the serious health condition of an employee, spouse, child, or parent, or for the care of a covered service member who is the spouse, son, daughter, parent, or next of kin of an employee, may be taken intermittently or on a reduced leave schedule when medically necessary, subject to permissible reassignment of job duties during the leave.

Leave for an exigent circumstance due to a spouse, child, or parent being called to covered active duty may be taken intermittently or on a reduced leave schedule.

State and federal leave periods run concurrently, meaning that periods of Workers' Compensation/Short-Term Disability will count as time used toward the 12 weeks of leave under the federal Family and Medical Leave Act. An employee who is out of work as a result of a Workers' Compensation/Short-Term Disability claim is required to complete a [Request for](#)

[Family and Medical Leave](#) as well as any applicable Workers' Compensation and/or Short-Term Disability forms, and time away from work will be counted against the maximum leave entitlement under the FMLA. Other leaves covered under Utica University policies will also run concurrently. Leave granted under this policy in the case of an employee's own serious health condition will require the employee to first use earned paid time (Workers' Compensation, Short-Term Disability, sick time, vacation time, and floating holidays), provided the employee is entitled to those benefits. Leave granted under this policy for all cases other than the employee's own serious health condition will require to first use earned paid time (vacation time, and floating holidays), provided the employee is entitled to those benefits. Once all earned paid time has been used, employees will be entitled to leave provided under the FMLA as unpaid leave.

Employees must provide 30 days' advance notice of the need to take FLMA leave when the need is foreseeable.

Requesting a Leave

Application for any leaves covered by this policy requires the completion of a [Request for Family and Medical Leave](#) with the proper authorizations as follows:

- a. Employees are expected to provide written advance notice of at least 30 days for the birth of a child or for the placement of a child through adoption or foster care. If it is not possible to give 30 days' notice, the employee must give as much notice practicable. Calling in sick without providing more information will not be considered sufficient notice to trigger an employer's obligations under the Act.
- b. If the employee is requesting a leave for a serious health condition, or because of the serious health condition of a parent, son, daughter, spouse, or covered service member, the employee must provide written advance notice to their supervisor to coordinate the dates of the leave and whether the leave will require intermittent leave or a reduced work schedule. The employee must also provide necessary medical certification for the use of the leave to their immediate supervisor.
- c. If the employee is requesting a leave due to a qualifying exigency due to the fact a spouse, son, daughter, or parent is on covered active duty, the employee must provide written notice that is reasonable and practical to their supervisor within 15 days of the request.

In addition, certification from a qualified health care provider is required for the employee or the son, daughter, spouse, parent, or next of kin of the employee requesting the leave and must be completed prior to the beginning of the leave or within five business days after the leave begins. Failure to submit an application and/or certifications within the required timeframe may result in the request being denied or considered as an unexcused leave or unpaid absence, and may result in termination.

All requests for FMLA leave should be submitted in writing to the employee's supervisor, who will then forward the request to the Director of Human Resources in a timely manner. Under no circumstances may the employee's direct supervisor contact the employee's health care provider.

The approved request form must be sent to the Office of Human Resources for final approval and processing within five days of the request. If there is a question of approval, the supervisor should contact the Office for Human Resources immediately.

The [Request for Family and Medical Leave](#), certification forms related to the employee's or family member's health condition, and certification forms relating to military service may be obtained from the Office of Human Resources or from this policy's Related Documents section.

Approval of Leaves

Employees who submit formal requests for FMLA-protected leave or who make inquiries that suggest the need for such leave will receive a [Notice of Eligibility and Rights and Responsibilities](#) from the Office of Human Resources. Employees who receive a Notice of Eligibility and Rights and Responsibilities but have not yet submitted a Request for Family and Medical Leave will need to do so as outlined in the Requesting a Leave section above. After the employee's request has been considered, the Office of Human Resources will provide the employee with a [Designation Notice to Employee of FMLA Leave](#). If the employee is not eligible for FMLA leave, the Office of Human Resources must notify the employee in writing and must provide at least one reason why the employee is ineligible.

In cases of reduced schedules or intermittent leave, a supervisor, in conjunction with the Office of Human Resources, may transfer the employee temporarily to another position in order to accommodate the needs of the work area. In such situations, the employee's salary rate and benefits will remain the same. Intermittent leave or reduced schedules may be arranged only if medically necessary and require confirmation from a physician as well as a statement as to the duration of intermittent leave.

Benefits and Employment Protection

During the period of approved FMLA leave, Utica University will continue the employee's benefit coverage, providing the employee complies with written request(s) for information. In the case of unpaid FMLA leave, Utica University contributions to the retirement program and accruals for vacation, sick, personal, floating holiday, and holiday leave will cease for the duration of the unpaid portion of the leave. Utica University will continue to pay the employee's group health insurance by paying the employee portion of the premiums during the approved unpaid leave. If the employee does not return to work after an approved leave for a reason other than the continuation of the serious health condition, the employee will be responsible for the employee portion of the premium. Other payroll deductions, such as credit union deductions, voluntary benefits, etc., will not continue during periods of unpaid leave.

At the end of the approved leave, an employee will be reinstated to their position or a position of equivalent classification and pay. Return from FMLA leave should be at the same workweek schedule at which the employee was working when they left. However, a supervisor may agree to have a full-time employee return on a half-time or greater schedule if it is mutually convenient. Accepting light duty does not exclude the employee from rights under FMLA, but may jeopardize benefits under Workers Compensation.

If the position has been eliminated due to a reduction in the work force or other operational change under circumstances applying equally to other similar positions in the department or University, efforts will be made to find comparable employment at the University.

Returning to Work

Prior to returning to work from a FMLA leave for personal serious illness, an employee must provide the Office of Human Resources with a completed [Physician's Report – Return to Work Evaluation](#) certifying fitness to return to work.

It is the supervisor's responsibility, in conjunction with the [Office of Human Resources](#), to communicate with the employee during the leave and to obtain proper documentation authorizing the employee's return to work when applicable.

RESPONSIBILITY:

It is the responsibility of the employee to file a written request in a timely manner as outlined in the Procedure section of this policy. It is the responsibility of the supervisor to approve requests, if appropriate, and to forward requests that have been approved to the Office of Human Resources in a timely manner. It is the responsibility of the Office of Human Resources to notify the employee of final approval or denial of the written request within five days.

ENFORCEMENT:

Enforcement of Utica University policies is the responsibility of the office listed in the "Resources/Questions" section of each policy. The responsible office will contact the appropriate authority regarding faculty or staff members, students, vendors, or visitors who violate policies.

Utica University acknowledges that University policies may not anticipate every possible issue that may arise. The University therefore reserves the right to make reasonable and relevant decisions regarding the enforcement of this policy. All such decisions must be approved by an officer of the University (i.e. president, vice president for academic affairs, or vice president for financial affairs).

RESOURCES/QUESTIONS:

Request for Family and Medical Leave Act and other forms are available through the [Office of Human Resources](#) or in this policy's Related Documents section. Contact the Office of Human Resources for questions or more information regarding this policy.

Please note that other Utica University policies may apply or be related to this policy. To search for related policies, use the Keyword Search function of the online policy manual.

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