FAMILY AND MEDICAL LEAVE ACT POLICY AND PROCEDURE

LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT ("FMLA")

EMPLOYEE ELIGIBILITY CRITERIA

To be eligible for a leave, you must have worked for Southwestern University for at least 12 (consecutive or non-consecutive) months and you must have worked at least 1250 hours during that 12-month period prior to the FMLA leave commencement.

EVENTS WHICH MAY ENTITLE AN EMPLOYEE TO FMLA LEAVE

Eligible employees may be entitled to unpaid FMLA for one or more of the following reasons:

- The birth and care of the newborn child of an employee (16 weeks)
- The placement with the employee of a child for adoption or foster care (16 weeks)
- To care for the employee's spouse, child, or parent (but not in-law), who has a serious health condition (12 weeks)
- For a serious health condition that makes the employee unable to perform the employee's job (12 weeks)
- To care for an active member of the Armed Forces, including a member of the National Guard or Reserves (or who has been notified of an impending call to active duty status), 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. (26 weeks) Eligible employees are considered spouse, son, daughter, parent or next of kin.

A "serious health condition" is an injury, illness, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

HOW MUCH FMLA LEAVE MAY BE TAKEN

An eligible employee may take up to 12 weeks for his/her own serious health condition; to care for a spouse, child or parent; 16 weeks of unpaid leave for the birth or adoption of a child; or 26 weeks to care for a qualified member of the Armed Forces during the "12-month period" for any one, or combination, of the above described situations. The "12-month period" in which the 12/16 workweeks (depending on the circumstances) of FMLA may be taken is the 12-month period measured backward from the date an employee uses any FMLA leave (Rolling Backward Method). The military caregiver leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Before an eligible employee may take unpaid FMLA leave, Southwestern University will first substitute for unpaid FMLA leave at least 75% accrued sick leave followed by at least 75% accrued vacation leave. Once all accrued sick leave and vacation leave is exhausted, or at least the

required 75% accrued sick and vacation leave is exhausted, the balance of the 12/16 workweek period will be unpaid.

Any qualifying accrued paid leave, or unpaid FMLA leave, which is approved for FMLA benefits will be charged against an employee's outstanding FMLA leave entitlement.

FMLA leave for childbirth and care or placement for adoption or foster care must conclude within 12 months after birth or placement.

Furthermore, if a husband and wife are both employed at Southwestern University, they can together take only a combined total of 16 weeks of FMLA leave within the "12-month period" for any birth or adoption which they can split between them in any proportions. Any such leave taken by each employee shall be charged against that employee's available 12 weeks of FMLA leave for his/her own serious health condition or to care for a child or spouse with a serious health condition.

MEDICAL CERTIFICATION

Southwestern University requires an employee seeking leave for any medical purpose (except childbirth) to submit medical documentation on the "Certification of Health Care Provider" form in the following situations:

- An initial request for personal or family medical leave (except childbirth or placement, in which case a birth certificate may be required), including justification for any requested intermittent or reduced schedule FMLA leave;
- Before the employee returns to work from leave for a serious health condition to ensure the employee is fit for duty;
- If Southwestern University has paid the employee's health care premiums during the FMLA leave and the employee does not return from such leave due to the employee's own or a spouse's, child's or parent's continuing serious health condition.

Southwestern University may also require employees to provide re-certifications of their health status from the employee's health care providers on a regular basis during such FMLA leave.

If Southwestern University has reason to doubt the employee's health care provider's initial certification, it can seek clarification through its own provider and/or require the employee to undergo a second examination by an independent, Southwestern University designated provider, at the University's expense.

If a disagreement exists between the employee's and Southwestern University's designated health care providers, the matter will be resolved by a third, jointly selected provider, at the University's expense, whose decision will be final and binding for that particular leave request.

HOW FMLA LEAVE IS REQUESTED AND SCHEDULED

Employees seeking to use FMLA leave are required to provide a 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. A Request for Family Medical Leave form is available in the Human Resources department.

The employee will be notified that the leave has been designated FMLA leave before it starts, or before an extension of leave is granted, unless Southwestern University does not have sufficient information as to the reason for the leave until after it commences.

Employees should provide at least 30 days' notice, or such shorter notice as is practicable, for foreseeable childbirth, placement or any planned medical treatment for the employee or his/her spouse, child or parent. Medical certification as described should accompany such notice (except for childbirth or placement).

Employees must make reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt Southwestern University's operations.

In cases of leave for the employee's own serious health condition or that of a spouse, child or parent, the eligible employee may take FMLA leave intermittently or on a reduced schedule leave for foreseeable planned medical treatment, Southwestern University may temporarily transfer the employee to an alternative position, for which the employee is qualified, which has equivalent compensation and benefits, and which better accommodates such irregular leave. Intermittent and reduced schedule leave is not available for leave following the birth or placement of a child.

BENEFITS WHILE ON FMLA

If an employee on FMLA is using sick leave or vacation leave he/she is in a pay status and all benefits continue. Once all paid leave is exhausted and the FMLA becomes an unpaid leave then the University is only responsible for maintaining the employee's health insurance and the University's portion of life insurance premiums.

Under FMLA, Southwestern University will maintain coverage under its group health plan for the duration of an employee's FMLA leave at the level and under the conditions such coverage would have been provided if the employee had continued in employment continuously for such duration. In addition, the University will continue its portion of the life insurance premiums so that life insurance coverage is maintained.

For the portion of FMLA leave which is unpaid, the employee is responsible for payment of his/her portion of insurance premiums during such leave, as if he/she were still on the payroll. Employees will be provided with advance notice of the costs and schedule for such insurance premium payments when he/she returns to work.

If the employee does not return to work from scheduled FMLA leave, except because of his/her own or a spouse's, child's or parent's serious health condition or another circumstance beyond the employee's control, the University may consider the employee to have voluntarily resigned and recover all health premiums it paid on the employee's behalf during any unpaid FMLA leave. Southwestern University may require medical certification of any such alleged continued serious health condition.

Only health benefits will be maintained while on FMLA, arrangements will have to be made with the Human Resources Office regarding payment of various benefits and the termination of others.

EMPLOYEE REINSTATEMENT FROM LEAVE

An employee is entitled to return from qualifying FMLA leave to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment, and without loss of job seniority or any other status or benefits accrued prior to FMLA leave, if all FMLA requirements are met and provided the employee would still be employed if FMLA leave had not been taken.

Seniority and benefits other than group health care do not accrue during unpaid FMLA leave.

LIMITATIONS ON REINSTATEMENT

Certain "key employees" may be denied reinstatement if necessary to prevent substantial and grievous economic injury to Southwestern University's operations. A key employee is a salaried eligible employee who is among the highest paid 10% of all employees at any covered worksite. An employee will be advised at the time of a request for or commencement of, FMLA leave, or as soon thereafter as is practicable, that he/she qualifies as a key employee and that reinstatement may be denied if the University decides that substantial and grievous economic injury to its operations would occur if the employee elects not to return to employment.

An employee who gives notice of intent not to return to work will be considered to have voluntarily resigned. Such notice may be a qualifying event entitling the employee to continuation of health care coverage under COBRA.

In addition, any employee who, besides for reasons other than the continuation, recurrence or onset of a serious health condition or other circumstances beyond the control of the employee, does not return to work from FMLA is obligated to reimburse the institution for the premium the institution paid for maintaining coverage on the institution's health plan.

FURTHER INFORMATION

For further information on FMLA leave, contact the Human Resources department.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, jobprotected leave to eligible employees for the following reasons:

- · For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care:
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to 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 attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

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

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMI A
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

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.

FMLA section 109 (29 U.S.C. \S 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. \S 825.300(a) may require additional disclosures.



For additional information: 1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627 WWW.WAGEHOUR.DOL.GOV



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