

University of Alabama at Birmingham

FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

January 31, 2003

(Replaces policy dated December 18, 1996, and edited June 16, 1999.)

Introduction

Under the federal Family and Medical Leave Act of 1993, qualified employees are entitled to a set amount of *unpaid* leave per year for the birth, adoption, or foster care placement of a child; to care for a spouse, parent, or child with a serious health condition; or when the employee is unable to work because of a serious health condition. An employer is required by the Act to maintain any pre-existing health insurance coverage during the leave of absence period (paying the same share of premiums for persons on family and medical leave of absence as for active employees for a maximum of 12 work weeks). Furthermore, in the case of a health condition of the employee, an employer is required to reinstate the employee to the same or an equivalent position when the leave of absence is over provided the employee is able to perform the essential functions of the job with or without reasonable accommodation.

This policy implements the provisions of the Family and Medical Leave Act of 1993 for faculty members and for administrative, professional, and support staff of the University of Alabama at Birmingham. For requests and/or interpretations not specifically covered herein, UAB will use the applicable wording and stipulations of the Family and Medical Leave Act of 1993 to determine entitlement. UAB also will use any additional clarifications and definitions as promulgated by agencies of the federal government.

The Family and Medical Leave Act of 1993 allows an employer to choose the method of determining the type of twelve-month period in which the leave of absence entitlement shall occur. UAB has decided on a “rolling” twelve-month period measured backward from the date an employee uses any leave under the Act.

General Provisions

This policy does *not* replace the sick leave policy.

Granting of the family and medical leave of absence is not automatic. The employee must apply for the leave of absence through his or her supervisor or department head using the form available from Human Resource Management and must provide appropriate documentation such as a certification from a health-care provider or documentation related to adoption or foster care placement. In the case of serious health conditions of the employee, spouse, parent, or child, leave will be approved only for the length of time certified in writing by the person's health-care provider to a maximum of 12 work weeks for family-related health conditions and to a maximum of 16 work weeks for employee health conditions. Any family and medical leave of absence time used (both for the employee's health condition and for family-related reasons) counts toward the total available for use by the employee for family-related reasons during that twelve-month period. In the case of leave for a health condition of the employee, upon return to work the employee must submit a health-care provider's statement certifying the employee's physical ability to perform, with or without reasonable accommodation, the essential functions of the position previously held.

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If an employee's absence from work qualifies as a family and medical leave of absence under the Family and Medical Leave Act, the employee's supervisor is responsible for *specifically designating* the absence(s) and/or leave of absence as family and medical leave of absence. In order for an employee's absence or leave of absence to qualify as family and medical leave of absence and therefore to count as part of the employee's total Family and Medical Leave Act entitlement, the supervisor must notify the employee in writing that the employee's absence is being designated as family and medical leave of absence. Except when information regarding the Family and Medical Leave Act qualifying condition has been provided belatedly by the employee, written notice must be given to the employee within two work days of the supervisor's learning that the employee's absence is due to a Family and Medical Leave Act qualifying reason. If the supervisor is aware that the absence is for a Family and Medical Leave Act qualifying reason, notice that the absence will be counted against an employee's Family and Medical Leave Act entitlement must be given to the employee regardless of whether the employee specifically has requested family and medical leave.

The family and medical leave of absence may be taken on an intermittent basis rather than in a single block of time under certain circumstances as indicated in this paragraph. In the case of serious health conditions of the employee, spouse, parent, or child, leave may be taken intermittently or on a reduced leave schedule when medically necessary. For purposes of this policy, a "serious health condition" is defined as one which requires either inpatient care or continuing treatment by a health-care provider. If agreed to by the employee and the employee's supervisor and/or department/unit head, the employee may take a family and medical leave of absence intermittently to care for a newborn child or a child newly placed with the employee for adoption or foster care. Taking a leave intermittently or on a reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under the Family and Medical Leave Act.

Holiday time, vacation time, personal holidays, and sick time are not accrued during the unpaid portion of a family and medical leave of absence, but unused earned credit is carried forward. The employee's service date, as described in the *You & UAB Handbook for Faculty and Staff*, is retained.

Family-related Leaves of Absence

UAB employees in the following categories of employment may take family and medical leave of absence for family-related reasons indicated below if the employee has twelve months of continuous active service immediately preceding the beginning date of the leave: full-time regular (status code 01), part-time regular (status code 03), interns and/or residents (status code 07), postdoctoral scholar employees (status code 21), three twelve-hour-shift employees (status code 12), and nursing weekend plan employees (status code 17). Employees in other categories of employment who have at least 1,250 hours of service during the twelve-month period preceding a leave also may take family and medical leave of absence as outlined in this policy. Eligible employees may receive up to 12 work weeks of family and medical leave of absence (whether it is paid and/or unpaid leave) during any twelve-month period for the following family-related reasons:

- Birth of an employee's child or to care for the baby.
(Employee's entitlement to leave of absence under this policy expires twelve months from the child's date of birth.)

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- Adoption of a child by the employee or placement of a child with the employee for foster care.
(Employee's entitlement to leave of absence under this policy expires twelve months from the date of adoption or foster care placement.)
- Care of a child, spouse, or parent (but not in-laws) having a serious health condition.
(Dependent children 19 years of age or older are not included unless they are incapable of self care due to mental or physical disabilities.)

During a family and medical leave of absence that is being taken for family-related reasons, accrued sick leave, vacation, and personal holiday time must be used at the beginning of the leave of absence before entering a "non-paid status." Sick leave may be used only for qualified members residing in the same household as the employee. Use of accrued time will not extend the length of time away from the job beyond the 12 work weeks allowed.

Leave of Absence for Health Condition of the Employee

A medical leave of absence of up to 16 work weeks is available to eligible employees for a serious health condition of the employee that makes the employee unable to work. One year of continuous service is not required for taking a leave of absence for an employee health condition. Accrued sick time, personal holidays, and vacation time must be used at the beginning of an employee medical leave of absence before entering a "non-paid status."

Health Insurance Coverage

During an approved family and medical leave of absence, employees enrolled in UAB's health insurance plan at the time their leave of absence begins may continue their health insurance coverage. Employees with less than twelve months of service will be required to pay the full cost of the health insurance. UAB will continue to pay the employer matched rate for employees who are eligible for the matched rate provided the employee has been employed at UAB for twelve months or more at the time the leave of absence begins. The employer matched rate will be paid up to a maximum of 12 work weeks; thereafter, the employee may continue the health insurance coverage, provided he or she pays the full group rate premium. If the employee fails to return to work after the leave, UAB may recover payments for health insurance coverage. The premiums will not be recovered if the employee did not return to work as a result of an onset or recurrence of a serious health condition eligible for leave under the Family and Medical Leave Act of 1993 or if the employee failed to return to work due to reasons beyond the employee's control.

Limitations

In the event of birth, adoption, or foster care placement, employees should give a thirty-day advance notice of their intent to take a family and medical leave of absence. It is recognized that, in some situations such as the unexpected early arrival of newborn, adopted, or foster-care children, the employee may not know ahead of time the exact date the event will occur; therefore, exceptions to the thirty-day notice requirement may be made if the employee does not know the specific date thirty days ahead of time.

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The thirty-day notice also applies to medical leaves resulting from planned medical treatments for the employee, spouse, parent, or child. Employees also must make every effort to schedule planned medical treatments so as not to “unduly” disrupt UAB's operations or the functioning of the employee's department/unit.

In cases of childbirth, adoption, foster care placement, or care of a child, if the employee and the employee's spouse both work at UAB, the total amount of annual family and medical leave of absence available is 12 work weeks for each employee.

Reinstatement

The Family and Medical Leave Act of 1993 generally requires an employer to restore an eligible employee to the same job or position (or to an equivalent job or position) which he or she held before the leave began.

Additional Leave

If an employee requests additional leave of absence time beyond the 12 work weeks allowed for family-related leave of absence or beyond the 16 work weeks allowed for employee medical leave of absence, the additional time must be taken as a personal leave of absence, and the employee must meet the requirements for personal leave, including one year's continuous active service and approval of the appropriate dean or administrator.

Form and Poster

The “Family and Medical Leave of Absence Request Form” is maintained by Human Resource Management Benefits. Contact that office for a copy of the form.

The poster entitled “Your Rights Under the Family and Medical Leave Act of 1993 (FMLA)” contains required notification provisions from the Family and Medical Leave Act of 1993 and is maintained and distributed by Human Resource Management Benefits. Contact that office for a copy of the poster.

Implementation

The Office of the Vice President for Financial Affairs and Administration is responsible for procedures to implement this policy.