



SAINT LOUIS  
UNIVERSITY  
— EST. 1818 —

# SAINT LOUIS UNIVERSITY

## FAMILY AND MEDICAL LEAVE ACT POLICY (FMLA)

**Procedure Number:**

**Version Number:** 4

**Classification:**

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**Responsible University Office:** Vice President Human Resources

### 1.0 INTRODUCTION

The federal Family and Medical Leave Act of 1993 (FMLA) as amended, requires employers with 50 or more employees to provide eligible employees with unpaid leave. There are two types of leave available, including the basic 12-week leave entitlement (Basic FMLA Leave), as well as the military family leave entitlements (Military Family Leave) described in this policy.

### 2.0 PURPOSE

This policy establishes the procedures to administer and comply with requests for leave covered by FMLA. Under the FMLA, employees may be eligible for a period of job-protected unpaid leave for certain family and medical reasons as described below. This Family Medical Leave Act Policy provides an overview of employee's rights and responsibilities under the FMLA as well as Saint Louis University's own policies regarding FMLA Leave. Saint Louis University has posted notices of the FMLA at all facilities. The information in those posters is incorporated into this policy by reference.

### 3.0 PERSONNEL AFFECTED

This policy applies to all eligible staff and faculty at Saint Louis University excluding the Madrid campus.

### 4.0 DEFINITIONS

#### 4.1 Serious Health Condition

A "serious health condition" as referenced above means an illness, injury, impairment, or physical or mental condition that involves:

1. In-patient care (i.e., an overnight stay) in a hospital or other medical care facility (including any period of incapacity or any subsequent treatment in connection with such in-patient care);
2. Period of incapacity of more than 3 consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves (i)

treatment 2 or more times by a health care provider or under the supervision of a health care provider within 30 days of the start of incapacity; or (ii) treatment by a health care provider on at least one (1) occasion within 7 days of the start of the incapacity which results in a regime of continuing treatment under the supervision of a health care provider;

3. Any period of incapacity due to pregnancy, or for prenatal care;
4. Any period of incapacity due to a chronic serious health condition requiring periodic visits of at least twice a year for treatment by a health care provider;
5. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, during which the employee (or family member) must be under the continuing supervision of, but need not be receiving active treatment by a health care provider; or
6. Any period of absence to receive multiple treatments by a health care provider or under the supervision of a health care provider, either for restorative surgery after an accident or other injury, or for a condition that will likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment.

#### **4.2 Intermittent and Reduced-Schedule Leave**

Intermittent or reduced schedule leave is leave at varying times for the same qualifying condition. Intermittent leave or reduced schedule leave may be available if the need for leave is due to an employee's serious health condition or an employee's immediate family member's serious health condition and when the need for intermittent or reduced schedule leave is certified by a health care provider. Intermittent or reduced schedule leave is not available for parental leave after the birth or placement of a child for adoption or foster care. Military Caregiver Leave may be taken intermittently or on a reduced leave schedule when medically necessary. Active Duty Leave may also be taken on an intermittent or reduced leave schedule. Employees taking intermittent leave must follow the University's standard call-in procedures absent unusual circumstances.

Employees who take a foreseeable intermittent or reduced schedule leave must attempt to schedule their intermittent or reduced schedule leaves so as not to disrupt the operations of the University and in some instances, the University may require an employee taking foreseeable intermittent or reduced schedule leaves to transfer temporarily to an alternative position for which the employee is qualified and which better accommodates the employee's leave schedule. Pay and shifts would not be effected by a change to an alternate position. Time worked in the alternate position would not count towards the employee's FMLA leave entitlement.

Employees taking unforeseeable intermittent leaves must follow the University's standard call-in procedures absent unusual circumstances.

#### **4.3 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 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 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

#### **4.4 Serious Injury or Illness**

For 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 the line of duty on active duty in the Armed Forces (or that 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; or

For a veteran who was a covered service 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 that 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 manifested itself before or after the member became a veteran.

#### **4.5 Key Employees**

An employee who qualifies as a "key employee" may be denied restoration of employment after a period of FMLA leave if holding the employee's position would cause the company grievous economy injury. A "key Employee" is an employee who is salaried and is among the highest paid ten percent of the work force within 75 miles of the place where the employee reports to work. Upon requesting FMLA leave, and employee will be notified by the University of his/her status as a "key employee" if there is a possibility that the University may deny reinstatement after leave.

### **5.0 POLICY**

An employee may be eligible for up to 12 weeks of unpaid leave during a rolling forward 12 month period for the following reasons:

1. The birth of a child and to care for such child within one year of birth or placement for adoption or foster care of a child and to care for the newly placed child within one year of placement;
2. To care for an immediate family member (spouse, child under 18 years old or 18 and over that is incapable of self-care, or parent) with a serious health condition;
3. Because of a serious health condition which renders the employee unable to work; or

4. Because of any qualifying exigency arising out of the fact that a spouse, son (of any age), daughter (of any age) or parent, defined as a covered military member, is on active duty (or has been notified of impending call or order to active duty) in the National Guard or Reserves or is a retired member of the Armed Forces or Reserves and has been notified of an impending call or order to active duty in support of a contingency operation.
5. Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (Military Caregiver Leave).

### **5.1 Eligibility**

To be eligible for FMLA Leave under this Policy, an employee must have worked at SLU for at least 12 months and must have worked at least 1,250 hours during the 12-month period prior to the commencement date of any leave requested under this Policy. Eligibility will be determined as of the date the leave commences. Employees who work at a site at which fewer than 50 employees are employed within a 75-mile radius are not eligible for leave under this policy. When a request for FMLA is made, the University will advise of the employee's eligibility and the employee's rights and responsibilities.

### **5.2 Documentation Supporting FMLA Leave:**

Your reason for leave must be covered under FMLA and you must provide a completed FMLA Certification of Health Care Provider Form supporting the need for the leave for your own serious health condition or the serious health condition of a family member. A request for reasonable documentation of family relationship verifying the legitimacy of FMLA leave may also be required. You will have up to 15 days to return a completed Certification form following receipt of the form from the University. If you fail to provide timely certification after being required to do so, the University may deny your request for leave under FMLA. If the Certification Form is incomplete or insufficient, you will be given written notification of the information needed and will have 7 days after receiving such written notice to provide the necessary information. If there is reason to doubt the validity of the medical certification, a second opinion, at the expense of the University, may be required. The opinion of the third healthcare provider, which the University and you jointly select, will be the final and binding decision. A request for Active Duty Leave must be supported by the Certification of Qualifying Exigency for Military Family Leave form as well as appropriate documentation, including the covered military member's active duty orders. A request for Military Caregiver Leave must be supported by the Certification for Serious Injury or Illness of Covered Service member or Veteran form as well as any necessary supporting documentation.

### **5.3 Recertification**

In the following circumstances, the University may, in its sole discretion, require recertification of the qualifying reason for FMLA: 1) where the employee needs more leave than the original certification justified; 2) where circumstances and facts cast doubt on the employee's need for

FMLA; or 3) when the need for FMLA extends beyond 6 calendar months. In these situations, the employee will have 15 days in which to provide a completed Recertification form.

## **5.4 Military Family Leave**

**5.4.1. Qualifying Exigency Leave:** A “qualifying exigency” referenced above under “Active Duty Leave” refers to the following circumstances:

1. Short-notice deployment: to address issues arising when the notification of a call or order to active duty is 7 days or less;
2. Military events and related activities: to attend official military events or family assistance programs or briefings;
3. Childcare and school activities: for qualifying childcare and school related reasons for a child, legal ward or stepchild or a covered military member;
4. Covered military member’s parent: Care of the covered military member’s parent if the parent is incapable of self-care;
5. Financial and legal arrangements: to make or update financial or legal affairs to address the absence of a covered military member;
6. Counseling: to attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or child, legal ward, or stepchild of the covered military member;
7. Rest and recuperation: to spend up to 15 calendar days for each period in which a covered military member is on short-term rest leave during a period of deployment
8. Post-deployment activities: to attend official ceremonies or programs sponsored by the military for up to 90 days after a covered military member’s active duty terminates or to address issues arising from the death of a covered military member while on active duty.

**5.4.2. Military Caregiver Leave:** An employee also may be eligible for Military Caregiver Leave to care for a spouse, son (of any age), daughter (of any age), parent or next of kin who is: 1) a current member of the armed forces, including the National Guard or Reserves, and 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, which is incurred in the line of duty (or for a pre-existing injury or illness which is aggravated in the line of duty) and that renders the service member medically unfit to perform the duties of his or her office, grade, rank or rating; or 2) a veteran who was a member of any branch of the Armed Forces, including the National Guard or Reserves, and who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness that occurred in the line of duty (or for a pre-existing injury or illness which was aggravated in the line of duty) at any time within 5 years preceding the treatment, recuperation or therapy. A covered service member incurs a serious illness or injury for purposes of this paragraph when one of the following occurs:

1. The injury or illness makes him or her medically unfit to perform the duties of his or her office, grade, rank or rating.
2. It causes the service member to have a VA Service Disability Rating of 50% or greater.

3. It is a mental or physical condition that substantially impairs their ability to obtain gainful employment.
4. The VA enrolls the employee in the Department of Veteran Affairs Program of Comprehensive Assistance for Family Caregivers.

Eligible employees are entitled to a total of 26 weeks of unpaid Military Caregiver Leave during a single 12-month period. This single 12-month period begins on the first day an eligible employee takes Military Caregiver Leave (as long as it is within 5 years of the covered service member's active duty) and ends 12 months after that date. Military Caregiver Leave applies on a per-covered service member, per-injury basis, so that an employee may be eligible to take more than one 26 week period of Military Caregiver Leave, but no more than 26 weeks of leave may be taken during any one 12-month period.

An eligible employee is entitled to a combined total of 26 workweeks of leave for all FMLA qualifying reasons during the single 12-month period described above. For example, if an employee takes 10 weeks of FMLA leave due to his/her own serious health condition, the employee may take only 16 weeks of Military Caregiver Leave during that same 12 month period.

## **5.5 Married Couples**

Eligible employees of Saint Louis University who are husband and wife are eligible for a **combined** total of 12 weeks of leave within the applicable 12-month period when the leave is due to the birth or placement of a child, or to care for a parent who has a serious health condition, or a combined total of 26 weeks within the applicable 12-month period when the leave is for Military Caregiver Leave. (However, in no event shall the husband and wife take more than a combined total of 12 weeks of leave within the applicable 12-month period for the birth or placement of a child or to care for a parent who has a serious health condition).

## **6.0 RESPONSIBILITIES**

### **6.1 Employee Responsibilities**

If the need to use FMLA leave is foreseeable, the employee must give the University at least 30 days' prior notice of the need to take leave. When 30 days' notice is not possible, the employee must give notice as soon as practicable (within 1 or 2 business days of learning of the need for leave except in extraordinary circumstances). Failure to provide such notice may be grounds for delaying the start of the FMLA leave. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the University's operations. If the need for leave is not foreseeable, employees are required to provide as much notice as soon as practicable under the facts of the particular case. An employee requiring unforeseeable leave must, absent of extraordinary circumstances, call his or her direct supervisor and provide sufficient information regarding the employee's need for leave to support a request for FMLA leave. It generally should be practicable for the employee to provide notice of leave within one business day.

Employees requesting intermittent or reduced leave should consult with their supervisor to schedule medical care at a time that does not unduly disrupt the operations of the department. The employee must follow the call-in procedure when using intermittent leave and must report that they are taking certified FMLA leave when calling in to their supervisor and FMLASource. Employees will be required to provide certification and periodic recertification supporting the need for FMLA leave.

## **6.2 Employer Responsibilities**

When an employee requests leave, the University, through its vendor partner FMLASource, will inform the employee whether he or she is eligible for FMLA. If the employee is eligible for FMLA leave, the employee will be given a written notice that includes details on any additional information he or she will be required to provide. If the employee is not eligible under the FMLA, the University, through its vendor partner, FMLASource, will provide the employee with a written notice indicating the reason for ineligibility.

If leave will be designated as FMLA-protected, the University (through its vendor partner) will inform the employee in writing and provide information on the amount of leave that will be counted against the employee's 12- or 26-week entitlement.

Certain states require employers to provide greater or different job-protected leave than that provided under the federal FMLA law and to family members of persons in the military. When applicable, the University complies with all such state and military family leave laws. When leave provided under one of these laws is covered by the federal FMLA, it also shall count toward the employee's federal FMLA entitlement and as FMLA Leave under this Policy. These family and military family leave laws vary by state, and the employee should contact their Supervisor if the employee has questions about them.

## **7.0 PROCEDURES**

### **7.1 Request for Leave**

All leave requests should be submitted to the University's vendor partner, FMLASource, [www.fmlasource.com](http://www.fmlasource.com) or call **877.GO2.FMLA (462.3652)**. When submitting a request for leave, the employee must provide sufficient information to determine if the leave might qualify as FMLA leave, and also provide information on the anticipated date when the leave would start as well as the duration of the leave.

If the leave is foreseeable (e.g., birth or placement, planned medical care, etc.), the employee must provide Saint Louis University with at least 30-days advance notice of the need for leave. If the circumstances prevent the employee from providing the 30- days advance notice, then the employee should provide as much notice as possible (ordinarily the same or next business day). In the case of active duty leave an employee is not required to provide more than 30 days advance notice. If an employee fails to give the required notice for foreseeable leave with no reasonable excuse, the employee's leave may be delayed until the employee provides adequate notice of need for the leave. Employees should make every reasonable effort to schedule medical treatments so as not to disrupt the ongoing operations of the department.

### **7.2 Pay, Benefits, and Protections**

Employees must concurrently exhaust any workers' compensation benefits, accrued sick time, accrued vacation time, or banked holiday time, or any other form of applicable paid leave for FMLA leave. All substituted paid leave that is being concurrently exhausted will be counted

against an eligible employee's FMLA leave entitlement. After paid leave is exhausted, the remainder of the leave will be unpaid.

During the 12 week maximum leave period, coverage under the group health, dental, and voluntary life insurance plans, if any, will be maintained at the level and under the conditions coverage would have been provided had leave not been taken. Employees will be required to continue to pay their portion of any applicable premiums as if they had not taken leave and failure to do so may result in loss of coverage pursuant to law. If any employee fails to return to work for at least 30 days after expiration of the leave, the employer reserves its right to recover premiums paid, if any, to maintain employee coverage during the leave period under circumstances provided by law.

### **7.3 Medical and other benefits.**

During an approved family medical leave, the University will maintain the employee's health benefits as if the employee continued to be actively employed. If paid leave is substituted for unpaid family medical leave, the University will deduct the employee's portion of the health plan premium as a regular payroll deduction. If leave is unpaid, the employee must pay his or her portion of the premium by contacting the Benefits Office.

An employee's healthcare coverage may cease if the employee's premium payment is more than 30 days late. If the payment is more than 15 days late, the University will send the employee a letter to this effect. If the University does not receive the co-payment within 15 days after the date of that letter, the employee's coverage may cease.

If the employee elects not to return to work for at least 30 calendar days at the end of the leave period, the employee will be required to reimburse the company for the cost of the premiums paid by the University for maintaining coverage during the unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

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

### **7.4 Return to Work**

Employees on FMLA leave must inform their Supervisor of their status and intent to return to work while on FMLA leave. Employees are to notify their Supervisor of their intent to return to work at least two weeks prior to the anticipated date of return. When an employee returns to work from FMLA leave, the employee will be restored to the same job or an equivalent job. Employees returning from FMLA leave must be able to assume all of the essential functions of their jobs, with or without a reasonable accommodation, upon return. The University will provide time for the employee to learn of any changes or new technology implementations. As a condition to restoring an employee whose leave was based on the employee's own serious health

condition, the employee must provide certification from the employee's health care provider stating that the employee is able to resume work. This return to work statement is required for all serious health conditions. If safety issues exist, the University may require a return to work statement every thirty days. An employee returning from FMLA leave does not, however, have a greater right to restoration or other benefits than if the employee had been continuously employed during the leave period.

### **7.5 Failure to Return to Work**

Unless required otherwise by law an employee granted a leave of absence under these provisions who fails to return to work upon expiration of the leave will no longer have protected absences. Further absences will count against the attendance policy.

## **8.0 REFERENCES**

- Equal Employment Opportunity and Affirmative Action Policy
- Faculty Childcare Leave Policy and Faculty Medical Leave
- Harassment Policy
- Long-Term Disability
- Military Leave Policy
- Staff Caregiver Sick
- Staff Sick Leave Policy
- Staff Vacation Policy
- Worker's Compensation

## **9.0 APPROVAL SIGNATURES**

This policy was reviewed by the Office of Legal Counsel, the President's Coordinating Council, the Faculty Senate Executive Committee, and the Staff Advisory Committee Executive Board.

**This policy has been approved by:**

Fred Pestello  
President  
Saint Louis University