

**3356-7-05 Family and Medical Leave Act (FMLA).**

- (A) Policy statement. Youngstown state university is committed to complying with the Family and Medical Leave Act (“FMLA”).
- (B) Purpose. To provide employees with a basic understanding of their rights and obligations under the FMLA.
- (C) Scope. This policy applies to all employees eligible for leave under the FMLA (hereinafter referred to as leave or family and medical leave). In order for an employee to be eligible for leave pursuant to this policy, the employee is required to:
- (1) Have been employed by the university for at least twelve months.
  - (2) Completed at least one thousand two hundred fifty hours worked during the twelve-month period immediately preceding the commencement of the leave.
- (D) Parameters.
- (1) An eligible employee shall be permitted a total of twelve work weeks of unpaid leave during the twelve-month period measured forward from the first date the employee uses family and medical leave.
  - (2) Leave may be taken as paid or unpaid leave. Paid leave is in the form of accrued personal, sick, or vacation leave or documented compensatory time.
  - (3) Family and medical leave may be used for the following reasons:
    - (a) To care for the employee’s child after the birth of the child.
    - (b) To care for a child after the child is placed with the employee for adoption or foster care.
    - (c) To care for the employee’s spouse, child, or parent who has a serious health condition.
    - (d) Because of a serious health condition that makes the employee unable to perform the functions of the employee’s position, including a worker’s compensation

qualifying injury.

- (e) Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. Qualifying exigencies are one or more of the following: short-notice deployment, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, and post-deployment activities.
- (4) An eligible employee may be permitted a total of twenty-six work weeks of leave during the twelve-month period measured forward from the first date the employee uses family and medical leave in order to care for a covered service member with a serious injury or health condition if the employee is the spouse, son, daughter, parent or next of kin of the service member. However, when family and medical leave is used for this reason and one or more of the reasons listed in paragraph (D)(3) of this rule, the eligible employee will be entitled to a maximum combined total of twenty-six work weeks of leave.
- (5) An eligible employee will be required to use any appropriate accrued paid leaves concurrent with unpaid family and medical leave.
- (6) In the event of the continuation, reoccurrence, or onset of a serious health condition of the employee, after such employee has exhausted the twelve work weeks of leave as provided in this policy, the employee may continue to utilize any available accrued leaves or request an unpaid disability leave of absence in accordance with rule 3356-7-08 of the Administrative Code (see university policy 3356-7-08, "Leave without pay for extended serious health condition or disability, excluded professional/administrative staff") or the applicable collective bargaining agreement.
- (7) In any case in which both a husband and wife are employed by the university and both request leave due to the birth or placement with the employees of a child, the total number of work weeks of family and medical leave to which both employees are collectively

entitled will be limited to twelve work weeks during the twelve-month period.

- (8) It will not be considered a break in service when an employee takes leave in accordance with this policy, provided the employee returns to work at the expiration of the leave period. During any uncompensated portion of a leave period, employees shall not accumulate sick, vacation, personal, or any other accrued leave except as may be provided under the terms of a collective bargaining agreement.
- (9) An eligible employee who takes leave in accordance with this policy shall, upon return from such leave, be restored to the position held by the employee when the leave commenced or a similar position of equivalent pay and benefits.
- (10) During any period that an eligible employee takes leave in accordance with this policy, the university shall maintain the employee's group health care coverage under the conditions coverage would have been provided if the employee had continued in employment for the duration of the leave. The employee will be responsible for paying the employee's share of the health insurance costs during the leave. If the employee does not return from the leave, the university may recover the premiums it paid for maintaining the health care coverage during the period of unpaid family and medical leave.

(E) Intermittent leave/reduced leave schedule.

- (1) Leave due to the serious health condition of the employee or the employee's spouse, child, or parent, or to care for a covered service member with a serious health condition or injury, may be taken intermittently or on a reduced leave schedule when medically necessary.
- (2) An employee who takes intermittent leave or a reduced leave schedule for planned medical treatments may be required to transfer temporarily to an alternative position which has equivalent pay and benefits and better accommodates the recurring periods of leave.
- (3) Leave due to a qualifying exigency may also be taken on an

intermittent or reduced leave schedule basis.

- (4) The taking of leave intermittently or on a reduced leave schedule will not result in a reduction in the total amount of leave to which the employee is entitled in accordance with this policy.
- (5) Leave due to the birth or placement of a child may not be taken on an intermittent or reduced leave schedule.

(F) Procedures.

- (1) An employee desiring to take leave under FMLA should contact the human resources office at (330) 941-2137 to obtain information regarding eligibility for family and medical leave.
- (2) Upon requesting family and medical leave, an eligible employee will receive a written notice from the university outlining the employee's rights and obligations.
- (3) U.S. department of labor form WH-380 shall be utilized by health care providers in supporting the leave request.
- (4) An eligible employee will be required to provide the university with thirty days advance notice of the employee's intention to take family and medical leave. The only exception will be when unforeseen circumstances prevent the employee from providing the required notice.
- (5) The university will require an employee to provide medical certification from the employee's health care provider or the family member's health care provider in order to support a leave request to care for a spouse, child, or parent who has a serious health condition, or for leave due to serious health condition that makes the employee unable to perform the essential functions of the employee's position.

The university, at the university's expense, may require a second opinion on the validity of the certification. Should a conflict arise between the opinions of the two health care providers, a third opinion will be sought. The third opinion will be provided by a health care provider mutually agreeable to the employee and the university. The expense of a third opinion will be paid by the

university.

- (6) An employee is required to provide appropriate certification in order to support a leave request because of a qualifying exigency or to care for a covered service member with a serious injury or health condition.
  - (7) As a condition of return to employment, an employee who has taken leave due to a serious health condition that made the employee unable to perform the essential functions of the employee's position, must submit certification from the employee's physician that the employee is able to resume work.
  - (8) All FMLA leaves, paid or unpaid, within a consecutive twelve-month period will be counted toward the twelve-week allocation under FMLA.
  - (9) Employees covered by collective bargaining should refer to their respective labor agreements.
- (G) Prohibited conduct. The following conduct is prohibited and will result in employee discipline up to and including termination and possible loss of benefits:
- (1) Failure to submit required and/or complete documentation.
  - (2) Engaging in fraud, misrepresentation, or providing false information to the university or health care provider.
  - (3) Having other employment during leave without the prior written approval of the chief human resources officer.
  - (4) Failure to timely return from leave.

Replaces: 3356-7-05

Effective: 1/18/2018

CERTIFIED ELECTRONICALLY

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Certification

01/08/2018

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Date

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Statutory Authority: 3356

Rule Amplifies: 3356

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