

**University Policy:** Family and Medical Leave Policy

**Policy Category:** Personnel

**Subject:** Family Medical Leave for Faculty and Staff

**Office(s) Responsible for Review of this Policy:** Office of Human Resources

**Supplemental Documents:**

**Related University Policies:** Sick and Safe Leave Policy, Family Medical Leave Policy, Short-Term Medical Leave Policy

**Related Laws:** Federal Family and Medical Leave Act (FMLA), District of Columbia Family and Medical Leave Act (DCFMLA), District of Columbia Universal Paid Leave Amendment Act

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## I. SCOPE

This policy applies to eligible full-time and part-time staff and faculty.

## II. POLICY STATEMENT

The university offers faculty and staff members the opportunity to take leave for specific family, medical, and military-service related events, in compliance with the District of Columbia Family and Medical Leave Act of 1990, as amended; the federal Family and Medical Leave Act of 1993, as amended; and the District of Columbia Universal Paid Leave Amendment Act of 2016 (which created the Paid Family Leave (PFL) program in the District of Columbia). This is one of the American University policies that supports family, medical and parental leave.

## III. DEFINITIONS

- A. Covered Service Member:** An employee who is a current member of the U.S. Armed Forces (including a member of the National Guard or Reserves).
- B. Covered Veteran:** An employee who was a member of the U.S. Armed Forces (including a member of the National Guard or Reserves), was discharged or released under conditions other than dishonorable, and was discharged within the five-year period before the eligible American University employee first takes military caregiver leave to care for the veteran.
- C. District of Columbia Family and Medical Leave Act (“DCFMLA”):** The District of Columbia law that provides eligible employees with unpaid, job-protected leave for specified

family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

- D. Family Medical Leave Act (“FMLA”):** The federal law that provides eligible employees with unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.
- E. FMLA Definitions of Family Member:** Under the DCFMLA, a family member is defined as a person related by blood, legal custody, or marriage to the eligible employee; or a child for whom the faculty/staff member permanently assumes and discharges parental responsibility; or a person with whom the faculty or staff members shares or has shared within the last year a mutual residence and maintains a committed relationship. A family member under Federal law includes a faculty/staff member's spouse, son, daughter, or parent.
- F. FMLA Leave:** Unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. FMLA Leave is provided to eligible faculty and staff members in a manner consistent with D.C. and federal law.
- G. Full-Time Faculty:** One appointed to a tenured, tenure-track, or term faculty position by the Dean of Faculty. Such positions are paid on a salaried basis and according to a contract.
- H. Full-Time Non-Teaching Faculty (Librarians):** One appointed to a continuing appointment or continuing appointment track by the Dean of Faculty. Such positions are paid on a salaried basis and according to a contract.
- I. Full-Time Staff:** One appointed to a full-time position at the university as identified in and authorized by the personnel budget of the employing department and which requires working at least 28 hours a week for more than three consecutive months.
- J. Intermittent Leave:** Leave that is taken to accommodate conditions requiring periodic absence for medical appointments/treatments or to care for a family member.
- K. Medical Leave:** Leave taken due to a serious health condition of the faculty or staff member or their family member.
- L. Part-Time Employees:** University employees who work fewer than 28 hours a week and adjunct faculty.
- M. Reduced Work Schedule:** A change in the staff member’s work schedule over a period of several weeks or months, normally from full-time to part-time. Consent of the supervisor and human resources is necessary before a faculty or staff member may begin a reduced work schedule as an alternative to intermittent medical leave.
- N. Qualifying Exigencies:** Conditions arising from or related directly to active duty military service and which allow eligible faculty and staff to take leave if their spouse, parent, or child is a Covered Service Member and is deployed to a foreign country or is serving in the Reserves

(members of the National Guard and Reserves) during deployment to a foreign country under a call of order to active duty in support of a contingency operation. Qualifying Exigencies include, but are not necessarily limited to, short-notice deployment, military events and activities, child care and school activities, parental care, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities that arise out of active duty, provided that the university and the faculty or staff member agree on timing and duration of the leave.

- O. Service Member Leave:** Leave taken for a qualifying exigency or to care for a Covered Service Member.
- P. Serious Health Condition:** A physical or mental illness, or an injury or impairment, which requires inpatient care or continuing treatment by a health care provider.
- Q. Serious Illness or Injury of a Service Member:** An illness or injury sustained by a Covered Service Member which occurred in the line of duty while on active duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty and that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating.
- R. Serious Illness or Injury of a Covered Veteran:** An illness or injury sustained by a Covered Veteran which occurred or was incurred or aggravated in the line of duty while on active duty and manifested itself before or after the member became and veteran, and is a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a on active duty and rendered the service member unable to perform the duties of the service member's office, grade, rank or rating; or a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating of 50 percent or greater, and the need for military caregiver leave is related to that condition; or a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs.
- S. Service Member Leave:** A Covered Service Member 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 covered veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness.
- T. Short-Term Medical Leave ("STML"):** University-provided medical leave benefit for eligible full-time employees that continues base salary and benefits for the employee for their own medical condition as defined in the STML section of the *Faculty and Staff Benefits Manual*.
- U. Universal Paid Leave Amendment Act of 2016 ("PFL"):** The District of Columbia law that provides government administered paid leave to employees who work for an employer in the District. The law allows qualifying parental paid leave for up to a maximum of eight (8) workweeks that an eligible individual may take within one year of the occurrence of a qualifying parental leave event, up to a maximum of six (6) workweeks for paid family leave, and up to two (2) workweeks for paid medical leave for the employee's qualifying health condition. No more than a combined eight (8) workweeks of PFL are allowed in a 52-workweek period. Employee

access to PFL leave benefits begins on July 1, 2020. This program for eligible employees is funded fully by a tax paid by American University to the District of Columbia.

#### IV. POLICY

- A. Eligibility.** Full-Time Faculty and Non-Teaching Faculty, Full-Time Staff and Part-Time Employees are eligible for FMLA Leave if they meet certain lengths of service and number of hours worked requirements. Under federal law, a faculty or staff member must have worked at the university at least 1,250 hours during the 12 months immediately preceding the commencement of the leave. Under DCFMLA, the faculty or staff member must have worked at least 1,000 hours during the 12 months immediately preceding the request for leave without a break in employment. Only hours actually worked are counted toward eligibility and periods of paid or unpaid leave (such as annual and sick leave) do not count toward eligibility. However, all periods of absence from work due to covered service under the Uniformed Services Employment and Reemployment Rights Act are counted in the length of service and hours of work when calculating eligibility for FMLA Leave for a Covered Service Member or Covered Veteran.
- B. Applying for FMLA Leave.** When the need for FMLA Leave is known, such as for an expected birth of a child or a planned medical treatment, generally faculty or staff members must submit an application and supporting documentation at least 30 days in advance of the requested effective date of leave. When the need for leave arises unexpectedly, faculty and staff must complete the application for leave as soon as possible. Faculty and staff members should inform their supervisors/department chairs of their request for leave as soon as possible and should work with human resources to review the process. Staff may use annual leave, sick leave or leave without pay until the FMLA Leave application is approved.
- C. Length of Leave.** In general, under federal law, faculty and staff are limited to a total of 12 workweeks of leave (26 workweeks in the case of leave to care for a Covered Service Member or Covered Veteran) during any 12-month period. Under D.C. law, faculty and staff are limited to a total of 16 workweeks for care of a family member and 16 workweeks of for their own medical condition during any 24-month period. In addition, D.C. and federal FMLA Leave run concurrently with each other. In evaluating the length of eligible leave, the faculty or staff member will receive the maximum leave allowed under both laws. A rolling period of 24-months or 12-months, as applicable, measured backwards from the date the faculty/staff member uses FMLA Leave will be used to calculate the amount of FMLA Leave a faculty/staff member is eligible for in any given 24-month or 12-month period. This means that each time a faculty/staff member takes FMLA Leave, the remaining leave entitlement would be any balance of the 16 or 12 weeks that have not been used during the prior 24 or 12 months. Two family members, who work in the same office and have the same or interrelated duties, may only take a combined total of 16 or 12 weeks of FMLA Leave.
- D. Intermittent Leave.** Eligible employees may take FMLA leave to accommodate conditions requiring periodic absence for medical appointments/treatments or to care for a family member on an intermittent basis. Alternatively, with the approval of their department and the human resources office, the leave may be taken on a reduced-schedule basis over a period of weeks or months, and normally involves reducing work hours from full-time to part-time.

**E. Reasons for FMLA Leave.** Eligible faculty and staff members may take FMLA Leave for the care of family members for the following reasons:

- The birth of the faculty or staff member's child (leave must be taken within 12 months after birth); or
- The placement of a child with the faculty or staff member for adoption or foster care (leave must be taken within 12 months after the placement); or
- The placement of a child with the faculty or staff member for whom the faculty or staff member permanently assumes and discharges parental responsibility (leave must be taken within 12 months after that placement) (under D.C. Law only); or
- The care of a family member who has a serious health condition.

Faculty or staff members who are unable to perform their job responsibilities due to a "serious health condition" can take unpaid FMLA Leave. The university's Short-Term Medical Leave (STML) benefits will run concurrently with FMLA Leave for faculty and staff eligible for STML.

**F. Coordinating FMLA Leave with PFL.** PFL runs concurrently with any FMLA, and/or DCFMLA. More information about the DC Paid Family Leave (PFL) can be found in the Legally Required Benefit Section of the *Faculty and Staff Benefits Manual*. PFL mandates benefit payments but does not provide job protections, while FMLA and DCFMLA provide certain job protections.

**G. Coordinating FMLA Leave with Other Leave Plans.** An approved FMLA Leave will run concurrent with university-sponsored leave plans, including Short-term Medical Leave, accrued annual leave, accrued sick leave. Information about these leave plans can be found in the *Staff Personnel Policies Manual* and the *Faculty and Staff Benefits Manual*.

**H. Federal FMLA Family Leave for a Qualifying Exigency and Care for An Injured Service Member.** Faculty and staff members may use leave for a Qualifying Exigency if their spouse, child or parent is a Covered Service Member and is being deployed to a foreign country or serving in the Reserves (members of the National Guard and Reserves) during deployment with the Armed Forces to a foreign country under a call of order to active duty in support of a contingency operation. Eligible faculty and staff members may take leave to care for a Covered Service Member if the Covered Service Member is their spouse, child, parent or "next of kin" (nearest blood relative).

When a Qualifying Exigency occurs, eligible faculty and staff may take up to 12 weeks of leave in any 12-month period. The 12 workweeks include all FMLA Leave taken by eligible faculty and staff during the 12-month period. For military caregiver leave, eligible faculty and staff may take up to 26 weeks of leave during a single 12-month period. The 26 workweeks include all FMLA leave taken by eligible faculty and staff members during the 12-month period. The 26-week period may be further limited if eligible faculty and staff members are spouses and who both need leave to care for an injured service member.

Service Member Leave is unpaid leave. However, staff members may substitute annual leave for their service member leave. These days will count towards the 12 weeks allowed for a Qualifying

Exigency or 26 weeks of leave allowed for care of a covered service member. Staff may use sick leave for service member leave as permitted by the Accrued Sick and Safe Leave Policy on the University Policies page at: <https://www.american.edu/policies/>. Unless using paid leave, staff members on service member leave do not receive paid holidays. PFL benefits may also be available during this leave.

Faculty do not accrue paid leave with the university. PFL benefits may be available during this leave. Faculty should consult with their dean and department chair regarding pay while on Family Leave.

#### **V. EFFECTIVE DATE AND REVISIONS:**

This Policy is effective November 1993 and last amended July 1, 2020.