

**Florida A & M University  
Office of Human Resources**

**INTERNAL OPERATING PROCEDURE**

**Procedure No. HR-3001**

<b>Subject: Family Medical Leave Act</b>	
<b>Authority: 1001.74 Florida Statutes; Family and Medical Leave Act of 1993 (Federal Regulations - Part 825); Board of Regents (BOR) Rule 6C-5.920, Florida Administrative Code (F.A.C.), Article 17, Board of Regents/United Faculty of Florida Agreement (BOR/UFF)</b>	<b>Effective Adopted Date: 07/01/1999</b>
<b>Revision(s)</b>	<b>06/27/1996</b>
<b>Related References</b>	
<b>Purpose</b>	
<b>Signature of Approving Authority</b>	

**1.0 General Information**

**1.1 Eligibility**

An employee who occupies one of the job categories listed below is eligible for use of FMLA leave under the provisions of this memorandum.

- A. In-unit Faculty and Administrative and Professional (A&P) employees in accordance with the provisions of Article 17 of the BOR/UFF Collective Bargaining Agreement.
- B. Out-of-unit Faculty and A&P including the Executive Service employees, in accordance with the provisions of BOR Rule 6C-5.920, F.A.C.
- C. University Support Personnel System (USPS) employees in accordance with the provisions of BOR Rule 6C-5.920, F.A.C.
- D. Employees paid from Other Personal Services (OPS) rather than from salaries who have been employed by the University for at least 12-months (these need not have been consecutive) and who have worked at the University at least 1250 hours in the 12-months prior to the leave in accordance with the provisions of BOR Rule 6C-5.920, F.A.C.

**2.0 Definitions**

- A. Family and Medical Leave Act (FMLA) - The Federal law, (Public Law 103-3 and the Interim Final Regulations of the Family and Medical Leave Act of 1993, 29CFR Part 825), providing upon request, entitlements to eligible employees of 12 workweeks of leave during a 12-month period for parental and medical reasons.
- B. Family Member - The spouse, parent or child of the employee. The child and parent are defined as follows:
  - 1. Child - the biological, step, foster, legal ward, or other child for whom the employee stood or stands in loco parentis.

2. Parent - the biological parent of an employee or an individual who stood or stands in loco parentis to an employee when the employee was a child.
- C. Health Care Provider - A person authorized to practice in the state in which such practice occurs and includes doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists and chiropractors, nurse practitioners and nurse-midwives, clinical social workers and Christian Science Practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts.
  - D. Intermittent Leave - Family and Medical Leave Act leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include periods of leave from an hour or more to several weeks.
  - E. Reduced Work Schedule - A change in the employee's work schedule for a specified period, normally from full-time to part-time.
  - F. Serious Health Condition - An illness, injury, impairment, or physical or mental condition that involves:
    1. Inpatient care in a hospital, hospice, or residential medical care facility, or
    2. Continuing treatment by a health care provider for an incapacity that must last for more than three consecutive calendar days.
  - G. Loco Parentis - A person with day-to-day responsibilities to care for and financially support a child, or in the case of an employee, who had such responsibility for the employee as a child.

## **2.2 Family and Medical Leave Act Leave Entitlements**

- A. An eligible employee is be entitled, upon request, to be granted up to 12 workweeks of FMLA leave within a 12-month period (July 1 through June 30) for the following purposes:
  1. The employee becomes a biological parent or a child is placed in the employee's home pending adoption or for foster care and the care of the child under these circumstances.
  2. To care for the employee's family member (spouse, parent or child) with a serious health condition.
  3. The serious health condition of the employee that prevents the employee from performing any one (or more) of the essential functions of the job even with reasonable accommodation, if required by the Americans with Disabilities Act (ADA).
  4. Leave with or without pay meeting the requirements of FMLA leave should be counted against the 12 workweeks of FMLA entitlements for salaried employees. Leave without pay meeting the requirements of FMLA leave shall be counted against the 12 workweeks of FMLA entitlements for OPS employees.
- B. Spouses employed by the University are jointly entitled to a combined total of 12 workweeks of FMLA leave for the birth and care of the newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.
- C. Family and Medical Leave Act leave for the birth and care, or placement for adoption or foster care must conclude within 12 months of the birth or placement of the child.
- D. Intermittent leave is not approvable for the birth or adoption of a child unless the employee and supervisor agree otherwise.
- E. Family and Medical Leave Act leave may be taken intermittently or on a reduced leave schedule whenever medically necessary to care for a seriously ill family member or because the employee is seriously ill and unable to work. [Also see section IX.C. of this IMM.]

### **3.0 Responsibilities**

#### **3.1 Family and Medical Leave Act Leave Approval**

Family and Medical Leave Act leave should be approved when requested by an employee as long as the reasons for the request qualify under the provisions of this memorandum and the employee has not exhausted his/her 12 workweeks within the fiscal year for such leave. The employee may request FMLA leave as accrued leave, leave without pay, or a combination of both.

#### **3.2 Procedures**

#### **3.3 Notification Requirement**

- A. An employee seeking to use FMLA leave must provide a 30-day advance notice to the employee's supervisor or other appropriate authority of the need to take FMLA leave when the need is foreseeable and such notice is practicable.
- B. An employee seeking to use FMLA leave for the planned medical treatment of an immediate family member or the employee's own illness must try to schedule treatment so as not to unduly disrupt the department's operation.
- C. An employee must advise the supervisor upon request of the reasons why intermittent leave or leave on a reduced work schedule is medically necessary and of the schedule for treatment.

#### **3.4 Medical Certification Requirement**

- A. A medical certification from a health care provider must be provided when leave is requested for the serious health condition of the employee or the employee's family member. The medical certification should include the following information:
  - 1. The date on which the serious health condition began.
  - 2. The probable duration of the condition.
  - 3. The appropriate medical facts and,
  - 4. A brief statement of the regimen or treatment, including estimated number of visits, nature, frequency and duration of treatment including treatment by another provider on referral by or order of health care provider, and whether inpatient hospitalization is required.
- B. For an employee's personal serious health condition, the certification shall include a statement that the employee is unable to perform work of any kind, or a statement that the employee is unable to perform any one (or more) of the essential functions of the position, even with reasonable accommodation, if required by the Americans with Disabilities Act (ADA).
- C. For FMLA leave to care for a seriously-ill family member, the certification shall include a statement that the patient requires assistance for basic medical, hygiene, nutritional needs, safety, or transportation; or, the employee's presence would be beneficial or desirable for the care of the family member, which may include psychological comfort. The employee is required to indicate the care he/she will provide and an estimate period of time.
- D. Certification for the use of intermittent FMLA leave or a reduced work schedule shall include the medical necessity for such leave or schedule, or that the leave or schedule is necessary to care for a family member's recovery, and the expected duration and schedule of such leave or reduced work schedule.
- E. Medical certification may be required to affirm the employee's ability to resume the essential functions of the job, with reasonable accommodations, if required by the ADA, after being absent on FMLA leave.
- F. The University may also request a second opinion, if it has reason to doubt the validity of the certification.

- G. The University may require that subsequent recertification be obtained on a reasonable basis. Recertification more frequently than every 30 days may be required if:
1. The employee requests an extension of leave,
  2. Circumstances described in the original certification have changed significantly; or
  3. The University may also request a medical certification if information that casts doubt on the continuing validity of a certification is received.

### **3.5 Continuation of Benefits**

- A. Family and Medical Leave Act leave should not affect the benefits normally accrued to salaried employees during a leave with pay and those accrued during a leave without pay.
- B. An employee who is unable to return to work because of the continuation, recurrence or onset of a serious health condition may be required to present medical certification to that effect. This type of certification arises in the context of the University's recovery of health benefits premium contributions.

### **3.6 Return to Position**

- A. Upon return from FMLA leave, the employee should be returned to the same or equivalent position or a different position in the same class and work location, including the same shift or equivalent schedule, unless the University and the employee agree in writing to other conditions and terms under which such leave is to be granted.
- B. The University reserves the right to request a Fitness-for-Duty certification based on the nature of the illness before the employee returns to work.
- C. If the employee needs to take intermittent leave (e.g., for medical treatment) or leave on a reduced leave schedule, the University may temporarily transfer the employee to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position.

The alternative position must have equivalent pay and benefits; it need not have equivalent duties. The conditions of a temporary transfer may not, however, violate any applicable collective bargaining agreement or the ADA containing higher standards or more generous provisions for employees than those required by the FMLA.

## **4.0 General Procedures**

### **4.1 Procedures to Request Family and Medical Leave Act Leave**

An employee who requests a FMLA should complete or have completed the following documents and submit the documents to the supervisor or appropriate approval authority prior to commencement of the leave:

- A. Request for Leave-of-Absence Form (FAM-UPO - 422), including the Request for Intermittent Use of Leave as appropriate.
- B. Request the completion of Physician or Practitioner Statement by the Health Care Provider.
- C. Both documents in X. A and B should be forwarded to the University Personnel Office for processing, as appropriate.