

# Dixie State University Policy

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## 349 Family and Medical Leave



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### **I. Purpose**

- 1.1 In compliance with the Family and Medical Leave Act of 1993, Dixie State University will provide its employees with family and medical leave (FML).

### **II. Policy**

- 2.1 All employees who meet the applicable time-of-service requirements (see section 3.1) may be granted a total of twelve weeks of unpaid and/or paid family leave including accrued paid sick leave (and vacation leave if employee elects to use vacation leave) combined (during any twelve month period) for the following reasons:
  - 2.1.1 The birth of an employee's child and in order to care for the child.
    - 2.1.1.1 Non-Faculty employees may take twelve weeks of FML on a continuous or intermittent basis related to the birth of a child.
      - 2.1.1.1.1 Only one parent at a time can take FML to care for a child.
    - 2.1.1.2 In the case of faculty employees, arrangements may be made to help accommodate care of a new child in the family by use of any applicable provisions of this policy as well as any additional procedures arranged by the faculty member, department chair, dean, and Human Resources (e.g. faculty may take one semester off without pay for the birth of a child or may take one semester off during the regular school year and teach during the summer, if classes are needed in her/his field and the dean of the division

approves the alternate nine month contract, etc.)

2.1.2 The placement of a child with the employee for adoption or foster care.

2.1.2.1 The conditions of FML are the same for an adoption or foster care as stated above for a birth.

2.1.3 To care for a spouse, child or parent who has a serious health condition.

2.1.3.1 Parent means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. This term does not include parents "in law."

2.1.3.2 Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

2.1.3.3 Spouses employed by the same employer are entitled to up to 12 weeks FML each for serious illness of self, or to take care of a sick child or spouse.

2.1.3.4 In order to use FML for such care, application and certification must be made according to sections IV and VI of this policy.

2.1.4 A serious health condition that renders the employee incapable of performing the functions of his/her job, such as:

2.1.4.1 Inpatient care in a hospital, hospice, or residential medical-care facility, or subsequent treatment resulting from such inpatient care;

2.1.4.2 A condition requiring an absence of more than 3 consecutive calendar days and under continuing treatment by a medical provider;

2.1.4.3 A condition lasting fewer than 3 days but under the continuing treatment of (or under supervision of) a health care provider for a chronic or long term condition, or for prenatal care.

### **III. General Leave Provisions**

3.1 Employees who have been employed for at least one year and for at least 1,250 hours during the preceding twelve month period are eligible for family medical leave.

- 3.1.1 For employees not eligible for family medical leave, the University will review business considerations and the individual circumstances involved.
- 3.2 Intermittent leave or a reduced leave schedule for medical reasons can be taken under this policy "when medically necessary."
  - 3.2.1 "Intermittent leave" is leave that is not taken consecutively.
  - 3.2.2 A "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek or hours per workday.
  - 3.2.3 Intermittent leave or reduced leave scheduled to care for a new child can be taken only if the employee and the University supervisor mutually agree to the arrangement.
- 3.3 If an employee requests intermittent leave or a reduced leave schedule because of a serious health condition that is foreseeable based on planned medical treatment, the University may require the employee to transfer temporarily to an alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.
- 3.4 Family medical leave is unpaid leave, however the employee may be paid if they have accrued sick or vacation leave balances available.
  - 3.4.1 The employee must first use all his/her accrued sick leave and may use all his/her accrued vacation leave which will count as paid family medical leave.
  - 3.4.2 If any family medical leave remains, the remaining leave period will consist of unpaid family medical leave.
  - 3.4.3 Leave due to a work related injury, which requires an absence of more than three consecutive days and under continued treatment by a medical provider, will be covered by workers compensation. (See the Workers Compensation Policy 345)
- 3.5 A twelve month period will be determined on a "rolling" 12-months, measured backward from the date an employee uses FML.

#### **IV. Application for Leave**

- 4.1 In all cases, an employee requesting leave must complete the "Application for Family or Medical Leave" form and return it to the Office of Human Resources.

- 4.2 The completed application must state the starting and ending dates of the leave, the duration of the leave, and the reason for the leave.

## **V. Notice of Leave**

- 5.1 An employee intending to take family medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty days before the leave is to begin.
- 5.2 If leave is to begin within thirty days, an employee must give notice to his/her immediate supervisor and to the Office of Human Resources as soon as the necessity for the leave arises.
  - 5.2.1 The employee need not specifically request FML for it to apply.
  - 5.2.2 It is the employer's responsibility to inquire further and to designate the leave as FML if appropriate.

## **VI. Medical Certification of Leave**

- 6.1 An application for leave based on the serious health condition of the employee must also be accompanied by a "FMLA Medical Certification for Employee" form to be completed by the applicable health care provider.
  - 6.1.1 The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.
  - 6.1.2 In addition, the certification must state that the employee cannot perform the functions of his/her job.
  - 6.1.3 A second opinion of medical certification may be required:
    - 6.1.3.1 At Dixie State University's expense;
    - 6.1.3.2 Dixie State University has the choice of health provider.
  - 6.1.4 Resolution of conflicting opinions:
    - 6.1.4.1 Also at Dixie State University's expense.
    - 6.1.4.2 The employee and employer must act in good faith to agree on health provider.
    - 6.1.4.3 The third opinion is binding.

- 6.1.5 Subsequent Recertification: Dixie State University may require certification at "reasonable" intervals, as long as a minimum of 30 days have passed (and only in connection with an absence) unless:
  - 6.1.5.1 The employee requests extension.
  - 6.1.5.2 The circumstances have changed (nature/duration of illness).
  - 6.1.5.3 The employer receives information casting doubt on validity of original certification.
  - 6.1.5.4 The employee fails to return to work because of serious health condition and need not repay employer's premium contributions paid during leave.
- 6.2 If the employee is needed to care for a spouse, child or parent, an application for leave must be accompanied by a "FMLA Medical Certification for Family Member" form to be completed by the applicable health care provider.
  - 6.2.1 The certification must contain all the information mentioned above and also include an estimate of the amount of time the employee will be needed to care for the family member.

## **VII. Benefits Coverage During Leave**

- 7.1 During a period of family medical leave, the employee will be retained on his/her group health plan under the same conditions that applied before the leave commenced.
  - 7.1.1 Once the employee is moved to unpaid status, the employee portion of health care premiums (medical, dental and vision) will be paid by the University on behalf of the employee.
  - 7.1.2 When the employee returns to paid status, the portion of health care premiums that was paid by the University on behalf of the employee will be deducted from the first paycheck received.
- 7.2 An employee on unpaid family medical leave is not entitled to the accrual of retirement, vacation or sick leave.
  - 7.2.1 An employee who takes paid family or medical leave (by including vacation/sick leave) will be entitled to normal seniority/employment benefits.

## **VIII. Return from Leave**

- 8.1 An employee must notify the Office of Human Resources and their department supervisor before s/he can be returned to active status. At the time of notification, a doctor's note certifying the employee may return to work must be supplied to Human Resources.
  - 8.1.1 If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, notification should be given to the employee's supervisor at least five working days prior to the employee's planned return.
  - 8.1.2 This notice applies for those employees who are on a continuous family medical leave basis, but not for those employees on a reduced or intermittent leave basis.

## **IX. Failure to Return from Leave**

- 9.1 If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse the University for payment of health insurance premiums during family medical leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his/her job or to circumstances beyond the employee's control.
  - 9.1.1 An employee who returns to work for at least 30 calendar days is considered to have "returned" to work.
  - 9.1.2 An employee who transfers directly from taking family medical leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.
  - 9.1.3 An employee who requests an extension of family medical leave due to the continuation, recurrence or onset of his/her own serious health condition, or of the serious health condition of the employee's spouse, child or parent, must submit a request for an extension, in writing, to his/her supervisor.
    - 9.1.3.1 This request for extension of family medical leave is subject to the twelve weeks maximum allowed for such leave.
    - 9.1.3.2 Eligibility for long term disability begins after 130 working days of inability to work due to a personal serious health condition.
    - 9.1.3.3 This written request for an extension should be made as soon as

the employee realizes that s/he will not be able to return at the expiration of the leave period.

9.2 If the employee does not return from leave, the employee is eligible for COBRA.

9.2.1 Eligibility for COBRA begins at the end of leave or when the employer is made aware of the employee's intention not to return from leave.

## **X. Recording of Family Medical Leave Taken**

10.1 Family medical leave taken in conjunction with sick or vacation leave should be coded on the employee's Time Recap Sheet or electronic leave reporting system as sick or vacation leave with the comments of FML.

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Policy Owner: Administrative Services, VP

Policy Steward: Human Resources

History:

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