

Family and Medical Leave Act Procedure

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I. Title

Family and Medical Leave Act Procedure

II. Objective

The purpose of this procedure is to set forth guidelines and procedures to be followed in complying with the Family and Medical Leave Act of 1993 (to be referred to in this policy as FMLA).

III. Scope

Employees are eligible for Family Medical Leave (FML) if they have worked for UTA for at least one year, and for at least 1,250 hours over the previous 12 months. Eligible employees are entitled to take up to 12 work weeks of family leave or 26 weeks for Military Caregiver Leave during any 12-month period.

IV. Procedure

A. How the 12-Month Period is Calculated

Available FML is calculated using a 12-month rolling period, measured backward from the date the employee uses any FML.

B. Military Caregiver Leave is calculated using the 12-month period from the date Military Caregiver Leave begins, not the usual 12 month rolling period.

C. Notice by Employee to the University

1. Employees must give at least 30 days advance notice to the University of the need to take unpaid family leave, when it is foreseeable, for the birth or adoption of a child or for medical treatment. If the need for leave is unforeseeable, s, such as premature birth or medical illness, the notice should be given as soon as practical within one or two business days of when the employee learns of the need for leave.
2. Employees are required to complete a UTA Form DF-HR-LA-F-03 *Request for Family and Medical Leave Form* as provided by the Office of Human Resources and provide the appropriate medical certification as indicated on the form.
3. An employee shall provide sufficient notice to make the University aware that the employee needs FMLA leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under FMLA or even mention FMLA, but may only state that leave is needed for an expected birth or adoption, for example.
4. The University should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details for the leave to be taken.
5. An employee who has given notice under FMLA and has provided the certification requirements, if needed, may not be denied family leave.

D. Notice by the University to the Employee

It is the University's responsibility to designate leave, paid or unpaid, as FMLA-qualifying and to give notice of the designation to the employee. Once the University has acquired knowledge that paid leave is being taken for an FMLA required reason, the University must notify the employee within five business days (absent extenuating circumstances) that the leave is designated and will be counted as FMLA leave.

E. Requirement of Using Sick, Vacation, and Compensatory Leave

1. The University is not permitted to count paid leave that was not for an FMLA leave purpose against an employee's family leave entitlement. For example, if an employee has taken sick leave on

various occasions for a cough, cold, flu, or condition that is not an extended illness, those days may not be counted toward the 12-week entitlement under FMLA. If, however, the employee is expecting the birth of a child and has taken leave prior to the birth for prenatal care, the employer may require the employee to use his or her sick and vacation leave, and limit the total amount of time away from the University to a total of 12 weeks. If applicable, the University must inform the employee that paid leave must be taken when an individual requests family leave.

2. With the exception of employees receiving workers' compensation income benefits, employees are required to utilize all accumulated sick, vacation, and State compensatory leave, if applicable, when taking leave under FMLA. The 12-week entitlement may run concurrently with workers' compensation leave, provided the employee is eligible for FMLA leave.
3. An employee may use sick leave in conjunction with FMLA for adoption of a child under three years of age, regardless of whether or not the child is actually ill at the time of adoption.

F. Premium Payment for Medical Insurance

When an employee is on unpaid family and medical leave, the University will continue to contribute its share of premium sharing for medical insurance as if the employee had continued in employment during the leave.

For example, if the employee normally has family medical coverage, the University will continue sharing the cost of the premiums with the employee at the family rate. The employee is required to pay his or her share of the premiums in the same manner required when working. An employee may pay his or her share of premiums of the health plan in any manner customarily used by the University.

1. Failure of Employee to Pay Share of Insurance

- a. If the employee fails to pay a timely health plan premium a 30-day grace period will be provided after the agreed upon date for which payment is due. If the employee does not make payment within 30 days, the University will cease to maintain the health coverage on the date the grace period ends. Prior to expiration of the grace period, the University will notify the employee of the discontinuance of insurance coverage.
- b. If the institution discontinues health coverage as a result of non-payment of premiums, the employee's group health benefits must be restored to at least the same level and terms as were provided when leave commenced. Therefore, the returning

employee shall not be required to meet any qualification requirements, such as the waiting period or pre-existing condition requirements, when the employee has failed to continue his/her health coverage for non-payment of premiums.

- c. If the employee fails to return to work after a period of unpaid family leave, and the employer has paid for maintaining health coverage, the employer is entitled to recover the premiums paid unless the reason the employee does not return to work is due to:
 - i. Continuation of a serious health condition that would entitle the employee to family leave, or
 - ii. Other circumstances beyond the control of the employee.
- d. An employee is considered to have returned to work after he or she has worked for a period of 30 calendar days. Therefore, an employee who returns to work for only one week and then departs is not considered to have returned to work for purposes of premium payments. The University may recover health insurance premium payments from any sum due to the non-returning employee such as travel reimbursement checks, etc., provided that prior to the deduction of any amounts the Office of Legal Affairs is consulted to ensure that such deduction is appropriate.

G. Returning Employee

When an employee returns to work under FMLA, he or she is entitled to be restored to the same position held when the leave started, or to an equivalent position with equivalent pay. An equivalent position is one that has the same pay, benefits, and working conditions, and involves the same or substantially similar duties and responsibilities and with the equivalent skill, effort, responsibility and authority.

H. Notice by Employer Requirement

A notice must be posted in common business areas to notify employees of their rights and responsibilities under FMLA. The University must also supply to employees a notice describing FMLA issued by the Department of Labor.

I. Rights of Employees

Employees who exercise their rights under FMLA are entitled to do so without restraint and shall not be subject to discharge or discrimination by the employer solely on the basis of exercising his or her rights under FMLA.

The employer may not discriminate against an individual for having filed charges, instituted any proceeding under or related to FMLA, or given any information in connection with an inquiry or proceeding regarding FMLA. Refer to the Request for Family and Medical Leave form for further information.

J. Record Keeping Requirements

1. The following records must be kept by the employer regarding family leave:
 - a. Books or records for no less than three years, which contain the basic payroll and identifying employee data, including name, address, occupation, rate of pay, terms of compensation, hours worked, additions and deductions to the wages, and total compensation.
 - b. Dates family leave is taken by an employee. The leave must be designated in the records as family leave.
 - c. Documentation of family leave taken in increments of less than one full day, as well as hours of the leave.
 - d. Copies of employee notices of leave furnished to the employer under FMLA, if in writing, and copies of all general and specific notices given to employees under FMLA and copies of the regulations that were issued on June 4, 1993.
 - e. Any documents describing employee benefits or University policies. This includes written and electronic records regarding the taking of paid and unpaid leave.
 - f. Premium payments of employee benefits.
 - g. Records of any dispute between the employee and the University regarding any designation of leave as family leave, including any written statements from the University or employee and the reasons for the designation and disagreement.
2. It should be noted that records and documents relating to medical certifications, recertification, and medical histories of the employee or employee's family members are maintained in separate files and treated as confidential medical records. Therefore, these records do not go into the employee's personnel file. The medical information may be disclosed to supervisors and managers, if needed, regarding work restrictions; to the first aid and safety personnel if the

employee's physical conditions require medical treatment; and governmental officials investigating compliance with the FMLA.

K. Coordination with Other Leave Entitlement

FMLA regulations state that if an employer provides more benefits than required by FMLA, FMLA will not restrict those benefits. Therefore, benefits such as the sick leave pool and extended disability leave, when available, may be used in conjunction with and count towards the 12 weeks of family leave. It should also be noted that FMLA does not restrict or modify any federal or state anti-discrimination rules or the employer's obligation to comply with ADA/ADAAA.

L. Governmental Accounting Standards Board Notice to Employees

For financial accounting and reporting purposes, leave taken comes first out of hours earned in the current year, with calculations made at year-end.

V. Definitions

N/A

VI. Relevant Federal and State Statutes

[The Family and Medical Leave Act of 1993](#)

Texas Government Code [§ 661.912](#) *Family and Medical Leave Act*

VII. Relevant UT System Policies, Procedures and Forms

UTA Policy [HR-LA-PO-01](#) Family and Medical Leave Act

[Office of Talent, Culture, and Engagement Forms and Documents:](#)

DF-HR-LA-F-03 *Request for Family and Medical Leave Form*

VIII. Who Should Know

IX. UTA Office(s) Responsible for Procedure

Responsible Officer: Vice President for Talent, Culture & Engagement

Sponsoring Department: Office for Talent, Culture & Engagement

X. Dates Approved or Amended

February 16, 2015

May 5, 2021

September 23, 2025

XI. Contact Information

All questions regarding this policy should be directed to: askhr@uta.edu

Send notifications of errors or changes to: policysite@uta.edu