

Family and Medical Leave Act Policy

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I. Title

Family and Medical Leave Act Policy

II. Policy

A. Statement of Policy

UTA desires to provide its employees the ability to balance work and family responsibilities. In this effort, UTA fully complies with the Family and Medical Leave Act of 1993 (FMLA).

B. Employee Eligibility

Under the FMLA, UTA employees are eligible for up to 12 weeks of leave, or up to 26 weeks in the case of Military Caregiver Leave, per year for qualifying reasons if they have been employed by the State of Texas for at least 12 months and have worked at least 1,250 hours in the 12 months prior to the first day FMLA leave is taken (FMLA Leave). During FMLA, the University will maintain the employee's current health coverage on the same terms as if the employee had continued to work. Upon return from FMLA, the employee will be returned to their original or equivalent position with equivalent pay and benefits.

C. Qualifying Events

Qualified purposes for FMLA Leave include:

1. Bonding Leave

Leave for the birth and care of a newborn Child or leave for the placement of a Child for adoption or foster care with an employee within the first year following placement.

2. Family Care Leave

Leave to care for the Serious Health Condition of Spouse, Child, or Parent of an employee.

3. Serious Health Condition Leave

Leave related to a Serious Health Condition of an employee.

4. Qualifying Exigency Leave

Leave arising out of the fact that the employee's Spouse, Child, or Parent is a covered military member on Active Duty (or has been notified of an impending call or order to Active Duty), or is in support of a contingency operation for covered members of a reserve component. Examples of a Qualifying Exigency may include: short notice deployment; military events and related activities; childcare duties and school activities; care of the military member's Parent who is incapable of self-care; financial and legal arrangements; counseling; rest and recuperation; and post-deployment activities.

5. Military Caregiver Leave

To care for Spouse, Child, Parent or Next of Kin who is a covered military Service Member who is recovering from serious illness or injury sustained during Active Duty.

D. Length and Expiration of Leave Entitlement

1. Employees may take FMLA leave for any combination of the five Qualifying Event types (Bonding Leave, Family Care Leave, Serious Health Condition Leave, Qualifying Exigency Leave and/or Military Caregiver Leave).
2. The maximum amount of FMLA Leave will be 12 work weeks in the applicable 12 month period when the leave is taken for:
 - a. Bonding Leave;
 - b. Family Care Leave;
 - c. Serious Health Condition Leave; and/or

- d. Qualifying Exigency Leave.
 3. The entitlement to leave for a birth or placement of a Child shall expire at the end of the 12 month period beginning on the date of birth or placement.
- 4. Military Caregiver Leave**
- a. An eligible employee who is the Spouse, Child, Parent, or Next of Kin of a covered Service Member shall be entitled to a maximum of 26 work weeks of Military Caregiver Leave during the applicable 12 month period to care for the Service Member, provided that no more than 12 of those 26 weeks are taken for a reason other than the care of the covered Service Member.
 - b. Military Caregiver Leave shall only be available during a single 12 month period measured forward from the start date of the employee's first FMLA leave.
- 5. Spousal Leave When Both Spouses Work for UTA**
- a. If both Spouses work for UTA and are eligible for FMLA Leave, the Spouses will be limited to a total of 12 work weeks off between the two of them when the leave is for Bonding Leave or to care for a Parent using Family Care Leave.
 - b. The Spouses will be limited to a total of 26 workweeks off between the two when the leave is for Military Caregiver Leave only or is for a combination of Military Caregiver Leave, Bonding Leave and/or Family Care Leave taken to care for a Parent.
6. An eligible employee shall be entitled to a combined maximum of 26 work weeks of FMLA leave during a single 12 month period; however, not all requests for FMLA leave will be entitled to receive 26 work weeks of leave.

E. Intermittent and Reduced Schedule FMLA Leave and Alternative position

If an employee takes an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled.

1. Medically Necessary

Employees may only choose to take FMLA Leave intermittently or through a reduced schedule when it is medically necessary to care for a seriously ill family member or when the employee is seriously ill and unable to work. Intermittent or reduced schedule Bonding Leave may only be taken with departmental approval.

2. Intermittent Leave

- a. Intermittent leave is defined as leave taken in separate blocks of time due to a single illness or injury, rather than as one continuous period, and may include occasional leave for medical appointments or leave taken several days at a time spread over a period of months, such as for chemotherapy.
- b. When intermittent leave is taken for planned medical Treatment, the employee must make a reasonable effort to schedule the Treatment so as not to disrupt the department's operations.
- c. Employees taking unforeseen intermittent FMLA Leave must promptly report the reason for the absence to their supervisor as well as report the usage of FMLA Leave to the Office of Human Resources as directed during the application and approval process.
- d. UTA may require an employee on intermittent FMLA Leave to obtain recertification of the need for leave when reasonably necessary, including when UTA receives information that casts doubt on the employee's representation that an absence qualifies for FMLA Leave.
- e. Requests for intermittent leave due to the birth or placement of a Child must be approved by the employee's supervisor or department head.

3. Reduced Schedule Leave

- a. Reduced Schedule Leave is defined as a leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday. This type of leave might be used, when an employee is recovering from a Serious Health Condition but is not strong enough to work a full-time schedule.
- b. Where an employee normally works a part time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by

- comparing the new schedule with the employee's normal schedule.
- c. When the employee has requested a reduced schedule, the employee shall make the reasonable effort to work a schedule so as not to disrupt the operations of the department.

4. Alternative Position

When an employee has requested intermittent or reduced schedule FMLA Leave, UTA may temporarily transfer the employee to an available alternative position with equivalent pay and benefits, including a part-time position, to better accommodate recurring periods of leave.

F. Applying for FMLA

The process for applying for FMLA is included in UTA Procedure [HR-LA-PR-04 Family and Medical Leave Act Procedure](#).

G. Accrued Leave and Benefits

1. Accrued Leave

An employee's accrued sick, vacation and compensatory leave will run concurrently with an employee's FMLA leave until the accrued leave exhausts. This means that an employee may have some FMLA leave that is paid and some FMLA leave that is unpaid, depending on the number of accrued leave hours they have accrued when they start FMLA leave. Employees will continue to accrue sick and vacation leave while out on FMLA leave, as if they were working, but will not be eligible to take the leave accrued while out on FMLA leave until after they have returned to work.

2. Benefits

UTA will continue to make contributions to employee group health benefit plans during an employee's FMLA leave on the same terms as if the employee had continued to actively work. The employee is required to pay their share of the premiums while on FMLA leave and may do so in any manner customarily used by UTA.

H. Return to Work After Serious Health Condition Leave

1. Return to Work Certification

Employees returning to work after Serious Health Condition FMLA Leave are required to provide a Return to Work (aka Fitness for Duty) certification from their healthcare provider. Employee's may but are not required to use UTA Form DF-HR-LA-F-04 *FMLA Return to Work Release Form*. It is the employee's responsibility to provide sufficient documentation to support the employee's ability to safely return to work. If an employee fails to provide sufficient documentation in this regard, UTA is not required to return the employee to their position.

2. Restoration

When an employee returns to work, they are entitled to be restored to the same position held when the FMLA 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. However, employees have no greater right to reinstatement than if they had been continuously employed rather than on leave. For example, if an employee would have been subject to a reduction in force or reorganization had not gone on leave, then the employee will not be entitled to reinstatement. Key Employees may be subject to reinstatement limitations in some circumstances and will be notified of such possible limitations at the time the employee requests FMLA Leave.

3. Failure to Return to Work

If an employee fails to return to work at leave's expiration and has not obtained an extension of the leave, UTA may presume that the employee does not plan to return to work and has voluntarily terminated their employment.

I. FMLA Interaction with Other Types of Leave

1. ADA Accommodations

An ADA accommodation of unpaid leave is not guaranteed upon exhaustion of FMLA leave but may be available to an employee who has exhausted FMLA leave. Employees seeking such accommodation should contact the ADA Coordinator as soon as the employee becomes aware of the need for accommodation.

2. Sick Leave Pool

Employees out on Serious Health Condition or Family Care FMLA Leave may be eligible for Sick Leave Pool benefits per UTA

Procedure [HR-LA-PR-08](#) *Sick Leave Pool Procedure*. Employees who apply for Sick Leave Pool benefits must also apply for FMLA Leave if they qualify for Serious Health Condition Leave or Family Care Leave. Any awarded Sick Leave Pool hours will run concurrently with FMLA leave.

3. Workers' Compensation Leave

FMLA Leave will run concurrently with workers' compensation leave when the injury is one that qualifies as a Serious Health Condition under the FMLA. An employee's workers compensation leave selection determines whether an employee on FMLA Leave that is also receiving workers' compensation benefits will be required to utilize accrued leave while taking FMLA. Though UTA may offer an employee a light duty position under workers' compensation rules, the FMLA does not require the employee to accept the light duty position, and the employee may decline the position and continue FMLA Leave until they are able to return to work. However, the employee's failure to accept the light duty position may affect their eligibility to receive workers' compensation benefits.

4. Injury Leave for Police Officers

FMLA Leave will run concurrently with injury leave when the injury is one that meets the criteria for a Serious Health Condition under the FMLA. An employee receiving injury leave benefits authorized by UT System Policy [UTS 185](#) *Injury Leave for Peace Officers* will not be required to utilize accrued leave while taking FMLA Leave.

5. Parental Leave

Employees ineligible for FMLA Leave for birth or placement of a Child may be eligible for leave benefits under UTA's Procedure [HR-LA-PR-09](#) *Parental Leave Procedure*.

J. Fraudulent Use of FMLA Prohibited

An employee who fraudulently obtains FMLA Leave is not protected by FMLA's job restoration or maintenance of health benefits provisions. UTA will take all available appropriate disciplinary action against such employee due to such fraud, up to and including termination of employment.

K. Nondiscrimination

UTA takes its FMLA obligations seriously and will not interfere, restrain or deny the exercise of any rights provided by the FMLA. UTA will not retaliate against employees for opposing or complaining about any unlawful practice

related to FMLA or because of their involvement in any activity related to FMLA. If an employee believes their FMLA rights have been violated, they should immediately report the matter to UTA's Office of Title IX and Discrimination Complaints.

L. Notice of Governmental Accounting Standards Board Compensated Absences Statement

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

III. Definitions

Active Duty: In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to Active Duty (or notification of an impending call or order to Active Duty) in support of a contingency operation as defined by applicable law.

Continuing Treatment by a Health Care Provider:

- To meet the definition of "continuing treatment" under federal law, an employee must, in connection with a period of incapacity of more than three consecutive full calendar days, have one in-person treatment visit to a health care provider within seven days of the first day of incapacity, plus a regimen of continuing treatment, or two in-person treatment visits to a health care provider within 30 days of the first day of incapacity, unless extenuating circumstances exist.
- Pregnancy or prenatal care even if an employee does not receive treatment and even if the care does not last three days;
- A chronic Serious Health Condition, defined as one that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than continuing incapacity (e.g., asthma, severe morning sickness);
- A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, terminal stages of a disease); and
- An absence to receive multiple treatments by a health care provider either for restorative surgery after an accident or injury or for a condition that would likely result in an incapacity of three or more days in the absence of medical treatment (e.g., cancer, severe arthritis).

- In addition to these five broad categories, also included are allergies or mental illness resulting from stress, but only when all of the other criteria of a Serious Health Condition are met.

Child: For purposes of Bonding Leave and Family Care Leave, "child" 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 at the time that Family and Medical Leave is to commence. For purposes of Qualifying Exigency Leave and Military Caregiver Leave, "child" means a biological, adopted or foster child, stepchild, legal ward, or a child for whom the person stood in loco parentis, and who is of any age.

Key Employee: A key employee is a salaried FMLA-eligible employee who is among the highest paid 10% of all employees, both eligible and not eligible, within 75 miles of the worksite.

Next of Kin: the nearest blood relative of an individual.

Parent: For purposes of FMLA, a parent is defined as a biological, adoptive, step, or foster parent, or an individual who stood in loco parentis to an employee when the employee was a child. This term does not include parents-in-law. For Qualifying Exigency Leave taken to provide care to a parent of a deployed military member, the parent must be incapable of self-care as defined by the FMLA.

Serious Health Condition: A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves either 1) in-patient care in a hospital, hospice or residential care facility, or 2) continuing treatment by a health care provider. The term "serious health condition" is intended to cover those conditions which affect one's health to the extent that in-patient care is required or continuing treatment by a provider of health care is necessary on a recurring basis for more than a few days for treatment or recovery. FMLA is not intended to cover short-term conditions for which treatment and recovery are brief.

Examples of serious health conditions include heart attacks, heart conditions, most cancers and back conditions requiring extensive therapy or surgical procedures, strokes, respiratory conditions, appendicitis, pneumonia, emphysema, severe nervous disorders, injuries caused by serious accidents on or off the job, pregnancy, severe morning sickness, need for prenatal care, childbirth, and recovery from childbirth as well as any other condition that renders an employee unable to perform essential job functions. A serious health condition includes treatment for a serious chronic condition which, if left untreated, would likely result in an absence of work for more than three days.

Service Member:

- A member of the Armed Forces, including a member of a reserve component of the Armed Forces, 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 incurred or aggravated in the line of duty while on Active Duty that may render the individual medically unfit to perform their military duties, or
- A person who, during the five years prior to the treatment necessitating the leave, served in the active military, Naval, or Air Service, and who was discharged or released therefrom under conditions other than dishonorable (a “veteran” as defined by the Department of Veteran Affairs), and who has a qualifying injury or illness incurred or aggravated in the line of duty while on Active Duty that manifested itself before or after the member became a veteran. For purposes of determining the five-year period for covered veteran status, the period between October 28, 2009 and March 8, 2013 is excluded.

Spouse: For purposes of FMLA, spouse is defined in accordance with the applicable state law including common law marriages and same-sex marriage, when recognized by the state. The term also includes a husband or wife in a marriage that was validly entered outside of the United States if the marriage could have been entered in at least one state of the United States. Unmarried domestic partners do not qualify for spouse status.

Substance Abuse: Treatment of substance abuse may be included under FMLA in order to undergo treatment by a health care provider; however, absences because of an employee's use of a substance without treatment do not qualify for family leave. The inclusion of substance abuse does not prevent the employer from taking any employment action against an employee who is unable to perform the essential functions of the job provided the employer complies with the Americans with Disabilities Act (ADA) and does not take action against the employee because such employee exercises rights under FMLA.

Treatment: The term treatment includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

Qualifying Exigency: The Department of Labor has defined Qualifying Exigency by providing a non-exhaustive list of circumstances, as follows:

- **Additional Activities:** To address other events that arise out of the covered military member's Active Duty or call to Active-Duty status, provided that the employer and employee agree that such leave will qualify as an exigency and agree to both the timing and duration of such leave.
- **Child Care and School Activities:** To arrange for childcare, to provide childcare to a covered military member's child on an urgent, immediate need basis, to enroll in or transfer to a new school or day care facility, or to attend meetings with staff at a school or a day care facility.
- **Counseling:** To attend counseling for the covered military member or their child, provided that the need for counseling arises from the Active-Duty call or call to Active-Duty status of a covered military member.
- **Financial and Legal Arrangements:** To make or update financial or legal arrangements to address the covered military member's absence while on Active Duty or call to Active Duty status; and to act as the covered military member's representative before a federal, state, or local agency to obtain, arrange, or appeal military service benefits while the covered military member is on Active Duty or call to Active Duty status, and for a period of 90 days following the termination of the covered military members' Active Duty status.
- **Military Events and Related Activities:** To attend any official ceremony, program, or event sponsored by the military related to the Active Duty or call to Active Duty status of a covered military member; and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross.
- **Parental Care:** Includes the following:
 1. To arrange for alternative care for a parent of the military member when the parent is incapable of self-care and the covered Active Duty or call to covered Active-Duty status of the military member necessitates a change in the existing care arrangement for the parent;
 2. To provide care for a parent of the military member on an urgent, immediate-need basis (but not on a routine, regular or everyday basis);
 3. To admit to or transfer to a care facility a parent of the military member when admittance or transfer is necessitated by the covered Active Duty or call to covered Active-Duty status of the military member; and

4. To attend meetings with staff at a care facility.
- **Post-deployment Activities:** To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's Active Duty status; and to address issues that arise from the death of a covered military member while on Active Duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.
- **Rest and Recuperation:** To spend time with a covered military member on short-term, temporary, rest and recuperation leave during the period of deployment. Eligible employees may take up to 15 days of leave for each instance of rest and recuperation. Some states, including California, have similar military family leave laws already in effect.
- **Short-notice Deployment:** To address any issues that arise from a covered military member being notified of an impending call or order to Active Duty seven or less calendar days prior to the deployment. Leave taken for this purpose can be used for a period of seven calendar days beginning on the date a covered military member is notified of an impending call or order to Active Duty.

IV. Relevant Federal and State Statutes

Family and Medical Leave Act of 1993 (FMLA); [29 U.S.C. § 2601, et seq.](#); [U.S.C.F.R. Part 825](#)

[Employee Rights Under the FMLA \(WHD Publication 1420\)](#)

[U.S. DOL Notice of Eligibility and Rights and Responsibilities](#)

[U.S. DOL Designation Notice](#)

V. Relevant UT System Policies, Procedures and Forms

UT System Policy [HOP 3.3.1 Leave Policy](#)

UT System Policy [UTS 185 Injury Leave for Peace Officers](#)

UTA Procedure [HR-LA-PR-04 Family and Medical Leave Act](#)

UTA Procedure [HR-LA-PR-08 Sick Leave Pool](#)

UTA Procedure [HR-LA-PR-09 Parental Leave](#)

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

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

DF-HR-LA-F-04 *FMLA Return to Work Release*

Injured Employee Workers' Compensation Guidelines

VI. Who Should Know

All UTA employees.

VII. UTA Office(s) Responsible for Policy

Responsible Officer: Vice President for Talent, Culture & Engagement

Sponsoring Department: Talent, Culture & Engagement

VIII. Dates Approved or Amended

June 30, 2021

June 23, 2025 (Last Reviewed)

September 12, 2025 (Last Reviewed)

IX. Contact Information

All questions regarding this policy should be directed to: Vice President for Talent, Culture & Engagement askhr@uta.edu

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