

	Florida Gulf Coast University Policy Manual	Policy: 3.039 Approved: 05/16/13
	Title Family and Medical Leave Policy	Responsible Executive: Vice President and General Counsel Responsible Office: Human Resources

I. POLICY STATEMENT

The University promotes the wellbeing of its employees by providing to eligible employees unpaid leave for conditions related to themselves or their family members consistent with the provisions of the Family and Medical Leave Act (FMLA).

II. REASON FOR POLICY

To establish a policy that outlines the application of FMLA to University employees.

III. APPLICABILITY AND/OR ACCOUNTABILITY

This policy applies to all eligible employees, except those covered by a collective bargaining agreement.

IV. DEFINITION OF TERMS

A. *Serious medical condition* – An illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

B. *Continuing treatment test:*

1. A period of incapacity of more than three consecutive, full calendar days plus treatment by a health care provider twice, or once with a continuing regimen of treatment;
2. Any period of incapacity related to pregnancy or for prenatal care;
3. Any period of incapacity or treatment for a chronic serious health condition;
4. A period of incapacity for permanent or long-term conditions for which treatment may not be effective; or

5. Any period of incapacity to receive multiple treatments (including recovery from those treatments) for restorative surgery, or for a condition which would likely result in incapacity of more than three consecutive, full calendar days absent medical treatment.
- C. *Periodic visits* - for treatment of a chronic serious health condition, a periodic visit would occur at least twice a year.
- D. Additional terms applicable to FMLA will be defined by the Act and/or its corresponding regulations.

V. PROCEDURES

A. FAMILY AND MEDICAL LEAVE ACT (FMLA)

1. Entitlement: FMLA entitles eligible employees to take 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. Upon return from leave, most employees must be restored to the same or equivalent position with equivalent pay, benefits, and other employment terms. Eligible employees are entitled to twelve workweeks of leave in a 12 month period (“rolling”) for:
 - a) The birth of a child and to care for the newborn within one year of birth;
 - b) The placement with the employee of a child for adoption or foster care, and to care for the newly placed child within one year of placement;
 - c) To care for the employee’s spouse, child, or parent who has a serious health condition;
 - d) A serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - e) Any qualifying exigency as defined under FMLA arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered” active duty; **or**
 - f) Twenty-six workweeks of leave during a single 12 month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember’s spouse, son, daughter, parent, or next of kin.
2. Eligibility: To be eligible for FMLA leave, an employee must:
 - a) Have worked for the employer at least 12 months (need not be consecutive); and

- b) Have worked 1,250 hours during the 12 months prior to the start of the FMLA leave. Hours that an employee would have worked but for his or her military service are credited toward the employee's required 1,250 hours worked for FMLA eligibility.

3. Leave Entitlement

- a) Leave may be taken on a continuous, intermittent, reduced workday/workweek basis or a combination thereof.
 - 1) Spouses who are both employed by the University may be limited to a combined total of 12 weeks of leave during a 12 month period if the leave is taken to care for the employee's parent with a serious health condition or for the birth or placement of a child; or
 - 2) Spouses working for the same employer also may be limited to a combined total of 26 workweeks of leave during a "single 12 month period" if military caregiver leave is taken to care for a covered service member with a serious injury or illness.
 - 3) For military caregiver leave, the "single 12 month period" begins on the first day the eligible employee takes military caregiver leave and ends 12 months after that date, regardless of the method used by the employer to determine the employee's 12 workweeks of leave entitlement for other FMLA-qualifying reasons.
- b) FMLA leave may be applied retroactively (as designated in the Designation Notice) and will run concurrently with any other paid leave.

4. Notice and Certification

- a) Employees are to provide thirty 30 days advance written notice to Human Resources and their supervisor when the need is foreseeable; otherwise such notice must be given as soon as practicable. In no case may an employee's direct supervisor contact the employee's healthcare provider.
- b) The University requires employees to provide a complete and sufficient medical certification to Human Resources to support a medical absence of three consecutive work days in a 30 day period for a serious health condition. Medical records and/or a signed release or waiver are not required as part of the medical certification process. However, the University may request that medical certification provide sufficient facts to establish that a serious health condition exists.
- c) If you are absent for three consecutive work days in any 30 day period, the immediate supervisor may notify Human Resources on your behalf

and a medical certification of your illness may be required before authorizing any additional use of sick leave.

- d) A complete and sufficient medical certification may be required of the employee no more often than every 30 days in connection with an absence, unless the condition will last for more than 30 days. Recertification may be requested in less than 30 days if the employee requests an extension of leave, the circumstances described in the previous certification have changed significantly, or if the employer receives information that casts doubt on the employee's stated reason for the absence or the continuing validity of the certification. If an employee does not provide either a complete and sufficient certification or an authorization allowing a health care provider to provide a complete and sufficient certification to the employer, the employee's request for FMLA leave may be denied.
- e) At the completion of the leave, if applicable as determined by Human Resources and indicated on the Designation Notice, a Fitness for Duty certification must be presented, stipulating the employee's ability to perform the essential functions of the position and their ability to return to work.

B. NON FMLA MEDICAL LEAVE

Non-FMLA medical leave applies to an employee who is not eligible for FMLA or has exhausted their FMLA entitlement and who is absent for three consecutive work days in a 30 day period due to his/her serious health condition or to care for an immediate family member. Request for such leave is addressed in the Sick Leave Policy # 3.034.

C. LEAVE OF ABSENCE WITHOUT PAY

Employees may, upon request and approval, be granted a leave of absence without pay, provided the University deems such leave to be justified and not detrimental to the operations of the department.

1. The University requires employees to submit a Request for Leave of Absence form.
2. Written request must indicate the dates and conditions of the leave to the immediate supervisor.
3. Employees are to provide thirty (30) days advance written notice when the need is foreseeable; otherwise such written notice must be given as soon as practicable.

4. The Department Head shall submit a recommendation to the respective Vice President regarding approval or disapproval of the request.
5. Additional documentation may be requested to support the leave request. All information and documentation must be submitted to Human Resources.

D. MISCELLANEOUS PROVISION

If any provision of this policy is inconsistent with, or in contravention of the FMLA, as amended, then that provision shall be superceded by the laws and regulations governing the FMLA.

VI. RELATED INFORMATION

The Family and Medical Leave Act of 1993 as amended, FGCU Policy #3.034, Sick Leave.

VII. HISTORY

New 05/16/13

APPROVED

*s/Wilson G. Bradshaw
President

May 16, 2013
Date

**NOTE: This policy reflects changes to the formatting only. No changes have been made to the text.*