

# UNIVERSITY OF ARKANSAS SYSTEM

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## FAMILY MEDICAL LEAVE ACT (FMLA) POLICY

### PURPOSE

UA SYSTEM recognizes the importance of achieving a healthy balance between work and family responsibilities. The Family and Medical Leave Act of 1993 (“FMLA”) requires certain employers to allow eligible employees to take up to 12 weeks of leave (paid and/or unpaid) to care for a newborn or newly adopted child, to recuperate from their own serious illness, or to care for a seriously ill family member. Also, certain family members of the Armed Forces are allowed 26 workweeks of leave to care for ill or recuperating family members as described below. An eligible employee is one who has at least 12 months of employment with the State of Arkansas and has worked at least 1,250 hours during the previous 12 month period. The purpose of this policy is to notify the Human Resources Department within UA SYSTEM of the guidelines established by the FMLA and to ensure that uniform procedures and compliance exist across all campuses.

### POLICY

An eligible employee may take up to 12 weeks of family medical leave during a “ROLLING” backward 12 month period for specified reasons. Under the rolling backward method, the 12 month period will be measured backward from the date an employee requests FMLA Leave to determine whether the employee is eligible for any additional leave.

Family and medical leave may be requested for:

- **Birth, adoption, or foster care:** A new parent, foster parent or adopting parent may apply for leave within one year after the child is born or placed in the parent’s home. If both parents work for the University of Arkansas at Pine Bluff campus, they will be entitled to a total of 12 weeks between them.
- **The employee’s serious health condition, as defined by law:** This includes an employee who requires inpatient treatment, has a chronic health problem, is incapacitated for more than three consecutive calendar days while receiving medical treatment, or has a non-chronic health condition that could result in a period of incapacity for more than three calendar days without medical treatment or is pregnant (including prenatal appointments for both mother and father), or is receiving treatment for substance abuse.
- **A serious health condition, as defined by law, of an employee’s spouse, child, or parent and for whom the employee is needed to provide care.**
- **The spouse, son, daughter, parent, or next of kin who is needed to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, 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. The relative listed above is allowed to take up to 26 workweeks of leave.**
- Any qualifying exigency arising out of the fact that the employee’s son, daughter, or parent is a covered military member on active duty ( or has been notified of an

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impending call or order to active duty) in support of a contingency operation. (**See Sec. 825.112(5)**).

1. Leave can be taken on a continuous, reduced, or intermittent basis depending upon the situation. A reduced leave schedule is one which reduces an employee's usual number of working hours per workweek or hours per workday. Intermittent leave is taken in separate blocks of time due to a single qualifying reason. Employees should contact their immediate supervisor to request reduced or intermittent leave. (Additional information on reduced and intermittent leave appears at the end of this administrative guide policy).
2. UA SYSTEM requires an employee to use all unused sick days, annual/vacation days, and UA personal holidays during any FMLA leave. If an employee has exhausted all paid leave, the balance of the FMLA leave is unpaid. (Exception: The State of Arkansas, OPM Section 105.5.1, provides that an employee taking maternity leave may elect to take a leave of absence without pay and not exhaust their accumulated annual and sick leave).
3. FMLA leave runs concurrently with any paid or unpaid leave that is taken (e.g. Worker's Compensation and Catastrophic Leave). Any leave falling under the protection of FMLA cannot be classified as an occurrence in any absence control policy or practice, nor may any disciplinary action be taken for absences covered by FMLA.
4. An employee will not accrue sick days, vacation days, or personal holidays while on an unpaid FMLA leave. While on unpaid intermittent or reduced-schedule FMLA leave, an employee's accrual of sick, vacation, and personal days will be pro-rated in accordance with the intermittent or reduced work schedule. When FMLA leave is unpaid; Human Resources will contact the employee to arrange for payment of their insurance premiums.
5. When FMLA leave is paid leave, the employee may maintain regular payroll deductions for benefit coverage, UA SYTEM will continue to pay the University share. The employee will also accrue vacation, sick, and holiday hours as long as they are on paid leave.
6. FMLA leave does not have to be requested by the employee UA SYSTEM may designate the leave as FMLA when guidelines for receiving leave are met. The Human Resources Department will notify the employee in writing that their leave will be classified as FMLA.
7. Upon return from FMLA leave, the employee is entitled to be returned to the same position held when FMLA leave commenced or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. In the event that an employee's position is eliminated as part of a scheduled reduction in work force while the employee is on leave, UA SYSTEM is not obligated to reinstate the employee unless

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there is an open equivalent position available at the time the employee is able to return to work and for which the employee is otherwise qualified.

8. If an employee fails to return to work following FMLA leave, the employee may be required to reimburse UAPB for its share of benefit premiums paid on the employee's behalf during the period of unpaid FMLA leave. If it becomes known that the employee is not returning to work and, therefore ceases to be entitled to FMLA leave, the University's obligation to provide health benefits (except as provided under COBRA) and to restore the employee to work will cease at that time. COBRA will be offered at the end of the 12 weeks if FMLA or when the employee notifies the employer that he/she will not be returning to work.
9. When an employee completes twelve (12) weeks FMLA leave in any twelve (12) month period and has not returned to work, the supervisor should contact the Human Resources or personnel office for guidance.
10. Each UA SYSTEM campus may require departments at the campus to be responsible for all documentation and record keeping and must maintain a record of all leave reports involving FMLA for a minimum of three years. This confidential file must be kept separate from other files and only include medical documents.

### **Notification Requirements:**

- ❖ The employee has 30 days past the time they would have normally paid via paycheck deduction to pay any past due portion.
- ❖ If 30 days pass with no premiums paid and it has been at least 2 weeks since the first notice was sent to the employee, insurance coverage is suspended and the employee notified in writing. Notify QualChoice and Delta Dental.
- ❖ If after 15 calendar days of the notice of suspension the employee has not remitted premiums, send final notice to employee of cancelation. Notify UMR and Delta Dental. Notify Conexis to send HIPAA creditable coverage letter and possibly COBRA election notice.

### **Remittance**

- ❖ Following the Campus Premium Remittance Procedure, campus premiums are due to the System Office by the 5<sup>th</sup> working date of the month.
- ❖ Only premiums received/collected should be submitted.