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[Home](#) > Federal Family and Medical Leave

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## Policy Contents

- [Purpose and Summary](#)
- [Scope](#)
- [Definitions](#)
- [Policy](#)
- [Compliance and Responsibilities](#)
- [Frequently Asked Questions\\*](#)
- [Related Information\\*](#)
- [Revision History\\*](#)

## Policy Information

**Effective Date:**

August 1, 1993

**Last Revised Date:**

January, 2020

**Policy Number:**

HR-303

**Reference:**

Classified Staff Human Resources Policy Manual 216.0

University Handbook for Appointed Personnel 8.04.06

Student Employment Manual 118.0

University Staff Manual 3-104

**Responsible Unit:**

Division of Human Resources

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## Purpose and Summary

The University of Arizona complies with the federal Family and Medical Leave Act (FMLA) of 1993, as amended, and all implementing regulations.

## Scope

This policy applies to all University employees, including Student Employees and Graduate Assistants/Associates, who meet the definition of Eligible Employee.

# Definitions

"**Eligible Employee**" is a University employee who

- Has been employed by the University for at least 12 months; and
- Has worked at least 1,250 hours during the 12-month period immediately preceding the start of the FMLA leave.

The 12 months of University employment is cumulative and encompasses all employment categories in which an Eligible Employee has been employed. Separate periods of employment with a break in service of less than 7 years will be counted cumulatively. Fulfillment of a National Guard or Reserve military service obligation is not considered a break in service for this purpose.

Only hours actually worked are counted toward the 1,250-hour criterion; paid and unpaid absences are not counted. However, employees who return from fulfilling a National Guard or Reserve military obligation will be credited with the hours of work they would have performed during the period of military service had they worked for the University during this time.

# Policy

There are separate entitlements for Basic Leave or Military Family Leave, as described below.

1. **Basic Leave Entitlement:** An eligible employee may receive up to 12 workweeks of unpaid, job-protected leave in a Leave Year for one or more of these qualified reasons:
  - a. The birth of a child and/or to bond with the child within one year of birth;
  - b. The placement of a child with the employee for adoption or foster care and/or to bond with the child within one year of placement;
  - c. The employee's own serious health condition;
  - d. The employee's need to care for a spouse, child, or parent who has a serious health condition; or
  - e. Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty.

A "**Leave Year**" is a rolling 12-month period measured backward from the date the proposed FMLA leave is to begin.

2. **Military Family Leave Entitlement:** The University will provide up to 26 workweeks of unpaid, job-protected FMLA leave during a Single 12-Month Period for qualifying employees who need to care for a spouse, child, parent, or next of kin who is a covered service member with a serious injury or illness.

FMLA leave for this reason is applied on a per-covered-service-member, per-injury basis; however, no more than 26 workweeks of FMLA leave may be taken within a Single 12-Month Period.

The "**Single 12-Month Period**" begins on the first day the eligible employee takes FMLA leave to care for the covered service member and ends 12 months after that date.

## Use of Paid Time During FMLA Leave

FMLA leave runs concurrently with any paid time off (sick time, vacation time, paid parental leave, compensatory time, compassionate transfer of leave) or disability/insurance plan payments (short-

term disability, long-term disability, or workers' compensation). For employees who do not have available paid time off, then FMLA leave will be unpaid.

## **Effect on Benefits**

Employees receiving pay during FMLA leave will have benefit premium deductions continue.

If the FMLA leave is unpaid, employees will have the option to continue or decline benefits. Employees who continue benefits will be billed directly for the employee portion of the premiums.

**Continuous Service:** University continuous service will accrue during the period of an FMLA leave.

## **Reinstatement/Return to Work**

The employee must either return to work on the first scheduled workday after the last day of approved FMLA leave or request additional leave on or before this date. An employee who returns to work on or before the day FMLA leave expires must be reinstated either to the same position held prior to the leave or to an equivalent position.

If the FMLA leave was due to the employee's own serious health condition, the supervisor may indicate on the Designation Notice that a fitness for duty certification is required. In this case, the employee must provide this certification completed by the health-care provider on or before the scheduled return-to-work date. The supervisor may delay an employee's return to work until the employee's submits the fitness-for-duty certification.

Employees are not entitled to reinstatement if their position would have terminated irrespective of their use of FMLA leave (due to reduction in force or a job end date to be effective before the FMLA leave ends).

An employee who needs additional leave from work beyond the FMLA leave entitlement may request to use any remaining accrued paid time off or request an unpaid leave, subject to approval by the supervisor or responsible administrator.

Employees have the right to request a reasonable accommodation through the University's Disability Resource Center for a disability under the Americans with Disabilities Act (ADA) (as amended). The accommodation may include an extension of leave.

## **Voluntary Termination**

Employees will be considered to have voluntarily resigned from their position if

- Either during or at the end of FMLA leave, they inform their supervisor that they do not intend to work.
- They do not return to work at the end of FMLA leave, unless they have already requested and been approved to take (a) any remaining paid leave time off; (b) an unpaid leave; or (c) extended leave as a reasonable accommodation.

## **Compliance and Responsibilities**

## Requesting Leave

An employee must make a request for FMLA leave to his or her supervisor following established [University FMLA leave procedures](#) [2]. The employee will be notified of eligibility, certification requirements, and whether the leave will be designated and counted as FMLA leave.

Employees and supervisors are encouraged to consult with the Division of Human Resources for assistance with the leave process and to ensure compliance with applicable regulations.

## Recordkeeping

The employee's completed Request for Family and Medical Leave form, Notice of Eligibility and Rights & Responsibilities form, Designation Notice form, and all certification forms will be kept in the employee's department and University records; the supervisor is responsible for forwarding copies of these forms to the Division of Human Resources. All medical certifications and related FMLA leave documentation will be maintained as confidential medical records in separate files, apart from employee personnel files.

## Retaliation or Interference

Federal law prohibits a supervisor from taking any adverse action or otherwise discriminating against an employee who has taken FMLA leave. Supervisors may not interfere with the employee's right to take leave or retaliate against an employee for having taken leave.

## Frequently Asked Questions\*

[Frequently Asked Questions about Federal Family & Medical Leave](#) [3]

## Related Information\*

[FMLA Leave Forms](#) [4]

[FMLA Leave Procedures](#) [5]

[Family and Medical Leave Act Poster](#) [6]

**For compliance questions or concerns:** Division of Human Resources, 520-621-3660, [hrsolutions@email.arizona.edu](mailto:hrsolutions@email.arizona.edu) [1]

## Revision History\*

January 23, 2020

Revised October 2014

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**Source URL:** <https://policy.arizona.edu/human-resources/federal-family-and-medical-leave>

### Links

[1] <mailto:hrsolutions@email.arizona.edu>

[2]

<http://hr.arizona.edu/employees-affiliates/leaves/family-and-medical-leave/fmla-procedures-and-resources>

[3]

<https://hr.arizona.edu/employees-affiliates/leaves/family-and-medical-leave/frequently-asked-questions-about-family-medical-leave>

[4] <http://hr.arizona.edu/forms#hdr-5>

[5] <https://hr.arizona.edu/employees-affiliates/leaves/family-and-medical-leave>

[6] <http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>