

REPLY APPENDIX

APPENDIX A

Excerpts from University Leave Policies

UNIVERSITY OF COLORADO

Introduction

The University of Colorado recognizes that its faculty and staff strive to balance their work and personal lives. This Family and Medical Leave Policy (“Policy”), applicable to faculty and unclassified staff (“staff”), is designed to support these efforts and to meet the provisions of the Family and Medical Leave Act of 1993 (“FMLA”). Generally, the FMLA requires employers to provide up to 12 weeks of unpaid leave during a 12-month period for certain family and medical reasons.

The provisions of this Policy are intended to be consistent with the FMLA implementing regulations. These regulations, issued by the Wage and Hour Division of the Department of Labor at 29 CFR Part 825, should be consulted for clarification and amplification. This Policy is not intended to conflict with University obligations under the Americans with Disabilities Act of 1990 (“ADA”).

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Statement of Policy

A. *Family and Medical Leave Entitlement.* Consistent with the provisions of this Policy, eligible faculty and staff are entitled to a total of 12 work weeks of unpaid Family and Medical Leave during a rolling 12-month period, measured backward from the date a faculty/staff member uses any Family and Medical Leave* if leave is requested for any one or more of the following reasons:

- the birth of the faculty or staff member’s son or daughter, and to care for the newborn child. (Leave must be completed within 12 months of the date of birth.);

- the placement with the faculty or staff member of a son or daughter for adoption or foster care and to care for the newly placed child. (Leave must be completed within 12 months of the date of placement.);
- to care for the faculty or staff member's spouse, son, daughter, or parent with a serious health condition; and
- because of a serious health condition that makes the faculty or staff member unable to perform one or more of the essential functions of his/her position.

* * *

* For example, if an individual used four weeks beginning February 1, 1994, four weeks beginning June 1, 1994, and four weeks beginning December 1, 1994, he/she would not be entitled to any additional leave until February 1, 1995. Beginning on February 1, 1995, he/she would be entitled to four weeks of leave. On June 1, he/she would be entitled to an additional four weeks.

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AUBURN UNIVERSITY

C. FMLA/DISABILITY-RELATED LEAVE

1. WITHOUT PAY (FMLA)

Full-time faculty members on nine-month and 12-month appointments may be eligible for certain benefits under the Family Medical Leave Act (FMLA). A summary of FMLA benefits follows. A complete statement of the policy and benefits provided is available from University Personnel Services. Employees should review the entire policy prior to exercising benefits. These benefits include the right to take leave without pay for a period of up to 12 work weeks a year for any one or a combination of the following reasons:

1. The birth or adoption of a child, or the placement in the home of a child for foster care;

2. To care for a family member (child, spouse or parent) who has a serious health condition; or
3. A serious health condition that renders the employee unable to perform his or her functions.

FMLA is intended to allow employees to balance their work and family life. Parental provisions of FMLA leave apply equally to men and women. FMLA leave itself is unpaid, but employees may choose to use accrued annual leave and remain on the payroll.

Employees must take accrued sick leave during the FMLA period provided that the reasons for the leave are covered under the University Sick Leave Policy.

Faculty are eligible if they have been employed with the University for at least 12 months and have been appointed for at least two-thirds time during the 12-month period prior to the date the FMLA leave would begin.

Leave without pay taken for the reasons listed above need not count toward promotion and/or tenure. For further clarification of this policy, see Chapter 3, Section 10.

Application for leave without pay should be initiated with the faculty member's departmental supervisor. Information concerning determination of "family member" may be obtained from University Personnel Services. Every effort will be made to accommodate the needs of a faculty member. For determination of how other benefit programs may or may not apply during periods of leave without pay, the faculty member should consult with the Office of Payroll and Employee Benefits.

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**UNIVERSITY OF ARKANSAS, FORT SMITH
(FORMERLY WESTARK [ARKANSAS]
COMMUNITY COLLEGE)**

FAMILY AND MEDICAL LEAVE

The Family and Medical Leave Act of 1993 (FMLA) was enacted on February 5, 1993, and became effective on August 5, 1993. The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces FMLA for all private, state and local government employees, and some federal employees.

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons. The law, as it currently stands, does not require UA Fort Smith—as a public university—to offer family medical leave. However, as an institution, we endorse the concept of family medical leave and have voluntarily adopted a family medical leave policy comparable to that provided by the Act. UA Fort Smith's family medical leave policy is administered in accordance with guidelines established by the Arkansas Human Resources Management System.

The law contains provisions on employer coverage; employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protections for employees who request or take FMLA leave. The law also requires employers to keep certain records.

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LEAVE ENTITLEMENT

A covered employer must grant an eligible employee up to a total of 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:

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- For the birth and care of the newborn child of the employee;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- To take medical leave when the employee is unable to work because of a serious health condition.

APPENDIX B

Excerpts from College Collective Bargaining Agreement

ORANGE COAST COMMUNITY COLLEGE

Section 4. Family and Medical Leave.

(a) Employees who have been continuously employed for twelve (12) months and working for 1,250 hours are eligible under Federal and State laws for Family and Medical Leave. Leaves shall be granted for up to twelve (12) weeks in a one (1) year period. Leaves must be granted in accordance with time periods applicable to State and Federal law.

(b) Unpaid leave is permitted for the following reasons: to care for the employee's newborn child or a child placed with the employee for adoption or foster care (State and Federal law run concurrently for twelve (12) week period allowed for care of newborn, adopted, or foster child); to care for the employee's spouse, son, daughter or parent who has a serious health condition including pregnancy; or, for a serious health condition that affects the working conditions of the employee. Leave does not constitute a break in service for purposes of longevity, vacation and/or sick leave, or under any other Articles of this Agreement. Leave provided may be taken in one (1) or more periods as provided by law. Upon return from Family and Medical Leave, the Faculty Member shall return to the same or equivalent position with the District, including contract pay (base salary plus, and if applicable, overload), benefits, and other employment terms and conditions. The Faculty Member shall provide thirty (30) days advance notice of the need for Leave except in the case of an emergency.

(c) The employee and dependent benefit coverage as provided under the Agreement shall continue as if the employee were actively at work. The District and the employee shall pay their respective portion of the premiums of the insurance benefit program during the Leave. The District Benefits Office shall inform the employee of its interpretation of the leave for which the person is eligible in

advance of the person taking leave. Notwithstanding any provision(s) of this Section, the employee shall be entitled to the most beneficial provision of State and/or Federal law.

Section 5. Professional Research, Study and/or Travel.

The District may grant Faculty Members unpaid leaves of absence for professional research, study, and/or travel. Such leave shall be approved in one (1) semester/six (6) calendar month periods. The District may grant an extension of such leave for one additional year.

**State Statutes and Regulations Regarding
State Employee Leave**

State	Paid Sick Leave	Catastrophic or Sick Leave Bank
Alabama	Ala. Admin. Code 670-X-14-.01(1)(b)	Ala. Admin. Code 670-X-14-.04 Ala. Code § 36-26-36.2
Alaska	Alaska Stat. § 39.20.305 2 Alaska Admin. Code 08.050	Alaska Stat. § 39.20.245(b) 2 Alaska Admin. Code 08.070
Arizona	A.A.C. R2-5-404	A.A.C. R2-5-403(E)
Arkansas	A.C.A. § 21-4-206	A.C.A. § 21-4-214
California	2 CCR 599.745 2 CCR 599.745.1	2 CCR 599.925 2 CCR 599.913
Colorado	4 CCR 801 P-5-5	C.R.S.A. § 24-50-104(7)(c)
Connecticut	Conn. Gen. Stat. § 5-247 Regs., Conn. State Agencies § 5-247-4	None
Delaware	CDR 10-450-002 § 6.0310	29 Del. C. § 5956
Florida	Fla. Admin. Code Ann. r. 60K-5.030(2)(b)(3)	Fla. Stat. § 110.121
Georgia	Ga. Comp. R. & Regs. r. 478-1-.18.303	Ga. Comp. R. & Regs. r. 478-1-.30
Hawaii	HRS § 79-32 (Repealed 2001, now covered by collective bargaining or executive order.	HRS § 78-26 Hi. ADC § 14-8.1
Idaho	IDAPA 15.04.01.240.03	None
Illinois	80 Ill. Adm. Code 420.610	80 Ill. Adm. Code 303.112

Family Medical Leave Without Pay (Non-discretionary)	Discretionary Leave Without Pay	Gender Discrimination
None	Ala. Admin. Code 670-X-15-.03	Ala. Code § 29-4-3 Ala. Code § 11-43A-107
Alaska Stat. § 39.20.305	2 Alaska Admin. Code 08.095	Alaska Stat. § 18.80.220(a)(1)
A.A.C. R2-5-412	A.A.C. R2-5-414	A.R.S. 41-1463
None	A.C.A. § 21-4-210	A.C.A. § 16-123-105
Cal. Gov't Code § 12945.2	2 CCR 599.781 2 CCR 599.785	Cal. Gov't Code § 12940
4 CCR 801 P-5-24 thru 35	4 CCR 801 P-5-23	C.R.S.A. § 24-34-402
Conn. Gen. Stat. § 5-248a	Conn. Gen. Stat. § 5-248c Regs., Conn. State Agencies § 5-248-2	Conn. Gen. Stat. § 46a-60
CDR 10-450-002 § 2.000	CDR 10-450-002 § 6.0440	19 Del. C. § 711
Fla. Stat. § 110.221	Fla. Admin. Code Ann. r. 60L-34-004	Fla. Stat. § 760.10
None	Ga. Comp. R. & Regs. r. 478-1-.18.305.3	O.C.G.A. § 34-5-3
None	Hi. ADC § 14-8.1 to 14-8.20 (Repealed 2001)	HRS § 378-2
IDAPA 15.04.01.242	IDAPA 15.04.01.250	Idaho Code § 67-5901
80 Ill. Adm. Code 303.148	80 Ill. Adm. Code 420.640	775 ILCS 5/1-103

State	Paid Sick Leave	Catastrophic or Sick Leave Bank
Indiana	31 IAC 1-9-4	None
Iowa	IA ADC 581-14.3(19A)	IA ADC 581-14.19(19A)
Kansas	K.A.R. § 1-9-5	K.A.R. § 1-9-23
Kentucky	101 KAR 2:102 101 KAR 3:015	780 KAR 3:075
Louisiana	None	La. R.S. 42:443 Civil Service Rule 11.34 http://dscs.state.la.us
Maine	CMR 18-389-011	None
Maryland	Md. Ann. Code art. 49B, § 16	Md. State Pers. & Pen. § 9-604
Massachusetts	Mass. Rules Governing Leave § 4.07 http://www.state.ma.us/hrd/redbook.0400.htm	Mass. Ann. Laws ch. 151B, § 4
Michigan	Civil Service Rule 5-10(3)(B) http://www.michigan.gov	Civil Service Rule 5-10(A)(9)
Minnesota	Minn. Stat. § 181.9413	Minn. Stat. § 43A.1815
Mississippi	Miss. Code Ann. § 25-3-95(2)	Code Miss. R. 46-000-001 § 7.22.3b
Missouri	1 Mo. Code Regs. 20-5.020(2)(K)	1 Mo. Code Regs. 20-5.025

Family Medical Leave Without Pay (Non-discretionary)	Discretionary Leave Without Pay	Gender Discrimination
None	31 IAC 1-9-8	Burns Ind. Code Ann. § 22-9-1-2
581 IAC 14.4(19A)	581 IAC 14.5(19A)	Iowa Code § 216.6
K.A.R. § 1-9-27	K.A.R. § 1-9-6	K.S.A. § 19-4319
101 KAR 3:015 § 3	101 KAR 2:102 101 KAR. 3:015 § 2(3)	KRS § 344.040
Civil Service Rule 11.9(b)(2)	Civil Service Rules 11.27	La. R.S. 23:332
26 M.R.S.A. § 844	CMR 18-389-011	5 M.R.S. § 4572
COMAR 17.04.11.24	COMAR 17.02.11.24	Md. Ann. Code art. 49B, § 16
Mass. Rules Governing Leave § 5.02	M.G.L.A. 31 § 37 Mass. Rules § 8.10	M.G.L.A. 151B § 4
Civil Service Rule 2-12 r 2.03, Standard E	Civil Service Rule 2-12 r 2.03, Standard D	MCL § 37.2202
Probably Minnesota Civil Service Rules **	Probably Minnesota Civil Service Rules **	Minn. Stat. § 363.03
Code of Mississippi Rules 46-000-026	Miss. Code Ann. § 25-3-93(2)	Miss. Code Ann. § 25-9-103
1 Mo. Code Regs. § 20-5.020(7)(B)	1 Mo. Code Regs. § 20-5.020(7)	Mo. Ann. Stat. § 213.055

State	Paid Sick Leave	Catastrophic or Sick Leave Bank
Montana	Mont. Admin. R. 2.21.132(h)	Mont. Admin. R. 2.21.802
Nebraska	273 NAC Ch. 9, § 00501D	93 NAC Ch. 9, § 3-9.012
Nevada	NAC 284.558	Nev. Rev. Stat. § 284.3621
New Hampshire	N.H. Code Admin. R. Per. 1204.05(c)	None
New Jersey	N.J. Admin. Code tit. 4A, § 6-1.3	N.J. Admin. Code tit. 4A, § 6-1.22
New Mexico	N.M. Admin. Code § 1.7.7.10(D)	N.M. Admin. Code § 1.7.7.9
New York	N.Y. Comp. Codes R. & Regs. tit. 4, § 21.3(f)	N.Y. Comp. Codes R. & Regs. Tit. 4, § 28-3.7
North Carolina	N.C. Admin. Code tit. 25, r. 1E.0305(4)	N.C. Admin. Code tit. 25, r. 1E.1301
North Dakota	N.D. Admin. Code § 4-07-13-07	None
Ohio	Ohio Admin. Code § 123:1-32-05(A)(5)	Ohio Admin. Code § 123:1-46-05
Oklahoma	Okla. Stat. tit. 74, § 840-2.22	Okla. Stat. tit. 74, § 840-2.23
Oregon	Or. State Policy, Dept. of Admin. Services, § 60.000.01 http://www.hr.das.state.or.us/hrsd/policy/rules.htm	None

Family Medical Leave Without Pay (Non-discretionary)	Discretionary Leave Without Pay	Gender Discrimination
None	Mont. Admin. R. 2.21.704	Mont. Code Ann. §§ 49-2-303, 49-2-308
273 NAC Ch. 9 § 015.02C	273 NAC Ch. 9 § 011	277 NAC Ch. 1 § 003
NAC 284.5234, 284.5811	Nev. Rev. Stat. § 284.360	Nev. Rev. Stat. § 613.330
None	N.H. Code Admin. R. Per. 1205.02	RSA 354-A:7
N.J. Admin. Code tit. 4A, § 6-1.21A	N.J. Admin. Code tit. 4A, § 6-1.10	N.J. Stat. Ann. § 10:5-12
N.M. Admin. Code § 1.7.7.12	N.M. Admin. Code § 1.7.7.11	N.M. Stat. Ann. § 28-1-7
None	N.Y. Comp. Codes R. & Regs. tit. 4, § 22.1	N.Y. Exec. Law § 290 (Consol.)
N.C. Admin. Code tit. 25, r. 1E.0314(3) and N.C. Admin. Code tit. 25, r. 1E.1401	N.C. Admin. Code tit. 25, r. 1E.1101	N.C. Admin. Code tit. 25, r. 1L.0102
None	N.D. Admin. Code § 4-07-15-03	NDCC, 14-02.4-03
None	Ohio Admin. Code § 123:1-34-01	Ohio St. § 4112.02
Okla. Stat. tit. 74, § 840-2.22	None	Okla. Stat. tit. 74, § 840-2.9
Or. State Policy, Dept. of Admin. Services, § 60.000.15	None	Or. Rev. Stat. § 659A.030

State	Paid Sick Leave	Catastrophic or Sick Leave Bank
Pennsylvania	Pa. Code § 8.23(5) http://www.hrm.state.pa.us/oahrm	None
Rhode Island	R.I. Code R. 01-060-001 r.5.0623	None
South Carolina	S.C. Code Ann. § 8-11-40 S.C. ADC 19-710.04(6)	S.C. ADC 19-711.03
South Dakota	ARSD 55:01:22:02.04	ARSD 55:01:22:15.01
Tennessee	Tenn. Code Ann. § 8-50-802	Tenn. Code Ann. § 8-50-907
Texas	Tex. Gov't Code § 661.202	Tex. Gov't Code § 661.004
Utah	U.A.C. R477-8-7(4)(c)	U.A.C. R477-8-8
Vermont	21 V.S.A. § 472(b) State of Vermont Personnel Policies and Procedures 14.1	State of Vermont Policies and Procedures 14.1
Virginia	Va. Code Ann. § 51.1-1108	None
Washington	WAC § 356-18-060(2)&(3) WAC § 356-18-116	WAC § 356-18-112
West Virginia	W.Va. Code St. R. § 143-1-14.4(f)(6)	None

Family Medical Leave Without Pay (Non-discretionary)	Discretionary Leave Without Pay	Gender Discrimination
Pa. Code § 8.111	None	43 P.S. § 955
None	R.I. Code R. 01-060-001 r.5.066	R.I. Gen. Laws § 28-5-7
S.C. ADC 19-712.01(J)	None	S.C. Code Ann. § 1-13-80
ARSD 55:01:22:08.02	ARSD 55:01:22:06	S.D. Codified Laws § 20-13-10
Tenn. Comp. R. & Regs. 1120-6-.22	Tenn. Comp. R. & Regs. 1120-6-.14	Tenn. Code Ann. § 4-21-401
Tex. Gov't Code § 661.912	Tex. Gov't Code § 661.909	Tex. Lab. Code § 21.051
U.A.C. R477-8-9	U.A.C. R477-8-7(11)	Utah Code Ann. § 67-19-4 Utah Code Ann. § 34A-5-106
21 V.S.A. § 472(a)	21 V.S.A. § 472(g)	21 V.S.A. § 495
Va. Code Ann. § 2.2-1201(13)	None	Va. Code Ann. § 2.2-3900
WAC § 356-18-145	WAC § 356-18-140	Rev. Code Wash. (ARCW) § 49.60180
W.Va. Code St. R. § 143-1-14.8(b)	W.Va. Code St. R. § 143-1-14.8(a)	W. Va. Code § 5-11-9

State	Paid Sick Leave	Catastrophic or Sick Leave Bank
Wisconsin	Wis. Adm. Code ER 18.03(4)(c)	Wis. Stat. § 230.35(2m)(b)
Wyoming	WCWR 006-140-010 § 2(b)	WCWR 006-140-010 § 2(e)

Family Medical Leave Without Pay (Non-discretionary)	Discretionary Leave Without Pay	Gender Discrimination
Wis. Stat. § 103.10(3)(a)	Wis. Adm. Code ER 18.14	Wis. Stat. § 111.321
WCWR 006-140-010 § 15	WCWR 006-140-010 § 13(a)	Wyo. Stat. § 27-9-105

**Text of statute or regulation not available online