I. POLICY STATEMENT

Effective 1/16/09 the U.S. Department of Labor issued final regulations regarding modifications to the Family Medical Leave Act of 1993. The Final Regulations (PDF) implement two important new military family leave entitlements for eligible specified family members.

Introduction:
Under this section, employees may request a leave of up to 90 days for the following reasons:

- Birth of son or daughter of the employee and in order to care for such son or daughter;
- Placement of a son or daughter with the employee for adoption or foster care;
- Caring for the spouse, son, daughter or parent of the employee or other persons for whom the employee is directly responsible if such spouse, son, daughter, parent or other person has a serious health condition;
- Serious health condition that makes the employee unable to perform functions of the position of such employee.

An extended leave of up to an additional 90 days is available if the employee is still unable to return to work after the original 90 days. Additional medical documentation is required.

Requesting Leave:
The employee must request a leave from his/her department head, 30 days prior to its commencement. If the employee is unable to make such a request due to the seriousness of the health condition, a request must be made as soon as possible after the onset of the condition. Family and Medical Leave (FMLA) forms are available in the Human Resources Office or may be downloaded from the Human Resources website. Completed forms are to be returned to Human Resources.

Medical Statement:
The request for a leave for the employee must be accompanied by a medical statement which includes the following information:

- Date on which the serious health condition commenced;
- Probable duration of the condition;
- Appropriate medical documentation within the knowledge of the health care provider regarding the condition, including the employee's ability to perform the functions of his/her position.
The employee may submit medical documentation to their Department Head or directly to Human Resources. Human Resources will inform the department if such a statement has been submitted or the department will notify Human Resources Services if it receives the statement.

If the employee is needed to care for a son, daughter, parent, spouse, or other person for whom the employee is directly responsible, the same information must be provided along with a statement that the employee is needed for said care.

**Military Family Leave:**
Section 585(a) of the National Defense Authorization Act amended the FMLA to provide two (2) new leave entitlements:

- **Military Caregiver Leave** (also known as Covered Service member Leave): eligible employees who are family members of covered service members will be able to take up to 26 workweeks of leave in a "single 12-month period" to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. This provision also extends FMLA protection to additional family members (i.e., next of kin) beyond those who may take FMLA leave for other qualifying reasons.

- **Qualifying Exigency Leave**: This provision makes the normal 12 workweeks of FMLA job-protected leave available to eligible employees with a covered military member serving in the National Guard or Reserves to use for "any qualifying exigency" arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. The Department's final rule defines qualifying exigency by referring to a number of broad categories for which employees can use FMLA leave: (1) Short-notice deployment; (2) Military events and related activities; (3) Childcare and school activities; (4) Financial and legal arrangements; (5) Counseling; (6) Rest and recuperation; (7) Post-deployment activities; and (8) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

**Guaranteed Former Position:**
An employee on Family and Medical Leave is guaranteed his/her former position or an equivalent position at a comparable rate of pay upon return.

**Continued Benefit Plans:**
Employees with accumulated leave time will continue in the University's benefit programs during the leave period; payroll deductions will continue during that time. Employees with accumulated leave time will also be eligible to take the full extent of their time with proper medical documentation. These employees will not be held to the six-month return to work requirements between leave requests.

**Extending Leave:**
In order to remain within pay status while the employee is on leave for his/her own serious health condition or to care for a son, daughter, parent, spouse or other person for whom the employee is directly responsible, he/she may use accumulated disability leave first, then compensatory time, if applicable, then vacation/annual leave, prior to going into non-pay status.
Employees Without Sufficient Accumulated Leave Time:
Employees without sufficient accumulated leave time are eligible for a Family and Medical Leave up to a total of 90 calendar days with proper medical documentation. An employee, out of paid status, who is unable to return to work upon the expiration of the initial leave may apply for an extended leave for up to an additional 90 calendar days; medical documentation will be required to extend the leave beyond the initial request.

Maintaining Benefits During Extended Leave:
Employees on Family and Medical Leave will remain in the University's benefit plans during the leave period, not to exceed 90 calendar days. If an extended leave is requested, the university will continue the individual in the benefit plans for up to an additional 90 calendar days.

The employee must contribute his/her share, however, as if he/she were being paid; checks must be submitted to Human Resources made out to the various carriers. Failure to maintain payments will cause the employee to be removed from the University's plans. If the employee is on leave for less than six months and returns to work, he/she will be reinstated to the appropriate plans.

Eligibility for Another Disability Leave:
An employee who has taken both a family leave and an extended family leave must return to work for a minimum of six months before becoming eligible for another disability leave with university-paid benefits. Employees requiring time off for Family and Medical Leave purposes prior to having fulfilled the six-month return requirement may be approved for a leave without benefits.

Intermittent Leave of Absence:
In the event an employee does not need continuous time off to attend to a serious health condition for him/herself or the persons listed in this policy, he/she may request an intermittent or reduced time leave of the department head. The employee must provide treatment dates along with the physician's statement required in paragraph F 1.18 above. If necessary, the employee may be required to transfer to another position with equivalent pay/benefits, but that better accommodates the reduced leave schedule required by the employee.

II. ENTITIES AFFECTED
Faculty and Staff

IV. DEFINITIONS
For purposes of this policy, the following definitions shall apply:
- Son or daughter - Any person under 18 years old or any person 18 years old or older who is incapable of self-care because of a mental or physical disability if the person's relationship to the employee is:
  - Biological, adopted or foster child;
  - Stepchild, legal ward;
  - Child of person standing in the place of a parent.
- Parent - The biological parent of an employee or an individual who stood in the
place of a parent to the employee when the employee was a son or daughter.

- Spouse - A husband or wife as the case may be.
- Other persons for whom the employee is directly responsible.

**REVISION HISTORY**

<table>
<thead>
<tr>
<th>REVISION TYPE</th>
<th>MONTH/YEAR APPROVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Policy</td>
<td>1/16/2009</td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
<tr>
<td>Choose an item.</td>
<td></td>
</tr>
</tbody>
</table>