

MEDICAL LEAVE: FAMILY MEDICAL LEAVE (FML) AND OTHER MEDICAL

POLICY NUMBER: ADM-MEDLEAVE

POLICY TYPE: ADMINISTRATIVE

RESPONSIBLE OFFICIAL TITLE: CHIEF HUMAN RESOURCES OFFICER

RESPONSIBLE OFFICE: HUMAN RESOURCES

EFFECTIVE DATE: UPON PRESIDENTIAL APPROVAL – 9/7/2022

NEXT REVIEW DATE: PRESIDENTIAL APPROVAL PLUS FOUR (4) YEARS – 9/7/2026

SUPERSEDED POLICY: FAMILY AND MEDICAL LEAVE

BOARD OF REGENTS REPORTING (CHECK ONE):

PRESIDENTIAL RECOMMENDATION (CONSENT AGENDA/VOTING ITEM)

PRESIDENTIAL REPORT (INFORMATION ONLY)

I. POLICY STATEMENT

Northern Kentucky University (NKU) recognizes that there are times an employee must miss work for personal illness or to care for a family member who requires the employee's support during an illness. Such a need may be accommodated with a Family Medical Leave (FML) and/or a Medical Leave. Family Medical Leave and Medical Leave apply to absences of more than three (3) consecutive days or for a medical condition for which the individual is under the regular care of a physician. They do not apply to occasional absences such as a cold or flu.

FAMILY MEDICAL LEAVE

The [Family and Medical Leave Act \(FMLA\)](#) of 1993 is a U.S. federal law. It provides an eligible employee up to twelve (12) weeks of *job-protected* (see definition in Section IV below), unpaid leave in a calendar year for qualified 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.

- A) NKU calculates Family Medical Leave (FML) using a *rolling 12-month basis* (see definition in Section IV below). An NKU employee can receive pay under FML by using available sick and/or vacation time. FML runs concurrently with short-term disability coverage (if the employee purchased such coverage) and workers compensation leave.
- B) An eligible employee may use up to twelve (12) workweeks of leave in a rolling 12-month period for any of the following:
- The birth of a child and to care for the newborn child during the first year
 - The placement with the employee of a child for adoption or foster care and to care for the newly placed child during the first year of placement
 - A personal *serious health condition* (see definition in Section IV below) that makes the employee unable to perform the essential functions of their job
 - To care for the employee's *spouse, child or in loco parentis dependents, or parent* who has a serious health condition (see definitions in Section IV below)
 - Any qualifying need arising because the employee's spouse, son, daughter, or parent is a covered military member on *covered active duty* (see definition in Section IV below)

- C) An eligible employee may use up to twenty-six (26) workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).
- D) An employee may take FML in a block (up to 12 consecutive weeks) or intermittently.
- E) With department approval, the *intermittent leave* (see definition in Part IV below) may be used for a reduced work schedule or in hourly increments.
- F) If an employee is on intermittent leave, the employee must make a reasonable effort to schedule appointments and/or treatments at times that will not interrupt the operation of the department.

Please refer to the Medical Leave section directly below for information about treatment for an employee who is not eligible for FML or who has exhausted available FML.

MEDICAL LEAVE

Medical Leave provides up to three (3) months (90 calendar days) of job-protected leave taken in a block period in a calendar year in place of/or in addition to Family Medical Leave (FML).

- G) An employee may only take Medical Leave in a block not to exceed 90 calendar days.
- H) An employee is required to use accrued sick time during an FML/Medical Leave. After sick time has been exhausted, an employee must use accrued vacation time and may leave up to one (1) week of vacation for use after leave.
- I) If an employee does not have enough sick or vacation time to stay in a pay status during FML/Medical Leave, the employee has the right to use FML/Medical Leave in an unpaid status.

II. ELIGIBILITY

FAMILY MEDICAL LEAVE (FML)

- A) An employee is eligible for FML if the employee has worked at NKU for at least 12 months (including part-time or contract) and has worked at least 1,250 hours in the previous 12 months.
- B) An employee may apply for FML if the absence is anticipated to last more than three (3) consecutive days or the absence is due to a chronic condition requiring intermittent absences. In both cases, the employee (or family member) must be under the regular care of a physician.
- C) When spouses work for the same employer and each spouse is eligible to take FMLA leave, the FMLA limits the combined amount of leave they may take for some, but not all, FMLA-qualifying leave reasons. Therefore, spouses, if both employed at NKU, may be limited by the FMLA to a combined 12 workweeks of FML in a single 12-month period for the following reasons:
 - the birth of a child and bonding with the newborn child
 - the placement of a child for adoption or foster care and bonding with the newly-placed child
 - the care of a parent with a serious health condition

However, both spouses may take paid parental leave under NKU's [Parental Leave policy](#), if otherwise eligible.

- D) The FMLA also limits spouses to a combined total of 26 workweeks of leave in a single 12-month period to care for a covered servicemember with a serious injury or illness ("military caregiver leave") if each spouse is a parent, spouse, son or daughter, or next of kin of the servicemember. For more information, see [U.S. Department of Labor Fact Sheet #28L: Leave under the Family and Medical Leave Act for Spouses Working for the Same Employer](#).

MEDICAL LEAVE

- E) An employee is eligible to apply for Medical Leave in either of the following situations:
- 1) The employee is not eligible for FML due to length of service (for example, has not completed one (1) year of service) but the absence is otherwise FML-qualified.
 - 2) The employee has exhausted approved FML, is unable to return to work at the end of FML, and provides medical documentation supporting the need for additional time (for more details on *medical documentation*, see the definition in Section IV below).
- F) In no event will Medical Leave, with or without pay, exceed three (3) months (90 calendar days). This is in addition to any FML approved leave, if applicable.
- G) Medical Leave is job-protected leave and therefore must be approved by the department head.

Medical Leave with pay is available in either of the following situations:

- In situation II(E)(1) above, the employee has submitted FML paperwork and it has been approved for a Medical Leave, the employee must use accrued sick leave, followed by accrued vacation time.
- In situation II(E)(2) above, the employee has submitted documentation supporting the need for additional time and has available accrued sick leave and/or vacation time.

Medical Leave without pay is available when the employee qualifies and has exhausted all accrued sick and vacation time.

If needed, employees can apply for assistance from the NKU [Benevolent Association](#), a self-governed, consolidated charitable organization that can provide help in the form of additional sick hours or financial aid.

III. AUTHORITY

[U.S. Department of Labor Family Medical Leave Act of 1993](#)

IV. DEFINITIONS

Benefit Continuation: NKU will continue active employee benefit coverage with the following stipulations for paid and unpaid leave.

- If leave is paid, benefit deductions will continue from the employee's pay, even if it is reduced pay.
- If leave is unpaid, the employee must send in the employee's portion of benefit costs monthly.

Block Leave: Block leave is an absence lasting more than three (3) consecutive days and is taken in a single period of time.

Child (Son or Daughter): For purposes of this policy, a child is defined as a biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FML is to commence.

Covered Active Duty:

- For a member of the Regular Armed Forces, covered active duty is duty during the deployment of the member with the Armed Forces to a foreign country.
- For a member of the Reserve components of the Armed Forces (members of the National Guard and Reserves), covered active duty is duty during deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation.

FML/Leave Administrator: The FML/Leave Administrator is a Human Resources employee who approves/denies FML and Medical Leave requests and coordinates with the employee, supervisor/manager, and time administrator.

FMLA Paid: “FMLA Paid” is a time code that indicates the employee’s FML approved leave status, tracking FML hours with pay. This time code automatically pulls from accrued sick time first, and then from accrued vacation time. It is not necessary to code sick and vacation separately. Benefit deductions will continue from FMLA paid time.

FMLA Unpaid: “FMLA Unpaid” is a time code that indicates the employee’s FML leave status, tracking unpaid FML hours. This time code is used when no accrued sick or vacation time is available, or when the employee is collecting short-term disability and cannot receive over 100% of gross income between short-term disability and NKU pay.

FML Paperwork: FMLA paperwork consists of the forms to apply for Family Medical Leave, either for personal illness or care of a family member. One form must be completed by the employee. Other forms must be completed by the physician caring for the employee or the employee’s family member. These forms may also be used for a Medical Leave.

In Loco Parentis (In Place of Parent): An in loco parentis parent is a person who has the day-to-day responsibilities for the care and financial support of a child, or persons who had such a responsibility for the employee when the employee was a child—a biological or legal relationship is not necessary. An employee with no biological or legal relationship to a child can stand in loco parentis to that child and is eligible for FML (for example, an uncle who cares for his sister’s children while she serves on active military duty, or a person who is co-parenting a child with a same-sex partner). Also, eligible employees may take FML to care for a person who stood in loco parentis when they were a child. (See [U.S. Department of Labor Administrator’s Interpretation No. 2010-3](#) and [U.S. Department of Labor Fact Sheets #28B](#) and [#28C](#)).

Intermittent Leave: Intermittent leave, which only applies for FML, covers the periodic absences and the sporadic need for leave that is not a period of *block leave* (see definition above). It can be taken in hourly increments.

Job Protected Leave: Job-protected leave means that upon return from leave, the employee will be restored to the employee’s original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment, unless NKU has eliminated the position or department. Reduction in force, performance issues, and absences not related to approved FML are not subject to job protection.

Leave of Absence with Pay: “Leave of Absence with Pay” is a status on the Leave of Absence Personal Action Request (PAR) indicating that the employee on leave will be maintaining at least a partially paid status. Benefit deductions will continue to be taken from pay. Sick and vacation accruals will continue but may be reduced based on actual hours for which pay is issued.

Leave of Absence without Pay: “Leave of Absence without Pay” is a status on the Leave of Absence PAR indicating that the employee on leave will not be receiving any pay. Since no pay is issued, the employee will not accrue sick/vacation time and must submit payment for their portion of benefit costs.

Medical Documentation: The documentation for self-certification must state the date on which the serious health condition occurred, the probable duration of condition, appropriate facts about the condition, and a statement that the condition causes the employee to be unable to perform essential job duties. The documentation for family member certification must state the need for employee’s care of family member and the probable duration of condition. This documentation must be completed by a physician treating the employee or family member.

Parent: For purposes of this policy, a parent is defined as a biological, adoptive, step, or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents-in-law.

Rolling 12-Month Basis: NKU uses a rolling 12-month basis to calculate FML eligibility and use. The 12 weeks of job protected leave (defined above) starts the day leave begins and the remaining FML hours are calculated over the 12 months from that start date. Using the rolling 12-month method, leaves may cross calendar years and fiscal years.

Serious Health Condition: Serious health conditions qualifying for FML leave are conditions requiring an overnight stay in a hospital or other medical care facility, conditions that incapacitate the employee or their family member for more than three (3) consecutive days, and have ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication), chronic conditions that cause occasional periods where the employee or their family member are incapacitated and require treatment by a health care provider at least twice a year, and pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

Spouse: For the purposes of this policy, a spouse is defined as a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage.

V. RESPONSIBILITIES

The employee must do the following:

- Contact the FML/Leave Administrator in Human Resources (HR) at least 30 days prior to leave start date to begin FML paperwork (if 30 days is not feasible, contact FML/Leave Administrator as soon as possible after the need for leave is realized).
- Submit all requested paperwork to FML/Leave Administrator within 15 calendar days of initial receipt of the packet. Failure to do so may result in the delay or denial of FML benefits.
- Be available for communication with FML/Leave Administrator via NKU email. If the employee is not able to use NKU email, the employee must provide the FML/Leave Administrator with the best form of alternate communication.

- Work with the employee's healthcare provider to submit a completed FML packet 30 days prior to the need for leave, or as soon as possible after the unanticipated leave start date. Forms must be complete and legible.
- If the FML/Leave Administrator determines the forms are incomplete or unclear, it is the employee's responsibility to work with the healthcare provider to resolve such matters within seven (7) calendar days after notification from FML/Leave Administrator.
- Code the employee's time by the payroll deadlines as instructed by the FML/Leave Administrator, or if unable to code time, work with the supervisor to ensure time is recorded accurately. Any hours, paid or unpaid, after the approval of block FML will be included in the 12-week maximum allowance in the 12-month rolling period, regardless of how it is coded.
- Provide a Return to Work release from the employee's health care provider to the FML/Leave Administrator listing the date able to return to work and any restrictions. The employee may not return to work unless cleared by both the health care provider and the FML/Leave Administrator.
- Work with the employee's health care provider to provide documentation to the FML/Leave Administrator as the need for leave changes (i.e., extending leave for an additional two (2) weeks). The employee is responsible for providing medical documentation to the FML/Leave Administrator if the need for leave changes within five (5) business days of original return to work date.
- Follow departmental call-in procedures during intermittent FML, and indicate to their supervisor if the absence is FML related. Time off during an intermittent leave will not be protected under FML if the employee does not designate.
- Pay the employee portion of all benefit costs during leave as necessary.
- Follow the time coding instructions provided by the FML/Leave Administrator upon approval of FML/Medical Leave, and ensure time is entered by payroll deadlines.

The Supervisor/Manager/Department must do the following:

- Inform the employee of the potential eligibility for FML or Medical Leave and the need to coordinate with the FML/Leave Administrator when the employee has three (3) consecutive days of absence or otherwise indicates the need for time away for reasons that may qualify for FML.
- Communicate to the FML/Leave Administrator an employee's absence of three (3) consecutive days or longer. This allows the Administrator time to contact the employee to provide the employee information and determine next steps.
- Ensure that the employee and/or time administrator enters all time following the FML/Leave Administrator's instructions.
- Process the PAR initiated by the FML/Leave Administrator. The PAR will indicate the pay status of the leave (paid or unpaid) and the dates of the leave.

The FML/Leave Administrator must do the following:

- Inform the eligible employee of the employee's rights and responsibilities under FML.
- Respond within five (5) business days of receipt of request for leave by NKU email unless another form of communication is requested by the employee.
- Inform the employee if the leave request is incomplete or unclear, and allow ten (10) calendar days for the employee to provide corrected documentation.
- Provide the reasoning if the employee's FML or Medical Leave application is denied.
- Initiate the PAR for the department and with instructions for time coding during the leave.

- Provide up to twelve (12) workweeks (twenty-six (26) workweeks for military caregiver leave) of job-protected leave in a 12-month period for eligible employees.
- Provide *benefit continuation* (defined in Section IV above) as if the employee is still actively working, and continue to provide the same subsidy for all benefits.

VI. PROCEDURES

When an employee knows leave from work is needed, the employee should notify the FML/Leave Administrator in Human Resources as soon as possible, but no fewer than thirty (30) days prior to leave begin date. If the need for leave is unplanned, or does not allow for a 30-day notice, then the employee is required to notify the FML/Leave Administrator in Human Resources as soon as possible.

The employee will be given a packet of FML/Medical Leave paperwork to be completed by both the employee and the treating physician. The employee must make sure the paperwork is completed and returned to the FML/Leave Administrator within fifteen (15) calendar days from the date the FML/Medical Leave paperwork was sent to the employee. Incomplete forms will not be processed.

Notification regarding the employee's FML/Medical Leave status and notification of any time that is designated as FML/Medical Leave will be sent to the employee's NKU email unless the employee requests another method of communication.

VII. REFERENCES AND RELATED MATERIALS

REFERENCES & FORMS

[U.S. Department of Labor Family Medical Leave Act \(FMLA\) website](#)

[U.S. Department of Labor – Final Rule to Revise the Definition of Spouse under the FMLA](#)

[NKU Medical Leave Request Form](#)

RELATED POLICIES

[Benevolent Association](#)

[Parental Leave](#)

[Personal Leave](#)

[Sick Leave](#)

[Vacation Leave](#)

[Faculty Handbook](#): Section 12.6 "Paid Leave for Illness, Temporary Disability, or Parental Leave"; Section 12.7 "Unpaid Sick Leave"; Section 12.8 "Unpaid Leave"; and Section 12.9 "Special or Emergency Leave"

REVISION HISTORY

REVISION TYPE	MONTH/YEAR APPROVED
Revision & Name Change	September 7, 2022
Family and Medical Leave	January 16, 2009

MEDICAL LEAVE: FAMILY MEDICAL LEAVE AND OTHER MEDICAL

PRESIDENTIAL APPROVAL

PRESIDENT

Signature

Ashish Vaidya

Date

09/07/2022

Ashish Vaidya

BOARD OF REGENTS APPROVAL

BOARD OF REGENTS (IF FORWARDED BY PRESIDENT)

- This policy was forwarded to the Board of Regents on the **Presidential Report (information only)**.
Date of Board of Regents meeting at which this policy was reported: 11 / 9 / 2022.
- This policy was forwarded to the Board of Regents as a **Presidential Recommendation (consent agenda/voting item)**.
 - The Board of Regents approved this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing approval of policy.)
 - The Board of Regents rejected this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing rejection of policy.)

SECRETARY TO THE BOARD OF REGENTS

Signature

Tammy Knochelmann

Date

11/12/2022

Tammy Knochelmann