

Policy: Family Medical Leave Act	Policy Number: I-4.3
Policy Owner(s): Human Resources	Original Date: 8/1/2008
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- I. **POLICY:** To provide leave time to employees for serious health conditions or for the birth or adoption of a child, consistent with the Family and Medical Leave Act (FMLA).
- II. **PURPOSE:** To outline requirements to be eligible for FMLA and explain how FMLA is administered at John Carroll University.
- III. **SCOPE:** All employees of John Carroll University

IV. **DEFINITIONS:**

Chronic Condition: Any period of incapacity or treatment which requires periodic visits (defined as at least twice per year) for treatment by a Health Care Provider, or by a nurse or physician’s assistant under direct supervision of a Health Care Provider. A Chronic Condition continues over an extended period of time (including recurring episodes of a single underlying condition) and may cause episodic rather than a continuing period of Incapacity.

Covered Active Duty: A member of a regular component of the Armed Forces during deployment to a foreign country, or a member of a reserve component of the Armed Forces during deployment with the Armed Forces to a foreign country under a call or order to serve under one of the provisions outlined in the FMLA statute.

Covered Service Member: Includes (1) A current member of the Armed Forces (including 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; or (2) covered veteran who is an individual who was a member of the Armed Forces (including the National Guard or Reserves) who was released under conditions other than dishonorable at time within five (5) years prior to the employee’s first date of leave and who is undergoing medical treatment, recuperation or therapy for a serious illness or injury.

Eligible Employee: An employee who has completed a minimum of twelve (12) months of employment and has worked a minimum of 1,250 hours during the twelve (12) month period preceding the commencement of the leave.

Family Member: Includes: (1) a spouse as defined or recognized under the law in which the employee resides; (2) a biological, adoptive, step or foster parent or an individual who has an “in loco parentis” relationship with the employee when the employee was a child; or (3) a biological, adopted or foster child, or stepchild, a legal ward, or a child of a person “in loco parentis” either under age 18, or age 18 or older who is incapable of self-care because of a mental or physical disability at the time that the FMLA leave is to commence.

Health Care Provider: A doctor, podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to treatment consisting of manual manipulation of the spine to correct subluxation as verified by X-ray to exist), and authorized to practice in the State and performing within the scope of their practice as defined under State law, nurse practitioner, nurse midwife, clinical social workers and physician assistant who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law.

Incapacity: Inability to work, attend school, or perform other daily activities due to the Serious Health Condition, treatment or recovery from a Serious Health Condition.

Intermittent Leave: FMLA leave taken in separate blocks of time due to a single qualifying reason.

Medical Certification: Written documentation required from a Health Care Provider, a Certificate of Health Care Provider Form or equivalent, when seeking FMLA leave for a Serious Health Condition.

Reduced Leave Schedule: A leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per work day. Such leave is normally from full-time to part-time.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Inpatient care (i.e. a hospital admission) in a hospital, hospice, or residential medical care facility, including any period of Incapacity or subsequent treatment in connection with or consequent to such inpatient care.
2. A period of Incapacity of more than three (3) consecutive, full calendar days and any subsequent treatment or period of Incapacity relating to the same condition, that also involves:

- a. Treatment two or more times within 30 days of the first day of Incapacity, unless extenuating circumstances exist, by a Health Care Provider, by a nurse or physician's assistant under direct supervision of a Health Care Provider, or by a provider of health care services (i.e. physical therapist) under orders of, or on referral by, a Health Care Provider; or
 - b. Treatment by a Health Care Provider on at least one (1) occasion, unless extenuating circumstances exist which results in a regimen of continuing treatment under the supervision of the Health Care Provider.
3. The requirement in paragraphs (a) and (b) above for treatment by a Health Care Provider means an in-person visit to a Health Care Provider. The first (or only) in-person treatment visit must take place within seven days of the first day of Incapacity.
 4. Pregnancy or prenatal care.
 5. Chronic Conditions or permanent or long-term conditions.
 6. Conditions requiring multiple treatments by a health care provider provided or under orders of a health care provider for restorative surgery after an accident or injury or for a condition that would likely result in a period of Incapacity of more than three consecutive, full calendar days in the absence of medical treatment.

Twelve Month Period: The method to be used for determining the period in which the twelve (12) weeks of leave entitlement occurs is a rolling twelve (12) month period. A rolling twelve month period is measured by calculating backward from the date the employee will begin the FMLA leave.

V. ELIGIBILITY:

- A. The Family Medical Leave Act is a federal job protection law allowing Eligible Employees to take up to a total of twelve (12) work weeks of leave in a rolling Twelve Month Period due to a Serious Health Condition for themselves or to provide care for a Family Member with a Serious Health Condition.
- B. Eligible Employees will be granted FMLA leave for:
 1. Pregnancy or birth of a newborn child during the 12-month period following the date of birth.
 2. Placement for the adoption or foster care of an employee's child.
 3. Care for the employee's spouse, child or parent with a Serious Health Condition.
 4. The employee's own Serious Health Condition.

5. Care by an employee who is a spouse, child, parent or next of kin of a Covered Service Member with a serious injury or illness (up to 26 weeks).
 6. Qualifying exigency arising out of the fact that an employee's spouse, child or parent is a Covered Service Member, or has been notified of an impending call or order to Covered Active Duty status.
- C. To be eligible for FMLA leave, an employee must:
1. Have completed a minimum of twelve (12) months of employment; and
 2. Have worked a minimum of 1,250 hours during the twelve (12) month period preceding the commencement of the leave.

VI. GUIDELINES:

- A. FMLA leaves that also qualify as paid leave under Workers' Compensation law run concurrently with FMLA leave.
- B. FMLA leave may only be utilized during time when an employee is regularly scheduled to work. FMLA leave cannot be utilized to provide leave for time that would otherwise be overtime.
- C. Employees are required to make every reasonable effort to schedule leave so as not to disrupt the operations of their department.
- D. FMLA leave may be taken all at once, intermittently, or on a Reduced Leave Schedule under certain circumstances with proper notification and Medical Certification provided by the employee. An employee may use Intermittent Leave or a Reduced Leave Schedule after the birth of a healthy newborn child only with approval from Human Resources.
 1. Intermittent Leave must be identified as FMLA leave at the time of notification. If the employee has been approved for more than one FMLA leave, the correct FMLA leave being taken must be identified.
 2. If an Intermittent Leave is required or approved, JCU may temporarily assign the employee to an alternate position with equivalent pay and benefits if the employee is qualified for the position and it accommodates the employee's recurring periods of leave. The alternative position does not need to have equivalent duties as long as the employee is determined to be qualified for the position.
- E. Eligibility for leave for birth of a child or placement for adoption or foster care expires at the end of the twelve (12) month period beginning on the

date of birth or placement. If both parents are employed with JCU, FMLA leave is permitted for a combined total of twelve (12) weeks of leave during the twelve (12) month period when taken for the birth of a child, or placement for adoption or foster care.

- F. A husband and wife who are both employed at JCU and who are both eligible for FMLA leave for the birth or adoption of a child or foster care placement of a child are entitled to a combined total of twelve (12) weeks of FMLA leave during the rolling Twelve (12) Month Period.
- G. Employees who are the spouse, son, daughter, parent or next of kin of a Covered Service Member are eligible to take up to 26 weeks of FMLA leave during a single 12-month period to care for a Covered Service Member who has a Serious Health Condition resulting from an injury or illness incurred in the line of duty on Covered Active Duty for which he or she is undergoing medical treatment, recuperation, or therapy; or is otherwise in outpatient status or on a temporary disability retired list.
- H. Use of FMLA for any purposes other than for which it was granted will result in disciplinary action.

VII. PROCEDURES:

- A. The Human Resources Department is responsible for administering the FMLA program and assisting employees throughout the FMLA process.

1. EMPLOYEE RESPONSIBILITIES:

- a. The employee must contact Human Resources to request FMLA leave.
- b. If the need for an FMLA leave is foreseeable, for example, if an employee knows they will miss work due to scheduled surgery, they should notify Human Resources at least 30 days in advance. If it is not practicable to provide at least 30 days notice, notice must be given as soon as practicable.
- c. If the need for an FMLA leave is unforeseeable, the employee must notify their direct supervisor or designee and contact Human Resources as soon as they become aware of the need for leave or as soon as practicable. Notice may be given by the employee's family member or other responsible party if the employee is unable to do so personally. The employee also must follow any other departmental call off procedures.
- d. For an Intermittent Leave, an employee must contact their direct supervisor or designee each time work is missed. The

employee must also follow any other departmental call off procedures.

- e. Human Resources will provide a FMLA Notice of Eligibility and Rights & Responsibilities form to the employee. This document defines the hours worked and eligibility under FMLA.
- f. The employee must have the treating Health Care Provider complete the FMLA Medical Certification form to document the medical necessity and length and type of leave.
- g. The employee must return the completed FMLA Certification form to Human Resources within fifteen (15) calendar days of receipt. If the Medical Certification form is not received, the FMLA leave request will be denied unless extraordinary circumstances exist that prevented the employee from returning the form within fifteen (15) calendar days.
- h. Employees should attempt to schedule medical appointments outside of normal working hours.
- i. Written Medical Certification is required from an agency or legal representative validating adoption or foster care placement.
- j. Employees must notify Human Resources as soon as they become aware of any change in circumstance leading to an extension request with respect to the leave. Failure to do so may result in the employee being considered absent without leave.

2. HUMAN RESOURCES RESPONSIBILITIES:

- a. Human Resources will send an e-mail to the employee's supervisor or designee as notification of a pending request for FMLA.
- b. Human Resources will provide a FMLA leave request packet directly to the employee. This packet will include the Notice of Eligibility & Rights and Responsibilities notice and the Certificate of Health Care Provider form for completion by the Health Care Provider.
- c. When possible, a reminder call will be made to the employee if Medical Certification is not returned within fifteen (15) calendar days from the date of receipt of the packet.

- d. Human Resources will review the FMLA Medical Certification form when received to determine whether the leave meets FMLA criteria based on the information provided.
 - e. Approval/Denial of a request is determined by Human Resources. The employee is provided with a Designation Notice indicating if the leave request is approved, denied or additional information is needed. The employee and supervisor will be notified of the request status.
 - f. A Human Resources representative may maintain contact with the employee as necessary while on FMLA and assist employee throughout the process.
3. PAYROLL/TIMEKEEPING RESPONSIBILITIES:
- a. Staff employees taking FMLA leave for are required to use all available accrued sick time and then all available accrued vacation/personal time to cover the leave period before going on unpaid leave.
 - b. After all paid time is exhausted, the employee will be placed on unpaid leave for the duration of the FMLA.

VIII. RETURN TO EMPLOYMENT:

- A. If an employee is able to return to work earlier than anticipated, the employee must notify Human Resources and his/her supervisor with the newly anticipated return date as soon as possible and at least two (2) business days prior to return to work.
- B. On return from leave, the employee is entitled to be returned to the same position held when leave commenced, or to an equivalent position with equivalent pay, benefits and other terms and conditions of employment.
- C. An employee who has been on FMLA leave because of his/her own Serious Health Condition will be required to provide a fitness-for-duty certification indicating his/her ability to return to work. The fitness-for-duty certification must be provided to Human Resources prior to returning to work.
- D. An employee also may be approved to return under Light Duty/Transitional Work if approved by Human Resources and the employee's direct supervisor and supported by the Medical Certification.

IX. HEALTH INSURANCE AND OTHER EMPLOYER PAID BENEFITS:

- A. During a FMLA leave, an employee will continue to be provided with health insurance and any other benefits on the same terms and conditions as active employees, provided that the employee makes any required insurance contributions on a timely basis.
1. These contributions for continued coverage will continue to be taken from the employee's pay check as long as an employee is in a paid status.
 2. In the event that an employee is in an unpaid status, the employee is responsible for making regular monthly contribution payments to continue health insurance coverage and any other applicable benefits.
 3. If an employee is in an unpaid status and his/her regular monthly insurance and any other benefit contributions are more than thirty (30) days late, JCU may discontinue health insurance coverage and/or other benefits for which employee contributions are required. In this case, JCU will notify an employee in writing that it did not receive premium payment(s) and will wait fifteen (15) days before canceling coverage.
- B. If an employee returns from leave, JCU will deduct and/or withhold from his/her next paycheck an amount, if any, which was paid by JCU but, which should have been paid on a timely basis by the employee during the leave period.

X. LEAVE EXTENSION FOLLOWING FMLA LEAVE:

- A. Following the exhaustion of FMLA leave, an employee may request an extension of leave as a reasonable accommodation for a documented disability under the Americans with Disability Act as amended (ADAA).
- B. ADAAA requests shall be made in writing to Human Resources. Human Resources will review the request and supporting medical documentation to determine whether leave extension is granted as a reasonable accommodation.

XI. CROSS REFERENCES:

- A. Attendance & Punctuality Policy
- B. Faculty Handbook
- C. Sick Leave Policy
- D. Staff Parental Leave Policy