



Policy Directory

Responsible Division: Finance and Administrative Services
Responsible Office: Human Resources
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Family and Medical Leave (FML) and National Defense Authorization Act

Policy:

Alcorn State University provides leave benefits as mandated by the Family and Medical Leave Act of 1993, as amended (FMLA) and the National Authorization Defense Act (H.R. 4986), as amended (H.R. 2647). University employees employed one-half time or more, for at least twelve (12) months (consecutive or nonconsecutive) and who worked at least 1,250 hours during the twelve (12) months immediately preceding the leave may be granted Family and Medical Leave (FML) or leave under the National Defense Authorization Act (as applicable).

FML

FML differs from major medical leave in that FML generally requires up to 12 weeks of leave be granted for serious health conditions, and that the employer keep an equivalent position available for the employee for when he/she returns to work within that time or shortly thereafter. FML does not require that the leave be paid, but an employee's accrued medical leave is generally applicable and may be used.

The qualifying employee shall be entitled to Family and Medical Leave for up to twelve weeks in a 12-month period for one or more of the following reasons:

1. Birth of a child;
2. Placement of a child with the employee for adoption or foster care;
3. To care for a spouse, child, or parent with a serious health condition; or
4. Due to an employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of his/her job.

A son or daughter is defined as a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis (in place of a parent). The child must be under 18 years of age; or 18 or older and incapable of self-care because of a mental illness or physical disability. Parent means a biological parent or an individual who stands or stood in loco parentis to an employee.

The following policies/definitions apply to this leave:

A serious health condition is defined as:

1. inpatient care in a hospital, hospice, or residential medical facility, including any period of incapacity or subsequent treatment;
2. a period of incapacity of more than three (3) consecutive days that also includes treatment two (2) or more times by a health care provider or such treatment on at least one occasion resulting in a regimen of continuing treatment;
3. incapacity due to pregnancy or for prenatal care;
4. chronic conditions requiring treatments;
5. permanent long-term conditions requiring treatment; or
6. multiple treatment for non-chronic conditions.

Family and Medical Leave does not apply for less serious health conditions. For purposes of determining whether a condition is a serious one, a regimen of continuing treatment that includes taking over-the-counter medications and activities that can be initiated without a visit to a health care provider are usually insufficient, by themselves, to indicate the presence of a serious health condition.

Family and Medical Leave may be taken intermittently or on a reduced leave schedule under certain circumstances. Flex schedules, such as working fewer days in a week or fewer hours in a day, may be utilized. Intermittent Leave may be taken when medically necessary.

Approval must be received from the Office of Human Resources for all Family and Medical Leave, including leave taken on an intermittent basis. While some instances may require approval as soon as possible after a medical emergency has passed, prior approval is required under most circumstances.

The employee is to request Family and Medical Leave under this policy, in writing, stating the purpose of the leave and the period of leave requested. This request must be made to the Office of Human Resources. If the leave is requested to be taken on an intermittent or reduced-time basis, a description of the schedule is to be provided. A certificate from a physician or medical practitioner is required for any leave which will be in excess of four (4) days (whether consecutive days or intermittently 32 hours due to the same condition). When the leave is based upon care of a child, a certificate of birth or legal adoption or documentation of foster parent status may be required for Family and Medical Leave.

When possible, employees are to make a reasonable effort to schedule medical treatment for minimum disruption to the University. The employee must provide Alcorn State University at least 30 days advanced notice before the use of Family and Medical Leave if the need for the leave is foreseeable based upon the expected birth, adoption, foster care placement, or the planned medical treatment of the employee or family member. If 30 days is not practicable, notice must be given as soon as reasonably possible. The University may delay leave for 30 days if a prior approval request is not submitted timely.

The employee is responsible for providing the Office of Human Resources with sufficient information for determining if the requested leave is covered by Family and Medical Leave. Preliminary designation under Family and Medical Leave will be assigned until certification by a medical care provider is received. Failure to provide adequate medical certification to determine Family and Medical Leave entitlement will result in withdrawal of preliminary designation. Written notice of certification must be received in the Office of Human Resources not later than fifteen (15) calendar days from the date of issue.

Once the University has acquired knowledge that the leave is being taken for a reason covered by Family and Medical Leave, the University must promptly (within 2 business days, absent extenuating circumstances) notify the employee that leave is designated as Family and Medical Leave. The notice may be oral or in writing; if oral, it shall be confirmed in writing no later than the following payroll date

(unless that date is less than one week after the oral notice, in which case, the notice must be no later than the subsequent payroll date).

National Defense Authorization Act

The National Defense Authorization Act (H.R. 4986), as amended (H.R. 2647) is an expansion of the Family and Medical Leave Act of 1993, as amended, and provides FMLA entitlement to employees for the following reasons:

1. An employee whose spouse, son, daughter, or parent on covered active duty is notified of an impending call to covered active duty, or receives an order to covered active duty in the Armed Forces as defined by H.R. 4986, as amended H.R. 2647, is entitled to twelve (12) weeks of leave. When leave is foreseeable the employee must provide reasonable and practicable notice.
2. An employee caring for a spouse, son, daughter, parent, or next of kin (defined as nearest blood relative) with a serious illness or injury incurred as a covered service member, as defined by H.R. 4986, as amended H.R. 2647, is allotted 26 weeks of leave during a single 12-month period.

In aggregate, the maximum number of weeks taken by both husband and wife is 26 weeks during the 12-month period. Certification from a health care provider may be required by the University to approve Family and Medical Leave or entitlement under the National Defense Authorization Act.

Family and Medical Leave and leave taken under the National Defense Authorization Act will be granted once the University learns an employee has a qualifying event. Leave shall be taken concurrently with paid or unpaid leave status.

Preliminary designation under Family and Medical Leave will be assigned until certification by a medical care provider is received. Failure to provide adequate medical certification to determine Family and Medical Leave entitlement will result in withdrawal of preliminary designation. Notice may be oral or in writing; if oral, it shall be confirmed in writing within five (5) business days. Once the University has acquired knowledge that the leave is being taken for a reason covered by Family and Medical Leave, the University must promptly (within 2 business days, absent extenuating circumstances) notify the employee that leave is designated as Family and Medical Leave. The notice may be oral or in writing; if oral, it shall be confirmed in writing no later than the following payroll date (unless that date is less than one week after the oral notice, in which case, the notice must be no later than the subsequent payroll date).

The University may not designate leave that has already been taken as Family and Medical Leave after the employee returns to work, with two exceptions:

1. If an employee is out for an FMLA-qualifying reason and the University does not learn of the reason for the leave until the employee returns, the University may designate the leave as Family and Medical Leave promptly within 2 business days; or
2. If the University has provisionally designated the leave as Family and Medical Leave and is awaiting receipt from the employee of medical certification or obtaining of a second opinion. Similarly, the employee is not entitled to the protection of Family and Medical Leave if the employee gives notice of the reason for the leave later than two (2) days after returning to work. The University reserves the right to request information updating the employee's condition and at

least a tentative “return to work” date. Employees may be required to provide a medical statement from an attending physician confirming the ability to return to work.

The University will continue to pay the employee’s portion (employee only; not dependents) of the University’s health insurance during the Leave. If the employee does not return to work after the Leave for reasons other than health or some other reason beyond the employee’s control, the University reserves the right to charge the employee for the full premium cost of the health coverage provided. If both spouses are employed by the University, both are eligible for this Leave. However, for the birth or placement of a child or the care of a sick parent, the husband/wife together are limited to only one 12-week period during the 12-month period. Upon return from Leave, the employee will be restored to his/her original or equivalent position with equivalent pay, benefits, and other terms of employment. If any nine-month faculty member has a covered event to occur that would call for the use of this policy between the end of one academic year and the beginning of another, the employee is not eligible for paid-leave status. The 12-month period for this policy is defined as a “12-month calendar year” which is measured backward from the date an employee uses Family and Medical Leave.