I. PURPOSE AND SCOPE

This policy has been established to comply with the Federal Family and Medical Leave Act of 1993 (FMLA) and related Department of Labor regulations, the General Provisions of the State General Appropriations Act, and UH System Administrative Memorandum No. 02.D.06. The policy describes the leave benefits available to eligible employees under these laws as well as procedures for applying for, maintaining, and returning from family and medical leave; it applies to all faculty and staff employees who meet the eligibility requirements defined in section III of this policy. Procedures are included for the following:

• Applying for family and medical leave.
• Processing applications.
• Insurance premium billing.
• Employee reporting requirement.
• Employee reporting and return to work requirements.
• Family and medical leave utilization record keeping.

II. POLICY STATEMENT

A. The Family and Medical Leave Act of 1993, as amended, (FMLA) allows “eligible employees” to take job-protected, leave for up to a total of 12 workweeks in a “year”:

1. because of the birth of a child and to care for the newborn child.

2. because of the placement of a child with the employee for adoption or foster care.

3. because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition.

4. because the employee’s own serious health condition makes the employee unable to perform the functions of his or her job.

5. because of any qualifying exigency arising out of the fact that the employee’s spouse, child, or parent is a member of the National Guard or
Reserves on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.

In addition, an eligible employee who is a spouse, child, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness is eligible for up to a total of 26 workweeks of unpaid leave during a “single 12-month period” to care for the servicemember.

B. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule. Family and medical leave is provided to eligible employees for any of the events or conditions listed below. Leave taken for these events must be reported as family and medical leave:

- The birth of a child and the care of the newborn.
- The placement of a child with an employee in connection with the adoption or state approved foster care of the child.
- The serious health condition of a child, parent, or spouse of the employee.
- A serious health condition of the employee.

An eligible employee is entitled up to a maximum of 12 weeks of approved family and medical leave in a year, as defined in this policy.

BC. An employee who does not meet the eligibility requirements for family and medical leave may be eligible for parental leave for the birth of a natural child or the adoption or state approved foster care placement of a child under three years of age. See MAPP 02.02.02 – Parental Leave for more information.

D. Employees may be eligible for additional unpaid leave beyond FMLA leave in accordance with MAPP 02.02.03 – Leaves of Absence.

III. DEFINITIONS

A. Child: A biological, adopted, or foster child; a stepchild; a legal ward; or a person for whom the employee has (or had during the person's youth) daily responsibility to care and financially support (a biological or legal relationship is not necessary) and who is either under 18 years of age or is incapable of self-care because of a physical or mental disability.

B. Covered military member: The employee’s spouse, child, or parent who is on active duty or call to active duty status in the National Guard or Reserves. Continuing treatment: Refer to "serious health condition."

C. Covered servicemember: The employee’s spouse, child, parent or next of kin who is a current member of the Armed Forces, including a member of the National Guard or Reserves, 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 incurred in the line of duty on active duty.

**C.D. Chronic health condition:** One that meets all the following requirements:

- Requires periodic visits for treatment by a health care provider.
- Continues over an extended period of time.
- May cause episodic rather than continuing incapacity (e.g., asthma, diabetes, epilepsy).

**D.E. Eligible employee:** Any employee who:

- Has worked for the State of Texas a total of at least 12 months prior to the date of leave (the 12 months need not be consecutive); and
- Has at least 1,250 hours actually worked for the University of Houston in the 12 months immediately preceding the leave. Full-time (100% FTE) exempt staff and faculty are presumed to have worked 1,250 hours.

**E.F. Health care provider:** A person authorized to practice as a health care provider in Texas who is performing within the scope of that practice as one of the following:

- Doctor of medicine
- Doctor of osteopathy
- Podiatrist
- Dentist
- Clinical psychologist
- Optometrist
- Chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist)
- Nurse practitioner
- Nurse midwife
- Clinical social worker
- Physician assistant
- Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts
- Any health care provider from whom the university's group plan will accept certification of a serious health condition
- Any health care provider within the scope of practice listed above practicing in another country who is authorized to practice in that country

**G. Incapable of self-care:** The individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or the instrumental activities of daily living. Activities of daily living include caring for one’s grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation,
paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

**FH.** Incapacity: For the purposes of FMLA, the inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment therefore, or recovery there from.

**GI.** Intermittent leave or reduced leave schedule: A leave schedule that reduces the usual number of hours per work week or hours per work day of an employee. Intermittent leave is calculated on an hourly or daily basis, as a proportion of the employee's normal work week.

**J.** Next of kin of a covered servicemember: The nearest blood relative other than the covered servicemember’s spouse, parent, child, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember’s next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember’s only next of kin.

**HK.** Parent: A biological, foster, or adoptive parent; a stepparent; a legal guardian; or a person who has (or had during the employee's childhood) daily responsibility to care for and financially support the employee. Parents-in-law are not included in this definition.

**L.** Qualifying Exigencies: Arise out of the fact that the employee’s spouse, child, or parent is a military member in the National Guard or Reserves on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation and include the following:

1. Issues arising from a covered military member’s short notice deployment (i.e., deployment of seven or less days of notice) for a period of seven days from the date of notification.

2. Military events and related activities such as official ceremonies, programs, or events sponsored by the military, military service organizations, or the American Red Cross.

3. Certain childcare and related activities such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need
basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility.

4. Making or updating financial and legal arrangements to address a covered military member’s absence.

5. Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member.

6. Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment.

7. Attending to certain post-deployment activities sponsored by the military for a period of 90 days following the termination of the covered military member’s active duty status, and addressing issues arising from the death of a covered military member.

IM. Regimen of continuing treatment: Includes a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed-rest, drinking fluids, exercise, or other similar activities that can be initiated without a visit to a health care provider.

JN. Serious health condition: An illness, injury, impairment, or physical or mental condition that involves either or both of the following:

1. In-patient care in a hospital, hospice, or residential medical care facility including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care.

2. Continuing treatment by a health care provider, including:
   a. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
      • treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
For an employee to qualify for family and medical leave for a serious health condition, the employee or family member must be under continuing supervision of, but not necessarily receiving active treatment by, a health care provider, who must certify to one of the following:

• In the case of leave requested to care for a family member, the employee is needed to care for the family member.

• In the case of leave requested for the serious health condition of the employee, the employee is unable to perform the essential functions of the position.

A serious health condition involving continuing treatment by a health care provider includes any of the following conditions:

1. A period of incapacity of more than three consecutive calendar days, involving treatment by a health care provider two or more times, or at least one time that results in a regimen of continuing treatment.

   2b. Any period of incapacity due to pregnancy or prenatal care.

   3c. Any period of incapacity or treatment due to a chronic serious health condition that requires at least two visits to a health care provider within a year for the same condition.

4d. A period of incapacity that is permanent or long-term for which treatment may not be effective (e.g. Alzheimer's, severe stroke, terminal stages of a disease).

5e. Any period of absence to receive multiple treatments (including recovery from those treatments) either for restorative surgery after an accident or injury or for a condition that would likely result in an incapacity of three or more days in the absence of medical treatment (e.g., cancer, severe arthritis).

6f. Allergies or mental illness resulting from stress, but only if they meet all of the other criteria of a serious health condition.

7g. Substance abuse, but only if the employee is taking leave for treatment by a health care provider.
O. Serious injury or illness: An injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

KP. Spouse: A husband or wife, as recognized under the laws of the State of Texas, including a husband or wife in a common-law marriage.

L-Q. Treatment: For the purposes of FMLA, includes, but is not limited to, examinations to determine if a serious health condition exists. Treatment does not include routine physical, eye, or dental exams.

Specific conditions for which treatment does not qualify for FMLA leave include: cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental, or orthodontia problems and periodontal disease. Cosmetic treatments are not considered a serious health condition unless medically required or complications arise.

MR. Year: Twelve months measured forward from the first date family and medical leave begins.

IV. PROVISIONS

A. An eligible employee is entitled to the maximum leave allowance as established by FMLA. The employee may request a shorter leave for a qualifying event, and they may request leave for more than one qualifying event not to exceed the established maximum leave in a year. For example, in the single 12-month period an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave, but could not take 16 weeks of leave to care for a newborn child and 10 weeks of military caregiver leave.

B. An intermittent or reduced leave schedule is available under the Family and Medical Leave Act. The employee must attempt to schedule the leave so as not to disrupt the University's operations. The University may require the employee to transfer temporarily (not to exceed the family and medical leave period) to an alternative position that better accommodates recurring periods of absence or a part-time schedule, provided the position provides equivalent pay and benefits.

C. An eligible employee must use all applicable accrued paid leave balances (including sick leave and vacation) while taking family and medical leave. The use of accrued sick leave is, however, restricted to those circumstances that would otherwise qualify the employee for sick leave usage under State law and University rules and regulations governing the use of sick leave (UH System Administrative Memorandum 02.D.01MAPP 02.02.03). The employee may choose to use accrued compensatory time instead of unpaid family and medical leave, but may not be required to do so. Any FLSA compensatory time (1.5) taken may not be counted against the employee’s 12-week family and medical leave entitlement.
D. Any sick leave of more than three consecutive days or intermittent leave of any duration for qualifying serious or chronic health conditions must be counted as family and medical leave. When there is any question about whether a condition qualifies as family and medical leave, the employing department should contact the Human Resources Department. If it is determined that the leave qualifies as family and medical leave, the procedures for applying for and reporting family and medical leave must be initiated, including noting "Family and Medical Leave" on the employee's timesheet.

B. An employee on Workers' Compensation who wishes to continue to receive state insurance premium sharing is required to apply for family and medical leave.

C. If a holiday falls during a week when an employee is on family medical leave, the entire week is treated as a week on family medical leave, except when the university is closed for the entire week (five or more consecutive working days).

D. If both spouses are employed by the University of Houston as eligible employees, they are entitled together to a total of 12 weeks of leave between them (rather than 12 weeks each) for the birth or placement of a child. A jointly filed request form is required from spouses who are both requesting leave for the birth or placement of a child. For 26 workweeks in a "single 12-month period" if the leave is to care for a covered servicemember with a serious injury or illness. Spouses who are eligible employees are entitled to 12 the maximum leave weeks each for other qualifying events or conditions.

E. Leave for the birth or placement of a child must take place within 12 months after the event. Leave may begin prior to the birth or adoption. Leave for birth or placement of a child is available equally to both sexes.

F. An intermittent or reduced leave schedule is available under the Family and Medical Leave Act for the serious health condition of the employee, employee's spouse, child, or parent.

H. If leave qualifies as both leave to care for a covered servicemember with a serious injury or illness and leave to care for a qualifying family member with a serious health condition, the leave must be designated as leave to care for a covered servicemember.

G. For the period of the family and medical leave that is without pay, the employee may continue insurance benefits (excluding disability insurance plans) and will receive the premium sharing from the State or the University toward the cost of health insurance. The employee is responsible for self-paying by personal check or money order that part of his/her insurance cost that would otherwise be deducted from the employee's paycheck. (If an employee's premium payment is more than 30 days late, the university will reduce the employee's insurance coverage to self-coverage only, following prescribed notification of the employee.)
H. For the period of the family and medical leave that is without pay, the employee on family and medical leave will accrue state service credit for any full calendar month of family and medical leave and will not accrue vacation or sick leave for such months.

I. Family and medical leave is not considered a break in service continuity of employment. Benefit however; entitlements based upon length of service will be calculated including any period of family medical leave. When an employee is on family and medical leave without pay for a full calendar month (i.e., from the first day of a month through the last day of a month, inclusive) the month is not counted when computing total state service for purposes related to longevity pay or to the rate of accrual of vacation leave. An employee also does not accrue vacation or sick leave for a full calendar month during which the employee is on leave without pay.

J. Except under the conditions outlined in section K below, employees returning from approved family and medical leave must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

1. An employee offered an equivalent position who chooses to decline the position waives any rights to reinstatement.

2. An employee who believes that a position offered is not an equivalent position is entitled to file a grievance under the University of Houston Grievance Policy and Procedure, MAPP 02.04.01.

K. The university may decline to restore an employee on family and medical leave to his/her original or equivalent position under the conditions listed below.

1. If an employee's position is scheduled for elimination as part of an approved reduction in force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date.

2. If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the employee is on family and medical leave at the time of the misconduct or discovery of misconduct.

3. If an employee is scheduled for termination for any other reason prior to notification of family and medical leave and has received written notice of the termination, the employee's family and medical leave rights end on the previously scheduled termination date.

4. If the employee is among the highest paid ten percent employed by the University of Houston and a determination is made by the president that
restoring employment to the employee would result in substantial economic injury to the university, the employee's right to restoration of employment may end at the close of the family and medical leave period. At the time an employee in this category applies for family and medical leave, the employee must be notified that he/she may be ineligible for reinstatement.

In such cases, the employee maintains only those rights provided by such regulations as COBRA and, in the case of a reduction in force, MAPP 02.04.06 on Reduction in Force.

If an employee elects not to return to work upon completion of an approved unpaid family and medical leave, the employee is obligated to reimburse the university for the amount of the state's or university's contribution of insurance premium during any complete months of unpaid leave. The employee need not reimburse the university if the failure to return to work was for reasons beyond the employee's control, or if the employee retires directly from leave or within 30 days of returning from leave.

V. APPLYING FOR NOTIFICATION OF THE NEED FOR FAMILY AND MEDICAL LEAVE

A. When the need for family and medical leave can be planned, such as for the birth or placement of a child or for a scheduled medical treatment, the employee is responsible for applying for FMLA leave at least 30 calendar days in advance of the leave and for making efforts to schedule the leave to minimize disruption of the University's operations. If the need for leave is foreseeable less than 30 days in advance, the employee is responsible for applying for FMLA leave as soon as practicable.

B. In case of sudden illness or other unforeseeable need for leave, the employee is required to give notice to the supervisor as soon as practicable in accordance with MAPP 02.02.03 – Leaves of Absence.

C. Within five business days of being informed that an employee is taking sick leave involving a condition that may qualify for family and medical leave, the supervisor must provide the employee with a written eligibility notice and a rights and responsibilities notice (combined into one form and available on the Human Resources website at http://www.uh.edu/hr/benefits/benefitforms.htm). The notice must be completed by the supervisor and provided to the employee in a language which the employee understands. If leave has already begun, the notice should be mailed to the employee’s address of record.

If the employee provides notice of a subsequent need for FMLA leave during the applicable 12-month period due to a different FMLA-qualifying reason, and the employee’s eligibility status has changed, the supervisor must notify the employee of the change in eligibility status within five business days.
If the employee has not already done so, he/she must complete the application process as described below within 15 calendar days from the date of the written eligibility notification by the supervisor unless not practicable under the circumstances.

VI. APPLYING FOR FAMILY AND MEDICAL LEAVE

A. All requests for family and medical leave must be submitted to the employee’s supervisor on the Application for Family and Medical Leave provided by the Human Resources Department and accompanied by the Department of Labor Certification of Health Care Provider form or alternate acceptable documentation certified by the health care provider. The required forms are available in the Benefits section of the Human Resources Department website at http://www.uh.edu/hr/benefits/benefitforms.htm.

B. A jointly-filed request form is required from spouses who are both requesting leave for the same qualifying event or condition.

B. Upon receipt of the Application for Family and Medical Leave, the department must:

1. Complete the indicated section of the Application for Family and Medical Leave.
   a. The department must approve the period of leave that the employee states is supported in the medical certification and available to the employee, up to the maximum period allowed by law.
   b. In no instance may an employee be granted more than the maximum amount of leave available by law in a 12-month period.
   c. The department does not have the option of approving less than the requested leave period as long as the employee has that amount of family and medical leave available and the certification supports the amount of leave requested as advised to the department by the employee.
   d. The department must provide the employee with a copy of the application for the employee's records. If disapproved, the reason for disapproval must be provided on the application (i.e. lack of available leave).
   e. The form is then sent to Human Resources for processing.
2. Determine the appropriate supplemental documentation necessary for the type of leave being requested and provide the form or a list of acceptable alternative documentation to the employee.

   a. If the form requires information from the department, the department must complete this section prior to distributing the form to the employee.

   b. The employee should submit all completed supplemental forms or certifications directly to Human Resources.

C. Upon receipt of all required documentation Human Resources will:

   1. Verify the amount of leave requested on the Application for Family and Medical Leave with the amount of leave requested on the required supporting documentation/certification. Human Resources will not approve more than the amount of leave indicated on the supporting documentation/certification.

   2. Within five business days of receiving all required forms and certifications, Human Resources will notify the employee and the employing department whether or not the leave is designated and counted as FMLA leave.

   3. Provide the employee with the appropriate applications if the employee is eligible for benefits under the University's disability plans.

C. For an intermittent or reduced leave schedule, the following provisions apply:

   1. The health care provider's certification must state that medical need can best be accommodated through an intermittent or reduced leave schedule.

   2. The employee must attempt to schedule the leave so as not to disrupt the university's operations.

   3. The university may require the employee to transfer temporarily (not to exceed the 12-week family and medical leave period) to an alternative position that better accommodates recurring periods of absence or a part-time schedule, provided the position provides equivalent pay and benefits.

D. When the need for family and medical leave can be planned, such as for the birth or placement of a child or for scheduled medical treatment, the employee is responsible for submitting both required forms to his or her supervisor at least 30 calendar days in advance of the leave and for making efforts to schedule the leave to minimize disruption of the university's operations. The supervisor must, in turn, ensure that the forms are forwarded to the Human Resources Department within three days of receipt.
E. In case of sudden illness or other unforeseeable need for leave, the employee is required to give notice to the supervisor within two days of learning of the need for leave, except under extraordinary circumstances. The notice may be oral.

F. Within two business days after being informed that an employee is taking sick leave involving a condition that may qualify for family and medical leave, the supervisor/department head must notify the employee in writing that the paid leave is also designated as family and medical leave and will be counted toward the 12-week entitlement. The supervisor/department head must also provide the employee with a summary of employees' rights and requirements under FMLA. The notice must be provided in a language which the employee understands and must explain the consequences of failure to pay for optional benefits and circumstances under which coverage may lapse.

G. The two required forms must be submitted to the Human Resources Department within 15 calendar days from the date of the written notification by the supervisor unless not practicable under the circumstances.

H. Required Supplemental Documentation:

1. To request leave based on a serious health condition, the employee or family member must be under continuing supervision of, but not necessarily receiving active treatment by, a health care provider. The employee must provide the following information on the forms noted or, in the case of the health care provider's form, the same information may be provided in a letter: A completed Certification of Health Care Provider for Employee's Serious Health Condition form or a Certification of Health Care Provider for Family Member's Serious Health Condition form (both available at http://www.uh.edu/hr/benefits/benefitforms.htm) is required.

   1. The health care provider must certify that one of the following conditions exists:

      — If the leave is requested based on the serious health condition of the employee, that the employee is unable to perform the functions of his or her position.

      — If the request is based on the serious health condition of the child, parent, or spouse of the employee, that the employee is needed to provide care to the child, parent, or spouse.

      — That the employee or the employee's spouse is expecting the birth of a child.

   2. The medical certification must also include the following information:

      — The date on which the condition commenced.
The probable duration of the condition.

The appropriate medical facts regarding the condition for which the current need for leave exists.

An estimate of the time needed to care for the individual involved, if the request is based on the serious health condition of the child, parent, or spouse of the employee.

12. To request leave based on the adoption or placement of a child, a copy of the legal orders of adoption or placement is required.

3. To request leave based on a qualifying exigency, a copy of the covered military member’s active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party is required.

4. To request leave to care for a covered servicemember with a serious injury or illness, a Certification for Serious Injury or Illness of Covered Servicemember form completed by the servicemember’s health care provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember’s family is required.

I._____

1._____

To request intermittent leave or leave on a reduced leave schedule, the employee must provide the following information from the health care provider:

1. For a request based on the serious health condition of the employee:

   A statement of medical necessity for his or her intermittent leave or reduced leave schedule.

   The expected duration of the schedule.

   A listing of the dates of his or her planned medical treatment and the duration of the treatment.

2. For a request based on the serious health condition of the child, parent, or spouse of the employee:

   A statement from the employee certifying the relationship of the child, parent, or spouse to the employee.
—— A statement attesting to the necessity of intermittent leave or reduced leave for the employee to provide care or to assist in the person's recovery.

—— An estimate of the expected duration and schedule of his or her intermittent or reduced leave.

**KE.** At its discretion, the University may require a second medical opinion at the University's expense. If the second medical opinion differs from the employee's medical certification provided in accordance with the policy, the University may require the opinion of a third health care provider, approved by both the University and the employee, at the University's expense. This third opinion is binding on both the University and the employee. — An employee who refuses to cooperate with the third health care provider is bound by the opinion of the second health care provider.

- Second and third opinions are not permitted for certification of a covered servicemember’s serious injury or illness or of a qualifying exigency.

**L.** The university may request recertification from the employee's health care provider under certain conditions, such as when any extension of leave is requested, when circumstances described by the original certification have changed significantly, or when the university receives additional information that makes recertification necessary.

—— Prior to the department's requesting recertification for any reason, the appropriateness of such a request under the law should be verified by contacting the Human Resources Department.

**F.** If an employee submits a medical certification or other appropriate documentation that Human Resources determines is incomplete, Human Resources will provide the employee a written statement describing the additional information necessary to make the certification complete and sufficient. The employee has seven calendar days to submit the additional information.

**G.** If the approved designated leave is not intermittent or reduced, the employing department must submit an ePAR to place the employee’s status on paid and/or unpaid leave according to the employee’s available sick and vacation leave and the terms of their use.

**VI. PROCESSING THE APPLICATION PROCEDURES DURING LEAVE**

**A.** Reporting Time:
1. The employing department is required to submit timesheets on the employee’s behalf if the employee is on family and medical leave when they are due to Payroll.

a. Paid or Unpaid Family and Medical Leave must be noted on the employee’s timesheet.

b. Any vacation and sick time used during the time reporting period must also be recorded on the timesheet. If the employee is on paid leave and accruing vacation and sick, the time accrued during the family and medical leave may not be used until the employee returns to work.

2. If a holiday falls during a week when an employee is on family and medical leave, the entire week is treated as a week on family and medical leave, except when the University is closed for the entire week (five or more consecutive working days).

A. The employee submits his/her application for family and medical leave and health care provider’s certification, as prescribed in Section IV of this procedure, to the immediate supervisor.

B. The department then completes Section III of the application based on the medical necessity of the leave and any prior usage of family and medical leave.

C. The department must approve the period of leave that is supported in the medical certification and available to the employee up to a maximum period of 12 weeks.

1. In no instance may an employee be granted more than 12 weeks of family and medical leave in a 12-month period.

2. The department does not have the option of approving less than the requested leave period as long as the employee has that amount of family and medical leave available and the physician certification indicates that the employee has an eligible condition and at least that length of time is needed.

D. The department provides the employee with a copy of the application for the employee’s records. If disapproved, the reason for disapproval must be provided on the application (inadequate medical certification or other information, lack of available leave).

E. When the application has been approved by the department, it is sent to the Benefits section of the Human Resources Department.

1. The Benefits section of the Human Resources Department will return an acknowledgment copy of the application to the department.
2. If the employee is eligible for benefits under the university's disability plans, the Benefits section will provide the employee with the appropriate applications.

VII. B. Insurance Coverage:

A. As long as paid leave is available for family and medical leave, insurance coverage continues as usual.

B. If when paid leave is exhausted, the department must submit a personnel action request (PAR) to the Human Resources Department placing the employee on leave without pay and should indicate "Family and Medical Leave" in the "Remarks" section.

C. The PAR will be processed by the Human Resources Department and sent to the Payroll Department.

D. The Benefits section will bill the employee for any premium due after application of the state premium sharing toward the cost of health insurance.

E1. The State or University will continue to contribute its monthly portion of insurance premiums to the Employee Retirement System of Texas (ERS), during the period of family and medical leave. ERS will bill the employee for any premium due after application of the state premium sharing toward the cost of health insurance.

The employee is responsible for self-paying by personal check or money order that part of his/her insurance cost that would otherwise be deducted from the employee's paycheck.

2. However, if ERS does not receive an employee's premium payment upon receipt of notice is more than 30 days late, insurance coverage will be reduced to employee-only coverage.

Prior to making the reduction in coverage, the Benefits section of the Human Resources Department will mail written notice that the payment has not been received and coverage will be dropped, providing at least 15 days' notice to allow for the employee to provide payment.

E3. In the event of the The Benefits section of the Human Resources Department must be contacted within 30 days of birth or adoption of a baby or child, the baby or child must be added to to include the new baby/child in the employee's insurance coverage within 30 days of the date of birth or adoption if the employee desires coverage. Instructions are available online at http://www.ers.state.tx.us/customer_service/tutorials.aspx.

VIII. C. Employee Reporting Requirements:
A. If a return date was not indicated on the application and certification for leave, the employee is required to report to the supervisor periodically (at least once per week) during the leave on the status of his/her leave. As an alternative, a representative may report for the employee.

Failure to report periodically during the leave may result in the suspension of the family and medical leave.

1. The employee must be notified in writing prior to suspension of family and medical leave or termination of employment that his/her status with the University is in jeopardy.

2. The employee must be given a sufficient amount of time to contact the supervisor and comply with policy requirements.

3. If the employee fails to comply, Human Resources should be contacted prior to suspension of family and medical leave or termination of employment. If the decision is made to suspend the family and medical leave or to terminate the employment, the employee must be notified in writing by the department and a copy of the correspondence sent to Human Resources.

4. The employee has a right to appeal any such action under the University's grievance policy and procedure (MAPP 02.04.01).

D. Recertification:

1. Human Resources may request recertification every 30 days in connection with an absence by the employee unless the medical certification indicates that the minimum duration of the condition is more than 30 days; in which case, a recertification may not be requested until that minimum duration expires.

2. In all cases, an employer may request a recertification of a medical condition every six months in connection with an absence by the employee; even if the medical certification indicates that the employee will need intermittent or reduced schedule leave for a period in excess of six months.

3. An employer may request recertification in less than 30 days for any of the following situations:
   a. The employee requests an extension of leave.
   b. Circumstances described by the previous certification have changed significantly.
c. The University receives information that casts doubt upon the employee’s stated reason for the absence or the continuing validity of the certification.

4. The employee must provide the requested recertification to Human Resources within 15 calendar days of the request.

5. Recertification is not permitted for a covered servicemember’s serious injury or illness or for a covered military member’s qualifying exigency.

6. Prior to the department's requesting recertification for any reason, the appropriateness of such a request under the law should be verified by contacting Human Resources.

VII. RETURN TO WORK

A. Upon return to work, an employee who has been on approved leave for more than three days based on the employee's serious health condition will be required to present to the supervisor a health care provider's release certifying fitness to return to work. A request to return to duty with restrictions will be considered on a case-by-case basis, considering the needs of the department and the essential functions of the job.

B. The employee must report to the supervisor if he/she will be unable to return to work at the end of the leave period.

Failure to report by the date intended to return to work will be considered abandonment by the employee of his/her job. Job abandonment may not be appealed (MAPP 02.04.03).

C. The employee must be notified in writing prior to suspension of family and medical leave or termination of employment that his/her status with the university is in jeopardy.

1. The employee must be given a sufficient amount of time to contact the supervisor and comply with policy requirements.

2. If the employee fails to comply, the Human Resources Department should be contacted prior to suspension of family and medical leave or termination of employment. If the decision is made to suspend the family and medical leave or to terminate the employment, the employee must be notified in writing by the department and a copy of the correspondence sent to the Human Resources Department.

3. The employee has a right to appeal any such action under the university's grievance policy and procedure (MAPP 02.04.01).
Since only 12 weeks of job protection are provided under the terms of family and medical leave, additional leave beyond 12 weeks is subject to the approval of the department in accordance with regulations governing leave of absence without pay (MAPP 02.02.03).

If an employee plans to return to work earlier than expected by the department, the employee shall provide the department with two business days' notice where feasible.

Employees returning from approved family and medical leave within the provisions of this policy shall be restored to their original or equivalent positions with equivalent pay, benefits, and other employment unless the employee would not otherwise have been employed at the time reinstatement is requested.

1. An employee offered an equivalent position who chooses to decline the position waives any rights to reinstatement.

2. An employee who believes that a position offered is not an equivalent position is entitled to file a grievance under the University of Houston Grievance Policy and Procedure, MAPP 02.04.01.

The employing department may decline to restore an employee on family and medical leave to his/her original or equivalent position under the conditions listed below.

1. If an employee's position is scheduled for elimination as part of an approved reduction in force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date.

2. If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the employee is on family and medical leave at the time of the misconduct or discovery of misconduct.

3. If an employee is scheduled for termination for any other reason prior to notification of family and medical leave and has received written notice of the termination, the employee's family and medical leave rights end on the previously scheduled termination date.

4. If the employee is among the highest paid ten percent employed by the University of Houston and a determination is made by the president that restoring employment to the employee would result in substantial economic injury to the University, the employee's right to restoration of employment may end at the close of the family and medical leave period. At the time an employee in this category applies for family and medical leave, the employee must be notified that he/she may be ineligible for reinstatement.
In such cases, the employee maintains only those rights provided by such regulations as COBRA and, in the case of a reduction in force, MAPP 02.04.06 on Reduction in Force.

G. If an employee elects not to return to work upon completion of an approved unpaid family and medical leave, the employee is obligated to reimburse the University for the amount of the State's or University's contribution of insurance premium during any complete months of unpaid leave. The employee need not reimburse the University if the failure to return to work was for reasons beyond the employee's control, or if the employee retires directly from leave or within 30 days of returning from leave.

IX. EMPLOYEE REQUIREMENT FOR RETURN TO WORK

Upon return to work, an employee who has been on approved leave for more than three days based on the employee's serious health condition will be required to present to the supervisor a health care provider's release certifying fitness to return to work. A request to return to duty with restrictions will be considered on a case-by-case basis, based on the needs of the department and the essential functions of the job.

X. RECORD KEEPING

A. It is the responsibility of the employing department to designate all leave that constitutes family and medical leave on the appropriate payroll documents (time sheet and, in the case of leave without pay, PAR) and to ensure that copies of all family and medical leave forms and correspondence are forwarded to the Benefits section of the Human Resources Department. All family and medical leave shall be reported on the time sheet by indicating "Family and Medical Leave" in the Remarks section.

B. The Human Resources Department must maintain records of all family and medical leave taken by the employee for as long as the employee is employed by the University of Houston and for at least two years past termination.

C. Records maintained in the employing department must be handled with confidentiality and filed in a secure and confidential location.

The Benefits section of the Human Resources Department must maintain records of all payments made by the employee for insurance premiums. The premium payments will be reported on a monthly basis to the Employees Retirement System of Texas group insurance division.

XVIII. REVIEW AND RESPONSIBILITIES:

Responsible Party: Associate Vice President for Finance
XII. APPROVAL

Jim McShan  
Interim Executive Vice President for Administration and Finance

Renu Khator  
President

Date of President’s Approval: April 7, 2008