

Family Medical Leave Act

<p>Approved by: Under Consideration Responsible Official: Human Resources humanresources@nsuok.edu (918) 444-2230</p>	<p>History: Adopted – December 5, 2010 Revised – September 4, 2018 Related Policies: Leave Share Additional References: Family Medical Leave Act of 1993 National Defense Authorization Act FMLA Federal Guidelines Forms: Family and Medical Leave Request</p>
---	---

POLICY

FAMILY MEDICAL LEAVE ACT (FMLA)

NSU supports and complies with the Family Medical Leave Act of 1993 (FMLA), all revisions to the Act and the National Defense Authorization Act which extends benefits to military families. Qualified employees are informed of the specific job protections for qualifying events such as personal illness or injury or to care for family members. Notice of rights under FMLA is posted on the campus for employee review. The Act and regulations will prevail for all practices, policies and procedures.

QUALIFYING EVENTS

- The birth of a child or placement of a child for adoption or foster care.
- A serious health condition that makes the employee unable to perform the essential function(s) of the position.
- A serious health condition that affects the spouse, child or parent when the employee is needed to give care.
- Qualifying exigency arising from the spouse, son, daughter or parent of an employee being on active duty or call to active duty status in support of a contingency operation as a member of the armed services.
- Qualifying employee: The spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA leave, an employee must have been employed by NSU for twelve (12) months and must have worked at least one thousand two hundred fifty (1250) hours during the twelve (12) months immediately preceding the leave.

Family Medical Leave Act

LEAVE REQUESTS

It is vital that an employee and department management understand the requirement to report FMLA leave eligible absences of four (4) or more days to the Office of Human Resources. The Office of Human Resources must rely on communication from the employee, department timekeeper or department management in order to follow required processes.

Leave requests are to be directed to the Office of Human Resources. A FMLA Leave Request form is available on the Office of Human Resources website. Once the request is received in the Office of Human Resources, a Notice of Eligibility and Rights & Responsibilities form will be returned to the requesting employee from the Office of Human Resources. An employee must comply with all requests for additional information.

An employee is expected to provide thirty (30) days advance notice whenever the need for leave is foreseeable. In situations when leave notice is not possible each case will be evaluated individually. An employee may discuss with HR staff the anticipated need for FMLA leave without providing specific medical information. Should medical certification be needed, the Office of Human Resources will request that the employee obtain this from the employee's medical provider. Medical providers are to return the completed document to the employee or the Office of Human Resources. This information is not to be sent to the supervisor or department management. A Designation Notice will be sent to the employee by the Office of Human Resources as notification of FMLA designation and entitlement.

FORMS AVAILABLE

The initial request form is located on the Office of Human Resources website. Other forms for FMLA leave are available by contacting the Office of Human Resources. Forms include:

- Family and Medical Leave Request (HR Website under Forms)
- Certification of Health Care Provider for Employee's Serious Health Condition
- Certification of Health Care Provider for Family Member's Serious Health Condition
- Certification of Qualifying Exigency for Military Family Leave
- Certification for Serious Injury or Illness of Covered Service Member – for Military Family Leave
- Notice of Eligibility and Rights & Responsibilities
- Designation Notice
- HIPAA Authorization Form

JOB PROTECTION FOR APPROVED FMLA LEAVE

Leave approved under FMLA allows job protection to an eligible employee for up to twelve (12) weeks of absence from assigned duty within a twelve (12) month period. Job protection allows an employee to be restored to his/her original or equivalent position with equivalent pay, benefits, and other terms or conditions of employment. In situations of workforce reduction or where funding for the position has ended, the employee may not be reinstated to the same or equivalent position. Key employees may be exempt from the job protection under FMLA leave.

Family Medical Leave Act

When both spouses are employed at NSU, they are limited to a combined total of 12 weeks family leave for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition. Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement. Combined leave time is 26 weeks to care for a covered service member with a serious injury or illness.

When FMLA leave is exhausted, other leave types may be applicable and available. An employee should consult with the Office of Human Resources for additional information.

INTERMITTENT / REDUCED LEAVE SCHEDULE

The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances. Intermittent/reduced schedule leave may be taken when medically necessary to care for a seriously ill family member or serious personal health condition. Intermittent/reduced leave schedule requests will be evaluated by the Human Resources Director in consultation with department management.

Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with department management to schedule the leave so as not to unduly disrupt operations.

Medical certification is required for an Intermittent/reduced leave schedule request.

FMLA Calculation

NSU calculates all FMLA time according to the “rolling” 12-month period.

CALL-OUT PROCEDURE FOR ABSENCES

In all cases notice of need for FMLA leave must be given with proper timing and content. All employees approved for FMLA leave are to comply with departmental policies and practices for reporting an absence. Employees reporting an absence that qualifies for FMLA leave must either specifically reference the qualifying reason for the leave or state that he/she needs FMLA leave. If calling in “sick” without providing more information, the FMLA leave is not activated and the leave may not be covered by FMLA.

COMPENSATION AND BENEFITS WHILE ON FMLA LEAVE

An employee (both exempt and non-exempt) is required to use accrued time off to continue income during the FMLA leave duration. Accrued leave will be used in the following order:

- 1) Personal Leave
- 2) Vacation

Time as accrued by hourly, non-exempt employees. If no accrued time is available or accrued time is exhausted, the leave is without pay for both exempt and non-exempt hourly staff and faculty.

Family Medical Leave Act

During approved FMLA, an employee's university provided group health and life benefits will continue to be paid by the University. For dependent and optional benefit premiums normally paid by the employee, arrangements are to be made through the Office of Human Resources for premiums to be paid by the employee when payroll deduction is not an option.

While receiving disability payment or workers' compensation payment, FMLA leave will run concurrently for the duration of the leave. Use of accrued benefits should be discussed with the Office of Human Resources. Leave Share and FMLA are two separate policies and FMLA leave may not qualify for the Leave Share Program.

CERTIFICATION AND RELEASE

Initial and continued medical certifications may be requested by the Office of Human Resources and will be required within the specified timeframe according to the Act. NSU reserves the right to determine when a leave request will require additional documentation such as caregiver (non-military), intermittent leave/reduced leave schedule, employee request, additional clarification or verification or supporting certification. Leave may be denied for failure to provide required medical certification or documentation. Certification forms are available from the Office of Human Resources.

A release to return to work or Fitness for Duty form from the medical caregiver listing any and all restrictions as applicable will be required in all personal medical leave situations. NSU reserves the right to determine if a release to return to work is necessary. No release is required for paternity leave or certain military eligible leave.

DOCUMENTATION AND RECORDING TIME

Department management, department timekeeper and the Office of Human Resources must communicate concerning any potential eligibility for FMLA leave. Any absence situation that is FMLA eligible of four (4) or more days requires department management or designee to immediately notify the Office of Human Resources. For FMLA qualifying absence or when FMLA eligibility is unknown, NSU via the Office of Human Resources is obligated to send notification of rights. The Office of Human Resources will determine if the initial leave is FMLA eligible. If it is FMLA eligible, the Office of Human Resources will issue the appropriate documents and notify department management.

Record keeping is a critical part of FMLA documentation. Intermittent absences that have been deemed to fall under FMLA will be recorded or noted as such by department management or the designated timekeeper. These absences include separate blocks of time for a single qualifying reason or a reduced leave schedule. In the case of approved medical leave for a single block of time, the Office of Human Resources will record and note FMLA leave.

EXHAUSTING FMLA LEAVE

Once an employee has exhausted FMLA leave and no other leave policy applies, the employee must return to work. If no other leave is available and the employee cannot return to work, the employee will be terminated.