

Family and Medical Leave Policy

Updated December 2023

Mount St. Joseph University (“the University”) will provide family and medical leaves of absence to eligible employees who are temporarily unable to work due to one or more of the following reasons:

1. For the birth of a son or daughter of the employee and to care for the newborn child;
2. For placement of a son or daughter with the employee for adoption or foster care. Newborn or placement leaves are not available beyond 12 months from the date of birth or placement;
3. To care for the employee’s spouse, son, daughter, or parent who has a “serious health condition” (as defined by the Department of Labor);
4. For the employee’s own serious health condition that makes the employee unable to work at all or makes him/her unable to perform any one of the essential functions of the employee’s job;
5. Due to a “qualifying exigency” (as defined by the Department of Labor) because the eligible employee’s spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation; and
6. To care for a “covered service member” who has a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the service member (military caregiver leave).

The maximum total amount of time available to an eligible employee for FMLA leave is 12 work weeks during the rolling 12-month period measured forward from the date the employee’s first FMLA leave begins or 26 work weeks to care for a covered service member during a single rolling 12-month period.

The University will calculate all FMLA leave using the rolling method. Under this method, the amount of available FMLA leave to the employee will be calculated by determining the amount of leave used by an employee during the 12 months prior to the date the leave is requested and subtracting that number from the maximum amount of leave permitted by the FMLA under the circumstances. The remaining balance is the amount of FMLA leave that the employee is entitled to take at that time.

Eligible Employees: Any employee employed by the University for at least 12 months (need not be consecutive) and with at least 1,250 hours worked during the 12-month period immediately preceding the start date of the leave of absence is eligible for Family and Medical Leave pursuant to this policy.

Except as set forth below, employment periods prior to a break in service of 7 years or more need not be counted in determining whether the employee has been employed by the University for at least 12 months. Employment periods preceding a break in service of more than 7 years must be counted, however, where the break in service is due to the fulfillment of the employee's National Guard or Reserve military service obligation or the existence of a written agreement confirming the University's intention to rehire the employee after the break in service.

Under the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), members of the uniformed services returning to work after military service will receive credit for any months and hours of service she/he would have been employed but for the period of military service in determining FMLA eligibility.

Notice And Requests For Leave: Where the necessity for a family, medical or service member leave is foreseeable, the employee must give notice by requesting leave at least 30 days prior to the onset of the leave. If 30 days' notice is not practicable (e.g., lack of knowledge when leave will start, change in circumstances, medical emergency), the employee must give such notice as soon as practicable. If the employee fails to provide the University at least 30 days' notice of foreseeable leave, the University may require the employee to explain why such notice was not practicable.

Ordinarily, an employee will be required to submit a written request for a leave of absence to request FMLA leave. At a minimum, notice of a request for FMLA leave must make the University aware that the employee needs FMLA-qualifying leave, the anticipated timing and duration of the leave, and the anticipated start date. Employees must also notify their immediate supervisor of the need for leave. The employee must respond to the University's questions designed to determine whether an absence is potentially FMLA-qualifying. Failure to respond to reasonable inquiries may result in the denial of FMLA protection if the University is unable to determine whether the leave is FMLA-qualifying.

Absent extenuating circumstances, an employee will be provided with a "Notice of Eligibility and Rights & Responsibilities" notice within 5 business days after the employee requests FMLA leave or when the University acquires knowledge that an employee's leave may be for an FMLA-qualifying reason. Eligibility is determined (and notice provided) at the start of the first instance of leave for each FMLA-qualifying reason in the applicable 12-month period. If an employee is not eligible for leave, the eligibility notice will list at least one reason why she/he is not eligible.

Certification: For an FMLA Leave requested because of the employee's own "serious health condition" that makes the employee unable to perform one or more of the essential functions of the employee's position or because the employee needs to care for the employee's spouse, child, or parent who has a serious health condition, the employee must submit a medical certification (on a provided form) to the University. The University has adopted the Medical Certification Form approved by the Department of Labor. The medical certification, based on reasonable medical certainty, in part, must verify that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's job or position because of a serious health condition or that the employee's parent, spouse, or child is affected by a serious health condition and requires care by the employee.

The employee must provide the medical certification within 15 calendar days after the University's request -- unless it is not practicable to do so despite the employee's diligent, good

faith, efforts. Such other medical information as the University requests, and is permitted by law, may be required. In case of foreseeable leave, if an employee fails to provide certification in a timely manner, then the University may deny FMLA coverage until the required certification is provided. In case of unforeseeable leave, and absent extenuating circumstances, if the employee fails to timely return the certification, the University can deny FMLA protection until a sufficient certification is provided. If the employee never produces the certification, the leave is not FMLA leave. If the employee does not produce the certification after reasonable requests by the University, the University reserves the right to decline to treat the leave as FMLA-qualifying, or the University may designate the leave as FMLA leave consistent with the information the University possesses at the time of determination.

The employee must provide a complete and sufficient certificate to the University. If the employee does not, the University will notify the employee, in writing, what additional information is necessary to make the certification complete and sufficient. The employee has 7 calendar days to cure the deficiencies — unless not practicable under the circumstances despite the employee's diligent, good faith efforts. If the deficiencies are not cured in the resubmitted certification, the University may deny the taking of FMLA leave.

Where family care leave or leave for an employee's serious health condition is foreseeable, based on planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to unduly disrupt the University's operations, subject to approval of the health care provider as to scheduling.

The first time an employee requests Active Duty Leave, the University will require the employee to provide a copy of the covered military member's active duty order or other documentation issued by the military which indicates the covered military member is on active duty or call to active duty status in support of a contingency operation and the dates of the covered military member's active duty service. That documentation need only be provided one time. If, however, there is a different "qualifying exigency" involving that same covered military member or an active duty (or call to) situation involving a different covered military member, the University will require additional documentation. Employees will be required to complete a "Certification of Qualifying Exigency For Military Family Leave" form.

When leave is taken to care for a covered service member with a serious injury or illness, the University will require a certification (on a provided form) to support the need for leave. The certification may be completed by any one of the designated health care providers listed on the provided form. The University also will accept (instead of the provided certification form) as sufficient, "invitational travel orders" (ITO's) or "invitational travel authorizations" (ITA's) issued to any family member to join a seriously injured or ill covered service member at the service member's bedside. The University may require confirmation of the covered family relationship to the covered service member.

Authentication/Recertification: Consistent with the provisions of the FMLA, the University may request that the employee recertify the FMLA qualifying conditions. The University may request recertification in situations where: (a) the employee requests an extension of the FMLA leave; (b) there is a change in the employee's circumstances; or (c) the University receives information that casts doubt on the employee's stated reason for the absence or the continuing validity of the certification. In all situations, the University may request a recertification of a medical condition every 6 months in connection with the employee's absence, including medical conditions that contain an "indefinite," "unknown," or "lifetime" duration.

During the time that the University is waiting for the employee to return the Medical Certification Form or recertification documentation, the leave will be provisionally designated by the University as FMLA leave. Once the employee has returned the Medical Certification Form or recertification documentation, the University will make a final determination as to whether the leave qualifies as FMLA leave and verbally notify the employee as to FMLA eligibility.

If the University has reason to doubt the validity of a medical certification, it may require the employee to obtain a second medical opinion at the University's expense. If the opinions of the employee's and the University's health care providers differ, the University may require the employee to obtain certification from a third health care provider, again at the University's expense. There are no second/third opinions for Family (Military) Leave situations.

Benefits During Leave: Employees covered by the University's group health insurance at the onset of a leave may continue to participate in the plan during the leave on the same terms and conditions that would have applied had no leave been taken. Premiums, co-payments, and any other employee paid expenses for coverage must be paid by the employee on the same terms as if the employee were not on FMLA leave. If the terms and conditions of the health benefit plan are modified for active employees, the same rules will apply to employees on a leave of absence.

An FMLA-qualifying leave means that time spent while on the leave and time previously worked for the University will not be lost in computation of length of service and the benefits dependent thereon. Eligible PTO will be used during any FMLA leave that would be otherwise unpaid. However, if any part of a leave is unpaid, then no holiday, bereavement, witness duty or jury duty benefits will be paid.

Return To Work: Employees will be restored to the same or equivalent position as the one held when the leave commenced in most instances and in accordance with the law. Employees who fail to return to work may be required to reimburse the University the amount of premiums paid by the University to continue their participation in the group health plan, unless the reason for failure to return to work was the continuation, recurrence or onset of a serious health condition of the employee, employee's spouse, child, or parent, or other circumstances beyond the control of the employee.

Fitness For Duty Certification: An employee who has been on a (non-intermittent/reduced leave) Medical Leave of Absence for the employee's own serious health condition shall provide to the University's Human Resources personnel a medical fitness-for-duty certification (at the employee's cost) that the employee is able to resume work. That certification also shall specifically address the employee's ability to perform the essential functions of the employee's job. Accordingly, the University will provide the employee with a list of the essential functions of the employee's job along with the Designation Notice. The employee's health care provider must certify the employee can perform the identified essential functions of the employee's job. The University may (following the same procedures for the initial medical certification) contact the employee's health care provider to clarify and/or authenticate the fitness-for-duty certification.

The University will delay reinstatement until that certification is provided. An employee who does not provide this fitness-for-duty certification or a new medical certification for a serious health condition at the time the FMLA leave is concluded, is no longer entitled to FMLA reinstatement.

If an employee is taking intermittent or reduced leave, the University will require a fitness-for-duty certification up to once every 30 days (assuming there were FMLA absences during that period) if “reasonable safety concerns” exist regarding the employee’s ability to perform the employee’s duties — based on the employee’s serious health condition. The Designation Notice contains this requirement.

Intermittent Or Reduced Schedule Leaves: To qualify for intermittent or reduced schedule leave, the leave must be medically necessary (as compared to voluntary treatment) and must be best accommodated through an intermittent or reduced schedule. When medically necessary, requests for intermittent or reduced schedule leave for family care, care for a covered service member, or an employee’s serious health condition may be granted to eligible employees for up to the equivalent of 12 work weeks (or 26 work weeks, if applicable) of leave for any rolling 12 month period. Exempt employees on an intermittent or reduced leave schedule will have their salaries reduced to reflect the hours or days missed due to such leave.

If intermittent or reduced schedule leave is required for planned medical treatment, the employee should consult with Human Resources personnel at the University and make a reasonable effort to schedule the leave, so as not to unduly disrupt the University’s operations. When notice is given of the need for leave, the employee may be required to attempt to reschedule the treatment, subject to the availability and approval of the health care provider. In addition, where the leave is foreseeable based on planned medical treatment, an employee may be temporarily assigned to an available alternative position with equivalent pay and benefits that better accommodates the employee’s intermittent or reduced leave schedule.

Family Leave after the birth or placement (adoption/foster care) of a healthy child must be taken in a single, continuous period of time, unless the University and the employee agree to an intermittent or reduced schedule. An intermittent or reduced schedule must be approved in advance of the leave by the University, in its sole discretion.

Applicability Of Other Paid Leave Benefits:

FMLA leave will run concurrently with any paid leave used by the employee.

Married Employees: An employee’s entitlement to FMLA for the birth or placement (adoption/foster care) of a son or daughter ends 12 months after the date of the birth or placement. The maximum total amount of time available to both employee spouses for FMLA for the birth, care after birth, or placement of a child or care after placement, or for the care of the employee’s parent (not parent-in-law) with a serious health condition is a combined 12 work weeks during the 12-month period as defined above, if both are employed by the University.

The aggregate number of work weeks of leave to which a married couple may be entitled for covered service member leave is limited to 26 work weeks during the single 12-month period if the leave is for covered service member leave or a combination of covered service member leave and any other FMLA-qualifying leave. If the leave taken by the married couple includes leave for the birth or placement of a son or daughter or to take care of a parent (as described above), that particular type of leave is limited to a combined 12 work weeks.

Purpose Of Policy: It is the purpose of this FMLA Policy to comply with the Family and Medical Leave Act of 1993, as amended. The interpretation of terms and the resolution of disputes under this provision shall be governed by that law. The University’s obligations under this policy

do not exceed those set forth in the Act, unless this policy specifically states that it does. The University retains the ability to assert all rights, exemptions, limitations, and calculation methods in the FMLA.