

Standard Practice Guide Policies

Unpaid Leaves of Absence

201.30

Applies to: Non-probationary, Regular Staff with the exception of those represented by a bargaining unit. Probationary employees are eligible for military, medical, and medical/childcare leaves, and child care leaves of absence only

I. POLICY

The University offers unpaid leaves of absence to provide continuity of service during an extended period of absence. Leaves of absence are without compensation by the University. Twelve months of continuous service is required between any two of these leaves: personal, educational, government service, or for a child care leave lasting greater than six months.

A leave of absence may affect the continuation of an employee's benefit coverage, and an employee's contributions to maintain benefit coverage. The University will continue its contribution to maintain an employee's health, dental and vision coverage for the period of time that an employee's absence is covered by the Family and Medical Leave Act of 1993 (FMLA). An employee's absence may be partially or completely covered by the FMLA during the following leaves of absence: medical, child care, medical/child care, family care, care of a covered servicemember, and qualifying exigency.

All provisions of this policy will be interpreted to be consistent with the Family and Medical Leave Act of 1993. The University's FMLA policy for non-bargained for employees can be accessed at <http://hr.umich.edu/tutorials/FMLA/index.html> (<http://hr.umich.edu/tutorials/FMLA/index.html>).

Unpaid leaves of absence are available only for non-probationary staff members, with the exception of military service, medical, medical/child care and child care leaves, which are available to probationary employees. Upon return to work, the employee will serve the balance of their probationary period.

The University offers the following unpaid leaves of absence:

A. **Non-Discretionary Leaves of Absence**: Granted when the employee meets the eligibility and approval requirements of the leave of absence.

1. Medical
2. Child Care
3. Medical/Child Care
4. Family Care
5. Care of a Covered Servicemember (Military Caregiver Leave)
6. Qualifying Exigency
7. Military Service
8. Government Service

B. **Discretionary Leaves of Absence**: Granted when approved by the employee's department and University Human Resources.

1. Educational
2. Personal

(For information regarding a seasonal leave of absence, see SPG 201.30-3 (/policy/201.30-3), *Seasonal Leave of Absence Appointment*. For information regarding paid maternity (childbirth) and paid parental leaves, see SPG 201.30-6).

II. REGULATIONS

A. **Non-Discretionary Leaves of Absence**

1. **Medical Leave**

a. **Eligibility**

An employee is medically unable to work due to personal illness or injury. Arbitrary failure to follow accepted medical practice may result in the denial of an employee's request for a medical leave of absence or an extension of a previously granted medical leave of absence.

b. **Use of Paid Time**

An employee must use all available sick time pay, vacation, and Paid Time Off (PTO) prior to the start of the leave of absence. Exceptions:

(1) An employee covered by Workers' Compensation may, but is not required to, use all available vacation prior to the start of a medical leave of absence.

(2) *An employee off work because of an injury (ex. automobile accident) covered by an outside insurance policy that reimburses lost salary may, but is not required to use short-term or extended sick time pay, or vacation prior to the start of a medical leave of absence.*

c. Approval

Granted when the employee provides medical documentation acceptable to the University.

d. Maximum Duration

Two calendar years. The length of the initial leave period and any extensions will be based on the supporting medical documentation. For probationary employees, the maximum duration is twelve weeks.

e. Return to Work

An employee returning from a medical leave of absence must be placed in the same or equivalent position within the employee's department or organizational group. Placement is the responsibility of the employee's department or organizational group. "Equivalent position" is defined in Section III. Definitions.

The employee must provide medical documentation acceptable to the University that contains a release to return to work, noting any work restrictions. Before an employee is returned to work, the University may require, without cost to the employee, that a physician or physicians of its choosing examine the employee and provide evidence of the employee's ability to return to work.

2. Child Care Leave

a. Eligibility

Available for the care of an employee's child following birth, adoption, foster care placement, or legal guardianship of a child. A qualifying adoption or foster care placement is one in which the child is under the age of eighteen, or eighteen years of age or older and incapable of self-care due to a physical or mental disability.

b. Use of Paid Time

(1) *Employee gave birth (birth mother) must use:*

(a) *Paid maternity (childbirth) leave, extended sick time pay and/or short-term sick time pay/Paid Time Off (PTO) until medically able to return to work or until sick time pay is exhausted, and*

(b) Paid parental leave, all available vacation or Paid Time Off (PTO) prior to the start of the leave of absence.

(2) 2) All other employees following the birth of the employee's child, adoption, foster care placement, or legal guardianship of a child must exhaust paid parental leave, all available vacation or Paid Time Off (PTO) prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable to the University.

d. Maximum Duration

One calendar year from the child's date of birth, adoption, foster care placement, or legal guardianship of a child. For probationary employees, the maximum duration is six weeks..

e. Return to Work

(1) Employee gave birth (birth mother):

(a) From an absence of six calendar months or less from the date the employee was medically able to return to work: the employee's department must place the employee in the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

(b) From an absence of greater than six calendar months from the date the employee was medically able to return to work: at the employee's request, the employee is given a three month period ("post leave placement period") to seek a regular position at the University. If a regular position is not secured within the three month period, employment with the University is terminated.

(2) All other employees following the birth of the employee's child, adoption, or foster care placement:

(a) From an absence of six calendar months or less from the beginning of the absence from the workplace to care for the child: the employee's department must place the employee in the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

(b) From an absence of greater than six calendar months from the beginning of the absence from the workplace to care for the child: at the employee's request, the employee is given a three month period ("post leave placement

period”) to seek a regular position at the University. If a regular position is not secured within the three month period, employment with the University is terminated.

3. Medical/Child Care Leave

a. Eligibility

Intended for an employee who does not have sufficient paid time off (paid maternity (childbirth) leave, paid parental leave, sick, vacation or PTO) to cover the period of time she is medically unable to work due to pregnancy/childbirth, and she wishes to remain off work to care for her child once she is medically able to return to work.

NOTE: A Medical Leave is the appropriate leave of absence for an employee who does not have enough paid time off to cover the period of time she is medically unable to work due to pregnancy/childbirth, and will return to work when medically able.

b. Use of Paid Time

Employee must use all available paid maternity (childbirth) leave, paid parental leave, extended sick time pay and/or short-term sick time pay, and all available vacation or Paid Time Off (PTO) prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable to the University.

d. Maximum Duration

One calendar year from the child’s date of birth. For probationary employees, the maximum duration is twelve weeks.

e. Return to Work

(1) From an absence of six calendar months or less from the date the employee was medically able to return to work: the employee’s department must place the employee in the same or equivalent position. “Equivalent position” is defined in Section III. Definitions.

(2) From an absence of greater than six calendar months from the date the employee was medically able to return to work: at the employee’s request, the employee is given a three-month period (“post leave placement period”) to seek a regular position at the University. If a regular position is not secured within the three-month period, employment with the University is terminated.

4. Family Care Leave

a. Eligibility

The employee meets the eligibility requirements of the FMLA, and is needed to care for a family member with a serious health condition. "Family member" and "serious health condition" are defined in Section III. Definitions.

b. Use of Paid Time

The employee chooses the amount of short-term sick time pay and vacation or Paid Time Off (PTO), if any, to be used prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable to the University.

d. Maximum Duration

Exhaustion of the employee's available time under the FMLA.

e. Return to Work

The employee's department must place the employee in the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

5. Care of a Covered Servicemember (Military Caregiver Leave)**a. Eligibility**

The employee meets the eligibility requirements of the FMLA, and is needed to care for a covered servicemember with a serious injury or illness who is a spouse, parent, child or next of kin of the employee. "Covered servicemember," "serious injury or illness," and "next of kin" are defined in Section III. Definitions.

b. Use of Paid Time

The employee chooses the amount of short-term sick time pay and vacation or Paid Time Off (PTO), if any, to be used prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable to the University.

d. Maximum Duration

Twenty-six weeks or the exhaustion of the employee's available time under the FMLA in a twelve month period that begins with the employee's first absence to care for the covered servicemember.

e. Return to Work

The employee's department must place the employee in the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

6. Qualifying Exigency Leave

a. Eligibility

Employee meets the eligibility requirements of the FMLA, and there is a qualifying exigency that exists because the employee's spouse, child or parent is on military 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. "Qualifying exigency" and "contingency operation" are defined in Section III. Definitions.

b. Use of Paid Time

The employee chooses the amount of vacation or Paid Time Off (PTO), if any, to be used prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable to the University.

d. Maximum Duration

Exhaustion of the employee's available time under the FMLA.

e. Return to Work

The employee's department must place the employee in the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

7. Military Service Leave

a. Eligibility

Available to an employee upon hire. Employee is called to perform duty on a voluntary or involuntary basis in any branch of the Armed Services, regular or reserve, the Army National Guard, or the Air National Guard under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty.

b. Use of Paid Time

Employee chooses the amount of vacation or Paid Time Off (PTO), if any, to be used prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable to the University.

d. Maximum Duration

Up to five years. The five-year period is a cumulative total of all absences from employment at the University due to the employee's service in the military. If it appears that an employee has exceeded the five-year total, the appropriate University Human Resources office must be contacted to verify the total length of the employee's military service, and determine the department's obligation to place the employee.

e. Return to Work

The employee's department is responsible for the placement of an employee returning from a military service leave of absence. The University's obligation under the Federal Uniformed Services Employment and Reemployment Rights Act (USERRA) to place employees upon their return from a military service leave of absence is as follows:

(1) If the period of service in the military was 90 days or less, the employee must be placed in the position in which the employee would have been employed had he or she not been on a military service leave of absence.

(2) If the period of service in the military was more than 90 days, the employee must be placed in the position in which the employee would have been employed had he or she not been on a military service leave of absence or a similar position. To be considered similar, the position must have equivalent status and pay.

8. Government Service Leave

See Regents' Bylaws, Section 5.13 (Governmental Activities) for procedures related to notifying the Secretary of the University of candidacy, election or appointment to public office.

a. Eligibility

Available to an employee with at least one year of continuous service who is:

(1) A candidate for a full-time public political office, or

(2) Elected to a full-time public political office, except that of Michigan State Legislator. The Constitution of the State of Michigan prohibits Michigan State Legislators from being on a leave of absence from a public employer, or

(3) Appointed to an office of a policy-making nature or one of significant responsibility such as head of or assistant to the head

of an office, department, or branch of the federal, state, or local government.

b. Use of Paid Time

The employee must use all available vacation or Paid Time Off (PTO) prior to the start of the leave of absence.

c. Approval

Granted when the employee provides documentation acceptable the University.

d. Maximum Duration

One term of office, or one year of service. Renewable on request for additional terms of office, or years of service.

e. Return to Work

At the employee's request, the employee is given a three-month period to seek a regular position at the University. If a regular position is not secured within the three-month period, employment with the University is terminated.

B. Discretionary Leaves of Absence

1. Educational Leave

a. Eligibility

The employee has at least one year of continuous service, and is enrolled in a full-time, accredited educational program. The educational program must be directly related to the employee's current position or a University position to which the employee may reasonably aspire.

b. Use of Paid Time

The employee must use all available vacation or Paid Time Off (PTO) prior to the start of the leave of absence.

c. Approval

Granted at the discretion of the employee's department with the approval of the appropriate University Human Resources office. The employee must provide evidence acceptable to the University of full-time enrollment in an accredited educational program.

d. Maximum Duration

Approved for periods of a maximum of one calendar year in length, up to a maximum total duration of four calendar years.

e. Return to Work

At the employee's request, the employee is given a three-month period to seek a regular position at the University. If a regular position is not secured within the three-month period, employment with the University is terminated.

2. Personal Leave

a. Eligibility

An employee requests a leave of absence that does not meet the eligibility requirements of a non-discretionary leave of absence or an educational leave of absence.

b. Use of Paid Time

The employee must use all available vacation or Paid Time Off (PTO) prior to the start of the leave of absence.

c. Approval

Granted at the discretion of the employee's department with the approval of the appropriate University Human Resources office. The employee's department must guarantee a return to the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

d. Maximum Duration

One calendar year.

e. Return to Work

The employee's department must place the employee in the same or equivalent position. "Equivalent position" is defined in Section III. Definitions.

III. DEFINITIONS

A. Outside Employment:

Employment outside the University while on a leave of absence is cause for termination of University employment unless the appropriate University Human Resources office approves the employment in advance, or the employment is for government service or military service.

B. Equivalent Position:

To be considered equivalent, the position must have:

- 1. An equivalent level of compensation, including any unconditional pay increases that occurred during the employee's absence;*
- 2. Substantially similar duties, working conditions, responsibilities, privileges and status;*

3. *The same or geographically equivalent work (i.e., no significant increase in commute);*
4. *The same or equivalent shift or work schedule; and*
5. *The same or equivalent opportunity for discretionary and non-discretionary payments.*

C. Family Member:

1. *Spouse: Legally married same-sex or opposite-sex, no matter where the place of celebration occurred.*
2. *Other qualified adult.*
3. *Child, sibling, parent, or grandparent of the employee, the employee's spouse or the other qualified adult.*
4. *Other related individual whose care is the responsibility of the employee, spouse, or other qualified adult.*

The definition of other qualified adult may be found at

<http://www.benefits.umich.edu/eligibility/oqa.html>

(<http://www.benefits.umich.edu/eligibility/oqa.html>).

D. Serious Health Condition:

1. *Inpatient care at a hospital or other medical facility, or*
2. *Continuing treatment by a health care provider that includes one or more of the following:*
 - a. *a period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or related period of incapacity relating to the same condition;*
 - b. *any period of incapacity due to pregnancy or for prenatal care;*
 - c. *any period of incapacity or treatment due to a chronic serious health condition;*
 - d. *any period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective; or*
 - e. *any period of absence due to multiple treatments (including any period of recovery from the treatments) for restorative surgery after an accident or other injury, or a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment.*

E. Covered Servicemember:

A member or veteran of the United States Armed Forces, including a member of the National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy; is in outpatient status; or is on the temporary disability retired list for a serious injury or illness.

F. Serious Injury or Illness:

An injury or illness incurred by a servicemember in the line of duty while on active duty in the United States Armed Forces that causes the servicemember to be medically unfit to perform the duties of the servicemember's office, grade, rank or rating.

G. Next of Kin:

The next of kin of a covered servicemember is the nearest blood relative, other than the servicemember's spouse, parent or child. The service member may designate who is next of kin, or absent a designated next of kin, the following order of priority applies: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, siblings, grandparents, aunts and uncles, and first cousins.

H. Qualifying Exigency:

Qualifying exigencies include the following:

- 1. Short-notice deployment: Issues that arise from the fact that a covered military member is called to active duty with notice of seven calendar days or less prior to deployment. Absence can be for a period of seven calendar days beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation.*
- 2. Military events and related activities: To attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status, or to attend family support or assistance programs and informational briefings related to the call to active duty or call to active status.*
- 3. Childcare and school activities: To arrange for alternative childcare for a child, to provide childcare on an emergency basis, to enroll a child in school or to attend school meetings for the child where the absence is necessitated by the active duty or call to active duty.*
- 4. Financial and legal arrangements: To make financial or legal arrangements to address the military member's absence for military duty or to act as the military member's representative for purposes of obtaining military service benefits. Absences can be taken to obtain military service benefits while the military member is away on active duty or within ninety days of termination of active duty.*
- 5. Counseling: To attend counseling provided by someone other than a health care provider for the employee, military member, or a child of the military member,*

provided the need for counseling arises from the active duty or call to active duty status.

6. *Rest and recuperation: To spend time with a military member who is on a short-term, temporary, rest and recuperation leave during the period of deployment. Absence is limited to five days for each military rest and recuperation visit.*
7. *Post-deployment activities: To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of ninety days following the termination of the active duty status.*
 - a. *To address issues that arise from the death of a military member while on active duty status.*
8. *Additional activities: To address other events that arise out of the military member's active duty or call to active duty status provided the employer and employee agree that the absence will qualify as an exigency, and agree to both the timing and duration of the absence.*

I. Contingency Operation:

A military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force or results in the call or order to, or retention on active duty of members of the Armed Forces during a war or national emergency declared by the President or Congress.

J. Excused Time - Without Pay:

An employee may use excused time – without pay for up to fourteen consecutive calendar days.

K. Vacation/Paid Time Off (PTO):

Vacation and Paid Time Off (PTO) does not accrue while an employee is on a leave of absence.

L. Length of Service:

Length of service, which is calculated from an employee's latest date of regular employment, continues to accrue during a leave of absence.

M. Extending a Leave of Absence:

Employees are eligible for an extension of a leave of absence in accordance with the regulations provided under the specific type of leave. An employee's request for an extension must be submitted to the appropriate University Human Resource office at least two weeks before the leave of absence expires.

N. Return Before the Expiration of a Leave of Absence:

An employee's return to work before the expiration of a leave of absence is at the discretion of the University.

O. *Failing to Return from a Leave of Absence:*

Failure to report for work at the conclusion of a leave of absence without requesting and receiving an extension of the leave is cause for termination of the employee's University employment.

If an employee does not return to work from a leave of absence, the last day worked shall be considered the date of termination for purposes of determining eligibility for retirement or for Disability Plan benefits.

P. *The Family and Medical Leave Act of 1993 (FMLA):*

The primary purpose of FMLA is to assist employees in balancing work and family life. The University of Michigan has long recognized the importance of providing assistance to employees in meeting family obligations and our policy and practice provide for a generous amount of paid and unpaid time away from work for the reasons recognized by the FMLA.

FMLA allows eligible employees up to twelve weeks of job-protected leave per year, provides for the employee's pre-existing health, dental and vision coverage, and restores the employee to the same or an equivalent position at the conclusion of the designated leave. FMLA applies to all employees with at least one year of service who worked at least 1250 hours in the previous twelve months. The basic leave entitlement for eligible employees is available for the following qualifying events:

- 1. For incapacity due to pregnancy, prenatal medical care or child birth;*
- 2. To care for the employee's child after birth, or placement for adoption or foster care;*
- 3. To care for the employee's family member who has a serious health condition;*
- 4. For a serious health condition that makes the employee unable to perform the employee's job; and for*
- 5. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies (certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings).*

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave during a single 12-month period to care for a covered servicemember (Military Caregiver Leave) who has suffered a serious injury or illness.

Notes

Note: This SPG was updated on April 27, 2015 in III. Definitions, 3. Family member: Spouse: Legally married same-sex or opposite-sex, no matter where the place of celebration occurred.

Note: This SPG was changed on May 17, 2017 to allow probationary employees to be eligible for medical and medical/child care leaves of absence. All other leaves of absence are available only to non-probationary employees.

Note: This SPG was updated on Feb. 22, 2018, to provide the maximum length of time probationary employees may take for medical and medical/childcare leave: maximum duration of twelve weeks.

Note: This SPG was updated on September 1, 2018 to clarify impact of paid parental leaves, and updated leave eligibility guidelines for probationary employees.

File Attachments

Printable PDF of SPG 201.30, Unpaid Leaves of Absence (9/1/2018)
(https://spg.umich.edu/sites/default/files/policies/201x30_4.pdf)

SPG Number:

201.30

Date Issued:

July 1, 2005

Last Updated:

September 1, 2018

Next Review Date:

February 22, 2022

Applies To:

Non-probationary, Regular Staff with the exception of those represented by a bargaining unit. Probationary employees are eligible for military, medical, and medical/childcare leaves, and child care leaves of absence only

Owner:

University Human Resources and the Office of the Provost and Executive Vice President for Academic Affairs

Primary Contact:

Staff Human Resources

Related Policies:

Paid Maternity (Childbirth) and Parental Leaves (/policy/201.30-6)

Seasonal Leave of Absence (/policy/201.30-3)

Related Links:

FMLA Guidance (<http://hr.umich.edu/tutorials/FMLA/index.html>)

Hard copies of this document are considered uncontrolled. If you have a printed version, please refer to the University SPG website (spg.umich.edu) for the official, most recent version.

© 2019 The Regents of the University of Michigan