

## **ROGER WILLIAMS UNIVERSITY**

### **FAMILY LEAVE POLICY & PROCEDURE**

The University has long recognized the importance of family issues as an integral component of a responsive human resource environment in which its employees will prosper. It has provided a number of benefits including leaves of absence for personal and family reasons. Additionally, both State and Federal government have determined to specifically legislate in this regard by affording unpaid leave to employees under certain specific circumstances. The result demands that University policies, State law and Federal law be properly recognized and promulgated in lawful, equitable and contemporary policy. The University therefore, certifies the following Family Leave Policy which incorporates, as appropriate (and shall be interpreted consistent with), the University's other standing leave policies:

#### **I. Available Leave**

Under prescribed parameters as set out hereafter, an eligible employee may take a leave of absence from employment for up to twelve (12) weeks during a defined twelve (12) month period for any one of the following in I.A. through E. below; an eligible employee may take a leave of absence from employment for up to 26 weeks during a defined twelve (12) month period to care for a servicemember as indicated in I.F. below:

- A.** Birth and child care of a employee's biological child during the child's first year of life.
- B.** Adoption or foster care placement and care for the infant/child in his/her first year following adoption or foster care placement.
- C.** Serious illness or health-related, disabling condition of spouse, child(ren), or parent.
- D.** Serious illness or health-related, work disabling condition of the employee.
- E.** Qualifying exigency arising out of the fact that the spouse, child(ren), or parent of an employee is a servicemember who is on active duty, or notified of an impending call or order to active duty in the Armed Forces (including the Reserves and National Guard), in support of a contingency operation.
- F.** Serious illness or injury of a covered servicemember on active duty in the Armed Forces who is a spouse, child(ren), parent or next of kin of an employee.

An eligible employee may extend the twelve (12) week period to one qualifying thirteen (13) consecutive week period during alternate calendar years and/or may qualify for an additional thirteen (13) consecutive week leave in the same year as the up to twelve (12) week leave. (See provision II.A.1. below)

An employee, in addition to the leaves described above, may take up to ten (10) hours of leave during a defined twelve (12) month period to attend bonafide school-related activities, for their biological, adopted or foster care child or otherwise legal ward, upon at least twenty-four (24) hours notice of the need for leave. This leave is unpaid but an employee's accrued vacation leave may be used to supplement part or all of the leave on an hour for hour basis at the employee's discretion.

## **II. Leave Limitations**

- A.** Leave under provisions I. A., B., C., D. and E. above qualify for leave up to twelve (12) weeks alone or in combination with each other during each defined twelve (12) month period set out below and also qualify for the alternate year extension from twelve (12) to thirteen (13) weeks if the thirteen (13) weeks are consecutive. Leave under provision I. F. above qualifies for leave up to twenty-six (26) weeks alone or in combination with I.A., B., C., D. and E. during each defined twelve (12) month period set out below.
  - 1.** All other qualifying conditions being met, a employee may be able to take both up to a twelve (12) week leave under this policy and governing law and a thirteen (13) consecutive week leave within the same year if the up to twelve (12) week leave is for any reason other than to care for parents-in-law and an employee otherwise qualifies for a thirteen (13) consecutive week leave to care for a parent-in-law under provision I.C. above.
- B.** While the University may, at its complete discretion, or under other express, governing policies of employment, authorize leaves of absence either of greater duration or for other purposes, the foregoing represents the maximum amount of leave, either alone or in combination, under this policy and governing State and Federal law.
- C.** For leaves taken pursuant to provision I. A. or B. above, the maximum twelve (12) week period must commence prior to the child's first year following birth (I. A.) or prior to the first anniversary date of an adoption or foster care placement (I. B.).
- D.** The twelve (12) week period amounts to sixty (60) work days that may

be taken as set out in II.F. below.

- E. The twenty-six (26) week period amounts to one hundred thirty (130) work days that may be taken as set out in II.F. below.
- F. The twelve (12) week leave or twenty-six (26) week leave may be taken on a consecutive week, intermittent weeks or reduced-time basis as follows:
  - 1. Intermittent leave consists of at least one (1) week intervals that are not necessarily consecutive, and within the twelve (12) month period. Intermittent leave may only be scheduled and taken with the consent of the University, when invoking leave under provisions I. A. or B. above.
  - 2. Reduced-time leave consists of a work reporting schedule that allows a shortened work day or shortened work week. Reduced-time leave may only be scheduled and taken with the consent of University when invoking provisions I. A. or B. above. An employee on reduced-time leave may, at the discretion of the University, be transferred for the term of leave, to another position of equivalent pay and benefits that better accommodates the University. Leave under this provision shall be accounted for and charged on an hour for hour basis.
  - 3. Requests for reduced-time leave or intermittent leave under provisions I. A. and/or B. above, shall be forwarded to the Department of Human Resources for a case by case review and determination following consultation with the department head or other appropriate supervisor of the applicant.
  - 4. All leaves, for all reasons, are predicated upon the employee providing the University as much notice as possible. Absent extraordinary circumstances, at least fifteen (15) days advance notice of leave is required. Failure to provide such notice except where appropriately waived, may result in a delay in commencement of leave at the University's discretion, if otherwise entitled, for the requisite fifteen (15) day period.

### **III. Leave Validation**

Each leave, as set out in provision I. above, is subject to the prerequisite validation as follows:

- A. Both provision I.A. and B. leaves must be validated, at the University's request, as to the enabling facts of the leave. For

example, it must be established by the applicant for leave hereunder that he/she is the parent, within the express meaning of that term as hereinafter defined.

- B.** Leave, under provision I.C. & I.F. above, must be validated by a written certification from a qualified, licensed, health care provider, that the employee is needed and able to provide care directly related to and on account of an acutely or chronically debilitating health condition requiring hospitalization and/or continuing licensed health provider intervention and treatment. The certification must also specify the debilitating condition and the prognosis for abatement or recovery with medical opinion as to time anticipated for abatement or recovery. Finally, upon request by the University, the employee must validate, through reasonable means, the enabling family relationship. Nothing herein relieves an employee of the responsibility to provide certification(s) in accordance with this policy.
- C.** Leave, under provision I.D. above, must be validated by a written certification of expert opinion by a qualified, licensed health care provider, describing, with reasonable specificity, the debilitating illness or other work debilitating health related condition as well as its disabling onset, affect and anticipated duration.
- D.** Leave, under provision I.E. must be supported by a certification issued at such time and in such manner as the Secretary of Labor may by regulation prescribe. If the Secretary issues a regulation requiring such certification, the employee shall provide, in a timely manner, a copy of such certification to the University.
- E.** Leave under any and all enabling provisions set out above, must be requested and validated as set out herein for thirteen (13) consecutive weeks to enable the additional week leave in alternate years.
- F.** Under leave enabling provisions I.C. and D. above, when the University reasonably believes a submitted certification is suspect, it may require a second opinion from a licensed health care provider who is qualified in the field of the contended disability/illness. An opinion concurring with the employee's submitted validation shall result in leave validation. An opinion dissenting from the employee's submitted validation shall result in referral, as set out hereunder, to a third, independent health care provider, qualified in the field of the contended disability/illness, for final, binding opinion either validating or invalidating the leave.
  - 1.** Referral for a third, binding health care professional's opinion shall be by agreement of the employee-selected health care

provider and the University-selected health care provider. Failing agreement, referral shall be by agreement of the employee and the University. Failing secondary agreement, referral shall be made by the University.

2. Both second and third health care provider's opinions shall be arranged and paid for by the University.
  3. Failure by a employee to provide a certification which, on its face, purports to meet the primary validation requirements set out above, shall result in denial of leave and its benefits, and not a second or third opinion, as the original certification is the sole responsibility of the employee as prerequisite to either any leave entitlement or a second or third opinion by a licensed health care provider.
- G.** While an employee is on Family Leave, pursuant to provisions I.C., D. or F. above, the University may request and is then entitled to periodic formal updates or re-certifications as appropriate to the original certification parameters. The University-imposed requirement for update or recertification hereunder shall not be unreasonably applied, and the University will consider, in good faith, the necessity and frequency of the update or revalidation, unique to each individual leave based upon the nature and parameters of the original certification and any factual change in individual circumstance.
- H.** Prior to an employee's return to the University from leave provided pursuant to provision I.D. above, the University may request and receive health care provided certification that the employee on leave is no longer work disabled from the originally certified health condition and can return to the workplace as sufficiently recovered to perform the regular, necessary functions of the job. The University will cooperate fully with the health care provider in making this assessment by providing, if necessary, a position description and/or thorough discussion of the dimensions of the position not easily gleaned from such position description.
- I.** All medical records provided in accordance with policy and consistent with law shall remain confidential with the University and within the University, shall remain disclosable only to the Office of Human Resources or those employees of the University with a need to know the certified rationale, including by way of illustration, the President, Chief Human Resources Officer, Senior Vice President for Finance & Administration and Senior Vice President and General Counsel or their express designee(s). The employee may choose to disclose the health condition diagnosis to his/her immediate supervisor or others, in which

case the legal confidentiality of the information is waived with respect to such agents to which such information is disclosed or to which disclosure is reasonably to be anticipated by the employee's disclosure.

#### **IV. Leave Prerequisites**

##### **A. Prerequisite to the Twelve (12) Week Family Leave and/or Twenty- Six (26) Week Family Leave**

1. An employee must have worked for the University at least one (1) year (365 days) prior to commencement of leave. However, the time need not be consecutive nor need it be full-time.
2. An employee must have worked a minimum of one thousand two hundred fifty (1,250) hours in the year (12 consecutive months) immediately preceding the leave for any and all leaves under provision I., above.
3. The hours prerequisites set out above refer to actual hours worked at the University and do not refer to excused or unexcused absences.

##### **B. Prerequisite to the Thirteen (13) Consecutive Week Leave**

1. An employee must have been employed by the University for twelve (12) consecutive months in at least a thirty (30) hour per week position prior to the leave. Therefore, the employee requesting leave must have actually work or received authorized paid leave from work for one thousand five hundred sixty (1,560) hours as prerequisite for the leave.
2. The thirteen (13) week leave will then be available after the passing of at least another full year consisting of 1,560 hours of work as set out in provision B.1. immediately above.

#### **V. Leave Year**

The University will calculate available leave by the "rolling" method. This means that when requesting otherwise available leave under this policy, the University will calculate the amount of leave used within the immediately preceding twelve (12) months of employment and subtract that number from the total number of days equal to twelve (12) work weeks (60 days) or twenty-six (26) workweeks (130 days) or thirteen (13) consecutive work weeks in alternate years where a thirteen (13) consecutive week leave may be invoked.

## **VI. Leave Entitlements**

**A. Compensation:** Family Leave is, of itself, an unpaid leave.

1. For leave under provisions I.A., B., C., D., E. and F. above, an employee will be afforded an option to charge accrued vacation leave for the absence.
2. Charged vacation, or sick leave banked accruals will be taken in hour for hour increments of time taken to time charged for FLSA non-exempt employees. For FLSA exempt employees, the charge will be rounded to the nearest half day. (For example, a professional staff employee who takes four (4) full days and one six (6) hour day leave in one week will be charged five full days accrued as thirty-five (35) hours of banked time) but a professional staff employee who takes four (4) full days and one four and one-half (4½) hour day leave in one week will be charged four and one half days accrued as thirty-one and one-half (31½) hours of banked time.
3. Elected or required utilization of paid vacation, or sick leave accruals does not extend family leave or otherwise modify those other leaves available to employees of the University.

**B. Health Benefits:** That health benefits coverage in effect and covering the employee immediately prior to leave shall be maintained throughout the period of family leave subject only to program participation and parameters alteration as appropriately negotiated and/or implemented, consistent with law.

**C. Other Benefits:** Other benefits available to employees on leave shall be governed by the provision applicable to the leave. If, for example, the employee is drawing paid sick leave while depleting Family Leave, the provisions of sick leave policy not inconsistent with this policy and law shall govern, while the provisions of unpaid leave policy that are not inconsistent with this policy and law shall govern an unpaid family leave.

**D. Reinstatement:** A employee ready and able to return to his/her position of employment immediately following exhaustion of family leave will be returned to his/her position or, at the University's discretion, to an equivalent position with equivalent pay and benefits unless the employee would have been terminated in the absence of any leave (e.g., layoff, contractual non-reappointment, just cause independent of the leave or natural term expiration of a terminal or temporary position of employment).

## VII. Definitions

- A. Child:** A child is the biological, adopted or formally placed, foster care child, step child or legal ward of the employee requesting leave and under eighteen (18) years of age or eighteen (18) years and over but certifiably incapable of self-care because of mental or physical impairment.
- B. Parent:** A parent is the biological or legally recognized parent of a child. For the thirteen (13) week leave set out above and pursuant to provision I.C. above, a parent shall include parents-in-law.
- C. Spouse:** A spouse is the University-recognized, spousal partner of the employee requesting leave, as defined by University policy and covered by University procured health insurance carrier applicable to employee. Where spouses are both employees of the University, leave under I.A. through I.F. above shall not exceed the maximum leave for one eligible employee. Roger Williams University and Roger Williams University School of Law Benefits Information Regarding Same-Sex Spouses & Domestic Partners is incorporated by reference hereto in all respects as it affects eligible employee and those receiving the care of eligible employees.
- D. Serious illness or health related condition:** This is defined as an illness, injury, physical or mental impairment or condition that involves a period of incapacity or treatment following in-patient care in a hospital, hospice, nursing home or residential medical care facility; and/or a period of incapacity requiring more than three (3) days' absence from work and continuing treatment by a health care provider; and/or continuing out-patient treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated would likely result in incapacity of more than three (3) days; and/or continuing treatment by or under the supervision of a health care provider of a chronic or long-term condition or disability that is incurable; or an injury or illness incurred by a member of the Armed Forces, including a member of the National Guard or Reserves, in the line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.
- E. Health Care Provider:** A "health care provider" is defined as any doctor of medicine or osteopathy, podiatry, optometry, or psychiatry or any nurse practitioner, licensed physician's assistant (authorized to render health care diagnoses and certification of the type and character sought by employee and presented to University as enabling family

leave in accordance with this policy) or psychologist performing within the scope of their licensed practice as defined under law.

**F. Next of Kin:** A “next of kin” is the nearest blood relative of the employee.

**G. Servicemember:** A “covered servicemember” is a member of the Armed Forces, including a member of the National Guard or Reserves, who is 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.

- 1. Outpatient Status** – the term “outpatient status”, with respect to a covered servicemember, is the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

## **VIII. Jurisdiction**

This policy applies to all employees of the University and shall be administered consistent with other University policies, including collectively negotiated policies, and the law.

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