

<b>University Enterprises, Inc. Policies and Procedures</b>	<b>Policy No. 520</b>
<b>Section:</b> Human Resources	
<b>Policy:</b> Family Care and Medical Leave	
<b>Revised Date:</b> March 21, 2013	

## Family Care and Medical Leave

### I. PURPOSE

To provide unpaid family care or medical leave under the Family and Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA) to employees for the following reasons:

- For a serious health condition that makes the employee unable to perform his or her job,
- The birth of an employee's child, or placement of a child with the employee for adoption or foster care ,
- To care for a spouse, registered domestic partner as defined by California Law, child, or parent with a serious health condition,
- For any "qualifying exigency" (as defined by federal regulation) because the employee is the spouse, son, daughter, or parent of an individual on covered active duty (or has been notified of an impending call or order to active duty) in the Armed Forces; or,
- For an employee who is the spouse, son, daughter, parent, or next of kin of a covered service member to care for the service member.

### II. SCOPE

This policy applies only to University Enterprises, Inc. (UEI) employees who:

- have worked for at least 12 months, and
- have worked for a minimum of 1,250 hours during the 12 months immediately before the leave is requested; and,
- are employed at a work site where there are 50 or more employees within a 75 mile radius.

### III. POLICY

Eligible UEI employees may take family care or medical leave as specified in state and federal law.

### IV. DEFINITIONS

- A. Family Member: the employee's dependent child (including a legal ward or biological, adopted, foster, stepchild, or a child of an employee who stands *in loco parentis* to that child, under 18 years of age, or an adult disabled dependent), the employee's parent (including a biological, foster or adoptive parent, step-parent, legal guardian, or other person who stood *in loco parentis* to the employee as a child), or the employee's spouse or registered domestic partner as defined by California Law.
- B. Serious Health Condition means an illness, injury, impairment, or physical or mental condition that involves:
  - any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or

- a period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
  - any period of incapacity due to pregnancy, or for prenatal care (FMLA only); or,
  - any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
  - a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
  - any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.)
- C. Twelve Month Period: for purposes of calculating the 12-month period during which 12 weeks of leave may be taken, UEI uses a "rolling" 12-month period measured backward from the date an employee uses any family leave. Under most circumstances, leave under federal and state law will run at the same time and the eligible employee will be entitled to a total of 12 weeks of family and medical leave in the designated 12-month period. For leave to care for a covered service member, the 12-month period begins on the first day of the leave, regardless of how the 12-month period is calculated for other leaves. Leave to care for a covered service member is for a maximum of 26 workweeks during a 12-month period.

## V. PROCEDURE

- A. Request for Leave: Employees must request family care or medical leave at least 30 days before the leave is to begin when the leave is foreseeable, such as for the birth or adoption of a child or for planned medical treatment for a serious health condition. The employee must consult with his or her supervisor regarding scheduling of any planned medical treatment in order to minimize disruption to the operations of the department and/or UEI. Any such scheduling is subject to the approval of the health care provider of the employee or the health care provider of the employee's child, parent, or spouse. If the employee cannot provide 30 days' notice, UEI must be informed of the need for leave as soon as is practical. All requests should be made in writing to the employee's supervisor who will promptly forward the request to Human Resources.

If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, UEI reserves the right to deny the taking of the leave until at least 30 days after the date the employee provides notice of the need for family care or medical leave.

All requests for family care or medical leave should include the anticipated date(s) and duration of the leave. Any requests for extension of a family care or medical leave must be received at least five working days before the date on which the employee was originally scheduled to return to work and must include the revised anticipated date(s) and duration of the family care or medical leave.

- B. Amount of Leave: The maximum leave (whether unpaid, using sick and/or vacation pay, or both) under this policy is 12 weeks in a 12-month period. Parents of a child who are both employed by UEI may take a maximum combined total of 12 weeks of family care leave in a 12-month period for the birth of their child or placement of a child with the employees for adoption or foster care.

If the leave is to care for a covered service member the employee shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member (FMLA/CFRA for 12 weeks if the care provider is eligible for both, followed by 14 weeks of FMLA only, or 26 weeks of FMLA only if leave is not CFRA covered leave).

Leave because of the employee's disability for pregnancy, childbirth or related medical condition is not counted as time used under CFRA. Time off because of pregnancy disability, childbirth or related medical condition does count as family and medical leave under FMLA. Employees who take time off for pregnancy disability and who are eligible for family and medical leave will also be placed on family and medical leave that runs at the same time as their pregnancy disability leave (PDL). Once the pregnant employee is no longer disabled, or once the employee has exhausted PDL and has given birth she may apply for leave under CFRA, for purposes of baby bonding.

- C. Terms of Leave: Family care leave taken for the birth, adoption, or foster care placement of a child must be concluded within one year of the birth, adoption, or placement, and may be taken intermittently in periods of at least two weeks. However, UEI will grant a request for a CFRA leave (for birth/placement of a child) of less than two weeks' duration on any two occasions.

Family care or medical leave for the serious health condition of the employee's spouse, parent or child or for the employee's own serious health condition, may also be taken intermittently, in minimum increments of 15 minutes, or on a reduced work schedule when medically necessary. If leave is taken intermittently or on a reduced schedule in order to accommodate planned medical treatment of the employee or family member, UEI retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee's leave schedule.

- D. Effect of Leave on Benefits: During an employee's family care or medical leave, UEI shall continue to pay for the employee's participation in UEI's group Health and Welfare benefit plans, to the same extent and under the same terms and conditions as would apply had the employee not taken leave, for a maximum of 12 workweeks, or 26 workweeks if the leave is to care for a covered service member.

If the employee fails to return from the leave for a reason other than the recurrence or continuation of the health condition that brought about the leave or other circumstances beyond the employee's control, the employee may, at UEI's option, be required to reimburse UEI for any insurance premiums paid by UEI on the employee's behalf during any unpaid periods of the leave. Additionally, it is UEI's option that the employee may be required to reimburse UEI for such insurance premiums paid during the employee's unpaid leave if, upon the employee's return, the employee requests and is granted a reduced work schedule for which such benefits would not be paid by UEI.

Employees on family care or medical leave accrue employment benefits such as sick leave or vacation benefits only when paid leave is being substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.

- E. Medical Certification: Any request for medical leave for an employee's own serious health condition or for family care leave to care for a child, spouse, or parent with a serious health condition must be supported by medical certification from a health care provider. The employee must provide the required medical certification within 15 calendar days after UEI's request for certification, unless it is not practicable under the circumstances to do so. Failure to provide the required medical certification sufficiently in advance of a foreseeable leave may result in the delay of approval, or request that the leave be deferred, until 30 days after the certification is provided.

In the case of foreseeable leaves, failure to provide the required medical certification within 15 days of being asked to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification. If UEI does not receive appropriate medical certification, it may decline to treat the leave as protected family care or medical leave.

The medical certification for a child, spouse or parent with a serious health condition shall include:

1. the date on which the serious health condition commenced;
2. the probable duration of the condition;
3. the health care provider's estimate of the amount of time needed for family care; and
4. confirmation that the serious health condition warrants the participation of the employee.

The medical certification for leave for the employee's own serious health condition shall include:

1. the date on which the serious health condition commenced;
2. the probable duration of the condition; and
3. a statement that, due to the serious health condition, the employee is unable to perform one or more of the essential functions of his or her position.

In addition, UEI may require the employee to obtain a second opinion from a health care provider of UEI's choosing at UEI's expense. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by UEI. If the employee's health care provider and the doctor providing the second opinion do not agree, UEI may require a third opinion, also at UEI's expense, performed by a mutually agreeable doctor. This opinion shall be considered final and binding on UEI and the employee. Before permitting the employee to return to work, UEI will require certification by the employee's health care provider that the employee is fit to return to his or her job. Failure to provide certification by the health care provider of the employee's fitness to return to work will result in denial of reinstatement for the employee until the certificate is obtained.

A leave taken due to a "qualifying exigency" related to military service must be supported by a certification of its necessity. A leave taken due to the need to care for a service member must be supported by a certification by the service member's health care provider.

- F. Use of Paid Leave Benefits: An employee taking an approved family care or medical leave may elect to use accrued sick leave or accrued vacation for part or all of the Family Care and Medical Leave. Use of vacation or sick leave will not extend the maximum duration specified above.
- G. Holidays: If a holiday falls within a week used as family leave, the week is nevertheless counted as a week of family leave.
- H. Return to Work: Under most circumstances employees returning from family care or medical leave are entitled to reinstatement to the same or comparable position consistent with applicable law. However, an employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. University Enterprises, Inc. retains the right to deny reinstatement to "key employees", those who are among the highest paid ten percent (10%) of UEI's employees and whose reinstatement would cause substantial and grievous economic injury to UEI's operations. If UEI anticipates denying reinstatement to a key employee, UEI will advise the employee of its intent not to reinstate him or her upon determining that the reinstatement would cause such injury.

- I. Failure to Return: An employee's failure to return from an approved family care or medical leave of absence or an employee's failure to present reasons for not returning as arranged will be considered abandonment of the position and may result in immediate termination of employment.
- J. Relation to Disability Leaves of Absence: Any leave taken under this policy runs concurrently with leave under the disability leaves of absence policy (Policy No. 550 - Disability Leaves of Absence), if the leave qualifies under both policies (i.e., when leave is due to the employee's own serious health condition).

**VI. RELATED POLICIES**

Policy No. 505	Vacation
Policy No. 515	Sick Leave
Policy No. 516	Pregnancy Disability Leave
Policy No. 545	Personal Leaves of Absence
Policy No. 550	Disability Leaves of Absence
Policy No. 555	Extraordinary Leaves of Absence
Policy No. 925	Fitness For Duty Exam