

OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION PERSONNEL POLICIES

Policy: Family and Medical Leave
Policy Number: 111.0

Effective Date: December 10, 2001
Approved By:

Policy:

A. The Family and Medical Leave Act of 1993 (FMLA) provides eligible employees up to 12 weeks of unpaid, job-protected leave during a 12-month period for any of the following reasons:

1. to care for the employee's child after birth, placement for adoption, or foster care;
2. to care for the employee's spouse, son or daughter, or parent of the employee, if that individual has a serious health condition; or
3. for a serious health condition that makes the employee unable to perform the employee's job.

B. In order to be eligible for FMLA, an employee must have worked for the OCHE, the State of Montana, or a unit of the Montana University System for at least 1,040 hours in the previous 12-month period.

C. Employees are limited to a maximum of 12 weeks of FMLA leave for any of the qualified purposes during a 12-month period. If the leave is for birth, adoption, or foster care placement, the leave must be completed within 12 months of the date of birth or placement. The 12-month period for which employees are entitled to 12 weeks of FMLA leave begins on the first day of the initial FMLA leave.

Procedures:

A. An eligible employee's FMLA balance is reduced when an absence is due to an FMLA-qualifying condition and related absences exceed two calendar weeks or result in an approved full day's leave without pay. Employees are expected to notify their supervisor as to the need for FMLA leave.

B. Employees should provide advance notice of the requested leave, whenever possible, at least 30 days in advance when the leave is "foreseeable." If the leave is for the planned medical treatment of the employee or family member, or requires intermittent or reduced schedule leave, employees may be required by their supervisor to arrange a particular schedule or to reschedule appointments or treatments, subject to the consent of the health care provider.

C. A medical certification may be required to support a request for leave or a fitness for duty report may be required before an employee may return to work. Employees on FMLA leave may be required to furnish periodic reports of their status and intent to return to work.

D. The employer has the right to request, at its own expense, a second opinion from an independent medical provider selected by the employer. If the two opinions conflict, the conflict may be resolved by a third opinion by a provider, agreed to by the employer and the employee, which shall be considered final and binding.

E. Absences that qualify as FMLA leave will be indicated on the employee's timesheet.

F. An employee may be required to exhaust all accumulated sick leave prior to being placed in a leave without pay status. Accumulated annual leave or compensatory time may also be used. If an

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employee uses accumulated sick leave, annual leave, sick leave donations, and/or compensatory time for qualifying absences, such time is also counted toward the employee's FMLA leave entitlement.

G. For part-time employees who work varying hours, the employee's normal work schedule shall be calculated by averaging the employee's weekly hours in the previous 12 week period. The average number of hours worked per week will equal one week of FMLA leave entitlement.

H. Employees who are on an approved FMLA leave of absence without pay shall continue to receive the employer's share of health insurance contributions. The employee is required to continue to pay the employee's portion of any health insurance premiums (typically for dependent coverage) normally deducted from the employee's paycheck and shall pay such amounts by the 10th of the month. If an employee fails to make the required payments, dependent coverage may be dropped. When the employee returns from FMLA leave, dependent coverage may be resumed without penalty.

I. Upon return from FMLA leave, an employee will be restored to his/her original or an equivalent position, unless the employee would have been terminated regardless of the leave (e.g., layoff, downsizing, or termination of a temporary job).

References:

State of Montana FMLA Guidelines
29 CFR Part 825