

UNIVERSITY of HOUSTON
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Benefits

Number: 02.02.01

SUBJECT: Family and Medical Leave
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I. PURPOSE AND SCOPE

This policy has been established to comply with the [Family and Medical Leave Act of 1993 \(FMLA\)](#) and related [U. S. Department of Labor](#) regulations, the General Provisions of the [General Appropriations Act](#), and [System Administrative Memorandum \(SAM\) 02.D.06](#). It describes the leave benefits available to eligible employees under these laws as well as procedures for applying for, maintaining, and returning from family and medical leave.

II. POLICY STATEMENT

A. The [Family and Medical Leave Act of 1993](#), as amended (FMLA) allows “eligible employees” to take job-protected leave for up to a total of 12 workweeks in a “year”:

1. because of the birth of a child and to care for the newborn child;
2. because of the placement of a child with the employee for adoption or foster care;
3. because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition;
4. because the employee’s own serious health condition makes the employee unable to perform the functions of their job; or
5. because of any qualifying exigency arising out of the fact that the employee’s spouse, child, or parent is a member of the Armed Forces (including the National Guard or Reserves) on active duty or call to active duty (or has been notified of an impending call or order to active duty).

In addition, an eligible employee who is a spouse, child, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness related to their service, or of a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness related to their service, is eligible for up to a combined total of 26 workweeks of unpaid leave during a “single 12-month period” to care for the servicemember (military caregiver leave).

- B. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.
- C. An employee who does not meet the eligibility requirements for family and medical leave may be eligible for parental leave for the birth of a natural child or the adoption or state approved foster care placement of a child under three years of age. See [MAPP 02.02.02 – Parental Leave](#) for more information.
- D. In certain cases, employees may be eligible for additional unpaid leave beyond FMLA leave in accordance with [MAPP 02.02.03 – Leaves of Absence](#).

- E. The policy of the University of Houston System and its universities is to ensure equal opportunity in all its educational programs and activities, and all terms and conditions of employment without regard to age, race, color, disability, religion, national origin, ethnicity, military status, genetic information, sex (including gender and pregnancy), sexual orientation, gender identity or status, or gender expression, except where such a distinction is required by law. For the UH System's Official Non-Discrimination Statement, see [SAM 01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).

III. DEFINITIONS

- A. Child: A biological, adopted, or foster child; a stepchild; a legal ward; or a child of an employee standing in loco parentis (e.g., a child for whom the employee has, or had during the person's youth, daily responsibility to care and financially support - a biological or legal relationship is not necessary) and who is either under 18 years of age or is incapable of self-care because of a physical or mental disability at the time the FMLA leave is to commence.
- B. Covered military member: The employee's spouse, child, or parent who is on active duty or call to active duty status with the Armed Forces, including the National Guard or Reserves.
- C. Covered servicemember: The employee's spouse, child, parent or next of kin who is (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, 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 incurred (or aggravated by service) in the line of duty on active duty in the Armed Forces; or (2) a covered veteran undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred (or aggravated by service) in the line of duty on active duty in the Armed Forces.
- D. Covered veteran: An individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.
- E. Chronic serious health condition: One that meets all the following requirements:
- Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- F. Eligible employee: Any employee who:
- Has worked for the State of Texas a total of at least 12 months prior to the date of leave (the 12 months need not be consecutive); and
 - Has at least 1,250 hours actually worked for the State of Texas in the 12 months immediately preceding the leave. Full-time (100% FTE) exempt staff and faculty are presumed to have worked 1,250 hours.

Note: An employee in a position in which they are required to be a student as a condition of employment is NOT eligible.

- G. Health care provider: A person authorized to practice as a health care provider in Texas who is performing within the scope of that practice as one of the following:
- Doctor of medicine
 - Doctor of osteopathy
 - Podiatrist
 - Dentist
 - Clinical psychologist
 - Optometrist
 - Chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist)
 - Nurse practitioner
 - Nurse midwife
 - Clinical social worker
 - Physician assistant
 - Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts
 - Any health care provider within the scope of practice listed above practicing in another country who is authorized to practice in that country
- H. Incapable of self-care: The individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or the instrumental activities of daily living. Activities of daily living include caring for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.
- I. Incapacity: For the purposes of the [FMLA](#), the inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment therefore, or recovery therefrom.
- J. Intermittent leave or reduced leave schedule: Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. Intermittent leave is calculated on an hourly or daily basis, as a proportion of the employee's normal work week. A reduced leave schedule is a change in the employee's schedule for a period of time.
- K. Next of kin of a covered servicemember: The nearest blood relative other than the covered servicemember's spouse, parent, child, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation

has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

- L. Parent: A biological, foster, or adoptive parent; a stepparent; a legal guardian; or a person who has (or had during the employee's childhood) daily responsibility to care for and financially support the employee. Parents-in-law are not included in this definition.
- M. Qualifying Exigencies: In accordance with the [Code of Federal Regulations](#), qualifying exigencies arise out of the fact that the employee's spouse, child, or parent is a military member in the Armed Forces (including the National Guard or Reserves) on active duty or call to active duty, or has been notified of an impending call or order to active duty, and include the following:
1. Issues arising from a covered military member's short notice deployment (i.e., deployment of seven or less days of notice) for a period of seven days from the date of notification.
 2. Military events and related activities such as official ceremonies, programs, or events sponsored by the military, military service organizations, or the American Red Cross.
 3. Certain childcare and related activities such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility.
 4. Making or updating financial and legal arrangements to address a covered military member's absence.
 5. Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member.
 6. Taking up to 15 days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment.
 7. To address certain activities related to the care of the military member's parent who is incapable of self-care. These could include arranging for alternative parental care; providing care on a non-routine, urgent, immediate need basis; admitting or transferring the parent to a new care facility; and attending certain meetings at a care facility or with hospice staff.
 8. Attending to certain post-deployment activities sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member.
- N. Regimen of continuing treatment: Includes a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed-rest, drinking fluids, exercise, or other similar activities that can be initiated without a visit to a health care provider.
- O. Serious health condition: An illness, injury, impairment, or physical or mental condition that involves either or both of the following:

1. In-patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care.
 2. Continuing treatment by a health care provider, including:
 - a. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - Treatment two or more times, within 30 days of the first day of such period of incapacity, unless extenuating circumstances exist, by a health care provider (i.e., in-person visits, the first within 7 days of the first day of incapacity), by a nurse under the direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under the orders of, or on referral by, a health care provider; or
 - One treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a regimen of continuing treatment (e.g., prescription medication, oxygen) under the supervision of the health care provider.
 - b. Any period of incapacity due to pregnancy or prenatal care.
 - c. Any period of incapacity or treatment due to a chronic serious health condition.
 - d. A period of incapacity that is permanent or long-term for which treatment may not be effective (e.g. Alzheimer's, severe stroke, terminal stages of a disease).
 - e. Any period of absence to receive multiple treatments (including recovery from those treatments) either for restorative surgery after an accident or injury or for a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical treatment (e.g., cancer, severe arthritis, kidney disease).
 - f. Allergies, mental illness, and substance abuse may be serious health conditions if they meet the criteria. However, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.
- P. Serious injury or illness: An injury or illness incurred by a covered servicemember (or aggravated by their service) in the line of duty on active duty. For current members of the Armed Forces, the injury or illness must be one that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating. For covered veterans, the injury or illness must be one that is a continuation of a serious injury or illness incurred or aggravated when the covered veteran was a member of the Armed Forces or meets other criteria as defined by the [Code of Federal Regulations](#).
- Q. Spouse: A husband or wife, as recognized under the laws of the State of Texas, including a husband or wife in a common-law marriage.
- R. Treatment: For the purposes of the FMLA includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical, eye, or dental exams.

Ordinarily, unless complications arise, specific conditions for which treatment does not qualify for [FMLA](#) leave include: cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental, or orthodontia problems and periodontal disease. Cosmetic treatments (such as most treatments for acne or plastic surgery) are not considered a serious health condition unless inpatient hospital care is required or complications develop.

- S. Year: Twelve months measured forward on a rolling calendar year from the first date family and medical leave begins.

IV. PROVISIONS

- A. Generally, an eligible employee who qualifies for the maximum allowable leave is entitled to the maximum leave allowance as established by FMLA. The employee may request a shorter leave for a qualifying event, and they may request leave for more than one qualifying event not to exceed the established maximum leave in a year. For example, in the single 12-month period, an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave, but could not take 16 weeks of leave to care for a newborn child and 10 weeks of military caregiver leave.
- B. An intermittent or reduced leave schedule is available under the [Family and Medical Leave Act](#). The employee must attempt to schedule the leave so as not to disrupt the University's operations. The University may require the employee to transfer temporarily (not to exceed the family and medical leave period) to an alternative position that better accommodates recurring periods of absence or a part-time schedule, provided the position provides equivalent pay and benefits.
- C. An eligible employee must use all applicable accrued paid leave balances (including sick leave and vacation) while taking family and medical leave, unless the employee is receiving temporary disability benefit payments or worker's compensation benefits. The use of accrued sick leave is, however, restricted to those circumstances that would otherwise qualify the employee for sick leave usage under State law and University rules and regulations governing the use of sick leave ([MAPP 02.02.03](#)). The employee may choose to use accrued compensatory time instead of unpaid family and medical leave, but may not be required to do so. Any [Fair Labor Standards Act](#) (FLSA) compensatory time (1.5) taken for a Family Medical Leave (FML) purpose or reason may be counted against the employee's family and medical leave entitlement.
- D. Any sick leave of more than three consecutive days or intermittent leave of any duration for qualifying serious or chronic serious health conditions should be counted as family and medical leave. When there is any question about whether a condition qualifies as family and medical leave, the employing department should contact Human Resources. If it is determined that the leave qualifies as family and medical leave, the procedures for applying for and reporting family and medical leave should be followed accordingly.
- E. An employee on Workers' Compensation who wishes to continue to receive state insurance premium sharing is required to apply for family and medical leave.
- F. If both spouses are employed by the University of Houston as eligible employees, they are entitled together to a total of 12 weeks of leave between them (rather than 12 weeks each) for the birth or placement of a child. Spouses who are eligible employees are entitled to the maximum leave each for other qualifying events or conditions.

A father who is otherwise healthy cannot use sick leave for the birth of a child unless he needs to care for the child and/or mother who has a serious health condition.

- G. Leave for the birth or placement of a child must take place within 12 months after the event (i.e., the birth or placement of the child). Leave may begin prior to the birth or placement of the child. Leave for birth or placement of a child is available equally to both sexes.
- H. If leave qualifies as both leave to care for a covered servicemember with a serious injury or illness and leave to care for a qualifying family member with a serious health condition, the leave must be designated as leave to care for a covered servicemember.
- I. For the period of the family and medical leave that is without pay, the employee may continue insurance benefits and will receive the premium sharing from the State or the University toward the cost of health insurance. The employee is responsible for paying that part of their insurance cost that would otherwise be deducted from the employee's paycheck.
- J. Family and medical leave is not considered a break in continuity of employment. However, when an employee who has at least two years of lifetime service credit with the State of Texas on the first workday of the month is on family and medical leave without pay, that month is not counted when computing total state service for purposes related to longevity pay or to the rate of accrual of vacation leave. An employee also does not accrue vacation or sick leave for a full calendar month during which the employee is on leave without pay.

V. NOTIFICATION OF THE NEED FOR FAMILY AND MEDICAL LEAVE

- A. When the need for family and medical leave can be planned, such as for the birth or placement of a child or for a scheduled medical treatment, the employee is responsible for applying for FMLA leave at least 30 calendar days in advance of the leave and for making efforts to schedule the leave to minimize disruption of the University's operations. If the need for leave is foreseeable less than 30 days in advance of the commencement of the FMLA leave, the employee is responsible for applying for [FMLA](#) leave as soon as practicable.
- B. In case of sudden illness or other unforeseeable need for leave, the employee is required to give MAPP notice to the supervisor as soon as practicable in accordance with [MAPP 02.02.03 – Leaves of Absence](#).
- C. Human Resources will inform the employee's supervisor within five business days of being informed that an employee is requesting sick leave involving a condition that may qualify for family and medical leave. Human Resources must also provide the employee with a written eligibility notice and a rights and responsibilities notice (combined into one form and included as part of the FLMA application available on the Human Resources web site at <https://www.uh.edu/human-resources/hr-service-center/fml/>). The notice must be provided to the employee in a language that the employee understands for completion. If leave has already begun, the notice should be e-mailed or mailed to the employee's address of record.

If the employee provides notice of a subsequent need for [FMLA](#) leave during the applicable 12-month period due to a different FMLA-qualifying reason, and the employee's eligibility status has changed, Human Resources must notify the employee and their supervisor of the change in eligibility status within five business days.

If the employee has not already done so, they must complete the application process as described below within 15 calendar days from the date of the written eligibility notification by Human Resources unless not practicable under the circumstances.

VI. APPLYING FOR FAMILY AND MEDICAL LEAVE

- A. All requests for family and medical leave must be submitted to Human Resources via the [Application for Family and Medical Leave](#) provided by the Human Resources Department. All FMLA applicants must identify on the FMLA Leave Application whether they have dual employment with another state agency and must name the state agency to ensure compliance with FMLA management and reporting of state employees.

A jointly-filed [Application for Family and Medical Leave](#) must be submitted by spouses who are both requesting leave for the same qualifying event or condition.

- B. Upon receipt of the [Application for Family and Medical Leave](#), Human Resources must:
1. Complete the indicated section of the [Application for Family and Medical Leave](#).
 - a. The department will be contacted to ensure the leave documented in PeopleSoft is correct.
 - b. In no instance may an employee be granted more than the maximum amount of leave available by law in a 12-month period.
 - c. Human Resources will not approve less than the requested leave period as long as the employee has that amount of family and medical leave available and the certification supports the amount of leave requested as advised to Human Resources by the employee's health care provider.
 - d. Human Resources will provide the employee with a copy of the application for the employee's records if requested. If disapproved, the reason for disapproval must be provided on the application (e.g., lack of available leave).
 2. Determine the appropriate supplemental documentation necessary for the type of leave being requested and provide the form or a list of acceptable alternative documentation to the employee.

The employee should submit all completed supplemental forms or certifications directly to Human Resources.

- C. All required supplemental documentation must be submitted to Human Resources:
1. To request leave based on a serious health condition, the employee or family member must be under continuing supervision of, but not necessarily receiving active treatment by, a health care provider. A completed Certification of Health Care Provider for Employee's Serious Health Condition form or a Certification of Health Care Provider for Family Member's Serious Health Condition form (both available at <https://uh.edu/human-resources/benefits/leave/>) is required.
 2. To request leave based on the placement of a child for adoption or foster care, a copy of the legal orders of placement is required.
 3. To request leave based on a qualifying exigency, a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party, is required.

4. To request leave to care for a current servicemember with a serious injury or illness, a [Certification for Serious Injury or Illness of Current Servicemember](#) form completed by the servicemember's health care provider or a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the current servicemember's family is required.
 5. To request leave to care for a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, a [Certification for Serious Injury of Covered Veteran](#) form completed by the covered veteran's health care provider is required.
- D. At its discretion, the University may require a second medical opinion at the University's expense. If the second medical opinion differs from the employee's medical certification provided in accordance with the policy, then the University may require the opinion of a third health care provider, approved by both the University and the employee, at the University's expense. This third opinion is binding on both the University and the employee.
- Second and third opinions are not permitted for certification of a covered servicemember's serious injury or illness or of a qualifying exigency.
- E. If an employee submits a medical certification or other appropriate documentation that Human Resources determines is incomplete, then Human Resources will provide the employee with a written statement describing the additional information necessary to make the medical certification, or alternative documentation, complete and sufficient. The employee has seven calendar days to submit the additional information.
- F. If the approved designated leave is not intermittent or reduced, Human Resources will place the employee on paid and/or unpaid leave in the University's HR/Payroll system, according to the employee's available sick and vacation leave and the terms of their use.

VII. PROCEDURES DURING FMLA LEAVE

- A. Reporting Time (Non-Exempt Employees):
1. The employing department is required to approve leave on the employee's behalf if the employee is on family and medical leave when they are due to Payroll.
 - a. Paid or Unpaid Family and Medical Leave must be recorded in the HR/Payroll system according to instructions given to the employee's department upon approval of FML.
 - b. Any vacation and sick time used during the time reporting period must also be recorded according to instructions given to the employee's department upon approval of FML. If the employee is on paid leave and accruing vacation and sick, the time accrued during the family and medical leave may not be used until the employee returns to work.
 2. If a holiday falls during a week when an employee is on family and medical leave, the entire week is treated as a week on family and medical leave, except when the University is closed for the entire week (five or more consecutive working days).
- B. Insurance Coverage:
1. The State or University will continue to contribute its monthly portion of insurance premiums to the Employees Retirement System of Texas (ERS), during the period

of family and medical leave. The [Employees Retirement System of Texas](#) (ERS) will bill the employee for any premium due after application of the state premium sharing toward the cost of the employee's health insurance.

The employee is responsible for self-paying by personal check or money order to [ERS](#) that part of their insurance cost that would otherwise be deducted from the employee's paycheck.

2. If an employee's premium payment is more than 30 days late, then insurance coverage will be reduced to employee-only coverage.
3. The [Employees Retirement System of Texas \(ERS\)](#) must be contacted within 30 days of the birth or placement of a child to include the new baby/child in the employee's insurance coverage either by telephone or online at [ERS](#).

C. Employee Reporting Requirements:

If a return date was not indicated on the application and certification for leave, the employee is required to report to their supervisor periodically during the leave (at least once per week) on the status of their leave. As an alternative, a representative may report for the employee.

Failure to report periodically during the leave may result in the suspension of the family and medical leave.

1. The employee must be notified in writing prior to suspension of family and medical leave or termination of employment that their status with the University is in jeopardy.
2. The employee must be given a sufficient amount of time to contact the supervisor and comply with policy requirements.
3. If the employee fails to comply, Human Resources should be contacted prior to suspension of family and medical leave or termination of employment. If, after consultation with Human Resources, the decision is made to suspend the family and medical leave or to terminate the employment, the employee must be notified in writing by the department and a copy of the correspondence sent to Human Resources.
4. The employee has a right to appeal any such action under the University's grievance procedure ([MAPP 02.04.01](#)).

D. Recertification:

1. Human Resources may request recertification every 30 days in connection with an absence by the employee unless the medical certification indicates that the minimum duration of the condition is more than 30 days; in which case, a recertification may not be requested until that minimum duration expires.
2. In all cases, Human Resources may request a recertification of a medical condition every six months in connection with an absence by the employee; even if the medical certification indicates that the employee will need intermittent or reduced schedule leave for a period in excess of six months.
3. Human Resources may request recertification in less than 30 days for any of the following situations:

- a. The employee requests an extension of [FMLA](#) leave.
 - b. Circumstances described by the previous certification have changed significantly.
 - c. The University receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.
4. The employee must provide the requested recertification to Human Resources within 15 calendar days of the request by Human Resources, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
 5. Recertification is not permitted for a covered servicemember's serious injury or illness or for a covered military member's qualifying exigency.
 6. Prior to the Human Resources Department's requesting recertification for any reason, the appropriateness of such a request under the law should be verified by Human Resources.

VIII. RETURN TO WORK

- A. Upon return to work, an employee who has been on approved family and medical leave for more than three consecutive days based on the employee's serious health condition will be required to present to the leave administrator a health care provider's release certifying fitness to return to work. A request to return to duty with restrictions will be considered on a case-by-case basis, considering the needs of the department and the essential functions of the job.
- B. The employing department is required to return the employee to active status in the HR/Payroll system once the employee has returned from Family Medical Leave (FML), unless otherwise instructed by Human Resources.
- C. The employee must report to their supervisor if they will be unable to return to work at the end of the leave period.

Failure to report by the date intended to return to work will be considered abandonment by the employee of their job. Termination of employment due to job abandonment may not be appealed ([MAPP 02.04.03](#)).
- D. Additional leave beyond the maximum time provided under FMLA is subject to the approval of the department in accordance with regulations governing leave of absence without pay ([MAPP 02.02.03](#)).
- E. If an employee plans to return to work earlier than expected by the department, the employee shall provide the department with two business days' notice where feasible.
- F. Employees returning from approved family and medical leave within the provisions of this policy shall be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms unless the employee would not otherwise have been employed at the time reinstatement is requested.
 1. An employee offered an equivalent position who chooses to decline the position waives any rights to reinstatement.

2. An employee who believes that a position offered is not an equivalent position is entitled to file a grievance under the University of Houston grievance procedure, [MAPP 02.04.01](#).
- G. The employing department may decline to restore an employee on family and medical leave to their original or equivalent position under the conditions listed below.
1. If an employee's position is scheduled for elimination as part of an approved Reduction In Force (RIF) plan, the employee's family and medical leave rights (including rights to restoration of employment) end on the scheduled termination date provided in the approved RIF plan.
 2. If misconduct by the employee which constitutes grounds for termination occurs or is discovered, the employee is subject to termination, even if the employee is on family and medical leave at the time of the misconduct or discovery of misconduct.
 3. If an employee is scheduled for termination for any other reason prior to notification of family and medical leave and has received written notice of the termination, the employee's family and medical leave rights end on the previously scheduled termination date.
 4. If the employee is among the highest paid ten percent employed by the University of Houston and a determination is made by the president that restoring employment to the employee would result in substantial economic injury to the University, the employee's right to restoration of employment may end at the close of the family and medical leave period. At the time an employee in this category applies for family and medical leave, the employee must be notified that they may be ineligible for reinstatement.

In such cases, the employee maintains only those rights provided by such regulations as COBRA and, in the case of a reduction in force, [MAPP 02.04.06](#) on Reduction in Force, or in the case of an otherwise properly grievable matter, [MAPP 02.04.01](#).

- H. If an employee elects not to return to work upon completion of an approved unpaid family and medical leave, the employee is obligated to reimburse the University for the amount of the State's or University's contribution of insurance premium during any complete months of unpaid leave. The employee need not reimburse the University if the failure to return to work was for reasons beyond the employee's control, or if the employee retires directly from leave or within 30 days of returning from leave.
- IX. REVIEW AND RESPONSIBILITIES:

Responsible Party: Associate Vice President, Human Resources

Review: Every five years

- X. APPROVAL

/Raymond Bartlett/

Senior Vice President for Administration and Finance

/Renu Khator/

President

Date of President's Approval: December 18, 2024

XI. REFERENCES

[General Appropriations Act](#)

[Employee's Retirement System of Texas \(ERS\)](#)

[Fair Labor Standards Act \(FLSA\)](#)

[Federal Family and Medical Leave Act \(FMLA\)](#)

[29 C.F.R. §§ 825.100-825.127](#)

[SAM 02.D.06 – Family and Medical Leave](#)

[MAPP 02.02.02 – Parental Leave](#)

[MAPP 02.02.03 – Leaves of Absence](#)

[MAPP 02.04.01 – Employee Grievances](#)

[MAPP 02.04.06 – Reduction in Force](#)

[Application for Family and Medical Leave](#)

[HR website: FMLA Information](#)