

## Appendix C

### VALPARAISO UNIVERSITY FAMILY AND MEDICAL LEAVE POLICY

1. An unpaid leave of absence of up to twelve (12) weeks in duration may be granted to *eligible* employees for certain family or medical reasons. All qualifying leave taken by an employee will be counted against the employee's annual family and medical leave entitlement. Employees are eligible for family and medical leave if they have completed at least one (1) year of service and have worked at least one thousand two hundred fifty (1,250) hours during the previous twelve (12) months. Family and medical leave will be granted for any of the following reasons:
  - For incapacity due to pregnancy, prenatal medical care or child birth;
  - To care for the employee's child after birth, or placement for adoption or foster care;
  - To care for the employee's spouse, child, or parent, who has a serious health condition; or
  - For a serious health condition that causes the employee to be unable to perform his/her job.
2. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.
3. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.
4. Leaves may begin before the birth of a child if a medical condition exists that makes the employee unable to perform the essential functions of the job, or prior to the placement of a child for adoption or foster care if circumstances require absence from work for the placement to proceed. An employee's entitlement to leave for the birth or placement of a child expires at the end of the twelve (12) month period beginning on the date of the birth or placement. Certification of the birth, adoption or placement will be required.
5. There are additional military family leave entitlements. 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. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

6. FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed forces, including a member of the National Guard or reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list for a serious injury or illness. For this type of leave, the FMLA definition of covered employee is expanded to include the next of kin, or nearest blood relative, of a covered service member. It also covers spouse, children and relatives.
7. If a husband and a wife are both eligible for family and medical leave and are both employed by the University, the husband and wife are permitted to take only a combined total of twelve (12) weeks of leave during any twelve-month period if the leave is taken for the birth or placement of a child for adoption or foster care. However, if the husband is caring for his parent and the wife is caring for her parent, each spouse is eligible for a twelve-week leave. No leave is granted to care for a parent-in-law.
8. A leave may be taken on an intermittent or reduced schedule basis when *medically necessary*. Medical certification of the need to take leave on an intermittent or reduced schedule basis must be provided. If the need for such leave is foreseeable, the employee must attempt to schedule the leave so as not to disrupt Valparaíso University's operations. Employees taking intermittent or reduced schedule leave may be temporarily transferred to an alternate position that better accommodates the intermittent or reduced scheduled leave.
9. The employee must provide thirty (30) days notice if the need for the leave is foreseeable. Failure to provide thirty (30) days notice for a foreseeable leave may cause the leave to be denied until thirty (30) days after the employee first gave the required notice of the foreseeable leave. If the need for the leave is not foreseeable, the employee must give notice to his/her supervisor as soon as practicable and generally must comply with the University's normal call-in procedures.
10. Employees must provide sufficient information for the University to determine if the leave may qualify for FMLA protection and anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the University if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.
11. The twelve (12) month period in which the twelve (12) weeks of family and medical leave entitlement occurs will consist of a rolling twelve (12) month period measured backward from the date the particular employee uses any FMLA leave.

12. All available accrued paid sick and personal qualifying leave time will be substituted for all or part of any otherwise unpaid family and medical leave. This qualifying paid leave will be counted as part of the employee's twelve (12) weeks of family and medical leave entitlement and shall run *concurrently*. If applicable, available sick time will be exhausted first. If sick time is not applicable or all available sick time has been exhausted, available personal time will be used. Employees can choose to use available vacation time during family and medical leave. If an employee chooses to use available vacation time, it will be used once sick and personal time have been exhausted. The use of paid leave by the employee under circumstances which do not qualify as family and medical leave will not be counted against the twelve (12) weeks of family and medical leave to which the employee is entitled.

In accordance with the University's unpaid leave and holiday pay policies, employees will not be paid for holiday pay while on FMLA leave.

13. During the family and medical leave, the employee's group health benefits will be continued at the same level as they existed prior to the leave. Employees will be required to pay their share, if any, of the premium payments in the following way:

- (1) If accrued paid sick, personal, vacation, or other qualifying leave is substituted for all or part of any otherwise unpaid family and medical leave, the employee's share of the premiums will be paid by payroll deduction.
- (2) If the employee has exhausted all available paid leave, payment must be made by the employee at the same time as the employee's share of the premium payments would be made if by payroll deduction.

Failure to make payment in a timely manner may cause a lapse in coverage/benefits. The University may recover from the employee any premium missed by the employee during family and medical leave if the University maintained health coverage by paying the employee's share after the premium payment was missed by the employee. The University may, in certain circumstances, also recover its share of premiums the University paid during a family and medical leave from an employee if the employee fails to return to work after the employee's family and medical leave entitlement has been exhausted.

14. During the leave, employees may be required to provide periodic reports on his/her status and intent to return to work following the leave. Requested information must be provided within fifteen (15) days of the request.
15. Fitness-for-duty certification must be provided prior to the employee's return to work following a family and medical leave due to the serious health condition of the employee. Failure to provide the requested fitness-for-duty certification may result in the denial of reinstatement until the employee submits the required certification.

16. Upon the employee's return from family and medical leave, the employee will be restored to his/her former position or an equivalent position with equivalent pay, benefits, and other employment terms, if the employee has provided the required fitness-for-duty certification. However, the University may deny job restoration to "key employees" (salaried eligible employees who are among the highest paid 10% of employees of the University who work within 75 miles of the facility where the employee taking leave works). Job restoration may be denied to key employees if:

- (1) The denial of job restoration is necessary to prevent substantial and grievous economic injury to the University's operations;
- (2) The key employee is notified that the University has determined that such economic injury would occur and that job restoration will likely be denied; and
- (3) Where the leave has begun, the key employee elects not to return to work after receiving such notice.

Key employees will continue to be entitled to maintenance of group health benefits after receipt of such notice and will not be required to repay the University's cost of health care premiums if job restoration is denied.

17. FMLA makes it unlawful for the University to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An aggrieved employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or private agreement which provides greater family or medical leave rights.

If an employee has any questions concerning his or her rights or obligations concerning FMLA leave, the questions should be directed to the Office of Human Resource Services.