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POLICY STATEMENT 53 FAMILY AND MEDICAL LEAVE ACT

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POLICY DIGEST

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I. INTENT

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The intent of the Family and Medical Leave Act is to guarantee job protection up to 12 weeks a year (26 weeks for a service member) for individuals who because of certain family and medical reasons must be absent from work. If you have any questions concerning FMLA, feel free to contact the Office of Human Resources.

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II. POLICY

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The FMLA requires that eligible employees be granted up to 12 weeks a year (beginning with the employee's first usage of FMLA leave) of job-protected leave for certain family and medical reasons (which will hereafter be referred to as "qualifying events") or 26 weeks a year to care for a service member or active duty of a service member. Employees are required to take Annual or Sick Leave, if available, depending on the nature of the absence while on FMLA. The appropriate type of leave must be exhausted before approval will be granted to use leave without pay for Family and Medical Leave. For example, if an academic employee has a "qualifying event" which does not qualify as annual leave, the employee will be granted leave without pay. The type of leave to be granted MUST be determined prior to the beginning of the leave. No one can retroactively change the type of leave granted, unless the "qualifying event" occurs during a period of routine leave.

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A. Eligible Employees

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Employees who have worked for the state for 12 months and who have worked 1,250 hours in the preceding twelve-month period (from the time the requested leave is to begin) are eligible. This applies to all employee groups (part-time, transients, etc.).

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B. Qualifying Events

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An "eligible" employee may receive a total of 12 workweeks of leave during any 12-month period for one or more of the following reasons:

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1. for the birth of a child and/or to care for the child;
 2. for placement of a child through adoption or foster care;

- 38 3. for the care of the employee's spouse (wife or husband), son, daughter, or parent
39 who has a serious health condition;
- 40 4. for the employee's own serious health condition which prevents the employee from
41 performing their essential duties.
- 42 5. for any qualifying exigency (as defined by regulation) related to a spouse, son,
43 daughter, or parent's covered active duty or notice of an impending call or order to
44 covered active duty in the Armed Forces. Deployment must be to a foreign country.

45 When the husband and wife both work for LSU Eunice, the total amount (combined total)
46 of leave they may take is limited to 12 weeks if they are taking leave for the birth or
47 adoption of a child or to care for a sick parent.

48 C. Service member Family Leave

49 A spouse, son, daughter, parent, or next of kin is permitted to take up to 26 workweeks of
50 leave to care for a member of the Armed Forces, including a member of the National
51 Guard, Reserve member, and covered veteran who is undergoing medical treatment,
52 recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary
53 disability retired list, for a serious injury or illness.

54 A covered veteran is an individual who was discharged or released under conditions other
55 than dishonorable at any time during the five-year period prior to the first date the eligible
56 employee takes FMLA leave to care for the covered veteran.

57 During a 12-month period, an eligible employee shall be entitled to a combined total of 26
58 workweeks of leave under items 2 (e) and 3 above. For covered service member family
59 leave, when the husband and wife both work for LSU Eunice, the total amount (combined
60 total) of leave they may take is limited to 26 workweeks during a 12-month period.

61 D. Advance Notice

62 1. Foreseeable Events

63 Employees are required to provide 30 days' advance notice, unless the "qualifying
64 event" is unforeseeable or a medical emergency. When the reason for the leave is
65 for medical treatment, such as chemotherapy, to the extent possible the treatment
66 schedule should be planned to cause as little disruption as possible to the workplace.
67 Such considerations must be negotiated with the employee prior to designating the
68 leave.

69 2. Unforeseeable Events or Medical Necessity

70 When it is impossible or impractical due to medical necessity to provide advance
71 notice, the leave will be granted conditionally and verbally based upon the information
72 provided by the employee. The employee will still be required to provide the
73 appropriate certification within 10 working days to the employer.

74 Such emergency requests will be revoked if the certification does not support the
75 reasons originally provided. If the request is revoked, the employee may be required

76 to repay the leave and/or health coverage premiums, if applicable, and may be subject
77 to disciplinary action.

78 E. Medical Certification

79 Employees requesting FMLA leave for serious health conditions (their own or a family
80 member's) will be required to provide medical certification to support their request. The
81 request for medical certification must be in compliance with guidelines of the U.S.
82 Department of Labor, Wage and Hour Division.

83 LSU Eunice may require medical certification prior to allowing the employee to return to
84 essential duties, especially if the reason for the leave is the employee's own disability. In
85 such cases, the employee must be advised at the onset of the leave that such certification
86 will be required.

87 Medical records are protected by Federal Law and may not be maintained in the
88 employee's personnel file. Additionally, information pertaining to an employee's medical
89 condition may not be released to any individual without the employee's express written
90 consent. All medical information supporting the employee's FMLA request will be
91 maintained with the employee's FMLA request housed in the Office of Human Resources.

92 F. Certification Related to Covered Active Duty or Call to Active Duty

93 LSU Eunice may require that a request for leave because of any qualifying exigency
94 specified in 2(e) above be supported by a certification issued at such time and in such
95 manner as the Secretary may by regulation prescribe. If the Secretary issues a regulation
96 requiring such certification, the employee shall provide, in a timely manner, a copy of such
97 certification to the employer.

98 G. Automatic Designation as FMLA

99 Sick leave absences in excess of five (5) consecutive days will be automatically
100 designated as FMLA leave from the first day of the leave (unless medical certification
101 shows the absence was not a qualifying event under FMLA) and will require a medical
102 certificate as permitted by FMLA.

103 H. Intermittent or Reduced Leave

104 If leave is taken for birth or placement of a child for adoption or foster care, intermittent
105 leave or a reduced leave schedule may only be taken by mutual agreement between the
106 employee and the supervisor.

107 In all other cases, intermittent leave or a reduced leave schedule may only be taken when
108 it is medically necessary or with supervisory approval.

109 An employee on an intermittent or reduced leave schedule may be required to transfer to
110 an equivalent position if that position would better accommodate the leave schedule.
111 Under such circumstances, the equivalent position must provide equivalent pay and
112 benefits and the employee must be qualified for the position.

113 I. Return from Leave

114 Upon return from FMLA leave, employees must be restored to their original or an
115 equivalent position with equivalent pay, benefits, and other conditions of employment. The
116 use of FMLA leave cannot result in the loss of any employment benefit that accrued prior
117 to the start of an employee's leave.

118 J. Medical Health Coverage

119 The University must maintain the employee's medical insurance coverage for the duration
120 of the FMLA leave under the conditions the coverage would have been provided if the
121 employee had continued working.

122 In the case of leave without pay for FMLA purposes, the University will continue to pay the
123 employer portion and the employee's share of the premium. However, the employee will
124 be responsible for reimbursing the University for the employee's share of the premium.

125 K. Cancellation of Medical Health Coverage

126 When an employee is on leave without pay, if an employee's premium is more than 30
127 days late, all obligations of the University as to such coverage cease. Under these
128 circumstances, the University has the right to recoup any payments it has made.

129 If, under these circumstances, the employee's health insurance coverage is canceled, the
130 employee will be reinstated to full health coverage upon their restoration to duty at the
131 same level that was provided prior to the leave. An employee may not be required to meet
132 any qualification requirements imposed by the health plan, including any new preexisting
133 condition waiting period, to wait for an open season, or to pass a medical examination to
134 obtain reinstatement of coverage.

135 L. Questionable Certifications for Medical Leave

136 If an employee submits a completed certification signed by a health care provider, the
137 employer may not request additional information from the employee's health care provider,
138 but may, through its health care provider request clarification and authentication of the
139 certification. If the employer doubts the validity of the certification, it may proceed as
140 follows:

141 1. Second Opinion – With the approval of the Human Resource Office, the employee
142 may be required to be examined by a health care provider of the employer's
143 designation and at the employer's expense. If the second opinion does not agree
144 with the employee's certification, the employer can require a third opinion.

145 2. Third Opinion – With the approval of the Human Resource Office, the employee may
146 be required to be examined by a health care provider mutually approved by the
147 employer and the employee at the employer's expense. The third opinion is final and
148 binding.

149 M. Unlawful Acts

150 It is unlawful for the University to interfere with, restrain, or deny the exercise of any right
151 provided under FMLA; or to discharge or discriminate against any person for opposing any
152 practice made unlawful by FMLA or for involvement in any proceeding under or relating to

153 FMLA.
154 Any employee who believes a right granted under FMLA has been denied should contact
155 the Vice Chancellor of Business Affairs who will be responsible for resolving such
156 disputes.

157 N. Enforcement Agency

158 The U.S. Department of Labor, Wage and Hour Division, is authorized to investigate and
159 resolve complaints of FMLA violations.

160 **III. PROCEDURE**

161 Employees wishing to request FMLA leave should complete a leave slip, indicating "FMLA" in
162 the remarks section of the leave slip. The Office of Human Resources will complete the
163 "University Response to Employee Notification for FMLA" and send to employee. Additionally,
164 the employee is required to complete the FMLA-1 (medical certification form), if applicable. If
165 the request is for leave without pay, the employee is also required to complete a GI-1 form.
166 Please refer to Attachment A for a summary of processing requirements.

167 Attachment A has been developed to assist employees in understanding their obligations with
168 respect to processing FMLA requests. The Office of Human Resources will be available to
169 provide support to any employee or department and answer questions concerning these
170 procedures.

171 Copies of the FMLA-1 and GI-1 forms are available in the Office of Human Resources.

172 **IV. SOURCES**

173 The Family and Medical Leave Act of 1993

174 Section 585 of the National Defense Authorization Act for FY 2008

Attachment A
SUMMARY OF FAMILY & MEDICAL LEAVE ACT PROCEDURES

RESPONSIBILITY	PROCEDURES
EMPLOYEE	<ol style="list-style-type: none"> 1. Complete leave slip indicating the number of hours needed. Indicate "FMLA" in the remarks section of the leave slip. 2. Indicate what type of paid leave is to be used (sick, annual, comp, leave without pay). 3. Have Dr. complete FMLA-1 form or submit certification on active duty of service member. 4. Submit to supervisor at least thirty days prior to date the leave is to begin.
DEPARTMENT	<ol style="list-style-type: none"> 1. Determine if the employee has been employed for twelve months prior to the beginning of the requested leave. 2. Determine that the employee has worked 1250 hours in the twelve month period immediately preceding the request (need not be consecutive hours). 3. Submit FMLA leave slip to appropriate Vice Chancellor. 4. Advise Human Resource Management of any changes in status after initial approval.
HUMAN RESOURCES	<ol style="list-style-type: none"> 1. Verify that the type of leave requested is available for use and accurate. 2. Provide employee with FMLA-1 form. 3. Advise HRM of any change in status after the original approval. 4. Post accurately all FMLA leave to leave tracking. 5. Notify Payroll if insurance coverage will be maintained or discontinued. 6. Advise employee of other benefits impacted by FMLA status.
VICE CHANCELLOR	<ol style="list-style-type: none"> 1. Determine if employee is qualified under the law. 2. Determine if reason for the requested leave is a "qualifying event". 3. Notify employee of disposition and conditions which may apply.

1. FMLA-1: A new form developed by Wage & Hour to obtain needed medical information to support FMLA request.
2. GI-1: A newly revised form to ensure the employee is advised of the option and conditions to continue insurance coverage.
3. Leave form and FMLA-1 must be submitted within 10 working days of notification of leave. Failure to provide timely documents could result in disciplinary action.
4. Because entitlement is for a one year period, all FMLA leave must be designated on leave tracking regardless of whether the leave is paid or unpaid.