Policy Name: Family Medical Leave of Absence Policy

Responsible Department: Human Resources

Approving Body: Policy Committee

Approved Date: Tuesday, December 15, 2014

Purpose:
N/A

Policy:
FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY
GENERAL POLICY
The Family and Medical Leave Act of 1993 (FMLA) became effective on August 5, 1993. The purpose of the Act is to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to preserve the national interest in preserving family integrity. Listed below is an outline of the conditions under which an employee may request time off without pay for a limited period with job protection and no loss of accumulated service provided the employee returns to work.

ELIGIBILITY
The following employees are eligible for leave under the FMLA:

1. Regular full-time and part-time employees who have been employed at WNMU at least twelve (12) months prior to the leave and worked a minimum of one thousand two-hundred fifty (1,250) hours during the twelve (12) month period preceding the start of the leave. This includes faculty, professional, and support employees as defined in the respective employee handbooks.

2. Temporary full-time and part-time employees who have been employed at WNMU at least twelve months prior to the leave and worked a minimum of one thousand two-hundred fifty (1,250) hours during the twelve (12) month period preceding the start of the leave.

3. Occasional employees are not eligible.

BASIC REGULATIONS AND CONDITIONS OF LEAVE
FMLA leave runs concurrent with sick and annual leave (if applicable). Once the employee has exhausted his/her sick and annual leave balances, the remainder of the FMLA leave will be leave without pay. Eligible full-time employees who work at least one thousand two-hundred fifty
(1,250) hours during the preceding twelve month period may take up to twelve (12) weeks in a
twelve (12) month period (beginning with the first day of leave taken under FMLA). The twelve
(12) week leave period will include any accrued sick and annual leave. The remainder of the
twelve (12) week leave period will be reported as leave without pay (LWOP). For eligible part-
time employees who work at least one thousand two hundred and fifty (1,250) hours during the
year preceding the leave, their leave will be pro-rated as follows: half-time employees (FTE .50)
may take up to six (6) weeks; three-quarter time employees (FTE .75) may take up to nine (9)
weeks, etc. FMLA may be taken for the following reasons:

**TYPES OF LEAVE**

1. **An employee’s own serious health condition** which prevents the employee from
   performing the essential functions of the position within the meaning of the
   Americans with Disabilities Act.

2. **Care for a spouse, child or parent with a serious health condition.** A spouse is
defined as a husband or wife as recognized by state law. Child is defined as son or
daughter including biological, adopted, or foster children, stepchild, legal ward,
the child of one who acted as their parent (supported, cared for, and responsible
for the child), and the child must be under eighteen (18) or incapable of self care
because of disability. Parent includes biological parent or someone who acted as a
parent by having day to day responsibility of care and support

   Serious health condition is defined under FMLA as an illness, impairment or
   physical or mental condition that involves (a) in-patient care in a hospital, hospice
   or residential medical care facility; or (b) any period of incapacity requiring
   absence of work or other regular daily activities for more than three (3)
   consecutive days and that involves continuing treatment by a health care provider;
   or (c) continuing treatment by a health care provider for a serious health
   condition that, if not treated, would likely result in absence of more than three
   calendar days.

   If medically necessary, an intermittent schedule or a reduced leave schedule may
   be arranged for an employee’s own serious health condition or for care of a
   spouse, child or parent with a serious health condition. If leave is requested on
   this basis, the University may require the employee to transfer temporarily to an
   alternative position with better accommodates recurring periods of absence or a
   part-time schedule, provided that the position has equivalent pay and benefits.

3. **For childbirth, adoption or foster care.** Leave must be taken within the first twelve
   (12) months following childbirth, adoption or placement of a child. The total
   leave is not to exceed twelve (12) weeks including any paid leave. If a husband and
   wife work for the University, the combined leave for birth or placement of a child
   is twelve (12) weeks.

**PROCEDURES FOR OBTAINING FMLA LEAVE**

An employee requests leave using the Leave Request Form obtained from the Payroll & Benefits
Specialist, from his/her supervisor who will route the request for the proper administrative
approvals and then forward to the Payroll & Benefits Specialist. The Payroll & Benefits Specialist
is responsible for administration of this policy and will notify the employee whether the request is approved or denied.

**Notification:** When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide at least 30 days advance notice to the effective date of the leave. An effort should be made to schedule the leave so as not to disrupt University operation if possible.

**Medical Certification:** All requests for family and medical leave of absence due to serious health condition of the employee and/or care of a child, spouse or parent with a serious health condition will require the employee to provide medical certification from the attending physician describing the medical condition and other pertinent information. Forms are available from the Human Resources Department. The employee has fifteen (15) days to provide the certification unless that is not possible due to diligence.

The University in its discretion may require a second opinion and periodic re-certification at its own expense. If the first and second opinions differ, the University, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the University and the employee.

A Leave Request Form should be processed by the employee’s supervisor placing the employee on leave for the authorized period of time and should indicate the reason for the leave.

**Calculation of Intermittent or Reduced Leave:** for non-exempt employees, calculation of leave is done on the basis of time actually taken. One day taken each week exhausts one fifth (1/5) of the available FMLA leave week. An employee reduced from eight (8) hour days to 4 hour days uses half (1/2) of one available FMLA leave week for every half (1/2) time week worked.

Salary reductions for exempt employees are allowed without jeopardizing the exempt status of the employee under the Fair Labor Standards Act. Therefore, exempt employees taking two (2) days off per week can have their weekly salary reduced two fifths (2/5).

**STATUS OF EMPLOYEE BENEFITS DURING LEAVE OF ABSENCE**

1. Any employee who is granted an approved leave of absence under this policy is advised to provide for the continuation of his or her group health insurance coverage by arranging with the Payroll Office to pay the employee’s premium contribution during the period of unpaid absence. The University will continue to contribute the employer's portion of group medical insurance premiums during the family leave.

2. In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence or returns to work for less than 30 days, the University may recover from the employee the cost of any payments made to maintain the employee’s coverage, unless the failure to return to work was for reasons beyond the employee’s control. Benefit entitlements based upon length of service will be calculated as of the last paid work day prior to the start of the unpaid leave of absence.

3. In case of illness, employees will be required to periodically report to their supervisor their intent to return to work. If the employee gives an unequivocal
notice of intent not to return, then obligations, to maintain benefits (except for COBRA) and to restore the employee, end.

REINSTATEMENT
An employee returning from Family and Medical Leave of Absence must contact the Payroll & Benefits Specialist prior to the expiration of the leave. Medical leave granted for an employee’s serious health condition, will require the employee to provide a medical certification of fitness for duty from the attending physician that the employee is able to return to work. A form is available from the Payroll & Benefits Specialist for this purpose. **No employee will be permitted to work without being cleared by the Payroll & Benefits Specialist.**

Once cleared for reinstatement by the Payroll & Benefits Specialist, the employee’s supervisor will process a request to reinstate the employee. A copy of the request will be placed in the employee’s FMLA file.

RECORDKEEPING AND NOTICE
A notice explaining the FMLA provisions will be posted throughout Western New Mexico University.

The FMLA Leave of Absence Policy and Procedures will be placed in the Administrative and Governance Policies and Procedures Manual. The policy will also be referenced in the respective constituents handbooks.

All medical records will be kept separate and confidential from other personnel files as prescribed by state and federal laws.

APPEALS
An employee may appeal a decision related to FMLA leave as outlined in the University’s Grievance procedure.

Note: This policy is written to comply with the Family and Medical Leave Act of 1993. The act’s governing regulations covering definitions and details will apply to this policy.

**Procedures:**
None