



HR Newsletter
January 2009
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New FMLA Regulations

A major revision of the Family Medical Leave Act (FMLA) was recently announced by the US Department of Labor. The revisions, along with the final regulations implementing the Military Family Leave Act, become effective on Friday, January 16, 2009. Some of the major new FMLA rules are listed below:

Military Caregiver Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This military caregiver leave is available during a "single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave. A new certification form ([WH385](#)) has been developed for military caregiver leave.

Qualifying Exigency Leave - Eligible employees who have a covered family member in the National Guard or Reserves may take their 12 weeks of FMLA to use for "any qualifying exigency" connected with the fact that the family member is on active duty or is called to active duty in support of a contingency operation. "Qualifying exigency" is defined as 1) short-notice deployment, 2) military events and related, 3) childcare and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities, and 8) additional activities agreed to by employer and employee.

A new certification form ([WH384](#)) has been developed for exigency leave.

Ragsdale Decision changes - A number of technical regulatory revisions pursuant to the USC decision in Ragsdale v. Wolverine World Wide.

Light Duty - Time on so-called "light duty" assignments is not considered to be FMLA time.

Waiver of Rights - Employees may voluntarily settle or release FMLA claims. But they cannot waive their future FMLA rights.

Serious Health Condition - FMLA retains 6 separate definitions of "serious health condition"; this rule clarifies three related regulatory matters:

First, "serious health condition" may connote one involving more than three consecutive, full calendar days of incapacity plus two visits to a health care provider. The two visits must occur within 30 days of the beginning of incapacity and the first visit must occur within seven days of the beginning of incapacity.

Second, a "serious health condition" may be one involving more than three consecutive days of incapacity and a routine of

continuing treatment.

Finally, "periodic visits" for chronic health conditions is defined as at least two visits to a health care provider per year.

Substitution of Paid Leave - FMLA is unpaid leave, but employees may take (and employers may require the use of) any available paid vacation, personal, family or medical or sick leave concurrently with FMLA. All forms of paid leave offered by an employer will be treated the same. An employee electing to use any type of paid leave concurrent with FMLA must follow the employer's policy for such leave. The employee is always entitled to unpaid FMLA if they don't meet the employer's requirements for paid leave.

Perfect Attendance Awards - Employers may deny a "perfect attendance" award to a work who doesn't have perfect attendance due to using FMLA.

Employer Notice Obligations - Employers must inform employees about FMLA with a general notice, the [WH1420](#) poster, and either upon hire or via an employee handbook. Upon beginning FMLA, an eligibility notice, and rights & responsibilities notice are required. And where FMLA is initiated by the employer, a designation notice is mandatory. The time allowed to provide the various notices is five business days (previously two).

Employee Notice Responsibilities - This rule clarifies the deadlines for an employee to notify the employer of their need for FMLA. An employee needing leave under FMLA must follow the employer's usual and customary call-in procedures, except in unusual situations.

Medical Certification - This rule clarifies the relationship between the HIPAA privacy regulations and FMLA.

The employer's representative contacting an employee's health care provider must be a health care provider, an HR professional, a leave administrator, or a management official. In no case may it be the employee's immediate supervisor.

Employers may not ask health care providers for information beyond that required by the certification form.

The WH380 certification form has been divided into separate forms for the employee, and for covered family members. WH380 also now allows health care providers to include a diagnosis.

If the employer believes a medical certification is incomplete, they may specify the deficiency in writing and give the employee seven calendar days to repair the problem.

Medical Recertifications - For medical conditions that last longer than one year, employers may request a new medical certification each leave year. In addition, an employer may request a recertification of an ongoing condition every six months in connection with an absence.

Fitness-for-Duty Certifications - An employer may require employees who take FMLA to furnish certification that they are able to come back to work, and that they are able to perform the essential functions of their job. And when reasonable job safety concerns exist, the employer may require fitness-for-duty certification before an employee may return to work from an intermittent leave.-

New Forms:

- [WH380E](#) - Certification of Health Care Provider for Employee's Serious Health Condition
- [WH380F](#) - Certification of Health Care Provider for Family Member's Serious Health Condition
- [WH381](#) - Notice of Eligibility and Rights & Responsibilities
- [WH382](#) - Designation Notice
- [WH384](#) - Certification of Qualifying Exigency for Military Family Leave
- [WH385](#) - Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave

New Poster: [WH1420](#) - Employee Rights and Responsibilities Under FMLA

As of January 16th, the current FMLA poster and the Military Family Leave poster should be discarded, along with existing stocks of the present FMLA forms, including the HR380, HR381, WH380 and WH381.

Human Resources will publish more information regarding the revised Family and Medical Leave Act in the near future.

Updated W-4 Form

The 2009 edition of the [W-4 form](#), Employee's Withholding Allowance Certificate, was recently released by the Internal Revenue Service. Please download the updated version of this form.

January Holidays

New Year's 2009 was observed on Thursday, January 1 and Friday January 2.



Martin Luther King, Jr. day will be observed on Monday, January 19, 2009.

Employees who are not scheduled to work on those dates, but who are eligible for holidays (i.e. Regular non-student employees), should be afforded equivalent time off as close to the holiday date as is practical.

The 2009 Holiday schedule is summarized [here](#).

Ethics Forms for 2008

The Alabama Ethics Commission no longer prints and mails the **Statement of Economic Interests (SEI)** forms which certain Public Employees are required to file each year by April 30. This year the Ethics Commission offers an **online version of the SEI**; employees who are required to file can access the online form from the Ethics Commission web site at ethics.alabama.gov/forms-ecint2.aspx, and can complete and submit the SEI online.

Employees who prefer the former "printable" style SEI can still download it from the [Ethics Commission](#) or from the HR web site at www.auburn.edu/administration/human_resources/forms (click on "Statement of Economic Interests").

It is important that you include your full name, address, position, and the entity you are employed/associated with (AU) on the form. All printed forms must bear original signatures.

Forms should be submitted no later than **April 30, 2008**.

Employees Should Confirm Correct Addresses

All employees are asked to confirm that their Mailing Address in the Banner Human Resources system is correct. The employee mailing address is an official means of correspondence and is used by Payroll and Employee Benefits for the mailing of W-2 forms. All employees are encouraged to access Self Service Banner to view/update their mailing address.

Employees also need to check their Emergency Contacts to ensure that they're valid and up-to-date. Emergency contact listings are used to get in touch with friends and family in case of, naturally, emergencies. You can have multiple emergency contacts; each listing should have the person's name, address and phone number. Employees can view and update emergency contacts by accessing Self Service Banner.

For instructions re: Self Service Banner (How to view/update Mailing Address; How to view/update Emergency Contact information; How to view Pay Information and Leave Balances; etc) please refer to https://fp.auburn.edu/banner/documents/hr_training/ref_materials.asp

Specific questions can be sent to hresbann@auburn.edu

HRD Spring Semester 2009 Schedule Distributed

The Human Resource Development "Schedule of Courses" for Spring Semester 2009 will be distributed via campus mail during the week of January 5 through 9. The "Schedule" had previously been posted on the HRD Web site, and registration for Spring Semester is still ongoing.

Spirit of Excellence Awards

Each month AU presents Spirit of Excellence awards to four employees for outstanding service.

Recipients for **November 2008** are:

Office/Administrative
Administrative/Professional
Technical/Paraprofessional
Service/Maintenance

Earnestine Jones
 Clair Twardy
 Mechelle Golden
 Sonora Russell

ACES
 Outreach Program Office
 Clinical Science
 Facilities

Do you know a fellow AU employee whose performance is consistently beyond what is expected? One who exemplifies professionalism and routinely puts forth extra effort? One whose contribution to the department's or university's mission is significant? If so, that person would be a perfect nominee for AU's monthly Spirit of Excellence Award. You can link to the nomination form at http://www.auburn.edu/administration/human_resources/forms/spirit.pdf

Moving? Want to Continue Your Career in Higher Ed?

The Department of Human Resources routinely receives position announcements from other colleges and universities. These are maintained in notebooks in the lobby of our department in the basement of Langdon Hall. Please feel free to come by to review these during our lobby hours of 7:45 a.m. to 4:45 p.m, Monday through Friday.

Your Newsletter Subscription

Subscribers to the HR Newsletter receive a brief email alert message, and a pointer to this newsletter on the web, whenever the newsletter is updated. You can read the newsletter without subscribing, of course -- just visit http://www.auburn.edu/administration/human_resources/hrnews.htm.

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The Office of Human Resources is open Monday through Friday, 7:45 am to 4:45 pm Central Time (except holidays)
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