Family and Medical Leave Act (‘‘FMLA’’)

FREQUENTLY ASKED QUESTIONS

1. **What is the Family and Medical Leave Act?**

   The Family and Medical Leave Act (‘‘FMLA’’) is a federal law that provides for an *unpaid leave* of absence for those employees who meet certain eligibility requirements. Leave under the FMLA, and under SJU’s policy, is generally available for employees who need leave to care for their own ‘‘serious health condition,’’ the ‘‘serious health condition’’ of an ‘‘immediate family member,’’ for any ‘‘qualifying exigency’’ arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on (or has been notified of a call to) active duty in the Armed Forces in support of a contingency operation, or to care for an injured returning servicemember. In addition, employees may be eligible for other unpaid leave provided as a matter of University policy or under applicable state or local law. (See the University’s policy on our HR web page -

   [http://www.sju.edu/resources/humanresources/fammedleave.html](http://www.sju.edu/resources/humanresources/fammedleave.html)

2. **What is a serious health condition under the FMLA?**

   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 function of the employee’s job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment required may be met by a period of incapacity of more than three (3) consecutive, full calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, or incapacity due to pregnancy or prenatal care, or incapacity due to a chronic condition. Other permanent and long-term conditions as well as conditions requiring multiple treatments may also meet the definition of continuing treatment.
3. **Am I eligible for FMLA?**

To be eligible for leave under this policy, you must have been employed by the University for at least twelve (12) months in total and must have worked at least 1,250 hours during the 12-month period preceding the commencement of the leave. You may take a maximum of twelve (12) weeks FMLA Leave during a 12-month period. The 12-month period is calculated (going forward) from the date leave is first taken.

In addition, the FMLA also provides eligible employees with a special leave entitlement to take up to twenty-six (26) workweeks of unpaid leave within a single twelve month period to care for a covered servicemember who is the spouse, son, daughter, parent, or “next of kin” of an eligible employee who is recovering from a serious injury or illness incurred in the line of duty on active duty.

4. **What notice must I give before taking FMLA leave?**

When the need for FMLA Leave is foreseeable, you must give 30 days advance notice of the need for leave, where possible. When the need for FMLA Leave is foreseeable and 30 days advance notice is not possible, you must give notice as soon as possible and practicable. When you become aware of a need for FMLA Leave less than 30 days in advance, it generally should be practicable for the employee to provide notice of the need for leave either the same day you become aware or the next business day.

In application for FMLA Leave, you will be required to complete a Request for Leave of Absence Form. You must complete the application in detail, sign it, and forward it to the Office of Human Resources. However, if the University learns that your leave is being taken for a purpose set forth in Section I of Saint Joseph’s University’s FMLA Policy, the University may designate the leave as FMLA Leave under this policy regardless of whether you submit an application.

5. **What type of paid leave is available to me if I am absent from work and on FMLA?**

**Sick** – As full time employees of Saint Joseph’s University, Faculty, Administrative/Professionals and Staff employees are generally eligible for twelve (12) paid days per year of continuous service beginning on the June 1st following your hire date, with one day/month accumulating during your first year of service. Sick time that has not been used may be accumulated to a maximum of ninety (90) days. If you are a member of a bargaining unit, please consult your collective bargaining agreement for information on applicable paid time off benefits.

**Parent & Family Care** (PFC) – PFC is deducted from your available sick leave benefits. Faculty, Administrative/Professionals and Staff employees can convert up to 30 days of sick time
benefits in any fiscal year into PFC when you need to be away from work to care for your parent, spouse or child. If you are a member of a bargaining unit, please consult your collective bargaining agreement for information on applicable paid time off benefits.

**VACATION** – Full-time Administrative/Professionals and Staff employees are eligible for paid vacation time each fiscal year. Vacation time must be taken in the year in which you become eligible. If you are on FMLA Leave, you might wish to use vacation time to extend your paid time off (PTO). If you are a member of a bargaining unit, please consult your collective bargaining agreement for information on applicable paid time off benefits.

**SHORT TERM/LONG TERM DISABILITY** - If you are faced with your own serious illness and must be absent from work beyond the number of days in your accumulated sick bank, you may be eligible for benefits under the University’s Short-Term Disability policy and/or Long Term Disability policy. To qualify for Short-Term Disability benefits, you must submit a complete Short-Term Disability application form to the Office of Human Resources. Should you have vacation benefits available and prefer to use those benefits, which are paid at 100%, rather than the Short-Term Disability Benefits, which are paid at 60%, you may do so under limited circumstances and subject to review by your manager and the Assistant Vice President of Human Resources.

Please see the applicable Employee Handbook for details on the Paid Time Off (PTO) policies referenced in this document. If you are a member of a bargaining unit, please consult your collective bargaining agreement for information on applicable paid time off benefits. Supplemental information may be found on the Office of Human Resources website at: [http://www.sju.edu/resources/humanresources/benefits.html](http://www.sju.edu/resources/humanresources/benefits.html).

**6. HOW DO MY PTO BENEFITS APPLY WHEN I AM ON FMLA LEAVE FOR MY OWN SERIOUS HEALTH CONDITION?**

During a FMLA Leave for your own serious health condition, you must first use your accumulated sick time under the Sick Leave Policy. You may then be eligible for benefits under the Short Term Disability and/or Long Term Disability policies if you must be absent from work beyond the number of days in your accumulated sick bank and if your application for these benefits is approved by the third-party administrator for Short Term Disability and by the insurance company for Long Term Disability. Should you have vacation benefits available and prefer to use those benefits, which are paid at 100%, rather than the Short-Term Disability Benefits, which are paid at 60%, you may do so under limited circumstances and subject to review by your manager and the Assistant Vice President of Human Resources. If your leave qualifies under the Family and Medical Leave Policy, any time taken...
under the Sick Leave Policy will also be designated as FMLA Leave and the leaves will run concurrently.

7. **How do my PTO benefits apply when I am on FMLA leave as a birth mother?**

From the time your doctor initiates your leave as a birth mother, until the doctor releases you from care, your leave will be paid according to the Sick Leave Policy in your employee handbook, or collective bargaining agreement if applicable, and the Short-term Disability Policy, if applicable. Should you have vacation benefits available and prefer to use those benefits, which are paid at 100%, rather than the Short-Term Disability Benefits, which are paid at 60%, you may do so under limited circumstances and subject to review by your manager and the Assistant Vice President of Human Resources. Additionally, eligible employees are permitted to convert up to thirty (30) days to Parental and Family Care (PFC) Leave from their Sick Leave benefits in any one fiscal year to care for their newborn. Administrators and staff, please note that if you deplete your PFC Leave benefits while caring for your newborn, but you have not exhausted your 12 weeks of FMLA Leave and would like to continue your FMLA Leave to care for your newborn, you will be required to use vacation time if it is available to you. In all cases, you cannot begin unpaid status until all accumulated paid time off benefits are exhausted.

8. **How do my PTO benefits apply when I am on FMLA leave as a birth father?**

Eligible employees are permitted to convert up to thirty (30) days from their Sick Leave benefits in any one fiscal year to care for their newborn under the Parental and Family Care (PFC) Leave Policy. Employees covered under a collective bargaining agreement should refer to that particular agreement. Administrators and staff, please note that if you deplete your PFC Leave benefits but you have not exhausted your 12 weeks of FMLA Leave and would like to continue your FMLA Leave to care for your newborn, you will be required to use vacation time if it is available to you. In all cases, you cannot begin unpaid status until all accumulated leave is exhausted.
9. **I AM ADOPTING A CHILD. HOW DO MY PTO BENEFITS APPLY FOR THIS REASON?**

Eligible employees are permitted to convert up to thirty (30) days from their Sick Leave benefits in any one fiscal year to care for their newly adopted child under the Parental and Family Care (PFC) Leave Policy. Employees covered under a collective bargaining agreement should refer to that particular agreement. Administrators and staff, please note that if you deplete your PFC Leave benefits but you have not exhausted your 12 weeks of FMLA Leave and would like to continue your FMLA Leave to care for your child, you will be required to use vacation time if it is available to you. In all cases, you cannot begin unpaid status until all accumulated leave is exhausted.

10. **I NEED TO CARE FOR MY SICK FAMILY MEMBER (SPOUSE, CHILD OR PARENT). HOW DO MY PTO BENEFITS APPLY?**

Eligible employees are permitted to convert up to thirty (30) days from their Sick Leave benefits in any one fiscal year to care for their sick family member under the Parental and Family Care (PFC) Leave Policy. Employees covered under a collective bargaining agreement should refer to that particular agreement. Administrators and staff, please note that if you deplete your PFC Leave benefits but you have not exhausted your 12 weeks of FMLA Leave and would like to continue your FMLA Leave to care for your sick family member, you will be required to use vacation time if it is available to you. In all cases, you cannot begin unpaid status until all accumulated leave is exhausted.

11. **MY SPOUSE (OR SON, DAUGHTER OR PARENT) IS A MEMBER OF THE ARMED FORCES. CAN I REQUEST FAMILY AND MEDICAL LEAVE TO CARE FOR HIM/HER IF NECESSARY? HOW DO MY PTO BENEFITS APPLY?**

The Family and Medical Leave Act was amended effective January 28, 2008, to permit an eligible employee to take leave of up to 26 workweeks to care for a spouse, son, daughter, parent, or “next of kin” who is a member of the Armed Forces, including a member of the National Guard or Reserves, who is 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 in the line of duty on active duty. The amendment also permits you to take up to 12 weeks of leave for any “qualifying exigency” arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on (or has been notified of a call to) active duty in the Armed Forces in support of a contingency operation.

Eligible employees are permitted to convert up to thirty (30) days from their Sick Leave benefits in any one fiscal year to care for their covered family member under the Parental and Family Care (PFC) Leave Policy.
Leave Policy. Employees covered under a collective bargaining agreement should refer to that particular agreement. Administrators and staff, please note that if you deplete your PFC Leave benefits but you have not exhausted your 12 weeks of FMLA Leave and would like to continue your FMLA Leave to care for your covered family member, you will be required to use vacation time if it is available to you. In all cases, you cannot begin unpaid status until all accumulated leave is exhausted.

12. **WILL MY BENEFITS CONTINUE DURING FMLA LEAVE?**

During FMLA Leave-covered absences, SJU will continue your health insurance, life insurance, short-term disability, long-term disability and long-term care benefits. (The law only requires continuation of health insurance.) During periods of paid sick leave, short-term disability or long-term disability, the University will continue its contribution to your health insurance and long term-care plans for up to one year. You must arrange with the Office of Human Resources to continue to pay your contribution, if any, to the total premium for health insurance during the period of unpaid absence. You have a minimum 30-day grace period in which to make premium payments. If payments are not made in a timely manner, your group health insurance may be cancelled, with notice to you of at least 15 days prior to the date that your health coverage will lapse.

13. **WILL MY CREDITED SERVICE BE INTERRUPTED DURING SICK LEAVE OR PARENTAL AND FAMILY CARE LEAVE?**

Up to 12 weeks of time absent from work under these policies will be credited for calculating service at the University for purposes of vacation and tuition benefits. Time off beyond twelve (12) weeks will not be credited.

14. **WHAT IS INTERMITTENT LEAVE AND WHEN CAN I TAKE IT?**

Intermittent Leave is that leave taken in other than continuous, uninterrupted blocks of time, such as an hour, a day or week at a time. Unlike a leave that is taken in a continuous period of time, Intermittent Leave is commonly used for ongoing treatments and doctors’ appointments related to a serious health condition covered by the Family and Medical Leave Act. You will only be charged for the amount of FMLA Leave time actually taken, whether on an intermittent or continuous basis.

15. **DO I NEED TO GET A CERTIFICATION FROM MY DOCTOR TO TAKE FMLA?**
When you apply for FMLA Leave, we will give you a form that must be certified by the treating physician. FMLA Leave will not be approved until the Health Care Provider Certification form is completed and returned to the Office of Human Resources.

16. **Do I have to update my certification?**

The University reserves the right to request recertification of your need for leave. If you need FMLA Leave for more than one FMLA qualifying reason, you must provide a certification for each of those reasons. No matter how many qualifying reasons you provide for FMLA Leave, you will only be permitted a total of 12 weeks, except when leave is needed to care for a “covered servicemember” under FMLA.

17. **Can SJU request a second or third opinion?**

Yes, the University may exercise its right under FMLA to obtain a second or third opinion at our expense.

18. **Do I have to take a fitness for duty exam when I return to work from FMLA Leave?**

If FMLA Leave has been approved due to your own serious health condition, the University will require that you provide a fitness for duty certification prior to your return to work. The form must be completed by your physician and presented to the Office of Human Resources 1-2 days prior to your return to work. Failure to provide this certification may delay your return to work. When you are on intermittent or reduced schedule leave for your own serious health condition, you may also be required to provide a fitness for duty certification periodically.

19. **If I am injured at work and am absent under Workers’ Compensation, will I be charged for FMLA?**

If you are injured at work and are absent under Workers’ Compensation, FMLA Leave will run concurrently with the time you are absent under Workers’ Compensation.

20. **What happens if I am on FMLA leave during a University holiday?**

When you are taking FMLA Leave for one or more full work weeks and a holiday occurs during one or more of those work weeks, the employee’s FMLA Leave bank will be reduced by a full week, notwithstanding the fact that a holiday occurred during that work week. If the employee is on paid status (i.e., paid time off benefits are available and are being used), the holiday will be paid as a holiday.
employee is on unpaid status, (i.e., paid time off benefits have been exhausted), the holiday will not be paid. If you are a member of a bargaining unit, you should refer to your collective bargaining agreement for information on holiday pay.

If you are on intermittent FMLA Leave or are otherwise taking FMLA Leave in less than full work week increments, and a holiday occurs on a day in which FMLA Leave was taken, your FMLA Leave bank will be reduced only if you were otherwise scheduled and expected to work on the holiday but did not do so for an FMLA-covered reason. You will be paid for the holiday if the holiday falls on a day you would otherwise have been scheduled and expected to work but for the holiday. If you are a member of a bargaining unit, you should refer to your collective bargaining agreement for information on holiday pay.

21. **What happens if I am on FMLA Leave during winter break?**

For full-time Administrative/Professional/Staff employees: Employees who are eligible for such holidays and who are on FMLA Leave will not have their FMLA Leave bank reduced by the number of holidays.

For full-time Faculty members: While students are away for these periods, faculty members continue to work. Consequently, leave that would otherwise qualify as FMLA Leave and that is taken during these periods is recorded as FMLA Leave and will reduce the employee’s FMLA Leave bank except with respect to the holidays described above.

For 9-, 10- and 11-month Administrative and Staff Employees: For any period during which such employees are neither scheduled to work nor expected to work, leave that would otherwise qualify as FMLA Leave will not be recorded as FMLA Leave taken and will not reduce an employee’s FMLA Leave bank.

22. **I am a faculty member. If I need to take FMLA leave during the summer, how will such a leave be handled?**

Any time that a faculty member takes as FMLA Leave outside of his/her contract year is not counted as Family Medical Leave, Sick Leave or Parental and Family Care Leave.

23. **I am a faculty member. If I need to take FMLA leave during a sabbatical, how will such a leave be handled?**
If conditions covered by the Family and Medical Leave Act occur during a sabbatical, the faculty member may request an FMLA Leave and a suspension of the sabbatical for the period of the FMLA Leave.

24. **AS A FACULTY MEMBER ON FMLA LEAVE, WILL I BE ABLE TO RESUME MY REGULAR TEACHING DUTIES UPON MY RETURN IF THE SEMESTER IS ALREADY IN PROGRESS?**

A faculty member returning from FMLA Leave may return to teaching or, if not applicable and/or practicable, may be assigned alternative work duties for the balance of the semester as recommended by the Dean and approved by the Provost.

25. **I AM A FACULTY MEMBER. HOW WILL TAKING FMLA LEAVE AFFECT MY PURSUIT OF TENURE?**

A faculty member who returns from FMLA Leave may be assigned alternative work duties for the balance of the semester (see #24 above.) This time does not automatically count towards full-time ranked teaching for tenure or promotion, unless approved by the department chairperson in consultation with the appropriate dean and chief academic officer/provost. It is the discretion of the faculty member to petition to have this time credited to full-time ranked teaching. If petitioned and approved, the credit of time in teaching will be limited to no more than two academic semesters towards tenure or promotion to Associate Professor. Probational faculty credited with ten semesters of full-time ranked teaching that includes time on an alternative work assignment must adhere to the timing conditions for application to tenure as defined in this handbook under faculty Evaluation and Review. In the rare instance that the candidate for Professor has been granted leaves of absence during his/her probational and associate professor years, s/he may petition to have more than two semesters of this time credited towards full-time teaching.