

EMPLOYEE LEAVES

Employees' Leaves of absence may be granted in accordance with applicable law and the procedures outlined in this policy.

A. FUNERAL LEAVE

In the case of death within the immediate family (grandparents, parents, spouse, children, brothers and sisters), time off with pay may be granted if established as local policy. The length of the approved leave should be determined by the local director of personnel. It is recommended to take into consideration the travel required and relationship to the deceased when granting leave. Funeral leave may also be given to employees to attend the funeral of extended family and friends with the permission of the director of personnel. If there are unusual circumstances, which call for special consideration and additional time off, the matter is to be referred to the director of personnel.

B. JURY DUTY

Employees will be granted leave for jury service. Full wages/salaries may be granted to full time employees during such periods of service with the understanding that remuneration received for duty be surrendered to the employer. In the event that an employee reporting to the court for jury duty is excused for the day, he/she shall return to work within a reasonable time.

C. MILITARY LEAVE

Leave of absence will be granted in accordance the requirements of the Uniformed Services Employment and Re-employment Rights Act (USERRA) of 1994 and related laws and statutes as follows:

1. Basic Provisions/Requirements: a) The pre-service employer must reemploy service members returning from a period of service in the uniformed services if those service members meet five criteria:

- The person must have held a civilian job;
- The person must have given notice to the employer that he or she was leaving the job for service in the uniformed services, unless giving notice was precluded by military necessity or otherwise impossible or unreasonable;
- The cumulative period of service must not have exceeded five years;
- The person must not have been released from service under dishonorable or other punitive conditions; and
- The person must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment.

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b) Right to be free from discrimination and retaliation: If the employee is a past or present member, applied for membership; or is obligated to serve in the uniformed service, then the employer may not deny initial employment; reemployment; retention in employment; promotion; or any benefit of employment because of this status.

c) Health Insurance protection: The pre-service employer must offer continuation of coverage under Utah-State Mini COBRA and allow re-instatement of coverage upon return to work.

USERRA establishes a five-year cumulative total on military service with a single employer, with certain exceptions allowed for situations such as call-ups during emergencies, reserve drills and

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annually scheduled active duty for training. USERRA also allows an employee to complete an initial period of active duty that exceeds five years (e.g., enlistees in the Navy's nuclear power program are required to serve six years).

2. **Employee Rights:** Under USERRA, restoration rights are based on the duration of military service rather than the type of military duty performed (e.g., active duty for training or inactive duty), except for fitness-for-service examinations. The time limits for returning to work are as follows:

- **Less than 31 days service:** By the beginning of the first regularly scheduled work period after the end of the calendar day of duty, plus time required to return home safely and an eight hour rest period. If this is impossible or unreasonable, then as soon as possible.
- **31 to 180 days:** The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
- **181 days or more:** The employee must apply for reemployment no later than 90 days after completion of military service.
- **Service-connected injury or illness:** Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.

USERRA guarantees pension plan benefits that accrued during military service, regardless of whether the plan is a defined benefit plan or a defined contribution plan. Also, USERRA provides health benefits continuation for service members and their families. In addition, USERRA prohibits employment discrimination against a person on the basis of past military service, current military obligations, or an intent to serve.

D. FAMILY AND MEDICAL LEAVE ACT

To the extent that the Family and Medical Leave Act of 1993 as amended ("FMLA") may apply, the following information is to advise employees of their rights and obligations under FMLA. For further information, contact the Diocesan Office of Human Resources or the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division.

1. **Situations covered:** FMLA provides for unpaid leave of absence for periods up to twelve (12) weeks during any twelve (12) month period ("FMLA" Leave"). FMLA Leave may be taken for absences related to the following circumstances:

- a) The birth of a child, and to care for such child
- b) The placement of a child for adoption or foster care
- c) To care for a spouse or an immediate family member with a serious health condition
- d) When he or she is unable to work because of a serious health condition.
- e) Because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. For purposes of this policy, a "serious health condition" is defined as an illness, injury, impairment or physical or mental condition that involves (1) inpatient care in a hospital, hospice or residential medical care facility; or (2) continuing treatment by a health care provider. Certification of a serious medical condition may be acquired by the appropriate health care provider including second and third opinions as provided for in the Act. Additionally, recertification can be requested on a reasonable basis. Finally, certification from a health care provider stating that the employee is ready to return to work may also be required.

2. **Eligible Employees:** To be eligible for family or medical leave, an employee must

have been employed for at least twelve (12) months with the employer and worked at least 1,250 hours of service during the previous twelve (12) month period.

3. Tracking Method: For the purpose of computing the twelve month period in which the twelve weeks of leave entitlement occurs, it shall be measured forward from the date of commencement of each employee's first FMLA leave.

4. How FMLA leave can be taken: A leave of absence taken for purposes of birth of a child or the placement of a child for adoption must be taken by the end of the twelve month period beginning on the date of the birth or placement of a child and may not be taken intermittently or on a reduced leave schedule unless the employer consents. Leave to care for spouse or an immediate family member or for the employee's own serious health condition may be taken intermittently or on a reduced leave when medically necessary. "Intermittent Leave" is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods for an hour or more to several weeks. A "reduced leave schedule" occurs when an employee's usual number of working hours per week, or hours per work day are reduced.

5. Application of accrued leave: A leave of absence taken for purposes of birth of a child or the placement of a child for adoption shall first use up paid accrued vacation leave and personal leave as part of FMLA Leave. A leave of absence taken to care for spouse or an immediate family member or for the employee's own serious health condition shall first use up paid accrued sick leave and personal leave as part of FMLA Leave.

6. Notice: The employee ordinarily must provide thirty (30) days advance notice when the leave is foreseeable. If circumstances prevent the employee from giving thirty days notice, the employee must give as much notice as practicable. At such time, a meeting with the employee must be conducted to determine eligibility for FMLA Leave and benefits as well as to complete a formal request. While on FMLA Leave, the employee is expected to notify the employer or his designated agent of the employee's status and anticipated date of return to work.

7. Continuation of health insurance coverage: During FMLA Leave, only health insurance benefits will continue under the same terms as provided before leave commenced. Any other benefits and/or leave will not accrue during the FMLA Leave. If the employee pays premiums for health insurance before the leave commences, such payments must continue during leave. If the employee fails to return to work at the end

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of FMLA Leave, the diocese may recover all premiums paid for maintaining coverage for the employee when the failure is for a reason other than a continuation, recurrence or onset of a serious health condition of the employee or his or her spouse, child or parent or for other reasons beyond the employee's control.

8. Restoration to equivalent position: After FMLA Leave, the employee will be reinstated to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment unless the employee is subject to layoff, discharge, or reassignment during the leave for reasons unrelated to the leave. However, the employee is not entitled to accrue seniority or employment benefits during any period of leave.

9. Remedies: The act provides that an employee who believes that his or her rights under the FMLA have been violated can file a complaint with the Secretary of Labor or may file a private lawsuit.

10. Protection of Uniformed Service Member's Rights to Family and Medical Leave:

New Qualifying Reason for Leave: Eligible employees are entitled to up to 12 weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

New Leave Entitlement: An eligible employee who is the spouse, son, daughter, parent, or next of kin of covered service member 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 service member. 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.

Note: For more information regarding Military Family Leave, contact the Diocesan Human Resources Office.

Employees returning from a leave of absence will be reinstated to their same job or one of similar status and pay provided the work location's circumstances have not changed to the extent that it would be impossible or unreasonable to provide reinstatement. If the same job or one of similar status and pay is not available, reinstatement may be deferred until a position is available, and the employee may be granted a preference in recall.

If an employee fails to return to work at the conclusion of an approved leave of absence, including any extension, the employee will be considered to have voluntarily terminated employment.

The following form may be used to grant and track FMLA leave:

EMPLOYER: _____

Medical/FMLA Leave Request Form

1. To be completed by the person requesting the leave. (Please, print legibly or type)		
Name:	Date	: Institution/Parish:
Home Address		

2. Dates and amount of leave time requested		
Date leave for medical /FMLA begins. Enter start date here:		
Anticipated date medical/FMLA ends. Enter end date here:		
Number and type of total anticipated hours requested	Sick Leave	Leave without pay

3. Leave requested for the following purpose (check one):		
<input type="checkbox"/> Paid leave, medical, not FMLA. Note from the Health Care Provider may be required.		
<input type="checkbox"/> The birth of my child or the placement of a child with me for adoption or foster care. Submit the Health Care Provider certification.		
<input type="checkbox"/> My own serious health condition. Submit the Health Care Provider certification.		
<input type="checkbox"/> Serious health condition affecting my spouse, child, or parent for which I am needed to provide care. Submit the Health Care Provider certification.		
<input type="checkbox"/> Because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.		

Please Note:		
Leave of three (3) or more consecutive days taken for the above reasons applies towards the twelve weeks of eligibility for the leave provided in the Family & Medical Leave Act (FMLA). FMLA runs concurrent with other types of qualifying leave. FMLA protects employees benefits and job for 12 weeks even during leaves without pay. Military leave may be up to 26 weeks.		

I understand that I may: 1) Be requested to provide regular medical documentation of my illness or the illness of my immediate family member; 2) Need to provide my supervisor with as much notice as possible for FMLA absence especially in those instances of intermittent leave; 3) Be requested to provide a medical release upon my return to work; 4) Be required to take a fitness for duty physical. Under FMLA I understand that employer contributions for my benefits continue for 12 weeks even if leave without pay results.		
Employee's Signature/Date		

Approval:		
Print Director of Personnel Name (legibly):		Phone:
Director of Personnel's Signature:		Date: