

# Erlanger Health System Policy and Procedure

Origination Date: <u>10/15/90</u>		
Approval: _____		
Reviewed Date:	Revised Date:	Approval:
_____	<u>10/11</u>	_____
_____	<u>1/1/14</u>	_____
_____	_____	_____
_____	_____	_____

**Index Title:** Leaves of Absence

**Originating Department:** Human Resources

**Number:** 8327.0700

**Description for EHS Intranet:** Leave; leave of absence; family and medical leave; FMLA; non-FMLA; parental; military; personal leave; Unum

---

**Policy statement:** The purpose of this policy is to establish guidelines under which leaves of absence may be taken by employees of Erlanger Health System ("EHS"). The leaves of absence covered in this policy include FMLA, Non-FMLA, Parental, Military, and Personal.

**Scope:** All EHS employees, subject to the eligibility requirements set forth below.

**Procedure:**

## FMLA LEAVE

### **Guidelines:**

EHS provides unpaid, job-protected leave pursuant to the Family and Medical Leave Act ("FMLA"). This policy provides an overview of employees' rights and responsibilities under the FMLA. For more information about the FMLA, please see the text of the FMLA at 29 U.S.C. § 2601 *et seq.*, and the FMLA regulations at 29 C.F.R. Part 825.

Leaves covered by the Family Medical Leave Act are managed by a designated administrator (currently Unum). The designated administrator will provide EHS employees with the documents and information needed to process leaves timely and efficiently. Employees applying for FMLA leave must apply with the designated administrator. For more information, please see "Request for Leave and Advance Notice" on page 3 of this document.

### **Eligibility:**

To be eligible for leave under the FMLA, an employee must (at the time leave begins) (i) have completed at least twelve months of service with EHS; (ii) have worked at least 1,250 hours in the previous twelve months; and (iii) work at a worksite at which EHS has fifty or more employees or fifty or more employees within seventy-five miles of the worksite.

**Family or Medical Leave:**

Eligible employees may request a leave of absence for one or more of the following reasons:

- A serious health condition that makes the employee unable to perform the employee's job;
- Incapacity due to pregnancy, for prenatal medical care, for the birth of the employee's child, and to care for the newborn child;
- Placement of a child with the employee for adoption or foster care and to care for the newly placed child;
- To care for the employee's spouse, child, or parent who has a serious health condition; and
- A qualifying exigency arising out of the fact that an employee's spouse, child or parent is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces, including the National Guard or Reserves. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligible employees may request up to twelve weeks of such leave (collectively "family or medical leave") during a twelve-month period. Family or medical leave to care for a healthy newborn or newly placed child must be taken within the twelve months following birth or placement. A husband and wife who are both EHS employees are limited to a combined total of twelve weeks of family or medical leave during a twelve-month period if the leave is taken to care for a healthy newborn or newly placed child or to care for a parent with a serious health condition.

**Military Caregiver Leave:**

An eligible employee who is the spouse, child, parent, or nearest blood relative of a covered service member may request up to twenty-six weeks of leave during a single twelve-month period to care for such service member ("military caregiver leave"). During this single twelve-month period, the combined total weeks of family and medical leave and military caregiver leave will not exceed twenty-six weeks.

To qualify for care, a covered service member must be either:

- A current member of the Armed Forces, including the National Guard or Reserves, who (i) has a serious injury or illness that was incurred in the line of duty on active duty (or that existed before the beginning of the

member's active duty and was aggravated by service in the line of duty on active duty) that may render the service member medically unfit to perform his or her military duties for which he or she is undergoing medical treatment, recuperation, or therapy; (ii) is otherwise in qualified outpatient status; or (iii) is otherwise on the temporary disability retired list; or

- A veteran of the Armed Forces, including the National Guard or Reserves, who has a qualifying injury or illness that was incurred in the line of duty on active duty (or that existed before the beginning of the veteran's active duty and was aggravated by service in the line of duty on active duty) for which he or she is undergoing medical treatment, recuperation, or therapy. The veteran must have been a member of the Armed Forces at some time during the five years preceding the date on which he or she undergoes the medical treatment, recuperation, or therapy.

A husband and wife who are both EHS employees are limited to a combined total of twenty-six weeks of military caregiver leave during the single twelve-month period.

**Request for Leave and Advance Notice:**

An employee who wishes to take family or medical leave or military caregiver/exigency leave (collectively "leave") under this policy must call the designated administrator's toll-free number and his/her supervisor. The employee generally must comply with EHS's normal call-in procedures. The leave may be delayed or denied if the employee does not notify the designated administrator within 7 calendar days of taking the leave.

Employees must provide sufficient information for the designated administrator to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities; the need for hospitalization or continuing treatment by a health care provider; or circumstances supporting the need for qualifying exigency leave (see page 2). Employees also must inform the designated administrator and the supervisor if the requested leave is for a reason for which leave was previously taken or certified.

Providing false or fraudulent information in connection with a request for leave is grounds for discipline up to and including termination of employment.

The designated administrator will inform employees who request leave whether they are eligible for leave under the FMLA. If an employee is eligible, the designated administrator will provide a notice specifying any additional information required from the employee and any other employee rights and responsibilities. If the employee is not eligible, the designated administrator will

tell the employee why he or she is not eligible. The designated administrator will inform the employee if the leave will be designated as FMLA-protected and how much of the leave will be counted against the employee's leave entitlement. If the designated administrator determines that the leave is not FMLA-protected, the designated administrator will so notify the employee.

Use of leave for reasons other than that approved by the designated administrator are grounds for discipline up to and including termination of employment.

**Certification:**

An employee who seeks to take family or medical leave for the employee's or the employee's family member's serious health condition must provide a "Certification of Health Care Provider" form to the designated administrator completed by a health care provider. An employee who seeks to take family and medical leave because of a qualifying exigency must provide to the designated administrator a "Certification of Qualifying Exigency" form completed by the employee. An employee who seeks to take military caregiver leave must provide to the designated administrator a "Certification for Serious Injury or Illness of a Covered Servicemember" form completed by a Department of Defense or other authorized health care provider.

If the leave is foreseeable, the employee must provide to the designated administrator the medical certification before the leave commences. Otherwise, the employee generally must provide the medical certification within fifteen days of the request. Failure to provide medical certification to the designated administrator in a timely manner may result in the leave being delayed or denied. Under certain conditions, the designated administrator may also require that the employee's health care provider (or the health care provider for the employee's family member) recertify the employee's (or family member's) serious health condition.

**Definition of Serious Health Condition:**

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 functions 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 requirements may be met by a period of incapacity of more than three consecutive full calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Use of Leave:**

Leave to care for a healthy newborn or newly placed child must be taken in consecutive workweeks. Employees do not need to use other leave entitlements in one block. Employees may take other leave intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt EHS's operations. Leave due to qualifying exigencies may be taken on an intermittent basis.

**Using PTO and STD Bank for Leave:**

Employees may use their Short-Term Disability Bank and PTO while on leave in accordance to the EHS Short-Term Disability Bank and Paid Time Off Policies.

**Continuation of Benefits:**

EHS will maintain group benefits during leave on the same terms as if the employee were working. The employee, however, must continue to make his or her portion of the premium payments to all group health insurance benefits in which the employee is participating and must coordinate payments with Human Resources prior to taking leave, or in case of an emergency, as soon as practicable. The employee should also coordinate with Human Resources to avoid the lapsing of other benefits while on leave. Under certain circumstances, EHS may recover its share of health plan premiums paid during the leave period if the employee fails to return to work after he or she has exhausted leave entitlement. Use of leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**Return to Work:**

Prior to an employee's return to work from leave for his or her own serious health condition, the employee must submit to Human Resources or supervisor certification from a health care provider that the employee is able to return to work, *i.e.*, that the employee is fit for duty. Failure to submit this certification may cause EHS to delay or deny the employee's return to work.

With the exception of (1) a "key employee" as defined by 29 C.F.R. § 825.217; (2) an employee who is no longer able to perform the essential functions of his or her job; or (3) an employee who would not otherwise be employed at the time of requested reinstatement, an employee will be restored to his or her job or to an equivalent job with equivalent benefits, pay, and terms of employment upon returning from leave.

**Calculation of the Twelve-Month Period:**

As noted above, an employee may request family or medical leave of up to twelve weeks during a twelve-month period. The applicable twelve-month period is a "rolling" twelve-month period measured backward from the date an employee uses any family or medical leave. Under this method of calculation,

each time an employee takes family or medical leave, the employee's remaining leave entitlement is based on any balance of the twelve weeks that he or she has not used during the immediately preceding twelve months.

As noted above, an employee may request up to twenty-six weeks of military caregiver leave during a single twelve-month period. The twelve-month period begins on the first day of military caregiver leave.

**Extended Leave of Absence:**

Employees who have exhausted their twelve weeks of leave under the FMLA due to their own or a family member's serious health condition may apply for a transfer to the Leave of Absence Cost Center (8712) for additional four (4) months of unpaid leave. Employees do not have job reinstatement rights during an extended leave of absence.

**Unlawful Acts:**

It is unlawful to, and EHS will not, (i) interfere with, restrain, or deny the exercise of any right provided under the FMLA; or (ii) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

**Enforcement:**

An employee may file a complaint with the U.S. Department of Labor or bring a private lawsuit against an employer who does not comply with the FMLA. The FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of the Department of Labor FMLA notice, the contents of which are included in this policy. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures. For additional information contact 1-866-4US-WAGE (1-866-487-9243); TTY: 1-887-889-5627; [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

**NON-FMLA MEDICAL LEAVE**

**Guidelines:**

EHS provides up to eight weeks of leave without guaranteed job protection in a rolling twelve-month period to eligible employees who have a serious health condition that renders the employee incapable of performing the functions of his or her job, but who do not meet the FMLA eligibility guidelines. Employees must have been denied leave by the designated administrator before applying for the Erlanger Health System Non-FMLA leave.

The FMLA guidelines regarding Request for Leave and Advance Notice; Use of PTO and STD; Certification; Status Reports; Certification of Ability to Return to Work; Continuation of Benefits; Restoration of Employment; and failure to return to work after expiration of leave period apply to non-FMLA leave.

Providing false or fraudulent information in connection with a request for leave or using leave for reasons other than that approved by EHS is grounds for discipline up to and including termination of employment.

If the reason for an employee's leave ceases before the end of the approved leave period (for example, if a family member no longer has a serious health condition as of July 1, but the employee's leave to care for that family member was approved through July 15), then the employee must report the change in circumstances to Human Resources within two business days. EHS may then require the employee to return to work. Failing to report such a change in circumstances or to return to work as requested is grounds for discipline up to and including termination of employment.

**Eligibility for Non-FMLA Leave:**

To meet the eligibility requirements, an employee must be a full-time or part-time employee who has completed six months of service and who does not meet the FMLA eligibility guidelines. PRN and temporary employees are not eligible for this leave.

**Extended Leave of Absence**

Employees who have exhausted their eight weeks of non-FMLA leave, who do not qualify for FMLA leave, and who need to extend their leave due to their own serious health condition may apply for a transfer to the Leave of Absence Cost Center (8712) for additional four (4) months of unpaid leave. Employees do not have job reinstatement rights during an extended leave of absence.

**PARENTAL LEAVE**

Pursuant to Tennessee Code Annotated § 4-21-408, employees who have been employed by EHS for at least twelve consecutive months as full-time employees may be absent from employment for a period not to exceed four months for the purpose of adoption, pregnancy, childbirth, and nursing of an infant, where applicable. Parental leave runs concurrently with FMLA leave.

The purpose of parental leave is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if EHS finds that the employee has used the period of leave to actively pursue other employment opportunities or if EHS finds that the employee has

worked part time or full time for another employer during the period of leave, then the employee has no right to reinstatement at the end of the leave.

Providing false or fraudulent information in connection with a request for leave or using leave for reasons other than that approved by EHS is grounds for discipline up to and including termination of employment.

If an employee's job position is so unique that EHS cannot, after reasonable efforts, temporarily fill the position, then the employee has no right to reinstatement at the end of the leave.

Parental leave is unpaid. During the period of disability due to birthing a child, an employee may use accrued STD for which they are eligible. An employee on parental bonding must use accrued PTO for which he or she is eligible. All parental leave will count toward the employee's four-month allotment of parental leave.

## **MILITARY LEAVE**

### **Guideline:**

EHS provides employment and reemployment rights for employees serving in the uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act ("USERRA") and state law. "Uniformed services" includes the Armed Forces, Army National Guard, Air National Guard, and commissioned corps of the Public Health Service. "Service" includes voluntary or involuntary active duty, active and inactive duty for training, National Guard duty, and fitness for duty examinations. Employees may apply for Military Leave in Human Resources.

Employees must meet the following criteria to qualify for reemployment with EHS after a period of military service:

- The employee must work for EHS when the employee begins his or her military service.
- The employee must give EHS reasonable advance notice of his or her military service.
  - Employees should provide notice to their supervisor as early as is reasonable under the circumstances, preferably at least thirty days in advance of their departure.
  - Employees may be asked to provide a copy of their military orders.
- In most cases, the employee's cumulative amount of leave taken for military service while employed by EHS must not exceed five years.

- The employee must timely return to work or apply for reemployment.
  - Period of service of less than 31 days: must report to EHS not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service (plus travel and eight additional hours).
  - Period of service of more than 30 days but less than 181 days: must submit an application for reemployment with EHS not later than 14 calendar days after completing service.
  - Period of service of more than 180 days: must submit an application for reemployment with EHS not later than 90 calendar days after completing service.
- The employee must have been released from military service under "honorable conditions."

Reemployment rights apply to full-time, part-time, temporary, probationary, and seasonal employees. Reemployment rights may not apply in some situations, including but not limited to, if the employment was for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.

**Pay and Benefits While on Military Leave:**

Employees in the military reserves (with either the armed forces or the National Guard) will be paid their full wages for up to twenty days of military service per calendar year. Reservists called to active state duty may receive additional days of pay pursuant to Tennessee Code Annotated § 8-33-109. Reservists will not be paid for military service occurring on a day that the reservist does not usually work.

All other military leave will be unpaid, except that exempt employees will be paid the difference between service pay and the employee's normal rate of pay for absences of less than a full workweek. Employees may use any accrued PTO while on military leave.

Employees on military leave will be eligible to maintain their group health benefits as set forth in USERRA. Paid leave such as PTO or STD will not accrue for an employee while on military leave.

## **PERSONAL LEAVE**

### **Guideline:**

It is the practice of EHS to consider requests for leave for personal reasons. Management will determine on a discretionary basis whether it will grant such requests. Employees may apply for a personal leave in the Human Resources office.

### **Eligibility:**

All regular full-time and part-time employees who have completed twelve months of employment are eligible to be considered for a personal leave of absence. Temporary and PRN employees are not eligible.

### **Qualifying Events:**

The following are examples of events that may qualify for Personal Leave:

- Returning to school full-time in order to pursue a degree or additional studies related to EHS services.
- Private or personal matters not covered under the provisions of FMLA such as child care problems, sabbaticals, and emergency situations.

Providing false or fraudulent information in connection with a request for leave or using leave for reasons other than that approved by EHS is grounds for discipline up to and including termination of employment.

If the reason for an employee's leave ceases before the end of the approved leave period, then the employee must report the change in circumstances to Human Resources within two business days. EHS may then require the employee to return to work. Failing to report such a change in circumstances or to return to work as requested is grounds for discipline up to and including termination of employment.

### **Available Leave Time:**

A maximum of four (4) consecutive months of personal leave is available.

### **Pay Status:**

Personal leave is unpaid. Employees on personal leave are required to exhaust all accrued PTO. Paid leave such as PTO or STD will not accrue for an employee while on personal leave.

### **Reinstatement Rights:**

Reinstatement rights do not apply to an employee on personal leave.

## **GENERAL PROVISIONS**

### **Working While on Leave:**

Employees may not work for other employers while on leave from EHS unless specifically approved to do so by Human Resources.

### **False or Fraudulent Information:**

Providing false or fraudulent information in connection with a request for leave or using leave for reasons other than that approved by EHS is grounds for discipline up to and including termination of employment.

Committee	Approval/Date
Personnel Committee of the Board	8/8/05
Personnel Committee of the Board	10/11/11
Board of Trustees	10/24/13

Medical Director	Approval/Date
_____	
_____	

**References:**