

## SECTION IV – LEAVE OPTIONS

As part of the total benefits package for full-time employees, LMU provides a number of paid and unpaid leave options. Exempt employees must submit a completed Leave Request Form, accessible in Employee Records via MyLMU. Non-exempt employees must request leave utilizing the KRONOS time-keeping system in accordance with the specific leave policy.

### A. Leave with Pay

#### 1. Bereavement Leave

LMU recognizes the importance of family and the need to support its employees in times of family tragedy. An employee may be absent with pay for up to three (3) business days due to the death of a spouse, fiancé/fiancée, child, parent, sibling, aunt, uncle, grandparent, great-grandparent, grandchild, or corresponding in-law and step relationships. Requests for bereavement leave should be made as soon as possible in Employee Records via MyLMU. LMU hopes that this will prove beneficial to the employee and in some small way relieve the burden of the passing of a loved one.

#### 2. Holiday Leave

Eligible full-time employees are given a day off with pay in observance of the following holidays:

- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Holiday (Thursday & Friday)
- Christmas and New Year Holidays<sup>+</sup>

To be eligible for holiday pay, an employee must have worked his/her regularly scheduled hours the workday before and the workday after the holiday, unless the employee was out on approved PTO leave or any other excused and paid day off per LMU policy. Some holidays may be regular workdays for certain employees and may be substituted at a later date at the discretion of the employee's supervisor. When a holiday falls on Saturday, it will be observed on the preceding Friday. When a holiday falls on Sunday, it will be observed on the following Monday.

<sup>+</sup>During the Christmas and New Year Holidays, LMU is closed for normal business operations. Campus Police and Security continue to provide 24/7 services. Designated Administrative Offices are open from 10:00 a.m. to 2:00 p.m. Facilities Personnel work a minimum of four (4) hours per day as scheduled by their supervisor. Supervisors for Administrative Offices and Facilities Personnel are required to post office hours and ensure adequate staffing during the abbreviated schedule.

Exempt employees who work during the abbreviated schedule may take time off at a later date at the discretion of, and as approved by, their supervisor. Non-exempt employees who work during the abbreviated schedule receive Holiday pay and pay for the hours worked. Non-exempt employees should follow normal clock in/out procedures.

Please visit <https://www.lmunet.edu/academics/academic-calendar.php> for the exact Holiday dates. At the discretion of the President, the dates that LMU is operating on an abbreviated schedule may be reduced or extended.

### **3. Jury Duty**

LMU encourages employees to fulfill their civic responsibilities by serving as a juror when required. Employees summoned for jury duty during an employee's workday will receive pay for the hours spent serving and traveling to and from jury duty, less their compensation for serving as a juror.

Employees should request leave for jury duty as soon as possible and prior to the time which they must appear. A copy of the summons must be submitted with the request for jury duty leave. Of course, employees are expected to report for work whenever the court schedule permits. Employees must report to work on the first scheduled workday following release from jury duty. Furthermore, if the employee is released from jury duty before serving for three (3) hours on a given day, the employee must report to work that same day. Upon returning to work, employees must present proof of service to their immediate supervisor. In rare circumstances, LMU may request that a particular employee's jury service be excused or delayed.

### **4. Paid Time Off (PTO)**

LMU provides its full-time staff employees who work on a twelve (12)-month basis with paid time off (PTO) for vacation, personal, and sick days. Employees who are absent from work for any reason are required to take any accrued but unused PTO before taking unpaid time off. PTO may be taken by employees with prior supervisory approval.

Eligible employees continue to accrue paid time off as long as they are receiving paid leave. PTO is accrued monthly/biweekly and is available for use by the eligible employee in the time period following date of accrual.

Up to eighty (80) hours of paid time off (equivalent to ten (10) days) may be carried over from one (1) fiscal year to the next. At the start of a fiscal year, paid time off previously accrued but not used in excess of the eighty (80) hours of carryover paid time off will be lost, and the employee will receive no pay for paid time off not used.

Accrued paid time off is scheduled at the convenience of each department and requests should be made in advance via Employee Records on MyLMU, setting forth the dates for which paid time off is being requested. The approval or denial will be indicated by the supervisory approval denial of the form. Non-exempt employees who are eligible for paid time off must use the KRONOS timekeeping system to request the paid time off. In addition to earned paid time off requests, requests for bereavement, jury duty, and flu leave are also processed electronically through the KRONOS timekeeping system. Requests for bereavement, jury duty, and flu leave are processed through a two-step procedure. Step one sends the request to the non-exempt employee's supervisor for approval. After the non-exempt employee's supervisor approves a request, that request moves to step two, which sends the request to Human Resources for the Benefit Administrator's approval. Requests for bereavement, jury duty, and flu leave require documentation for final approval.

In emergency situations, an employee must provide, or make a diligent and reasonable effort to provide, notice of absence within the first hour of the initial workday that the paid time off is being requested to his or her immediate supervisor, or, if not available, the Office of Human Resources.

Employees are expected to provide at least three (3) weeks prior notice when requesting paid time off. Requests for specific days will be granted by the supervisor based on the work requirements of the department; however, full consideration is given to requests for holidays of religious significance where reasonable accommodation is possible.

If a paid holiday falls within an employee's paid time off period, the holiday will be counted as a holiday, not as a paid time off day.

The effective day for all terminations of employment is the last day the employee is physically present and actively at work. The cash value of any accrued but unused paid time off (up to forty (40) hours) as of the last day of work will be included in the employee's final paycheck. The cash value of any unearned paid time off used prior to the last day of work will be deducted from the employee's final paycheck as authorized by the employee's initiation of a leave request.

LMU employees receiving a temporary disability indemnity under applicable Workers' Compensation Provisions of the State Labor Code may elect to augment that indemnity with the use of accrued paid time off, which will result in full salary payment to the employee.

Employees are not entitled to pay in lieu of taking earned paid time off.

Eligible employees accrue paid time off at the following rate:

- i. First Year: 6.67 hours per month or ten (10) working days per fiscal year.
- ii. From Second Year and through the end of the Tenth Year: ten (10) hours per month or fifteen (15) working days per fiscal year.
- iii. After Tenth Year: 13.33 hours per month or twenty (20) working days per fiscal year.

Eligible employees start with twenty-four (24) hours of paid time off at the beginning of each fiscal year. Employees hired after the start of a fiscal year will start with a pro-rated amount.

## **5. Voting Leave**

All employees entitled to vote in an election may be excused from work with pay on the day of an election for a reasonable period of time, not to exceed three (3) hours. If an employee's regular shift begins three (3) or more hours after the polls open or ends three (3) or more hours before the polls close, no time off for voting shall be granted. A request for voting leave should be made at least five (5) business days prior to an election day.

## **6. Volunteer Firefighter Leave**

Any LMU employee who also serves as an active volunteer firefighter will be permitted to leave work in order to respond to fire calls during his/ her regular working hours without loss of pay or earned overtime. When leave is necessary to respond to such fire calls, the employee's immediate supervisor should be informed as soon as possible.

LMU requires any employee utilizing this firefighter leave policy to submit a written verification from the chief of the volunteer fire department confirming that the employee responded to a fire on the relevant date, specifying the time and duration of such a response.

# **B. Leave without Pay**

## **1. Family and Medical Leave (FMLA)**

LMU allows eligible employees to take up to twelve (12) workweeks (or twenty-six (26) workweeks as appropriate) of unpaid Family and Medical leave, in a rolling twelve (12) month period. The leave is available for one or more of the following:

- i. Birth of a son or daughter of the employee and in order to care for such son or daughter (must be taken within one year of the birth).
- ii. Placement of a son or daughter with the employee for adoption or foster care (must be taken within one (1) year of the placement).
- iii. To care for a seriously ill spouse, son, daughter, or parent of the employee as defined by applicable FMLA regulations.
- iv. Because of an employee's own serious health condition that makes the employee unable to perform the essential functions of their job.
- v. Because of any qualifying exigency (defined as an urgent need or demand) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves in support of a contingency operation.

## **2. Eligibility**

LMU will allow you to take up to twelve (12) weeks (or twenty-six (26) weeks as appropriate) of leave from your job in a rolling twelve (12) month period if you are an “eligible employee.” To be an “eligible employee,” you must satisfy the following conditions:

- i. You must have worked for LMU for at least twelve (12) months (need not be consecutive).
- ii. You must have worked at least one thousand, two hundred and fifty (1,250) hours during the twelve (12) consecutive months preceding the start of your requested leave.
- iii. You must work at an “eligible worksite.”

You work at an “eligible worksite” if at least forty-nine (49) other employees, including part-time employees, work within a seventy-five (75) -mile radius of you.

The twelve (12) month period (during which up to twelve (12) weeks or twenty-six (26) weeks of leave is available) is a rolling twelve (12) month period measured backward from the date leave is requested or taken.

If a husband and wife are entitled to leave by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks (or twenty-six (26) weeks as appropriate) during the rolling twelve (12) month period if the leave taken is for birth, adoption, or foster care, or care for parent.

If a husband and wife are entitled to Service Member Family Leave under the same employer, the aggregate number of workweeks of leave to which both may be entitled to is a combined total of twenty-six (26) workweeks for care of a covered service member.

### **3. Service Member Family Leave**

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve (12) month period to care for the service member. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy, or is in outpatient status, or is on the temporary disability return list. This leave shall only be available during a single twelve (12) month period.

#### **i. Combined Leave Total**

During the single twelve (12) month period described in the preceding paragraph, an eligible employee shall be entitled to a combined total of twenty-six (26) workweeks of leave for non-service-related and service-related events. Nothing in this paragraph shall be construed to limit the availability of non-military leave during any other twelve (12) month period.

#### **ii. Qualifying for Leave**

To qualify for a leave, you must apply using the “Application for Family or Medical Leave of Absence” form. The completed application must state the reason for leave, duration of the leave, and the anticipated starting and ending dates of the leave. All applications are kept confidential and separate from your personnel file. In the event of a foreseeable leave of absence, you must apply thirty (30) days prior to the day you want to start your leave. If you fail to do so, your leave starting date may be delayed for up to thirty (30) days after you do apply.

In case the leave is unforeseeable, you must notify LMU as soon as possible, generally within one or two days. After you submit your application for a leave, the employer will determine whether you need to provide additional information.

LMU also will ask you to submit an application for leave after you missed three (3) consecutive days of work, or if you request days off or time in advance, other than for vacation. LMU will determine whether or not you meet the eligibility requirements at the time you apply for the leave and will approve

or disapprove of the leave as qualifying under this policy as soon as practicable (typically within five (5) business days) in writing after all required information is received from you.

In no event will LMU tolerate outside employment in any capacity (other than military duty) for any employee on FMLA leave. Any outside employment or work for compensation on any basis by an employee on FMLA leave will result in immediate dismissal and forfeiture of all rights under this policy.

You will be required to provide a medical certification issued by the health care provider of the seriously ill eligible employee, or son, daughter, spouse, or parent, or the next of kin of an individual in case of the service member family leave, as appropriate. The certification must state the date on which the serious health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. You must use the form, "Certification of Physician or Practitioner," available from the Office of Human Resources and, if for your own serious illness, you must give your physician or practitioner a copy of your most recent position profile. A similar certification will be required for a reduced hours or intermittent leave due to your health condition or that of your family member. In that case, the certification must be completed to state that such a leave is medically necessary, the expected duration, and a schedule of your leave. Failure to provide the medical certification may result in denial of leave. Incomplete, ambiguous, vague or non-responsive certification will not be accepted, and the employee will be provided seven (7) business days to cure any such deficiency. If the deficiencies are not cured, LMU may deny the taking of FMLA leave. It is the employee's responsibility to provide the health care provider with any necessary release to provide a complete and sufficient certification to LMU.

When an employee submits a completed and sufficient medical certification, LMU cannot request additional information from the employee's health care provider. However, after LMU has given the employee an opportunity to cure any deficiencies in a defective medical certification, LMU may contact the health care provider for purposes of clarification and authentication of the medical certification through LMU's health care provider, designated Human Resources representative, or an appropriate management official. The employee will be required to provide LMU with a HIPAA-compliant authorization allowing LMU to clarify the authenticity of certification if necessary. If the employee's health care provider is also the employee's workers' compensation provider, LMU may request information in accordance with the Workers' Compensation Act.

LMU may require a second certification at its own expense if it has reason to doubt the validity of the medical certification. LMU designates or selects this physician or practitioner for the second certification. The designated provider shall not be employed on a regular basis by the employer. LMU may require a third certification, again at LMU's expense, if the first two opinions conflict, by a physician or practitioner jointly approved by the employee in question and LMU. This third opinion is binding on all parties.

Re-certification may be required by LMU on a reasonable basis and in accordance with governing regulations. Typically, not more often than every thirty (30) days, in the absence of different circumstances, a request for extension, or when the employer has reason to question the validity of the original certification. In all cases, LMU may request recertification of a medical condition every six (6) months.

Second and third opinions and recertification are not permitted for certification of a covered service member's serious injury, or illness or a qualifying exigency. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. Additionally, an employer may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

In regard to Active Duty or call to Active Duty, the employer may require certification in accordance to the Secretary of Labor prescribed regulations in force at that time. An employer may require that:

- Leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party; and/or
- Leave to care for a covered servicemember with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

#### **4. Intermittent or Reduced Hour Leave**

You may be able to work reduced hours or take an intermittent leave when medically necessary (in other words, you can take hours or days off, rather than leaving work altogether for up to twelve (12) weeks or twenty-six (26) work weeks as appropriate). The total leave is still limited to twelve (12) weeks (or twenty-six (26) work weeks as appropriate) per rolling twelve (12) months. The leave must be medically necessary to care for a seriously ill family member or due to the employee's own illness, provided the physician or practitioner certifies it as medically necessary.

This type of leave schedule will need to be pre-approved by LMU if it is requested for the care of a son or daughter following birth or preceding adoption or foster care placement, and approval is at LMU's sole discretion for these events. LMU may require you to have a schedule that does not disrupt its business operations.

If you must take leave on such a schedule due to the need to care for your ill family member or due to your serious health condition, LMU may temporarily transfer you to a position for which you are qualified (without your approval) that better accommodates your new schedule, while still providing you with equivalent pay and benefits.

#### **5. Substitution of Paid Leave**

FMLA leave is unpaid. However, as described below, LMU requires its employees to substitute any accrued paid vacation, personal, sick and other paid time off, which is available to an employee as of the date that the FMLA leave begins, on a consecutive daily basis until the accrued paid leave is exhausted. For intermittent leave or leave on a reduced schedule, substitution of paid leave is required in increments of ½ hour. The substitution of accrued sick leave or vacation is not required or permitted when the medical leave under the FMLA results in the payment of benefits under Workers' Compensation or other disability plan, except that employees may elect to supplement such benefits with accrued sick leave and, once exhausted, accrued vacation leave up to the employee's regular rate of pay. Any time off by an employee on vacation, paid sick leave, occupational leave, maternity leave, or other leave that qualifies for family or medical leave under the FMLA will count against the employee's entitlement under the FMLA.

For any period of time on approved FMLA leave for which accrued sick and vacation leave is not required to be used, an employee may elect to apply accrued paid leave to that time.

#### **6. Health Benefits during Leave**

LMU will continue to provide you with coverage under our health plans under the same conditions as when you were not on leave including payment of your portion of the insurance premium. This can include FMLA or medical leave for a specified period, established in advance, with an approved documented purpose for the leave. You also will be eligible for, and subject to, any new health plans or changes to the existing health plan that take effect while you are on your leave. Your regular health benefits will end when you indicate that you will not be returning to work, but you may choose to elect continued medical coverage under our plan at your expense at that time.

If you are receiving a paycheck due to using paid days off, the premiums may be deducted pre-tax, provided you designate that you agree to this treatment when you apply for the leave. Otherwise, you must pay the premiums on an after-tax basis on a monthly basis due the first (1<sup>st</sup>) of each month. You must pay your premium contributions toward health care benefits by sending them to the address below:

**Lincoln Memorial University  
ATTN: Human Resources  
6965 Cumberland Gap Parkway  
Harrogate, TN 37752**

LMU will continue to pay its share of the health premiums, if any. Your health coverage will be terminated retroactively to date premiums due following a thirty- (30) day grace period if you fail to pay your required premiums.

LMU may collect its premiums relating to the unpaid portion of your leave (and any paid on your behalf, should you fail to pay them) from you if you fail to return to work. The only exceptions to LMU's reimbursement rights are (1) the event that prevents you from returning to work is a serious health condition of you or your family member (documented by certification of health care provider) or (2) is beyond your control (as determined by LMU in its sole discretion).

LMU will require you to provide a certification of the serious health condition within thirty (30) days of its request if the event preventing your return to work is a serious health condition. If you fail to provide the certification, LMU can recover the premiums paid on your behalf during the leave period.

An employee is not entitled to the accrual of any seniority or employment benefits that would have occurred if not taking the leave. An employee who takes family or medical leave will not lose any employment benefits that accrued before the date leave began.

#### **7. Return to Work and Restoration of Position**

Prior to returning from a leave, you must obtain a fitness for duty certification from your treating physician. The employer can periodically require the employee to provide the status and intention of the employee to return to work. The health care provider may be required to specifically address the employee's ability to perform the essential functions of the employee's position and, if so, LMU will provide the employee with a list of the essential functions with the Designation Notice (Form WH-382). LMU may contact the employee's health care provider through LMU's health care provider, designated Human Resources representative, or appropriate management official, with the employee's permission, for clarification of the employee's fitness to return to work certification, but no additional information may be required. LMU may deny restoration to employment until such certification is provided. Nothing in this paragraph will supersede a valid State or local law that governs the return to work of such employees.

Employees eligible for leave and who return immediately following the expiration of leave under this policy are entitled to be restored to the same position held when the leave started, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. LMU cannot guarantee that an employee will be returned to his or her original position. If you cannot be returned to your original position, you will be assigned to an equivalent position with equivalent pay and benefits. The equivalent position will be determined by LMU, in its sole discretion, under federal guidelines.

Under the following circumstances, LMU may deny restoration of an employee to his or her former position or to an equivalent position: (1) if the employee would not otherwise have been employed at the time restoration is requested; (2) if the employee fails to provide a Return To Work Fitness For Duty Certificate as requested by LMU; (3) if the employee fraudulently obtained leave; (4) if the employee is unable to perform the essential functions of the position with or without reasonable accommodation because of a physical or mental condition, including the continuation of a serious health condition; (5) if an employee is no longer qualified for

the position because of the employee's inability to attend a necessary course, renew a license or certificate, etc., as a result of the leave, provided the employee has been given a reasonable opportunity to fulfill those conditions upon return to work; (6) if the employee unequivocally advised LMU that he or she does not intend to return to work, in which case the employment relationship is deemed terminated and leave benefits cease immediately; or (7) if the employee is a "key" employee, as defined under the FMLA as explained below.

Some key employees (those in the top ten percent (10%) of the workforce in terms of compensation for a seventy-five (75) mile radius) may not be eligible for reinstatement. If the return of a key employee would cause substantial and grievous economic injury to the employer, based on factors such as workplace disruption, LMU can deny his or her reinstatement. If you desire more information about the rules relating to key employees, please ask your benefits administrator for details. You will be notified after you apply for a leave whether or not you are a "key employee," and that if you are, you may not be eligible for reinstatement.

Upon your return, you will also be entitled to participate in all of the employee welfare benefit plans you participated in prior to your leave, without meeting any otherwise applicable qualification requirements (such as satisfying a waiting period or pre-existing condition waiting period, waiting for open enrollment, or passing a medical examination). Any increases in benefits that do not depend on seniority or accrual during the leave period will be provided upon your return.

For additional information on Family and Medical Leave, please contact the Office of Human Resources.

### **8. Military Leave**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice or if such notice is otherwise impossible or unreasonable.

The leave will be unpaid, with the exception that exempt employees will not have amounts deducted from pay for absences of less than one (1) week (provided, however, that LMU may deduct amounts received as military pay). Employees may use any available accrued paid time off pay for the absence.

Benefit accruals, such as paid time off or holiday benefits, will be suspended during the leave and will resume upon the employee's return to active employment.

Employees on military leave for up to thirty (30) days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.

Employees returning from military leave of up to five (5) years (and who have not received a punitive or other-than-honorable discharge) will be placed in the position they would have attained had they remained continuously employed or a comparable position depending on the employee's length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service.

### **9. Parental Leave**

LMU employees (mother or father) who have been employed on a full-time basis for twelve (12) consecutive months are entitled to leave without pay for a period not to exceed four (4) months (total of sixteen (16) weeks) for adoption, pregnancy, childbirth, and nursing an infant. Leave under this policy runs concurrent with leave under FMLA. Such employees are entitled to restoration to the same or similar position, with the same status, pay, length of service credit, and seniority as held before the date of the leave. LMU reserves the right to inform "key" employees, as defined by its FMLA, within a short period after the time the leave is requested, that the leave cannot be granted.



Employees must give at least three (3) months advance notice of the anticipated date of departure, the length of the leave, and the employee's intention to return to full-time employment after such leave, unless there is a medical emergency that prevents notice from being given.