

Chapter Six:

Cumberland University Leaves

Cumberland University recognizes that faculty and staff members may need to be away from work due to medical or family reasons, service obligations, or other reasons.. Some types of absences are affected by federal law (such as the Family & Medical Leave Act - FMLA), some by state law (such as the Tennessee Maternity Leave Act), and some by Cumberland University policy (such as Vacation & Sick Leaves).

Leaves may be paid or unpaid, depending on what type is requested, the length of the individual's employment, and other factors.

- Family Medical Leave (FMLA)
- Maternity Leave
- Cumberland University Medical Leave
- Personal Time Off Leaves (PTO)
 - Holiday Leave
 - Vacation Leave
 - Sick Leave
 - Bereavement Leave
- Other Types of Leaves
 - Administrative Leave
 - Jury Duty/Testifying in a Court Case
 - Military Leave
 - Sabbatical Leave

FAMILY & MEDICAL LEAVE ACT (FMLA)

This section is a summary of the leave policies that apply to faculty and staff under the Family & Medical Leave Act (FMLA). Under the federal law, FMLA leaves may be unpaid leaves, but Cumberland University requires the eligible faculty or staff member to use accrued paid time (vacation and sick time) to help maintain income during periods of illness or family obligations. The Leave taken will count against the faculty/staff member's annual FMLA leave entitlement. The entire FMLA process, including the provision of certifications and recordkeeping should go through the Office of Human Resources.

TYPES OF LEAVES COVERED BY FMLA

The FMLA covers up to 12 total weeks of leave in a 12-month period for the following situations:

- A faculty/staff member's own serious health condition, including on-the-job injury or occupational disease covered by workers' compensation
- The care of a family member (spouse, parent, a minor child, or a child age 18 or older but incapable of self-care) with a serious health condition, and/or
- The birth, adoption, or foster care placement of a child.

A serious health condition is a physical or mental illness or injury that requires either:

- Inpatient care in a hospital, hospice, or residential care facility, or
- Continuing treatment by a health care provider.

ELIGIBILITY FOR FMLA LEAVE

To be eligible for FMLA leave, a faculty or staff member must:

- Have worked at Cumberland University for at least 12 consecutive months, and
- During that time, worked a minimum of 1,250 hours at Cumberland University.

REQUESTING FMLA LEAVE

Faculty and/or staff should provide a written request for leave to the Office of Human Resources at least thirty days prior to the anticipated leave date. When the need for leave is not foreseeable, notice of the leave must be given to the Office of Human Resources as soon as practicable, but in most circumstances no later than one or two working days of learning of the need for leave. Cumberland University requires employees to complete FMLA request forms for any illness lasting over five days.

CERTIFICATION OF LEAVE

Where appropriate, the University (at its discretion) requires a certification from a health care provider or the appropriate court documents in the case of adoption or foster care, to support the request for leave. In the case of certification for intermittent leave or leave on a reduced work schedule for planned medical treatment, the certification should state the dates on which such treatment is expected to be given and duration of such treatment.

If an employee has taken leave due to his or her own serious health condition, the University requires the employee to obtain and present a fitness for duty statement from the employee's health care provider certifying the employee is able to return to work. The employee is

required to periodically report, to the Director of Human Resources, their status and intent to return to work.

HEALTH CARE COVERAGE DURING LEAVE

Faculty and staff on leave under this policy will continue to receive coverage under the Cumberland University health care plan at the level, and under the conditions, that such coverage would have been provide if the affected faculty or staff member had continued working. Faculty and staff paying monthly health insurance premiums for family coverage and/or single payroll copays will be required to continue such premiums and/or copays either through continued payroll deductions, if paid leave is available, or by making monthly payments. If a faculty or staff member does not return from approved leave at the appropriate time, then the University may require that the faculty or staff member reimburse the University for the cost of health coverage paid by the University on the employee's behalf while on leave.

The Office of Human Resources should be consulted prior to the commencement of leave so that appropriate arrangements for the payment of premiums can be established.

RETURN FROM LEAVE

On return from FMLA Leave, the employee is entitled to be returned to the same position the employee held when the leave period commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee who is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, has no right to restoration to another position under the FMLA. The University will fulfill any obligation imposed by the ADA.

PAID LEAVE

FMLA leave will be unpaid, unless accrued sick or vacation leave time is available. Employees who are approved for leave under this policy must use all accrued sick and/or vacation time before going to a unpaid status.

SPOUSES AT CUMBERLAND UNIVERSITY

If a wife and husband are both employed by the University and they request leave for the birth, adoption or foster placement of a child or the care for a parent with a serious health condition, they are entitled to a combined total of 12 weeks of FMLA Leave in any 12-month period for these purposes.

INTERMITTENT OR REDUCED WORK SCHEDULE LEAVE

Intermittent leaves, or leaves on a reduce work schedule, may be appropriate in the case of a faculty or staff member's own serious illness or for the serious illness of a spouse, parent or child. Intermittent leaves or leaves on a reduced work schedule are not available for the birth, adoption, or foster placement of a child.

MATERNITY LEAVE

Pregnancy and childbirth are covered under both federal law (FMLA) and state law (Tennessee Maternity Leave Act). The FMLA allows up to 12 weeks in a 12 month period for

the birth and care of a newborn; state law allows some birth mothers up to 4 months' leave off for pregnancy, childbirth, and nursing a newborn.

The first 12 weeks of a "maternity leave" will be considered FMLA leave as described earlier in this chapter.

Tennessee law states that a birth mother is entitled to four months maternity leave without the risk of losing employment provided that:

- The faculty or staff member has completed 12 consecutive months of full-time employment with Cumberland University
- A three month advance written notice is given of the anticipated date of departure, the length of the maternity leave, and the employee's intention to return to work full-time employment after the completion of the leave period. The 3 month advance notice is waived in the case of a medical emergency that necessitates the leave to begin earlier than anticipated
- The faculty or staff member is not using the period of maternity leave to actively pursue other employment opportunities
- The faculty or staff member is not working part-time or full-time for another employer during the period of maternity leaves.

A copy of the Tennessee Maternity Leave Act follows.

4-21-408. **Maternity Leave.** - (a) A female employee who has been employed by the same employer for at least twelve (12) consecutive months as a full-time employee, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for pregnancy, childbirth and nursing the infant, where applicable (such period to be hereinafter referred to as "maternity leave").

(b)(1) A female employee who gives at least three (3) months' advance notice to her employer of her anticipated date of departure for maternity leave, her length of maternity leave, and her

intention to return to full-time employment after maternity leave, shall be restored to her previous or a similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of her leave.

(b)(2) A female employee who is prevented from giving three (3) months' advance notice because of a medical emergency which necessitates that maternity leave begin earlier than originally anticipated shall not forfeit her rights and benefits under this section solely because of her failure to give three (3) months' advance notice.

©(1) Maternity leave may be with or without pay at the discretion of the employer. Maternity leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she was eligible at the date of her leave, and any other benefits or rights of her employment incident to her employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the period of maternity leave unless such employer so provides for all employees on leaves of absence.

©(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of her maternity leave.

©(3) The purpose of this section is to provide leave time to female employees for pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the female employee has utilized the period of maternity leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of maternity leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of her maternity leave.

©(4) Whenever the employer shall determine that the employee will not be reinstated at the end of her maternity leave because her position cannot be filled temporarily or because she has used maternity leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

(d) Nothing contained within the provisions of this section shall be construed to:

(d)(1) Affect any bargaining agreement or company policy which provides for greater or additional benefits than those required under this section;

(d)(2) Require any employee to provide maternity leave to male employees;

(d)(3) Apply to any employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or

(d)(4) Diminish or restrict the rights of teachers to leave for maternity pursuant to title 49, chapter 5, part 7, or to return or reinstatement after leave.

(e) The provisions of this section shall be included in the next employee handbook published by the employer after passage of this section.

CU MEDICAL LEAVE

There are situations where faculty and/or staff members may be granted unpaid time away from work for a documented illness or disability under conditions that are not covered by FMLA. Cumberland University has the sole discretion to grant or deny non-FMLA medical leave. In addition, employees seeking CU Medical Leave must follow the same procedural requirements, including certification of the need for medical leave and the requirement of a fitness for duty certificate, set forth in the section of this Handbook regarding Family and Medical Leave. These conditions include:

- Cases where an employee is not “eligible” under FMLA because:
 1. The individual has not completed one year of employment with Cumberland University, and/or
 2. The individual has not worked at least 1,250 hours at Cumberland University in the past 12 months.
- Cases where an eligible employee has exhausted the 12 weeks of FMLA eligibility for the past 12 months.
- Cases where the illness or disability is of a minor nature or brief duration that it does not qualify as a “serious health condition” under FMLA because it does not require:
 1. Inpatient medical care, or
 2. Continuing treatment by a health care provider

Unlike absences that are covered under FMLA, Cumberland University is not required to hold the employee’s position while on CU Medical Leave, informal and formal, and there is no requirement that a position be made available at the conclusion of the CU Medical leave. These medical absences should be managed carefully, as they may be used in considering performance actions relating to attendance concerns.

ELIGIBILITY FOR INFORMAL MEDICAL LEAVE

An informal medical leave is a medical absence up to 4 weeks. Absences due to medical reasons that are not covered under FMLA generally are of a short duration and do not require the employee to be placed on any formal medical leave. Informal medical absences may be available as needed to all full-time faculty and staff, excluding those in their orientation periods. Eligible employee must use all accrued sick and/or vacation days before going to unpaid status.

ELIGIBILITY FOR FORMAL MEDICAL LEAVE

A formal medical leave is a medical absence of more than 4 weeks and up to 12 weeks. Formal Medical Leave may be available as needed to full-time employees who have:

- Completed their initial orientation period,
- Not met FMLA eligibility requirements, or
- Exhausted their 12 weeks of FMLA eligibility for the past 12 months.

FORMAL MEDICAL LEAVE

Eligible employees must request the leave in writing to their supervisor and provide documentation of the medical condition from the physician, that:

1. verifies that the medical condition prevents the employee from working, and
2. indicates how much time will be needed to be away from work.
3. provides an estimated return to work date.

Supervisors need to forward the above mentioned letter and documentation to the Director of Human Resources for processing. When the need for leave is not foreseeable, written notice must be made as soon as practicable.

Eligible employees must use all accrued sick and/or vacation days before going to unpaid status. As long as the employee stays in a paid status using accrued sick and/or vacation days, they will continue to receive health insurance coverage under the Cumberland University health care plan at the level, and under the conditions, that such coverage would have been provided if the affected faculty or staff member had continued working. However, if any part of the Medical Leave is unpaid, the affected employee must make arrangements with the Human Resource Office to continue total coverage at their own cost.

RETURN FROM MEDICAL LEAVE

As previously indicated, unlike an employee whose absence is covered under the Family and Medical Leave Act, Cumberland University is under no obligation to return the employee to his/her prior position or an equivalent job. However, if an employee on CU Medical Leave receives and provides the University with a fitness for duty certificate, and the position the employee held prior to taking leave is available,, the University may elect to return the employee to this prior position.

PERSONAL TIME-OFF LEAVES

The Human Resource Office is a primary source for faculty and staff who have questions about the Leave Programs at Cumberland University.

HOLIDAY LEAVE

The Director of Human Resources will distribute to faculty and staff an annual (June 1 – May 31) calendar of University closings on or about June 1. This annual calendar will include the recognized paid holidays, expanded holiday leaves, and any additional planned closings.

ABSENCES DURING A HOLIDAY

If a holiday occurs while an eligible faculty or staff member is on an approved, sick leave or vacation leave, the day(s) will be viewed as holiday leave rather than sick or vacation time.

WORKING DURING AN EXPANDED HOLIDAY LEAVE

Occasionally during an authorized expanded holiday leave, faculty and/or staff members may be required to work on specific days.

When this occurs, twelve-month faculty and/or full-time salaried staff should schedule an alternate time off within three months following the holiday.

For hourly-paid staff, if the department cannot give an alternative holiday time within three (3) months, the staff member will be paid for the hours worked.

Part-time core staff, temporary and/or seasonal employees do not receive holiday pay.

VACATION LEAVE

Cumberland University provides a generous vacation program as an opportunity for faculty and staff to get away from the daily job responsibilities.

ELIGIBILITY FOR VACATION

Twelve-month faculty and full-time core staff are eligible to accrue vacation time beginning the first, full calendar month following the Orientation Period, if applicable. Eligible employees who have accrued 30 vacation days may not continue to accrue vacation time.

Nine-month faculty, part-time core staff, term, temporary and/or seasonal employees are not eligible to accrue vacation leave.

VACATION ACCRUAL RATES

Paid vacation days will be earned at the following rate, per month:

- Less than one year. New employees will not accrue vacation days until they complete the Orientation Period (90 days). Accrual will begin the month following the Orientation Period with an earned rate of 1/2-day (4 hours) per month. Employees with less than one continuous year of service will not be eligible to take a vacation leave during the first year, unless approval is given in writing by the supervisor and submitted to the Human Resource Office. In summary: Total annual accrual for the first year of continuous employment - 4 1/2 days.
- One Year - Five Years. Eligible employees with one to five years of continuous employment at Cumberland University will earn paid-time off at the rate of one day per calendar month, up to 30. In summary: Total annual accrual - 12 days.
- Six Years - Ten Years. Eligible employees with six years and up to ten years of continuous employment at Cumberland University will earn paid-time off at the rate of one and one-fourth (1 1/4) days per calendar month, up to 30. In summary: Total annual accrual - 15 days.
- Ten Years - Twenty Years. The month following the 10th anniversary of an eligible employee's date of hire, accrual will be at the rate of one and one-half (1 1/2) days per full calendar month, up to 30. In summary: Total annual accrual - 18 days.

- Twenty+ Years. Eligible employees, beginning with the month following the 20th anniversary of date of hire will earn one and three-fourths (1 3/4) days per full calendar month, up to 30. In summary: Total annual accrument - 21 days.

DOCUMENTATION

A monthly report must be submitted to the Director of Human Resources by the last working day of each month. Copies of the PTO Management Forms, staff absence and monthly report, can be obtained in the Office of Human Resources.

UPON TERMINATION OF EMPLOYMENT

Any accrued, unused vacation days, up to 30, will be paid upon termination of an eligible employee's employment at Cumberland University. The Director of Human Resource must confirm documentation of such accrual before payment can be authorized. The terminating employee will receive payment of any confirmed accrued vacation days, up to 30 days, on the next regularly scheduled payday.

PAYOUT OF VACATION TIME

In keeping with the purpose of vacation, eligible employees are not paid in lieu of using accrued vacation time, except at termination of employment.

VACATION LEAVE FOR PURPOSES OF CARING FOR A NEWBORN, ADOPTED CHILD, A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION, OR THE EMPLOYEE'S OWN SERIOUS HEALTH CONDITION

If the employee's vacation leave is taken, in whole or in part, to care for a newborn or adopted child, a family member with a serious health condition, or as a result of the employee's own serious health condition, the employee must follow the requirements set forth in the Family and Medical Leave policy. These requirements include prior notice of the need for leave, certification of a serious health condition, and the provision of a fitness for duty certificate in the event of the employee's own serious health condition. Where applicable, employees must exhaust their accrued vacation leave as part of their annual Family/Medical Leave entitlement. Employees cannot elect unpaid Family/Medical Leave when vacation and sick leave have not been fully exhausted.

SICK LEAVE

Cumberland University's Sick Leave is designed to help protect employees and their families from loss of income in times of illness. Sick leave time may be used:

- When an eligible employee is unable to work because of illness or injury
- When an eligible employee has a scheduled medical or dental procedure or checkup

ELIGIBILITY FOR SICK LEAVE

Twelve-month faculty and full-time core staff are eligible to accrue sick time beginning the first full calendar month following the successful completion of the orientation period, if applicable. Eligible employees who have accrued 60 sick days may not continue to accrue sick time. Nine-month faculty, part time core staff, term, temporary and/or seasonal employees are not eligible to accrue sick leave.

SICK TIME ACCRUAL RATE

Eligible employees of Cumberland University accrue one (1) day per calendar month, up to 60 days.

DOCUMENTATION

A monthly report must be submitted to the Director of Human Resources by the last working day of the month. Copies of the PTO Management Forms, staff absence and monthly report, can be obtained in the Office of Human Resources.

PAYOUT OF SICK LEAVE

In keeping with the purpose of sick leave, unused sick time is not paid as a terminating benefit of Cumberland University. In no case may accumulated sick leave days be converted to pay.

SICK LEAVE FOR PURPOSES OF CARING FOR A NEWBORN, ADOPTED CHILD, A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION, OR THE EMPLOYEE'S OWN SERIOUS HEALTH CONDITION

If the employee's sick leave is taken, in whole or in part, to care for a newborn or adopted child, a family member with a serious health condition, or as a result of the employee's own serious health condition, the employee must follow the requirements set forth in the Family and Medical Leave policy. These requirements include prior notice of the need for leave, certification of a serious health condition, and the provision of a fitness for duty certificate in the event of the employee's own serious health condition. Where applicable, employees must exhaust their accrued sick leave as part of their annual Family/Medical Leave entitlement. Employees cannot elect unpaid Family/Medical Leave when vacation and sick leave have not been fully exhausted.

BEREAVEMENT LEAVE

Cumberland University realizes that it is not possible to put a time limit on the grieving process for a family member. Understanding the very difficult nature of these situations, the University provides the following:

- Full-time Faculty and Staff may be absent with pay for up to five days, due to the death of a spouse, or child. Part-time Staff may be absent without pay for up to five days, due to the death of a spouse or child.

- Full-time Faculty and Staff may be absent with pay for up to three days, due to the death of a parent, grandparent, grandchild, brother, sister, mother-in-law, father-in-law, daughter-in-law or son-in-law. Part-time Staff may be absent without pay for up to three days, due to the death of a parent, grandparent, grandchild, brother, sister, mother-in-law, father-in-law, daughter-in-law or son-in-law.

OTHER TYPES OF LEAVES

The following section describes a number of leaves, including administrative leave, time off for jury duty, and military leave.

ADMINISTRATIVE LEAVE

Administrative leave is a general leave status, paid or unpaid, for a variety of reasons at the discretion of management.

A faculty or staff member may be placed on administrative leave because:

- Possible exposure to a contagious disease in the workplace
- Work area must be closed for repairs
- Of internal review or investigation
- An investigation of an external event such as a criminal arrest

JURY DUTY/TESTIFYING IN A COURT CASE

Cumberland University recognizes their employee's civic responsibility, when subpoenaed, to serve on a jury, or to testify as a witness.

By state law and Cumberland University policy, while serving as a juror in any court of the United States or Tennessee for more than three hours any given day, an employee receives his/her regular pay, less any amount received by the employee in payment for his/her service. An employee receiving a jury summons must show the summons to his/her immediate supervisor the day after its receipt.

If you are subpoenaed or otherwise required to appear as a witness or a party in a case related to your employment at Cumberland, the University will compensate the full-time employee while away from work.

If you are subpoenaed as a party or a witness in a case unrelated to your employment at Cumberland University, or in which you are an adverse party to the University, the University will give time off from work, but will not compensate for the time missed. Eligible employees may use accrued vacation leave days.

If a jury obligation is less than three (3) hours in a day, the employee will be expected to report for the rest of the work shift.

MILITARY LEAVE

Cumberland University respects the decision to serve and protect our country. If a full-time employee, faculty or staff, leaves their position in order to enter active duty in the Armed Forces, voluntary or involuntary, they are entitled to return to their civilian job after discharge or release from active duty, as long as they meet the basic eligibility criteria of the Veterans' Reemployment Rights (VRR) Act.

An employee performing military service will not earn holiday pay, accrue vacation and/or sick leave days, receive retirement contributions, or be covered under the health care or life insurance benefit programs. Tuition Remission Waiver will not be available during military leave.

SABBATICAL LEAVE

An application for a paid sabbatical leave for one semester may be made, in writing, by any nine or twelve month appointed faculty member. The granting of any such paid leave depends upon the merits of the request and budgetary considerations. The member utilizing this leave of absence must engage in an educational activity such as study, research, writing, or travel. The remuneration during such leave shall be based on the salary being paid for the period immediately preceding the leave and shall be at the rate of not more than half pay for the period of the leave. Fringe benefits, including major medical insurance, retirement, etc., will continue during the sabbatical leave period.

All applications for a sabbatical leave must include the reason for the sabbatical request, the dates involved, the benefits to the faculty member and the benefits to the University. The written request must be presented to the Provost/Vice President for Academic Affairs on or

before February 1 prior to the semester/year for which the leave is requested to begin. The Sabbatical Review Panel, which consist of the President of Faculty Senate and three faculty members appointed by him/her, will help review and prioritize the requests for sabbatical leave, submitting their report to the Provost/Vice President for Academic Affairs. The Provost/Vice President for Academic Affairs shall make a recommendation to the President, who grants all sabbatical leaves.

A faculty member who receives a sabbatical leave with pay must agree to serve at least two (2) full academic years upon his/her return. A faculty member who does not return, or remains less than two (2) full academic years upon return, must repay the leave sums granted including the University's contributions toward fringe benefits; a faculty member who returns for only one (1) full year and less than two (2) full years must repay one half of the sums granted including fringe benefits. No employment outside the University inconsistent with the goals of the sabbatical will be permitted during the sabbatical leave period. A sabbatical leave of absence shall be considered continuous service at Cumberland University and shall not interfere with any general increases in salary or opportunities for a promotion after returning to the University.