

# NEW YORK UNIVERSITY POLICY ON SERVICEMEMBER FAMILY AND MEDICAL LEAVE

## **Effective Date of Policy:**

September 1, 2008 (in effect under law: December 13, 2007)

## **Issuing Authorities:**

Michael C. Alfano, Executive Vice President; David W. McLaughlin, Provost

## **Responsible Officers:**

Katie Casey, Vice President for Human Resources; Jane Tylus, Vice Provost for Academic Affairs

## **I. PURPOSE OF POLICY**

The purpose of this policy is to implement an amendment to the Family and Medical Leave Act of 1993 (“FMLA”), which provides for eligible employees to take leave under certain circumstances related to the injury, illness, or other exigent circumstance affecting the service in the Armed Forces of a covered family member.

## **II. TO WHOM THIS POLICY APPLIES**

This policy applies to employees who have been employed by New York University at least 12 months and who have worked at least 1250 hours during the 12-month period before applying for leave. Such employees are deemed “eligible employees”.

## **III. DEFINITIONS USED IN THIS POLICY**

**Active Duty** - The term “active duty” means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

**Contingency Operation** -The term “contingency operation” means a military operation that is designated as an operation in which members of the armed forces are or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force.

**Covered Service member** -The term “covered service member” means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

**Outpatient Status** -The term “outpatient status”, with respect to a covered service member, means the status of a member of the Armed Forces assigned to:

- (A) a military medical treatment facility as an outpatient; or
- (B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**Next Of Kin** -The term "next of kin", used with respect to an individual, means the nearest blood relative of that individual.

**Serious Injury Or Illness** -The term "serious injury or illness", in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

**Registered Domestic Partner** - The term "domestic partner" means two individuals who reside together in a long-term relationship of infinite duration with an exclusive mutual commitment in which the partners agree to be jointly responsible for each other's common welfare and to share financial obligations. The partners may not be related by blood to a degree of closeness which would prohibit legal marriage in the state where they legally reside. The term "registered domestic partner" means domestic partners, one of whom is a University employee, who have submitted a completed New York University Statement of Domestic Partnership and other required information, and have received approval from the University.

**Close Family Member** – The term "close family member" means a spouse, a registered domestic partner, a son, a daughter, a mother, a father, and/or next of kin.

#### **IV. POLICY STATEMENT**

The University provides two categories of Servicemember Family Leave:

(1) up to 26 weeks of leave for family members and registered domestic partners **caring** for military veterans injured while on active duty in the United States Armed Services; and

(2) up to 12 weeks of leave to family members and registered domestic partners of covered servicemembers called up to active duty under certain circumstances defined as "**qualifying exigencies**".

##### **(1) Servicemember Family Caregiver Leave**

###### When Leave is to Care for an Injured or Ill Servicemember

Eligible employees who provide care to a close family member who is a member of the Armed Forces undergoing outpatient treatment, recuperation or therapy for a serious injury or illness incurred while in the line of duty are entitled to *up to 26 weeks of unpaid leave*.

##### **(2) Servicemember Family Exigency Leave**

When Leave is Due to a Qualifying Exigency: Eligible employees who have a close family member who is on active duty or is called up to active duty to serve in a military operation and who experiences "any qualifying exigency" are entitled to *up to 12 weeks of unpaid leave*.

#### **V. QUALIFYING EXIGENCY**

Examples of qualifying exigencies may include:

- (a) A spouse or registered domestic partner of recently deployed servicemember arranging for childcare;
- (b) A spouse or registered domestic partner of a servicemember about to go on active duty attending pre-deployment briefing and family support sessions;
- (c) Dealing with economic issues and household economics;
- (d) Dealing with financial planning that arises as a result of the deployment of an immediate family member;
- (e) Making legal or financial arrangements, or other family obligations that arise when family members are on active duty;

An employee eligible for servicemember family leave may elect, or the University may require the employee to substitute accrued paid vacation leave, personal leave, family leave, or medical or sick leave for any part of the 26-week period, except in a situation where the University would not normally provide any such paid leave.

**VI. COMBINED LEAVE TOTAL.**—During the single 12-month period described under servicemember family leave, an eligible employee shall be entitled to a combined total of 26 workweeks of leave under the original reasons for FMLA<sup>1</sup> and Servicemember Family Leave.

#### **VII. NOTICE FOR LEAVE DUE TO ACTIVE DUTY OF A FAMILY MEMBER**

In any case in which the necessity for servicemember family leave is foreseeable, the employee shall provide notice to the University as is reasonable and practical.

#### **VII. CERTIFICATION RELATED TO ACTIVE DUTY OR CALL TO ACTIVE DUTY**

The University requires requests for servicemember family leave be supported by a certification issued by the health care provider of the service member being cared for by the employee.

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<sup>1</sup> Birth of a child and in order to care for such child; placement of child for adoption or foster care, to care for covered family member with a serious health condition, or because of an employee's own serious health condition