



## **NEW JERSEY FAMILY LEAVE ACT (NJ FLA) POLICY**

Approved February 2009

The New Jersey Family Leave Act provides for a leave of absence for up to 12 weeks during a 24 month period for any of the following reasons:

- Birth of a child of the employee and in order to care for such newborn child during the first 12 months after the birth of the child,
- Placement of a child with the employee for adoption or foster care during the first 12 months after the event
- Care for a seriously ill child, parent or spouse/civil partner/same sex domestic partner (as defined under Centenary University policy & New Jersey State law), with a “serious health condition.”

Beginning July 1, 2009, under NJ FLA, an employee may apply for up to six (6) weeks of NJ FLA Insurance benefits which may pay a monetary benefit to an eligible employee. NJ FLA Insurance benefits are funded through employee payroll deductions in accordance with New Jersey State Law effective January 1, 2009. When the employee is not receiving NJ FLA Insurance benefits during an approved NJ FLA leave, s/he may use accrued vacation, personal and sick time in accordance with those Policies.

Note: The NJ FLA does not provide leave for the employee's own medical reasons. See the Federal Family & Medical Leave Act Policy regarding a leave for the employee's own medical reasons.

### **Federal Family & Medical Leave Act (FMLA) & New Jersey Family Leave Act (NJ FLA)**

In many instances the FMLA and the New Jersey FLA laws overlap. In those circumstances when the New Jersey law provides greater benefits, the University will provide the greater leave or benefits as required by New Jersey law. To the extent that both laws apply to a particular leave situation, the leave will run concurrently and be counted under both FMLA and NJ FLA.

### **Eligible Employee**

Eligible Employee means any individual who has been employed by the University in the State of New Jersey for 12 months or longer and has worked a minimum of 1,000 base hours during the immediately preceding 12 month period may be eligible for an NJ FLA leave not to exceed 12 weeks in any 24 month period.

### **Definitions**

#### **“Child”**

Under NJ FLA, “child” for the purpose of determining whether an employee is eligible for family leave because of the employee's parental status means a child to whom the employee is a biological parent, adoptive parent, foster parent, step-parent, legal guardian or has a “parent-child relationship” with a child as defined by law, or has sole or joint legal or physical custody, care, guardianship or visitation with a child.



**“Health Care Provider”**

Health Care Provider means any person licensed under federal, state or local law or the laws of a foreign nation, to provide health care services; or any other person who has been authorized to provide health care by a licensed health care provider.

**“Serious Health Condition”**

Serious health condition means an illness, injury, impairment, or physical or mental condition which requires inpatient care in a medical care facility or continuing medical treatment or continuing supervision by a health care provider for a condition that prevents the qualified family member from participating in school, employment duties or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive 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 also meet the definition of continuing treatment.

**Employee Responsibilities**

Employees must provide 30 days advance notice of the need to request NJ FLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with their department’s normal call-in procedures on a daily basis or until the immediate supervisor/designee establishes a more relaxed call-in procedure during the NJ FLA leave, if applicable. Employees must provide sufficient information for the University to determine if the leave qualifies under NJ FLA as well as the anticipated timing and duration of the leave. Sufficient information may include: the family member is unable to perform daily activities, the need for hospitalization of a family member or continuing treatment by a health care provider of a family member. Employees also must inform the University if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees are required to provide medical certification and periodic recertification supporting the need for leave.

**Procedure to Request NJ FLA Leave**

To request an NJ FLA leave, the employee needs to submit the request in writing, specifying:

1. The specific reason for the leave, including identification of any family member who has a “serious health condition” and a brief description of the illness
2. The period of time requested for the leave, if known.

This information must be submitted to the employee’s immediate supervisor/designee and to the Human Resources Department. In emergency situations where written notice is impractical, the employee may provide the employee’s immediate supervisor/designee and the Human Resources Department with spoken notice.

**Certification of Health Care Provider**

Upon request by the Human Resources Department, the employee must provide a medical certification from the health care provider to support the need for family leave which must include the date that the serious health condition began, the probable duration of the condition, the medical facts within the health care provider’s knowledge regarding the condition. Where the certification is for the birth or placement of the child, the certification need only state the date of birth or date of placement, as applicable.

An employee who fails to provide the immediate supervisor/designee and the Human Resources Department with the signed certification, may be denied the requested leave.



In the event that an employee intentionally misrepresents the reason for the requested NJ FLA leave, the University may subject such employee to reasonable disciplinary measures, depending on the circumstances.

### **Verification**

In the event that the University has reason to validate the certification in support of a leave request, the University may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the University, but not employed on a regular basis by the University. If the second opinion differs from the original certification, the University may again require, at its expense, the opinion of a third health care provider designated or approved jointly by the University and the employee. The opinion of the third health care provider is final and binding on the University and the employee.

### **Centenary University Responsibilities**

The University shall determine whether the requested leave qualifies as NJ FLA after acquiring knowledge that the leave is being taken for an NJ FLA reason.

The University will designate an employee's absence as FMLA or NJ FLA even if the employee does not request leave under FMLA or NJ FLA, if the absence qualifies for such leave.

### **Leave on Reduced Schedule or Intermittent Leave**

Eligible employees may take NJ FLA leave intermittently or on a reduced leave schedule when medically necessary in the case of a child, spouse or parent who has a serious health condition. Employees taking leave intermittently or on a reduced leave schedule must make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the University. The employee must provide the University with prior notice of the care, medical treatment or continuing supervision by a health care provider that is necessary due to a serious health condition of an eligible family member in a manner which is reasonable and practicable.

### **Return from Leave**

Upon return to work from NJ FLA, the employee is entitled to be returned to the position that the employee held when the leave commenced. If that position has been filled, the employee shall be reinstated to an equivalent position of like status, employment benefits, pay and other terms and conditions of employment. Unless the employee's position has been eliminated, for example, as part of a department restructuring resulting in layoff or reduction in force, or the employee would otherwise have been terminated had s/he remained actively employed, all terms and conditions of employment remain intact. An employee may return to work from NJ FLA prior to their anticipated return to work date, if the employee provides notice to their immediate supervisor/designee and to the Human Resources Department at least two business days during which time the University and the Human Resources Department are in operation.

### **Exemptions to This Policy**

The University may deny an NJ FLA leave to an employee if:

- The employee's base salary ranks within the highest paid five per cent or his /her base salary is one of the seven highest at Centenary University;
- The University can demonstrate that the granting of the leave would cause a substantial and grievous economic injury to University operations; and
- The University notifies the employee of its intent to deny the leave when such determination is made.



**Accrued Time/Retirement Benefits/ Medical Coverage During NJ FLA Leave**

While on leave under this Policy, if the employee is on the Centenary University payroll receiving vacation, personal and/or sick pay (in accordance with those Policies), then vacation, personal and sick time accruals, retirement contributions, premiums for medical benefits, as applicable, will continue in the same manner as when the employee is on the Centenary University payroll and not on NJ FLA leave. Once an employee is no longer paid through the Centenary University payroll, the employee is ineligible to accrue any of the above benefits. However, medical benefit coverage may continue, as described below.

When an employee is no longer paid through the Centenary University payroll while on leave under this Policy, or when the employee is receiving NJ FLA Insurance Benefits, if the employee wishes to continue medical coverage, the employee must pay for his/her share of medical premium(s) by sending a check or money order made payable to Centenary University, directly to the Human Resources Department. In the event the employee fails to pay his/her share of the health insurance premium(s), as applicable, that may result in loss of coverage. If the employee fails to timely pay the employee's share of health insurance premium(s), the employee will have a grace period of 30 days. At least 15 days before the expiration of the grace period, the Human Resources Department will mail a written notice to the employee addressed to the employee's last address on record in the Human Resources Department informing the employee of the date the insurance will expire if the employee's share of the premium is not paid within the 30 day grace period.