

FAMILY LEAVE GUIDELINES
FOR EMPLOYEES OF THE UNIVERSITY OF HAWAII

1. Purpose

To promulgate guidelines for the implementation of Act 328, SLH 1991, Family Leave, which took effect on January 1, 1992. These interim guidelines are effective until administrative rules and/or memoranda of agreements are executed.

2. Definition of Terms

- A. Child: An individual who is a biological, step, adopted, legal ward, or foster son or daughter of an employee.
- B. Employee: A Civil Service or BOR employees who has worked at least 50% full-time equivalency (FTE) for a minimum of six (6) consecutive months.
- C. Employer: University of Hawaii, State of Hawaii
- D. Health Care Provider: A physician as defined under Section 386-1, HRS
- E. Parent: A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, a grandparent, or a grandparent-in-law.
- F. Serious Health Condition: A physical or mental condition that warrants the participation of the employee to provide care during the period of treatment or supervision by a health care provider, and:
 - 1. Involves inpatient care in a hospital, hospice, or residential health care facility; or
 - 2. Requires continuing treatment or continuing supervision by a health care provider.

3. Administration of Family Leave

- A. The Family Leave Act provides that all employees are entitled to a total of four weeks of family leave during any calendar year for the following reasons:
 - 1. The birth of an employee's child,
 - 2. The adoption of a child by an employee,
 - 3. The care of an employee's child, spouse, or parent with a serious health condition.
- B. Employee eligibility and entitlement:
 - 1. Any employee who has worked at least six (6) consecutive months for the State of Hawaii and has at least 50% full-time equivalency (FTE).

Emergency/casual hires are not eligible. Temporary employees are eligible only if they have been employed with the State or counties at .50 FTE or more for at least six (6) consecutive months. The family leave period should not extend beyond an employee's temporary appointment expiration date.

Lecturers shall be eligible provided they have been employed at least 50% full-time equivalency (FTE) for a minimum of six (6) consecutive months.

2. Full-time employees shall be entitled to 160 hours of family leave. Eligible part-time employees shall be allowed family leave of an equivalent amount based on their FTE.
- C. Family leave shall consist of unpaid or paid leave or a combination of both. An employee may elect to substitute any accumulated paid leaves (vacation or sick) for any part of the four-week family leave period. The minimum amount of paid leave that an employee may elect to substitute shall be no less than one (1) hour.
 - D. Family leave for all eligible employees shall be monitored and administered on a calendar year (January 1 through December 31) basis.
 - E. An employee should provide the supervisor with prior notice of the expected birth or adoption or serious health condition in the manner determined by the University/designee as soon as possible or if practicable, as soon thereafter as circumstances permit.
 - F. Under Act 328, SLH 1991, family leave for any of the three reasons (childbirth, adoption, and serious health condition), may be taken intermittently for a total of four weeks during any calendar year. An employee's request for additional leave in excess of the four weeks required under the family leave law shall be administered in accordance with applicable leave provisions contained in applicable collective bargaining agreements, administrative rules, or executive orders.
 - G. Under Act 328, SLH 1991, family leave shall not be cumulative.
 - H. Birth/Adoption of a Child. To ensure compliance with Act 328 – Family Leave, each department may require that an application and/or claim for family leave be supported by certification of the birth of the child or expected date of birth issued by a health care provider, the family court, or certification of the placement of the child for adoption with the employee, issued by a recognized adoption agency, the attorney handling the adoption, or the individual designated by the birth parent to select and approve the adoptive family.
 - I. Care for Child, Spouse or Parent with Serious Health Condition. In cases where family leave is requested to care for an employee's child, spouse or parent with a serious health condition and the employee's accrued sick leave of five or more days is used to substitute for any part of the family leave period, the employee shall provide

(1) medical certification containing the facts regarding the serious health condition and its probable duration, and (2) evidence of family relationship.

J. Employees shall be covered by the following employment and benefits protection:

1. An employee returning to work after family leave shall be restored to the position of employment last held by the employee when the leave commenced, or restored to an equivalent employment benefits, pay, and other terms and conditions of employment.
2. An employee is not entitled to reinstatement in the former or equivalent position if during the leave period, the employer experienced a layoff or workforce reduction and the employee would have lost a position had the employee not been on family leave. The employee retains all rights, including seniority rights pursuant to layoff procedures, if layoff procedures are applicable to such employee.
3. An employee shall not lose any employment benefit accrued before the date of leave commencement, except for any paid leave that may have been used for family leave.
4. The accrual of any seniority or employment benefits while on family leaver would be administered in the same manner as any other leave without pay (LWOP) and/or paid leave situation.

4. Prohibited Acts

- A. It shall be unlawful for any employer to interfere with, restrain, or deny the exercise or the attempt to exercise any right provided for under Act 328, SLH 1991.
- B. It shall be unlawful for any employer to discharge or discriminate against any individual for opposing any practice made unlawful by Act 328, SLH 1991.
- C. It shall be unlawful for any person to discharge or discriminate against any individual because the individual has:

1. Filed any charge, or instituted or caused to be instituted any proceeding, under or related to Act 328, SLH 1991;
2. Given or is about to give any information in connection with any inquiry or proceeding relating to any right as provided in Act 328, SLH 1991;
3. Testified or is about to testify in any inquiry or proceeding relating to any right as provided in Act 328, SLH 1991.

5. Any question of conflict concerning the interpretation and application of these guidelines affecting civil service employees shall be resolved by the Directory of the State Department of Personnel Services. Question or conflict concerning BOR appointees shall be resolved by the Director of Personnel, University of Hawaii.

APPLICATION FOR FAMILY LEAVE

(To be retained by the division)

Employee Name: _____

Position Title: _____

Bargaining Unit: _____

Division/Branch/Unit: _____

1. Specify the reason for the family leave:

Birth of an employee's child

Adoption of a child by an employee

Care of an employee's child, spouse, or parent with a serious health condition

2. If family leave is being taken to care for your child, spouse or parent with a serious health condition, please provide the following information:

A. Family relationship to the person being cared for:

B. The serious health condition must be an acute, traumatic, or life-threatening illness, injury, or impairment and which involves treatment or supervision by a health care provider. List name of health care provider. (If not known at this time, indicate "not known" and name of health care provider may be submitted at a later date.)

C. Probable duration of the serious health condition if known:

3. Period of leave (dates) and total number of working hours being utilized for family leave:

The information contained in this form may be subject to verification by the employer.

I certify that the above information is true and accurate.

Employee Signature

Date