



Trinity Health Human Resources Ministry-Wide Policy No. 1025

EFFECTIVE DATE: 9/1/22

POLICY TITLE:

*Family and Medical Leave Act (FMLA) for
Qualifying Military Exigency and
Care for Covered Servicemember Leave*

*To be reviewed every three years by:
Executive Leadership Team*

REVIEW BY: 7/1/25

PURPOSE

This Policy is intended to balance the demands of providing excellent service in the workplace with personal life needs by providing eligible Employees with leave in accordance with the Family Medical Leave Act ("FMLA"). The purpose of this Policy is for Trinity Health Corporation and its Health Ministries and Subsidiaries (collectively referred to as "Trinity Health") to provide Employees with a general understanding of their rights under the FMLA when taking leave for a Qualifying Exigency resulting from a foreign military deployment or to care for a Covered Servicemember or Veteran.

Trinity Health is committed to administering this Policy in accordance with its Mission, Core Values and commitment to Diversity, Equity and Inclusion.

POLICY

It is the Policy of the Employer to provide Employees leaves of absence for military related reasons in accordance with the FMLA. This Policy applies to all Employees who meet the eligibility requirements of the FMLA as set forth in the statute and its regulations.

This Policy will be interpreted to comply with and be consistent with the requirements of the FMLA and is not intended to create rights different from those provided by the FMLA. Leave benefits in addition to FMLA leave may vary based upon state or local leave laws.

Except as context indicates otherwise, references in this Policy related to decisions and communications made by the Employer refer to the Employer or its designee.

1. Eligibility

To be eligible for FMLA leave, an Employee must:

- a. Have worked at Trinity Health Corporation (“Trinity Health”), a Health Ministry and/or a Subsidiary for 12 months, and
- b. Have worked at least 1,250 hours at Trinity Health, a Health Ministry and/or a Subsidiary in the 12 months immediately preceding FMLA leave prior to taking FMLA leave, and
- c. Be employed at a worksite where 50 or more Employees are employed by the Employer within 75 miles of that worksite.

In general, previous periods of employment with Trinity Health, the Health Ministries and Subsidiaries will be counted to meet the 12-month service requirement. However, employment periods prior to breaks in employment of seven (7) years or more are not counted unless such breaks are due to qualifying leave as defined under the FMLA and/or under The Uniformed Services Employment and Reemployment Rights Act (“USERRA”). Employees who return to work from Service in the Uniformed Services within the time during which they have a right to reinstatement of employment and protected benefits under USERRA are credited for the time that they are on a leave of absence to perform Service in the Uniformed Service for purposes of meeting the 1,250 hours of service. Please see Trinity Health Human Resources Ministry-Wide Policy No. 1026 (Military Service Leave) for additional information regarding leave of absence to perform Service in the Uniformed Services.

2. Confidentiality

A request for leave by an Employee who has requested confidentiality as to the need for leave under this Policy is to be respected, kept confidential, and restricted to those with a business need to know. In other cases, confidentiality regarding an Employee’s request for a leave under this Policy is to be observed by all managers and supervisors insofar as possible. In cases where Employees have communicated to co-workers their need for a leave, there should be no expectation of confidentiality.

3. FMLA Leave for a Qualifying Exigency (Qualifying Exigency Leave)

An eligible Employee may take FMLA leave for a Qualifying Exigency while the Employee’s Spouse, Child or Parent who is a member of the Armed Forces (“Military Member”) is on Covered Active Duty, Call to Covered Active Duty Status or has been notified of an impending call or order to Covered Active Duty. FMLA leave for this purpose is called “Qualifying Exigency Leave.”

a. Definitions. The following terms apply to Qualifying Exigency Leave:

- i. “Covered Active Duty” or “Call to Covered Active Duty Status” means:

- I. In the case of members of the Regular Armed Forces, duty during Deployment to a Foreign Country.
 - II. In the case of members of the Reserve Components of the Armed Forces, duty during Deployment to a Foreign Country under a Federal call or order to active duty in a contingency operation. State calls to active duty are not covered unless under order of the President of the United States according to federal law in support of certain contingency operations.
- ii. “Deployment to a Foreign Country” or “Deployment” means deployment to areas outside the United States, the District of Columbia, or any Territory or possession of the United States, including international waters.
- b. Reasons for FMLA Qualifying Exigency Leave.** If an eligible Employee’s Spouse, Child or Parent is a Military Member who is on Covered Active Duty, call to Covered Active Duty status or has been notified of an impending call or order to Covered Active Duty, the Employee may take FMLA leave for the following “Qualifying Exigencies”:
- i. Short-notice Deployment activities: an eligible Employee may take leave for a up to seven (7) calendar days from the day the Military Member receives notice of an impending call or order to Covered Active Duty to attend to any issues arising from the Military Member’s “short notice Deployment” (i.e., Deployment within seven (7) or fewer calendar days of notice).
 - ii. Military events and related activities: an eligible Employee may take leave to attend military events and related activities such as official ceremonies, programs, events sponsored by the military that are related to the Covered Active Duty or Call to Covered Active Duty Status and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the Military Member’s Covered Active Duty or Call to Covered Active Duty.
 - iii. Childcare and school activities: an eligible Employee may take leave to:
 - I. Arrange alternative childcare for a Child of the Military Member when the Military Member’s Covered Active Duty or Call to Covered Active Duty Status necessitates a change in the existing childcare arrangement;
 - II. Provide childcare for a Child of the Military Member on a non-routine, urgent, immediate need basis (but not every day) when the need to provide the care arises from the Military Member’s Covered Active Duty or Call to Covered Active Duty Status;
 - III. Enroll in or transfer to a new school or day care facility a Child of the Military Member when enrollment or transfer is necessitated by the Military Member’s Covered Active Duty or Call to Covered Active Duty Status; and

IV. Attend meetings with school or daycare facility staff (such as parent-teacher conferences and meetings with school counselors) for a Child of the Military Member when the meetings are necessary due to circumstances arising from the Military Member's Covered Active Duty or Call to Covered Active Duty Status.

The Employee does not need to be related to the Military Member's Child for whom the Employee performs these childcare and school activities but the Military Member must be the Parent, Spouse or Child of the Employee and the Child for whom the activities are performed must be the Child of the Military Member and under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability at the time the FMLA leave is to begin.

- iv. Financial and legal arrangements: an eligible Employee may take leave to:
 - I. Make or update financial or legal arrangements to address a Military Member's absence while on Covered Active Duty or Call to Covered Active Duty Status, such as preparing and executing powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System, obtaining military identification cards and preparing a will or living trust; and
 - II. Act as the Military Member's representative before governmental agencies to obtain, arrange, or appeal military service benefits while the Military Member is on Covered Active Duty or Call to Covered Active Duty Status and for 90 days following termination of the Military Member's active duty status.
- v. Counseling: an eligible Employee may take leave to attend counseling that is provided by someone other than a healthcare provider for the Employee, Military Member or Child of the Military Member who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability at the time the FMLA leave is to begin for counseling needs arising from Military Member's Covered Active Duty or Call to Covered Active Duty Status.
- vi. Parental care: an eligible Employee may take leave to perform certain activities due to the Military Member's Covered Active Duty or Call to Covered Active Duty Status related to the care of the Military Member's Parent who is incapable of self-care, such as:
 - I. To arrange for alternative parental care when the Military Member's Covered Active Duty or Call to Covered Active Duty Status necessitates a change in the existing care arrangement for the Parent;

- II. To provide parental care on a non-routine, urgent, immediate need basis (but not every day) when the need to provide such care arises from the Military member's Covered Active Duty or Call to Covered Active Duty Status;
- III. To admit or transfer the Military Member's Parent to a care facility when the need arises due to the Military Member's Covered Active Duty or Call to Covered Active Duty Status; and
- IV. To attend certain meetings with care facility staff (such as meetings with hospice or social service providers) for the Parent of the Military Member when the meetings are necessary due to circumstances arising from the Military Member's Covered Active Duty or Call to Covered Active Duty Status but not for routine or regular meetings.

The Employee does not need to be related to the Military Member's Parent for whom the Employee performs these activities but the Military Member must be the Parent, Spouse or Child of the Employee and the Parent for whom the activities are performed must be the Parent of the Military Member.

- vii. Post-deployment activities: an eligible Employee may take leave to attend to certain post-deployment activities within 90 days of the end of a Military Member's Covered Active Duty status, including to attend arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military or to address issues arising from a Military Member's death while on Covered Active Duty status, including meeting and recovering the body of the Military Member, making funeral arrangements and attending the funeral.
 - viii. Rest and recuperation: an eligible Employee may take up to 15 days of FMLA leave to spend time with a Military Member who is on short-term, temporary "Rest and Recuperation" leave during a period of Deployment; the leave must be taken while the Military Member is on "Rest and Recuperation" leave.
 - ix. Additional activities: an eligible Employee may take leave to address any other events that arise from a Military Member's Covered Active Duty or Call to Covered Active Duty Status that the Employer and the Employee agree are Qualifying Exigencies; the Employer and the Employee will agree upon the timing and duration of such leave.
- c. **Amount of FMLA Qualifying Exigency Leave.** Eligible Employees can take up to 12 weeks of FMLA leave in a 12-month period. The Employer designates the 12-month period as a "rolling" 12-month period measured backward from the date an Employee takes FMLA leave for any reason other than Military Caregiver Leave, described below.

4. FMLA Leave to Care for a Covered Servicemember with a Serious Illness or Injury (Military Caregiver Leave)

An eligible Employee who is the Spouse, Child, Parent or Next of Kin of a Covered Servicemember with a Serious Illness or Injury may take FMLA leave to care for the Covered Servicemember. FMLA leave for this purpose is called “Military Caregiver Leave.”

a. Definitions. The following terms apply to Military Caregiver Leave:

i. “Covered Servicemember” means:

I. A current member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, or is in outpatient status, or is on the temporary disability retired list for a Serious Illness or Injury. “Outpatient status” with respect to a Covered Servicemember who is a current member of the Armed Forces means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients; or

II. A Covered Veteran. A “Covered Veteran” means a person who was a member of the Armed Forces who is receiving medical treatment, recuperation, or therapy for a Serious Illness or Injury and who was discharged or released under conditions other than dishonorable at any time during the five (5)-year period prior to the first date the eligible Employee takes FMLA leave to care for the person. Eligible Employees must begin Military Caregiver Leave to care for a Covered Veteran within five (5) years of the Covered Veteran’s active duty service, but the single 12-month period described in Section 4.C., below, can extend beyond the five (5)-year period.

ii. “Next of Kin” of a Covered Servicemember is the nearest blood relative other than Covered Servicemember’s Spouse, Parent, or Child in the following order of priority: a blood relative who has legal custody of the Covered Servicemember; brothers and sisters; grandparents; aunts and uncles; and first cousins, unless the Covered Servicemember has specifically designated in writing a blood relative as Employee’s Next of Kin for FMLA purposes. If a designation is made, only that designated person is the Covered Servicemember’s Next of Kin that may take Military Caregiver Leave to provide care to the Covered Servicemember. If no designation is made and there are multiple family members with similar levels of relationship to the Covered Servicemember, all such family members are considered to be Next of Kin and may take Military Caregiver Leave to provide care to the Covered Servicemember.

iii. “Serious Illness or Injury” means:

- I. In the case of a current member of the Armed Forces, an illness or injury that was incurred by a Covered Servicemember while in the line of duty on active duty in the Armed Forces or that existed before the beginning of the Covered Servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the Covered Servicemember to be medically unfit to perform the duties of Employee's office, grade, rank, or rating; and
 - II. In the case of a Covered Veteran, an injury or illness that was incurred by the Covered Veteran in the line of duty on active duty in the Armed Forces (or existed before the beginning of the Covered Veteran's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the Covered Veteran became a veteran, and is:
 - (i) A continuation of a serious injury or illness that was incurred or aggravated when the Covered Veteran was a member of the Armed Forces and rendered the Covered Veteran unable to perform the duties of the Covered Veteran's office, grade, rank, or rating; or
 - (ii) A physical or mental condition for which the Covered Veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition resulting in the need for Military Caregiver Leave; or
 - (iii) A physical or mental condition that substantially impairs the Covered Veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 - (iv) An injury, including a psychological injury, on the basis of which the Covered Veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- b. Reasons for FMLA Military Caregiver Leave.** An eligible Employee who is the Spouse, Child, Parent or Next of Kin of a Covered Servicemember with a Serious Illness or Injury may take Military Caregiver Leave to care for the Covered Servicemember.
- c. Amount of FMLA Military Caregiver Leave.** Eligible Employees may take up to 26 weeks of Military Caregiver Leave during a single 12-month period to care for a Covered Servicemember who is the Employee's Spouse, Child, Parent, or Next of Kin with a Serious Illness or Injury. The single 12-month period for purposes of Military Caregiver Leave begins on the first day an eligible Employee takes FMLA leave to care for a Covered Servicemember and ends 12 months after that date. If an eligible

Employee does not take the full 26 weeks of Military Caregiver Leave during a single 12-month period, the Employee forfeits the remaining amount of Military Caregiver Leave.

The Employer provides leave on a per-Covered Servicemember, per Serious Illness or Injury basis. As a result, Military Caregiver Leave is available to an eligible Employee once per Covered Servicemember, per Serious Illness or Injury. However, an eligible Employee may take more than one period of Military Caregiver Leave if the leave is used to care for different Covered Servicemembers or to care for the same Covered Servicemember who has a different subsequent Serious Illness or Injury, except that no more than 26 weeks of Military Caregiver leave can be taken within any single 12-month period. Thus, an Eligible Employee may take Military Caregiver Leave to care for more than one Covered Servicemember with a Serious Illness or Injury at the same time, but the Employee is limited to a total of 26 weeks of Military Caregiver Leave in any single 12-month period. If an Employee takes Military Caregiver Leave to care for more than one Covered Servicemember or for a different subsequent Serious Illness or Injury of the same Covered Servicemember and the single 12-month periods overlap, the Employee is limited to 26 weeks of Military Caregiver Leave in each single 12-month period. If a Covered Servicemember's Serious Illness or Injury extends beyond an Employee's 26 weeks of Military Caregiver Leave within the single 12-month period, the Employee cannot take additional FMLA leave to care for the Covered Servicemember. However, when eligible, an Eligible Employee may take FMLA leave to care for a family member with a serious health condition. Please see Human Resources Ministry-Wide Policy No. 1024 (FMLA for Non-Military Leave) for additional information.

An Eligible Employee is limited to a combined total of 26 weeks of leave for any FMLA-qualifying reason during a single 12-month period. Up to 12 of the 26 weeks may be taken for FMLA-qualifying reasons other than Military Caregiver Leave. For example, an Employee can take 12 weeks of FMLA leave for the birth of a child and 14 weeks of FMLA Military Caregiver Leave to care for a Covered Servicemember with a Serious Illness or Injury during the same 12-month period.

If two Spouses work for Trinity Health or the same or a different Health Ministry and/or Subsidiary and take FMLA Military Caregiver Leave to care for a Covered Servicemember with a Serious Illness or Injury, they are limited to a combined total of 26 weeks of leave during the single 12-month period for all FMLA-qualifying reasons. They remain subject to the 12 week limit for the portion of FMLA leave that can be taken to care for a newborn child or seriously ill parent.

5. Requesting FMLA Leave

To request an FMLA leave of absence, an Employee should contact Employee's manager or supervisor and/or the FMLA leave administrator.

Employee Notice Requirements

Except in the case of short notice Deployment, an Employee who requests FMLA leave must give at least 30 days' advance notice to Employee's manager or supervisor and/or the FMLA leave administrator and follow the established department protocol for requesting time off. An Employee who requests Qualifying Exigency Leave due to a short notice Deployment must do so as soon as possible after receipt of the Deployment notice. If an Employee fails to provide such notice, the Employee can be required to explain why such notice was not provided. An Employee who cannot provide at least 30 days' advance notice of Employee's need for leave because of a change in circumstances or a medical emergency, must notify Employee's manager or supervisor and/or the FMLA leave administrator of the need for leave as soon as practicable. Failure to provide appropriate notice may result in a delay or denial of FMLA leave.

a. Certification for Qualifying Exigency Leave. Along with the notice described above, an eligible Employee who requests Qualifying Exigency Leave must provide the Employer with the following:

- i. A copy of Military Member's active duty military orders or other documentation provided by the military;
- ii. A signed statement or description of the facts regarding and supporting the Qualifying Exigency or Qualifying Exigencies for which the Qualifying Exigency Leave is requested, including copies of military meeting announcements, confirmations of appointments with school officials, or copies of bills for financial or legal services;
- iii. The approximate start date of the leave;
- iv. If leave is requested on a reduced schedule or intermittent basis, an estimate of the frequency and duration of Qualifying Exigency or Qualifying Exigencies;
- v. If applicable, the duration of the leave;
- vi. If the Qualifying Exigency or Qualifying Exigencies involve meeting with a third party, a brief description of the purpose of the meeting and contact information for that party, such as name, title, organization, address, telephone number, fax number, and email address; and
- vii. If the Qualifying Exigency is rest and recuperation leave, a copy of Military Member's rest and recuperation orders or other documentation issued by the military indicating that Military Member has been granted such leave.

The Employer does not request additional information from Employees who submit complete and sufficient certifications. If leave involves a meeting with a third party, the Employer may contact the third party to verify the schedule and nature of the meeting without the Employee's permission. The Employer also may contact an appropriate unit of the federal Department of Defense to verify that a Military Member

is on Covered Active Duty or call to Covered Active Duty status without the Employee's permission. Failure by an Employee to provide the Employer with complete and sufficient information related to a Qualifying Exigency Leave request may result in delay or denial of the leave or allocation of leave based on the information provided. If an Employee never produces the certification or documentation requested, the leave may not be considered FMLA leave.

- b. Certification for Military Caregiver Leave.** Employees who request Military Caregiver Leave to care for a Covered Servicemember with a Serious Illness or Injury must provide the Employer a certification completed by an authorized health care provider or a copy of an Invitational Travel Order ("ITO") or Invitational Travel Authorization ("ITA") issued to any member of the Covered Servicemember's family. Authorized health care providers are: United States Department of Veterans Affairs ("VA") health care providers, the United States Department of Defense ("DOD") health care providers, DOD TRICARE network authorized private health care providers, DOD non-network TRICARE authorized private health care providers, and non-military-affiliated health care providers. The Employer may request a second or third opinion of a Covered Servicemember's Serious Illness or Injury only when a certification is provided by a non-military-affiliated health care provider.

The Employer will accept an ITO or ITA as sufficient certification regardless of whether the eligible Employee is named in the ITO or ITA. However, an Employee must provide the Employer confirmation of Employee's family relationship to the Covered Servicemember when the Employee certifies the need for Military Caregiver Leave with an ITO or ITA. However, the Employer may request authentication and clarification of an ITO or ITA. In addition, an Employee who provides an ITO or ITA to support an intermittent Military Caregiver Leave request does not need to provide any additional or separate certification that Military Caregiver Leave taken on an intermittent basis is medically necessary. The Employer does not require second or third opinions or recertification if Military Caregiver Leave is authorized under an ITO or ITA. However, if an Employee needs leave beyond the expiration date that is specified in an ITO or ITA, the Employer may request that the Employee have an authorized health care provider complete a certification form as requisite certification for the remainder of Employee's necessary Military Caregiver Leave period.

The Employer can request that authorized health care providers supply the following information:

- i. Their contact information (name, address, telephone number, fax number, and email address), type of medical practice, medical specialty, and whether they are authorized to complete FMLA leave certifications;
- ii. Whether the Covered Servicemember's injury or illness was incurred in the line of duty on active duty or, if not, whether the injury or illness existed before the beginning of the Covered Servicemember's active duty and was aggravated by service in the line of duty on active duty;

- iii. The approximate date on which Servicemember's injury or illness commenced or was aggravated, and its probable duration;
- iv. A description of appropriate medical facts regarding the Covered Servicemember's health condition that are sufficient to support the eligible Employee's need for Military Caregiver Leave; such medical facts must include whether the injury or illness is a Serious Illness or Injury (i.e., whether it renders the Covered Servicemember medically unfit to perform duties of the Covered Servicemember's office, grade, rank, or rating) and whether the Covered Servicemember is receiving medical treatment, recuperation, or therapy;
- v. For a Covered Veteran, a description of: appropriate medical facts regarding the Covered Veteran's health condition that are sufficient to support the Employee's need for Military Caregiver Leave (such medical facts must include whether the injury or illness is a continuation of an injury or illness that was incurred or aggravated when the Covered Veteran was a member of the Armed Forces and that rendered the Covered Veteran medically unfit to perform duties of the Covered Veteran's office, grade, rank, or rating); whether the Covered Veteran is receiving medical treatment, recuperation, or therapy for an illness or injury for which the Covered Veteran has received a federal Department of Veterans Affairs Service-Related Disability Rating of 50 percent or higher; whether the Covered Veteran is receiving medical treatment, recuperation, or therapy for an illness or injury that substantially impairs the Covered Veteran's ability to secure or follow gainful occupation; or certification of enrollment in the federal Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers;
- vi. Information that establishes that the Covered Servicemember is in need of care;
- vii. Whether the Covered Servicemember will need care for a single continuous period of time (including any time for treatment and recovery) and an estimate of the beginning and ending dates for this period of time; and
- viii. When an Employee requests Military Caregiver Leave on a reduced schedule or intermittent basis to care for a Covered Servicemember, whether there is medical necessity for such periodic care and an estimate of the treatment schedule and frequency of appointments.

In addition to requesting certification information from authorized health care providers, the Employer may request certification information from an Employee or Covered Servicemember, including:

- ix. The name and address of the Employer of the Eligible Employee requesting the Military Caregiver Leave and the name of the Covered Servicemember for whom the Employee is requesting the Military Caregiver Leave;

- x. The relationship of the Employee to the Covered Servicemember for whom the Employee is requesting Military Caregiver Leave;
- xi. Whether the Covered Servicemember is a current member of the Regular Armed Forces or Reserve Components of the Armed Force and the Covered Servicemember's military branch, rank, and current unit assignment;
- xii. Whether the Covered Servicemember is assigned to a military medical facility as an outpatient or to a unit to provide command and control of members of the Regular Armed Forces or Reserve Components of the Armed Force who are receiving medical care as outpatients (such as a medical hold or warrior transition unit) and the name of the medical treatment facility or unit;
- xiii. Whether the Covered Servicemembers is on the temporary disability retired list;
- xiv. Whether the Covered Servicemember is a veteran, the date of the Covered Servicemember's separation from military service, and whether the separation was other than dishonorable; an Employee can meet this certification requirement by providing a copy of the veteran's Certificate of Release or Discharge from Active Duty issued by the federal DOD or other proof of veteran status); and
- xv. A description of care to be provided to the Covered Servicemember and an estimate of the amount of Military Caregiver Leave needed to provide such care.

Whenever certification is requested, an Employee must provide the Employer with a complete and sufficient certification. The Employer may request clarification or authentication of the information in a certification. The Employer generally does not require second or third opinions or recertification for Military Caregiver Leave to care for a Covered Servicemember with a Serious Illness or Injury; however, the Employer may require second or third opinions when a certification has been completed by an authorized health care provider not affiliated with the federal DOD or Department of Veterans Affairs. Failure by an Employee to comply with providing the Employer a complete and sufficient certification may result in delay or denial of the Military Caregiver Leave or allocation of Military Caregiver Leave based the information provided.

Employer Notice Requirements

Please see Trinity Health Human Resources Ministry-Wide Policy No. 1024 (FMLA for Non-Military Leave) for the Employer Notice Requirements.

6. FMLA Military Leave Processing (Including FMLA Leave Determination, Scheduling FMLA Leave, Requirements During FMLA Leave and Return From FMLA Leave) and Coordination of FMLA Leaves of Absence Pay with Holiday Benefits, Pay Increases, Benefits, and Plan Loans and Garnishments

Please see Trinity Health Human Resources Ministry-Wide Policy No. 1024 (FMLA for Non-Military Leave) for the provisions regarding FMLA leave determinations, scheduling FMLA leave, requirements during FMLA leave and return from FMLA leave and the coordination of FMLA leaves of absence with holidays, pay increases, benefits, plan loans and garnishments. Any reference to the maximum FMLA leave period in these sections of Trinity Health Human Resources Ministry-Wide Policy No. 1024 (FMLA for Non-Military Leave) is up to 26 weeks for Military Caregiver Leave instead of up to 12 weeks (applicable to all other types of FMLA leave).

7. Pay During FMLA Leave

FMLA leave is an unpaid leave. However, Employees are required to use all but 40 hours of their available paid time off (“PTO”) while on FMLA leave. In other words, an Employee on an approved, non-intermittent or continuous FMLA leave of absence may elect to retain up to 40 hours in Employee’s PTO bank.¹ Please see Trinity Health Human Resources Ministry-Wide Policy No. 1019 (Paid Time Off (PTO) – Program A) or Trinity Health Human Resources Ministry-Wide Policy No. 1020 (Paid Time Off (PTO) – Programs B and C, System Office Directors, and System Office Vice Presidents) for additional information regarding the use of PTO.

PTO accrual, if any, during FMLA leave will be pursuant to Trinity Health Human Resources Ministry-Wide Policy No. 1019 (Paid Time Off (PTO) – Program A) or Trinity Health Human Resources Ministry-Wide Policy No. 1020 (Paid Time Off (PTO) – Programs B and C, System Office Directors, and System Office Vice Presidents), as applicable. Eligible FMLA leave hours are utilized and exhausted concurrent with any paid or unpaid leave time in accordance with any state or local leave laws.

8. Protection for Employees Who Request Leave or Otherwise Assert FMLA Rights

The FMLA prohibits interference with an Employee’s rights under the law, and with legal proceedings or inquiries relating to an Employee’s rights, including:

- a. The Employer is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA.
- b. The Employer is prohibited from discharging or in any other way discriminating against any person (whether or not an Employee) for opposing or complaining about any unlawful practice under the FMLA.
- c. All persons (whether or not employers) are prohibited from discharging or in any other way discriminating against any person (whether or not an Employee) because that person has:
 - i. Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA;

¹ Unless otherwise required by law or a collective bargaining agreement.

- ii. Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA; or
- iii. Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA.

SCOPE/APPLICABILITY

This Policy is intended to be a policy that applies to all Employees of Trinity Health and the Health Ministries and the Subsidiaries that have adopted this Policy as set forth in Appendix A hereto, subject to any modifications necessary to comply with applicable state and local laws and regulations, as set forth in Appendix B hereto, collective bargaining agreements, written employment agreements, accreditation requirements or otherwise and that are approved by the Trinity Health EVP, Chief Human Resources Officer or an appropriate designee, in consultation with the Trinity Health Legal Department as necessary. For purposes of this Policy, the Trinity Health Vice President, Total Rewards Benefits & Well-Being is an authorized designee to approve such modifications.

This Policy replaces and supersedes existing Policies or Procedures of the Employer regarding any Family and Medical Leave Act (FMLA) for Qualifying Military Exigency and Care for Covered Servicemember leave benefit.

PROCEDURES

The Trinity Health Human Resources Department is responsible for establishing, implementing and enforcing Procedures, Standards or Guidelines to be followed by Trinity Health and its Health Ministries in the implementation and application of this Policy.

DEFINITIONS

Armed Forces means Regular Armed Forces and Reserve Components of the Armed Forces.

Child means a biological child, adopted child, foster child, stepchild, legal ward or child for whom the individual stood in loco parentis (i.e., had day-to-day responsibilities to care for and financially support), and who is of any age.

Employee means an employee of Trinity Health or one of its Health Ministries or Subsidiaries, whether that individual's status is permanent or temporary, contingent, part- or full-time. Trinity Health often uses the term "colleague" to refer to its Employees. In HR policies, "Employee" is used instead of "colleague" to be clear that HR policies apply to individuals in an employment relationship with Trinity Health or one of its Health Ministries or Subsidiaries. The form of the Policy does not change an Employee's Primary Employer, defined as the payroll company of record, and does not create a joint employment relationship with any entity.

Employer means Trinity Health and each of its Health Ministries and Subsidiaries that have adopted this Policy as set forth in Appendix A. If the effective date of this Policy for an Employer is different than the effective date of this Policy, the effective date for the Employer will be listed in Appendix A.

Executive Leadership Team (“ELT”) means the group that is composed of the highest level of management at Trinity Health.

Health Ministry (sometimes referred to as Ministry) means a first tier (direct) subsidiary, affiliate, or operating division of Trinity Health that maintains a governing body that has day-to-day management oversight of a designated portion of Trinity Health System operations. A Health Ministry may be based on a geographic market or dedication to a service line or business. Health Ministries include Mission Health Ministries, National Health Ministries, and Regional Health Ministries.

Parent means a biological, adoptive, step or foster father or mother of an individual or any other person who stood in loco parentis to an individual (i.e., had day-to-day and financial responsibilities for the individual when Employee was under age 18). A “Parent” for purposes of this Policy does not include any parent-in-law.

Policy means a statement of high-level direction on matters of importance to Trinity Health, its Health Ministries and Subsidiaries or a statement that further interprets Trinity Health’s, its Health Ministries’ and Subsidiaries’ governing documents. Policies may be either stand alone, Systemwide or Mirror Policies designated by the approving body.

Primary Employer means the entity for which the Employee provides more than 50% of services and is the payroll company of record.

Procedure means a document designed to implement a Policy or a description of specific required actions or processes.

Regular Armed Forces means the United States Armed Forces (i.e., United States Army, Navy, Air Force, Marines and Coast Guard).

Reserve Components of the Armed Forces means the Reserve components of the United States Armed Forces, including the Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve, Coast Guard Reserve, and retired members of the Regular Armed Forces or Reserve Components of the Armed Forces who are called up in support of certain contingency operations.

Service in the Uniformed Services means the performance, on a voluntary or involuntary non-career basis, of:

- Active duty in a Uniformed Service;
- Active duty in a Uniformed Service for training;

- Initial active duty in a Uniformed Service for training;
- Inactive duty in a Uniformed Service training;
- Full-time National Guard duty;
- Absence from work for the purpose of an examination to determine a person's fitness for any of the above types of duty;
- Funeral honors duty as authorized by federal law; and
- A period for which an Employee who is a member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Spouse means a husband or wife. For purposes of this definition, “husband or wife” refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

- Was entered into in a State that recognizes such marriages; or
- If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

Standards or Guidelines mean additional guidance which assists an Employee in understanding the employer's rule, policies and/or procedures, including those developed by accreditation or professional organizations.

Subsidiary means a legal entity in which a Trinity Health Ministry is the sole corporate member or sole shareholder.

Uniformed Services means the Armed Forces (i.e., Army, Navy, Air Force, Marines and Coast Guard), the Reserves for each of the Armed Forces, the Army and Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty including pursuant to a “governor call-up” or state orders, the Public Health Service Commissioned Corps, service performed as an intermittent disaster-response appointee upon activation of the National Disaster Medical System, any other category of persons designated by the President in time of war or national emergency, and any other protected military service for purposes of applicable state law.

RESPONSIBLE DEPARTMENT

Further guidance concerning this Policy may be obtained from the Trinity Health Human Resources Department.

RELATED POLICIES, PROCEDURES AND OTHER MATERIALS

List and hyperlink:

- Trinity Health Human Resources Ministry-Wide Policy No. 1016 (Holiday Benefit)
- Trinity Health Human Resources Ministry-Wide Policy No. 1019 (Paid Time Off (PTO) – Program A)
- Trinity Health Human Resources Ministry-Wide Procedure No. 1019 (Paid Time Off (PTO) – Program A)
- Trinity Health Human Resources Ministry-Wide Policy No. 1020 (Paid Time Off (PTO) – Programs B and C, System Office Directors, and System Office Vice Presidents)
- Trinity Health Human Resources Ministry-Wide Procedure No. 1020 (Paid Time Off (PTO) – Programs B and C, System Office Directors, and System Office Vice Presidents)
- Trinity Health Human Resources Ministry-Wide Policy No. 1026 (Military Service Leave)
- Trinity Health Human Resources Ministry-Wide Policy No. 1027 (Elective and Other Leaves of Absence (Non-FMLA and Non-Military))
- Trinity Health Human Resources Ministry-Wide Policy No. 1024 (FMLA for Non-Military Leave)
- Trinity Health Human Resources Ministry-Wide Policy No. 1034 (Definitions of Employment Classifications)

APPROVALS

Initial Approval: August 18, 2022

Subsequent Review/Revision(s):

Initial Approval as Mirror Policy No. 8: January 14, 2020, effective January 1, 2020

Subsequent Review/Revision(s) of Mirror Policy No. 8: None

APPENDIX A EMPLOYERS

State	Health Ministry or Subsidiary	Effective Date
California	Saint Agnes Medical Center	9/1/22*
Connecticut	Trinity Health Of New England (Hartford, Stafford, Waterbury)	9/1/22*
Delaware	Trinity Health Mid-Atlantic (Saint Francis)	9/1/22*
Florida	Holy Cross Health	9/1/22*
Georgia	St. Mary's Health Care System	9/1/22*
Georgia	Mercy Care (St. Joseph's Health System)	9/1/22*
Idaho	Saint Alphonsus Regional Medical Center (Boise, Nampa)	9/1/22*
Illinois	Loyola Medicine (LUMC, Gottlieb, MacNeal)	9/1/22*
Indiana	Saint Joseph Health System	9/1/22*
Indiana, Utah	Sisters of the Holy Cross and Holy Cross Ministries	9/1/22*
Iowa	MercyOne Clinton Medical Center	9/1/22*
Iowa	MercyOne Dubuque Medical Center	9/1/22*
Iowa	MercyOne North Iowa Medical Center	9/1/22*
Iowa, Nebraska, South Dakota	MercyOne Siouland Medical Center (Sioux City, Primgar, Oakland, Dunes)	9/1/22*
Iowa	MercyOne Northeast Iowa (Cedar Falls, Waterloo, Oelwein)	9/1/22*
Iowa	MercyOne Central Iowa	6/25/23
Maryland	Academy of the Holy Cross	9/1/22*
Maryland	Holy Cross Health	9/1/22*
Massachusetts	Trinity Health Of New England (Springfield / Mercy Medical Center)	9/1/22*
Michigan	Trinity Health Michigan (Trinity Health Ann Arbor, Trinity Health Livingston, Trinity Health Oakland, Trinity Health Livonia, Trinity Health Grand Rapids, Trinity Health Muskegon, Trinity Health Shelby, Chelsea Hospital, Trinity Health Medical Group, Trinity Health IHA Medical Group, Trinity Health Senior Communities, Canton medical center, Reichert medical center, Schoolcraft medical center, Lakes Village medical center, Norton Shores medical center, North Muskegon medical center, Hudsonville medical center, Ludington medical center, Rockford medical center, Byron Center medical center, Sherman Pavilion medical center, Hackley medical center, Grand Rapids medical center, Wege medical center, Caledonia medical center, East Beltline medical center, Grandville medical center, Whitehall medical center)	9/1/22*
New York	St. Joseph's Health	9/1/22*
New York	St. Peter's Health Partners	9/1/22*
Ohio	Mount Carmel Health System	9/1/22*
Ohio	Diley Ridge Medical Center	9/1/22*
Oregon	Saint Alphonsus Regional Medical Center (Baker City, Ontario)	9/1/22*
Pennsylvania	Trinity Health Mid-Atlantic (Mercy Catholic, Fitzgerald, Nazareth)	9/1/22*
Pennsylvania	Trinity Health Mid-Atlantic (St. Mary Medical Center & Rehabilitation Hospital)	9/1/22*
Pennsylvania	Pittsburgh Mercy Health	9/1/22*
Various Locations	Trinity Health Senior Communities (THSC)	9/1/22*
Various Locations	Trinity Health at Home (THAH)	9/1/22*
Various Locations	Trinity Health PACE	9/1/22*
Various Locations	Trinity Health System Office	9/1/22*

*Indicates Health Ministry or subsidiary was participating employer in plan prior to the September 1, 2022, policy revision date.

APPENDIX B
Family and Medical Leave Act (FMLA) for Qualifying Military Exigency and
Care for Covered Servicemember Leave
State/Local Law Requirements

For information regarding filing for FMLA or questions regarding an FMLA claim, please contact The Hartford or Leave Administrator.

State	State/Local Law Requirement(s)	Links
Alabama	Not-Applicable	
Alaska	Not-Applicable	
Arizona	Not-Applicable	
Arkansas	Not-Applicable	
California	Not-Applicable	
Colorado	<i>Qualifying Exigency Leave</i> means leave based on a need arising out of a covered individual's family member's active duty service or notice of an impending call or order to active duty in the armed forces, such as: providing for the care or other needs of the military family member's child or other family member; making financial or legal arrangements for the military member; attending counseling; attending military events or ceremonies; spending time with the military member during a rest and recuperation leave or following return from deployment; or making arrangements following the death of a military member.	
Connecticut	Not-Applicable	
Delaware	Not-Applicable	
Florida	Not-Applicable	
Georgia	Not-Applicable	
Hawaii	Not-Applicable	
Idaho	Not-Applicable	
Illinois	Not-Applicable	
Indiana	Employers must provide up to 10 days of unpaid leave per year to the spouse, parent, grandparent, child, or sibling of the person ordered to full-time active duty that exceeds 89 consecutive calendar days.	
Iowa	Not-Applicable	
Kansas	Not-Applicable	
Kentucky	Not-Applicable	
Louisiana	Not-Applicable	
Maine	Employers shall provide up to 15 days of family military leave per deployment to the spouse, domestic partner, or parent of a person ordered to active duty by the governor or president for a period of 180 days or longer to a duty assignment that is in a combat theater or an area where armed conflict is taking place. The service member must be a Maine resident.	
Maryland	Employers of 50 or more employees must permit a full- or part-time employee to take leave on the day an immediate family	

	member (spouse, parent, step-parent, child, step-child, sibling) who is a member of the U.S. armed forces leaves for or returns from active duty outside the United States.	
Massachusetts	Definition of Family Member expanded: "Family member" means the spouse, domestic partner, child, parent or parent of a spouse or domestic partner of the covered individual; a person who stood in loco parentis to the covered individual when the covered individual was a minor child; or a grandchild, grandparent or sibling of the covered individual. Mass. Gen. Laws ch. 175M, § 1.	
Michigan	Not-Applicable	
Minnesota	Employers must grant the immediate family member (parent, child, grandparent, sibling, or spouse) of a person killed or injured while on active duty in the military up to 10 days of unpaid leave. Employers are also required to provide up to one day of unpaid leave for the immediate family member of the person ordered to or returning from active duty to attend the send-off ceremony or homecoming.	
Mississippi	Not-Applicable	
Missouri	Not-Applicable	
Montana	Not-Applicable	
Nebraska	Employers are required to provide up to 30 days of unpaid family military leave to the parent or spouse of a person being called to federal or state active duty for longer than 179 days.	
Nevada	Not-Applicable	
New Hampshire	Not-Applicable	
New Jersey	Not-Applicable	
New Mexico	Not-Applicable	
New York	NY Paid Family Leave: Definition of family member expanded: "Family member" means a child, parent, grandparent, grandchild, spouse, or domestic partner. "Child" means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis. "Parent" means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.	
North Carolina	Not-Applicable	
North Dakota	Not-Applicable	
Ohio	Family Military Leave: Once per calendar year, employers of 50 or more employees must allow an employee to take leave of up to 10 days or 80 hours, whichever is less, in connection with the deployment of a family member who is a member of the uniformed services.	
Oklahoma	As of the date of this Appendix B, no state specific requirements identified that do not align with the Policy.	
Oregon	Family Military Leave: During a period of military conflict, employers must provide 14 days of unpaid leave per deployment to employees that are spouses or domestic partners of a member	

	of the U.S. Armed Forces, National Guard or U.S. military reserves that has been notified of an impending call to active duty.	
Pennsylvania	Not-Applicable	
Rhode Island	Not-Applicable	
South Carolina	Not-Applicable	
South Dakota	Not-Applicable	
Tennessee	Not-Applicable	
Texas	Not-Applicable	
Utah	Not-Applicable	
Vermont	Not-Applicable	
Virginia	Not-Applicable	
Washington	Not-Applicable	
West Virginia	Not-Applicable	
Wisconsin	Not-Applicable	
Wyoming	Not-Applicable	