

KEAN UNIVERSITY

LEAVES OF ABSENCE POLICY AND PROCEDURES

General Statement

Kean University is committed to complying with all leave of absence rules and regulations pursuant to the Family and Medical Leave Act, the New Jersey Family Leave Act, NJ Administrative Code Title 4A, and applicable Collective Bargaining Agreements.

TYPES OF LEAVE AVAILABLE

A. Federal Family and Medical Leave Act

Under this policy, Kean University will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. To qualify to take leave under this policy, the employee must meet the following conditions:

- 1) The employee must have worked for Kean University for 12 months or 52 weeks.
- 2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence.

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- 1) The birth of a son or daughter and to bond with the newborn child within one year of birth.*
- 2) The placement of a son or daughter for adoption or foster care and to care for the newly placed child within one year of placement.*
- 3) To care for a spouse, son, daughter, or parent with a serious health condition.*
- 4) The serious health condition of the employee that makes the employee unable to perform the functions of the employee's position.*

5) Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty.

6) To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member. (Military caregiver leave)

Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

For the birth, adoption or foster care of a child, Kean University and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with Kean University before taking intermittent leave or working a reduced schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.

Calculating the FMLA leave year

At Kean University, the FMLA year used to determine eligibility for subsequent FMLA leave periods is defined as a "rolling" 12-month period measured backward – 12-month period measured backward from the date an employee uses any FMLA leave. Under the "rolling" 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

B. New Jersey Family Leave Act

The New Jersey Family Leave Act permits an employee to take leaves of absence in connection with the birth or adoption of a child or a serious illness of a child, spouse, or parent for up to 12 weeks in a 24-month period. NJFLA does not apply to an employee's own illness. Leave under NJFLA may be taken in

a continuous block of time, or a reduced or intermittent schedule, if medically necessary. To qualify, the employee must be employed for at least 12 months or more, and must have worked not less than 1,000 hours during the last 12-month period.

Calculating the NJFLA leave year

At Kean University, the NJFLA year used to determine eligibility for subsequent NJFLA leave periods is defined as a “rolling” 24-month period measured backward – 24-month period measured backward from the date an employee uses any NJFLA leave. Under the “rolling” 24-month period, each time an employee takes NJFLA leave, the remaining leave entitlement would be the balance of the 24 weeks which has not been used during the immediately preceding 24 months.

C. Leaves Pursuant to Collective Bargaining Agreements

Employees may be eligible for leaves of absence pursuant to the collective bargaining units that they are members of at the time that they request the leave. For further details, please refer to the contracts for the appropriate bargaining unit member.

D. Special Note regarding Maternity/Child Care Leave

For eligible employees, FMLA usually covers the time period for pregnancy and childbirth in which your doctor indicates the employee is unable to work, usually 4 weeks before and 6 weeks after the birth of the baby, (8 weeks for Cesarean section). Additionally, under the NJFLA, a new parent is allowed to take 12 weeks of paid or unpaid leave to care for a newborn child. Additional leave time may be available to the employee pursuant to the collective bargaining agreement. Please contact the Office of Human Resources for further details on maternity and child care leave provisions and procedures.

E. NJ SAFE ACT

The New Jersey Security and Financial Empowerment Act (“NJ SAFE Act”), P.L. 2013, c.82, provides that certain employees are eligible to receive an unpaid leave of absence, for a period not to exceed 20 days in a 12-month period, to address circumstances resulting from domestic violence or a sexually violent offense. To be eligible, the employee must have worked at least 1,000 hours during the immediately preceding 12-month period.

Leave under the NJ SAFE Act may be taken by an employee who is a victim of domestic violence, as that term is defined in N.J.S.A. 2C:25-19, or a victim of a sexually violent offense, as that term is defined in N.J.S.A. 30:4-27.6. Leave may also be taken by an employee whose child, parent, spouse, domestic partner, or civil union partner is a victim of domestic violence or a sexually violent offense.

Leave under the NJ SAFE Act may be taken for the purpose of engaging in any of the following activities as they relate to an incident of domestic violence or a sexually violent offense:

- (1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (2) Obtaining services from a victim services organization for the employee or the employee's child, parent, spouse, domestic partner, or civil union partner
- (3) Obtaining psychological or other counseling for the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety from future domestic violence or sexual violence or to ensure the economic security of the employee or the employee's child, parent, spouse, domestic partner or civil union partner
- (5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence or sexual violence; or
- (6) Attending, participating in or preparing for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the employee or the employee's child, parent, spouse, domestic partner, or civil union partner, was a victim.

Leave under the NJ SAFE Act must be used in the 12-month period immediately following an instance of domestic violence or a sexually violent offense. The unpaid leave may be taken intermittently in intervals of no less than one day. The unpaid leave shall run concurrently with any paid vacation leave, personal leave, or medical or sick leave that the employee elects to use. If the employee requests leave for a reason covered by both the NJ SAFE Act and the New Jersey Family Leave Act, N.J.S.A. 34:11B-1 et seq., or the federal Family and Medical Leave Act, 20 U.S.C. 2601 et seq., the leave shall count simultaneously against the employee's entitlement under each respective law.

Employees eligible to take leave under the NJ SAFE Act must, if the necessity for the leave is foreseeable, provide Kean University with written notice of the need for the leave. The employee must

provide Kean University with written notice as far in advance as reasonable and practicable under the circumstances. The employee must also provide the Kean University Office of Human Resources with documentation of the domestic violence or sexually violent offense that is the basis for the leave. Kean University is required to retain any documentation provided to it in this manner in the strictest confidentiality, unless the disclosure is voluntarily authorized in writing by the employee or is authorized by a federal or State law, rule or regulation.

A. Military Leave

An employee who is called to military service may be granted a leave of absence without pay for the period of active duty. To request a military leave, the employee must notify the supervisor and submit a copy of the military order to the Office of Human Resources as soon as he/she is notified.

B. Voluntary Furlough

The Voluntary Furlough Program (NJAC 4:6-1.23) is intended to reduce salary costs and thereby lessen the need for a reduction in the workforce. It allows employees in the career, senior executive or unclassified services to take up to 30 days off from work without pay for any purpose (except sick leave, sick leave extension or outside employment). Employees may choose to work shorter days, a shorter work week, or take a number of consecutive days off. Additional furlough extension may be available. Furlough extension may only be used for education or family care needs. **All voluntary furlough requests are subject to the approval of the department head and the Office of Human Resources.**

PROCEDURES FOR REQUESTING LEAVE OF ABSENCE

A. Notification Requirement:

When the need for the leave is foreseeable, the employee must provide the Kean University Office of Human Resources with at least 30 days' notice. (Faculty members should provide the University with a minimum of 30 days' notice prior to the start of the semester in which the leave will be required.)

When an employee becomes aware of a need for leave less than 30 days in advance (i.e., emergency surgery/hospitalization), the employee must provide notice of the need for the leave either the same day or the next business day.

When the need for leave is not foreseeable, the employee must comply with Kean University's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances, **at the first possible opportunity.**

Employees that are absent for medical/family reasons for five consecutive days or more are required to apply for leave of absence, and provide medical documentation to substantiate the need for leave. Additionally, an employee is not allowed to utilize more than four consecutive sick days if he/she has not been placed in an authorized leave of absence status.

All leave of absence requests covered under this policy (i.e. family, medical, military) will be reviewed by the Office of Human Resources.

B. Required Documentation:

An employee requesting leave of absence must provide to the Office of Human Resources:

Documentation for requesting family/medical leave:

1. Request for Family/Medical Leave Form
2. Leave of Absence Questionnaire (Medical Certification to be completed by employee's physician) or Leave of Absence Questionnaire – Care of Family (Medical Certification to be completed by family member's physician)

Kean University will require medical certification for the leave of absence. Failure to provide this certification may result in a denial of the leave. The medical certification should be from the employee's own physician or that of the employee's seriously ill family member substantiating the employee's need for leave of absence, and including an estimated date of return to work.

SPECIAL NOTE: The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, your physician is directed not to provide Kean University any genetic information when responding to your request for medical certification of a medical leave of absence. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Documentation for requesting Military Family Leave under FMLA - Qualifying Exigency:

1. Request for Leave Form
2. DOL Certification of Qualifying Exigency for Military Family Leave
(<http://www.dol.gov/whd/forms/WH-384.pdf>).

Documentation for requesting Military Family Leave under FMLA - Serious Injury or Illness of Covered Service member:

1. Request for Leave Form
3. DOL Certification for Serious Injury or Illness of Covered Service member
(<http://www.dol.gov/whd/forms/WH-385.pdf>).

The employee should provide the Request for Leave Form and Certification substantiating the need for leave of absence at least 30 days prior to the start of the leave, whenever the leave is foreseeable. Kean University will require certification for all leaves of absences. If the employee fails to provide appropriate documentation for a leave, the Office of Human Resources will ask the employee to provide this information. The employee must respond to such a request within 15 days of the request. Failure to provide certification may result in a denial of leave.

C. Pay Status during a Leave of Absence

Employees that are approved for a medical or family leave of absence may charge paid time off (including sick, vacation, personal, administrative and/or compensatory) that is accrued to date. However, employees will not be allowed to charge time that was credited at the beginning of the year and that was not earned.

Additionally, once an employee requests and/or has started a leave of absence without pay, he/she will not be returned to pay status until the employee has returned to work, except for certain situations involving maternity/childcare.

For example: In the case of maternity and subsequent care of newborn child, an employee who exhausted her sick time and is without pay may apply for TDI benefits through the State due to her own medical condition. When the employee's physician deems the employee fit to return to work, the employee, if

eligible for FMLA and/or NJFLA, may request further leave to care for the child, and may request to use other unused accrued time, such as vacation, during this leave period.

Employees that are approved for military FMLA leave due to a qualifying exigency may charge paid time off (including vacation, personal, administrative and/or compensatory) that is accrued to date.

Extending Leaves/Early return

For extension of leave or early return from leave, the employee must submit medical re-certification five days prior to the last day of the current leave-ending day. Should the employee's doctor's appointment fall on the leave-ending day, the employee must notify or fax the medical certificate to the Office of Human Resources on the same day. The confidential fax number for medical documentation is (908) 737-3319. Medical certification is required for any Family/Medical leave extension.

D. Returning to Work

When the employee's physician releases him/her to return to work, the employee must provide a fitness for duty certification with a return date noted in the letter. If the employee's physician recommends that the employee be allowed to return to work with restrictions, the employee will be required to be evaluated by a physician of the University's choosing at the University's expense.

In order to ensure that the employee will receive proper pay and health benefits coverage upon returning to work, he/she is required to report to the Office of Human Resources on the day of their return to work and present a fitness for duty certification.

E. Second Opinion

Kean University has the right to ask for a second opinion if it has reason to doubt the medical certification, or if the fitness-for-duty certification includes work restrictions. Kean University will pay for the employee to get a certification from a second doctor, which Kean University will select. Kean University may deny leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. An eligible employee may be provisionally entitled to leave and benefits pending a second and/or third opinion.

F. Recertification

Kean University may request recertification for the serious health condition of the employee or the employee's family member when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave.

Tuition Waiver Program

If you are currently participating or plan to participate in the Tuition Waiver Program, it is required that you speak with Tameeka Upshaw in our office regarding how being on an approved leave of absence could impact your eligibility for the Tuition Waiver Program. She can be reached at 908-737-3308 or tupshaw@kean.edu.

G. Health Benefits Coverage during a Leave of Absence

While an employee is on medical or family leave of absence with pay, Kean University will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If the employee regularly pays a portion of the health care premium, while on paid leave, Kean University will continue to take payroll deductions to collect the employee's share of the premium.

In the case of an employee who takes a leave of absence without pay for medical/family leave, health coverage will continue for a period of 12 weeks as long as the employee continues to pay any premiums that she/he normally pays.

After the three month maximum the employee is required to pre-pay the full cost of the health, dental and prescription plan premiums. (For cases of maternity and care of newborn child, health benefits will continue while the employee is on unpaid FMLA or NJFLA leave of absence, not to exceed 24 weeks, as long as the employee continues to pay the required premiums. This covered period of leave will vary. Please see the Office of Human Resources for details.)

While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Office of Human Resources on a timely basis. If the payment is late, the employee's health care coverage may be dropped for the duration of the leave.

Employees may also continue their health, prescription, and dental coverage through COBRA rather than prepaying the University.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, Kean University may require the employee to reimburse Kean University the amount it paid for the employee's health insurance premium during the leave period.

H. Retirement Plans during a Leave of Absence

PERS Members

While the employee is on unpaid leave, PERS pension contributions will be suspended. Upon return to active pay status, members of PERS may request to purchase unearned service credits. The employee may contact the Office of Human Resources to request additional information.

The non-contributory portion of employee life insurance will remain in effect during this period of leave. However, in order for the contributory portion of group life insurance to continue, the employee must remit payments in advance to the Division of Pensions and Benefits. To do so, please contact the Office of Human Resources to request a Personal Insurance Contribution Remittance Form.

ABP Members

While on unpaid leave, ABP retirement plan contributions will be suspended. They will restart upon the employee's return to the regular full-time position. This time cannot be "bought back."

All ABP members are covered by employer-paid life insurance, payable to their designated beneficiaries, in the amount of three and one-half times the employee's annual base salary. ABP members on leave of absence without pay continue to be insured for • up to two years while on approved leave of absence for illness; • up to one year while on approved leave of absence to fulfill a residency requirement for an advanced degree; or • up to 93 days while on leave for other reasons, including child care. Employees

have the option to convert the group life insurance coverage to an individual policy with the Prudential Insurance Company when employees lose coverage while on a leave of absence without pay.

I. Wage Replacement Programs

Temporary Disability Insurance

Under the New Jersey Temporary Disability Benefits Law, cash benefits may be payable when an employee cannot work because of a sickness or injury that is not job-related. The employee must file a claim for Disability Benefits within (30) days of the start of the disability. The weekly maximum benefit is payable for no more than (26) weeks, and a claim cannot be filed until the employee has exhausted all accumulated sick leave. Disability forms will be mailed to the employee upon receipt of medical certification and subsequent approval of medical leave without pay. The disability benefit will pay approximately 66 % of the employee's base pay, but not exceed \$595.00 per week for 26 weeks in 2014. In order to maintain disability benefits without interruption, employee must comply with and respond to all inquiries from Disability Benefits Services. The form can also be found on the Human Resources Web site at <http://www.kean.edu/KU/Leave-of-Absence-ADA>.

Do I need to exhaust my paid leave prior to applying for TDI benefits?

To be eligible for temporary disability insurance benefits, a State employee shall be required to exhaust all available accrued sick leave prior to receiving such benefits.

New Jersey Family Leave Insurance

In accordance with P.L.2008, C.17, which was signed into law by Governor Jon S. Corzine on May 2, 2008, Kean University employees are eligible for Family Leave Insurance (FLI) benefits beginning in 2009. Some important facts regarding FLI:

Eligible Kean University employees may apply for up to six weeks of FLI benefits during leave taken to:

- **Bond with a child** during the first 12 months after the child's birth, if the covered individual or the domestic partner or civil union partner of the covered individual, is a biological parent of the child, or the first 12 months after the placement of the child for adoption with the covered individual.
- **Care for a family member with a serious health condition** supported by a certification provided by a health care provider. Claims may be filed for six consecutive weeks, for intermittent weeks or for 42 intermittent days during a 12-month period beginning with the first date of the claim.

Eligible applicants who are covered by the state FLI plan will receive weekly benefits amounting to no more than two-thirds of their weekly pay, subject to the same maximum as temporary disability insurance (TDI) for an individual's own disability (the maximum weekly benefit rate for TDI is \$595.00 in 2014).

Wage Requirements

To have a valid claim, a claimant must have had employment in at least 20 calendar weeks (base weeks) in New Jersey covered employment with earnings of \$143 or more, or have earned \$7,200 or more in such employment during the 52 weeks (base year) immediately prior to the week in which the family leave claim begins.

The Family Leave Insurance benefits program provides covered individuals with a monetary benefit – not a leave entitlement. All New Jersey workers who contribute to the program and meet the eligibility criteria will have the opportunity to receive 2/3 of their normal paycheck (capped at \$595.00 in 2014) for up to 6 weeks.

Do I need to exhaust my paid leave prior to applying for FLI benefits?

To be eligible for family leave insurance benefits, a State employee shall be required to utilize paid leave prior to receiving such benefits, and the utilization of such paid leave shall accordingly reduce the employee's maximum entitlement to family leave insurance benefits of six weeks in a 12-month period.

A State employee shall be required to use paid leave as follows:

1. For benefits to participate in provision of care for a family member made necessary by a serious health condition of the family member, the employee shall exhaust 10 sick days (or, if the employee has a balance of fewer than 10 sick days, shall be required to exhaust all sick days).
2. For benefits to bonding with a child during the first 12 months after the child's birth, if the employee, or the domestic partner or civil union partner of the employee is a biological parent of the child, or the first 12 months after the placement of the child for adoption with the employee, the employee shall exhaust 10 vacation days (or, if the employee has a balance of fewer than 10 vacation days, shall be required to exhaust all vacation days).

IMPORTANT NOTE:

If an employee has more than 10 accrued days of paid time, but opts to only charge 10 days prior to utilizing the FLI benefit, the 6 week benefit period is reduced by only these 10 days. If an employee opts to take more than the required 10 days of leave with pay to care for a family member, this will lessen the FLI benefit by an equivalent number of days.

FLI Notice Requirements

☐ It must be noted that with regard to a claim for family leave insurance benefits to bond with a newborn or newly adopted child, the employee shall provide the employer with notice of the period of family leave upon which the covered employee's claim for family leave benefits is based not less than 30 days prior to commencement of the family leave.

□ Failure by the employee to provide the employer with the 30 days notice set forth above shall result in a reduction in the employee's maximum family leave insurance benefits entitlement for the 12-month period by an amount of benefits attributable to two weeks of family leave, unless the time of the leave is unforeseeable or the time of leave changes for unforeseeable reasons.

Donated Leave Program

The Donated Leave Program (NJAC 4A: 6-1.22) permits Kean University employees to voluntarily donate a portion of their earned sick and/or vacation time to other employees. In order to be eligible to receive donated leave, employees must first exhaust their earned leave time. An employee can receive donated leave if he/she is suffering from a catastrophic illness or injury which necessitates a prolonged absence from work. Leave is also offered to provide care for a member of the employee's immediate family who is suffering from a catastrophic health condition. Further details are available from the Office of Human Resources.

J. Waiting Period for Wage Replacement Programs

Temporary Disability Insurance

When do my benefits begin?

Benefits are payable on the eighth consecutive day of a disability. The first seven days of disability are called the waiting week. If your disability continues for three consecutive weeks, you will receive benefits for the waiting week.

Family Leave Insurance

Is there a waiting period before Family Leave Insurance benefits can be paid?

Yes. The first seven consecutive days of a claim is called the waiting period. If benefits are payable for any period during each of the three consecutive weeks following the waiting period, then benefits are also payable for the waiting period.

In the case of intermittent family leave, in a single period of family leave taken to provide care for a family member with a serious health condition, Family Leave Insurance benefits are payable with respect to the first day of leave taken after the waiting period and each subsequent day of leave during that period of family leave. If benefits become payable on any day after the first three weeks in which leave is taken, then benefits will also be payable for any leave taken during the waiting period.

Exception: There is no additional seven-day waiting period for a Family Leave Insurance claim for benefits to bond with a newborn when the Family Leave Insurance claim is for the period immediately following a Temporary Disability Insurance (TDI) pregnancy-related claim.

K. Away Messages for Email and Phone

During a leave of absence, an employee is required to place an away message on their personal work email (Gmail & Outlook Accounts) and phone line upon the start of the leave period.

Employees, who have an unforeseen need for leave of absence and are suddenly away from work, have the option of accessing their accounts remotely from home in order to place an away message on email and phone accounts.

If an employee is unable to place an away message on email accounts and phone lines that are used as a means of contact at work, he/she is required to notify their supervisor and the Office of Human Resources for assistance.

Enabling the Out of Office Assistant on Outlook/Exchange's web application:

1. Go to: <https://exchange.kean.edu/owa>.
2. Login using your network credentials.
3. In the upper right corner of the window, click **Options**.
4. In the resulting window, in the Light Interface, on the left, click **Out of Office Assistant**.
5. To set a time frame for the Out of Office auto-replies to begin and end, check **Send replies only during this time period:** . Then:
6. Next to "Start time:", use the menu to select the month and day, and then the time you want the Out of Office Assistant to start sending the auto-replies.
7. Repeat for the "End time:".
8. Compose the auto-reply in the text boxes provided; you can also send a different message to external senders.
9. Click **Save**.

Enabling the Vacation Responder on GMAIL application:

1. Go to: <http://www.kean.edu/>
2. Click on the Email button at the top of the screen.
3. Login to Gmail with your Gmail credentials.
4. Click on the options button (icon that looks like a gear) in the upper right hand corner of the screen.
5. Select Mail Settings from the drop down list that appears.
6. Scroll down to "Vacation Responder" and enter your dates and message.
7. Click Save Changes.

Enabling the Out of Office Greeting on your Work Phone

1. Call 908-737-KEAN, and press # when you hear the Kean greeting.
2. Enter your work phone number when prompted and your passcode.
3. Select option for "Phone Manager."
4. Select option for "Out of Office Greeting" and follow the prompts.

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