

**SNU Policy: Emergency Family and Medical Leave Expansion Act (EFMLEA) Leave
(Leave for COVID-19 school/day care closure)**

SNU Policy ID: Benefit Information D-9b

Policy Reviewed by: Director of Human Resources

Approval Authority: Vice President for Business and Finance

Approval Date: April 1, 2019

Next Review Date: April 1, 2024

Overview

On March 18, 2020, Congress enacted the Families First Coronavirus Response Act (H.R. 6201) (“Families First Act”) providing emergency sick pay and expanding family and medical leave, for employees affected by the novel coronavirus (“COVID-19”) public health emergency.

As part of the Families First Act, the Emergency Family and Medical Leave Expansion Act (“EFMLEA”) goes into effect April 1, 2020, providing for a total of 12 weeks of job-protected leave for an employee that must care for his/her child¹ because of a school/child care closure due to COVID-19 or because the employee’s child care provider is unable to work because of COVID-19, and the employee is not able to work or telework while caring for the child. EFMLEA leave is not available past December 31, 2020 and employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

EFMLEA leave is not in addition to leave an employee is entitled to under the FMLA. That is, during a 12-month period, eligible employees may receive a maximum of 12 weeks of leave, whether under the FMLA or EFMLEA (or both). If leave is needed to care for a covered service member under the FMLA, eligible employees may receive a maximum of 26 weeks during a 12-month period.

This policy is effective and applicable to leave taken between April 1, 2020 and December 31, 2020.

Eligibility

EFMLEA leave is available to an employee that has been employed for at least 30 calendar days. Employees requesting EFMLEA leave must notify his/her supervisor and/or the Director Human Resources as early as possible, as well as provide certification of the need for leave, including documentation from your child’s school, day care, or childcare provider. In addition, where an employee’s duties may be accomplished via telework, EPSLA leave is not available unless an employee is able to show an inability to telework because of the COVID-19-related reason. Southern Nazarene University may consider whether an employee is able to telework outside his

¹ “Child” includes children under 18 years of age and children age 18 or older who are incapable of self-care because of a mental or physical disability.

or her typical schedule, and if needed, may agree to a schedule of intermittent leave in conjunction with telework. A Request and/or Certification Form may be obtained from Human Resources.

An unjustified failure to return a complete and sufficient certification within the time designated by SNU can result in the delay or denial of a request for leave. During leave, employees are expected to comply with applicable call-in procedures.

Certification of Eligibility

The Human Resources Director will determine when an employee is eligible for EFMLEA leave and will designate leave that qualifies as EFMLEA leave.

Pay and Benefits during EFMLEA Leave

The first 10 days of EFMLEA leave are unpaid, except that an employee may elect to (1) use SNU provided paid time off, whether it be vacation, personal, or sick leave accrued and available; or (2) use Emergency Paid Sick Leave Act (EPSLA) pay under the FFCRA, if eligible. (See related **EPSLA policy for details Benefits D-9a.**)

The remainder of the EFMLEA leave (up to a maximum of 10 weeks), as per FFCRA limitations, is payable at two-thirds of the employee's regular rate of pay for the number of hours the employee would normally be scheduled to work each day (including overtime if scheduled), up to a maximum of \$200 per day, or \$10,000 in the aggregate, per employee. However, if an employee has personal, vacation or sick leave accrued and available, the employee must utilize that time during (concurrently with) his or her EFMLEA leave, and will receive full pay (not two-thirds) until the personal, vacation, and sick leave is exhausted, after which the employee will receive pay for any remaining EFMLEA leave at the FFCRA's two-thirds rate.

For employees working a varied schedule, the Human Resources office will calculate the employee's average hours per workday during the prior six months, including overtime. If an employee has not been employed for at least six months, the SNU will use the number of daily hours the employee agreed to work upon hiring. Finally, if there is no such agreement, SNU will calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of his or her employment.

During approved EFMLEA leave, the University will continue to make available the same insurance benefits that are available to employees in the same or equivalent position who are not on leave. It is the employee's responsibility to continue to contribute his/her portion of the cost of any employee-paid premiums during leave.

No employee will lose any accrued seniority or benefits while on leave. Employees on leave will not accrue greater employment rights than they would have if they had not taken leave.

Returning from EFMLEA Leave

An employee returning from EFMLEA leave should, where possible, give SNU at least two (2) weeks' written notice of their return if the leave has been longer than one (1) month. Regardless of the length of leave, the employee must provide at least two (2) workdays' notice. An employee who returns from EFMLEA leave will be reinstated to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment, unless that employee's employment ends under other circumstances. SNU cannot guarantee reinstatement rights to key employees. In addition, the University cannot guarantee reinstatement to employees whose leave extends beyond their entitlement of EFMLEA leave, except to the extent necessary to comply with applicable state or federal law or SNU policy. If an employee fails to return to work after his/her EFMLEA leave has ended, the University may recover health insurance premiums it paid under its group plan during the leave period.

Non-Discrimination and Anti-Retaliation

The University will not use any protected leave as a negative factor in any employment decision or discharge, discriminate or otherwise retaliate against any employee because of that employee's use of EFMLEA leave, opposition to any practice made unlawful by the EFMLEA, or involvement in any proceeding under or relating to the EFMLEA. In addition, the University will not illegally interfere with, restrain or deny any employee's right to exercise his/her EFMLEA rights.

Employees who believe SNU has interfered with their rights or otherwise discriminated against them in violation of the EFMLEA should report the issue to their supervisor or another member of management.