

## **Catastrophic and Parental Leave**

### **I. Overview**

This policy implements Arkansas Code Annotated § 21-4-214, which authorizes the creation of a catastrophic leave bank program, and Arkansas Code Annotated § 21-4-209, which authorizes catastrophic leave to be used for maternity leave, and establishes procedures governing the program's administration. The program and policy are administered by the University of Arkansas, Fayetteville, Human Resources Department for all full-time (100% appointed) benefits-eligible appointed employees of University of Arkansas, Fayetteville; the Arkansas Archeological Survey; the UA System Administration; the Criminal Justice Institute; and the Agricultural Experiment Station. Hereafter, these entities will be referred to as "Participating Entities."

Generally speaking, and as will be explained in more detail below, the receipt of catastrophic leave provides recipients with pay and standard benefits during leave that would otherwise be without pay and standard benefits.

### **II. Program Scope**

The Catastrophic Leave Bank Program assists eligible employees, after they have exhausted their earned sick leave, annual leave, holidays, and compensatory time, to manage medical emergencies, injuries, and long-term, serious illnesses incurred by them or by their eligible family members. It may also be used by eligible employees for parental leave (maternity or paternity). These guidelines set out who is eligible to contribute to the program, who is eligible to participate in the program, and under what terms participation may be accomplished.

### **III. Definitions**

Arkansas Code Annotated § 21-4-214 establishes program participation eligibility and terms. The following definitions are provided for reference purposes:

**Catastrophic Leave Bank Program:** A program administered by the University of Arkansas, Fayetteville, Human Resources Department for employees of the participating entities.

**Catastrophic Illness or Injury:** A medical condition, as certified by a physician or other appropriate healthcare provider, of an employee, spouse of an employee, parent of an employee, or child of an employee claimed as a dependent on the employee's Arkansas income tax return, which requires an employee's absence from duty for a prolonged period of time or an intermittent period of time and which, except for the catastrophic leave program, would result in a substantial loss of income to the employee because of the exhaustion of all earned sick, annual, holiday, and compensatory leave time.

**Catastrophic Leave:** Paid leave that is transferred to a leave recipient from a University of Arkansas, Fayetteville, Catastrophic Leave Bank. Catastrophic leave may be granted in one-hour increments. While a recipient is on catastrophic leave, he or she will continue to receive standard benefits, such as employer contributions to insurance and retirement, and the recipient's department will continue to fund salary and fringe benefits.

**Catastrophic Leave Bank** (hereafter referred to as "the Bank"): A pool of accrued annual and sick leave voluntarily donated by full-time, 100% appointed faculty or staff of the participating entities that has been authorized for use by approved leave recipients employed by the participating entities. Faculty donate to and/or request leave from a Bank created for faculty. Staff donate to and/or request leave from a separate Bank created for staff. The Catastrophic Leave Bank is created and managed by the University of Arkansas, Fayetteville.

**Catastrophic Leave Advisory Committee:** A committee comprised of nine voting members who represent faculty, non-classified staff, and classified staff of the participating entities and five ex-officio non-voting members.

**Elective Procedure:** A procedure that can be scheduled at the convenience of the employee and is not medically necessary to occur in a specific timeframe.

**Employee:** A person who is regularly appointed or employed by a participating entity, who is 100% appointed in a 9-month or 12-month position and who is eligible to participate in the University's fringe benefits program. A person who is less than 100% appointed is excluded from this definition and is not eligible to participate as a donor or recipient in the Catastrophic Leave Bank Program.

**Intermittent Catastrophic Illness:** A catastrophic illness that has resulted in an ongoing or recurring condition for the employee or a qualifying family member that may require the use of sick leave at intermittent times due to the type of illness or injury. In intermittent catastrophic situations, an employee returning after a period of catastrophic leave might then be eligible for catastrophic leave on an intermittent basis for continuing treatment or transitioning back to work. The duration of all catastrophic leave (any periods of continuous catastrophic leave plus intermittent catastrophic leave) may not exceed 1040 hours within a 24-month period. No employee may continue approved catastrophic leave beyond a 24-month period without additional approval. This limit does not apply for parental leave purposes.

**Leave Donor:** An employee whose voluntary written request to donate accrued annual and/or sick leave to the Bank has been approved by the participating entity. No employee shall be allowed to donate if it will reduce that employee's combined accrued sick and annual leave to less than 80 hours. The 80-hour limit does not apply when a donation is made upon termination

or retirement from the University. All donated leave is transferred to the Bank, and donated leave may not be restored to the donor under any circumstances.

**Leave Recipient:** A current employee whose application to receive catastrophic leave from the Catastrophic Leave Bank has been reviewed and approved as described in this policy.

**Medical Condition:** Catastrophic and debilitating medical situations, severely complicated disabilities, and severe accidental injuries of an employee or a qualifying family member which cause the employee to be unable to perform assigned job duties. Additionally, the condition requires a prolonged period of recuperation and requires the employee's absence from duty as documented by a physician. Elective procedures do not qualify for catastrophic leave; however, complications related to an elective procedure may qualify for catastrophic leave.

**Onset of Illness:** The initial beginning or start, as certified by a physician, of the medical condition that created the need for the catastrophic leave request. If a recurrence of the same illness necessitates a subsequent catastrophic leave request, the eligibility requirement for leave based on a medical condition that the employee have eighty 80 hours of combined sick and annual leave at the onset of the illness is waived.

**Parental Leave (Maternity or Paternity):** Leave drawn from the appropriate Catastrophic Leave Bank to provide care and facilitate bonding in connection with the birth of an employee's biological child or placement of an adoptive child in an employee's home. An eligible employee may receive up to four consecutive weeks of paid leave (160 hours) within the first twelve weeks after the birth of the employee's biological child or placement of an adoptive child in the employee's home. If two employees are the parents of the child, the leave must be shared between the two employees.

**Prolonged Period of Time:** A minimum of 20 working days (either continuous or non-continuous) occurring within 90 calendar days of an employee's application for catastrophic leave, related to the medical condition for which the employee requests catastrophic leave.

#### **IV. Eligibility Requirements – Catastrophic Leave and Parental Leave**

The Leave Administrator will confirm that the following basic eligibility requirements are met before presenting each catastrophic leave request to the Catastrophic Leave Advisory Committee. Likewise, before presenting an application for parental leave to the Associate Vice Chancellor for Human Resources, the Leave Administrator will confirm that the applicable eligibility requirements are met.

- To be eligible, an individual must have been employed by the participating entities or a state agency/institution in a full-time (100% appointed) benefits-eligible position for a minimum of one year.

- An eligible employee must not have been disciplined for any leave abuse during the past one-year period from the date of application.
- Except for parental leave purposes, an eligible employee must have exhausted all sick, annual, holiday, and compensatory leave time, and, at the onset of the illness or injury, had to his or her credit at least eighty (80) hours of combined sick and annual leave. The eighty (80) hour leave requirement may be waived only under the following conditions:
  1. During the previous one-year period, the employee experienced another medically documented illness or injury that was not compensated under an approved Catastrophic Leave Bank Program but was documented under the Family and Medical Leave Act (FMLA) as a qualifying event and caused exhaustion of sick and annual leave to a level below 80 hours; or
  2. The employee applying for catastrophic leave had, during the previous one-year period, exhausted his or her sick and annual leave to a level below 80 hours as a direct result of supplementing workers' compensation benefits, which were received because of an on-the-job illness or injury with the State of Arkansas.
- No employee will be eligible for approved catastrophic leave for more than 1040 hours within a 24-month period or beyond the effective date of long-term disability (LTD) and/or Social Security disability benefits, whichever comes first. No employee may continue approved catastrophic leave beyond a 24-month period without additional approval. This limit does not apply for parental leave purposes.
- The combination of approved catastrophic leave and parental leave received by an employee may not exceed 1,200 hours in a calendar year (1,040 hours for illness/injury and 160 hours for parental leave).

**V. Catastrophic Leave Advisory Committee**

The 14 members of the Advisory Committee represent the work forces of the Participating Entities and includes five non-voting, ex-officio members. This committee reviews and makes recommendations on employee applications for catastrophic leave. Of the nine voting members on the Committee, three shall be classified employees, three shall be non-classified employees, and three shall be faculty members. The Leave Administrator, or designee, and an additional employee from Human Resources appointed by the Associate Vice Chancellor for Human Resources, a representative from the University Health Center, the chair of the Staff Senate and the chair of the Campus Faculty shall serve as the ex-officio, non-voting members.

Committee recommendations require a minimum of at least five voting members.<sup>1</sup> No committee member will cast a vote if there is an obvious conflict of interest or if the request comes from that member's department.

The Committee will review catastrophic leave requests where basic eligibility requirements are met and recommend whether to grant the catastrophic leave request. After a recommendation has been made by the Committee, the Associate Vice Chancellor for Human Resources will decide whether to grant catastrophic leave and the duration of the leave.

For requests based on parental leave, committee review is not required prior to the decision by the Associate Vice Chancellor for Human Resources.

## **VI. Catastrophic Leave Guidelines**

The Catastrophic Leave Advisory Committee will use the following guidelines to consider catastrophic leave requests:

- **Is there a bona fide, serious medical condition that meets the definition of a catastrophic illness or injury?** An employee shall not be approved for catastrophic leave for a medical condition unless that employee has provided an acceptable medical certificate from a physician or other appropriate health care provider supporting the continued absence and setting forth that the employee is and will continue to be unable to perform the employee's duties for a specified period of time due to a catastrophic illness/injury of the employee or a qualifying family member. The health care provider is required to base a projection of the anticipated duration of the employee's unavailability based on medical knowledge of the employee's condition.
- **Does the employee provide a satisfactory explanation of prior leave usage to justify a leave balance that is inadequate to cover the prolonged period of recovery?** The committee may consider the employee's written statement, their longevity of service, and the documented monthly leave usage during a period of up to five years of employment.
- **Does the employee's department support this request?** The employee's department will be asked to state whether it supports the employee's request (including requests for extensions). If the department does not support the request, it will be asked to furnish a statement of specific reasons, such as how granting the request would cause an undue hardship. For example, would granting the requested leave for the requested duration create an undue hardship on the administrative unit, considering the function of the position, the size of the unit, staffing patterns, and duties? Any statement of non-support will be considered along with other factors taken into account by the Committee.

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<sup>1</sup> If a Participating Entity ends participation in the Catastrophic Leave banks under this policy, Committee membership, representation, and voting requirements shall be revised accordingly.

- **When is the employee expected to return to work?** The Catastrophic Leave Advisory Committee shall not recommend catastrophic leave beyond the date certified by a physician or other appropriate health care provider for the employee to return to work.

## VII. General Rules of Operation

- **Applications.** An employee should submit a completed application for catastrophic leave or parental leave directly to the Leave Administrator. When applying for catastrophic leave, it is the employee's responsibility to provide a job description listing their assigned job duties to the health care provider to facilitate an accurate medical certification. The medical certification does not apply for parental leave purposes.
- **Parental Leave Documentation.** An employee requesting parental leave must submit documentation of the birth or adoption. The employee, however, may satisfy this requirement by providing either a simple statement to the Leave Administrator by phone, email, or text stating that the birth or adoption has occurred, or other documentation such as the child's hospital-issued birth record, government-issued birth certificate, or a court document. It is the employee's choice whether to provide a simple statement or other documentation.
- **Parental Leave-Period of Use.** Approved catastrophic leave for parental leave purposes may be used during the twelve-week period beginning with the date of birth of the employee's biological child or the date the adoptive child is placed in the employee's home.
- **Consideration; Approval Timing.** Applications for catastrophic leave will be reviewed on a first-filed, first-considered basis. Catastrophic leave will not be granted retroactively to any prior month except in extenuating circumstances as approved by the Associate Vice Chancellor for Human Resources. Catastrophic leave requests that would result in a negative balance in the Bank will not be approved.
- **Employee Obligation to Contact Leave Administrator.** Catastrophic leave is approved on a month-by-month basis. After initial approval, it is the employee's responsibility to contact, or have their designee contact, the Leave Administrator on or before the application deadline of each month that catastrophic leave is needed. The purpose of the contact is to confirm that the Catastrophic Leave Advisory Committee will have the necessary documentation to review in considering the leave request for an additional month.
- **Leave Exhaustion Requirement.** Except for parental leave purposes, the university requires employees to use accrued vacation and/or sick leave concurrently with FMLA leave. Persons on FMLA leave who have exhausted paid leave and meet other eligibility criteria may apply for catastrophic leave. If approved for catastrophic leave, such leave (as with other forms of paid leave) runs concurrently with the eligible employee's FMLA leave.
- **University Policies.** Employees on catastrophic or parental leave remain subject to all applicable University policies.
- **Short-Term Disability.** If an employee qualifies for both the university's short-term disability benefits and catastrophic leave, the employee must apply for short-term disability benefits before or at the same time catastrophic leave benefits are requested. If an employee is

approved for both short-term disability and catastrophic leave, coordination of benefits will occur so the total benefits received do not exceed the compensation received at the onset of illness or injury. Pending approval of short-term disability benefits, any grant of catastrophic leave will be based on the expectation that short-term disability benefits will be approved.

- **Family Care Certification.** If the employee is requesting catastrophic leave to provide care for a qualifying family member, a statement must be submitted from the physician and from the employee indicating why constant care is needed from the employee. An employee requesting catastrophic leave to provide care for a child must certify the child is his or her dependent.
- **Department Funding.** The funding for catastrophic leave is provided by the employee's department.
- **Leave Accrual While on Catastrophic or Parental Leave.** Any leave earned while an employee is on catastrophic leave or parental leave must, as a condition of voluntary participation in the program, be assigned to the Bank, and any restriction concerning the maintenance of minimum leave balances will not apply to such assignment. If an employee is on catastrophic leave or parental leave for even one hour in an accrual period, all leave earned during that period shall be assigned to the Bank.
- **Benefits While on Catastrophic Leave or Parental Leave.** Employees on catastrophic leave or parental leave will receive normal benefits such as employer contributions to insurance and retirement. Such employees will continue to receive their normal pay and the employee's merit increase eligibility date will not change; however, the employee's next merit salary increase may be delayed for the same number of days the employee was on catastrophic or parental leave or on administrative leave without pay.
- **Workers Compensation.** If the illness or injury is that of the employee and is covered by worker's compensation, the total amount of catastrophic leave compensation plus the weekly worker's compensation benefit received by the employee cannot exceed the compensation being received by the employee at the onset of the illness or injury.
- **Return of Unused Leave; Return to Work at End of Catastrophic Leave or Parental Leave.** Any unused catastrophic or parental leave will be returned to the Bank in the event the employee terminates employment, retires, or returns to work prior to the expiration of the previously approved leave period. An employee may be terminated if he or she fails to report to work promptly at the expiration of the approved leave period.
- **Donations.** Donations to the Catastrophic Leave Bank Program may be made during the annual donation drive in November each year, upon resignation, or upon retirement. No employee will be allowed to donate leave to the Catastrophic Leave Bank Program if such donation would reduce that employee's combined accrued sick and annual leave balance to less than 80 hours. Any accrued annual and/or sick leave donations must be made in one-hour increments. These restrictions do not apply to employees who are resigning their employment.
- **No Penalties Based on Donations or Use.** No employee shall be penalized for a decision to donate, not donate, or utilize catastrophic or parental leave.

## VIII. Recordkeeping Requirements

The University of Arkansas, Fayetteville, Human Resources Department shall implement a recordkeeping procedure which tracks: 1) the hours donated by each employee, and 2) the hours of catastrophic leave granted, and utilized, and those returned to the Bank, including the name of the recipient, position number, and rate of pay.

## IX. Procedures:

- **To donate leave:** Eligible employees may donate to the Catastrophic Leave Bank Program each year in November or upon termination or retirement from the University of Arkansas.

To donate to the Catastrophic Leave Bank, use this form:

**<https://hr.uark.edu/forms/catastrophic-leave-donor-app.pdf>**

- **To request parental leave:** In order to request parental leave, employees must contact the Leave Administrator in Human Resources at 479-575-5351 to review eligibility requirements and the application process.

### A. Application

The completed application for parental leave must be submitted directly to the Leave Administrator in Human Resources, located in room 222 of the Administration Building. Please refer to the Parental Leave website for application instructions:

<https://hr.uark.edu/benefits/leave/parental-leave.php>.

### B. Application Deadlines

Applications for parental leave may be submitted to the Leave Administrator prior to the birth or adoption of an employee's child but must be submitted within the first 12 weeks of birth or adoption.

As stated above in Section VII, General Rules of Operations, an employee must submit documentation of the birth or adoption before parental leave will be granted.

Completed applications for parental leave will be reviewed each month prior to the monthly payroll deadline. The deadline for each month is listed on the Payroll Calendar posted on the Human Resources website.



### **C. Decision:**

The Leave Administrator will present applications for parental leave to the Associate Vice Chancellor for Human Resources for a decision. All applicants and supervisors will receive correspondence from the Human Resources Leave Administrator on the status of the request.

**The decision of the Associate Vice Chancellor shall be final and is not subject to appeal.**

- **To request catastrophic leave:** In order to request catastrophic leave, employees must contact the Leave Administrator in Human Resources at 479-575-5351 to review eligibility requirements and the application process.

### **A. Application**

The completed application for catastrophic leave must be submitted directly to the Leave Administrator in Human Resources, located in room 222 of the Administration Building, no later than the application deadline to ensure that the application is complete by the date of the next Catastrophic Leave Advisory Committee meeting. Please refer to the accompanying application process document when completing an application.

Catastrophic Leave Packet: [https://hr.uark.edu/forms/catastrophic\\_leave\\_packet.pdf](https://hr.uark.edu/forms/catastrophic_leave_packet.pdf)

Catastrophic leave is issued on a month-by-month basis. An employee granted catastrophic leave must contact the Human Resources Leave Administrator on or before the application deadline of the following month if they would like to be considered for leave for that following month.

### **B. Application Deadlines**

The following application deadlines apply each month:

January through November: 5<sup>th</sup> business day of the month

December: 1<sup>st</sup> business day of the month.

Catastrophic leave will not be granted retroactively to any prior month unless approved by the Associate Vice Chancellor for Human Resources.

### **C. Waiver of the 80 Hour Leave Balance Requirement**

The employee must submit a letter or email to the Associate Vice Chancellor for Human Resources no later than the application deadline for the regularly scheduled Catastrophic Leave Advisory Committee meeting to request a waiver of the requirement for an 80 hour leave balance at the onset of illness or injury. The written notice must include verifiable justification that addresses one of the two conditions eligible for consideration listed above in Section IV, Eligibility Requirements.

**The decision of the Associate Vice Chancellor shall be final and is not subject to appeal.**

#### **D. Decision**

The Catastrophic Leave Advisory Committee meets the 2<sup>nd</sup> Wednesday of every month, except in December, to review requests. In December, it meets the 1<sup>st</sup> Wednesday of the month. All current open requests as well as new requests received by the application deadline will be reviewed during these meetings. The committee will review each request and make a recommendation for approval or denial. The Human Resources Leave Administrator will summarize all recommendations and present to the Associate Vice Chancellor for Human Resources for decision. All applicants and supervisors will receive correspondence from the Human Resources Leave Administrator on the status of the request.

In the event that the Catastrophic Leave Advisory Committee makes a recommendation to deny the use of catastrophic leave on the basis of an undue hardship to the department, the Associate Vice Chancellor for Human Resources shall review the recommendation with the appropriate University officials before making a final determination.

#### **E. Appeals**

If an employee's request for catastrophic leave is not granted, they can request an appeal of the decision based on one or more of the following provisions:

- The established procedures governing the administration of the Catastrophic Leave Program have not been followed.
- Additional information not available at the time of the Catastrophic Leave Advisory Committee meeting is now available to support the request for catastrophic leave.
- Extenuating circumstances outside of the employee's control precluded adherence to the General Rules of Operation in Section VII of this policy and/or application deadlines outlined in Section IX.B.

The Request for Appeal form with details explaining why the employee believes that their request for appeal should be granted should be mailed, emailed, or delivered to the Leave Administrator together with any necessary documentation within five business days of the date of the notice of the decision to not approve the catastrophic leave. The Leave Administrator will forward the request to the Chancellor, or designee, together with any necessary documentation for consideration

The Chancellor or designee shall review appeals in light of the General Rules of Operation in Section VII of this policy, and make a determination as to whether, in consideration of all of the information in the record, it appears 1) that the employee has satisfied the minimum requirements for catastrophic leave and 2) that leave should be granted based on the facts

and circumstances. If necessary, the Chancellor or designee can refer the request back to the Leave Administrator or the Committee for further consideration.

The Chancellor or designee will provide a decision on the appeal within five business days or as soon as practicable thereafter based on the submitted documentation and may contact the Leave Administrator to confirm or review other documentation. The Chancellor or designee's decision is final and is not subject to further review, appeal, or grievance.

#### **X. Catastrophic Leave Recipient Expectations**

- As indicated above, catastrophic leave is issued on a month-by-month basis. The employee must contact the Human Resources Leave Administrator on or before the application deadline of the month if they would like consideration of benefits for that month. Catastrophic leave will not be granted retroactively to any prior month unless approved by the Associate Vice Chancellor for Human Resources.
- The employee must notify the Leave Administrator in Human Resources when returning to work, as well as provide a release to work note from a physician with any restrictions if applicable.

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