

## 3.660 RCUH Family Leave

### I. Policy

This policy has been developed to implement [Chapter 398, HRS, Hawai'i Family Leave Law](#) and the [Federal Family and Medical Leave Act of 1993, Public Law 103-3](#).

Family leave allows employees the ability to balance their work and family life by taking reasonable paid/unpaid leave for specified reasons as described in this policy. It provides eligible employees job protection and continuation of benefits during their qualified family leave period.

Definitions relating to family leave can be found [here](#).

Frequently Asked Questions regarding family leave can be found [here](#).

### II. Responsibilities

#### A. RCUH Employee

##### 1. Employee Must Request Family Leave

- a. If leave is foreseeable, the employee shall provide his/her direct supervisor and the RCUH Human Resources Department with advance notice by submitting a Family Leave Request Form at least thirty (30) days before the requested leave is set to begin.
- b. If leave is unforeseeable, the employee shall notify his/her direct supervisor and the RCUH Human Resources Department as soon as practicable.
- c. Family Leave is to be requested on a 12-month calendar year basis. The calendar year runs from January 1 – December 31. For leave that is intermittent and/or on-going beyond December 31 of that calendar year, a new request form and updated medical certification may be required.

##### 2. Email [rcuh\\_benefits@rcuh.com](mailto:rcuh_benefits@rcuh.com) directly to request additional forms as follows:

- a. *Birth of a Child/Care for Newborn*
  - i. For Mother of a Newborn: U.S. Department of Labor Certification of Health Care Provider Form for Employee's Serious Health Condition (Form WH-380-E).
  - ii. For Father of a Newborn: U.S. Department of Labor Certification of Health Care Provider Form for Family Member's Serious Health Condition (Form WH-380-F).
- b. Care of Child, Spouse, Parent, or Sibling With a Serious Health Condition: U.S. Department of Labor Certification of Health Care Provider Form for Family Member's Serious Health Condition (Form WH-380-F).

- c. Serious Health Condition of the Employee (Non Work-Related): U.S. Department of Labor Certification of Health Care Provider Form for Employee's Serious Health Condition (Form WH-380-E).
- d. Service Member Leave for a Spouse, Son, Daughter, Parent or Next of Kin: U.S. Department of Labor Certification for Serious Injury or Illness of Covered Service member for Military Family Leave (Form WH-385).
- e. Serious Injury or Illness of a Veteran for Military Caregiver Leave: U.S. Department of Labor Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Form WH-385-V).
- f. Qualifying Exigency: U.S. Department of Labor Certification of Qualifying Exigency for Military Family Leave (Form WH-384).

Employee must provide a complete and sufficient medical certification within **15 calendar days** of RCUH's request for certification.

- 3. Submit other required documentation as designated on the Form WH-384 additional documentation including, but not limited to, the following:
  - a. *Adoption of Child*: Certification showing placement of the child with the employee issued by a recognized adoption agency, the attorney handling the adoption, or by the individual officially designated by the birth parent to select and approve the adoptive family.
  - b. *Placement of a Child into Employee's home from Foster Care*: Certification showing placement of a child into employee's home issued by a recognized foster care/adoption agency, the attorney handling the adoption/foster care.

*If the RCUH has reason to doubt the validity of the employee's medical certification, it may require the employee to be examined by a second health care provider at RCUH's expense. If the second opinion conflicts with the original medical certification, the RCUH may seek a mutually agreeable physician to conduct a third examination (at the RCUH's expense) to provide a final and binding opinion.*

*Payment/designation of family leave benefits may not be made to the employee, and/or continuation of health insurance benefits may be on hold (or denied) until the required certification documents are presented. Furthermore, failure to present required documents per the stated deadlines provided may result in denial or delay of employee's family leave request, or, if employee is already absent from work, may result in employee's absence not being protected and subject to appropriate disciplinary action.*

4. Continuing Health Insurance While on Unpaid Family Leave

RCUH will send employees on unpaid family leave a letter to inform them of their status. Employees must submit a check or money order (payable to RCUH) for their portion (40% of the premium) of their health insurance premium by the specified deadline. If payment is not received by specified deadlines, the employee's health insurance benefits may be cancelled.

5. Intermittent Leave

Employees on approved intermittent family leave must notify their supervisor in advance of the need for family leave to ensure that there is adequate coverage during their absence. Normal call-in procedures must be followed.

6. RCUH to Activate Family Leave on eTimesheet: Early eTimesheet Deadline

Employees must record family leave hours on their timesheet following the guidelines in their designation notice and submit to their Principal Investigator by the respective pay period payroll deadlines (per project's internal procedures). All timesheets reporting family leave hours must be submitted by the employee and approved by their Principal Investigator at least one day prior to the RCUH Payroll Deadline to ensure timely pay and continuation of benefits.

7. Additional Documentation Required

Employees must provide RCUH Human Resources with additional documentation (i.e., newborn birth certificate, health benefits enrollment form, etc.) as requested by the stated deadline in the designation notice in order to enjoy the benefits offered.

8. Return to Work

Employees must provide RCUH Human Resources with applicable return-to-work clearances (i.e., doctor's note) prior to returning to work, if applicable.

**Employees must notify their Principal Investigator and RCUH Human Resources of any changes to their family leave immediately. Leave codes are activated for specific time periods. All approvals will be determined based on the information provided to the RCUH at the time of issuance of the Family Leave Determination memo.**

**B. Principal Investigator**

1. Inform the RCUH Human Resources Office when the need arises for an employee to take family leave.
2. Review and confirm the employee's timesheet and submit to the RCUH Payroll Department with supporting documents in accordance with the Payroll Processing Schedule.
3. Notify RCUH Human Resources of any changes to the employee's family leave dates and return to work to ensure proper leave codes are active and available, employee is cleared to return to work (if applicable), and all employee voluntary benefits are reinstated (if applicable).
4. Do not interfere, restrain, or deny the exercise of (or attempts to exercise) any employee's family leave rights while on approved family leave.

**C. RCUH Human Resources**

1. Upon receipt of the employee's request to take Family Leave, RCUH Human Resources will supply the employee with the FMLA Request Form and appropriate Certification of Health Care Provider form (Form WH-380) dependent upon the

nature of the request of the leave. Prior to supplying the form, RCUH Human Resources will complete Section I “For Completion by the Employer” and provide any additional documents relating to the Certification of Health Care Provider form (Form WH-380).

2. Upon receipt of the FMLA Request Form and appropriate Certification of Health Care Provider form, RCUH Human Resources will inform employees requesting leave whether they are eligible under the HFLL or FMLA Family Leave laws, whether leave will be designated as FMLA qualifying, and if the leave is so designated, the amount of leave counted against employee’s leave entitlement and how to code employee’s timesheet. Employees will also be notified if their leave is not FMLA qualifying. This response will be completed within five (5) business days of receipt of the FMLA Request Form and/or Certification of Health Care Provider form.
3. Employees who are eligible for FMLA leave will be provided with an eligibility notice specifying any additional information required by the RCUH, as well as a description of their rights and responsibilities while on leave within five (5) business days of receipt.
4. Employees who are not eligible for FMLA leave will be given a reason for their ineligibility.

**III. Applications**

This policy applies to all RCUH employees who meet the eligibility requirements. Due to the differences between the State (Hawai’i Family Leave Law – HFLL) and Federal (Family and Medical Leave Act – FMLA) Laws, both leaves’ eligibility requirements are outlined below:

Leave Type	Eligibility Requirements	Leave Entitlement Period	Reasons for Taking Leave
HFLL	Completed at least six (6) months of continuous service with RCUH.	Up to four (4) weeks of family leave each 12-month calendar year (January–December)*	<ol style="list-style-type: none"> <li>1. Birth of a child and to care for the newborn;</li> <li>2. Placement of a child with employee for adoption;</li> <li>3. Care for a spouse, civil union partner, reciprocal beneficiary, child (natural, step, adopted, or foster), parent (natural, step, adopted, or foster), parent-in-law, legal guardian, grandparent, grandparent-in-law, grandchildren or sibling defined as an individual who is a biological, adopted, or foster brother or sister; or a stepbrother or stepsister of an</li> </ol>

			employee with a serious health condition.
FMLA	<ol style="list-style-type: none"> <li>1. Completed at least twelve (12) months of employment with the RCUH (need not be 12 consecutive months);</li> <li>2. Completed at least 1,250 hours of service with the RCUH during the 12-month period preceding the leave; and</li> <li>3. Work at a site having at least 50 employees within a 75-mile radius.</li> </ol>	<p>Up to twelve (12) weeks of family leave each 12-month calendar year (January–December)*</p> <p>Up to twenty-six (26) weeks of family leave in a “single 12-month period” to care for a spouse, son, daughter, parent or “next of kin” who is a covered service member.</p>	<ol style="list-style-type: none"> <li>1. Incapacity due to pregnancy, prenatal medical care, or childbirth;</li> <li>2. Birth of a child and to care for the newborn or placement of a child with the employee for adoption or foster care;</li> <li>3. Care for the employee’s spouse, son or daughter, or parent who has a serious health condition; or</li> <li>4. Serious health condition that makes the employee unable to perform her/his job.</li> <li>5. Military Family Leave because of a qualifying exigency, or to care for a covered service member with a serious illness or injury.</li> </ol>

\* Leave entitlement period will be based on employee’s Full-Time Equivalency (FTE). For example, employees who are 50% FTE will have up to two (2) weeks of HFLL and up to six (6) weeks of FMLA.

**A. Military Family Leave**

1. Care for a Covered Service Member: Employees may take up to 26 weeks of family leave during a “single 12-month period” to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service member who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporarily disability retired list. The “single 12-month period” for purposes of leave to care for a covered service member begins on the first day of the covered service member’s leave. Leave is applied on a per-covered-service-member, per-injury basis.
2. FMLA Leave for Qualified Exigencies: Employees with a spouse, son, daughter, or parent who is on “covered active duty” or called to “covered active duty” (or has

been notified of an impending call or order to covered active duty) may use their 12 weeks of FMLA leave to address certain qualified exigencies.

**IV. Details of Policy**

**A. Aggregate Maximum Leave Periods**

1. Concurrent Family Leave: If the reason for leave qualifies the employee for both State and Federal Family Leave, the employee will be required to run their FMLA and HFLL leaves concurrently.

Leave Type	Aggregate Maximum Leave Periods	Maximum Leave
HFLL	Provides four (4) weeks of leave per 12-month calendar year (January–December) period.	<p>All HFLL-qualifying leave taken during a twelve (12)-month period (January–December) shall be counted towards the four (4)-week maximum. All FMLA-qualifying leave (other than leave to care for a covered service member) which is taken during a calendar year (January–December) shall be counted towards the maximum twelve (12) weeks of FMLA leave for that period.</p> <p>Leave taken for any reason which qualifies under both HFLL and FMLA (i.e., birth of a child; for the placement of a child for adoption; or to care for a child, spouse, or parent with a serious health condition) will run <b>CONCURRENTLY</b>, and will be counted against <b>BOTH</b> the 4-week HFLL leave maximum and 12-week FMLA leave maximum for the applicable period (not to exceed 12-week maximum). RCUH will provide additional details on the administration and assignment of paid/unpaid leave.</p>
FMLA	<p>Up to twelve (12) weeks of leave per 12-month calendar year (January–December) for birth or adoption of a child, to recover from a serious health condition, to care for a family member with a serious health condition, or for qualifying exigencies.</p> <p>For service member (military caregiver leave), up to twenty-six (26) weeks of leave per single twelve (12)-month period. When an employee takes service member FMLA leave as well as leave for other FMLA-qualifying reasons during a single twelve (12)-month period, the aggregate FMLA leave taken during that twelve (12)-month period may not exceed twenty-six (26) weeks. The “single 12-month period” for purposes of leave to care for a covered service member begins on the first day of covered service member leave.</p>	

**B. Intermittent and Reduced-Schedule Leave:** Family leave may be taken intermittently (in separate blocks of time) or on a reduced leave schedule (by reducing the usual number of hours worked per workweek or workday) only if there is a **medical need (clearly defined by the employee’s or family member’s treating physician)** as follows:

1. Because of the employee’s own serious health condition
2. To care for a family member with a serious health condition, or for an ill or injured covered service member with a serious illness or injury
3. Because of a “qualified exigency” related to the family member’s covered active-duty status
4. During the first four (4) weeks of leave (under the Hawai’i Family Leave Law) taken for the birth or adoption of a child (i.e., to care for the child). If employee qualifies for both HFLL and FMLA, any remaining leave taken for the birth or adoption of a child under the FMLA may not be taken on an intermittent or reduced schedule.
  - a. *Employees Must Attempt to Schedule Leave to Minimally Disrupt Work Operations:* Employees needing intermittent family leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employer’s operations. The Principal Investigator must approve the intermittent leave/reduced schedule prior to the leave. In addition, if the leave is foreseeable, the employee may be assigned to an alternative position with equivalent pay and benefits that better accommodates the employee’s intermittent or reduced leave schedule at the discretion of the Principal Investigator. If your intermittent or reduced schedule leave is unpaid, the RCUH may reduce your compensation to reflect the amount of time you actually work.

**C. Both Spouses Employed by RCUH**

Reason for Taking Leave (Refer to Section B above)	How Family Leave Period Is Shared
HFLL Leave:	If both spouses, civil union partners, or reciprocal beneficiaries are employed by the RCUH, <b>BOTH may take up to four (4) weeks of leave per 12-month calendar year (January–December).</b>
FMLA Leave:	If both spouses are employed by the RCUH, their total combined leave shall not exceed twelve (12) weeks ( <b>BOTH will SHARE this leave</b> ) in the applicable 12-month calendar year (January–December).  <b>EXCEPTION:</b> Spouses may each take twelve (12) weeks of FMLA leave if needed to care for their newborn child with a serious health condition, provided they have not exhausted their entitlements during

	the applicable twelve (12)-month (January–December) FMLA leave period.
<b>FMLA Military Leave (Care for a Covered Service Member):</b>	If both spouses are employed by the RCUH, they may only take a combined total of 26 weeks of FMLA leave ( <b>BOTH employees will SHARE this leave</b> ) during the applicable “single 12-month period.”

**D. Employee Benefits During Family Leave**

1. While on PAID Family Leave: Health insurance (medical/dental coverage) is maintained.
2. While on UNPAID Family Leave: If the employee’s cost share of the monthly health insurance premiums cannot be deducted from the employee’s payroll due to insufficient funds, the employee may maintain group health benefits (medical/dental coverage) provided she/he submits timely payment to RCUH Human Resources for the employee’s share (40%) of the monthly premium. If an employee is enrolled in a Healthcare Flexible Spending Account or Supplemental Long Term Care, missed deductions will be collected upon the employee’s return.
3. Continuation of Other Insurances: Long-term disability, long-term care, and life insurance coverage will be continued during periods of paid and unpaid family leave (applicable to regular-status employees at 75% FTE or above).
4. Voluntary Cancellation of Health Insurance: If the employee decides not to continue health benefits, she/he will need to submit a waiver of health insurance form and will be issued COBRA.
5. Return to Work Provision for Health Insurance: If an employee does not return to work within at least thirty (30) calendar days after the end of the family leave period, the employee must repay RCUH for any health insurance premiums paid on her/his behalf while she/he was on family leave. This will not apply to employees who do not return to work because of the continuation, recurrence, or onset of either a serious health condition of the employee or the employee’s family member, or a serious injury or illness of a covered service member, which would otherwise entitle the employee to leave under the FMLA; or for other circumstances beyond the employee’s control. RCUH Human Resources reserves the right to make the determination of when such health insurance premiums are owed.

**E. Paid vs. Unpaid Family Leave**

Leave Type	How Paid Leave Is Applied:
HFL	<u>For the Birth or Adoption of the Employee’s Child or to Care for a Spouse, Civil Union Partner, Reciprocal Beneficiary, Child (Natural, Step, Adopted, or Foster), Parent (Natural, Step, Adopted, or Foster),</u>

<p>(Up to Four (4) Weeks of Leave)</p>	<p><u>Parent-in-Law, Legal Guardian, Grandparent, Grandparent-in-Law, grandchildren or sibling defined as an individual who is a biological, adopted, or foster brother or sister; or a stepbrother or stepsister of an employee with a serious health condition:</u></p> <ul style="list-style-type: none"> <li>Employee can use available sick leave for the first two (2) weeks (10 working days), then the employee may use available vacation leave (until exhausted). The remaining family leave period is unpaid (i.e., leave of absence without pay).</li> </ul> <p><i>NOTE: In lieu of available sick leave (2 weeks or 10 working days) or available vacation leave (until exhausted), the employee may request to use leave of absence without pay (LWOP) during the entire or a portion of the 4-week entitlement but must inform RCUH Human Resources BEFORE taking the leave.</i></p>
<p>FMLA (12-26 Weeks of Leave)</p>	<p><u>For the Serious Health Condition of the Employee:</u></p> <ul style="list-style-type: none"> <li>Employee must use available sick leave (until exhausted), then must use available vacation (until exhausted). The remaining family leave period is unpaid (i.e., leave of absence without pay).</li> </ul> <p><i>NOTE: For mothers of a newborn, the disability period is defined by their physician and will be charged to their available sick leave (until exhausted).</i></p> <p><u>For Military Family Leave – Care for a Covered Service Member and for Qualifying Exigencies Under Military Leave:</u></p> <ul style="list-style-type: none"> <li>Employee must use available vacation leave (until exhausted). The remaining family leave period is unpaid (i.e., leave of absence without pay).</li> </ul>
<p>HFLL/FMLA (Up to 12 Weeks of Leave)</p>	<p><u>For the Birth of a Child and to Care for the Newborn or Placement of a Child With the Employee for Adoption or Foster Care, and to Care for the Employee’s Spouse, Son or Daughter, or Parent, Who Has a Serious Health Condition:</u></p> <ul style="list-style-type: none"> <li>Employee can use available sick leave for the first two (2) weeks (10 working days) under HFLL; then must use available vacation leave (until exhausted). The remaining family leave period is unpaid (i.e., leave of absence without pay).</li> </ul> <p><i>NOTE: In lieu of available sick leave (2 weeks or 10 working days) or available vacation leave (until exhausted), the employee may request to use leave of absence without pay (LWOP) during the entire or a portion of the 4-week entitlement but must inform RCUH Human Resources BEFORE taking the leave.</i></p>

1. Paid sick leave and vacation leave may not be used after the family leave period is exhausted, unless it is consistent with the 3.640 RCUH Sick Leave and 3.620 RCUH Vacation Leave policies.
2. Any paid vacation or paid sick leave used for family leave shall be deducted from the employee's vacation and sick leave balances. If advanced sick leave is used, the employee's future earned accrual will be adjusted.
3. Family leave of less than one (1) hour may not be granted. Fractional hours beyond one (1) hour may be granted, provided that the units are in ½-hour (30-minute) increments.
4. The number of hours per day credited to the paid and unpaid family leave period shall be the number of hours the employee would have normally been scheduled to work.

**F. Holiday Administration While on Family Leave**

1. If the employee works or has paid leave hours before and after a holiday, the employee will receive holiday pay. The holiday will not be counted towards employee's FMLA and/or HFLL leave entitlement.
2. If the employee does not work nor have paid leave hours before and after a holiday, the employee is not entitled to holiday pay and will be placed on leave without pay status.

**G. Return to Work From Family Leave**

Employees on family leave must contact their supervisor one (1) week prior to the end of their leave to report on their status and intent to return to work.

1. Employee Shall Be Restored to Same or Equivalent Position: Upon return from family leave, the employee shall be entitled to be restored to the position she/he held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment, unless the employee has been determined to be a "key employee" under FMLA. Employees identified as "key employees" for FMLA leave will be notified of their "key employee" status when submitting their request for family and medical leave and will be informed of the possibility that they will be denied restoration to employment upon conclusion of their leave.
2. Fitness for Duty Review Required Upon Return to Work: Employees who have taken leave because of their own serious health condition are required by the RCUH to provide a medical certificate that verifies they are able to perform their essential job functions according to their job description. Failure to provide the required medical certificate may result in a delay in the employee's return to work until the certificate is provided.
3. Layoff/Work Reductions While an Employee Is on Family Leave: If, during the employee's family leave, the project or RCUH experiences a layoff or work-force reduction and the employee would have lost the position had she/he not been on family leave, the employee is not entitled to reinstatement in her/his former or equivalent position.

4. Financial Hardship of the Project Due to Paid Family Leave: In the event that payment of family leave would lead to severe financial hardship to the project, all paid leaves including family leave that exceed the cost budgeted by the projects for sick and vacation leaves will not be paid to any project employees. This shall only apply to extreme situations where project funding is minimal and additional project funding will not be available. All instances where non-payment of paid leave requests occur must be approved by the RCUH Executive Director.

**H. Notice of FMLA Rights** – The FMLA makes it unlawful for an employer to interfere with, restrain, or deny the exercise of any right protected under the FMLA. It is also unlawful to discharge or discriminate against any person for opposing any practice made unlawful by the FMLA, or for involvement in any proceeding under or relating to the FMLA. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit to enforce FMLA rights. In addition, the FMLA does not affect any federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement providing greater family or medical leave rights.

#### **V. Contact**

RCUH Benefits: (808) 956-2326  
[rcuh\\_benefits@rcuh.com](mailto:rcuh_benefits@rcuh.com)

#### **VI. Relevant Documents**

Family Leave Request Forms

[Care for Self/Own Health Condition B-11a WH380E](#)

[Care for Family Member B-11 WH380F](#)

[Care for Family Member \(Qualifying Exigency for Military Dependent\) B-11 WH384](#)

[Care for Family Member \(Care for Covered Service Member\) B-11 WH385](#)

[Group Benefits Enrollment Application Form](#)

[Payroll Processing Schedule](#)

[Act 128, Chapter 398, HRS, Hawai'i Family Leave Law](#)

[Federal Family and Medical Leave Act of 1993, Public Law 103-3](#)

[Policy 3.620 RCUH Vacation Leave](#)

[Policy 3.640 RCUH Sick Leave](#)

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