

## **ER 09 UNIVERSITY OF PITTSBURGH PROCEDURE (formerly 07-07-02)**

**CATEGORY:** PERSONNEL

**SECTION:** Employee Leave Benefits

**SUBJECT:** Leave Under the Family and Medical Leave Act for Staff

**EFFECTIVE DATE:** March 20, 2013

**REVISED DATE:** January 17, 2024

**PAGE(S):** 4

### **I. PURPOSE**

To provide the steps for applying for leave under the Family and Medical Leave Act, determining eligibility, and establishing FMLA recordkeeping guidelines for individual schools and departments.

### **II. SCOPE**

This procedure applies to all staff employees on all campuses of the University. It includes both intermittent leaves and block leaves for conditions defined by the Family and Medical Leave Act of 1993 (FMLA), as amended. It does not apply to sick time or sick/family obligation time that does not meet the definition of serious health condition as defined by the FMLA.

### **III. DEFINITIONS**

The following terms are defined by the Family and Medical Leave Act:

- Eligible employee includes all regular full- and part-time employees who have worked for the University for at least 12 months and have been employed for at least 1,250 hours of service during the preceding 12-month period.
- Rolling year is a 12-month period measured backward from the date the staff member uses FMLA leave. Each eligible staff member is entitled to a total of 12 weeks of FMLA leave per rolling year for family leave, medical leave, or up to 26 weeks per year during a single 12-month period for servicemember family leave.
- Family leave is an unpaid leave granted for the birth, adoption, or care of a newborn child of the staff member, or placement of a foster child with the staff member.
- Medical leave is an unpaid leave granted to care for an immediate family member with a serious health condition or because the staff member's own serious health condition renders the staff member incapacitated from performing the functions of their job. Medical leave may be used on an intermittent basis.
- Covered servicemember means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in out-patient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. Covered servicemembers can also include certain covered veterans. The FMLA definition of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition." For further details see: <https://www.hr.pitt.edu/current-employees/benefits/leaves-abs/fmla>
- Serious health condition or illness refers to an illness, injury, impairment, or physical or mental condition that involves:

- a period of incapacity or treatment connected with in-patient care (i.e., an overnight stay in a hospital, hospice, or residential medical care facility);
  - a period of incapacity requiring absence of more than three consecutive calendar days from work, school, or other regular daily activities that also involves two or more treatments by a healthcare provider or treatment by a healthcare provider on an occasion that results in a regimen of continuing treatment by or under the supervision of a healthcare provider;
  - a period of incapacity due to pregnancy or prenatal care; or
  - a period of incapacity or continuing treatment by or under the supervision of a healthcare provider for a chronic or serious health condition, restorative surgery after an accident, or other injury or for a long-term health condition that is incurable or so serious that, if untreated, would likely result in a period of incapacity of more than three consecutive calendar days
- Servicemember family leave is an unpaid leave granted during a single 12-month period to care for a covered servicemember if the staff member is the spouse, domestic partner, child, parent, or next of kin to the covered servicemember.
  - Immediate family members include parents, biological or adopted children, domestic partner, or spouse. The term parent refers to a biological, foster, or adoptive parent, a stepparent, or legal guardian. For medical leave, the term child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under age 18 or age 18 or older and “incapable of self-care” as defined pursuant to FMLA regulations.
  - Healthcare provider includes medical or osteopathic doctors, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, and nurse midwives authorized to practice under state law, as well as Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
  - Equivalent position is a position having the same pay, benefits, working conditions, and substantially similar duties and responsibilities, and entails substantially equivalent skill, effort, responsibility, and authority as another position at the University.
  - Key employees are salaried employees who are among the highest paid ten percent of all University employees within 75 miles of the individual employee's worksite. Position reinstatement rights may not be available to key employees in certain circumstances as defined by the FMLA.

#### **IV. ADMINISTRATIVE RESPONSIBILITIES**

The Office of Human Resources is responsible for administering benefits under the Family and Medical Leave Act, including providing information, upon request, concerning staff member rights and responsibilities; determining eligibility; and processing the necessary paperwork to ensure continuation of benefits. The Office of Human Resources has designated a third-party provider to fulfill the administrative functions for leave under the Family and Medical Leave Act.

School or Department Administrators are responsible for:

- Processing the necessary payroll action through Pitt Worx to initiate the paid or unpaid leave
- Maintaining all-time records concerning family and medical leaves, paid and unpaid

- Ensuring that staff members comply with the requirement to initiate leave by contacting the University's third-party provider

## V. PROCEDURE

### Applying for Unpaid leave Under the Family and Medical Leave Act

Staff members must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the staff member must provide notice as soon as practicable and generally must comply with a School or department's normal call-off procedures. In cases in which the nature of the condition or illness makes the need for leave indefinite, notify the departmental administrator of need for leave as soon as possible.

1. The School/Department must consult with the Office of Human Resources if necessary, to ascertain whether the requested leave meets the criteria for FMLA leave and to verify whether the staff member meets the definition of "eligible employee." *See Section III, Definitions.*
2. The School/Department should then direct the staff member to contact the University's third-party provider when a staff member has had a period of incapacity for more than three consecutive calendar days, or when the staff member has identified a need for leave.
3. The staff member must then contact the third-party provider and complete the required certification or verification forms.
4. The Office of Human Resources, through the third-party provider, must determine whether the leave should be counted as approved FMLA leave.
5. If the staff member is eligible, and the requested leave meets the criteria for FMLA leave, provide the staff member with a FMLA rights package, which will include notification that the University may require the employee to provide a written fitness-for-duty certification signed by their healthcare provider prior to returning to work.
6. Upon receipt of certification or verification, advise the staff member and the department whether the eligibility requirement and the criteria for a family or medical leave are met.
7. If the reason for the requested time off meets the criteria for FMLA leave, notify the staff member that the time off will count toward the FMLA leave allowance based on the rolling year criterion, defined in Section III.
8. Advise the staff member that the University will continue medical insurance benefits, and provide information regarding maintenance of other benefits, defined in Policy 07-07-02.
  - a. Note: Medical benefits are continued on the same basis as the staff member received on active status and, where appropriate, the staff member will be invoiced by the University for their share of the health insurance premium.
9. If the conditions for FMLA leave are not met, inform the staff member and the department of the reasons.

### Recordkeeping for Leave Under the Family and Medical Leave Act

1. If the reason for the requested time off meets the criteria for family or medical leave, the School/Department must record the time off in Pitt Worx.
2. For paid or unpaid leave, process the leave in Pitt Worx to document the dates of the leave.
  - a. For continuous leaves, complete and process the leave in Pitt Worx.
  - b. For intermittent leaves, contact HR if the employee does not have sufficient paid time off to cover the leave. Otherwise, document the paid time off in Pitt Worx. Review the monthly tracking form, which the staff member should have received from the third-party provider, with the staff member to ensure accuracy, then sign and return to the third-party provider, or submit online through the third-party provider.
3. Prior to returning to work from an approved FMLA leave, an employee whose FMLA leave was occasioned by the employee's own serious health condition may be required to provide a written fitness-for-duty certification signed by their healthcare provider, so long as this requirement is consistently applied to similarly situated employees.
4. Upon return from a family or medical leave, reinstate the staff member to the former or equivalent position as defined by the Family and Medical Leave Act, as outlined in Section III, Definitions. If necessary to restore the staff member to active status, complete the change back to active assignment in Pitt Worx. Notify the third-party provider of the staff member's return to work.

### **VI. REFERENCES**

[Policy ER 09, Leave Under the Family and Medical Leave Act for Staff](#)

[Policy ER 18, Time Records/Attendance/Overtime and Compensatory Time](#)