

UNIVERSITY OF PITTSBURGH PROCEDURE 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
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, as amended (the "Act"). 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 Act.

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 his or her 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 servicemember can also include certain covered veterans. The FMLA definitions 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 inpatient 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 health care provider or treatment by a health care provider on one occasion which results in a regimen of continuing treatment by or under the supervision of a health care 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 health care provider for a chronic 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, son, daughter, parent or next of kin to the covered servicemember.

Immediate family members include parents, biological or adopted children, 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.

Health Care Provider includes doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, and nurse midwives authorized to practice under state law; and 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.

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 Act.

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 forms 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 Member

1. Notify the school or department of the need for FMLA leave at least 30 days in advance of the first day of the leave.
 - a. In cases in which the nature of the condition or illness makes the need for leave unforeseeable, notify the departmental administrator of need for leave as soon as practicable.

School/Department

2. 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.
3. 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.

Staff Member

4. Contact the third party provider and complete the required certification or verification forms.

Office of Human Resources through the third party provider

5. Determine whether the leave should be counted as approved FMLA leave.
6. 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 his or her health care provider prior to returning to work.
7. 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.
8. 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.
9. Advise the staff member that the University will continue medical insurance benefits, and provide information regarding maintenance of other benefits. (See Policy 07-07-02.)

NOTE: Medical benefits are continued on the same basis as the staff member enjoyed on active status and, where appropriate, the staff member will be invoiced by the University for his share of the health insurance premium.

10. 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

School/Department
Administrator

1. If the reason for the requested time off meets the criteria for family or medical leave, record the time off as FMLA leave on FORM 0099, Staff Time Record.
2. For paid or unpaid leave, process the Employee Record (ER) to document the dates of the leave and deduct the time off from the staff member's FMLA allowance.
 - a. For continuous leaves, complete and process the staff member's Employee Record (ER) and submit to Compensation with a copy of the staff member's time record.
 - b. For intermittent leaves an Employee Record (ER) should only be submitted if the employee does not have sufficient paid time off to cover the leave. Note the days that need to be docked in the remarks section. Review the monthly tracking form, which the staff member received from the third party provider, with the staff member to ensure accuracy, sign and return to the third party provider.

Return to Work

School/Department
Administrator

1. 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 his or her health care provider, so long as this requirement is consistently applied to similarly situated employees.
2. 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. See Section III, Definitions. If necessary to restore the staff member to active status, complete an Employee Record to change the assignment status to active and note the last day of paid/unpaid leave. 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](#) (formerly 07-07-02)

[Policy ER 18, Time Records/Attendance/Overtime and Compensatory Time](#) (formerly 07-04-01)