

Frequently Asked Questions

Family Medical Leave Act (FMLA)

See faculty section below for special conditions.

What is the Family and Medical Leave Act (FMLA)?

FMLA is a federal law which came into effect in 1993. It requires the College to grant its employees up to 12 weeks of FMLA job-protected leave per fiscal year for specified medical reasons.

Under what circumstances can FMLA leave be requested?

FMLA leave may be requested at any time; however, this does not automatically mean the leave may be granted or that the employee is eligible for FMLA leave. Human Resources must determine whether or not the leave requested falls under the protection of the Family and Medical Leave Act. The College is required to inform the employee of their FMLA rights when made aware of the condition.

Is FMLA paid leave?

No, FMLA is not paid leave.

Can I choose to exhaust my own paid leave prior to beginning FMLA leave?

No, you cannot choose to exhaust your own paid leave prior to beginning FMLA leave. College Policy 620 requires you to use your available paid leave when you are missing work due to an FMLA-related reason. Your available paid leave will run concurrently with your FMLA leave.

How does FMLA benefit me?

The following benefits will apply if you qualify for leave under FMLA:

- 12 weeks of job-protected leave per fiscal year
- Maintenance of health care benefits
- Job restoration upon return from FMLA leave

How do I know if I am eligible for FMLA leave?

There are two requirements you must meet to be considered eligible for FMLA leave:

- You must have been employed by the college for a total of 12 months; and
- You must have worked a minimum of 1,250 hours during the 12 months prior to the first day of taking FMLA leave

Does the 12 months of employment have to be continuous or consecutive?

No, the 12 months does not have to be continuous or consecutive; all time worked for the College counts.

Does the 1,250 hours include paid leave time or other absences from work?

No, the 1,250 hours include only hours actually worked for the College. Paid leave and unpaid leave, including FMLA leave are not included.

Under what circumstances may I use FMLA leave?

FMLA leave is available to you if you are certified as having a health condition as defined under the FMLA and meet the eligibility criteria. Reasons for taking FMLA are:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, parent or parents-in-law, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

What types of illnesses qualify for leave under FMLA?

Any illness, injury, impairment, or physical or mental condition that involves the following criteria to qualify for leave under FMLA, provided eligibility requirements are met:

- Any period of incapacity requiring absence from work for more than three continuous days with continuing treatment by a health care provider;
- Continuing treatment by a health care provider for a chronic health condition; or
- Any period of incapacity connected with inpatient care or overnight stay in a hospital or residential medical-care facility.

Does a part-time employee qualify for FMLA leave?

Yes, a part-time employee may qualify for FMLA if they have met the eligibility requirements of:

- being employed by the college for a total of 12 months; and
- has worked a minimum of 1,250 hours during the 12 months prior to the first day of taking FMLA leave

How do I request FMLA leave?

When the leave is foreseeable an employee is required to provide 30 days advance notice or as much notice as is foreseeable. Leave is requested by using a Leave Request form. Employee needs to notify their supervisor and notify Human Resources to obtain your rights under FMLA and medical certification form.

Otherwise notify your supervisor and Human Resources as soon as learning of the need.

Can the College designate my leave as FMLA?

Yes, it is the College's responsibility to notify the employee that leave may be considered FMLA and is being counted towards FMLA until medical certification has been received.

Can I use FMLA more than once? Is the 12 weeks yearly?

Yes, FMLA may be used more than once per fiscal year. It may also be used for different and separate medical conditions. In no case, however, may an employee be granted more than 12 weeks of FMLA leave in one fiscal year.

How does FMLA work when an employee misses work intermittently for a medical condition?

All intermittent time lost due to the same condition will be tracked to the nearest quarter hour. This time will be counted until 12 weeks of FMLA time (or 480 hours for each full-time employee) are exhausted.

Can work missed for workers' compensation leave be counted against FMLA.

It can, FMLA leave and workers' compensation leave can run together, provided the reason for the absence is due to a qualifying serious illness or injury.

Can the College count leave taken due to pregnancy complications against the 12 weeks of FMLA leave for the birth and care of my child?

Yes, an eligible employee is entitled to a total of 12 weeks of FMLA leave in a 12-month period. If the employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of the 12-week FMLA leave entitlement.

Can the College count time on maternity leave or pregnancy disability as FMLA leave?

Yes, Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA leave for a serious health condition and may be counted in the 12 weeks of leave.

Can husbands and wives both take 12 weeks of FMLA upon birth or receipt of a child?

No, a husband and wife who are eligible and employed by the College are limited to a combined total of 12 weeks of leave for a birth or receipt of a child.

Do I have to give my employer my medical records for leave due to a serious health condition?

No, you do not have to provide medical records. The College will request that you provide medical certification confirming that a serious health condition exists from your medical provider.

Can the College make inquiries about my leave during my absence?

Yes, but only to you. The College may ask you questions to confirm whether the leave needed or being taken qualifies for FMLA purposes and may require periodic reports on your status and intent to return to work after leave. Also the college may require you to obtain additional medical certification at the College's expense.

Will I lose my job if I take FMLA leave?

Generally, no, it is unlawful for the College to interfere with or restrain or deny the exercise of any right provided under the Family Medical Leave Act. The College cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions.

Does the College have to reinstate me to my old position when I return from FMLA?

Yes, or an equivalent position which includes equivalent benefits, pay and other terms and conditions of employment.

Are there other circumstances in which the College can deny me FMLA leave or reinstatement to my job?

The college is not required to continue FMLA benefits or reinstate employees who would have been laid off or otherwise had their employment terminated had they continued to work during the FMLA leave period.

Employees who give unequivocal notice that they do not intend to return to work lose their entitlement to FMLA leave.

Employees who are unable to return to work and have exhausted their 12 weeks of FMLA leave during the fiscal year no longer have FMLA protections of leave or job restoration.

Employees returning to work are required to present a medical release. Release needs to state employee may return to full- or part-time work, restrictions such as limits on lifting, walking, etc. and day to return.

Faculty

A faculty employee may be required to continue leave until the end of a semester if FMLA leave for the **employee's serious health condition** began:

- more than five weeks before the end of a semester,
- lasts more than three weeks; and
- the return would occur during the last three weeks of the semester.

A faculty employee may be required to continue leave until the end of a semester if reason **other than employee's serious health condition** began:

- in the last five weeks of a semester; and
 - will last more than two weeks; and
 - the return to work occurs in the last two weeks of a semester
- or
- leave begins in the last three weeks of a semester; and
 - lasts more than five days.