

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- 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, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees 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 employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV



MILITARY FAMILY LEAVE ENTITLEMENT

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

MILITARY CAREGIVER LEAVE

Qualifying Reasons for Leave, General: To care for a covered service member with a serious injury or illness, if the employee is the spouse, son, daughter, parent or next of kin of the servicemember.

Definitions: Next of kin of covered service member: nearest blood relative (other than covered service member's spouse, parent, son or daughter). There is a specific order of priority and the covered service member can designate another blood relative for FML purposes.

Leave to Care for a Family Member or a Covered Service member: Needed to care for a family member or a covered service member means both physical and psychological care.

Leave to Care for a Covered Service member with a Serious Injury or illness:

- ❖ Covers current members of the regular armed forces, reserves and National Guards, and those on temporary disability retirement lists who are in out-patient status.
- ❖ The covered service member must have a serious injury or illness incurred in the line of duty on active duty for which she is undergoing medical treatment, recuperation, therapy or is in outpatient status or on the temporary disability retired list.
- ❖ "Serious injury or illness" means incurred in the line of active duty that may render the service member medically unfit to perform the duties of her office, grade, rank or rating.
- ❖ The employee must be spouse, parent, son, daughter or next of kin of covered service member.

- ❖ The employee can take leave to care for injured son or daughter who is 18 or older.
- ❖ The employer can require confirmation of covered family relationship to covered service member.
- ❖ The employee gets up to 26 workweeks for this FMLA purpose in a "single 12 month period."
- ❖ The employer's leave year immaterial for determining entitlement here as the 12-month period begins on the first day the employee takes leave to care for the covered service member and ends 12 months after that date.
- ❖ If the employee does not use all of the 26 weeks during this single 12-month period, the rest is forfeited for that 12-month period.
- ❖ This is per injury per covered service member.
- ❖ If the employee takes care of more than one covered service member or the same covered service member with a subsequent serious injury or illness, the employee is limited to taking no more than 26 workweeks of leave in any single 12-month period.
- ❖ The employee who takes FML for both a "traditional" purpose and to care for a covered service member under this section is limited to a total of 26 weeks during a single 12-month period and can take no more than 12 workweeks of that time for the "traditional" reasons.
- ❖ The employer cannot double designate if leave qualifies both as leave to care for a covered service member and leave to care for a family member with a SHC.
- ❖ "As with other leaves for qualifying reasons," the employer may back designate.

Certification for Military Caregiver Leave: Special forms are available for this leave and there are designated HCPs who make this certification.

Failure to Provide Certifications: Recertification does not apply to leave to care for a covered service member.

**CERTIFICATION FOR MILITARY CAREGIVER LEAVE
(LEAVE DUE TO SERIOUS INJURY OR ILLNESS OF COVERED SERVICEMEMBER)
Family and Medical Leave Act (FMLA)**

SECTION I – To be completed by THE UNIVERSITY

CAMPUS/LABORATORY		DEPARTMENT OR OTHER WORK UNIT	
NAME OF UNIVERSITY REPRESENTATIVE		UNIVERSITY REPRESENTATIVE MAILING ADDRESS	
TELEPHONE ()	FAX ()	E-MAIL	

**SECTION II –
To be completed by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee Is Requesting Leave**

INSTRUCTIONS to the EMPLOYEE and/or COVERED SERVICEMEMBER: Please complete Section II before having Section III completed. The FMLA permits the University to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. If requested by the University, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 C.F.R. § 825.310(f). The University will give you at least 15 calendar days to return this form.

**SECTION III –
To be completed by a UNITED STATES DEPARTMENT OF DEFENSE (“DOD”) HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider**

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered servicemember's serious injury or illness includes written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

**SECTION II –
To be completed by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee Is Requesting Leave:** (This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION (To be completed by the EMPLOYEE)

Name of employee requesting leave to care for Covered Servicemember:

FIRST	MIDDLE	LAST
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Name of Covered Servicemember (for whom employee is requesting leave to care):

FIRST	MIDDLE	LAST
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Relationship of Covered Servicemember to employee requesting leave:

Spouse Domestic Partner Parent Son Daughter Next of Kin

I certify that the information I provided above is true and correct.

SIGNATURE OF EMPLOYEE	DATE
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Part B: COVERED SERVICE MEMBER INFORMATION (To be completed by the EMPLOYEE and/or the COVERED SERVICEMEMBER)

(1) Is the Covered Servicemember a current member of the Regular Armed Forces, the National Guard or Reserves? Yes No

If yes, please provide the Covered Servicemember's military branch, rank and unit currently assigned to:

Is the Covered Servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)? Yes No

If yes, please provide the name of the medical treatment facility or unit:

(2) Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)? Yes No

Part C: CARE TO BE PROVIDED TO THE COVERED SERVICEMEMBER (To be completed by the EMPLOYEE)

Describe the care to be provided to the Covered Servicemember and an estimate of the leave needed to provide the care:

SECTION III –

To be completed by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider.

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care

coordinator). (Please ensure that Section II above has been completed before completing this section.) Please be sure to sign the form on the last page.

Part A: HEALTH CARE PROVIDER INFORMATION

HEALTH CARE PROVIDER'S NAME		BUSINESS ADDRESS
TELEPHONE ()	FAX ()	E-MAIL

Type of Practice/Medical Specialty:

Please state whether you are either:

- a DOD health care provider;
- a VA health care provider;
- a DOD TRICARE network authorized private health care provider; or
- a DOD non-network TRICARE authorized private health care provider: _____

PART B: MEDICAL STATUS

(1) Covered Servicemember's medical condition is classified as (Check One of the Appropriate Boxes):

- (VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- (SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- OTHER Ill/Injured** – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.
- NONE OF THE ABOVE** (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under the FMLA and/or CFRA. If such leave is requested, you may be required to submit the University's Certification of Health Care Provider for Family Member's Serious Health Condition.)

(2) Was the condition for which the Covered Servicemember is being treated incurred in the line of duty on active duty in the armed forces?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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(3) Approximate date condition commenced:	____ ____ ____
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(4) Probable duration of condition and/or need for care:

From ____|____|____ To ____|____|____

(5) Is the Covered Servicemember undergoing medical treatment, recuperation, or therapy?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If yes, please describe medical treatment, recuperation or therapy:

PART C: COVERED SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER

(1) Will the Covered Servicemember need care for a single continuous period of time, including any time for treatment and recovery?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If yes, estimate the beginning and ending dates for this period of time:

From ____|____|____ To ____|____|____

(2) Will the Covered Servicemember require periodic follow-up treatment appointments?

Yes No

If yes, estimate the treatment schedule:

(3) Is there a medical necessity for the Covered Servicemember to have periodic care for these follow-up treatment appointments?

Yes No

4) Is there a medical necessity for the Covered Servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)?

Yes No

If yes, please estimate:

Frequency: ____ Times per week(s) month(s) | Duration: ____ Hours or ____ Day(s) per episode

Flare-ups may occur from: ____|____|____ through: ____|____|____

SIGNATURE

SIGNATURE OF HEALTH CARE PROVIDER

DATE

RETURN TO WORK CERTIFICATION For Family and Medical Leave (FML)

SECTION I – To be completed by THE EMPLOYER

EMPLOYEE'S NAME (LAST, FIRST, MIDDLE INITIAL)

EMPLOYEE'S DEPARTMENT

DEPARTMENT CONTACT

DEPARTMENT CONTACT'S MAILING ADDRESS

PHONE

FAX

E-MAIL

SECTION II – To be completed by HEALTH CARE PROVIDER

NAME OF HEALTH CARE PROVIDER

ADDRESS

PLACE ADDRESS STAMP HERE:

**PLEASE COMPLETE THE FOLLOWING AND RETURN THE FORM TO THE EMPLOYEE
OR TO THE DEPARTMENT CONTACT LISTED ABOVE PRIOR TO THE RETURN TO WORK DATE**

Important: Please limit your answers below to the serious health condition for which the Employee has been on leave.

THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA): The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

1. Is the employee now able to perform those essential functions of his or her job that she could not previously perform because of the serious health condition for which the employee has been on leave?

- No.
 Yes.
 Yes, with restrictions

2. Employee released to return to work effective: _____ *[indicate date]*

3. If the Employee is released to work but is restricted in his or her ability to perform the essential functions of his or her job as a result of the serious health condition for which the employee has been on leave, please describe those restrictions:

4. The foregoing restrictions are:

- Permanent
 Temporary, until: _____ *[indicate date]*

SIGNATURE

SIGNATURE OF HEALTH CARE PROVIDER

DATE