

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.

QUALIFYING EXIGENCY LEAVE

Definitions: "Son or daughter on active duty status or called to active duty status" means the employee's biological, adopted or foster child, legal ward or child for whom the employee stood in loco parentis regardless of age.

Leave Because of a Qualifying Exigency: This leave is for the employees who have a spouse, parent, son or daughter who is a "covered military member." To be a covered military member, she must be on active duty or (federal) call to active duty in support of a contingency operation when they are members of the National Guard or the Reserves or are a retired member of the regular armed services or Reserves. A covered military member does not include a member of the regular armed forces. The following are the kinds of things for which this leave is available:

- ❖ short-notice deployment - limited to seven calendar days beginning with the date of the call/order to active duty;
- ❖ military events and related to call to active duty;
- ❖ childcare and school activities;
- ❖ financial and legal arrangements;
- ❖ counseling; rest and recuperation - the employees can have five days off (note that California law provides 10 days' unpaid leave for spouses of military members (see California Military and Veterans Code, section 345.10; there are lesser notice and certification requirements for the California leave);

- ❖ post deployment activities (includes matters arising from the death of the military member while on active duty status);
- ❖ other matters which the employer and employee agree qualify as exigency and they agree on the time off;
- ❖ the employer's standard leave year applies.

Employee Notice Obligations for Foreseeable Leave: Notice for foreseeable leave for a qualifying exigency must be given as soon as practicable regardless of how far in advance such leave is foreseeable.

Certification of a Leave Taken for Qualifying Exigency: See special forms for this leave. The employer may ask for copies of military member's duty orders, facts regarding exigency, dates of service and date of commencement of exigency. The orders need only be provided once. There are also rules regarding certification for use of intermittent/reduced-schedule leave and meetings with third parties.

Failure to Provide Certification: Recertification does not apply to leave taken for a qualifying exigency.

**CERTIFICATION FOR QUALIFYING EXIGENCY LEAVE
LEAVE ARISING OUT OF THE ACTIVE DUTY OR CALL TO ACTIVE DUTY
OF A COVERED MILITARY MEMBER
Family and Medical Leave Act (FMLA)**

SECTION I: For Completion 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

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits the University to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency arising out of the active duty or call to active duty of a Covered Military Member. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. 29 C.F.R. § 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. The University will give you at least 15 calendar days to return this form.

1. Your Name

FIRST	MIDDLE	LAST
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2. Name of Covered Military Member on active duty or call to active duty status in support of a contingency operation

FIRST	MIDDLE	LAST
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RELATIONSHIP OF COVERED MILITARY MEMBER TO YOU:	PERIOD OF COVERED MILITARY MEMBER'S ACTIVE DUTY: FROM _____ TO: _____
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3. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a Covered Military Member's active duty or call to active duty status in support of a contingency operation.

Please check one of the following:

- A copy of the Covered Military Member's active duty orders is attached.
- Other documentation from the military certifying that the Covered Military Member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided the University with sufficient written documentation confirming the Covered Military Member's active duty or call to active duty status in support of a contingency operation.

Part A: QUALIFYING REASON FOR LEAVE

1. Describe the specific reason(s) you are requesting FMLA leave due to a qualifying exigency:

<p>2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> None Available
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PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: _____

Probable duration of exigency:

FROM: _____

TO: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency?

 No
 Yes

If so, estimate the beginning and ending dates for the period of absence:

FROM: _____

TO: _____

3. Will you need to be absent from work periodically to address this qualifying exigency?

 No
 Yes

If so, estimate the schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: ____ Times per week(s) month(s)Duration: ____ Hours or ____ Day(s) per event**Part C:**

1. If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the Covered Military Member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by the University to verify that the information contained on this form is accurate.

NAME OF INDIVIDUAL

TITLE

ORGANIZATION

ADDRESS (STREET)

(CITY, STATE, ZIP)

TELEPHONE:

FAX

E-MAIL

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()

2. Describe nature of meeting:

Part D: SIGNATURE

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

SIGNATURE OF EMPLOYEE

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