

Policies and Procedures

Title: Family and Medical Leave Act Policy
Policy Administrator: Chief Human Resources Officer
Effective Date: July, 2022
Approved by: General Counsel

Purpose:

The College has established the following policy and procedures in compliance with the Family and Medical Leave Act (FMLA), which entitles eligible employees to take job-protected unpaid leave for certain qualifying family and medical reasons for up to 12 or 26 weeks per benefit year, depending on the qualifying reason.

Policy:

1.0 Eligibility

All employees who have completed twelve (12) months of employment and have worked more than 1,250 hours in the preceding twelve (12) months are eligible for FMLA leave.

2.0 Qualifying Reasons and Time Periods for Leaves

Eligible employees may take up to 12 weeks of unpaid FMLA leave during a 12-month period for the following purposes:

- Bonding Leave: to care for a newborn, a newly adopted or newly placed foster child which must be completed within one year of the child's birth, adoption or foster placement.¹
- Family Leave: to care for a child, a spouse or a parent who has a serious health condition
- Personal Medical Leave: for a leave taken due to the employee's own serious health condition

¹ Ordinarily, this leave must be taken in one continuous period of up to 12 consecutive weeks; however, if operational needs permit, the employee may request, and the employee's supervisor and/or department head may approve, that the leave be split into two separate periods of consecutive weeks.¹ In no event may the child bonding leave (whether taken in one period or two separate periods) extend beyond the one-year anniversary of the child's birth, adoption or foster placement or exceed twelve (12) weeks in total.

- Active Duty Leave: for a leave taken due to a spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation

Eligible employees may take up to 26 weeks of unpaid FMLA leave during a 12-month period for the following purpose:

- Service Member Caregiver Leave: for a leave taken to care for a recovering service member who is a spouse, son, daughter, parent, or nearest blood relative.

All FMLA leaves other than Bonding Leaves may be taken in one consecutive period of time or, if medically necessary, FMLA leave may be taken intermittently (in separate blocks of time due to a serious health condition) or on a reduced leave schedule (reducing the usual number of hours worked per workweek or workday). FMLA leave may also be taken intermittently or on a reduced leave schedule for a qualifying exigency relating to covered military service.

An employee is entitled to a maximum of 12 or 26 weeks of FMLA leave, as set forth above, in a benefit year. A benefit year is a 12-month period measured forward from the first date FMLA leave is used.

2.1 Interaction with Other Leaves

To the maximum extent permitted by law, FMLA leave runs concurrently with any leave taken under the Massachusetts Paid Family and Medical Leave (“MA PFML”) law, worker’s compensation law, or other applicable leave law or College policy, including, but not limited to the *Statutes of the Faculty*, the College’s the Massachusetts Paid Family and Medical Leave and Supplemental Medical Leave Policy, and the College’s Parental Leave Policy. Accordingly, employees may, where eligible, receive MA PFML benefits during any period of concurrent leave under MA PFML and FMLA.

Alternatively, employees may use accrued and unused paid time off, such as sick time, vacation, or personal days during any period of FMLA leave that would otherwise be unpaid.

2.2 Effect of FMLA Leave on Employee Benefits

All benefits in which an employee is enrolled will continue during any period of FMLA leave, to the extent permitted under governing plan documents and applicable College policies. Employees will remain responsible for their usual benefits premiums during such period.

2.3 Definitions

Serious Health Condition

Under the FMLA, a serious health condition is generally defined as an illness, injury, impairment or physical or mental condition that:

1. involves inpatient care in a hospital, hospice or residential facility, or

2. involves continuing treatment from a health care provider.

Each of these definitions is further informed by regulations issued pursuant to the FMLA. All determinations regarding whether an employee or qualifying family member have a serious health condition will be made in compliance with applicable law.

Covered Family Member

Under the FMLA,² covered family members for whom family leave may be taken include spouses and parent/child relationships, including step-children and step-parents, legal wards and guardians, and those standing in loco parentis. A child is defined as a son or daughter under the age of 18, but includes children over the age of 18 who are incapable of self-care due to a physical or mental disability. A spouse is defined as a husband or wife.

3.0 FMLA Leave Administration and Procedures:

3.1 Third Party Administration of FMLA Leaves

The College has contracted with Sun Life for purposes of administering the leaves available under this policy. Employees must file claims for FMLA leave through Sun Life, using any of the following methods:

Telephone: (877) 786-3652 Monday through Friday, 9:30 a.m. to 11:30 p.m. EST
Online portal: www.sunlife-ams.com
Email: absence@sunlife-ams.com
Smartphone App: Sun Life Absence Management Services

3.2 Requesting FMLA Leave

Notification to Supervisor

Employees are required to provide as much advance notice to their supervisor of the need for a leave as is possible. Employees must provide this notice because supervisors will not receive separate notice of an employee's FMLA leave request from Human Resources or Sun Life. If the leave is foreseeable, the College asks that the request be made 30 days prior to the expected leave period to allow for planning of coverage in the employee's department.

Obtaining Application Forms for FMLA Leave

Sun Life will send the appropriate FMLA application form, medical certification form(s), and verification notice(s) to eligible employees in the following circumstances:

² Please note that family relationships are defined more broadly under the Massachusetts Paid Family and Medical Leave law.

- Upon request from an employee
- When directed by Human Resources
- When an employee contacts Sun Life to apply for benefits under the Massachusetts Paid Family and Medical Leave Act and the requested leave also appears to meet the criteria for FMLA leave
- If an employee who is on Worker's Compensation meets the criteria for FMLA leave
- If an employee takes Active Duty Leave

Timely Submission of Application and Medical Certification Forms

As noted, employees who request FMLA leave for their own or a covered relative's serious health condition will be required to submit required form(s), medical certification(s), and other necessary paperwork to Sun Life, some of which must be completed by the applicable health care provider(s). Failure to provide requested form(s) or medical certification(s) in a timely manner may result in delayed approval or denial of FMLA-covered leave.

If an employee believes that they should have, but have not, received FMLA paperwork or other notification(s) from Sun Life, and follow-up communication with Sun Life has not resolved the issue, the employee should immediately contact Human Resources.

3.3 Returning to Work at the Conclusion of FMLA Leave; Reinstatement

Consistent with applicable law, communication with the College is expected during an employee's FMLA leave. The employee must give notice to Sun Life, Human Resources and their supervisor as soon as practicable if the dates of their planned leave change or the scheduled end date of an existing leave is extended. Employees must also ensure that they have communicated with their supervisor and Human Resources at least one week prior to their scheduled date of return to work.

If the FMLA leave is for the employee's own serious health condition, the employee will be required to submit to Human Resources a certification from the employee's health care provider demonstrating that the employee is able to resume work. Any proposed restrictions on an employee's return to work must be submitted in advance to Human Resources as a request for a reasonable accommodation. The College will consider reasonable accommodations for employees (including any proposed work restrictions) in accordance with its Reasonable Accommodations procedures. Employees requiring a reasonable accommodation in order to return to work at the College after a FMLA leave must contact Human Resources to request such an accommodation.

An employee will be reinstated to the same position they held when FMLA leave began or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, provided the employee is able perform the essential functions of the position. An employee is not entitled to any benefit greater than those to which they would have been entitled had the leave not been taken. For example, if a layoff occurred

during the leave, the employee's right to reinstatement would depend upon whether or not their position was included in the layoff. Likewise, an employee returning from FMLA leave may be subject to organizational, functional, or scheduling changes that have otherwise been implemented during their leave.

4.0 No Retaliation

Retaliation against any employee who has requested or taken FMLA leave is strictly prohibited. Any supervisor or department head who believes that disciplinary action or other adverse employment action (e.g., termination, suspension, demotion, or other negative job change) is appropriate for any employee who has requested or returned from a leave within the prior six (6) months must confer with and obtain express approval from Human Resources prior to taking any such action.

5.0 Interpretation

The College reserves the right to interpret this policy in its sole discretion in a manner consistent with the FMLA, the MA PFML law, and the College's Massachusetts Paid Family and Medical Leave and Supplemental Medical Leave Policy, as each may be amended, restated, or modified from time to time.

Additional Questions

Questions relating to the conditions and eligibility requirements for FMLA leave should be directed in the first instance to Sun Life. If an employee still has questions after communicating with Sun Life, they should promptly contact Human Resources.

Related Information:

Title: United States Department of Labor

Policy # 310000-006
Date of Last Review XXXXX