

FAMILY AND MEDICAL LEAVE ACT

This policy statement is a summary of the Family and Medical Leave Act (FMLA) of 1993. The Act is specific in its scope of coverage and will be the determining factor in final interpretation of Leave provisions. You should contact the Human Resources Office for information about specific situations.

Faculty and Staff who have been employed for at least one year for 1250 hours or more over the twelve months preceding the events which are listed below are entitled to receive a combined unpaid medical and/or family leave for a maximum of 12 weeks for each 12 month period beginning from the first date of approved leave.

This Leave is intended to run concurrent with the provisions of College sick leave policy, New York State Disability Insurance, Worker's Compensation Insurance, Long Term Disability Insurance, and/or accrued vacation time and, for less than 12 month employees, any unpaid period including summer and winter breaks. The provisions of this policy apply only to family and medical leave circumstances covered by the federal law. The provisions for Personal Leave of Absence under existing policy are not changed and cannot be substituted for the provisions covered by the Federal Law.

An employee on an approved FMLA leave will be required to use all accrued, unused vacation, sick and personal days during the leave period. Once such benefits are exhausted, the balance of the leave will be without pay. All group health benefits (e.g., major medical, hospitalization, and dental insurance) will continue during the leave provided you continue regular contributions to these plans. Other benefits (such as pension, retirement, life insurance, and long-term disability) will be governed by the terms of each benefit plan. All benefits that operate on an accrual basis (e.g., vacation, sick and personal days) will cease to accrue during any period of FMLA leave that is unpaid.

Family Leave Entitlement:

- A. Because of incapacity due to pregnancy, prenatal medical care or child birth.
- B. Because of the need to care for an employee's child after birth, or placement for adoption or foster care.

In the case of an employee who is a birth mother, the eligibility for the family leave entitlement portion begins when the primary physician releases the employee to resume normal work duties. Entitlement to leave expires at the end of the 12-month period beginning on the date of birth or placement. Accrued vacation leave and other appropriate paid time off leave will be paid during the leave period.

Since the need for family leave is typically foreseeable, an employee must notify their immediate supervisor and/or Department Head of their intentions to request the leave at least 30 days in advance so that provisions can be made to have their duties carried out during their leave. If the date of the birth or placement requires leave to begin in less than 30 days, the employee must provide notice as soon as practicable.

FMLA leave for the birth or placement of a child for adoption or foster care with the employee may not usually be taken on an intermittent or reduced leave schedule basis.

Medical Leave Entitlement:

- A. Because of the need to care for an employee’s spouse, domestic partner, son, daughter, or parent with a serious health condition.
- B. Because of an employee’s own serious health condition which makes the employee unable to perform the employee’s job.

Whenever possible, an employee seeking or needing a leave of absence for one of these purposes must give 30 days notice before taking leave; otherwise you should give notification as early as possible. To the extent allowed by law, accrued paid vacation leave and other paid time off benefits must be exhausted as part of an employee’s entitlement to FMLA leave for a serious health condition of the employee or an employee’s immediate family member.

For purposes of this policy, a “serious health condition” generally means an illness, injury, impairment, or physical or mental condition that involves either (1) an overnight stay in a medical care facility (i.e., hospital, hospice, or residential medical care facility), or , (2) 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 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.

Medical leave for an employee’s own serious health condition or a serious health condition of an employee’s immediate family member may in some cases be taken on an intermittent or reduced schedule basis when medically necessary for the leave (as distinguished from voluntary treatments and procedures) and if it is determined that the employee’s medical needs can best be accommodated through an intermittent or reduced leave schedule. Certification from an employee’s health care provider of the medical necessity of intermittent leave or leave on a reduced leave schedule will be required. An employee needing intermittent FMLA leave or leave on a reduced leave schedule must make reasonable efforts to schedule their leave for planned medical treatment so as not to unduly disrupt the College’s operations. Leave due to qualifying exigencies may also be taken on an intermittent basis. In addition, an employer may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee’s intermittent or reduced leave schedule.

An employee who has questions concerning whether they qualify for leave under the FMLA because of a serious health condition are advised to consult with their department manager or Human Resources.

Military Family Leave Entitlement:

An eligible employee with a spouse, domestic partner, 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 his/her 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events and related activities, short notice deployment, arranging for alternative childcare or emergency child care, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings, leave to spend time with a covered military member who is on short-term temporary rest and recuperation leave during a period of deployment; and leave for post-deployment activities, such as an arrival ceremony.

FMLA also includes a special leave entitlement that permits an eligible employee to take up to 26 weeks of leave to care for a covered service member during a single 12-month period if the employee is the spouse, domestic partner, son, daughter, parent, or next of kin of a service member. 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.

Job and Benefit Protection:

Upon return to active work, from an approved FMLA leave, an employee will be restored to their former position or, if his/her former position has been filled or is no longer available, to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

Medical, dental, vision, life, and long-term disability benefits will remain in effect during the leave on the same basis and premium sharing/payments as if not on leave. College contributions to the pension plan will not be made during the leave period unless pay has continued under an approved paid leave category. Accrual of benefits or eligibility for benefits based upon time worked or length of employment will not continue during the unpaid leave.

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

Procedure for Securing Leave:

An employee should submit a written Leave request to his/her immediate supervisor and/or Department Head within a minimum 30 days, or as soon as practical, of the beginning of the 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 Union College's normal call-in procedures. An employee must provide sufficient information for Union College to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include: employee is unable to perform job functions, 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. An employee must inform Union College if the requested leave is for a reason for which FMLA leave was previously taken or certified. In the case of medical leave, an employee will be required to provide a health care provider statement and periodic recertification supporting the need for the leave. The College, at its expense, may request a second opinion through its own health professionals. If the second opinion conflicts with the first, the College, at its expense, may request a third and final opinion by a neutral health professional.

A request for FMLA leave will be reviewed and the requesting employee will receive a written response indicating FMLA leave eligibility and any specific conditions or need for additional documentation.