



FAMILY AND MEDICAL LEAVE (FML) POLICY

All eligible employees are entitled to Family Care and Medical Leave in accordance with state and federal laws.

Eligibility: All full-time and part-time employees employed for at least one academic year or 12 months (not necessarily continuously) preceding the request for FML are eligible. This includes employment at all CSU campuses as well as for the State. Student employees are eligible for CSU FML but must be employed at least one year and must have worked 1,250 hours in the 12 months preceding the leave.

Qualifying Purposes for FML:

- Birth of son or daughter, and to care for the newborn child.
- Placement with employee of a son or daughter for adoption or foster care.
- Care for the employee's spouse, registered domestic partner, or parent with a serious health condition.
- Employee's own serious health condition that makes the employee unable to perform the essential functions of his/her job.
- Qualifying Military Exigency Leave (MEL) arising out of the fact that the employee's spouse, registered domestic partner, son, daughter, or parent is on active military duty in the National Guard or Reserve, or has been called to active duty in the National Guard or Reserve in a "contingency" military operation.
- Service Member Care Leave (SMCL) for a covered service member with a serious injury or illness, if the employee is the spouse, registered domestic partner, son, daughter, parent, or next of kin of the service member.

Covered Family Members:

- **Child:** A biological, adopted, foster or step- child, legal ward, or child to whom employee stands in loco parentis, normally under the age of 18, unless the child is incapable of self care because of a mental or physical disability as defined under the Americans with Disabilities Act.
- **Parent:** Employee's parent or parent in loco parentis, but not a parent-in-law.
- **Spouse/Domestic Partner:** Spouse or registered Domestic Partner as defined or recognized under state law.
- **Next of Kin (SMCL only):** Service member's nearest blood relative who has been granted legal custody of the service member by court decree; or brothers, sisters, grandparents, aunts, uncles and first cousins.

Health Care Provider:

- Doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, physician assistants, and nurse-midwives, who are licensed to practice under state law and must be performing within the scope of their practice.
- Christian Science practitioners who are listed with First Church of Christ in Boston, MA.
- Chiropractors only if treatment consists of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray.

Serious Health Condition: A "serious health condition" is an illness, injury, impairment, or physical or mental condition of the employee or a child, parent, spouse or registered domestic partner of the employee that includes any one of the following:

- Any period of incapacity or treatment in connection with inpatient care in a hospital, hospice, or residential medical care facility; or
- Incapacity requiring absence from work, school, or other regular daily activities and requiring continuing treatment by a health care provider.

Length of FML Leave Entitlement: The maximum leave is 12 weeks in a 12-month period. The 12-month period is calculated on a forward rolling basis: the period measured forward from the date the employee's first FML leave begins. Federal and state leave entitlements run concurrently. The FML leave of absence of a temporary employee terminates upon expiration of that employee's temporary appointment.

Paid Leave on FML Leave: Employees who request FML for *themselves* are required to exhaust existing sick and vacation leave credits, CTO and personal holiday prior to being placed on an unpaid FML leave. Employees who request FML leave to care for a family member must exhaust existing personal holiday, CTO and vacation credits. Existing sick leave credits may be used by mutual agreement as defined in the CSU leave policy and appropriate collective bargaining agreement. Any paid leave for a qualifying purpose is counted toward the 12 week FML maximum limit.

Integration of Other Leaves & Disability Benefits with FML: Most leaves for purposes which qualify for FML must run concurrently with FML and will count against the employee's FML entitlement. This includes nonindustrial disability (NDI), industrial disability (IDL) and temporary disability (TD) leaves, and maternity leave under Education Code Section 89519. Under state law, however, the disability

period of a pregnancy leave under Government Code Section 12945(b)(2) may not be counted against the FML entitlement.

FML Leave Taken on an Intermittent or Reduced Work

Schedule Basis: For intermittent FML leave or FML leave on a reduced work schedule, there must be medical requirement for the leave (as distinguished from voluntary treatments and procedures) and such medical need must best be accommodated through an intermittent or reduced work schedule. Therefore, leave for a serious health condition must be permitted on either an intermittent or reduced work schedule when medically necessary, *however leave for birth or placement of a child may not be taken on an intermittent or reduced work schedule.* Employees needing intermittent FML or a reduced work schedule must try to schedule leave to avoid disrupting the campus' operations. Subject to applicable bargaining agreements and laws (such as ADA), temporary transfer to an alternative position of equivalent pay and benefits or altering duties to better accommodate the reduced leave schedule is permitted.

With a reduced work schedule, only the amount of leave actually taken may be counted against the maximum leave entitlement on a pro-rated basis. For example, if a full-time employee is medically required to work a half-time work schedule, then the employee would be using only half a week of FML leave during each reduced work schedule week. In this case, the 12-week entitlement would become 24 weeks at half-time.

Intermittent or Reduced Work Schedule for Exempt

Employees: There is a special exception to FLSA rules for Family and Medical Leave as it applies to exempt employees. An exempt employee may use intermittent or reduced work schedule leave and use accrued leave during FML leave when the campus is **required** by law to grant the FML (i.e. if he/she has worked at least 1,250 hours in a year prior to the leave) .

If Both Spouses Are Exempt and Employed by the CSU:

The law also permits the CSU to split the FML entitlement between a husband and wife who both work for the CSU, however the CSU has taken the position that each employee has full FML entitlement. As such, if both spouses are exempt and both request reduced work schedule for the full FML period in the same 12-month period, only one may have absences charged against accrued leave.

Exempt employees needing an intermittent or reduced work schedule FML should contact Human Resources for more information.

Continuation of Benefits during FML:

While on paid CSU FML, benefit premiums, including health, dental, vision, group life and long term disability continue to be paid by the CSU without a lapse in coverage. During periods of unpaid CSU FML, only health, dental and vision premiums will continue to be paid by the CSU.

Effect of FML Leave on Seniority: Permanent employees earn seniority points during both the paid and unpaid portions of FML.

General Guidelines for Employee Notification to the Campus (for represented employees, refer also to the appropriate employee bargaining agreement):

An employee expecting a new child (either by birth or placement) should provide at least 30 days notice to the campus before commencement of the leave. However, if the leave must begin in less than 30 days, the employee must provide as much notice as possible.

An employee who takes a foreseeable leave based on planned medical treatment must make a reasonable effort to schedule the treatment, subject to the health care provider's approval, so as not to unduly disrupt the campus' operations. The employee should provide at least 30 days advance notice; if that is not possible, the employee must provide as much notice as possible.

If the FML leave is not foreseeable, the employee should inform the campus within five days of learning of the need for the leave.

General Guidelines for Medical Certification (for represented employees, refer also to the appropriate employee bargaining agreement):

The campus may require a medical certification from an employee seeking leave for the serious health condition of either the employee or a family member. Certification may be required within 15 calendar days of requesting the information. If the employee does not comply, the campus may delay approval of the leave until the requirement is met, unless it is not practicable for the employee to comply. Subsequent recertifications may be required on a reasonable basis for no more frequently than every 30 days.

The campus can require the employee to obtain a second opinion from another health care provider (at campus expense) prior to granting FML. If the first and second opinions differ, the campus may require a third opinion (campus-paid) from a health care provider selected jointly by the employer and employee. The third opinion is final and binding.

Employee Reporting Requirements: The campus can request an employee to report periodically on his/her status and intention to return to work.

Rights to Reemployment: An employee on FML leave is entitled to return to the same position or another position with equivalent benefits, pay and conditions of employment. The employee on leave has no different rights than if he/she were actively at work; therefore, the campus may be able to deny reinstatement if the job were eliminated due to layoff.