



# Family and Medical Leave Policy 6.05

## Office of Human Resources

Applies to: Faculty and staff

### POLICY

Issued: 08/18/1993  
Revised: 02/01/2010

In accordance with federal law, the university provides job protected Family and Medical Leave (FML) to eligible faculty and staff for up to 12 workweeks (480 hours) of leave during a 12-month period based on qualifying events. Eligible faculty and staff that care for covered servicemembers are eligible for up to 26 workweeks of leave in a single 12 month period.

### Definitions

Term	Definition
<b>Covered active duty</b>	. In the case of a member of a regular component (not National Guard or Reserves) of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (not a State call) under a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code. This is only applicable in cases of exigency.
<b>Covered servicemember</b>	Member of the Armed Forces (including a member of the National Guard or 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; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
<b>Eligible employee to care for covered servicemember</b>	A spouse, domestic partner, son, daughter, parent, or next of kin of a covered servicemember who meets all eligibility criteria.
<b>Equivalent position</b>	A position with the same pay, benefits, and working conditions, the same or similar responsibilities and duties and requiring substantially equivalent skill, effort, responsibility, and authority. Benefits are subject to changes that occur within the group plan while the individual is on leave. If an employee is unable to fulfill the essential functions of the job as a result of a serious health condition, accommodations may be made in accordance with the <a href="#">Americans with Disabilities Act</a> (ADA).
<b>Health care providers</b>	Must be licensed by the state to deliver health care services in order to certify FML. Health care providers may be a doctor of medicine or osteopathy, dentist, clinical psychologist, social worker, physician assistant, optometrist, podiatrist, chiropractor, nurse practitioner, nurse mid-wife, or Christian Science practitioner who certify within the scope of their practice.
<b>Immediate family</b>	Spouse; domestic partner; mother; father; sister; brother; biological, adopted, or foster child; stepchild; legal ward; grandparent; grandchild; mother-in-law; father-in-law; sister-in-law; brother-in-law; daughter-in-law; son-in-law; grandparent-in-law; grandchild-in-law; or corresponding relatives of the employee's partner; other persons for whom the employee is legally responsible; and anyone who stood in loco parentis to the employee as a child. To use leave for the care of a domestic partner or for the corresponding relative of the partner, a completed <a href="#">Affidavit of Domestic Partnership</a> form must be on file with the Office of Human Resources, <a href="#">Benefits Services</a> .
<b>Intermittent and reduced schedule leave</b>	Intermittent leave is taken in nonconsecutive blocks of time rather than for one continuous period of time, which may include leave periods from an hour or more to several weeks. Reduced schedule leave is a reduction in the usual number of working hours per day or week for a period of time for reasons relating to FML. To use intermittent or reduced leave, there must be a medical need that is most effectively accommodated through this process.
<b>Leave</b>	Paid or unpaid time used while employee uses FML.



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Term	Definition
<b>Parent of a covered servicemember</b>	An employee who is the biological, adoptive, step or foster father or mother; or her/his domestic partner; or any other individual who stood in loco parentis to a covered servicemember. This definition does not include parents-in-law.
<b>Recovering service member</b>	Member of the Armed Forces who suffered an injury or illness while on active duty that may render the person unable to perform the duties of the member's office, grade, rank, or rating.
<b>Serious health condition</b>	An illness, injury, impairment, or physical/mental condition that meets any one of the following: <ol style="list-style-type: none"> <li>1. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care.</li> <li>2. Continuing treatment by a health care provider - consists of a period of incapacity for more than three full consecutive days, and also involves treatment two or more times within a thirty day period by a health care provider, absent extenuating circumstances, or treatment at least once by a health care provider which results in a regimen of continuing treatment. An eligible employee must have an in-person visit to the health care provider within seven days of the first day of incapacity.</li> <li>3. Periods of incapacity due to pregnancy and childbirth, including prenatal care.</li> <li>4. Chronic conditions - require visits for treatment by a health care provider at least twice a year; continues over an extended period of time (including recurring episodes of a condition); and may cause episodic periods of incapacity (e.g. diabetes, epilepsy), permanent/long-term conditions (e.g. Alzheimer's, terminal cancer), or multiple treatments (e.g. chemotherapy, dialysis).</li> </ol>
<b>Son or daughter of a covered servicemember</b>	Employee's biological, adopted, or foster child, stepchild, legal ward; biological, adopted, or foster child, stepchild, legal ward of a domestic partner or spouse; or a child for whom the servicemember stood in loco parentis, and who is of any age.
<b>Son or daughter on covered active duty or call to covered active duty status</b>	Employee's biological, adopted, or foster child, stepchild, legal ward; biological, adopted, or foster child, stepchild, legal ward of a domestic partner or spouse; or a child for whom the employee stood in loco parentis; who is on covered active duty or call to covered active duty status, and who is of any age.
<b>Twelve month period</b>	Rolling 12 month period measured backward from the date the FML commences.

### Policy Details

#### I. Eligibility Requirements

Faculty and staff are eligible for FML if they meet all of the following:

- A. Been employed for at least 12 months. Employee service breaks of seven years or less will have the previous time of employment counted towards the 12 month eligibility requirement. Service breaks by employees of seven years or more due to their fulfillment of National Guard or Reserve military service obligations will have this time counted toward the 12 month eligibility requirement.
- B. Worked 1,040 hours in the 12 month period immediately preceding the commencement of leave.
- C. A qualifying event.

#### II. Employee Leave Entitlements

Eligible employees have job protected time off as follows:

- A. Up to 12 workweeks for the following qualifying events:
  1. Serious personal health condition prevents an employee from performing his or her job as certified by a health care provider.



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2. Birth of a child.
  3. Placement with the employee of a child for adoption or foster care.
  4. Care for a child during the first year following birth, adoption, or foster care placement.
  5. Care for an immediate family member who has a serious health condition as certified by a health care provider.
  6. A qualifying exigency arising out of the fact that the employee's family member (spouse, domestic partner, parent, son, or daughter) is on covered active duty in a foreign country or has been notified of an impending call to active duty in a foreign country. A qualifying exigency includes:
    - a. Short notice deployment – call/order to covered active duty seven days prior to date of deployment.
    - b. Military and other activities related to call to covered active duty.
    - c. Childcare and school activities – e.g. arrange for alternative childcare, enroll child in new school or day care, attend meetings with school or day care staff, and provide childcare on urgent or immediate need basis.
    - d. Make or update financial and legal arrangements.
    - e. Counseling that arises out of the military service.
    - f. Rest and recuperation – limited to five days per leave to spend with military member on short-term leave.
    - g. Post-deployment activities – leave to attend post-deployment functions such as arrival ceremonies, reintegration briefings, funeral arrangements that occur within 90 days following termination of covered active duty status.
    - h. Additional activities – must be agreed to by the supervisor, the employee, and the Office of Human Resources, Veterans Affairs.
- B. Up to 26 workweeks – Military Service Member Family Leave if:
1. The employee is an eligible family member or next of kin (the nearest blood relative other than the covered spouse, domestic partner, parent, son, or daughter, who has been granted legal custody by court decree or statutory provisions and in accordance with the order of priority as set by the FMLA regulations).
  2. The covered service member is:
    - a. Undergoing medical treatment, recuperation, or therapy,
    - b. In outpatient status, or
    - c. On the temporary disability retired list, for a serious injury or illness incurred in the line of duty or an existing injury or illness aggravated in the line of duty.
    - d. A veteran undergoing medical treatment, recuperation, or therapy for serious injury or illness incurred in the line of duty or aggravated in the line of duty that occurred any time during the five years preceding the date of treatment.
  3. This leave will not exceed 26 workweeks during a “single 12 month period.” The calculation of the “single 12 month period” begins with the first day the eligible employee takes FML to care for the covered servicemember and ends 12 months after that date. If all leave is not taken, it is forfeited.
  4. Eligible employees may not take this type of leave to care for former members of the Armed Forces, National Guard, and Reserves, or members who are on the permanent disability retired list except for veterans noted above in 2d.



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- C. Any leave taken for reasons stated in sections A and/or B will be designated as FML by the unit administrator. Any leave will be counted concurrently with any other designated paid or unpaid leave balances. The maximum FML may not exceed 26 workweeks for employees with qualifying events that pertain to both sections A and B in a single 12 month period.

### III. Relationship to Paid or Unpaid Leave Policies

- A. Any request to use sick or vacation for FML purposes must meet the specific requirements set forth by university policy.
- B. Departments that maintain attendance guidelines may require employees to adhere to such guidelines when requesting sick or vacation leave for FML purposes.
- C. An employee who requests to take FML based on the employee's or employee's family member's serious health condition must use sick leave. If sick leave balances are insufficient, FML may be taken as leave without pay, vacation leave, or compensatory time. Use of vacation leave or compensatory time is at the discretion of the employee, subject to department approval.
- D. Time taken will be counted concurrently toward FML and the appropriate paid or unpaid leave. In the case of active duty or covered active duty FML, employees may use vacation or take an unpaid leave of absence.
- E. In the case of birth or adoption, Paid Parental Leave may be combined with paid sick leave and/or vacation leave to maximize the length of paid leave available.

### IV. Compliance and Fraud

- A. The university will not interfere with an eligible employee's rights under the FMLA, and will not discharge or otherwise discriminate against employees who exercise such rights.
- B. Employees failing to comply with FML policies and procedures may be denied use of FML. Use of FML for purposes other than as set forth by the FMLA or falsification are strictly prohibited and may result in disciplinary action, up to and including dismissal and reimbursement to the university of salary and wages paid during FML.
- C. Staff are expected to comply with Policy 1.30, Conflict of Interest and Work Outside the University and faculty are expected to comply with the Conflict of Commitment Policy and the Paid External Consulting Policy while on FML.

## PROCEDURE

Issued: 08/18/1993  
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### I. Requirements for Requesting Family and Medical Leave

- A. Employee notification
  - 1. When a qualifying event is known or anticipated, verbal notice should be given as far in advance as possible, followed by written documentation submitted 30 days prior to the leave. Failure to follow timely notification procedures may result in the delay or denial of FML.
  - 2. When an incident is immediate or unforeseen, notice should be given as soon as practical when the employee becomes aware of the need for leave.



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3. For any requested leave for treatment, reasonable efforts should be made by the employee to schedule appointments that avoid disrupting unit operations.

### B. Documentation of a qualifying event

1. A request for FML must be substantiated with satisfactory documentation provided within 15 calendar days of the request for leave. If the leave is due to a serious health condition of the employee, employee's immediate family member, or covered service member, documentation must be submitted from an appropriate health care provider. Documentation will be either the [Medical Certification of Health Care Provider for Employee's Serious Health Condition](#) form or the [Medical Certification of health Care Provider for Family Member's Serious Health Condition](#). If the leave is due to adoption, foster care placement, active duty leave, or covered active duty leave, documentation must be submitted from the appropriate agency.
2. The university reserves the right to request a second opinion if the validity of a Medical Certification is questioned. This is done at university expense. If the first and second opinions differ significantly, the department may request that the employee obtain a final and binding third opinion of a jointly selected health care provider. The department may request recertification when appropriate but generally not sooner than 30 days.
3. A [Certification of Qualifying Exigency for Military Family Leave](#) form must be submitted to the appropriate unit administrator within 15 calendar days of the request for leave. Written documentation such as duty orders, dates of covered active duty service and date of commencement of exigency must be attached to the certification request.
4. A [Certification for Serious Injury or Illness of Covered Servicemember for Military Family](#) form must be submitted to the appropriate unit administrator within 15 calendar days of the request for leave. Written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty or aggravated in the line of duty on active duty and that the servicemember is undergoing treatment for such injury or illness must be included with the form. Unit administrators cannot request second/third opinions or re-certifications for leaves to care for a covered injured or ill servicemember.
5. Upon return from leave for a personal serious health condition, the employee must present a fitness-for-duty certificate from the health care provider so long as notified of this requirement by the department in the letter of designation. The fitness-for-duty certificate must certify that the employee is able to return to work and can perform the essential functions of the job. The employee's return to work may be delayed until the certificate is submitted.
6. Failure to follow timely notification procedures may result in the delay or denial of FML.

## II. Calculation of Available Leave

- A. All leave requests that are FML qualifying events will be counted towards the 12-week or 26-week entitlement period.
- B. FML balances are determined on a rolling 12-month period, measured backward from the date FML is to be used.
- C. An eligible faculty or staff member with a less than full-time appointment is entitled to 12 workweeks of FML based on the total number of hours worked per week. The amount per week is prorated based on the employee's FTE.

## III. Options for Taking Family Medical Leave

- A. Twelve weeks of FML may be taken all at once, intermittently, or on a reduced-leave schedule. After the first 12 weeks of the qualifying event for birth, adoption, or foster care placement, leave cannot be taken on an intermittent or reduced schedule without advance notice, scheduling, and department approval. Intermittent leave may be taken hourly, daily, or at weekly intervals. An employee's department must approve intermittent leave or a reduced leave schedule and arrangements for such leave must be coordinated with the department.



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- B. Only the amount of leave actually taken is counted toward the 12 or 26 weeks of leave.
- C. An employee may be temporarily transferred to an alternative position with equivalent pay and benefits to accommodate leave taken intermittently or on a reduced schedule.
- D. A department may arrange an alternative work schedule to accommodate an individual's care giving needs if the schedule satisfactorily meets the operational needs, function, and mission of the department. Such an arrangement will not be considered FML unless or until FML is actually taken.

#### IV. Continuation of Benefits

- A. While an employee is on paid FML, the premium share contribution, if enrolled, for medical, dental, vision, and dependent group life insurance continues to be deducted from the employee's pay.
- B. While an employee is on unpaid FML, the university pays the premiums, if enrolled, for medical, dental, vision, and dependent group life insurance. The university may recover its share of the cost to maintain an employee's health, dental and vision benefit coverage during an unpaid leave of absence if the employee does not return to work for a reason other than his or her own serious health condition, the serious health condition of the family member being cared for under the FML, or for reasons beyond the employee's control.
- C. The employee will return to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

### Responsibilities

Position or Office	Responsibilities
Office of Human Resources	<ul style="list-style-type: none"> <li>I. Ensure FMLA posting and notification requirements are met at the university level.</li> <li>II. Consult with units and employees on the requirements and implementation of FML.</li> <li>III. Advise employing units and supervisors on how to document FML requests.</li> <li>IV. Investigate, issue findings and actions steps when violations of FML provisions occur.</li> </ul>
Employing Unit	<ul style="list-style-type: none"> <li>I. Post FMLA rights and responsibilities notice on premises or electronically.</li> <li>II. Determine employee eligibility under FMLA. Upon notification by the employee of the need to take leave or recognizing an FML event, the unit administrator must issue to the employee within five business days the <a href="#">Notice of Eligibility and Rights and Responsibility</a> form of potential eligibility for FML. The letter must include an Application for Leave and one of these forms: <a href="#">Medical Certification of Health Care Provider for Employee's Serious Health Condition</a>, <a href="#">Medical Certification of Health Care Provider for Family Member's Serious Health Condition</a>, <a href="#">Certification of Qualifying Exigency for Military Family Leave</a>, or <a href="#">Certification for Serious Injury or Illness of Covered Servicemember for Military Family</a>.</li> <li>III. Upon receipt of employee's documentation to support the leave request, the HRP must review the documentation and determine if it meets the criteria for a qualifying event. The HRP must issue an approval or denial <a href="#">Designation Notice (FML)</a> form to employee within five business days.</li> <li>IV. Ensure that requests for fitness-for-duty certification are included in the letter of designation. If requiring a fitness-for-duty certification, attach a copy of the employee's position description or physical job requirements sheet. The health care provider will assess the employee's ability to perform the functions as specified in the position description or physical job requirements sheet. Failure to notify the employee of the need for a fitness-for-duty certification will preclude its requirement.</li> <li>V. Maintain employee records of FML usage and balances. These records include a copy of the written notice provided to the employee, letter of designation, medical documentation to support the absence, the letter approving or denying the leave and the amount of FML used during the benefit year. These records are confidential and must be maintained separately from the personnel file.</li> <li>VI. Upon employee's return to work, place employee in same or equivalent position with equivalent pay, benefits and other terms and conditions of employment.</li> </ul>



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	VII. Provide current FML balance to the employee upon request.
Employee	<ul style="list-style-type: none"> <li>I. Review FML policy and determine if eligible for FMLA-protected leave. Contact supervisor, unit Human Resource Professional or the Office of Human Resources if eligibility and/or medical documentation questions exist.</li> <li>II. For foreseeable leave, give notice to supervisor or unit administrator as far in advance as possible, followed by written documentation submitted 30 calendar days before the leave.</li> <li>III. For unforeseeable leave, give notice to supervisor or unit administrator as soon as practical.</li> <li>IV. Request the health care provider to complete the <a href="#">Medical Certification of Health Care Provider for Employee's Serious Health Condition</a>, <a href="#">Medical Certification of Health Care Provider for Family Member's Serious Health Condition</a>. Return the Medical Certification form to the supervisor within 15 calendar days.</li> <li>V. For military related certifications:             <ul style="list-style-type: none"> <li>A. Submit <a href="#">Certification of Qualifying Exigency for Military Family Leave</a> form and written documentation such as duty order, dates of covered active duty service and date of commencement of exigency.</li> <li>B. Submit <a href="#">Certification for Serious Injury or Illness of Covered Servicemember for Military Family</a> form and written documentation confirming the servicemember's injury or illness was incurred in the line of duty while on active duty or aggravated in the line of duty and is undergoing treatment for such injury or illness.</li> </ul> </li> <li>VI. Submit a dated health care provider return to work statement to the supervisor and follow fitness-for-duty requirements.</li> <li>VII. Submit requests for intermittent or reduced leave in a timely manner and schedule leave in a manner that is least disruptive to the administrative unit.</li> </ul>

### Resources

**Forms** (available online at [hr.osu.edu/forms](http://hr.osu.edu/forms)):

- [Affidavit of Domestic Partnership](#) form
- [Application for Leave](#) form
- [Certification of Qualifying Exigency for Military Family Leave](#) form
- [Certification for Serious Injury or Illness of Covered Servicemember for Military Family](#) form
- [Designation Notice \(FML\)](#) form
- [FMLA flyer to post](#)
- [Medical Certification of Health Care Provider for Employee's Serious Health Condition](#) form
- [Medical Certification of Health Care Provider for Family Member's Serious Health Condition](#) form
- [Notice of Eligibility and Rights and Responsibility](#) form

### Additional Information

- [Americans with Disabilities Act](#) (ADA)
- [Family Medical Leave Act](#) (FMLA)
- [Ohio State ADA Web Site](#)

### Contacts

Subject	Office	Telephone	E-mail/URL
<b>Policy interpretation</b>	Organization and Human Resource Consulting Office of Human Resources	614-292-2800	<a href="mailto:ohrc@hr.osu.edu">ohrc@hr.osu.edu</a> <a href="http://hr.osu.edu/ohrc">hr.osu.edu/ohrc</a>
<b>Benefits</b>	Benefits Services Offices of Human Resources	614-292-1050	<a href="http://hr.osu.edu/benefits">hr.osu.edu/benefits</a> <a href="mailto:benefits@hr.osu.edu">benefits@hr.osu.edu</a>
<b>Military or veteran issues</b>	Veteran's Affairs and Affirmative Action Office of Human Resources	614-292-7047	<a href="http://hr.osu.edu/vet">hr.osu.edu/vet</a> <a href="mailto:veteransaffairs@hr.osu.edu">veteransaffairs@hr.osu.edu</a>



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Subject	Office	Telephone	E-mail/URL
Temporary accommodations	Integrated Disability Office of Human Resources	614-292-3439	<a href="http://hr.osu.edu/benefits/disabilityhome">hr.osu.edu/benefits/disabilityhome</a> <a href="mailto:ID@hr.osu.edu">ID@hr.osu.edu</a>

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