

FAMILY AND MEDICAL LEAVE ACT (“FMLA”) POLICY

Federal law provides employees with job-protected leave under certain circumstances. University policy as well as applicable collective bargaining agreements may provide even greater benefits. Please consult with Human Resources or your applicable collective bargaining agreement to determine what other benefits you may be entitled to under University policy.

Events That May Entitle an Employee to FMLA Leave

Eligible employees of Yeshiva University (the University) are entitled to take up to 12 work weeks of job-protected unpaid Family and Medical Leave Act (FMLA) leave during any rolling 12-month period for one or more of the following reasons:

1. The employee’s own serious health condition;
2. To care for a child, spouse or parent who has a serious health condition;
3. The birth of a child or placement of a child for foster care or adoption;
4. A qualifying exigency that occurs because the employee’s spouse, son, daughter or parent who is serving in the National Guard or Reserves is serving on or has been called to active duty in the U.S. Armed Forces. A qualifying exigency includes:
 - any issue relating to a short-notice deployment (i.e. within seven calendar days of notification of deployment);
 - attendance at military events and related activities, such as pre-deployment briefings and family support sessions;
 - time needed to provide or arrange for childcare or participate in school-related activities with respect to a child or ward of the covered family member;
 - time needed to make or update financial and legal arrangements relating to the covered family member or act as the covered family member’s representative with respect to military service benefits;
 - time needed to participate in counseling, where the need for counseling arises from the covered member’s active duty or call to active duty;
 - up to five days spent with a covered family member on short-term rest and recuperation leave from a deployment;
 - post-deployment activities, including any official ceremony sponsored by the military, as well as exigencies arising from the death of a covered family member while on active duty status;
 - other activities provided that the University and the employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of the leave.

Eligible University employees are entitled to take up to 26 work weeks of job-protected FMLA leave during any rolling 12-month period to care for an employee’s spouse, child, parent or next-of-kin (meaning “nearest blood relative”) who is also a covered service

member of the U.S. Armed Forces with a serious injury or illness. A “covered service member” means a 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 that was incurred while the service member was serving on active duty and in the line of duty and could render the service member unfit to perform the duties of his or her office, grade, rank or rating).

Eligibility

University employees are eligible for FMLA leave if they:

- Have been employed by Yeshiva University for at least 12 months; and
- Have completed 1,250 hours of service during the 12-month period prior to the commencement of a leave.

Spousal Coverage

In the event both spouses are University employees, they are entitled to a combined total of 12 weeks of FMLA leave for a single qualifying event or condition, except that they are entitled to a combined total of 26 weeks of leave to care for a covered service member.

Amount of Leave That May Be Taken

An eligible employee is entitled to take up to 12 workweeks of unpaid FMLA leave during a 12-month rolling period for any FMLA-qualifying reason. A rolling 12-month period means that the University will measure backward 12 months from the date that an employee seeks to use FMLA leave to determine whether that employee has exhausted his/her 12-week entitlement in that 12-month period.

Leave to care for a newborn or newly placed child must conclude within 12 months after the birth or placement of the child.

An eligible employee is entitled to take up to 26 workweeks of unpaid leave in a single twelve-month period for the military service member FMLA leave. During that single 12-month period, the employee may not take more than a combined maximum of 26 workweeks of FMLA leave for all purposes, and may not take more than 12 weeks of FMLA leave for any purpose other than to care for a covered service member.

FMLA Leave Runs Simultaneously With All Other Unpaid Leaves

An employee’s 12-week FMLA entitlement runs concurrently with all other applicable unpaid leaves including, but not limited to, short-term and long-term disability, workers’ compensation. Employees may substitute accrued paid leave for unpaid FMLA leave as discussed below.

Substitution of Paid Leave

An employee must use available paid sick leave where an FMLA leave is taken for his or her own serious health condition (including childbirth). Employees will not be required to use accrued vacation or personal leave unless such leave otherwise would be forfeited under the University's personnel policies or the applicable labor agreement. However, an employee may elect to substitute earned vacation or personal time for otherwise unpaid FMLA leave, if he or she does so prior to taking FMLA leave. An employee who elects to take paid leave must follow all applicable University policies with respect to the use of that leave.

The University will count applicable paid leave taken for a FMLA-qualifying reason toward an employee's 12-week FMLA entitlement. This applicable leave will run concurrently with and count toward an employee's 12-week FMLA entitlement. Once such accrued benefits are exhausted, the balance of the FMLA leave will be without pay, unless the employee is eligible for short-term disability benefits in accordance with applicable state law.

Intermittent or Reduced Schedule FMLA Leave

Intermittent leave is Family or Medical leave taken in separate blocks of time due to a single qualifying reason. A reduced schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

Employees may take intermittent or reduced schedule Family or Medical leave for their own serious health condition, to care for a child, spouse or parent who has a serious health condition or to care for an injured service member where such leave is medically necessary for planned or unanticipated medical treatment of a serious health condition or for recovery from treatment or recovery from a serious health condition. Leave taken for qualifying exigencies may also be taken on an intermittent basis.

Intermittent or reduced-schedule leave should be scheduled to the extent possible to minimally disrupt business operations.

When an employee takes intermittent or reduced-schedule leave, the University may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates a reduced-schedule or intermittent leave schedule.

Notice

Where reasonable and practicable, the employee must give at least thirty (30) days' advance notice prior to the commencement of a FMLA leave. If proper notice is not given, leave may be denied unless there is a reasonable excuse for the delay. If the need for family or medical leave is not foreseeable, notice must be given by the employee as

soon as possible and practicable. Except in cases of extreme medical emergencies, employees are expected to advise their supervisor as soon as they know the need for and expected duration of the leave, and generally within two business days of the time they know of the need for leave. Notice may be given by telephone, e-mail, fax, or other similar methods. In all cases, whether leave is taken intermittently or continuously, the employee, where practicable, must make a reasonable effort to schedule his/her leave so as not to interrupt University operations unduly.

Certification

The employee must provide medical certification from a health care provider to confirm that the employee or employee's child, spouse or parent has a serious health condition or that service member leave is required. For the purposes of a FMLA leave, a serious health condition is an illness, injury, impairment, or a physical or mental condition that involves:

- any period of incapacity or treatment in connection with, or following, inpatient care in a hospital, hospice or residential medical care facility;
- any period of incapacity requiring absence from work, school, or other regular daily activities for more than three calendar days that also involves continuing treatment by a health care provider; or
- continuing treatment by, or under the supervision of, a health care provider for prenatal care, or for a chronic or long-term health condition that is so serious that if not treated would likely result in a period of incapacity for more than three calendar days.

Note that ALL Non-Faculty employees are required to submit documentation substantiating sick leave absences (including those not covered by the FMLA).

An employee requesting leave for a qualifying exigency should provide documentation pertaining to the exigency, including a copy of his or her family member's military orders, except where military necessity or other circumstances make it impossible or unreasonable to do so.

Medical certification by a health care provider or certification of a qualifying exigency must be provided within fifteen (15) days of the leave request unless it is not possible to do so. Failure to provide the required certification on time may impact the employee's ability to take the leave as requested.

The University may seek clarification or authentication of information provided on a medical certification form, and may require an opinion from a second health care provider at its expense to verify any information in the medical certification.

The University requires that the serious medical condition be recertified every 30 days except for leave related to pregnancy or childbirth or where the minimum duration of the serious health condition at issue is more than 30 days. For employees requesting intermittent or reduced leave for periods in excess of six months, the University requires recertification every six months. In addition, employees are required to report periodically on their status and intent to return to work. If the circumstances of an employee's leave change, and the employee is able to return to work earlier than originally indicated, the employee should notify the University at least two days prior to the date that he or she intends to return to work.

An employee returning from FMLA leave taken for his/her own serious health condition must provide certification from a health care provider that he/she is medically able to resume work. An employee failing to complete the return-to-work medical certification form will not be permitted to resume work until the completed form is provided.

Benefits

During FMLA leave that runs concurrently with paid leave, all of an employee's benefits will continue as elected prior to the commencement of the leave. During FMLA leave that is unpaid, all University benefits that operate on an accrual basis, such as sick, personal and vacation days will cease to accrue.

All group health benefits will continue during the leave provided that the employee continues all required regular employee contributions to these plans. Employees enrolled in University sponsored benefit plans should contact the University Benefits Office to make arrangements for employee contributions. Union-represented employees should contact their Benefit Fund Office so that they can comply with the requirements of their Benefit Fund. All other benefits will be governed in accordance with the terms of each benefit plan.

Job Reinstatement/Return to Work

Eligible employees taking leave under this policy will be reinstated to their former position or to an equivalent position with equivalent benefits and other terms and conditions of employment. However, no employee is entitled under this policy to any right, benefit, or position other than that to which the employee would have been entitled had he or she not taken leave. Thus, for example, if a layoff or some other extenuating circumstance or business condition arises that affects the employee's position, reinstatement may not be possible. An employee who does not return to work after exhausting available FMLA leave will not be reinstated to employment, except as provided by an applicable collective bargaining agreement.

The University reserves the right to deny reinstatement to certain key employees, where such denial is necessary to prevent substantial and grievous economic injury to the University's operations. Key employees will be notified of the University's intention in this regard as soon as a determination is made that such injury would occur. In the event

such notice is given to a key employee already on leave, the employee will be offered the opportunity to terminate his or her leave and immediately return to work.

No Work During Leave

The taking of another job while on FMLA leave may lead to disciplinary action, up to and including discharge.

Applying for a Leave

All employees wishing to apply for an FMLA leave or having any further questions concerning an FMLA leave should contact the University's Benefits Office at (718) 430-2547 or (718) 430-2566.