

Pacific Union College

E 83 Family and Medical Leave of Absence

The Family and Medical Leave of Absence policy of the Pacific Union College, amended in 2008 outlines the conditions under which an employee may request time off with or without pay for a limited period with job and accrued benefit protection.

E 83 05 Definition- A family and/or medical leave of absence shall be defined as an approved absence of an eligible employee for up to twelve weeks, 26 weeks for eligible military leave, or 180 days under the Employee Disability Income Plan (Y 33) within a twelve-month period under particular circumstances that are critical to the life of a family. Leave may be taken for the following reasons:

Basic FMLA Leave:

1. Birth of an employee's child;
A husband is entitled to FMLA leave if needed to care for his pregnant spouse who is incapacitated or if needed to care for her during her prenatal care, or if needed to care for the spouse following the birth of a child if the spouse has a serious health condition. Boyfriends and fiancées are not eligible for such leave.
 2. Placement of a child with an employee for adoption or foster care;
Leave may be taken before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.
 3. Need for an employee to care for a child, spouse, or parent who has a serious health condition;*
 4. When an employee is unable to perform functions of his/her positions because of a serious health condition;*
- *Serious Health Conditions defined as:*
- Overnight hospitalization and subsequent treatment*
 - Incapacity during pregnancy and prenatal care*
 - Incapacity from a chronic condition which: requires periodic treatment (at least two visits per year), continues over a period of time, and may cause episodic rather than continuous incapacity.*
 - Incapacity due to conditions requiring multiple treatments for restorative treatments or for conditions that if left untreated would result in incapacity of more than three consecutive days.*
 - Incapacity for a permanent/long-term condition where the individual is under the continuing supervision of a doctor.*
 - Incapacity of more than three consecutive days for other health conditions which require treatments two or more times by a health care provider or one treatment required by a health care provider followed by a continuing regimen of treatment. The two visits must occur within 30 days of the period of incapacity and the first visit must occur within 7 days of onset of incapacity.*

Military Family Leave:

5. *Qualifying exigencies for your spouse, child, or parent on active duty or called to for the National Guard and/or Reserves.*
 - Short-notice deployment*
 - Attending certain military events*
 - Arranging for alternative childcare*
 - Addressing certain financial and legal arrangements*
 - Periods of rest and recuperation for the service member (up to 5 days of leave)*
 - Attending certain counseling sessions*
 - Attending post-deployment activities (available for up to 90 days after the termination of the covered service member's active duty status)*
 - Other activities arising out of the service member's active duty or call to active duty and agreed upon by the employer and the employee.*
6. *Care for a military service member recovering from injury/illness incurred during active duty in the armed forces, and the employee is the spouse, child, parent, or next of kin of the service member. (Eligible employees may take up to 26 workweeks for leave during a single 12-month period.)*

The “next of kin of a covered service member” means the nearest blood relative other than the covered service member’s spouse, parent, or child in the following order of priority:

Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member’s only next of kin.

- 7. A military spouse requiring time to spend with deployed spouse from the United States Armed Forces, National Guard, or Reserve during a time of military conflict.*

Eligible employees may take up to 10 days of unpaid leave without affecting other leave which you may be entitled to. To be eligible for leave, the employee also must provide the employer with (1) notice of intention to take family military leave within two business days of receiving official notice that the employee’s military spouse will be on leave from deployment, and (2) documentation certifying that the employee’s military spouse will be on leave from deployment during the time that the employee requests leave.

E 83 10 Scope- The provisions of this policy shall apply to all family and/or medical leaves of absence approved for eligible employees for the reasons described in E 83 05.

E 83 15 Use of Leave- *An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer’s operations. Military Family Leave due to qualifying exigencies may also be taken on an intermittent basis. Leave may not be taken on an intermittent basis when used to care for the employee’s own child during the first year following birth, or to care for a child placed with the employee for foster care of adoption, unless both the employer and employee agree to such intermittent leave.*

E 83 20 Paid and Unpaid Leave- Family and/or medical leaves of absence shall be unpaid. However, if eligible employees have accrued paid leave benefits under employment benefit plans or policies of the employer, the employees will be required to use those accrued benefits to provide compensation during all or any part of the twelve weeks leave. If the employee’s paid benefits are exhausted, the remainder, if any of the family or medical leave will be unpaid. The use of accrued benefits will not extend the duration of a family or medical leave.

E 83 25 Eligibility- To be eligible for leave under this policy an employee must be employed in the United States, must have been employed by the employer for at least twelve months in total, and must have worked for the employer at least 1250 hours during the twelve-month period immediately preceding the commencement of the leave. *The twelve-month employment need not be consecutive. In cases when gaps of service in employment occur prior to a continuous break of seven or more years of service such time need not be counted. However, exceptions when employment periods must be counted are: (1) a break from service due to an employee’s fulfillment of his or her National Guard or Reserve military service; or (2) a written agreement or collective bargaining agreements exists concerning the employer’s intent to rehire the employee.* For purposes of eligibility, all full-time teacher, and all exempt employees, is deemed to meet the 1250-hour test unless the employer can clearly demonstrate that the employee did not work 1250 hours during the previous twelve months.

E 83 30 Procedure for Requesting Leave- *If the need for family or medical leave is foreseeable, the employee should provide notice less than 30 days in advance from the time the employee becomes aware of his or her need. When 30 days’ notice is not possible the employee must give notice as soon as practicable. Request forms can be obtained from the Human Resources offices or can be downloaded online on the Pacific Union College website. Completed request forms should be submitted to Human Resources and the employee must provide sufficient information to help determine whether the leave qualifies as FMLA leave. Information regarding the anticipated date when the leave will*

begin as well as the duration of the leave will also be required. Employee must also state if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also will be required to provide a certification and periodic recertification supporting the need for leave.

When an employee makes a leave request, the employer will respond within 5 business days, absent extenuating circumstances. If the employee is eligible under FMLA, a written notice will be provided detailing specific expectation, use of paid leave, and any other additional information he or she will be required to provide. If the employee is not eligible under the FMLA, the employer will provide the employee with a written notice indicating the reason for ineligibility. If leave will be designated as FMLA-protected, the employer will inform the employee in writing and provide information on the amount of leave that will be counted against your 12 or 26 week entitlement.

Medical Certification:

If the employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the relevant healthcare provider must supply appropriate medical certification. The employer may require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the employer at its own expense may require the binding opinion of a third health care provider approved jointly by the employer and the employee. Employees will receive the medical certifications forms along with the designation and eligibility notice.

An employer may contact the employee's healthcare provider for two purposes only: clarification and authentication of the medical certification. For privacy concerns, employer's representative contacting the employee's healthcare provider must be a human resource professional, a leave administrator, or a management official, but in no case may it be the employee's direct supervisor. The employee is not required to permit his or her healthcare provider to communicate with the employer. However, if the employee denies the employer permission and doesn't otherwise clarify an unclear certification, the employer may deny the designation of FMLA leave. However, prior to making any contact with the healthcare provider, the employer must first provide the employee an opportunity to resolve any deficiencies in the certification.

Fitness for Duty Certification:

An employee will need to obtain a job-related fitness for duty certificate from the attending physician or health care provider prior to his/her return to work if the FMLA leave was taken based on the employee's own serious health condition. Along with the designation notice, a list of the essential functions of the employee's job will be given and the fitness for duty certification should address the employee's ability to perform those functions.

E 83 35 Treatment of Holidays during FMLA Leave- *If a holiday may occur within a full week taken as FMLA it has no effect; the entire week is counted as a week of FMLA leave. If the FMLA leave is used in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday. Similarly, if for some reason the employer's business activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks, the days the employer's activities have ceased do not count against the employee's FMLA leave entitlement.*

E 83 40 Calculation of Overtime- *If an employee would normally be required to work overtime, but is unable to do so because of a FMLA-qualifying reason the hours which the employee would have been required to work may be counted against the employee's FMLA entitlement. In such a case, the employee is using intermittent or reduced schedule leave.*

E 83 45 Status of Employee Benefits During Leave of Absence- *While an employee is on leave, the employer will continue the employee's health care benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.*

If the employee pays to opt in eligible dependent(s) and/or spouse, then while on paid leave the employer will continue to make payroll deductions. While on unpaid leave, the employee must continue to make this payment which must be

received from the employee as directed by the employer. If the employee does not continue these payments, the employer may discontinue dependent/spouse coverage during the leave period or will recover payments at the end of the leave period, in a manner consistent with the law.

Benefits entitlements based upon length of service will be calculated as of the last paid day prior to the start of the unpaid leave of absence.

E 83 50 Defining Equivalent Position for Purposes of Reinstatement after FMLA Leave- *If a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave.*

An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with the employer's policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

E 83 55 Employee's FMLA Protection Rights- *The statutory prohibition against interference with FMLA rights applies to employees or prospective employees who have exercised or attempted to exercise FMLA rights.*

Time spent in "light duty" work does not count against an employee's FMLA leave entitlement, and the employee's right to job restoration is held in abeyance during the light duty period. If an employee is voluntarily doing light duty work, he/she is not on FMLA leave.