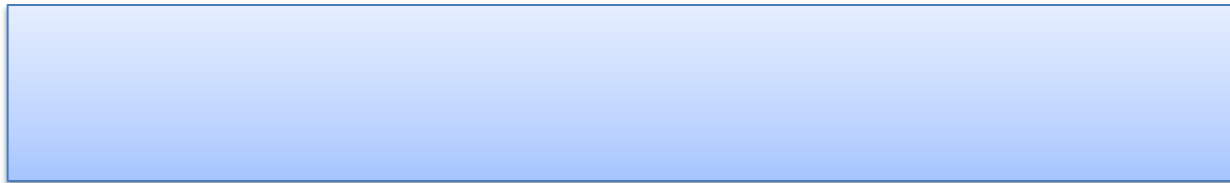


Family Medical Leave Act



The Family and
Medical Leave Act



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Introduction to FMLA

- Purpose:
 - Balance work and family life
 - Promote economic security of families and serve national interest in preserving family integrity
- Shared Responsibilities:
 - Communication is key

Source: US Department of Labor Wage and Hour Division

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Background

- The Family and Medical Leave Act (FMLA) became effective on August 5, 1993
- Allows eligible employees to take up to 12 work weeks unpaid job-protected leave during a 12-month period for various health and family-related reasons
- Amendments to the law for Military and covered service members and family were issued
- SUNY Geneseo is a covered employer

Why FMLA?

- Disciplinary action:
 - Employees may not be counseled or disciplined or suffer any adverse personnel actions as a result of absences that are designated as FMLA leave.
 - Absences that are designated as FMLA leave cannot be counted as instances or occasions under agency sick leave control programs.
- Health Benefits:
 - Employer must continue health benefits, unless employee cancels benefits during leave (must fill out PS-404 form)
 - FMLA protected leave keeps the cost of your health insurance at the employee rate vs. employee + employer share

Why FMLA? cont.

- Job Protection:
 - Can not be terminated during the designated FMLA period
 - Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

Eligibility

- Employee must have completed 52 cumulative weeks of State service (does not have to be consecutive), **and**
- Employee must have worked a minimum of 1,250 hours during the 52 weeks immediately prior to the leave, **and**
- Employee works at a location where at least 50 employees are employed by the employer within 75 miles.

Leave Entitlement

- Birth and care of a newborn child of the employee
- Placement of adoption or foster care with the employee
- Care for a spouse, child, or parent with a serious health condition
- Employee's own serious health condition
- Qualifying exigencies arising out of the fact that the employee's immediate family member is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation

Serious Health Conditions

- Conditions that **DO** qualify as a serious health condition are:
 - Asthma
 - Diabetes
 - Epilepsy
 - Alzheimer's
 - Severe Stroke
 - Terminal stages of a disease
 - Severe Arthritis (physical therapy)
 - Kidney Disease (dialysis)
 - Cancer (chemotherapy, radiation)

Serious Health Conditions

- Conditions that **DO NOT** qualify as a serious health condition:
 - Common cold
 - Flu
 - Earaches
 - Upset Stomach
 - Headaches other than migraines
 - Minor ulcers
 - Routine dental or orthodontia problems

Medical Documents

- Satisfactory medical documentation must accompany all requests for FMLA leave
- Acceptable documentation should include the start date of the illness, limitations and restrictions (if any), and anticipated return to work date
- For a personal serious health condition, employees need to complete the Certification of Health Care Provider Form **WH-380E**
- For a family member's serious health condition, employees need to complete the Certification of Health Care Provider Form **WH-380F**

Length of Leave

- How much leave may an employee take?
 - Eligible employees must be granted up to a total of **12 workweeks of unpaid leave** in a 12 month period, unless the leave is for military caregiver (26 weeks)
- Determining the 12-Month Period
 - State - Calendar year (January – December)

Types of Leaves

- Full-Time Leave Up to 12 Weeks
- Intermittent/Reduced Schedules:
 - Prescheduled medical appointments or treatments when medically necessary.
 - Foreseeable medical treatment
 - May be taken to care for a newborn or newly placed adopted or foster child only with the employer's approval.
- Leaves run concurrently with other types of leaves

Notice Requirements

- Employees are not required to specifically state that leave is needed for an FMLA covered event
- Employees need to indicate enough information to the supervisor that the leave qualifies as FMLA

Paid vs. Unpaid LOA

- FMLA is a leave that is unpaid. Employees charge their accruals in order to stay in paid status
- Once accruals exhaust, there are other options if employee is eligible
 - Leave donation
 - Sick leave at ½ pay (for classified employees only)
 - Additional sick leave (for unclassified employees only)

Leave Donation

- Start the program ASAP
- If the employee is on an approved FMLA leave – and they are eligible for Leave Donation, anyone can solicit on behalf of the employee.
- The employee must indicate to HR that they want leave donation
- Faculty can not donate nor are they eligible for the program
 - Only vacation accruals are used
- Leave donation can only be used once accruals exhaust and only during a period of disability

Additional Sick Leave

- Unclassified employees can request from the president additional sick leave accruals
 - Must be on an approved FMLA leave
 - Must be for employee's serious health condition
 - All accruals must be exhausted
 - Must request for specific amount of time
- Requests must be made prior to exhaustion of accruals in order for timely review
- Must be written directly to the president

Sick Leave at Half Pay (Classified Employees)

- The purpose of sick leave at half pay is to provide continuation of compensation for employees who are absent because of personal illness and have exhausted all their available leave credits. Sick leave at half pay accrued by an employee may only be used once.
- Eligibility
 - A permanent or permanent contingent employee is eligible for sick leave at half-pay at the discretion of the appointing authority if the following conditions are met:
 - The Employee has a year of cumulative State service
 - Has exhausted ALL leave credits including sick, vacation, personal, comp, and holiday. Leave credits are considered to be exhausted when the total balance is less than the total number of hours in the employees normal work day.
 - Must be eligible to accrue sick leave credits
 - Employee must have a personal illness and provide medical documentation on a continuous basis for the duration of the leave
 - Be expected to be on leave for two pay periods

Sick Leave at Half Pay, cont.

- Earning Leave
 - Employees accumulate sick leave at half-pay entitlement based on years of service. Sick leave at half-pay accumulates at the rate of one pay period for each complete six months of State service.
 - A pay period is the minimum unit for crediting sick leave at half-pay. In other words, an employee cannot be credited with one week of sick leave at half-pay for three months of service.
 - Time spent on sick leave at half-pay counts as service toward eligibility for additional sick leave at half-pay.

Planned LOA

Step 1:

- Employee fills out the FMLA Request Form within 30 days

Step 2:

- Employee completes timesheet(s) for submission to payroll
 - Employees must also indicate absences related to an FMLA covered condition by writing '**FMLA**' on the specific day of absence

Planned LOA, cont.

Step 3:

- The supervisor reviews and signs the FMLA Leave Request Form in conjunction with the Department Head (where applicable)

Step 4:

- Upon review, verification of eligibility and acceptance of medical documentation the employee shall receive a notice of designation from Human Resources

Unplanned LOA

Step 1:

- Employee shall notify his/her supervisor verbally as soon as practical

Step 2:

- Follow steps 2-4 of the procedures for: Requesting a Planned Family Medical Leave of Absence

Returning to Work

- At least forty eight (48) hours (72 hours if authorization is submitted on Fridays or holidays) prior to returning to work, the employee must submit the Return to Work Form: Medical Authorization indicating that they are able to return to work at full, unrestricted duty
- Medical documentation identifying restrictions will be evaluated in coordination with the employee's specific job duties.
 - If there are restrictions, more time to review the authorization will be required and coordinate restrictions
- Employee may not return to work until Human Resources has reviewed the medical documentation and authorized the employee to return to work

Forms

- FMLA Leave Request Form
- WH-380E
- WH-380F
- Return to Work Form: Medical Authorization
- Essential Responsibilities for FMLA Compliance

Employee's Responsibility

- Complete the Leave Request Form
- Check time accrual banks as necessary if requesting FMLA paid leave
 - For eligible employees, include any request for leave donation, sick at ½ pay, or additional sick leave
 - Submit leave request form to supervisor for review and signatures. Submit to Human Resources
- Submit medical documentation (WH380E or WHE80F) to Human Resources within the deadline that HR gives
- Provide a Return to Work documentation to Human Resources at least **48 hours prior to returning to work**
 - HR will notify the department when the employee has been cleared to return to work with or without restrictions.
- Communicate with Supervisor and HR

Supervisor's Responsibility

- Listen for key terms; exercise confidentiality
- Review the leave request form and sign
- Forward form to next appropriate person for review and signature, submit to Human Resources
- Work with the Employee to ensure all time sheets are submitted by the deadlines of their position
- Ensure Human Resources received the employee's "Return to Work" form prior to allowing employee to begin work
- Communicate with Human Resources on any changes associated with your employee's leave status

Human Resources' Responsibility

- Consult with employees and supervisors on leave benefits
- Review employee leave request and submitted medical documentation
- Provide Notice and Designation to employees concerning eligibility and approval for FMLA
- Draft and send letters of notification to employees on status of requested leaves
- Maintain various Human Resource and Payroll systems with any change of employment and benefits status
- Track employee usage of FMLA leave by calendar year

Things to Remember

- Communicate with HR
- Check your accruals
 - Fill out your time sheets
- Notify your supervisor of upcoming medical events ASAP
- You have options – talk to us, we will help you!

Questions?



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