



Family and Medical Leave Act

POLICIES AND GUIDELINES

Policy Statement

Eligible Harvard employees are provided up to 12 weeks of unpaid, job-protected leave required by the Family and Medical Leave Act (FMLA).

Reason for Policy

To comply with the FMLA.

Who Is Eligible

Employees are eligible if they have at least one year of employment (consecutive or nonconsecutive) and have worked a minimum of 1,250 hours for Harvard University during the 12-month period preceding the start of the leave.

Definitions

Covered Servicemember

A covered servicemember is (1) a current member of the Armed Forces, National Guard, or Reserves who has a serious injury or illness incurred in or aggravated by service in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties and for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list; or (2) a veteran undergoing such medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, National Guard, or Reserves at any time during the five years preceding the date of such treatment, recuperation, or therapy.

FMLA Leave Year

The 12-month FMLA period is measured forward from the date an employee's first FMLA leave begins. For example, if an employee's FMLA leave begins on May 1, that employee's "leave year" begins on May 1 and ends on April 30 of the following year. The next 12-month period would begin the first time FMLA leave is taken after completion of any previous FMLA 12-month period.

Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.



Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Responsibilities and Procedures

A. Leave Entitlements

1. Basic Leave Entitlement

Up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care, or childbirth
- To care for the employee's child after birth or placement for adoption or foster care (FMLA leave may be taken for the purpose of giving birth, for adopting a child under the age of eighteen (18) (twenty-three (23) if the child is mentally or physically disabled), for placement of a child under the age of eighteen (18) (twenty-three (23) if the child is mentally or physically disabled), or for the placement of a child pursuant to a court order).
- To care for the employee's spouse son or daughter, or parent who has a serious health condition

For a serious health condition that makes the employee unable to perform the employee's job

2. Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the Armed Forces, National Guard, or Reserves in a foreign country or in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period.

3. Counting of Leave Entitlement

If an employee is eligible for FMLA leave and takes time off for an FMLA-qualifying purpose, such leave shall be counted as FMLA leave. Leaves taken pursuant to or in coordination with other Harvard policies or law (i.e., Workers' Compensation, Short Term Disability, MA Paid Family and Medical Leave, MA Parental Leave Act, etc.) shall be deemed to run concurrently with FMLA leave.

B. Benefits and Protections

During FMLA leave, Harvard will maintain the employee's health coverage under any group health plan on the same terms as if the employee had continued to work. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.



C. Receiving Pay During Unpaid FMLA Leave

FMLA leave is unpaid, but employees may receive compensation during FMLA leave either by using accrued paid time or by receiving benefits under other forms of leave. In order to use any form of accrued paid time off or leave during FMLA leave, employees must comply with all applicable time off and leave policies.

1. Application of Accrued Paid Time Off

Employees may choose to use accrued paid time off while taking FMLA leave. Accrued vacation, personal days, and compensatory time may be used during any FMLA leave. In addition, accrued sick time may be available if the FMLA leave is for the employee's own serious illness or childbirth. If the leave is for a family illness, the employee may use accrued "family sick" days at the onset of the leave; after exhausting those days, the employee may choose to use accrued vacation or personal time during the remainder of the leave.

2. Availability of Other Leave Benefits

Employees on FMLA leave may be entitled to receive payment (full or partial) and/or additional benefits from other University policies and benefit programs. Harvard will simultaneously administer any policies and benefit programs that apply (for example, [MAPFML](#), MA Parental Leave, [Short Term Disability](#), or [Workers' Compensation](#)) when an employee is on a FMLA leave. FMLA leave will run concurrently with other qualifying absences to the extent permitted by law. In order to use paid leave during FMLA leave, employees must comply with normal paid leave policies.

D. Employee Responsibilities

To initiate a FMLA Leave, employees must:

1. Inform their Faculty Affairs Contact, Leave of Absence Specialist or Local HR Office and their Dean or manager of their need for leave; **and**,
2. In addition, contact Lincoln Financial Group (Lincoln), Harvard's third-party administrator, to request FMLA leave. Employees may contact Lincoln in one of several ways:
 - To file a FMLA leave request by phone, employees may call the Harvard-dedicated number at 1-844-600-3978. Intake is available 8AM – 10 PM EST, Monday – Friday.
 - To file a FMLA leave request online, employees may go to MyLincolnPortal at www.mylincolnportal.com and click on "Register for an account" under the "Log In" button. Instructions will be provided on the website throughout the leave submission process.

When leave is foreseeable (for example, based on childbirth, placement of a child for adoption or foster care, or planned medical treatment), the employee is expected to give as much advance notice as possible, generally at least thirty (30) days). When 30 days' notice is not possible (for example, due to unanticipated medical circumstances or inadequate notice from relevant agencies), the employee must provide notice as soon as possible, ordinarily within one or two business days of when they learn of the need for leave, and generally must comply with normal call-in procedures. Employees who provide less than thirty (30) days' notice are required to provide an explanation as to why they were unable to do so. Employees who fail to meet these notice requirements may be denied leave.



Employees must provide sufficient information for Lincoln to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.

Employees on FMLA leave may be asked to report periodically to the employing department on their status and intention to return to work. Employees also may be required to provide Lincoln with a certification and periodic recertification supporting the need for leave. (See [Medical Certification](#) below.)

E. Employer Responsibilities

Lincoln will inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, Lincoln will provide a reason for the ineligibility if the employee is eligible for FMLA.

Lincoln will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If Lincoln determines that the leave is not FMLA-protected, it will so notify the employee. Harvard leave contacts will also be notified.

F. When Both Spouses Work for the University

Spouses who work for Harvard and who are both eligible for FMLA leave may each take total of 12 weeks of FMLA leave during a 12-month period for birth or placement of a child and to care for a sick parent. Each eligible spouse is entitled to 12 weeks of FMLA leave for their own serious health condition or that of the other spouse or a dependent child. Spouses are each eligible for a total of twenty-six (26) weeks of military caregiver leave.

G. Medical Certification

An employee requesting FMLA leave must provide the appropriate completed Certification of Health Care Provider form in a timely manner, generally within 15 days. If the employee fails to provide timely certification to Lincoln, their leave may be delayed until the required certification is submitted. Recertification may be required during the leave. The employee's Lincoln Integrated Claims Specialist will provide them with the appropriate Certification of Health Care Provider form for their requested leave.

An employee applying for Short Term Disability or Workers' Compensation benefits must also comply with the certification requirements of that program.

Employees returning from leave due to their own illness will be required to provide certification that they are able to resume work.

H. Intermittent Leave / Reduced Leave Schedule

Under some circumstances, employees may take leave intermittently or on a reduced leave schedule. Leave can be taken intermittently or on a reduced schedule basis when medically necessary. Leave due



to qualifying exigencies may also be taken on an intermittent basis. An employee may take leave for bonding with a child intermittently or on a reduced leave schedule only if the employee and Harvard mutually agree.

If the need for intermittent leave or a reduced leave schedule is based on planned medical treatment, the employee must make reasonable efforts to schedule the treatment so as not to disrupt unduly the operations of their unit. An employee may also be transferred temporarily to an available alternative position with equivalent pay and benefits that better accommodates recurring periods of leave.

An employee on intermittent leave is not eligible for Short Term Disability benefits, however the employee may be eligible for paid leave under MAPFML. An employee may also use accrued sick, vacation, or personal time or may take this time as unpaid leave. An employee who is on a reduced leave schedule may be eligible for partial Short Term Disability benefits.

Intermittent Leave/Reduced Schedule Leave may not be taken in less than one-minute increments.

I. Reinstatement / Return to Work

Upon return from FMLA leave most employees must be returned to the position they held when the leave began or, if agreeable to the employee and the employing department, an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

An employee whose position is eliminated while on FMLA leave is entitled to the same rights and benefits as other employees whose positions are eliminated. However, the employee will have no greater rights to reinstatement or other benefits and conditions of employment than if they had continued to work.

If an employee is unable to return from FMLA leave on the date set forth in the leave request and/or certification of healthcare provider, the employee is expected to contact the University prior to the anticipated return to work date. If an employee fails to return from FMLA leave when scheduled, and does not contact the University in advance, the employee may be deemed to have resigned.

J. Unlawful Acts

FMLA makes it unlawful for an employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; or
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA

K. Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit for violation of the FMLA. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

Contact

[Office of Labor and Employee Relations](#)

617-495-2786

Related Resources

[MA Paid Family and Medical Leave](#)

[Short Term Disability](#)

Harvard University is an equal opportunity, affirmative action employer. In compliance with applicable federal and state laws and local ordinances, the University does not discriminate in the terms and conditions of employment of employee or applicants based on race, color, sex, gender identity, sexual orientation, religious creed, age, national origin, ancestry, veteran status, disability unrelated to job requirements, genetic information or any other legally prohibited basis.

Harvard University Human Resources (“HHR”) provides this and other personnel related policies and procedures to provide general guidelines for employment, benefits, salary administration, and services available to covered staff members. This and other personnel related policies and procedures do not constitute a contract of employment or promise of any kind, and the University may change these policies and procedures unilaterally and without notice. HHR also reserves the right to determine the applicability of any policy or procedure to a particular situation and to depart from the guidelines contained in any policy procedure in a given case. Staff members covered by these policies and procedures are employed on an at-will basis, meaning that either the employee or Harvard University may end the employment relationship at any time or for any or no reason.

Revision Notes

2/10/21 - Reformatted and edited to comply with FMLA statutory service and use requirements and align with MAPFML policy; added Lincoln as 3rd party leave administrator; updated sections: employee responsibilities for requesting leave; medical certifications; intermittent leave; reinstatement / return to work; when both spouses work for Harvard; added employer responsibility section for leave notice and eligibility; removed leave for birth or placement of child section which is provided under STD and MAPFML policies; removed extended parental leave which is provided under MAPFML policy.