



Policy Title: Family and Medical Leave Act (FMLA)

Policy Number: BU-PP 408

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Responsible Executive: Vice President for Human Resources

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Responsible Office: Human Resources

Family and Medical Leave Act (FMLA) BU-PP 408

Policy Statement

The Family and Medical Leave Act (“FMLA”) entitles Eligible Employees to job-protected leave for specified family and medical reasons with continuation of currently elected group insurance coverage under the same terms and conditions.

Reason for the Policy

Baylor University (“Baylor” or the “University”) supports the wellbeing of its employees and their families, while maintaining judicious stewardship of the University’s resources.

Individuals/Entities Affected by this Policy

Eligible Employees who have been employed by the University for at least twelve months and have worked at least 1,250 hours during the previous twelve-month period

Exclusions

Eligible Employees who have worked for the University for less than twelve months or employees who have worked less than 1,250 hours during the previous twelve-month period

Related Documents and Forms

University Policies and Documents

- [400 Benefit Eligibility Classifications](#)
- [402 Vacation](#)
- [403 Sick Time](#)
- [423 Paid Caregiver Leave](#)
- [421 Paid Parental Leave](#)

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- [418a Maternity Leave and Primary Caregiver Leave for Faculty](#)
- [418b Maternity Leave and Primary Caregiver Leave for Staff](#)
- [406 Non-Compensated Leaves of Absence](#)
- [409 Military Leave](#)
- [410 Group Insurance](#)
- [411 Group Life and Dependent Life Insurance](#)
- [412 Group Long Term Disability](#)
- [413 Group Medical Insurance](#)
- [414 Dental Plans](#)
- [420 Flexible Benefits Plan \(Cafeteria Plan\)](#)
- [421a Request for Paid Parent & Paid Caregiver Leave](#)

Other Documents

- [Family and Medical Leave Act](#)
State law regarding family or medical leave

Forms and Tools

- [FMLA Request for Family Medical Leave Including Maternity Leave and Primary Caregiver Leave](#)
- [Certification of Health Care Provider for Employee's Serious Health Condition](#)
- [Certification of Health Care Provider for Family Member's Serious Health Condition](#)
- [FMLA Fitness for Duty Certification](#)

Definitions

These definitions apply to terms as they are used in this policy.

12-Month Period	A rolling 12-month period measured back from the date leave is taken
Eligible Employee	Faculty and staff
Serious Health Condition	An illness, injury, impairment, or physical or mental condition. See the "Serious Health Condition" section of this policy.
Health Care Provider	Any health care provider recognized by Baylor University
Child	A child either under 18 years of age, or older than 18 who is incapable of self-care because of a disability, for whom the employee has actual day-to-day responsibility for care, including a biological, adopted, foster, or stepchild. For purposes of a son or daughter on covered active duty or call to covered active duty, the child may be of any age.
Parent	The biological, adoptive, step, or foster parent of an employee or an individual who stood in <i>loco parentis</i> to the employee when the

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	employee was a son or daughter. Parent does not include the employee's parents-in-law.
Loco Parentis	The legal responsibility of a person or organization to function as the role of a parent to an individual
Next of Kin	The nearest blood relative of the covered service member
Exigency Leave	An entitlement to take up to twelve workweeks of unpaid, job-protected leave in a twelve-month period for a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty." See the "Exigency Leave" section of this policy.
Military Caregiver Leave	Caring for a service member or veteran with a serious injury or illness, an Eligible Employee may take up to twenty-six work weeks of leave during a single twelve-month period to care for that servicemember or veteran. See the "Military Caregiver Leave" section of the policy.

Contacts

Subject	Contact	Telephone	Office email/web site
Policy Questions	Human Resources	254-710-2000	askHR@baylor.edu www.baylor.edu/hr

Responsibilities

Employee	<ul style="list-style-type: none"> Respond to all requests from Human Resources regarding FMLA, including the request for required medical certification. Notify his/her supervisor in writing at least thirty (30) calendar days in advance of the start of his/her leave. If leave is not foreseeable, the faculty or staff member must provide written notice as soon as practicable.
Supervisor	<ul style="list-style-type: none"> Be informed of FMLA policy and procedures. Along with Human Resources, inform the employee of his/her entitlements and obligations under FMLA. Advise Human Resources of any employee's absences that may be eligible for benefits under this policy.
Human Resources	<ul style="list-style-type: none"> Inform employees of their entitlements and obligations under FMLA.

	<ul style="list-style-type: none">• Assist employees with determining eligibility for FMLA and applying for any additional applicable benefits.
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Principles

Subject to the requirements of this policy, FMLA entitles Eligible Employees to take paid or unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions.

Eligibility

Baylor University Eligible Employees are eligible for FMLA leave if they have been employed for at least twelve months and have worked at least 1,250 hours during the previous twelve-month period.

General Provisions

To calculate the amount of FMLA leave an Eligible Employee may request, Baylor reduces the current FMLA leave weeks requested by any previously used weeks in the prior twelve-month period.

If the requesting Eligible Employee and his or her spouse are employed at Baylor, they are limited to a combined total of twelve weeks of FMLA leave unless one of the employees has a serious health condition, in which case each employee is allowed up to twelve work weeks of unpaid leave.

Use of Accrued Paid Time

Eligible Employees who are granted FMLA leave must first use eligible paid parental leave, paid caregiver leave, accrued sick and vacation if applicable, beginning with the effective date of their approved FMLA leave. Upon exhaustion of accrued paid time, remaining FMLA leave will be unpaid. The combination of paid and unpaid time used for FMLA purposes will not exceed twelve work weeks in a twelve-month period.

Intermittent or Reduced Time

Eligible Employees may take FMLA leave intermittently, or by reducing their normal weekly or daily work schedule, when medically necessary for their own or an immediate family member's serious health condition or for the serious injury or illness of a service member or veteran. Intermittent FMLA leave is also available for leaves due to a qualifying exigency. Individuals who require intermittent leave or reduced-schedule leave must try to schedule their leave so that it will not disrupt the department's operations.

With supervisory approval following the medical recovery period, a birth mother may use reduced schedule and intermittent FMLA leave to transition back to her regular percent time appointment during the bonding period and first year following the birth. With supervisory approval, a parent may use reduced schedule and intermittent FMLA leave to care for a newborn child or newly adopted child during the first year following the birth or adoption.

Maternity, Foster Care, or Adoption

Maternity leave, leave for foster care, or leave for adoption is provided for under the FMLA. If leave is required to care for a newborn child, foster care placement, or adoption of a child, the employee must notify his/her supervisor in writing thirty calendar days in advance of the start of leave. If leave is not foreseeable, the employee must provide a written notice as soon as practicable.

Eligible Employees may take FMLA leave 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. For example, an employee may need leave time to attend required counseling sessions, appear in court, consult with the attorney or doctor(s) representing the birth parents, submit to a physical examination, or travel to another country to complete an adoption. Appropriate documentation must be submitted to HR to verify the foster care or adoption process.

Please see the appropriate Maternity and Primary Caregiver Leave policy for a complete description of this benefit.

Serious Health Condition

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves either:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) due to:
 1. A health condition (including treatment therefor or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:
 - Treatment two or more times by or under the supervision of a health care provider; or

- One treatment by a health care provider with a continuing regiment of treatment; or
- 2. Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
- 3. A chronic serious health condition that continues over an extended period of time, requires periodic visits, at least twice a year, to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
- 4. A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
- 5. Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three consecutive days if not treated (e.g., chemotherapy or radiation treatments for cancer).

If the employee's serious health condition is based on more than three consecutive calendar days of incapacity plus two visits to a health care provider:

- The first visit to the provider must occur within seven days of the initial date of incapacity, and
- The second visit to the health care provider must occur within thirty days of the initial day of incapacity.

If the serious health condition is based on more than three consecutive days of incapacity plus a "regimen of continuing treatment", the employee must visit a health care provider within seven days of the onset of incapacity.

If the serious health condition is based on "periodic visits to a health care provider" for a chronic serious health condition, the employee must make at least two visits to a health care provider per year.

Exigency Leave

Available to Eligible Employees with eligible family members who are on covered active duty (or has been notified of an impending call or order to covered activity duty) in the Armed Forces.

Uses for Exigency Leave:

1. Short-notice deployment: Up to seven calendar days of leave to address any issue that arises when a covered service member is called to active duty seven days or fewer before deployment.
2. Military events: To attend any ceremony, event, program, or activity sponsored by the military, a military organization, or the American Red Cross.

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3. Childcare and school activities: To attend to various childcare and school activities affected by a covered military member's call to active duty, such as to arrange for alternative childcare, provide emergency childcare, or deal with school or daycare enrollment necessitated by the active duty call, or to attend school meetings necessary due to circumstances arising from the active duty call.
4. Financial and legal arrangements: To address the covered military member's absence.
5. Counseling: For the employee, a covered military member, or child, other than by a health care provider, necessitated by a call to active duty.
6. Rest and recuperation: With a covered military member who is on temporary, short-term rest and relaxation during a period of deployment. The employee may be granted up to five working days.
7. Post-deployment activities: To attend military-sponsored events within ninety days after deployment.
8. Additional activities: Arising from a call to active duty that is agreed upon between the employer and the faculty or staff member.

Military Caregiver Leave

To care for a service member or veteran with a serious injury or illness, an Eligible Employee may take up to twenty-six work weeks of leave during a single twelve-month period to care for that service member or veteran. Leave to care for an injured or ill service member or veteran, when combined with other FMLA-qualifying leave, may not exceed twenty-six weeks in the single twelve-month period during which the twenty-six weeks of military caregiver leave is available. A single twelve-month period for purposes of military caregiver leave begins on the first day that an employee takes military caregiver leave and ends twelve months after that date, regardless of the rolling twelve-month period that Baylor University utilizes for determining available leave for other FMLA-qualifying reasons.

- Available to eligible family members of veterans of any branch of the military, provided the prior military service was within five years of the medical treatment that caused the need for caregiver leave.
- "Serious injury or illness" includes the aggravation of an existing or pre-existing injury of an active duty service member in the Armed Forces.
- Allows up to twenty-six weeks of military caregiver and regular FMLA leave to be taken within a designated year.
- Next of kin is defined as the "nearest blood relative" (other than a spouse, parent, son, or daughter), with the governing order of priority being that specified in the rule, unless the faculty or staff member has designated another blood relative as next of kin for the purpose of caregiver leave.

Procedures

An Eligible Employee's need for FMLA leave may be planned or unplanned. When practical, an employee should submit the Employee Request for Family Medical Leave to their supervisor at least thirty days prior to the start of their FMLA leave. The following steps will guide a faculty or staff member through this process.

Step 1: Read the FMLA Policy

Step 2: Submit the Employee Request for Family Medical Leave form to Human Resources

Step 3: Provide the Health Care Provider(s) with a copy of Baylor's FMLA Policy and the Certification of Health Care Provider form shown below that is applicable to your need. Staff employees should also include a copy of their job description:

- a. [Certification of Health Care Provider for Employee's Serious Health Condition](#)
- b. [Certification of Health Care Provider for Family Member's Serious Health Condition](#)
- c. For adoption and foster care, appropriate court documents are required for the foster care placement or adoption of a child.

The health care provider must certify the expected duration and schedule of such leave. The employee may be required to transfer temporarily to an available alternative position for which the employee is qualified but has equivalent pay and benefits and better accommodates recurring periods of leave than the faculty or staff member's regular position.

Step 4: The completed Certification of Health Care Provider form should be returned directly to Human Resources.

Step 5: Human Resources reviews the Employee Request for Family Medical Leave and the Certification of Health Care Provider forms.

Step 6: Human Resources notifies the faculty or staff member and the supervisor via email that the FMLA Request has been approved or denied.

Step 7: If the FMLA request is approved:

- Faculty members are paid in accordance with their contract.
- Staff members should review their leave accrual balances (paid caregiver, paid parental leave, sick and vacation) to determine if they have accrued enough paid time to cover the period that they will be on FMLA leave.
 - If a staff member exhausts their accrued paid leave time, it is the responsibility of the staff member's department to notify Human Resources.

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The staff member's department will need to submit a [Leave of Absence Request](#) form to HR in order to request the faculty or staff member into a non-compensated leave of absence.

Step 8: While an Eligible Employee is on FMLA leave, they are responsible for providing periodic updates to Human Resources on their leave status and intent to return to work upon conclusion of the leave. The frequency of such updates will be specified on the approval notification sent to the employee. Employees are also required to document proper use of paid leave benefits through approved tracking methods by submitting FMLA leave requests for any FMLA absences.

Step 9: Prior to returning to work, an employee on FMLA leave is required to provide Human Resources with a fitness for duty certification from their Health Care Provider that specifies the date that they will be released to return to work, and if applicable, restrictions and duration of the stated restrictions. (Note: It is possible for an employee to return to work and continue to be covered under FMLA on an intermittent basis.) Where there is reason to doubt the validity of the Health Care Provider's statement or certification for leave taken to care for a spouse, child, parent or the employee's illness, Baylor may, at its own expense, require second and third opinions, as specified within FMLA regulations to resolve the issue.

FMLA Fraud is Prohibited

An employee who fraudulently obtains Family and Medical Leave from Baylor University is not protected by the FMLA's job restoration or maintenance of health benefits provisions. In addition, Baylor University will take all available appropriate action against such employee due to such fraud, to include termination and referral to law enforcement.

Policy Changes

Temporary emergency modifications of this policy, such as a change to the requirement for medical documentation, may be made at the discretion of the Chief Human Resources Officer based on business needs and/or associated with a natural or manmade disaster.