Family Medical Leave Act (FMLA)

The University complies with the Family and Medical Leave Act of 1993 (FMLA), as amended.

The FMLA requires covered employers to provide up to 12 weeks of unpaid, benefits and job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care, or child birth;
- To care for the employee’s child after birth, or placement for adoption or foster care;
- To care for the employee’s spouse, son or daughter, parent, or in certain circumstances care for those in nontraditional family arrangements, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee’s job.

Eligibility Requirements

Employees are eligible if they have worked for the University for at least one year, for 1,250 hours over the previous 12 months.

Eligible employees are entitled to leave of up to 12 weeks in a 12-month period. For purposes of this policy, a "rolling" 12-month period will be used, measured backward from the starting date of the requested leave. Specific provisions and requirements for each type of FMLA leave are detailed below.

Definition of 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
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prevents the qualified family member from participating in school or other daily activities. In the case of the serious health condition of a family member, employees may request leave in continuous periods, intermittent periods, or by a reduced work schedule, to a total of 12 weeks. In cases of reduced schedules or intermittent leave, a department supervisor may transfer the employee temporarily to an alternative position to accommodate the needs of the work area. In such situations, the employee’s salary rate and benefits should remain the same.

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.

Leave Related to an Employee's Own Serious Health Condition (Including Pregnancy and Childbirth)
In the case of an employee's own serious health condition, including conditions related to pregnancy and childbirth, leave may be approved in continuous periods, intermittent periods, or by a reduced work schedule, in accordance with certification from the employee's health care provider. In cases of reduced schedules or intermittent leave, a department supervisor may transfer the employee temporarily to an alternate position to accommodate the needs of the work area. In such situations, the employee’s salary rate and benefits should remain the same.

Conditions related to pregnancy and childbirth are considered to be serious health conditions under the FMLA, and disability leaves related to pregnancy and childbirth are administered in the same manner as other disability leaves under the Institute's sick leave policies.

Please note when using a medical leave (sick time or short term disability) related to pregnancy and childbirth, this time is included in the counting of FMLA time. The combination of the medical leave period and the additional period for child care leave should not exceed 12 weeks in total.

Leave to Care for the Employee's Newborn Child, Newly-Adopted Child or Newly-Placed Foster Child
Leave to care for a newborn or newly adopted child should normally be taken in continuous periods and must be taken within 12 months of the birth of the child. Intermittent leave or reduced schedules may be arranged only if agreed to by both the department supervisor and the employee.

Spouses who are both employed by the Institute are allowed a combined total of 12 weeks of leave within a 12-month period for the care of a newborn.

Please note when using a medical leave (sick time or short term disability) related to pregnancy and childbirth, or when using parental leave, this time is included in the counting of FMLA time. The combination of the medical leave or parental leave period and the additional period for child care leave should not exceed 12 weeks in total.
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Leave to Care for a Family Member with a Serious Health Condition
Employees may request leave in situations where they are required to participate in the care of a seriously ill child, parent or spouse. Requests for leave to care for other seriously ill family members or members of an employee's household may be considered on a case-by-case basis.

An employee may request leave in continuous periods, intermittent periods, or by a reduced work schedule to a total of 12 weeks, in accordance with certification from the family member's health care provider. In cases of reduced schedules or intermittent leave, a department supervisor may transfer the employee temporarily to an alternate position to accommodate the needs of the work area.

Requests for leave to exceed 12 weeks will be reviewed in accordance with the specific circumstances of the request, considerations of work coverage, and the provisions of the Institute's general policy on leave without pay.

Military Family Leave Entitlements
Eligible employees with a spouse, son, daughter, or parent on active duty or call to covered active duty status 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. A covered servicemember is: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise on the temporary disability retired list for a serious injury or illness*; or 2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

*The FMLA definition of “serious injury or illness” for current servicemembers and veterans is distinct from the FMLA definition of “serious health condition.”

Requesting Family Medical Leave
Employees are expected to provide as much advance notice of the need for leave as is possible to allow for planning of coverage in the work area. Notice of at least 30 days is preferred when the need is foreseeable.

Application for family medical leave requires the completion of a Family Medical Leave Request Form with the proper authorizations. Copies of this form are available in the Human Resources Office or on the HR Website. Employees must provide sufficient information for the employer to determine if the leave will qualify for FMLA protection.

In addition, certification from a qualified health care provider will be required for approval of a leave to care for an injured or seriously ill family member. Copies of the U.S. Department of Labor’s Form for Certification of Physician or Practitioner are available in the Office of Human Resources or on the HR Website. Such certification should be provided prior to the beginning of the leave (or in as timely a
manner as possible) and should include: the date on which the illness or condition began; the estimated duration of the condition; a statement that the illness or condition warrants the participation of the employee to provide care, and in the case of intermittent leave, the dates and duration of treatments to be given.

Additional certification may be requested for any extension of a leave period beyond the dates originally approved.

Failure to provide requested information in a timely manner may result in the delay or denial of FMLA leave.

Use of Vacation Leave during Family Medical Leave
Employees may elect to use earned vacation in place of leave without pay within the approved period of family medical leave. Employees on the biweekly payroll may also elect to use their sick time exchange balances in place of unpaid leave. In cases where an employee is taking FMLA to care for a family member, the employee will be required to use their vacation/sick day exchange time off before taking unpaid leave.

An employee on leave without pay for 22 or more working days during the fiscal year will receive a prorated share of normal vacation for that year. Any period of leave without pay is counted as continuous service in determining length of service at the University for purposes of establishing vacation accrual rates, but not for purposes of vacation accrual itself.

Employees on the biweekly payroll who take leave without pay that exceeds a total of 22 days during the year will have a reduction in their total sick days at the rate of one day for every 22 working days of absence (whether or not the days of absence were consecutive)

Continuation of Benefits during Family Medical Leave
Health plan coverage and life insurance coverage continue during family medical leave periods.

Under IRS rules, contributions to the WPI Retirement Plan are not allowed during periods of leave without pay. Deposits to the University’s Flexible Reimbursement Accounts also stop during periods of leave without pay; however, claims may continue to be filed against an account for a limited period.

Health benefits during Family and Medical Leave Act (FMLA) leaves are maintained by the University on the same terms as if the employee continued to work. Please contact Human Resources for clarification. In such circumstances, arrangements must be made by eligible employees to pay their share of the health insurance premiums. Please contact the Human Resources Department to determine the amount of your contribution. The University’s obligation to maintain health benefits stops when:

- An employee informs the University of an intent not to return to work at the end of the leave period; or
- An employee fails to return to work when the FMLA entitlement is exhausted; or
- An employee’s premium contribution is past due.

The University will be entitled to recover premiums paid to maintain health insurance coverage for an employee who fails to return to work from leave.
Employees should contact the Human Resources Office for detailed information regarding benefits continuation during periods of leave without pay.

**Conditions of Return from Family Medical Leave**
At the completion of the approved leave period, an employee will be reinstated to his or her former position or a position of equivalent classification and pay within the department. If the position has been eliminated (due to a reduction in the work force or other operational change under circumstances applying equally to other similar positions in the department), efforts will be made to find other suitable employment at the University.

Return from family care leave should be at the same work schedule at which the employee was working when he or she left. However, a supervisor may agree to have a full-time employee return on a part-time schedule if it is mutually convenient; if so, the new schedule must be at least 50% of a normal workweek.

Questions relating to the provisions and eligibility requirements for family care leave may be directed to the Benefits Administrator.

Failure to return to work at the end of the family medical leave (without an approved extension) shall be considered a resignation.

For additional information on FMLA, please consult the following website: http://www.dol.gov/dol/topic/benefits-leave/fmla.htm