

1 Family and Medical Leave Act (FMLA)

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4 Contact: [University Human Resources](#)

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21 Introduction

22 This policy explains the university's provisions regarding the Family and Medical Leave Act (FMLA).

23 Policy Statement

24 FMLA provides eligible employees with job-protected leave for qualifying events or circumstances, as described below.

25 Some of those events or circumstances may involve the employee's own health event or circumstance, or may involve the health or military service of the employee's family member, defined below under "Definitions."

27 Under the FMLA, leave may be taken in continuous full-time periods or may include a reduced or intermittent schedule when medically necessary or for a qualifying exigency due to a call to active duty. When intermittent or reduced schedule leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must consult with the supervisor and make a reasonable effort to schedule treatment so as not to unduly disrupt the department's operation.

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33 Employee Eligibility

34 An employee is eligible for FMLA leave if he or she has

- 35 • Been employed by ISU for 12 months, and
- 36 • Worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave.

37 An employee returning from fulfilling his or her covered active duty will be credited with the hours of work that would have been performed during the period of military service.

39 Reasons for Leave

40 The FMLA allows eligible employees to take leave for the following qualifying events or circumstances.

41 FAMILY LEAVE

42 An employee may take family leave for the following events or circumstances:

- 43 • Birth and care of a child during the first year
- 44 • Adoption or foster placement of a child and care during first year
- 45 • Care for employee's spouse, domestic partner, child, or parent with a diagnosed serious health condition, defined below
- 46 under "Definitions"

DRAFT REVISION

Submit your comments on this draft policy revision to policy@iastate.edu by September 30, 2018.

Following the policy, see also:

- FMLA Guide
- FMLA Procedures Flowchart

47 **Amount of Leave:** Employees taking family leave may take up to twelve (12) work weeks ~~for~~ per full time
48 equivalent (FTE) of family leave per calendar year (January 1-December 31).

49 Leave for birth, adoption of a child or placement of a foster child ~~must be taken in one single period and that~~ must
50 be taken within one year of the birth or placement of the child. If both parents work for ISU and request leave for
51 birth or placement of a child, care of that child in the first year, then each parent will be entitled to twelve weeks of
52 leave. ~~or care for a parent with a serious health condition, the twelve week leave period for both employees is~~
53 ~~combined. The parents do not each have twelve weeks of FMLA available for those situations.~~
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55 Employees are entitled to FMLA leave for the care of the employee's immediate family member (parent, spouse,
56 or child) with a serious health condition. Care for parents-in-law is not covered by FMLA. The university reserves
57 the right to request documentation to confirm relationships.

58 **MEDICAL LEAVE**

59 An employee may take leave for his or her own serious health condition, as described below under "Definitions."

60 **Amount of Leave:** Employees taking medical leave for their own serious health condition may take up to twelve
61 (12) work weeks per full time equivalent (FTE) of medical leave per calendar year (January 1-December 31)
62 either continuously or intermittently.

63 **SERVICEMEMBER LEAVE**

64 An employee may take leave in conjunction with a servicemember's call to duty or to care for a servicemember with an injury
65 or illness. A covered servicemember may be a current member of the Armed Forces, including the National Guard or
66 Reserves, or a veteran of the Armed Forces, including the National Guard or Reserves.

67 ***Exigency***

68 Employees with a spouse, son, daughter, or parent (i.e., the "servicemember") on covered active duty or call to
69 covered active duty may use leave to address certain qualifying exigencies arising out of the active duty or
70 impending active duty.

71 Examples of qualifying exigencies include attending certain military events, arranging or providing for alternative
72 child care or school, addressing certain financial and legal arrangements, addressing issues arising from short-
73 notice deployment, attending certain counseling sessions, and attending post-deployment reintegration briefings.

74 **Amount of Leave:** An employee may take up to twelve (12) work weeks of leave per calendar year (January 1 -
75 December 31) either continuously or intermittently.

76 ***Injury or Illness***

77 Employees may also take leave to care for a covered servicemember ("the servicemember") who has a serious
78 injury or illness incurred in the line of duty that may render the servicemember medically unfit to perform his or
79 her own duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in
80 outpatient status; or is on the temporary disability retired list.

81 In order to care for the covered servicemember, the employee must be the spouse, son, daughter, parent, or ~~next~~
82 of kin of the servicemember.

83 **Amount of Leave:** An employee may take up to twenty-six (26) work weeks per full time equivalent (FTE) of
84 leave per servicemember or per injury/illness during a twelve month period, beginning on the first day of leave. If
85 both parents work for ISU and request leave for the care for a servicemember, the twenty-six week total leave
86 period for both employees is combined. The parents do not each have twenty-six weeks of FMLA available in that
87 situation.
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89 **Notice and Documentation**

90 When the need for FMLA leave is foreseeable, the employee shall notify the university within 30 days of the need for FMLA
91 leave by using the FMLA request form ~~DKM~~[1]. When the need for FMLA leave is not foreseeable, the employee shall notify
92 the university as soon as he/she is aware that FMLA leave is needed. An employee requesting FMLA leave must explain the
93 reasons for the needed leave so as to allow the university to determine whether the leave qualifies under the FMLA policy.

94 The employee must provide complete and sufficient medical or military documentation in support of a request for FMLA
95 leave. Failure to provide such documentation by the due date given may result in the denial or delay of FMLA. The university

96 may seek a second or third opinion of medical documentation, and may also request reasonable updates of supporting
97 documentation. The employee may also be required to provide documentation of the familial relationship to support
98 servicemember leave.

99 The university will promptly notify the employee in writing if the employee is eligible for FMLA and, if so, whether the
100 requested leave will be counted as FMLA leave. In certain circumstances the university may designate an absence as FMLA
101 even if the employee did not request FMLA. The university may not retroactively designate an absence as FMLA unless the
102 reasons for the absence were not known to the university at the time leave began.

103 An employee taking FMLA leave must comply with the department's established call-in procedures appropriate for the
104 situation. When calling in, employees must also inform the department if the requested leave or absence is for a reason for
105 which FMLA was previously taken or certified.

106 An employee on leave for his or her own medical condition must present a medical release to return to work. The employee
107 may be asked to medically certify that the employee is able to perform the essential functions of the position. Failure to
108 submit a sufficient and complete release may delay the employee's return to work.

109 **Paid versus Unpaid Leave**

110 FMLA does not provide paid leave. However, employee wages during a FMLA covered absence(s) will be provided in
111 accordance with university policy ~~and collective bargaining agreements~~. Emergency leave may be used concurrently with
112 FMLA under certain circumstances [as outlined in the Sick Leave Policy](#).

113 Employees eligible for FMLA will use applicable university paid leave benefits concurrently with FMLA. Leave benefits may
114 be sick leave and/or vacation/[vacation credit](#) dependent on the FMLA reason. If sick leave and/or vacation/[vacation credit](#) is
115 exhausted, leave will be unpaid (leave without pay). Employees who are qualified for FMLA leave are eligible to retain up to
116 two weeks (80 hours [for full time FTE](#)) of accrued annual "vacation" leave each calendar year.

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118 **Continuation of Insurance Benefits**

119 During an approved leave, paid or unpaid, ISU will continue to pay the employer share of the employee's medical and dental
120 insurance plan(s). If the employee is responsible for a share of the premium(s) through payroll deduction, the employee must
121 continue to pay his or her share during any unpaid leave.

122 Life, long term disability and waiver of annuity contribution benefit may be continued at employee expense under the leave
123 without pay rules. If leave is due to an employee's illness, life, long term disability and waiver of annuity contribution benefit
124 coverage may be continued through the policy provisions (see group policy booklet). [Contributions to IPERS \[LAK\(2\)\]](#) cannot
125 continue during a period of unpaid FMLA or other form of unpaid leave.

126 **Return to Employment After Leave**

127 At the end of FMLA leave, an employee must be restored to the job he or she left or one with equivalent benefits, pay and
128 "other terms and conditions of employment." Employees on FMLA must receive any unconditional pay raises that were
129 granted during their absence. [If an employee foresees the need for leave beyond the 12 weeks, he or she should contact](#)
130 [University Human Resources \(Employee/Labor Relations\) to discuss the need before the end of the 12 weeks.](#)

131 The FMLA contemplates that there may be situations when an employee cannot return to employment during or after leave.
132 Termination of employment may occur, for example, while an employee is on leave if there is a layoff or reduction in force,
133 [end of appointment](#), or cause that would otherwise support dismissal, if the employee's job would have been lost if he or she
134 was actively working. Similarly, ~~termination of employment may occur if the employee is unable~~[the employee does not have](#)
135 [restoration rights and may be separated if he or she is no longer able](#) to perform one or more of the essential functions of the
136 position, with or without reasonable accommodation, ~~after the leave is over~~[due to a continuing or new serious health](#)
137 [condition](#).

138 **No Retaliation or Interference**

139 The FMLA prohibits discrimination and retaliation against an employee who exercises his or her leave rights, and also
140 prohibits interference with those rights.

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142 **Definitions under the FMLA**

143 "Child" may be a biological, adopted, foster, or step child or legal ward, or child of a person standing "in loco parentis" by
144 providing day-to-day care and financial support,, where the child is under age 18, or age 18 or older and incapable of self
145 care because of a mental or physical disability.

146 "Next of Kin" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in
147 the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or
148 statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered
149 servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes
150 of military caregiver leave under the FMLA.

151 "Parent" means a biological, adoptive, step or foster parent, or other person who stood "in loco parentis" to a child by
152 providing day-to-day care and financial support. In-laws are not covered by this policy.

153 "Spouse" means a legal spouse or a common law spouse. This policy also covers domestic partners. Both spouses and
154 domestic partners must have on file an Affidavit of Domestic Relationship to be eligible for leave to care for the spouse or
155 partner.

156 "Serious health condition" means an illness, injury, impairment or physical or mental condition that involves inpatient care or
157 continuing treatment by a health care provider.

- 158 • The term "incapacity" means inability to work, attend school or perform other regular daily activities due to the serious
159 health condition, treatment therefore, or recovery therefrom.
- 160 • The term "inpatient care" means an overnight stay in a hospital, hospice, or residential medical care or any subsequent
161 treatment in connection with the inpatient care.
- 162 • The term "treatment" includes (but is not limited to) examinations to determine if a serious health condition exists and
163 evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental
164 examinations.
- 165 • The term "continuing treatment by a health care provider" means any one of the following
- 166 • A period of incapacity of more than three consecutive full calendar days, and any subsequent treatment or period of
167 incapacity relating to the same condition that also involves either treatment two or more times within 30 days, or
168 treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under
169 the supervision of the health care provider.
- 170 • Any period of incapacity due to pregnancy or prenatal care.
- 171 • Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious
172 health condition is one which requires periodic visits (i.e., at least twice per year) for treatment by a health care provider,
173 which continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity.
- 174 • Permanent or long-term conditions
- 175 • Conditions requiring multiple treatments
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177 **Enforcement**

178 If an employee has concerns or complaints regarding FMLA, the employee may contact University Human Resources. In
179 addition, an employee may file a complaint with the Department of Labor.

180 **Resources**

181 **Links**

- 182 • [FMLA Flowchart, Forms, and FAQ](#)
- 183 • [University Human Resources \[UHR\] Benefits Office](#)
- 184 • [Disability Accommodation Requests](#)
- 185 • ~~[AFSCME Contract and other Merit information](#)~~
- 186 • [Salaries and Benefits for Faculty, Faculty Handbook Chapter 4](#)
- 187 • [Sick Leave Policy; Other Uses of Sick Leave](#)
- 188 • [Vacation Leave](#)
- 189 • [Leave of Absence Without Pay](#)
- 190 • [Catastrophic Illness or Injury](#)

LEAVE GUIDE FOR EMPLOYEES

BIRTH/CARE OF CHILD, ADOPTION, PLACEMENT OF FOSTER CHILD

FMLA ELIGIBILITY

Employed by ISU for 12 months, and worked at least 1,250 hours prior to start of FMLA leave

WHAT FMLA COVERS

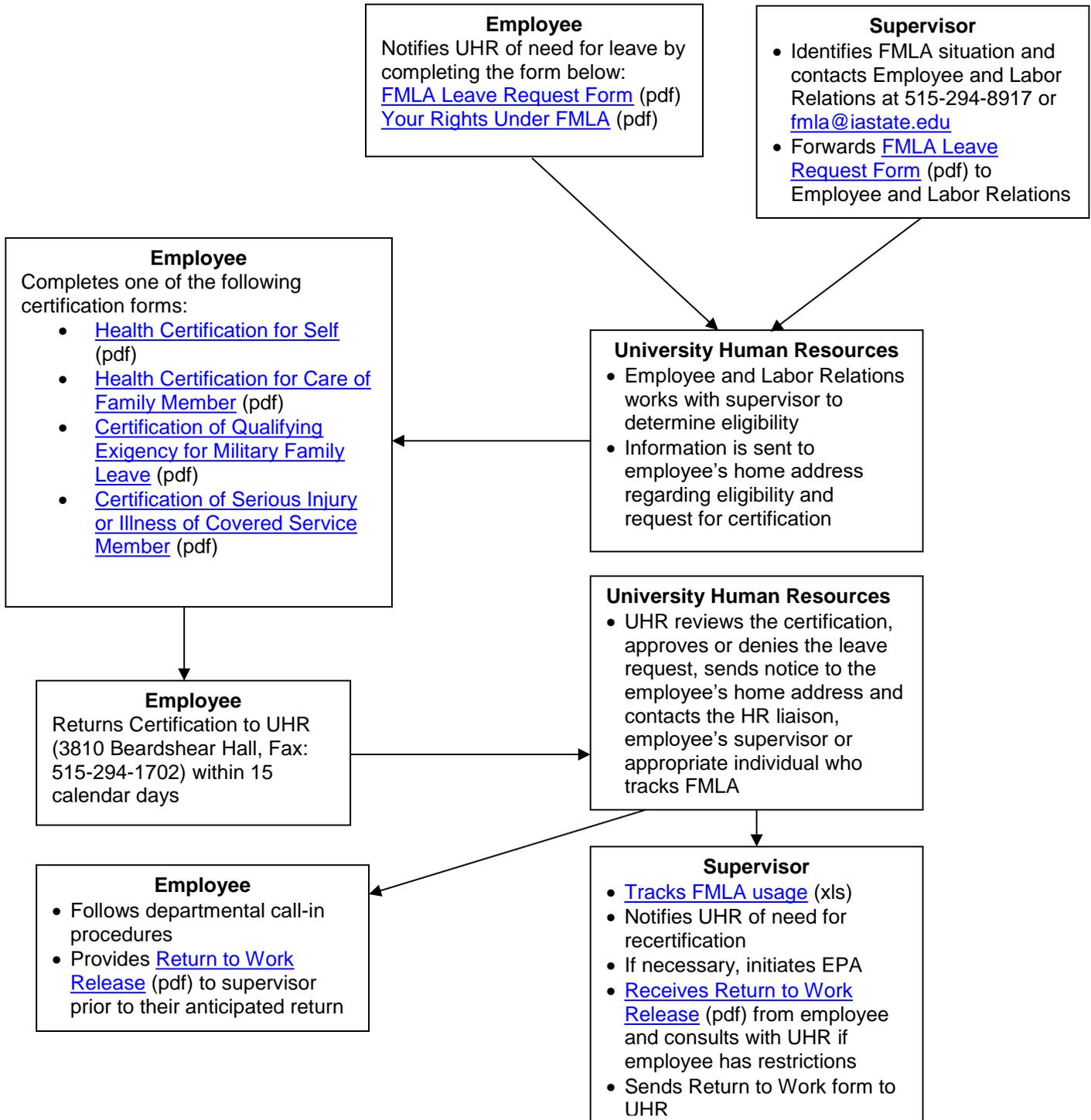
Job-protected leave, continuation of health insurance benefits, and return to employment upon completion of leave

AMOUNT OF FMLA LEAVE

Up to 12 work weeks of family leave per calendar year

	pregnancy leave	birthing parent	non-birthing parent	adoption (both parents)	placement of foster child (both parents)
up to 12 weeks FMLA leave	if not FMLA eligible, Iowa law requires up to 8 weeks of unpaid leave	✓	✓	✓	✓
ability to use vacation concurrently	✓	✓	✓	✓	✓
ability to use sick leave concurrently	for medical recovery of birth parent	for medical recovery of birth parent	up to 80 hours of emergency leave if accrued	up to 5 days of paid leave from sick & up to 80 hours of emergency leave if accrued	up to 80 hours of emergency leave if accrued

Family and Medical Leave Act Procedures



Related Information

[Leave Retention Form](#) (pdf)

[FMLA Frequently Asked Questions](#) (pdf)

For questions, please contact University Human Resources.

Employee and Labor Relations, 3810 Beardshear Hall

Phone: 515-294-8917 Fax: 515-294-1702 Email: fmla@iastate.edu