

# 1 Family and Medical Leave Act (FMLA)

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

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

34 The university uses a rolling 12-month period to track FMLA leave. The rolling 12-month period  
35 calculates leave measured backward from the date an employee uses FMLA leave, each time an  
36 employee takes FMLA leave, the remaining leave is the balance of the 12 weeks not used during the  
37 immediately preceding 12 months.

38

39 **Employee Eligibility**

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

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

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

45 **Reasons for Leave**

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

48 **FAMILY LEAVE**

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

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

54 *Amount of Leave:* Employees taking family leave may take up to twelve (12) work weeks per  
55 full time equivalent (FTE) of family leave per rolling twelve-month period.

56 Leave for birth, adoption of a child or placement of a foster child must be taken within one  
57 year of the birth or placement of the child. If both parents work for ISU and request leave for  
58 birth or placement of a child, care of that child in the first year, then each parent will be entitled  
59 to twelve weeks of leave.

60 Employees are entitled to FMLA leave for the care of the employee's immediate family  
61 member (parent, spouse, or child) with a serious health condition. Care for parents-in-law is  
62 not covered by FMLA. The university reserves the right to request documentation to confirm  
63 relationships.

64 **MEDICAL LEAVE**

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

67 *Amount of Leave:* Employees taking medical leave for their own serious health condition may  
68 take up to twelve (12) work weeks per full time equivalent (FTE) of medical leave per rolling  
69 twelve-month period either continuously or intermittently.

70

71 **SERVICEMEMBER LEAVE**

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

76 **Exigency**

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

80 Examples of qualifying exigencies include attending certain military events, arranging or  
81 providing for alternative childcare or school, addressing certain financial and legal  
82 arrangements, addressing issues arising from short-notice deployment, attending  
83 certain counseling sessions, and attending post-deployment reintegration briefings.

84 *Amount of Leave:* An employee may take up to twelve (12) work weeks per full time  
85 equivalent (FTE) of leave per rolling twelve-month period either continuously or  
86 intermittently.

87 **Injury or Illness**

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

93 In order to care for the covered servicemember, the employee must be the spouse, son,  
94 daughter, parent, or of kin of the servicemember.

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

101 **Notice and Documentation**

102 When the need for FMLA leave is foreseeable, the employee shall notify the university within 30  
103 days of the need for FMLA leave by using the FMLA request form. When the need for FMLA leave is  
104 not foreseeable, the employee shall notify the university as soon as he/she is aware that FMLA  
105 leave is needed. An employee requesting FMLA leave must explain the reasons for the needed  
106 leave so as to allow the university to determine whether the leave qualifies under the FMLA policy.

107 The employee must provide complete and sufficient medical or military documentation in support of  
108 a request for FMLA leave. Failure to provide such documentation by the due date given may result in  
109 the denial or delay of FMLA. The university may seek a second or third opinion of medical  
110 documentation, and may also request reasonable updates of supporting documentation. The

111 employee may also be required to provide documentation of the familial relationship to support  
112 servicemember leave.

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

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

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

### 125 **Paid versus Unpaid Leave**

126 FMLA does not provide paid time off. However, employee wages during a FMLA covered absence(s)  
127 will be provided in accordance with university policy. Emergency time off may be used concurrently  
128 with FMLA under certain circumstances as outlined in the Sick Time Off Policy.

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

### 134 **Continuation of Insurance Benefits**

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

139 Life, long term disability and waiver of annuity contribution benefit may be continued at employee  
140 expense under the leave without pay rules. If leave is due to an employee's illness, life, long term  
141 disability and waiver of annuity contribution benefit coverage may be continued through the policy  
142 provisions (see group policy booklet). Contributions to IPERS cannot continue during a period of  
143 unpaid FMLA or other form of unpaid leave.

### 144 **Return to Employment After Leave**

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

150 The FMLA contemplates that there may be situations when an employee cannot return to  
151 employment during or after leave. Termination of employment may occur, for example, while an  
152 employee is on leave if there is a layoff or reduction in force, end of appointment, or cause that

153 would otherwise support dismissal, if the employee's job would have been lost if he or she was  
154 actively working. Similarly, the employee does not have restoration rights and may be separated if  
155 he or she is no longer able to perform one or more of the essential functions of the position, with or  
156 without reasonable accommodation, due to a continuing or new serious health condition.

## 157 **No Retaliation or Interference**

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

## 160 **Definitions under the FMLA**

161 "**Child**" may be a biological, adopted, foster, or step child or legal ward, or child of a person standing  
162 "in loco parentis" by providing day-to-day care and financial support,, where the child is under age  
163 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

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

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

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

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

178 "**Rolling twelve-month period**" is the twelve-month period measured backward from the date when  
179 leave is taken.

180 The term "**incapacity**" means inability to work, attend school or perform other regular daily activities  
181 due to the serious health condition, treatment therefore, or recovery therefrom.

182 The term "**inpatient care**" means an overnight stay in a hospital, hospice, or residential medical care  
183 or any subsequent treatment in connection with the inpatient care.

184 The term "**treatment**" includes (but is not limited to) examinations to determine if a serious health  
185 condition exists and evaluations of the condition. Treatment does not include routine physical  
186 examinations, eye examinations, or dental examinations.

187

188 The term "**continuing treatment by a health care provider**" means any one of the following:

- 189 • A period of incapacity of more than three consecutive full calendar days, and any  
190 subsequent treatment or period of incapacity relating to the same condition that also involves  
191 either treatment two or more times within 30 days, or treatment by a health care provider on  
192 at least one occasion, which results in a regimen of continuing treatment under the  
193 supervision of the health care provider
- 194 • Any period of incapacity due to pregnancy or prenatal care
- 195 • Any period of incapacity or treatment for such incapacity due to a chronic serious health  
196 condition. A chronic serious health condition is one which requires periodic visits (i.e., at  
197 least twice per year) for treatment by a health care provider, which continues over an  
198 extended period of time, and may cause episodic rather than a continuing period of  
199 incapacity.
- 200 • Permanent or long-term conditions
- 201 • Conditions requiring multiple treatments

## 202 **Enforcement**

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

## 205 **Resources**

### 206 **Links**

- 207 • [FMLA Guide and Process Flowchart with Links to Forms](#)
- 208 • [University Human Resources \[UHR\] Benefits Office](#)
- 209 • [Disability Accommodation Requests](#)
- 210 • [Salaries and Benefits for Faculty, Faculty Handbook Chapter 4](#)
- 211 • [Sick Time Off Policy; Other Uses of Sick Leave](#)
- 212 • [Vacation Time Off](#)
- 213 • [Leave of Absence Without Pay](#)
- 214 • [Donated Leave for Catastrophic Illness](#)

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