

FMLA Guidelines

(Note: This document is a supplement to, not a replacement for Policy 4.73 Family and Medical Leave (FMLA, <http://policies.emory.edu/4.73>)

FMLA

The FMLA (Family Medical Leave Act) is a federal law which allows eligible employees to take up to 12 workweeks (or 480 hours) of unpaid leave per rolling calendar year (12 month period) for a qualifying event. FMLA can be taken consecutively or intermittently. Employees are paid with available sick or vacation leave accrual, floating holidays, or salary continuation (if applicable). **Please note: FMLA is not optional; if the employee is eligible, and the event qualifies, then the employee and department must comply.**

Eligibility

In order to be eligible, the employee must have met the following criteria:

- Worked for Emory for at least 12 months (need not be consecutive)
- Worked at least 1,250 hours over the previous 12 months (must be actual hours worked; does not include paid leave time)

Qualifying Events

Employees can take FMLA leave for the following qualifying events:

- Birth of the employee's child, or to care for the employee's newborn child
- Because of the employee's own serious health condition resulting in a period of medical incapacity of more than three (3) consecutive days, and any inpatient medical care
- To care for a Care Recipient (employee's spouse/SSDP, parent, parent-in-law, child, adult child without other care support) with a serious health condition
- Placement of a child with the employee for adoption or foster care within one year of the placement
- To care for a U.S. service member with a serious injury or illness incurred in the line of duty (can be on FMLA for up to 26 weeks for this event) while on active military duty if the employee is the spouse, son/daughter, parent, or next of kin
- A qualifying military exigency of an employee's spouse, son/daughter, or parent (applies to reservists only when called to active duty)

Paid FMLA Leave for Staff

Staff members **must** use available sick leave while on FMLA due to their own serious medical condition. If sick leave is exhausted, employees have the **option** to use vacation leave/floating holidays, or to be

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placed on unpaid leave. If filing a claim for short term disability (STD) benefits, employees must use sick leave through the STD elimination period, before being placed on unpaid leave. If the employee does not have enough sick leave to cover the entire elimination period, he/she has the option to use accrued vacation leave/floating holidays during the remainder of the elimination period. Once the elimination period is over, the department must submit an eHRAF to place the employee on unpaid FMLA leave in PeopleSoft. Please note: employees must file a claim for STD by contacting our disability vendor, Unum. Claims information can be obtained by contacting the Benefits Department.

If on FMLA to care for a Care Recipient, employees have the option to use sick leave, vacation leave/floating holiday, or to be unpaid.

Paid FMLA Leave for Faculty

Faculty members should be paid by salary continuation while on FMLA **due to their own serious medical condition**. Questions related to faculty only leave types should be directed to the Provost's Office, School of Medicine Dean's office, or the departmental chair.

How to Initiate an FMLA Leave Request

An FMLA leave request should be initiated by the employee (or the employee's representative), however, the department may initiate an FMLA leave request on the employee's behalf.

1. Log into PeopleSoft, then click Self-Service.
2. Click the link for FMLA and Medical Leave, then log into the FMLA Leave Request System.
3. Under Employee Requests, click Request a Leave of Absence.
4. Enter all requested fields. If you are unsure of the leave start date or end date, make your best guess. Employee Relations can adjust the dates later if needed.
5. Once all fields are completed, submit the leave request.
6. Print out a copy of the FMLA Healthcare Provider Certification form. The employee should give it to the medical provider to complete and fax back to the number on the 1st page of the certification form.

Complete the Eligibility Notice

Once the FMLA leave request is submitted, the employee's manager and department HR Rep will receive a system generated email with a message and link to complete the Eligibility Notice (the manager and HR Rep listed in the FMLA Leave Request will receive the email and have access to the leave request). The Eligibility Notice is not an approval of FMLA leave; it only informs the employee if she/he is **eligible** for FMLA leave, based on the eligibility criteria mentioned above in the Eligibility section. **The department has up to five (5) days to complete the Eligibility Notice.**

Once the notice is completed, the manager and department HR Rep will receive another system generated email containing a link to the Eligibility Letter for the employee. **This letter should be**

provided to the employee. If the employee is eligible for FMLA leave, the FMLA leave request will remain in a pending status until Employee Relations receives the FMLA Healthcare Provider Certification form from the medical provider.

If the FMLA leave request is for an adoption/foster care placement, or for a military caregiver or exigency, the leave request will remain in a pending status until Employee Relations receives supporting documentation which demonstrates the reason and estimated duration of the leave event. The FMLA Healthcare Provider Certification form (or other supporting documentation) should be received no sooner than 15 days before but no later than 15 days after the leave start date.

If the employee is not eligible for FMLA leave and the department is unsure of how to proceed, contact Employee Relations for assistance.

FMLA Designation Notice

Once the FMLA Healthcare Provider Certification (or supporting documentation) is received by central HR, Employee Relations has up to 7 days to designate (approve) the FMLA leave. Once designated, the manager and department HR Rep will receive a system generated email informing them that Employee Relations has made a decision regarding the FMLA leave request. **The FMLA Designation Notice should be given to the employee as quickly as possible.** If the employee is denied FMLA leave, please contact Employee Relations for other possible options for leaves of absence.

Placing the Employee on FMLA in PeopleSoft

The department must place the employee on FMLA leave via an eHRAF or HR Web. If you are unsure about how to place an employee on leave in PeopleSoft, contact Data Services for instructions. Place the employee on FMLA leave with an effective date of the first day that they are unable to work due to the FMLA leave event. If the employee has sick leave, he/she should be placed on paid leave if he/she is out due to his/her own serious medical condition. **Do not place employees who are approved for FMLA intermittent leave on leave in PeopleSoft. Intermittent leave time should be tracked separately by the department.**

Paid Leave

The department **must** make sure to submit time in Kronos for a non-exempt employee to be paid while on FMLA leave. The department **must** enter leave time in the Exempt Leave Tracking System for an exempt employee's leave to be debited from his/her leave accrual. This is not automatically done, and only submitting an action in PeopleSoft to place the employee on paid leave accomplishes this. Emory University's leave tracking systems are not linked to PeopleSoft! Failure to submit time in Kronos for a non-exempt employee in a timely manner will result in her/him not receiving a paycheck. If this occurs, the department will have to contact the Payroll Department for instructions on how to resolve the matter (and your department may incur an On-Demand Check (ODC) fee for this service).

Unpaid Leave

The department must place the employee on an unpaid FMLA leave in PeopleSoft via an eHRAF or HR Web, at the appropriate time. There are many factors that may determine when to place an employee on unpaid FMLA leave, including:

- The end of an STD elimination period
- The employee runs out of paid leave
- The employee runs out of sick leave, and does not wish to use vacation/floating holidays
- The employee is out to care for a Care Recipient and does not wish to be paid while on leave
- The employee is out due to the birth of a baby and the medical incapacity period has ended (typically 6 weeks). The employee does not wish to use vacation leave for the remaining bonding period.

*Failure to place an exempt employee on unpaid leave in a timely manner could result in a payroll overpayment. It is the department's responsibility to contact the employee to ask for reimbursement due to any overpayment error caused by the department's inaction.

Intermittent Leave Pay

Employees on FMLA intermittent leave are paid for actual hours worked. If the employee is out due to his/her own serious medical condition, sick leave should be entered for any time missed from work due to the FMLA event. Per FMLA law, exempt employees on intermittent FMLA leave will be paid for actual hours worked (if time away is due to the FMLA leave event). If the employee does not have sufficient sick leave and/or does not wish to use vacation/floating holiday pay, the employee's paycheck will be "docked" for the FMLA time used.

Return from Leave

It is mandatory for an employee who is out due to his/her own serious medical condition to bring a return to work authorization note from the medical provider, indicating the effective/release date and listing any restrictions **prior** to resuming work.

The department should return the employee from leave in PeopleSoft, via an eHRAF or HR Web. Failure to return the employee from leave in a timely manner could result in:

- The employee not being paid on time
- The employee not being able to gain access to the parking decks
- Non-exempt employees not being able to clock in/out of Kronos

Contact Employee Relations

Although this information sheet is meant to be a general guide through the FMLA process, situations will inevitably arise that do not fit the traditional examples of FMLA. Please contact Employee Relations at 404-727-7625 if you have any questions about the FMLA process.

Glossary of Terms

- Consecutive leave – leave that is taken on a continuous basis, up to 12 weeks from the leave start date
- Intermittent leave - leave that is taken sporadically, on an as needed basis, up to 480 hours per year
- Qualifying event – an leave reason/circumstance that is an official, lawful event under federal FMLA law and Emory University’s FMLA Leave Policy (4.73)
- Eligible employee – an employee who has met the employment service requirements under federal FMLA law, as described in Emory University’s FMLA Leave Policy (4.73)
- Care Recipient – an immediate family member, as defined under federal FMLA law and Emory University’s FMLA Leave Policy (4.73)
- Serious medical condition - serious health condition resulting in a period of medical incapacity of more than 3 consecutive, full calendar days, and any subsequent treatment or period of incapacity related to the same condition
- FMLA Healthcare Provider Certification Form – a form that the employee must give to the treating medical provider to complete when the employee is out due to a serious medical condition
- eHRAF – electronic human resources action form that is used to enter employee transactions (status/data changes) into PeopleSoft
- HR Web – a function accessed through PeopleSoft to enter employee transactions (status/data changes) into the system
- PeopleSoft – Emory University’s employee data information system
- STD – short term disability