

1 **Family and Medical Leave Act (FMLA)**

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22 **Introduction**

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

24 **Policy Statement**

25 FMLA provides eligible employees with job-protected leave for qualifying events or circumstances,
26 as described below. Some of those events or circumstances may involve the employee's own health
27 event or circumstance, or may involve the health or military service of the employee's family
28 member, defined below under "Definitions."

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

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

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. [top](#)

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 **SERVICEMEMBER LEAVE**

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

75 **Exigency**

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

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

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

86 **Injury or Illness**

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

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

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

100 **Notice and Documentation**

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

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

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

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

120 An employee on leave for his or her own medical condition must present a medical release to return
121 to work. The employee may be asked to medically certify that the employee is able to perform the

122 essential functions of the position. Failure to submit a sufficient and complete release may delay the
123 employee's return to work. [top](#)

124 **Paid versus Unpaid Leave**

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

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

133 Employees who are approved for FMLA and receiving workers' compensation lost time benefits
134 have the option to supplement applicable university paid time off with workers' compensation lost
135 time benefits and are not required to use paid time off. [top](#)

136 **Continuation of Insurance Benefits**

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

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

146 **Return to Employment After Leave**

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

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

159 **FMLA Fraud is Prohibited**

160 An employee who fraudulently obtains FMLA leave from an employer is not protected by the FMLA's
161 job restoration or maintenance of health benefits provisions. [top](#)

162 **No Retaliation or Interference**

163 The FMLA prohibits discrimination and retaliation against an employee who exercises his or her
164 leave rights, and also prohibits interference with those rights. [top](#)

165 **Definitions under the FMLA**

166 "**Intermittent leave**" is a FMLA leave taken in separate blocks of time due to a single qualifying
167 reason.

168 "**Reduced schedule leave**" is a leave schedule that reduces an employee's usual number of
169 working hours per workweek, or hours per workday. A reduced schedule leave is a change in the
170 employee's schedule for a period of time, normally from full-time to part-time.

171 "**Child**" may be a biological, adopted, foster, or step child or legal ward, or child of a person standing
172 "in loco parentis" by providing day-to-day care and financial support,, where the child is under age
173 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

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

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

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

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

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

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

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

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

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

- 198 • A period of incapacity of more than three consecutive full calendar days, and any
199 subsequent treatment or period of incapacity relating to the same condition that also involves
200 either treatment two or more times within 30 days, or treatment by a health care provider on

- 201 at least one occasion, which results in a regimen of continuing treatment under the
202 supervision of the health care provider
- 203 • Any period of incapacity due to pregnancy or prenatal care
 - 204 • Any period of incapacity or treatment for such incapacity due to a chronic serious health
205 condition. A chronic serious health condition is one which requires periodic visits (i.e., at
206 least twice per year) for treatment by a health care provider, which continues over an
207 extended period of time, and may cause episodic rather than a continuing period of
208 incapacity.
 - 209 • Permanent or long-term conditions
 - 210 • Conditions requiring multiple treatments [top](#)

211 **Enforcement**

212 If an employee has concerns or complaints regarding FMLA, the employee may contact University
213 Human Resources. In addition, an employee may file a complaint with the Department of Labor. [top](#)

214 **Resources**

215 **Links**

- 216 • [Medical Certification under the Family and Medical Leave Act – Fact Sheet #28G](#)
- 217 • [Time and Absence Resources](#)
- 218 • [University Human Resources \[UHR\] Benefits Office](#)
- 219 • [Disability Accommodation Requests](#)
- 220 • [Salaries and Benefits for Faculty, Faculty Handbook Chapter 4](#)
- 221 • [Sick Time Off Policy; Other Uses of Sick Leave](#)
- 222 • [Vacation Time Off](#)
- 223 • [Leave of Absence Without Pay](#)
- 224 • [Donated Leave for Catastrophic Illness](#)
- 225 • [Adoption Assistance Plan](#)
- 226 • [Department of Labor FMLA Poster](#)