Family Medical Leave (FML) Information Sheet

Purpose / Description

San José State University provides Family Medical Leave (FML) to eligible employees in accordance with the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). All leaves of absence for qualifying reasons, whether paid or unpaid, are designated as FML. Upon completion of FML, employees are entitled to return to the same position or another position with equivalent benefits, pay, and conditions of employment. Employees are also entitled to retain any health insurance benefits during time away from work due to FML.

This information sheet is intended to provide an overview of FML. For represented employees, the respective collective bargaining unit agreement may supersede some portions of the CSU FML policy. Employees are encouraged to consult with the Leave Program Manager to discuss their specific situation. To make an appointment with the Leave Program Manager, call 408-924-2155.

I. ELIGIBILITY

An employee may be eligible for FML for any of the following reasons:

- To care for a child after birth or placement with the employee for adoption or foster care
- To care for the employee's spouse, domestic partner, child, parent, parent-in-law, siblings, grandparent, grandchild, or designated person, who has a serious health condition
- If the employee is unable to perform the essential functions of their job due to a serious health condition
- To care for a covered service member with a serious illness or injury that may have been incurred in the line of duty on active duty in the Armed Forces, or may have existed prior to the beginning of the service member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
- To use for "any qualifying exigency" involving a covered family member who is also a member of the military and is either on active duty or called to active duty and deployed to a foreign country.

An employee is eligible for leave if they have worked for at least an academic year or 12 months (the service need not be continuous) preceding the leave. Employment includes at all CSU campuses. An eligible employee is entitled to take up to 12 workweeks of unpaid FML (including intermittent or reduced work schedule) during a 12month period. The 12-month period is calculated from the date an employee's leave begins.

For intermittent leave or leave on a reduced work schedule, there must be a medical requirement for that type of leave (as distinguished from voluntary treatments and procedures) and such medical need must be accommodated through an intermittent or reduced work schedule. Employees needing intermittent FML or a reduced work schedule must try to schedule leave to avoid disrupting campus operations.

As a reminder, the following employee groups are subject to the 1,250 hour eligibility requirement:

- Non-represented (confidential and MPP)
- Student employees
- Bargaining Unit 10 (IUOE)
- Unit 1 (UAPD)
- Unit 6 (Teamsters)
- Unit 8 (SUPA)

An eligible employee may take up to 26 workweeks of leave in a 12-month period to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. The 12-month period is calculated from the date an employee's leave begins.

II. LEAVE STATUS

A. Unpaid FML

Employees must exhaust their accumulated sick leave, personal holiday, accumulated vacation, and CTO prior to beginning unpaid leave. Use of leave credits is charged against the FML entitlement.

B. Paid FML

Any paid portion of the leave is tracked against the 12-week FML entitlement. Sick leave to care for a family member may be used if mutually agreed upon by the employee and the appropriate administrator. Refer to the appropriate collective bargaining unit agreement (CBA) as use of sick leave to care for family members may differ.

C. Benefits

All health benefits will automatically continue during any paid leave. During any unpaid portion of the FML, the CSU pays its normal share of any medical, dental and vision premiums pursuant to law. In addition, the CSU will continue to pay its normal share of any premiums for dental insurance and vision coverage. An accounts receivable will be set up for the employee's share of the premium(s), if any. If the employee wishes to discontinue medical benefits coverage during the unpaid leave, the CSU will also suspend its medical premium payments, but dental and vision will be continued. Suspended medical coverage will be reinstated upon return to active status.

III. PROCESS

It is the responsibility of individual departments to define how an employee should communicate to their supervisor regarding their request for FML. People and Culture (P&C) must notify the employee of the employee's rights and responsibilities as well as eligibility to take FML leave within five (5) business days of the employee's supervisor or appropriate department administrator becoming aware that an employee's leave may be eligible for FML, unless there are extenuating circumstances.

When an employee is absent from work for more than 3-5 consecutive days (depending on bargaining agreement), the immediate supervisor should contact UP to determine if the leave qualifies as a FML event. Please review CSU FML policy or seek assistance from UP when you have questions.

A. Employee Responsibilities

1. An eligible employee who requests FML leave must apply for the leave by completing Leave of Absence Request Form. The form must be filled out completely, including the supervisor and appropriate department administrator's signature, then submitted to UP for review and final approval.

When the need for FML is foreseeable (e.g., the birth of a child or a planned medical treatment) the employee shall provide not less than thirty (30) calendar days' notice of the need for leave. However, if the leave must begin in less than 30 calendar days, the employee shall provide as much notice as possible.

If the need for leave is not foreseeable, the employee shall provide written notice as soon as the event necessitating the leave becomes known to the employee. Situations with extenuating circumstances will be handled on a case-by-case basis. Failure to provide a timely notice may delay the leave or result in a denial of your request.

2. The employee must have the relevant healthcare provider supply the appropriate medical certification. The Medical Certification for Serious Health Condition for Employee/Family Member must be completed and returned to the Leave Program Manager within 15 calendar days following the request for leave.

3. When practicable, the employee should schedule an appointment with the Leave Program Manager in UP to review the request for leave and to review benefit eligibility while on leave.

4. The employee must notify their manager and the Leave Program Manager of any change of circumstances for which FML is being taken (for example, the duration or frequency of absences, the nature of the illness, complications, etc.).

5. The employee who is on leave for their own serious illness shall be provide a completed Return to Work Certification from the attending health care provider to the Leave Program Manager prior to their scheduled return to work date. The employee cannot return until release from health care provider is on file.

B. Department Responsibilities

The appropriate administrator/manager will:

Inform an employee of their rights under the FML and provide the employee with a Leave of Absence Request form, a Medical Certification and Return to Work Certification. Forms are available in UP or on the UP Leave Programs webpage. All forms must be filled out completely and submitted to the Leave Program Manager for review and final approval.

1. Contact the Leave Program Manager upon request from an employee for FML or after becoming aware that an employee may need FML time away from work. This ensures proper protocol is followed and that documents are received and submitted properly.

2. Inform the employee to submit the Medical Certification form directly to the Leave Program Manager. Departments are not to obtain and/or keep employee's completed Medical Certification on file.

C. People and Culture (P&C) Responsibilities

1. If the employee initially informs their administrator/manager of the need for leave and presents documentation from a qualified health care provider that provides sufficient information to make a determination that the leave is FML protected, UP sends the

Eligibility Notice and the Designation Notice designating the leave as FML, within five (5) business days.

2. If the employee informs their administrator/manager of the need for leave, but does not provide documentation from a qualified health care provider, UP completes the Notice of Eligibility and Rights and Obligations form ("Eligibility Notice") within five (5) business days and the employee has fifteen (15) calendar days to submit a sufficiently complete Medical Certification form.

    - If the employee returns a complete and sufficient medical certification, UP sends the Designation Notice within five (5) business days to the employee. The notice informs the employee of the designation of the leave and the amount of FML they will be using, if known.

    - If the employee returns an incomplete or insufficient medical certification, UP sends the Designation Notice within five (5) business days, informing the employee of the deficiencies. The employee has seven (7) calendar days to return complete and sufficient information.

        - If the employee does not return the medical certification or returns an incomplete and/ or insufficient certification, UP sends a Designation Notice within five (5) business days, informing them that FML leave is not approved.