

LOYOLA LAW SCHOOL
HUMAN RESOURCES POLICIES AND PROCEDURES

DIVISION: LAW SCHOOL/HUMAN RESOURCES	
SUBJECT: Family/Medical Leave	Page 1 of 8
Policy Number:	Supersedes: LEAVE OF ABSENCE
Effective Date: 2/12/16	Previously Issued: 02/10/14

STATEMENT OF POLICY

The Law School recognizes that staff members are faced with balancing personal/family demands with work obligations. The Law School supports eligible staff members with a need for family/medical leave.

I. DEFINITIONS

A. General terms

For purposes of this policy only, the following terms are defined below:

“Eligible staff member” means: a staff member who:

- (1) Has been employed by the University for at least 12 months,
- (2) Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave, and
- (3) Works at a location with 50 employees at the location or within 75 miles of the location.

“Eligible family member” means: a son or daughter, parent or spouse, as defined below.

“Family/medical leave” means: leave of absence taken pursuant to this policy.

“Parent” includes: A biological, foster, or adoptive parent, a step-parent, a legal guardian or a person who stood *in loco parentis* to the staff member when the staff member was a minor.

“Son or daughter” means: A biological, adopted or foster child, a step-child, a legal ward, or a child for whom the staff member stood *in loco parentis*, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time the leave would commence.

“Spouse” includes: Partners to a legal marriage and registered domestic partners.

B. Statutory Leaves

1. Family Medical Leave Act (“FMLA”) and California Family Rights Act (“CFRA”)

The Law School complies with the provisions of applicable federal (FMLA) and state (CFRA) laws governing family/medical leaves. A staff member who has completed 12 months employment with

the University and has worked at least 1,250 hours during the previous 12-month period may be entitled to 12 weeks unpaid leave for the following purposes¹:

- a) Family bonding leave in connection with the birth or adoption of a child or placement of a child for foster care (“baby bonding”);
- b) Family care leave when the serious illness/injury of a son or daughter, parent, spouse (including registered domestic partner) requires the staff member’s care; or
- c) Medical leave for the staff member’s own serious health condition which prevents the staff member from performing one or more of the essential functions of the job.

There is no legal requirement that the Law School provide compensation during either an FMLA or CFRA leave. Staff members will not be entitled to more than 12 weeks FMLA/CFRA leave in any continuous 12 month period. The 12 months will be determined in “rolling” 12-month periods, measured backward from the date the FMLA/CFRA leave commenced/would commence.

Medical certification, both prior to the leave and prior to return to work may be required. In addition, periodic recertification of the need for the leave and periodic reports during the leave may be required.

Any FMLA/CFRA leave taken for baby bonding in connection with the birth/adoption or placement of a child for foster care must conclude within one year of birth/adoption/placement of the child with the staff member.

II. POLICIES/PROCEDURES

This policy is intended to comply with federal and state laws and all related regulations. Should later revisions to these laws and regulations conflict with provisions contained in this policy, the minimum requirements of relevant federal/state law and/or regulations shall govern resolution of the issue. For further information regarding the scope of Family/Medical Leave, staff members should contact Human Resources.

A. Reason for Family/Medical Leave

A request for a family/medical leave will be considered if the staff member seeks the leave (1) to care for a newborn child, (2) due to the placement of an adopted or foster child, (3) to care for a son or daughter, parent, or spouse (including registered domestic partner) who has a serious health condition, or (4) because of the staff member’s own serious health condition that prevents him/her from performing any one or more of the essential functions of his/her position.

Any leave of absence that is granted under this policy or any other policy for a purpose specified above will be credited against the twelve (12) week limit contained in this policy if and to the extent permitted by law. Staff members are encouraged to direct any questions regarding the limitations and conditions that apply under this policy to his/her immediate supervisor or to Human Resources.

¹ This Policy does not govern leaves taken to attend to a qualifying exigency arising out of a qualifying family member’s call to active duty in the military (“qualifying exigency leave”) or to care for a covered service-member (“military caregiver leave”), as provided by federal law. For the policy governing qualifying exigency leave and military caregiver leave, please see the Military Family Leave policy.

B. Restrictions of the Right to Family/Medical Leaves

Family/medical leaves, as defined in this policy, may not exceed twelve (12) weeks in a twelve (12) month period. Family/medical leaves of absence can be taken on a continuous basis or by way of an intermittent leave or reduced work schedule if recommended by a health care provider. The shortest increment of intermittent leave/reduced work schedule will be one hour. Intermittent leave/reduced work schedules are granted subject to medical certification. Exempt staff members who take family/medical leaves of absence on an intermittent or reduced work schedule basis will not be paid for the hours that they do not work.

If the staff member and his/her spouse (including registered domestic partner) are both employed by the University, they may take a maximum combined total of 12 weeks of statutory leave in a 12-month period for baby bonding.

C. Accrual of Vacation and Sick Pay During a Statutory Family/Medical Leave

Staff members on family/medical leaves of absence accrue vacation and sick pay during the 12 weeks of family/medical leave only.

D. Pay for Holiday and Leave Days During Family/Medical Leave

A staff member on an approved family/medical leave is entitled to pay for holidays and leave days which fall during the approved family/medical leave of absence (not to include extended leave.)

E. Service Date

Time off from work during an approved family/medical leave will not constitute a break in service.

F. Use of Sick Pay and/or Vacation During a Statutory Family/Medical Leave***For All Statutory Leaves, Regardless of Reason for Leave***

The use of sick or vacation pay during a family/medical leave does not extend the total duration of the leave to which a staff member is entitled.

Sick and/or vacation pay applied during a family medical leave is integrated with State Disability Insurance (“SDI”)² or Paid Family Leave (“PFL”)³ benefits. At no time while integrating sick and/or vacation pay with SDI or PFL benefits will a staff member receive a greater total payment than the staff

² SDI is a benefit administered and paid by the State of California. The staff member makes contributions into this fund. SDI provides a weekly benefit for individuals who are temporarily disabled as certified by a medical provider. SDI commences after an individual is disabled for seven (7) consecutive calendar days (“seven-day SDI waiting period”) and provides up to 52 weeks of benefit.

³ PFL is a benefit administered and paid by the State of California. The staff member makes contributions into this fund. PFL provides a weekly benefit for individuals who need time away from the University to care for a seriously ill/injured son or daughter, parent, spouse (including registered domestic partner), as certified by a medical provider, or to bond with a new child. Generally, PFL commences after an individual’s care is required for seven (7) consecutive calendar days (“seven-day PFL waiting period”) and provides for up to six (6) weeks of benefit within a 12-month period.

member's regular pay. Once authorized accruals of sick and/or vacation pay have been exhausted, the family/medical leave will be unpaid.

For Statutory Leave Taken Due to a Staff Member's Own Serious Health Condition

Staff members may use and exhaust accrued sick and/or vacation pay for a family/medical leave taken due to their own serious health condition.⁴ Staff members electing to use both sick and vacation pay will be compensated using sick pay, if any, first until it is exhausted, and then will be compensated using vacation, if any, for any unpaid portion of a family/medical leave.

For Statutory Leave Taken to Care for a Family Member

Staff members may elect to use and exhaust accrued sick and/or vacation pay to care for a son or daughter, parent or spouse (including registered domestic partner) of the staff member that has a serious health condition. Staff members electing to use both sick and vacation pay will be compensated using sick pay, if any, first until it is exhausted, and then will be compensated using vacation, if any, for any unpaid portion of a family/medical leave.

For Statutory Leave Taken for Baby Bonding

Staff members may not substitute sick pay for baby bonding. Staff members may use and exhaust accrued vacation for a family/medical leave taken for baby bonding.

G. Extended Medical Leave Following Family/Medical Leaves for Staff Member's Own Serious Health Condition

If, at the time a staff member has exhausted his/her 12 weeks of family/medical leave, the staff member is unable to return to work due to his/her own serious health condition, the following will occur:

1. The staff member will be placed on extended medical leave, for a period not to exceed six months from the first day of the leave⁵ or the period during which the staff member has accrued sick pay, whichever period is longer;
2. Regardless of the length of time the staff member is on extended medical leave, at six months the staff member can be replaced with no obligation to hold his/her position.
3. During extended medical leave, the staff member will continue to be paid his/her sick/vacation pay, as permitted by this policy. If sick/vacation pay is exhausted while the staff member is on extended medical leave, the remaining time the staff member is on extended medical leave will be unpaid.

⁴ For the policy governing substitution of sick/vacation for leaves taken due to a pregnancy-related disability, please see the Pregnancy Related Disability Leave/Transfer policy.

⁵ If the family/medical leave is taken on an intermittent basis, the extended family leave will be for a period not to exceed 910 hours of leave*, measured from the first day of the leave. If the leave is for the staff member's own serious health condition, the extended medical leave will be for a period not to exceed 910 hours* of leave, measured from the first day of the leave or the period during which the staff member has accrued sick pay, whichever period is longer.

*If staff member is regularly scheduled to work 40 hours a week, 1040 hours of leave.

4. If, at the end of the maximum period of extended medical leave, the staff member is unable to return to work, the staff member will be separated from employment, unless otherwise prohibited by law. Under extraordinary circumstances, an exception may be considered and approved by the Vice President of Human Resources.

Extended medical leave will only be granted to leaves that commence after the effective date of this policy.

H. Continuation of Group Health and Welfare Benefits During Family/Medical Leaves and Extended Medical Leaves

To the extent that Law School is paying all or a portion of the group health and welfare benefits of a staff member eligible for family/medical leave, the Law School will continue to pay for participation in its group health and welfare benefits up to a maximum of 12 weeks of family/medical leave in a 12-month period.

If at the conclusion of a family/medical leave, a staff member is being paid accrued and available sick/vacation pay while on extended medical leave for the staff member's own serious health condition, the Law School will continue to pay its share of group health and welfare benefits until the staff member exhausts the sick/vacation pay which he/she is entitled to use.

If the staff member exhausts the sick/vacation pay he/she is entitled to use while on extended medical leave for the staff member's own serious health condition, the staff member may continue to participate in some or all of the Law School's group health and welfare benefits until the end of the staff member's extended medical leave, provided that the staff member pay both the Law School's share and his/her share of the premiums for such coverage.

I. Notice Requirements

In order to qualify for family/medical leaves, staff members must satisfy express notification rules. Specifically, a staff member should notify his/her immediate supervisor of his/her request for family/medical leave as soon as the staff member is aware of the need for such leave. For foreseeable events, if possible, the staff member must provide thirty (30) calendar days advance notice to his/her immediate supervisor of the need for family/medical leave. For events that are unforeseeable thirty (30) days in advance, but are not emergencies, the staff member must notify his/her immediate supervisor as soon as the staff member learns of the need for the leave. If the leave is requested in connection with a planned, non-emergency medical treatment, the staff member may be requested to reschedule the treatment so as to minimize disruption of Law School business. For unforeseen emergency leaves, the staff member must notify his/her immediate supervisor of his/her request for family/medical leave as soon as is possible.

If the staff member fails to provide the requisite thirty (30) day advance notice for foreseeable events without any reasonable excuse for the delay, the Law School reserves the right to delay the taking of the leave up to and until thirty (30) days after the date the staff member provides notice of the need for family/medical leave. All requests for family/medical leave should include the anticipated date(s) and duration of the leave. Any requests for extensions of a family/medical leave must be received at least five (5) working days before the date on which the staff member was originally scheduled to return to work and must include the revised anticipated date(s) and duration of the family/medical leave.

J. Medical Certification of Leave

Medical certification may be required for a request for medical leave for a staff member's own serious health condition or for family leave to care for a son or daughter, parent or spouse (including registered domestic partner) with a serious health condition. For foreseeable leaves, the staff member should provide the required medical certification before the leave begins. When this is not possible, the staff member must provide the required certification within fifteen (15) calendar days after the Law School's request for certification, unless it is not possible under the circumstances to do so. The Law School reserves the right to seek, at its expense, a second (and possibly, third) medical opinion regarding a staff member's serious health condition. Any request for an extension of the leave also must be supported by an updated medical certification.

Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within fifteen (15) days of being requested to do so without any reasonable excuse for the delay may result in a denial of the staff member's continued leave.

Before a staff member may return to work from a leave for his/her own serious health condition, he/she may be required to provide medical certification the he/she is able to resume work.

K. Right to Transfer/Reassign

If a leave is taken intermittently or on a reduced schedule, the Law School reserves the right to transfer the staff member temporarily to an alternative position with equivalent pay and benefits which better accommodates the staff member's leave schedule.

L. Rights Upon Return to Work

Unless otherwise provided by law, staff members who satisfy all the conditions of the Law School's policies and return to work immediately following expiration of an approved family/medical leave are entitled to reinstatement to their former position or an equivalent position. Failure to return from a leave of absence at its conclusion may be considered job abandonment.

The Law School does not guarantee reinstatement to a staff member returning from an extended family/medical leave. If the former position is available, the staff member may be reinstated. If the former position is not available, the staff member returning from an extended family/medical leave will be eligible to be considered for any open positions at the Law School.

Table 1: Comparison of Compensation and Continuation of Benefits by Type of Leave

<u>Maximum Statutory Family Medical Leave Entitlement, Compensation and Continuation of Benefits</u>			
Type of Leave	Maximum Statutory Leave Entitlement	Compensation	Continuation of Benefits
FMLA/CFRA Leave for a Staff Member's <i>Own</i> Serious Health Condition	Up to 12-weeks in a 12-month period Subject to certification of condition	May use and exhaust accrued sick and/or vacation pay for any unpaid portion of a family/medical leave. Sick/vacation pay is integrated with SDI. Sick pay, if any, will be deducted first, then vacation.	The Law School will continue to pay for participation in its group health plans to the same extent and under the same terms and conditions as would apply had the staff member not taken leave for up to a maximum of 12 weeks in a 12 month period.
FMLA/CFRA Leave to Care for a Staff Member's Parent, Child or Spouse (including registered domestic partner) Due to Family Member's Serious Health Condition	Up to 12-weeks in a 12-month period Subject to certification of condition	May use and exhaust accrued sick and/or vacation pay for any unpaid portion of a family/medical leave. Sick/vacation pay is integrated with PFL. Sick pay, if any, will be deducted first, then vacation.	
FMLA/CFRA Leave for Family Bonding Leave in Connection with the Birth/Adoption/Placement for Foster Care of a Child (Maternity/Paternity Leave)	Up to 12-weeks in a 12-month period	May use and exhaust accrued vacation. Vacation pay is integrated with PFL.	

Table 2: Extended Medical Leave Following Approved Family/Medical Leave for Staff Member's Own Serious Health Condition

<u>Maximum Extended Family/Medical Leave for Staff Member's Own Serious Health Condition, Compensation and Continuation of Benefits</u>		
Maximum Extended Leave	Compensation	Continuation of Benefits
<p>A period not to exceed six months from the first day of the leave or the period during which the staff member has accrued sick pay, whichever period is longer.</p>	<p>May use and exhaust accrued sick/vacation pay for any unpaid portion of an extended family/medical leave for the staff member's own serious health condition. Sick/vacation pay is integrated with SDI.</p> <p>Sick pay, if any, will be deducted first, then vacation, if any.</p>	<p>If during an extended family/medical leave the staff member is being paid accrued and available sick/vacation pay, the Law School will continue to pay its share of group health and welfare benefits until the staff member exhausts the sick/vacation pay he/she is entitled to use.</p> <p>If the staff member exhausts the sick/vacation pay he/she is entitled to use while on extended medical leave, the staff member may continue to participate in some or all of the Law School's group health and welfare benefits until the end of the staff member's extended medical leave, provided that the staff member pay both the Law School's share and his/her share of the premiums for such coverage.</p>