



# Employee Toolkit

## Navigating the Family and Medical Leave Act

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# FMLA Overview

## What is FMLA?

The Family and Medical Leave Act (FMLA) is a federal regulation that entitles eligible faculty/staff members (employees) to up to 12 weeks of job-protected leave and benefits continuation for qualifying events including:

- The employee's own serious health condition
- A family member's serious health condition (spouse, parent, or child under the age of 18)
- The birth or care of a newborn child
- The adoption or foster care of a child
- Qualifying military exigencies
- Military caregiver leave (up to 26 weeks)

## Types of FMLA Leave

There are two types of FMLA leave.

### 1) Continuous or Block Leave

*Leave is for a consecutive number of days.*

#### Tracking Block Leave:

When an employee is designated for continuous, block leave they will be provided job-protected leave for a single period of time based on a medical certification completed by a medical provider. The supervisor is provided with a leave duration, as well as a return to work date. The Leave Coordinator will reach out to the employee at least one week prior to the return to work date and confirm that they do not need to extend the leave and is medically fit to return (if applicable). The supervisor will be copied on this confirmation email. If the employee does not show up on the return to work date, the supervisor should contact the Central HR Leave Team. A member of Human Resources will attempt to reach out to the employee.

### 2) Intermittent Leave

*Leave is taken in separate blocks of time or a reduced schedule is implemented.*

#### Tracking Intermittent Leave:

While an employee is taking intermittent leave, the need for leave may not be foreseeable or predictable. However, the medical provider will be able to estimate the frequency of the leave. When the employee is designated for intermittent leave, a general leave schedule will be provided to the supervisor. If the employee is taking more leave than what they have been approved for, it is the supervisor's responsibility to contact the leave team. The leave team will attempt to obtain additional medical documentation from the employee, and any leave taken that is not documented in the leave schedule will be considered unauthorized under the FMLA.

## Who is Eligible for FMLA?

In order to be eligible for FMLA leave, the employee must:

- Be employed at the University for at least 12 months
- Have worked at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

OR

- Be employed at a state employer for 12 months (Classified Staff Only)

## How Does FMLA Work?

### **If the employee is taking FMLA leave for their own serious health condition or pregnancy:**

The employee must submit a medical certification that will require information from the medical provider. The medical certification will be reviewed to ensure the need for leave is qualified under the Family and Medical Leave Act. The University requires that the employee substitute available paid leave (sick and annual) for unpaid FMLA leave. If the employee's leave has a duration of 29 consecutive calendar days (30 calendar days for Classified Staff), short-term disability (STD) pay may apply. Employees who elect to remain out of work longer than the disability period (such as after the birth of a child), will use their remaining sick, annual, or paid parental leave as pay. If the employee does not have any sick, annual, or paid parental leave left, the employee's leave will be unpaid.

### **If the employee is taking FMLA leave for a family member's serious health condition:**

The employee must submit a medical certification that will require information from the medical provider regarding the family member's medical condition. The medical certification will be reviewed to ensure the need for leave is qualified under the Family and Medical Leave Act. The employee will be required to substitute available paid leave (sick and annual) for unpaid FMLA leave. If the employee does not have any accrued time, the leave will be unpaid.

## Benefits and Payroll Deductions

During the FMLA leave period, there are certain payroll deductions that will continue as long as the employee is on paid leave. These deductions include medical and dental premiums, life insurance, retirement contributions, parking fees, Rec Center membership fees, etc. Should any portion of the leave go unpaid, the employee will maintain coverage under CU's benefit plans. CU will continue to pay the employer portion of the premium while the employee is on leave. The employee will need to arrange to continue payment of their share of the premium. The employee is ultimately responsible for managing their benefits while on leave. The Benefits Office can be reached at **303-860-4200**.

## FMLA Employee Checklist

- ✓ The employee should complete the **Family and Medical Leave Request Form** and send to the Central HR Leave Team at [Leave@colorado.edu](mailto:Leave@colorado.edu)
  - The Leave request form can be found here: <https://www.colorado.edu/hr/employees/leave/family-medical-leave-act-fmla-employees>
- ✓ The Leave Coordinator in Human Resources will contact the employee **within five business days**, to notify them of their FMLA eligibility. If the employee is eligible to apply for FMLA, they will be required to provide a medical certification, in accordance with the federal requirements.
- ✓ The medical certification must be completed by the treating medical provider and returned to the leave team **within 15 calendar days** (absent extenuating circumstances).
- ✓ If approved for FMLA, the employee should review the designation e-mail from their Leave Coordinator to ensure the FMLA start and end dates are correct (or intermittent leave schedule).
- ✓ The employee should stay up-to-date with their sick and annual leave balances to ensure they know how much of the FMLA leave will be paid and/or unpaid.
- ✓ The employee should accurately enter all FMLA time into MyLeave (or department specific time keeping system) and follow proper department call out procedures. The employee is responsible for submitting their timesheet on a monthly basis.
- ✓ The employee should meet with their supervisor prior to the start of leave (if possible) to review any work related information that needs to be shared with them such as:
  - Project status updates
  - Day to day tasks
  - Contacts or information only they have access to
- ✓ **Fitness to Return**
  - If an employee is taking leave for their own medical condition, they will be required to submit a Fitness to Return Certification, before returning to work. The FTR will be submitted to the Leave Coordinator in Human Resources.

# Employee Rights & Responsibilities

## Prior to Leave

If the need for leave is foreseeable, the employee should apply for FMLA at least 30 days prior to the start date of the leave. The employee will submit a Family and Medical Leave Request Form and work with a Leave Coordinator to determine eligibility, provide a medical certification completed by the employee's medical provider, and receive a designation notice approving the Family and Medical Leave. The employee's supervisor will be notified that the leave has been approved and will be given an outline of the employee's Family and Medical Leave plan. The supervisor will not be given medical information. If the leave is not eligible for FMLA, the Leave Coordinator will notify the employee in writing, and may provide alternative resources to the employee if applicable.

## During Leave

**Block Leave:** When an employee is taking a block period of leave, they should not be working at any capacity. The employee should be reporting their FMLA leave in MyLeave, or the department specific time keeping system, and submitting timesheets on a monthly basis for payroll processing. If the employee is unable to report their leave and submit timesheets, the employee's supervisor will be responsible for doing so.

**Intermittent Leave:** The employee should follow departmental procedures for requesting time off/calling in sick/calling in late/leaving early when they need to use intermittent Family and Medical Leave. The employee should notify the Leave Coordinator when they are going to report intermittent Family and Medical Leave to ensure proper leave tracking. The employee needs to report the leave as "Family Medical Leave" in MyLeave, or the department specific time keeping system, and submit their timesheet on a monthly basis for payroll processing.

## Returning to Work

Upon returning from FMLA, the employee will be returned to the same position they held when the leave began or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

One week before the scheduled return to work date, the Leave Coordinator will check-in with the employee and the employee's supervisor to ensure there is no need for additional leave. An employee returning to work because of their own serious health condition will be required to present written documentation from their health care provider that they are able to return to work. The employee's return to work will be delayed until the required certification is provided.

## Employee FAQs

### What is a serious health condition?

The most common serious health conditions that qualify for FMLA leave are:

- Conditions requiring an overnight stay in a hospital or other medical care facility
- Conditions that incapacitate you or your family member (unable to attend work or school) for more than three consecutive days and have ongoing medical treatment
- Chronic conditions that cause occasional periods when you or your family member are incapacitated and require treatment by your healthcare provider at least twice per year
- Pregnancy

### Am I required to submit a medical certification?

Yes. University practice is for all employees to provide a complete and sufficient medical certification when requesting Family and Medical Leave.

### Is my medical information confidential?

Yes. Medical information is highly confidential and is only shared between the employee and the Leave Coordinator. Employees are encouraged to keep their medical information confidential.

### Is adoption covered under the FMLA? What kind of documentation does the employee need to provide?

Yes, adoption and foster care placement qualifies under the FMLA. Employees will need to provide one or more of the following documents to be approved for Family and Medical Leave: birth certificate, court documents, adoption agency documents and/or communication.

### Is FMLA leave unpaid?

Family and Medical Leave is a form of unpaid, job-protected leave. The university requires employees to use their accrued sick and annual leave when they are on Family and Medical Leave. When the employee's sick leave exhausts, they are required to use their annual leave. After annual leave exhausts, the leave will be unpaid.

### Who qualifies as a "family member" under the FMLA?

Family members include spouses, domestic partners, and partners in a civil union, children under the age of 18, and parents. The FMLA does not cover siblings, in-laws, grandparents, or cousins.

### How do FMLA and Parental Leave work together?

FMLA and Parental Leave run concurrently. FMLA and Parental leave are tracked together, once the child has been born, adopted or placed in foster care. FMLA may start prior to Parental Leave if the employee has a medical condition that requires them to go out of leave (example: bed rest or pregnancy complications). The University's Parental Leave policy provides 6 months of unpaid leave.

## Contacts and Resources

<p style="text-align: center;">Family and Medical Leave (FMLA) at CU Boulder</p> <p style="text-align: center;">Parental Leave</p>	<p style="text-align: center;">Employee Relations Central HR Leave Team Department of Human Resources <a href="mailto:Leave@colorado.edu">Leave@colorado.edu</a></p>	<p style="text-align: center;">Administrative Research Center 3100 Marine St. 3<sup>rd</sup> Floor Boulder, CO 80309</p>
<p style="text-align: center;">Short-term Disability and Benefits</p>	<p style="text-align: center;">Employee Services 303-860-4200 <a href="mailto:employeeservices@cu.edu">employeeservices@cu.edu</a></p>	<p style="text-align: center;">1800 Grant St. Suite 400 Denver, CO 80203</p>
<p style="text-align: center;">On-the-Job Injury and Workers' Compensation</p>	<p style="text-align: center;">Risk Management <a href="mailto:urmucbdirs@cu.edu">urmucbdirs@cu.edu</a></p>	<p style="text-align: center;">Marine St. Science Center 3215 Marine St. Boulder, CO 80303</p>
<p style="text-align: center;">Americans with Disabilities Act (ADA)</p>	<p style="text-align: center;">ADA Compliance Unit ADA Coordinator 303-492-9725 <a href="mailto:ADAcoordinator@Colorado.edu">ADAcoordinator@Colorado.edu</a></p>	<p style="text-align: center;">Administrative Research Center 3100 Marine St. 2nd Floor Boulder, CO 80309</p>