University of Pennsylvania

Supervisors and Business Administrators: Managing Family & Medical Leave & Short Term Disability

Penn Human Resources
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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 certain 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:

- Continuous: leave is for a consecutive number of days
- Intermittent: leave is taken in separate blocks of time or a reduced schedule is worked

Who is Eligible for FMLA?
In order to be eligible for FMLA leave, the employee must:

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

How Does FMLA Work?
If the employee is taking FMLA leave for his/her own serious health condition or pregnancy:
The employee must submit an application for FMLA that will require information from the treating physician. The University requires that the employee substitute available paid leave for unpaid FMLA leave. If the employee’s leave has a duration of ten (10) or more consecutive work days, short-term disability (STD) pay may apply. Disability resulting from pregnancy is treated like other disabilities with respect to paid leave time. The normal period of disability from the date of delivery is a maximum of eight (8) weeks. Employees who elect to remain out of work longer than 8 weeks after delivery will use their remaining PTO unless they notify their business administrator that they want to retain it. The remaining FMLA leave will be unpaid. Please see below for the applicable STD policy:

Grades 28 and Below and Grades A, B, C and D:
The employee will use available sick time followed by PTO for the first ten (10) days (the waiting period). If neither are available, part or all of the waiting period will be unpaid. Once the employee’s medical leave has been approved and the waiting period has been satisfied, the employee will be paid 100% of the base salary for up to six (6) additional weeks. Should the approved medical leave extend longer than eight (8) weeks, he/she will be paid 75% of the base salary for up to an additional eighteen (18) weeks. If the employee has a balance of STD days, he/she will use these days beginning with week nine (9) in order to continue at 100% of pay. STD balances will expire on 6/30/18.

Grades 29 and Above and Grades E, F, G and H:
The employee will be required to exhaust all available sick time during the period of disability and 50% of his/her PTO. STD will then apply for the duration of the approved medical leave.
University staff members who are covered by collective bargaining agreements should refer to the appropriate contract article.

If the employee is taking FMLA leave for reasons other than his/her own serious health condition or pregnancy:
The employee may use up to 5 sick days in a calendar year for approved leaves for reasons other than their own serious health condition or pregnancy (paternity, adoption, foster care and care of a family member with a serious health condition). The employee must substitute unused PTO for the leave unless they notify their business administrator that they want to retain 50% of their PTO balance.

Payroll Deductions
While on paid leave these deductions continue:
- Medical
- Dental
- Life insurance
- Retirement contributions
- Other deductions they may have (e.g., parking, fitness, credit union, etc.)

Should any portion of the leave be unpaid:
- Insurance premiums and other deductions will build up in suspense and will be taken from the employee’s paycheck when he/she returns to work.
- Retirement plan contributions will cease during unpaid leave.

FMLA: Supervisor or Business Administrator Checklist

Leave Requests
If an employee requests FMLA leave or has been out sick for more than 3 consecutive days:

- Prepare the appropriate FMLA Provisional Letter and send it to the employee and a copy to the FMLA Administrator in Human Resources within five days of the request or absence.
  
  FMLA Administrator
  3401 Walnut St., Suite 527A
  Philadelphia, PA 19104-6228
  Fax: 215-573-7385
  E-mail: fmla@hr.upenn.edu

- Provide the employee with a copy of the:
  - ✓ FMLA booklet for Faculty and Staff
  - ✓ STD/FMLA Request Form
  - ✓ Certification of Health Care Provider Form

When will an employee receive short-term disability (STD) pay?

An employee will receive STD pay only when he/she has a continuous, incapacitating health condition or pregnancy that is expected to last 10 days or more which has been certified by a physician and approved by the FMLA Administrator. STD pay cannot be used for intermittent leave or for a leave associated with the care of a family member. While on STD, an employee is not eligible for paid holidays; additional sick and PTO days don’t accrue.

The maximum amount of time an employee can be out on leave is six months or 132 consecutive work days. The time is counted from the last day worked. An employee with a disability which is expected to exceed six months is eligible to apply for long-term disability.
If the employee is taking leave for care of newborn (father of the child or same-sex spouse) he/she must submit the child’s birth certificate in lieu of the Certification of Health Care Provider Form.

Review and record the time balances for the employee on the STD/FMLA Request Form (Section D).

Sign the employee’s STD/FMLA Request Form and send it to the FMLA Administrator.

You can find Short-Term Disability and FMLA forms on the Human Resources website at www.hr.upenn.edu/myhr/resources/forms/benefits.

Getting Approval
The FMLA Administrator will send a letter to the employee’s home address and an email to you (the supervisor or BA) indicating whether the leave is approved, denied, or incomplete.

Review the determination email from the FLMA Administrator to make sure the FMLA leave start and end dates are correct.

While on Leave
Documentation the employee provides the FMLA Administrator:

- **Pregnancy**: A note from the health care provider with the date of delivery. The leave dates will be adjusted based on the actual delivery date.

- **Care of newborn** (father of the child or same-sex domestic partner): A copy of the child’s birth certificate.

- **Adoption or foster care**: Court or placement documentation.

- **Intermittent leave**: A completed Intermittent Leave Tracking Form (which lists the dates/hours of leave taken) submitted monthly.

Employees approved for a continuous medical leave are prohibited from working at the workplace or at any other location, including the employee’s home, either for the University or otherwise. (Policy 404.4)

Payroll for Employees on Leave

- **Weekly Paid Staff**
  - You must pay out sick time first followed by PTO for the first 10 days. After that, stop the distribution line—but don’t change the employee’s status.
  - The FMLA Administrator will stop the accruals after the first 10 days and will enter the STD time each week until the approved period of disability ends.

- **Monthly Paid Faculty and Staff**
  - You must reduce the employee’s sick and/or, PTO time for the first 10 days. Do not change the employee’s status.
  - The FMLA Administrator will stop the department’s distribution line after the first 10 days, will enter a new distribution line to reflect the STD pay, and will email the department’s BA each month before payroll runs, to state the dates of the STD payment for each employee.
If an employee satisfies the 10 day waiting period prior to being approved for leave, it is up to the department’s discretion whether or not to end the distribution line.

If the distribution line is left active and the employee is entitled to STD pay, the FMLA Administrator will reallocate funds from the STD budget to the department’s budget.

If the department’s distribution line is ended and the employee is entitled to STD pay, the FMLA Administrator will issue a late pay.

Note that STD balances will be used during weeks 9 through 26 in order for employees to be paid 100% of base salary. Balances will expire on 6/30/18.

Returning to Work

☐ Before the employee returns to work, make sure the treating physician submits a note to you* and the FMLA Administrator that includes:
  ✓ The date he/she is eligible to return to work
  ✓ The physician’s signature
  ✓ Any medical restrictions

* Please instruct the employee that if the note contains medical information, it should only be submitted to the FMLA Administrator.

☐ If the return-to-work note contains restrictions that last more than one week, a copy must be sent to:
  Patrice Miller, Office of Affirmative Action and Equal Opportunity Programs
  3600 Chestnut St., Sansom Place East Suite 228
  Philadelphia, PA 19104-6106
  215-898-1744 (phone)
  215-746-7088 (fax)
  pdmiller@upenn.edu

☐ If you don’t expect the employee to return to work on time, notify the FMLA Administrator.

☐ If the employee needs to extend the leave, make sure he/she provides the FMLA Administrator with one of the following:
  ✓ A new, completed Certification of Health Care Provider Form
  ✓ An amendment of the original certification form
  ✓ A signed doctor’s note on letterhead requesting an extension of the leave

☐ If the employee’s serious medical condition becomes long-term in nature, he/she should consider contacting Melissa A. Smith, Human Resources Benefits Specialist at smithma@upenn.edu or 215-898-1326; or Geri Zima, Manager, Benefits Administration at zima@exchange.upenn.edu or 215-898-1331. They can discuss the application process for Long-Term Disability should that become necessary.

Supervisors and BAs:

Please ensure that the employee provides you and the FMLA Administrator with a return-to-work note
# FMLA: FORMS CHECKLIST

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<td><strong>Family &amp; Medical Leave, Short-Term Disability &amp; Sick Leave at Penn</strong></td>
<td><strong>Helena Gibbons</strong>&lt;br&gt;FMLA Administrator&lt;br&gt;<a href="mailto:hgibbons@upenn.edu">hgibbons@upenn.edu</a>&lt;br&gt;215-898-1333 (phone)&lt;br&gt;215-573-7385 (fax)</td>
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<td><strong>Aysha Horshaw</strong>&lt;br&gt;FMLA Administrator&lt;br&gt;<a href="mailto:ahorshaw@upenn.edu">ahorshaw@upenn.edu</a>&lt;br&gt;215-898-0914 (phone)&lt;br&gt;215-573-7385 (fax)</td>
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<td><strong>Workers’ Compensation</strong>&lt;br&gt;Employees who suffer an injury on the job or illness sustained in the course of employment with the University are covered by Workers’ Compensation Act.</td>
<td><strong>Monica Dagger</strong>&lt;br&gt;Workers’ Compensation Manager&lt;br&gt;<a href="mailto:mdagger@upenn.edu">mdagger@upenn.edu</a>&lt;br&gt;215-898-1338 (phone)&lt;br&gt;215-898-9802 (fax)</td>
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<td><strong>Long-Term Disability at Penn</strong>&lt;br&gt;Disabilities beyond six months or 132 consecutive days are covered under LTD.</td>
<td><strong>Melissa A. Smith</strong>&lt;br&gt;Penn Human Resources&lt;br&gt;3410 Walnut St., Suite 527A&lt;br&gt;Philadelphia, PA 19104-6228&lt;br&gt;<a href="mailto:smithma@upenn.edu">smithma@upenn.edu</a>&lt;br&gt;215-898-1326 (phone)&lt;br&gt;215-573-7385 (fax)</td>
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<td><strong>Geri Zima</strong>&lt;br&gt;<a href="mailto:zima@exchange.upenn.edu">zima@exchange.upenn.edu</a>&lt;br&gt;215-898-1331 (phone)</td>
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<td><strong>Americans with Disability Act (ADA)</strong>&lt;br&gt;Employees who return to work with restrictions for longer than 1 weeks must contact this office to discuss an accommodation under this Act.</td>
<td><strong>Patrice Miller</strong>&lt;br&gt;<a href="mailto:pdmiller@pobox.upenn.edu">pdmiller@pobox.upenn.edu</a>&lt;br&gt;215-898-1744 (phone)&lt;br&gt;215-746-7088 (fax)</td>
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Non-Discrimination Policy Statement
The University of Pennsylvania values diversity and seeks talented students, faculty and staff from diverse backgrounds. The University of Pennsylvania does not discriminate on the basis of race, sex, sexual orientation, gender identity, religion, color, national or ethnic origin, age disability, or status as a Vietnam Era Veteran or disabled veteran in the administration of educational policies, programs, or activities; admissions policies; scholarship and loan awards; athletic, or other University administered programs or employment. Questions or complaints regarding this policy should be directed to: Executive Director, Office of Affirmative Action and Equal Opportunity Programs, 3600 Chestnut Street, Sansom Place East, Suite 228, Philadelphia, PA 19104-6106 or (215) 898-6993 (voice) or (215) 898-7803 (TDD).

Statement on Collective Bargaining Agreements
The provisions of applicable collective bargaining agreements govern the Health & Welfare benefits of employees in collective bargaining units.

This guide is intended to address the process of applying for leave at the University of Pennsylvania. It is not intended to restate the FMLA regulations or the University’s policies. For more information see www.hr.upenn.edu/myhr/resources/policy or www.dol.gov/compliance/laws/comp-fmla.htm.