



Family and Medical Leave Act (FMLA): Frequently Asked Questions & Answers

At USF, the Family and Medical Leave Act (FMLA) is administered by Human Resources. The following resource was developed to help you quickly find answers to some of the most frequently asked questions regarding FMLA. For more information on FMLA, please contact your appropriate Human Resources office.

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1Q: What is FMLA?

A: FMLA (Family and Medical Leave Act) is a Federal law passed in 1993 that entitles eligible employees up to 12 workweeks or up to 480 hours of job-protected unpaid leave for family and medical reasons during a 12-month period.

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2Q: What is the purpose of FMLA leave?

A: FMLA may be granted to an employee for the following reasons:

- Adoption of a child or children, birth of a child or children or placement of a foster child or children
- An employee's own serious health condition
- Care for an immediate family member (spouse, child under 18 or older than 18 if incapable of self care due to mental or physical disability, or parent) with a serious health condition
- Care for a family member or next of kin relative injured or ill as a result of serving as an active duty service member (up to 26 weeks can be approved for this qualifying reason)
- To attend to qualifying exigencies related to a qualifying family member who is currently deployed or has received notice of an impending deployment to a foreign country in the Armed Forces, National Guard or Reserves

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3Q: How has the passing of the National Defense Authorization Act (NDAA) impacted the FMLA?

A: On January 28, 2008 the National Defense Authorization Act (NDAA) was signed into Law. Section 585(a) of the NDAA amended the Family and Medical Leave Act (FMLA) to provide eligible employees working for covered employers two important new leave rights related to military service:

1. Qualifying Exigency - Covers employees who have an immediate family member who is currently deployed in the Armed Forces or has been notified of an impending deployment to a foreign country. Eligible employees are entitled to up to 12 weeks of leave.
2. Military Caregiver Leave - Covers employees who have a family member that has sustained an injury or illness while in the line of active duty. This is a one-time 26 week leave entitlement that seeks to support employees qualifying under this provision.

Additional information on the amendments and a version of Title 1 of the FMLA with the new statutory language incorporated are available on the FMLA amendments Web site at http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.

4Q: Who is eligible?

A: Any employee who has been employed at USF for at least one year, and has worked at USF for at least 1,250 hours in the previous 12-month period and has a qualifying event is eligible.

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5Q: In determining eligibility, does the 12 months of service have to be continuous or consecutive with the employer?

A: No. The 1,250 hours include only those hours actually worked for USF. Paid leave and unpaid leave, including holidays, vacation, sick days, and FMLA leave, are not included for purposes of calculating eligibility.

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6Q: How is the 12-month period calculated under FMLA?

A: FMLA leaves of absence (both intermittent and continuous leaves) are tracked on a rolling 12-month period measured backward from the start date of the employee's requested leave period. Employees who are covered under USF's United Faculty of Florida (UFF) Collective Bargaining Agreement (CBA) will have FMLA leaves of absence tracked on a fiscal year basis (July 1 – June 30).

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7Q: How do I qualify for FMLA?

A: Supporting documentation will be required to verify that the leave request qualifies under FMLA. There is a Certification of Health Care Provider form that is required for all medical conditions. This form must be completed by the attending physician and submitted to the FMLA Coordinator for review as part of the approval process. Please follow this link to view and download the documents necessary to request consideration for FMLA leave.

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8Q: What types of illness qualify for FMLA because of continuing treatment by a health care provider?

A: A list of illnesses and ailments that have been determined to automatically qualify for FMLA include:

Any period of incapacity due to prenatal care or pregnancy; any period of incapacity or treatment for such incapacity due to a chronic serious health condition, which requires periodic visits for treatment to a health care provider, continues over an extended period of time, and may cause episodic rather than (or) continuing incapacity; permanent or long-term incapacity; due to a condition for which treatment may not be effective (e.g., severe stroke, Alzheimer's, terminal stages of a disease); and conditions that require multiple treatments by a health care provider for, among other things, restorative surgery, cancer (chemotherapy, radiation), severe arthritis (physical therapy), or kidney disease (dialysis).

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9Q: Please define "serious health condition."

A: An illness, injury, impairment, or physical or mental condition that involves inpatient (overnight) care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider (a period of incapacity of more than three (3) days involving treatment two (2) or more times by a health care provider or treatment by a health care provider followed by a prescribed regimen of treatment, e.g., antibiotics.

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10Q: Would the common flu or a severe cold be covered under the FMLA when an employee is out for more than three days?

A: Typically, such transient illnesses are not considered a serious health condition and would not, therefore, be covered under FMLA. We urge you to be careful with these types of considerations. Don't make the determination yourself. Refer the employee to the FMLA Coordinator in Human Resources.

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11Q: Are there any illnesses - regardless of an employee being out more than three (3) days or going to see a doctor – that are not considered “a serious health condition” such as a cold, the flu, sinus problems, headaches, pulled muscles, etc?

A: Generally, the common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, and periodontal disease are not considered serious health conditions, provided no complications arise that require inpatient care, or multiple visits to a health care provider or if a single visit was not followed by a prescribed regimen of treatment.

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12Q: Do I have to grant my employees FMLA?

A: USF is covered under the FMLA. If your employee is eligible and has experienced an event that qualifies under FMLA, you must grant them leave under the FMLA. USF takes the health and welfare of its employees very seriously and would not want to deny an employee leave he or she is entitled to. We urge you to be careful with these types of considerations. Don't make the determination yourself. Refer the employee to the FMLA Coordinator in Human Resources.

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13Q: Can I be asked about my leave during my absence?

A: Yes, but questions may only be posed to the employee. We may ask you questions to confirm or clarify whether the leave needed or being taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work after the leave. Also, should we elect to obtain another opinion, you may be required to obtain additional medical certification at USF's expense, or re-certification during a period of FMLA leave. Inquiries may be made to your health care provider, with your permission, to clarify information in the medical certification or to confirm that it was provided by the health care provider. However, the inquiry may not seek additional information regarding your health condition or that of a family member.

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14Q: Who is considered an immediate “family member” for purposes of taking FMLA leave?

A: An employee’s spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term “parent” does not include a parent “in-law.” The terms son and daughter do not include individuals age 18 or over unless they are “incapable of self-care” because of a mental or physical disability that limits one or more of the “major life activities” as this term is defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans with Disabilities Act (ADA).

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15Q: Does the FMLA guarantee paid time off?

A: No. The FMLA only provides for unpaid leave. However, employees are to use accrued sick and annual leave to remain in a paid status for some or all of the FMLA leave period.

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16Q: What happens to my benefits while I am out on FMLA leave?

A: Your benefits will remain intact during any FMLA leave. You will continue to be responsible for paying your monthly contribution(s) toward the premiums for coverage(s) selected. If you have accrued leave that will keep you in a paid status, your regular bi-weekly deductions will be taken from your paycheck. If, however, you do not have ample accrued leave and all or a portion of your FMLA leave will be unpaid, you must make arrangements with HR Benefits to remit payment for your portion of the monthly premiums. You may also elect to suspend coverage during your FMLA leave, and re-activate coverage upon your return. For more information, please contact HR Benefits at 974-2970.

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17Q: Does workers’ compensation leave count against an employee’s FMLA leave entitlement?

A: Yes, if the absence is due to a qualifying serious illness or injury. FMLA and workers' compensation leave will run concurrently and employees will receive proper notification in writing that the workers’ compensation leave will also be counted as FMLA leave.

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18Q: Do I have to give my employer my medical records for approval of leave due to a serious health condition?

A: No. You do not have to provide medical records. We may, however, request that, for any leave taken due to a serious health condition, you provide a medical certification, signed by your physician, confirming that a serious health condition exists. Also, should we elect to obtain another opinion, you may be required to obtain additional medical certification at USF’s expense, or re-certification during a period of FMLA leave. Inquiries may be made to your health care provider, with your permission, to clarify information in the medical certification or to confirm that it was provided by the health care provider. However, the inquiry may not seek additional information regarding your health condition or that of a family member.

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19Q: What if I'm still not sure if my situation qualifies for FMLA or what I need to do?

A: Contact the FMLA Coordinator in Human Resources and speak with the FMLA Coordinator who will be able to assist you and walk you through the steps of FMLA.

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20Q: Who can I contact for more information?

A: USF Sarasota-Manatee: (941) 359-4224

USF St. Petersburg: (727) 873-4775

USF Tampa: (813) 974-2970

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