



## FAMILY AND MEDICAL LEAVE (FML) FAQ'S

The Family and Medical Leave (FML) Act give certain employees with the right of up to 12 weeks of leave to recover from a serious illness or to care for a family member. In addition, this law entitles employees on FML with continued benefits and a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under law. The CSU provides its employees with several leave options aside from FML. These entitlements have been expanded under CFRA and Pregnancy Disability Leave. The Human Resources Office can explain these options, determine your eligibility, and help coordinate which combinations apply for your leave.

This type of leave may consist of paid leave, unpaid leave or combinations of paid and unpaid leave. When medically necessary, leave may be taken on an intermittent or reduced leave schedule so that you can meet treatment schedules.

### **1. Who is an eligible employee?**

Employees under the following categories are subject to a 1,250 hour eligibility requirement: Non-represented (confidential and MPP), Student employees, Unit 8 (Public Safety/SUPA), Unit 6 (Teamsters). All other full-time and part-time employees not listed in the employee groups above who are employed for at least one academic year or 12 months preceding the request for CSU FML are exempt from the 1,250 hour eligibility requirement pursuant to their respective collective bargaining agreements.

Even if you are not eligible for FML, if you are disabled by pregnancy, childbirth or other medical conditions, you are entitled to take a pregnancy or nonindustrial disability leave of up to 4 months, depending on your actual period of disability.

### **2. Are student employees eligible?**

Yes, if they meet the length of service and hours worked requirements in question #1. However, only Teaching Associates have any benefits for which the CSU pays premiums. Other student employees are entitled only to the unpaid leave and reinstatement rights under the law.

### **3. In what circumstances must leave be granted?**

Employees are entitled to family and medical leave:

- To care for a child following birth or placement with the employee for adoption or foster care,
- To care for the employee's spouse, child, or parent who has a serious health condition, and
- If the employee is unable to perform the essential functions of his or her own job because of the employee's own serious health condition.

Leave after the birth or placement of a child must be initiated within 12 months beginning with the birth or placement.

A "*child*" includes a biological, adopted, or foster child, stepchild, a legal ward, or a child for whom the employee stands in loco parentis. Normally, a child must be under age 18, but there is no age limit if he/she is incapable of self care because of a mental or physical disability as defined under the Americans with Disabilities Act.

A "*parent*" includes the employee's parent or parent in loco parentis, but not a parent-in-law.

A "*spouse*" includes a husband or wife as defined or recognized under state law. California does not currently recognize domestic partners or common law spouses.

A "*health care provider*" is defined very broadly in include doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, and Christian Science practitioners. Christian Science practitioners must be listed with the First church of Christ in Boston, Massachusetts. All other providers must be authorized to practice under state law and must be performing within the scope of their

practice. In addition, chiropractors are considered a health care provider only if the treatment consists or manual manipulation of the spine to correct a subluxation as demonstrated by x-ray.

A “*serious health condition*” is an illness, injury, impairment, or physical or mental condition that involves

- Inpatient (“overnight”) care at a hospital, hospice, or residential medical care facility, or
- Continuing treatment by a health care provider.

This includes any one of the following: (1) any period of incapacity or treatment in connection with inpatient care in a hospital, hospice, or residential medical care facility; or (2) incapacity requiring absence from work, school, or other regular daily activities and requiring continuing treatment by a health care provider.

#### **4. What is the length of FML?**

The maximum leave is 12 weeks in a 12-month period. The 12-month period is calculated on a forward rolling basis: the period is measured forward from the date the employee’s first FML begins. Family and Medical Leave entitlements under both federal and state regulations run concurrently. The FML of a temporary employee terminates upon expiration of that employee’s temporary appointment.

#### **5. How does paid leave affect the FML?**

Any paid leave for a qualifying purpose is counted toward the FML maximum limit. Normally, an employee must exhaust his/her personal holiday, and any accumulated vacation and CTO leave credits prior to beginning unpaid leave. (Refer to the appropriate MOU for possibly different treatment of vacation for some represented employees.) If appropriate, sick leave usage may be mutually agreed upon by the employee and the appropriate administrator.

#### **6. How are other leaves and disability benefits integrated with FML?**

Other than for pregnancy/childbirth, FML runs concurrently with other types of leave or disability programs (such as: nonindustrial, industrial and temporary disability) since these leaves are for a purpose which qualifies for FML. The Government code entitles female employees to up to 6 weeks of time off for normal pregnancy/delivery and up to 4 months for extended disability related to pregnancy/childbirth. As a result, if the employee takes all or part of the maximum four months under this entitlement, she will be entitled to 12 additional weeks of FML for the birth of her child or for her own serious health condition. FML doesn’t require that the mother be disabled or that the child be ill.

**Unless you are covered by a bargaining agreement that states otherwise, your personal holiday and any accumulated vacation and CTO leave credits will be used prior to placing you on unpaid leave of absence.** If appropriate, accumulated sick leave may be used as mutually agreed upon by you and the appropriate administrator.

#### **7. What benefits must continue during FML?**

If an employee has benefits, all benefits automatically continue during any paid leave. During any unpaid remainder of the 12 weeks of FML, the CSU will continue to pay its normal share of premiums for medical, dental, and vision coverage. An accounts receivable will be set up for the employee’s share of the premium, if any. If the employee wishes to discontinue medical coverage during the unpaid leave, the CSU will also suspend its medical premium payments but dental and vision coverage will be continued. Suspended medical coverage will be reinstated upon return to active status.

If the employee does not return from FML, the CSU may recover premiums paid during the unpaid leave, unless the reason the employee is not returning is due to a serious health condition of the employee, spouse, child or parent, or is due to some other reason beyond the employee’s control. (Each case must be reviewed on an individual basis.)

Recovery of premiums will also be waived if the employee retires at the end of the leave.

#### **8. How does FML affect seniority?**

Permanent employees earn seniority points during both the paid and unpaid portions of FML.

#### **9. Is the employee required to notify the campus of an impending FML?**

The following are general guidelines, but please refer to the appropriate MOU for represented employees:

An employee expecting a new child (either by birth or placement) should provide at least 30 days notice to the campus before commencement of the leave. However, if the leave must begin in less than 30 days, the employee must provide as much notice as possible.

An employee who takes a foreseeable leave based on planned medical treatment must make a reasonable effort to schedule the treatment, subject to the health care provider's approval, so as not to unduly disrupt the campus' operations. **The employee should provide at least 30 days advance notice; if that is not possible, the employee must provide as much notice as possible.**

If the FML is not foreseeable, the employee should inform the campus within five days of learning of the need for the leave.

#### **10. Is medical certification required for leave?**

The campus may require a medical certification from an employee seeking leave for the serious health condition of either the employee or a family member. Certification may be required within 15 calendar days of requesting the information. Please refer to the appropriate MOU for more specific guidelines. You should ensure that the certification states the following:

- The date that the serious health condition started
- The probable duration of the condition
- The appropriate medical facts concerning the condition
- A statement that you are needed to care for your child, spouse or parent and an estimate of the leave time necessary for their care, or a statement that you are unable to perform the essential functions of your job.

A second or third opinion (at the University's expense) may be required and a fitness for duty report to return to work.

#### **11. How is FML requested?**

Submit the attached FML leave notice and request form including a medical certification to the Human Resources Office via your appropriate administrator as soon as possible. You will receive a confirmation letter from Human Resources with a copy to your administrator. If you have any questions, need assistance in filling out the form or in understanding your leave options, please contact Human Resources at [leaves@csumb.edu](mailto:leaves@csumb.edu) or (831) 582-389. Once the FML is approved, Human Resources will send you a letter and will assist you in completing other necessary paperwork.