



Frequently Asked Questions

At USF St. Petersburg, FMLA is administered by HR. The following 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 Human Resources at 873-4775.

Q. What is FMLA?

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

Q. What is the purpose of FMLA leave?

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

- For the birth and care of a newborn child of the employee;
- For placement of a child for adoption or foster care;
- To 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; or
- To take medical leave when the employee is unable to work because of a serious health condition.

Q. 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 on active duty in the Armed Forces or has been notified of an impending call to active duty status, in support of a contingency operation. 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 a version of Title 1 of the FMLA with the new statutory language incorporated are available on the FMLA amendments website at http://www.dol.gov/ese/whd/fmla/NDAA_fmla.htm.

Q: Who is eligible?

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

Q: Do the 1,250 hours include paid leave time or other absences from work when calculating eligibility?

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

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

A: No. The 12 months or one year do not have to be continuous or consecutive; all time worked for the USF System is counted.

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

A: The USF System uses the fiscal year (July 1 – June 30) for administering FMLA.

Q: How do I qualify for FMLA?

A: Supporting documentation will be required to verify that the leave request qualifies under FMLA. There is a medical certification form that is required for all medical conditions that must be completed by the attending physician and submitted to HR for review as part of the approval process.

Q: What types of illnesses 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 states 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).

Q: 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.

Q: Would the common flu or a severe cold be covered under 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 Human Resources.

Q: 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.

Q. Do I have to grant my employees FMLA?

A: The USF System 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. The USF System 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, and refer the employee to HR.

Q: 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 the University's expense, or recertification 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.

Q: 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 those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans with Disabilities Act (ADA).

Q: Does the FMLA guarantee paid time off?

A: No. The FMLA only requires unpaid leave. However, the law permits an employee to elect or the employer to require the employee to use accrued paid leave, such as vacation or sick leave, for some or all of the FMLA leave period. The USF System allows the employee to choose paid or unpaid leave. When paid leave is substituted for unpaid FMLA leave, it will be counted against the 12-week FMLA entitlement if the employee is properly notified of the designation when the leave begins.

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

A: Your benefits will remain intact during any FMLA leave. You will, of course, continue to be responsible for paying your monthly contribution 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 reactivate upon your return. For more information, please contact HR at 873-4775.

Q: 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.

Q: 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 option, you may be required to obtain additional medical certification at the University'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.

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

A: Contact Human Resources at 873-4775. The Director will be able to assist you and walk you through the steps for FMLA.