

## **Family and Medical Leave**

In accordance with the Family Medical and Leave Act of 1993 (FMLA), the Library provides medical leaves of absence with or without pay to eligible employees who are temporarily unable to work due to a serious health condition or disability. Paid leave includes sick leave benefits for full time employees (*see Sick Leave Benefits*), and short-term disability insurance which is provided to all employees. Disability insurance offers a maximum of 26 weeks of paid benefits.

The Library grants up to 12 weeks of unpaid family and medical leave during any 12- month period to an eligible employee, in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

In order to qualify for unpaid family and medical leave, under this policy, an employee must meet the following conditions: 1. Worked for the Firm for a minimum period of 12 months; and 2. Worked at least 1,250 hours during the 12-month period immediately prior to the date when the leave would begin. In addition, the employee must meet the criteria for certain health conditions. (See below).

Paid disability benefits begin 7 days after injury or sickness. (See business office for information on qualifications).

### **a. Qualifying for FMLA**

To qualify for unpaid FMLA under this policy, an employee must take leave for one of the reasons listed below: 1. For pregnancy, prenatal medical care or child birth within one year; or 2. To care for an employee's child after birth, or placement for adoption or foster care; or 3. To care for an employee's spouse, child or parent (including the parent of a covered service member) who has a serious health condition; or 4. The serious health condition of an employee that makes the employee unable to perform the essential functions of their job; or 5. To care for a covered service member in the Armed Forces, National Guard or Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness suffered while on active duty; or 6. For "any qualifying exigency" arising out of an employee's spouse, child or parent's active duty (or notification of an impending call or order to active duty) in the Armed Forces, National Guard or Reserves in support of certain military operations.

## **b. Serious Health Condition**

A serious health condition is defined by FMLA as: 1. Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or 2. A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or 3. Any period of incapacity due to pregnancy or prenatal care; or 4. Any period of incapacity (or treatment therefore) due to a chronic or serious health condition, or a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, stroke, terminal diseases); or 5. Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis).

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. An employee with questions about what illnesses are covered under this policy is encouraged to consult with the Library Director.

The Library requires an employee to provide a doctor's certification of the serious health condition. The Library may request a second opinion from a doctor of its choice at the Library's expense. The Library Director will maintain all files regarding leave under this policy.

## **c. Procedure for Requesting Leave**

An employee requesting leave under this policy must submit the request in writing to the Library Director at least 30 days prior to when the leave begins, except in the event of unforeseen circumstances. The Library requests that an employee give as much notice as possible prior to taking leave under this policy. An employee undergoing planned medical treatment is requested to make a reasonable effort to schedule the treatment to minimize disruptions to the Library's operations. An employee who requests FMLA leave will be notified of their eligibility within five business days after the request is made. While on leave, an employee is requested to report to the Library Director every 30 days on the status of their eligible condition and their intent to return to work.

## **d. Use of Paid and Unpaid Leave**

An eligible employee is entitled to up to 12 work weeks of unpaid leave, paid sick leave to the extent that it has been accrued, and/or up to 26 weeks of paid disability leave in a 12-month period. It is the Library's policy that if an employee has accrued paid leave, an employee must use paid leave first and take the remainder of the twelve weeks as unpaid leave. An employee who is taking leave because of their own serious health condition must first use any accrued paid time off benefits (Sick/Personal/Vacation Time) before utilizing short-term disability benefits. In the case of leave due to serious health condition of a family member or bonding with a newborn child, an employee must use all paid time off benefits prior to taking an unpaid leave or Paid Family Leave (*see* Paid Family Leave).

**e. Health Insurance Benefits**

While an employee is on paid or unpaid leave, the Library will continue the employee's health insurance benefits during the leave period at the same level and under the same conditions as if the employee had continued to be at work. While on paid leave, if an employee pays a portion of their health care premiums, the Library will continue to make payroll deductions to collect this premium. While on unpaid leave, an employee must continue to make this payment. Before commencement of this leave, arrangements should be made with the Business Office as to how premium payments will be handled. If payments are not made by the due date, health care benefits will discontinue for the duration of the leave. Discontinuation of benefits may render an employee, and their qualified dependent(s), eligible for benefits under the Library's COBRA (Continuation of Benefits) Policy.

If an employee is unable to or chooses not to return to work at the Library at the end of the leave, the employee and their qualified dependent(s) would be eligible to continue health care benefits under the terms of the Firm's COBRA Policy.

**f. Paid Time Off (Sick/Personal/Vacation Time)**

An employee on paid or unpaid leave continues to accrue paid time off benefits during the duration of the approved leave. An employee will be entitled to any accrued, unused paid time off benefits when they return to work.

**g. Other Employee Paid Benefits**

An employee receiving other employee paid benefits will continue to be covered on a paid leave. Employees on an unpaid leave will have the responsibility to pay the premiums, if any, to keep the policy in force. Before commencement of this leave, arrangements should be made with the Business Office as to how premium payments will be handled.

***PFL is not a part of FMLA so this portion of the policy should be disregarded for purposes of the board discussion on 5/17/22. PFL should be a stand-alone policy, separate from FMLA:***

**h. Paid Family Leave**

Paid family leave insurance is offered to all employees with an opt-out option. Paid Family Leave covers time to tend to the illnesses of an employee's family member, or bonding with a newborn child, but not for illness of the employee him or herself. Employees are eligible to take up to twelve (12) weeks (established by New York State) of Paid Family Leave annually. For more information on eligibility requirements, see the business office.

**i. Procedure for Requesting Paid Family Leave**

An employee requesting leave under their PFL insurance policy must submit the request in writing to the Library Director at least 30 days prior to when the leave begins, except in the event of unforeseen circumstances such as a military deployment. The Library requests that an employee

give as much notice as possible prior to taking leave under this policy. An employee whose family member is undergoing planned medical treatment is requested to make a reasonable effort to schedule the treatment to minimize disruptions to the Library's operations. An employee who requests PFL leave will be notified of their eligibility within five business days after the request is made. While on leave, an employee is requested to report to the Library Director every 30 days on the status of their intent to return to work.

Questions about the PFL policy should be directed to the Library's business office.

**j. Job Restoration**

Upon return from FMLA leave, an employee must be restored to his or her original, or an "equivalent" position (a position identical to the original position in terms of pay, benefits, and other employment terms and conditions) except in certain circumstances, as explained below.

**k. Key Employee Exception**

Under limited circumstances, where restoration to employment will cause substantial and grievous economic injury to its operations, the Library may refuse to reinstate certain highly-paid, salaried key employees. In order to do so, the Library must notify the employee in writing of his/her status as a key employee, (as defined by FMLA), the reasons for denying job restoration and provide the employee a reasonable opportunity to return to work after notifying the employee.

Questions about the FMLA policy and/or paid and unpaid benefits, should be directed to the business office.

*See also:* Personal Leave and Extended Leave of Absence.