Notice of Employee Rights and Responsibilities

Federal Family & Medical Leave (FMLA)

Basic Leave Entitlement

Eligible University of Wisconsin-Madison employees have a right under the federal FMLA for up to 12 weeks of unpaid, job protected leave in each **calendar year (January 1-December 31)** for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the employee's job.

Federal Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on action duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is an outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Contact the Office of Human Resources – Benefit Services at 262-5650 or benefits@ohr.wisc.edu to discuss payment of premiums and any other questions related to your benefits.

Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. If your leave extends beyond your FMLA entitlement, you do not have return rights under FMLA. Return rights if available would be under the applicable collective bargaining agreement, administrative code or University policy.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

University of Wisconsin-Madison employees (including fixed-term finite employees) are eligible under FMLA if they meet these criteria:

- Employed by the *State for at least 12 months (need not be consecutive); ***and***
- Worked for the *State at least 1,250 hours (not including paid leave time used) in the 12 month period immediately preceding the beginning of the requested leave under FMLA;
- And if at least 50 employees are employed by the employer within 75 miles.

*"State" includes all campuses of the UW System and State Agencies

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, prevent the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic conditions. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use their leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid FMLA Leave
Employees may choose to use sick leave or any type of paid leave available to them while taking FMLA. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities
Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the employer's normal call-in procedure.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities
Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are eligible, the notice must specify any additional information required as well as the employee's rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees requesting leave if leave will be designated as FMLA-protected, as well as the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA protected, the employer must notify the employee.

Unlawful Acts by Employers
FMLA makes it unlawful for any employer to:
- Interfere with, restrain, or deny the exercise of any right provided under FMLA.
- Discharge or discriminate against any person for: opposing any practice made unlawful by FMLA, or involvement in any proceeding under or relating to FMLA.

Enforcement
An employee may file a complaint with the US Department of Labor or may bring a private lawsuit against an employer for violation of federal FMLA. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

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Wisconsin Family & Medical Leave (WFMLA)

Basic Wisconsin FMLA Leave Entitlement
Eligible University of Wisconsin-Madison employees have a right under the Wisconsin FMLA in each **calendar year (January 1-December 31)** for up to:
- 2 weeks of unpaid medical leave for your own serious health condition;
- 2 weeks of unpaid family leave to care for your child, spouse, parent, parent-in-law, domestic partner, or domestic partner's parent with a serious health condition; and
- 6 weeks of unpaid family leave for the birth of your child or adoption.

Eligibility Requirements WFMLA
*University of Wisconsin-Madison employees (including fixed-term finite employees) are eligible under WFMLA if they meet these criteria:
- Employed by the *State for more than 52 consecutive weeks, and
- Worked for the *State for at least 1,000 hours (including paid leave time e.g. in pay status) in the preceding 52-week period.

* "State" includes all campuses of the UW System and State Agencies

The FLMA sections for "Use of Leave" and "Substitution of Paid Leave for Unpaid FMLA Leave" also apply to WFMLA leave
UW-Madison based on:
Federal Register Appendix C to Part 825
OSER-DCLR-203 (03/04/2013)