

Subject: **Leaves of Absence**

Applies to: Regular Full-Time and Regular Part-Time Staff and Faculty. TAR Staff who worked at least 1,250 hours during the rolling 12 month period immediately preceding the commencement of the leave, are eligible only for FMLA Leave (see below).

The most recent version of the Faculty Handbook (2002) (www.rochester.edu/provost/FacultyHandbook) describes personal and academic leave options and procedures for faculty members, except for the Family and Medical Leave Act passed in 1993 and described below.

Leaves of Absence for individuals represented by a collective bargaining unit will be granted in accordance with those agreements.

I. Policy: The University of Rochester provides three types of Leaves of Absence for staff members.

- The first provides **up to 12 weeks' unpaid leave** under the **Family and Medical Leave Act of 1993 (FMLA)**. *During this leave the staff member is required to use PTO, if applicable, and/or sick leave if applicable and vacation accruals which will be paid out during regular pay period cycles for the first 12 weeks of the Leave or until exhausted.*
- The second, a **University Leave of Absence**, may provide staff with **up to 12 months' unpaid leave**. *During this leave PTO, if applicable, and vacation accruals will be paid out on the staff member's last payday following the effective date of the Leave (including Leaves that convert to a University Leave of Absence).*
- Under the third provision, a **Short-Term Leave of Absence** may be granted by departments for **up to 30 work days' unpaid leave** in a calendar year. *During this leave the staff member is required to use PTO, if applicable, and vacation accruals which will be paid out during regular pay period cycles during short-term leave or until exhausted.*
- **In no case shall total time off from work exceed 12 months.**

A Leave of Absence, which is defined as an excused absence, may be granted to staff under the following circumstances:

- A. **Leave of Absence under FMLA for up to 12 weeks** for the birth, adoption or placement of a child; to care for a spouse, child or parent who has a serious health condition; or when the staff member is unable to work because of a serious health condition;
- B. **University Leave of Absence for up to 12 months** for reasons such as education, dependent or elder care or community service;

- C. **Short-Term Leave of Absence for up to 30 work days** (not to exceed six weeks) for such reasons as family illness or urgent personal business.

The Leave of Absence must be requested by the staff member, approved by the staff member's department head (*this includes verifying that the employee meets the eligibility requirements for a leave*), dean, director or vice-president and the Leave Administration division of the Office of Human Resources. (*Short-Term Leaves of Absence need only be approved by the staff member's department head and need not be sent to Human Resources.*)

In providing a Leave under the FMLA, the department must retain the staff member's position or an equivalent position. In recommending a University Leave of Absence, the department must retain the staff member's position or a comparable position. Similarly, the staff member must give assurance of returning to active work upon expiration of the Leave.

II. Guidelines:

- A. **Leave of Absence under FMLA for up to 12 weeks:** Staff who have one (1) year of service and have worked at least 1,250 hours (including on-call time, excluding vacation, holiday, and sick time) during the rolling 12 month period immediately preceding the commencement of the leave (rolling 12 months) will be granted a Leave of Absence under FMLA for up to 12 weeks for the following reasons:

- the birth of a child and in order to care for the child in the first 12 months after childbirth or the placement of a child for adoption or foster care within the first 12 months after placement; or,
 - to care for a spouse, child or parent who has a serious health condition (see page 13 for certification paperwork).
 - a staff member's disability leave for a serious health condition (work-related or non work-related, and including disability due to pregnancy and childbirth) may be covered under the University's Sick Leave Plan and will count toward the 12-week annual entitlement under the FMLA. Medical certification is required. Also see Sick Leave Plan for Short-Term Disability, Policy #339.
1. Foster care is defined to require State action, rather than just an informal arrangement to take care of another person's child.
 2. A child includes a biological, adopted, and foster son or daughter, as well as a step-child, legal ward or a "child" of a person acting in the capacity of a parent, including a child 18 years or over who is incapable of self-care because of a mental or physical disability.
 3. The term "parent" includes biological parents, as well as a person who acted in the capacity of a parent towards the staff member.

4. In-laws are not covered.
5. A serious health condition is defined as an injury, illness, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical facility, or a "period of incapacity" that includes "continuing treatment" or a "regimen of continuing treatment" by a healthcare provider, as defined by the Federal Register (see pages 16 and 17).
6. In granting a Leave under the FMLA, the department must retain **the same position or an equivalent position.**
7. Intermittent Leaves:
 - a. Staff members may take intermittent leave (periodic leave) or reduced leave (reduced work schedule) under the FMLA if they are caring for a covered family member with a serious health condition, provided intermittent or reduced leave is medically necessary.

For staff members with a serious health condition, an intermittent leave or reduced leave under the University Sick Leave Plan may be taken. Also see Sick Leave Plan for Short- Term Disability, Policy #339.

An intermittent leave or reduced leave is taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leaves for periods from one hour or more to several weeks. Exempt and non-exempt staff is to record actual hours taken in reporting absences due to a Leave.

- b. Staff on intermittent or reduced leave may be transferred to available equivalent alternative positions on a temporary basis to better accommodate the recurring leave.
 - c. Staff needing intermittent FMLA leave or leave on a reduced schedule must attempt to schedule their leave so as not to disrupt University operations.
 8. Spouses who are both employed by the University are entitled to an aggregate total of 12 weeks leave for a birth, adoption, or foster care. This does not apply to leave taken by either spouse to care for the other who is seriously ill and unable to work or to care for a child with a serious health condition.
- B. **University Leave of Absence for up to 12 months:** Regular full-time and part-time staff who have completed at least two years of University service **may** be granted a University Leave for up to 12 months for personal reasons such as education, dependent or elder care or community service.

University Leave of Absence **for up to 12 months** is granted when it is mutually beneficial to the staff member and the department and, therefore, is not granted automatically. In approving such a Leave, the department commits to retain a vacancy **in that position or a comparable position** for which the staff member is qualified. The staff member must be informed of that commitment, and must give assurances of returning to active work **in that position or a comparable position** upon expiration of the Leave.

A staff member taking a University Leave of Absence must complete two years of continuous active University Service before becoming eligible to be granted another University Leave of Absence.

- C. **Short-Term Leave of Absence for up to 30 work days:** Regular full-time and part-time staff **may** be granted **one Short-Term Leave for up to 30 work days** (not to exceed six weeks) **in a calendar year** at the discretion of the department head for such reasons as non-FMLA family illness or urgent personal business when the staff member has insufficient PTO, if applicable, and vacation accruals and without the leave, the individual may have to resign.
- D. **General Conditions:**
1. A Leave may not be granted for the primary purpose of enabling a staff member to maintain employment elsewhere.
 2. **Extension of Leave:** Leaves granted for less than 12 months may be extended, if requested prior to expiration, for a total absence of up to 12 months.
 3. **Benefits during Paid Portion of Leave:** For regular full-time and regular part-time staff and faculty, during a paid portion of a Leave under the FMLA or short term leave, benefits will continue subject to any payroll deductions.
 4. **Benefits during Unpaid Portion of Leave:** An unpaid Leave will have the following effect on an individual's benefits:
 - a. University-paid single or family Dental Assistance premiums will be continued.
 - b. Medical Plan coverage will be continued unless the staff member signs a form canceling this coverage. Staff members who do not cancel this insurance during a Leave will be billed for their normal share of the premium.
 - c. Medical/Dental Flexible Spending Accounts (FSAs) through the University of Rochester Plan may be continued. Staff members on Leaves who choose to continue Medical/Dental FSAs will be billed for their premiums on an after-tax basis.

Since Dependent Care FSAs are established to allow the employee to work, they will be suspended during a Leave.

- d. University-paid Basic Term Life and University-paid Basic AD&D insurance will be continued. Group Universal Life (GUL)/Group Optional Term Life (GOTL) and Dependent Term Life insurance with Securian Life also will be continued unless the faculty or staff member cancels the coverage by written consent. Faculty and staff members who do not cancel their GUL/GOTL or Dependent Term Life insurance during a Leave will be billed by Securian Life and will need to pay their normal premiums.
 - e. Vacation, holidays and sick leave do not accrue during a University Leave of Absence. Upon return from a Leave, vacation and sick leave accruals will begin again based on the staff member's service date. Service time continues to accrue during each type of Leave.
 - f. An individual who becomes disabled within four weeks of the effective date of the Leave may qualify for statutory sick pay benefits during the period of the disability.
 - g. Full and Limited Long-Term Disability (LTD) Insurance is suspended during a Leave unless an individual is on Leave for full-time study for an advanced degree or active work in education or research. Staff members on Leaves for these purposes who choose to continue LTD Insurance will be billed for their normal share of the premium.
 - h. **University contributions** to the Retirement Program (TIAA-CREF Regular Retirement Annuities (RRA), T. Rowe Price, Vanguard and Fidelity) are suspended during a Leave. Staff may make **voluntary contributions** toward their TIAA-CREF RRAs; however, those contributions may not be tax deferred. Any **voluntary contributions** made by an individual to TIAA-CREF Supplemental Retirement Annuities (SRAs) and T. Rowe Price, Vanguard and Fidelity mutual funds would be suspended during a Leave since contributions to these portions of the University Retirement Program can only be made through salary reduction.
 - i. Tuition benefits for a staff member are suspended. Tuition benefits for a spouse are suspended. Tuition benefits for dependent children are not interrupted.
5. Work at the University while on Leave: A staff member on Leave may work on a Time-As-Reported (TAR) basis at the University without interruption of benefits as outlined above.

E. Return from Leave

1. A staff member returning from a Leave under the **FMLA** is assured of returning to the same position or an equivalent position. A staff member returning from a **University Leave of Absence** is assured of returning to the same or a comparable position.
2. The staff member should contact the supervisor or department head two weeks prior to the specified date of return to confirm arrangements for return to active status.

A staff member's failure to return from a Leave will result in termination of employment.

3. If during a University Leave or Leave under FMLA, a department cannot hold a position for the staff member; the department must discuss this with the Office of Human Resources on the River Campus or in the Medical before notifying the staff member.
4. Staff members on Leave are subject to employment activity which would normally have taken place during the course of the Leave.

III. Procedures:

A. A staff member must submit a "Request for Leave" form to the immediate supervisor no less than thirty (30) days prior to the beginning date of the Leave. However, in the case of an emergency, this time period may be waived.

1. If the request for Leave is for the serious health condition* of a staff member which does not require the staff member to be out more than seven (7) consecutive calendar days, or for the serious health condition of a family member covered under the FMLA, the staff member must 1) inform the supervisor, 2) obtain a "Request for Leave of Absence, FMLA, and Extension of Leave Form" and a "Certification of Health Care Provider with definition of Serious Health Condition" from the Leave Administration home page (www.rochester.edu/working/hr/leave), and 3) complete these forms and return them to the Leave Administration division, Office of Human Resources (Box 270025), which will facilitate review and approval (if appropriate) of the request for Leave.

*Chronic, permanent and long-term conditions and multiple treatments and therapies which cause episodic absences, as well as serious health conditions which cause longer periods of absence are covered by FMLA. Multiple absences for illnesses not included in the legal definition of Serious Health Condition cannot be applied to Family and Medical Leave.

If FMLA is approved by the Leave Administration division, Office of Human Resources, **departments should maintain a record of the staff member's time out under the FMLA in the department. Time reporting**

in the Human Resources Management System (HRMS) should be PTO, if applicable or sick time (if an employee is absent for his/her own serious illness) or vacation time. Staff members whose illnesses result in their absence from work for more than seven (7) calendar days must complete disability documentation.

For intermittent absences for treatments following a period of disability, staff members should inform the Leave Administration division, Office of Human Resources, but need not complete Request for Leave or medical certification forms. Departments should report PTO, if applicable or sick time and vacation in HRMS.

2. For intermittent or reduced leave, medical certifications shall state (a) the dates on which treatment is expected to be given and the duration of such treatment; (b) a statement of the medical necessity for the intermittent or reduced leave schedule and the expected duration; and (c) where applicable, a statement that an intermittent or reduced schedule is necessary to care for a covered family member or will assist in the recovery and the expected duration and schedule of leave.
 3. In the case of a Short-Term Leave **for up to 30 work days** (not to exceed six weeks), the staff member must submit a written request to the department head for short-term excused absence without pay including specific dates of the expected absence. The department head will confirm in writing to the staff member the exact dates the staff member is excused, defining how much of the leave time will be covered by PTO, if applicable, or vacation accruals and how much is excused time without pay.
- B. Following a disability absence under the Sick Leave Plan for Short-Term Disability, a staff member who wishes to take additional time off must request a Leave for which the staff member is eligible.
 - C. The supervisor and department head or appropriate dean, director or vice-president concerned will evaluate the request. If approved, the department will send the "Request for Leave" form to the Leave Administration division, Office of Human Resources for review and signature. (*Short-Term Leaves of Absence need only be approved by the staff member's department head.*)
 - D. If approved, the Leave Administration division, Office of Human Resources will notify the staff member and department in writing. For a University Leave of Absence, the Leave Administration division, Office of Human Resources will place the staff member on Leave in HRMS. A PAF is not required.
 - E. When a Leave of Absence is granted, the staff member should contact the Leave Administration division, Office of Human Resources to discuss benefit coverages. Any coverage for which the staff member retains eligibility and is enrolled in will be continued unless the individual signs a form canceling these coverages. The staff member will be required to pay his/her normal share of the premiums.

- F. Payment of PTO, if applicable, and vacation: For each type of Leave, the effective date of the Leave is the first day out.

FMLA: All **PTO, if applicable, and vacation** accruals will be paid out during regular pay period cycles for the first 12 weeks of the Leave or until exhausted.

University Leave of Absence: All **PTO, if applicable, and vacation** accruals (up to the maximum allowance) will be paid on the staff member's last payday following the effective date of the Leave (including FMLA Leaves that convert to a University Leave of Absence).

Short-term Leave of Absence: All **PTO, if applicable, and vacation** accruals will be paid out during regular pay period cycles until exhausted.

- G. In order to extend a Leave beyond its original term, but not to exceed a total absence of 12 months, a staff member must complete a new request form. The staff member's department is responsible for advising the staff member, in writing, of any changes in the terms of the Leave of Absence including the approval of extensions.
- H. Unapproved Leaves: A staff member who requests a Leave of Absence and whose request is denied may elect to resign; however, if the staff member is rehired, he/she may have service time reinstated if criteria as set forth in Policy #134 (Reinstatement of Previous Service Time When Rehired) are met.

See also Policies: #134 Reinstatement of Previous Service Time When Rehired
 #339 Sick Leave Plan for Short-Term Disability

**Certification of Health Care Provider
(Family and Medical Leave Act of 1993)**

To be completed by Health Care Provider:

1. Employee's Name:
2. Patient's Name (if different from employee):
3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category.

(1)____ (2)____ (3)____ (4)____ (5)____ (6)____, or none of the above_____
4. Describe the medical facts that support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:
- 5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity² if different):
- b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)?

If yes, give the probable duration:
- c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated² and the likely duration and frequency of episodes of incapacity²:
- 6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

- b. If another provider of health services (e.g., physical therapist) will provide any of these treatments, please state the nature of the treatments.
 - c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):
- 7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____
- c. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)?

_____ **If yes, please list the essential functions the employee is unable to perform:**

- d. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment?

1 Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

2 "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefrom, or recovery therefrom.

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

(Signature of Health Care Provider)

Date

(Type of Practice)

(Address)

(Telephone number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule.

(Employee signature)

(Date)

Serious Health Condition

A “Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital Care: Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity¹ or subsequent treatment in connection with or consequent to such inpatient care.
2. Absence Plus Treatment:
 - a) A period of incapacity¹ of **more than three consecutive calendar days** (including any subsequent treatment or period of incapacity¹ relating to the same condition), that also involves:
 - 1) **Treatment² two or more times** by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider;
or
 - 2) Treatment by a health care provider on at least one occasion which results in a **regimen of continuing treatment³** under the supervision of the health care provider.
3. Pregnancy: Any period of incapacity due to **pregnancy or prenatal care**. Does not require an absence of more than three days, or treatment by a health care provider.
4. Chronic Conditions Requiring Treatments:

A chronic condition which:

 - 1) Requires **periodic visits** for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - 2) Continues over an **extended period of time** (including recurring episodes of a single underlying condition); and
 - 3) May cause **episodic** rather than a continuing period of incapacity¹ (e.g., asthma, diabetes, epilepsy, etc.).
5. Permanent/Long-term Conditions Requiring Supervision: A period of incapacity¹ which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receiving active treatment by, a health care provider**. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.

6. Multiple Treatments (Non-Chronic Conditions): Any period of absence to receive **multiple treatments** (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, or for a **condition that would likely result in a period of incapacity¹ of more than three consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

1 Unable to attend work or school or to perform other regular daily activities for more than three consecutive days because of a serious health condition (including treatment and recovery).

2 Treatment includes examinations to determine if a serious health condition exist and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

3 A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. Includes being advised to call health care provider if condition does not improve. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.