

Duquesne University

The Family Medical Leave Act Frequently Asked Questions

1. **What is the Family and Medical Leave Act?**

- A federal law which came into effect in 1993. (Amended in 2009 & 2010.)
- Provides up to 12 work weeks of FMLA job-protected leave per calendar year for **specified reasons or other serious health conditions** of the employee or a family member.
 - TAP 23

2. **What is a serious health condition?**

A “serious health condition” is defined as “an illness, injury, impairment, or physical or mental condition that involves” either:

- 1) inpatient care or
- 2) continuing treatment by a health care provider.

3. **What is “Continuing Treatment?”**

Regulations issued by the Department of Labor (DOL) to implement the FMLA define the term “continuing treatment” to include the following five scenarios:

- a period of incapacity of more than three consecutive calendar days involving two or more treatments, by or under the orders of a health care provider, or treatment by a health care provider on at least one occasion that results in a supervised regimen of continuing treatment (for example, prescription medications or specialized therapy);
- (2) pregnancy (including severe morning sickness) and time needed for prenatal visits;
- (3) a chronic health condition, such as asthma, diabetes, or epilepsy;
- (4) a long-term condition such as Alzheimer’s, a severe stroke, or the terminal stages of a disease; and
- (5) restorative surgery after an accident or other injury, or a condition that is likely to result in a period of incapacity of more than three consecutive calendar days if left untreated, such as physical therapy for severe arthritis or chemotherapy for cancer.

4. **What is not a serious health condition?**

- Absences for:
 - Common cold
 - Flu
 - Ear aches
 - Upset stomach
 - Minor ulcers
 - Headaches
 - Routine dental work
 - Cosmetic surgery

- Effects of substance abuse

5. **Who qualifies as “family”?**

- A child (under the age of 18)
- A spouse
- A parent

6. **What are the other “specified reasons” for granting FMLA?**

- Birth of a son or daughter, and to care for a newborn child;
- Placement of a son or daughter for adoption or foster care;
- Military service related reasons (see question #13)

7. **How does FMLA benefit an employee?**

The following benefits will apply if an employee qualifies for leave under FMLA:

- 12 weeks of leave per calendar year for the qualifying event/condition
- Maintenance of health care benefits
- Return to the same or similar job

8. **Who is eligible?**

There are two requirements an employee must meet to be considered eligible for FMLA leave:

- An employee must have been employed by Duquesne for a total of 12 months; and
- An employee must have worked (i.e. does not include sick or vacation or holiday time) a minimum of 1,250 hours during the 12 months prior to the first day of taking FMLA leave

9. **Is FMLA paid leave?**

- No.
- FMLA is unpaid leave.
- However, if available, sick or vacation leave can provide salary protection.

10. **Can an employee choose to exhaust paid leave prior to beginning FMLA leave?**

- No. Available paid leave will run concurrently with FMLA leave.
- If the leave is for your own serious medical condition, Duquesne requires you to use all available sick time first, then vacation time (if desired) or unpaid leave.
- If the leave is for a family member, an hourly employee may only use 5 sick days (consecutive or intermittent) and then must use vacation time or unpaid leave.

11. **What if a leave is in excess of one month?**

- Leaves that exceed one month are not credited to service and sick and vacation leave will be prorated based on actual time worked.
 - Sick Leave- Tap 15
 - Vacation Leave- Tap 17

12. **How does FMLA work when an employee misses work intermittently for the same reason?**
All intermittent time lost due to the same condition will be tracked as per FMLA guidelines. This lost time would be logged until the 12 weeks of FMLA time are expired.
13. **Can an employee use FMLA more than once? Is the 12 weeks yearly?**
- YES. It may also be used for different and separate medical conditions.
 - In no case, however, may an employee be granted more than 12 weeks of FMLA leave in one calendar year
14. **If an employee is considered full-time and can only work four or six hours per day as per doctor's restrictions, can the rest of the day be considered FMLA leave?**
- Yes, provided the reason for the shortened workday is certified as an FMLA condition.
 - Supervisors must manage and track intermittent leave and report to Genny Hughes.
15. **What happens when both spouses are employed by Duquesne?**
Spouses employed by the same employer are limited in the *amount of* family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a family member who has a serious health condition to a combined total of 12 workweeks (or 26 workweeks if leave to care for a covered servicemember with a serious injury or illness is also used).
16. **What about Military leave?**
An employee with a spouse, son, daughter, or parent on active duty or call to active duty in the armed services (including the National Guard or Reserve) may use 12 weeks of FMLA leave to:
- Attend certain military events
 - Arrange for alternative child care
 - Make legal or financial arrangements
 - Attend counseling sessions
 - Attend post-deployment reintegration briefings
17. **What is the special 26 week Military leave?**
FMLA includes a special 26 week leave to care for a covered service member during a single 12-month period.
- A covered servicemember is a current member of the armed services (including National Guard and Reserves) who has a serious injury or illness incurred in the line of duty on active duty for which he is undergoing treatment, recuperation or therapy, is in outpatient status or is on the temporary disability retired list.
18. **What must an employee do when they want to take FMLA?**
- Notify their supervisor (30 days in advance when possible)
 - Contact Genny Hughes in Risk Management X6677

- Complete all required paperwork (including timely Medical Certifications for self or care of a family member, and provide periodic recertification if extended or intermittent leave)
- Provide timely periodic updates to Genny/Supervisor on status and anticipated return to work date
- Provide medical authorization to return to work to Genny Hughes in a timely manner prior to the return to work date

19. **What about Privacy?**

- The medical certification must relate only to the serious health condition causing the need for the leave (not any other medical history)
- Duquesne (Office of Risk Management only) may contact the health care provider for clarification of condition, duration of leave, ability to return based on the employees specific job description, and restrictions, if any, upon return
- Files and file information is maintained as confidential medical records in a secure manner by the Office of Risk Management – not as part of personnel files.