

**Family and Medical Leave Act (FMLA)  
BU-PP 408**

**Policy:**

Baylor University faculty and staff are eligible for Family and Medical Leave Act (FMLA) leave if they have been employed for at least twelve (12) months, and have worked at least 1,250 hours during the previous twelve (12) month period.

Subject to the requirements of this policy, FMLA entitles eligible faculty and staff to take paid or unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the faculty or staff member had not taken leave.

Eligible faculty and staff are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the faculty or staff member of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the faculty or staff member's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the faculty or staff member unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the faculty or staff member's spouse, son, daughter, or parent is a covered military member on "covered active duty,"

**OR**

Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible faculty or staff member is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

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**Related Policies:**

[BU-PP 400 – Benefit Eligibility Classification](#)  
[BU-PP 402 – Vacation](#)  
[BU-PP 403 – Sick Leave](#)  
[BU-PP 404 – Personal Leave](#)  
[BU-PP 406 – Non-Compensated Leaves of Absence](#)  
[BU-PP 409 – Military Leave](#)  
[BU-PP 410 – Group Insurance-General](#)  
[BU-PP 411 – Group Life and Dependent Life Insurance](#)  
[BU-PP 412 – Group Long Term Disability](#)  
[BU-PP 413 – Group Medical Insurance](#)  
[BU-PP 414 – Dental Plans](#)  
[BU-PP 420 – Flexible Benefit Plan](#)  
[BU-PP 421 – Paid Parental Leave](#)

**Additional Information:**

[Human Resources FMLA Information Page](#)

[U.S. Department of Labor FMLA Employee Rights and Responsibilities Poster](#)

**Contact:**

Human Resources (HR) at [askHR@baylor.edu](mailto:askHR@baylor.edu), or 254.710.2000

**General Provisions:**

To calculate the amount of FMLA leave an eligible faculty or staff member may request, Baylor reduces the current FMLA leave weeks requested by any previously used weeks in the prior twelve (12) month period. The term "any twelve (12) month period" in the policy above reflects the prior twelve (12) month period.

If the **requesting** faculty or staff member and his or her spouse are employed at Baylor, they are limited to a combined total of twelve (12) weeks of FMLA leave unless one of the spouses has a serious health condition, in which case each is allowed up to twelve (12) workweeks **of unpaid leave**.

**Use of Leave:**

Faculty and staff who are granted FMLA leave must use paid parental leave, and any accrued sick, vacation, and personal leave beginning with the effective date of the leave. Upon exhaustion of any such accrued leave, any remaining FMLA leave will be unpaid. The combination of paid and unpaid leave used for FMLA purposes will not exceed twelve (12) workweeks in any 12- month period.

When leave is to care for a service member or veteran with a serious injury or illness, an eligible faculty or staff member may take up to 26 work weeks of leave during a single 12-month period to care for that service member or veteran. Leave to care for an injured or ill service member or veteran, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in the single 12-month period during which the 26 weeks of military caregiver leave is available. A single 12-month period for purposes of military caregiver leave begins on the first day that a faculty or staff member takes military caregiver leave and ends twelve months after that date, regardless of the rolling 12-month period that Baylor University utilizes for determining available leave for other FMLA-qualifying reasons.

If the faculty or staff member continues to be disabled beyond the twelve (12) weeks allowed by FMLA, the faculty or staff member will be allowed to continue on unpaid medical leave up to a maximum of 12 months. Faculty and staff do not accrue leave benefits while on unpaid leave.

Eligible faculty and staff may take FMLA leave intermittently (in brief blocks of time), or by reducing their normal weekly or daily work schedule, when medically necessary for their own or an immediate family member's serious health condition or for the serious injury or illness of a service member or veteran. Intermittent FMLA is also available for leaves due to a qualifying exigency. With supervisory approval following the medical recovery period, a birth mother may use reduced schedule and intermittent FMLA leave to transition back to her regular percent time appointment during the bonding period and first year following the birth. With supervisory approval, a parent may use reduced schedule and intermittent FMLA leave to care for a newborn child or newly adopted child during the first year following the birth or adoption. Individuals who require intermittent leave or reduced-schedule leave must try to schedule their leave so that it will not disrupt the department's operations.

Eligible faculty and staff on leave for the care of a newborn child, child, spouse or parent, or his/her own serious health condition, must first use available leave benefits. The amount of sick leave allowed will be based on the period of disability per the health care provider's statement.

A faculty or staff member on leave for adoption or placement of a foster child must use any available paid leave benefits.

**Serious Health Conditions:**

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or

• Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

(1) A health condition (including treatment therefor or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also includes:

- Treatment two or more times by or under the supervision of a health care provider; or
- One treatment by a health care provider with a continuing regimen of treatment; or

(2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or

(3) A chronic serious health condition that continues over an extended period of time, requires periodic visits, at least twice a year, to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or

(4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or

(5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three consecutive days if not treated (e.g., chemotherapy or radiation treatments for cancer).

If a faculty or staff member's serious health condition is based on more than three consecutive calendar days of incapacity plus two visits to a health care provider:

- the first visit to the provider must occur within seven (7) days of the initial date of incapacity, and
- the second visit to the practitioner must occur within 30 days of the initial day of incapacity.

If the serious health condition is based on more than three consecutive days of incapacity plus a "regimen of continuing treatment", the faculty or staff member must visit a health care provider within seven (7) days of the onset of the incapacity.

If the serious health condition is based on "periodic visits to a health care provider" for a chronic serious health condition, the faculty or staff member must make at least two visits to a health care provider per year.

**Exigency Leave:**

- Available to qualified faculty or staff member with eligible family members who are on covered active duty (or has been notified of an impending call or order to covered activity duty) in the Armed Forces.
- Eight defined uses for *Exigency Leave*
  1. Short-notice deployment: Up to seven calendar days of leave to address any issue that arises when a covered service member is called to active duty seven days or fewer before deployment.
  2. Military events: To attend any ceremony, event, program, or activity sponsored by the military, a military organization, or the American Red Cross.
  3. Childcare and school activities: To attend to various childcare and school activities affected by a covered military member's call to active duty, such as to arrange for alternative childcare, provide emergency childcare, or deal with school or daycare enrollment necessitated by the active duty call, or to attend school meetings necessary due to circumstances arising from the active duty call.
  4. Financial and legal arrangements: To address the covered military member's absence.
  5. Counseling: For the faculty or staff member, a covered military member, or child, other than by a health care provider necessitated by a call to active duty.
  6. Rest and recuperation: With a covered military member who is on temporary, short-term rest and relaxation during a period of deployment. The Faculty or Staff member may be granted up to five (5) working days.
  7. Post-deployment activities: To attend military-sponsored events within 90 days after deployment.
  8. Additional activities: Arising from a call to active duty that is agreed upon between the employer and the faculty or staff member.

**Military Caregiver Leave:**

- Available to eligible family members of veterans of any branch of the military, provided the prior military service

was within five (5) years of the medical treatment that caused the need for caregiver leave.

- “Serious injury or illness” includes the aggravation of an existing or pre-existing injury of an active duty service member in the Armed Forces.
- Allows up to 26 weeks of military caregiver and regular FMLA leave to be taken within a designated year.
- Next of kin is defined as the “nearest blood relative” (other than a spouse, parent, son, or daughter), with the governing order of priority being that specified in the rule, unless the faculty or staff member has designated another blood relative as next of kin for the purpose of caregiver leave.

**Health Care Provider:**

Any health care provider recognized by Baylor University.

**Request/Documentation:**

If the leave is for the care of a newborn child, or for the foster care placement or adoption of a child, the faculty or staff member must notify his/her supervisor in writing thirty (30) calendar days in advance of the start of leave. If leave is not foreseeable, the faculty or staff member must provide a written notice as soon as practical. A statement from the faculty or staff member’s health care provider is required for the birth and care of a newborn child. Faculty and staff may take FMLA leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. *(For example, the faculty or staff member may need leave time to attend required counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parents, submit to a physical examination, or travel to another country to complete an adoption.)* Appropriate court documents are required for the foster care placement or adoption of a child.

If the leave is due to a faculty or staff member’s planned medical treatment or to care for his/her spouse, child or parent with a severe health condition, the faculty or staff member must notify his/her supervisor in writing at least thirty (30) calendar days in advance of the start of leave or minimally within two (2) working days of learning of the need for leave. A statement from a health care provider is required.

If the leave is to care for a spouse, child or parent who has a serious health condition, the faculty or staff member will be required to provide to his/her supervisor a health care provider’s statement that the faculty or staff member is needed to care for a spouse, child or parent and an estimated amount of time that the faculty or staff member is needed for such care.

Subject to the limitation and certifications allowed by the FMLA, leaves taken to care for a spouse, child, parent or for the faculty or staff member’s own illness, may be taken on an intermittent or reduced leave schedule when medically necessary. When intermittent leave is needed, the faculty or staff member must try to schedule time so as not to unduly disrupt the employer’s operation.

The health care provider must certify the expected duration and schedule of such leave. The faculty or staff member may be required to transfer temporarily to an available alternative position for which the faculty or staff member is qualified but has equivalent pay and benefits and better accommodates recurring periods of leave than the faculty or staff member’s regular position.

A faculty or staff member must inform his/her supervisor every thirty (30) days regarding his/her status and intent to return to work upon conclusion of the leave. A faculty or staff member is required to submit to his/her supervisor a return-to-work certification from the health care provider before returning to work. Where there is reason to doubt the validity of health care provider’s statement or certification for leave taken to care for a spouse, child, parent or for the faculty or staff member’s illness, Baylor may, at its own expense, require second and third opinions, as specified by the FMLA to resolve the issue.

**Contact with Health Care Providers:**

The designated HR representative may contact a faculty or staff member’s health care provider directly to authenticate or clarify information given in the certification form. The requested information may not be beyond what is requested on the certification form.

**Recertification Requirements:**

- “Lifetime” conditions may be re-certified a *minimum* of every six months, or earlier if circumstances have changed (*questionable continuous Monday or Friday absences, increase in time missed, etc.*)

- “Unknown” duration conditions may be recertified a *minimum* of every 30 days, or earlier if circumstances have changed.

#### **Department Responses to Requests for Leave:**

It is the faculty or staff member's responsibility to initiate a request for FMLA leave. When the faculty or staff member requests FMLA leave, or if Baylor becomes aware of circumstances which indicate that the faculty or staff member's leave may be for an FMLA-qualifying reason, Baylor will notify the faculty or staff member of their eligibility for FMLA leave within five (5) business days. Supervisors should notify HR if they believe any faculty or staff member's absence of three (3) or more consecutive days may qualify for FMLA leave.

#### **Benefits While on Leave:**

While on an unpaid leave, the faculty or staff member will be responsible for submitting payment on or before the date specified by HR. If a faculty or staff member does not pay the required contributions, coverage will be canceled. However, the faculty or staff member will be given fifteen (15) days' notice before coverage is cancelled. For those faculty and staff members who return from FMLA leave, Baylor may elect to recover any faculty or staff member share of contributions paid by the University for maintaining coverage(s) for the faculty or staff member while on FMLA leave.

Faculty and staff members who elect not to continue benefit participation while on FMLA leave must notify HR to cancel the coverage. If the faculty or staff member returns to work in an eligible status, the faculty or staff member has thirty (30) days from that date to reinstate coverage.

A faculty or staff member on FMLA leave may elect to continue participation in optional medical, dental, and life insurance for the duration of the FMLA leave. The faculty or staff member is responsible for paying his/her share of the contribution.

#### **Retirement Plan/Long Term Disability:**

Baylor University's Retirement contributions will cease during the FMLA leave when a faculty or staff member is in a non-compensated status. A faculty or staff member's eligibility for Long Term Disability (LTD) coverage will continue.

#### **Administrative Procedures:**

A faculty or staff member's need for FMLA may be planned or unplanned. When practical, a faculty or staff member should submit the Employee Request for Family Medical Leave to their supervisor at least thirty (30) days prior to the start of their FMLA. The following steps will guide a faculty or staff member through this process.

**Step 1:** Read the FMLA Policy

**Step 2:** Submit the [Employee Request for Family Medical Leave](#) to supervisor.

**Step 3:** Provide the Health Care Provider(s) with a copy of Baylor's FMLA Policy and the [Certification of Health Care Provider](#) form. *Staff members should also include a copy of their current [job description](#).*

**Step 4:** The completed Certification of Health Care Provider form should be returned directly to HR.

**Step 5:** HR will review the Employee Request for Family Medical Leave and the Certification of Health Care Provider forms.

**Step 6:** HR will notify the faculty or staff member, the supervisor, and the Payroll Office via email, that the FMLA Request has either been approved or denied.

**Step 7:** If the FMLA request is approved:

- Faculty members will be paid in accordance with their contract.

- Staff members should review their leave accrual balances (sick, personal, vacation) to determine if they have accrued enough paid time to cover the period of time that they will be on FMLA. **Shared Sick Time** may also be available.
  - If a staff member exhausts their accrued paid leave time, it is the responsibility of the staff member's department to notify the Payroll Office. The staff member's department will need to submit a **Leave of Absence Request** form to HR in order to place the faculty or staff member into a non-compensated leave of absence.

**Step 8:** While a faculty or staff member is on FMLA, they will be responsible for providing periodic updates on their leave status to HR. The frequency of such updates will be specified on the approval notification sent to the faculty or staff member.

**Step 9:** Prior to returning to work, the faculty or staff member on FMLA will be required to provide HR with a statement from their Health Care Provider that specifies the date that they will be released to return to work, and if applicable, restrictions and duration of the stated restrictions. (Note: It is possible for a faculty or staff member to return to work, and continue to be covered under FMLA on an intermittent basis.)

**Reinstatement:**

A faculty or staff member who takes FMLA leave shall be entitled, upon timely return from the leave and completion of all required documentation, to reinstatement to the same or equivalent position, with equivalent benefits, pay and other terms and conditions of employment.