
Requesting and Processing FMLA

Family and Medical Leave Act (FMLA) is a federal law that provides unpaid, job-protected leave to eligible employees, both male and female, in order to care for their families or themselves for specified family and medical conditions. FMLA provides eligible employees with up to 12 work-weeks of unpaid leave in a 12 month period. CUNY, however, allows its employees to use accrued leaves during the period covered by an approved FMLA leave.

If you are going to be out of work for more than 3 days because of illness to either yourself or a family member, you should request FMLA.

The following is a summary of guidelines and instructions for requesting FMLA.

Eligibility

- Have been employed by the College for at least 12 cumulative months, not necessarily consecutive; and
- Have worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.
- Reemployed members of the National Guard or reserve whose military service combined with the time employed and hours actually worked for CUNY satisfy the time and service requirements are eligible for FMLA.
- When counting the number of work-hours necessary for an employee to meet the maximum hourly requirements all regular scheduled and overtime hours must be included.
- An eligible CUNY employee who has met the FMLA eligibility requirement at his/her college, and then transfers or moves to another college without a break in continuous service, shall be eligible to request use of any unused FML/FLMA entitlement for that year at the receiving college.

Instructions

1. Arrange a meeting with or call the Benefits Officer in Human Resources thirty (30) days prior to requesting FMLA leave to receive the FMLA Leave Request Form information and the Certification of Health Care Provider Form (medical) and Certification of Qualifying Exigency for Military Family Leave (military).
2. Complete and sign the FMLA Leave Request Form and attach the required certification to the request form***.
3. Return ALL forms to the HR Department before you go on leave (if possible, if not, return ALL forms within 3 days of leave). The Benefits Officer will review the package for completeness and ensure the following are included:
 - Employees statement including reason for leave and expected return date
 - Physician's certification including start and end dates for duration of inability to work (or estimate).
4. The Timekeeper will get a time and leave report to determine whether leave accruals are available.
5. The Benefits Officer will review all paperwork to determine eligibility for FMLA based on length of service, reason for leave, and prior use of FMLA.
6. Notice of approval or denial of FMLA will be sent to the employee.

7. HR will notify your Supervisor of your plans to be out on FMLA. To the extent that is possible, employees must notify their supervisor of their intention to take FMLA leave immediately, so work coverage can be arranged during their leave.

ALL completed forms are to be submitted to the Benefits Officer for approval of leave, fifteen (15) days prior to the FMLA leave. The Benefits Officer will notify the employee's supervisor and the employee of approval or rejection upon receipt of the completed forms. Both the FMLA Leave Request and one of the two Certifications forms are needed in order to be granted FMLA and to receive pay for any accrued leave that you may have and want to use.

***** Documentation for Employees Requesting FMLA:**

- ❖ The birth of a child would require the employee or faculty member to provide medical certification form to include: the date of birth, or date from which the employee would be unable to work; the probable duration of the condition; the appropriate medical facts within the knowledge of the health care provider regarding the condition; and a statement that the employee is unable to perform the functions of their position.
- ❖ The placement of a child with any employee or faculty member for adoption or foster care would require the employee to provide certification of the event.
- ❖ Caring for the employee or faculty member's sick child, spouse or parent requires medical certification form to include: the date on which the serious health condition commenced; the probable duration of the condition; the appropriate medical factors within the knowledge of the health care provider regarding the condition; a statement that the eligible employee is needed to care for the son, daughter, spouse or parent, and an estimate of the amount of time that the employee is needed to care for the son, daughter, spouse or parent.
- ❖ An employee or faculty member's own serious health condition requires medical certification form to include: the date on which the serious health condition commenced; the probable duration of the condition, the appropriate medical facts within the knowledge of the health care provider regarding the condition and a statement that the employee is unable to perform the functions of their position.

Certifications for Military-Related Leaves

- ❖ In a case where an employee requests an FMLA leave based on circumstances relating to the active duty or call to active duty status of an employee's spouse, son, daughter or parent, a request for leave must be supported by (a) a copy of the military member's active duty orders or other documentation showing that he/she is in active duty/call to active duty status; and (b) a certification from the employee, with the required documentation, provided on a "Certification of Qualifying Exigency for Military Family Leave Form" and submitted to the Human Resources Director within 15 calendar days of the date of the request for leave.
- ❖ In a case where an employee requests an FMLA leave to care for a service member with a serious injury or illness, a request for leave must be supported by a certification to be filled out by both the employee and by a health care provider (generally from the Department of Defense or the Department of Veterans Affairs), provided on a "Certification for Military Caregiver Leave Form" documenting the serious injury or illness and the care required. The Certification must be provided within 15 days of the date of the request.

Two weeks prior to the approved expiration of FMLA leave, you must notify the Benefits Officer your intention to either return to work or to request an extension of leave of absence. Certification from the appropriate health care provider is required in order to return to work or to support a request for a continuation of medical leave.

Failure to report back to work on or before the expiration date or failure to request and receive approval for an extension to this leave will result in an AWOL status of employment. In addition, if you do not return to work for a minimum of thirty days, you will be held responsible for reimbursing Hostos

Community College for the premiums that are paid to maintain your benefits coverage during you unpaid FMLA leave.

Note: In order to comply with HIPAA privacy rules, all medical documentation should go directly to HR. Unless the employee makes the personal decision to discuss medical information with his/her supervisor, the supervisor should not ask for medical information.

Procedures Governing Intermittent or Reduced Schedule Leave Usage

- The college will determine on a case-by-case basis whether such requests will be granted for birth, adoption or foster care placement.
- The minimum leave increment shall be one (1) hour.
- An employee taking FMLA leave on an intermittent or reduced schedule may be transferred to an alternate temporary position. The alternative position shall have equivalent pay and benefits. The alternative position does not have to have equivalent duties but will better accommodate the recurring periods of requested leave than does the employee's regular position.

Rights of Reinstatement and Restoration upon Return from FMLA Leave

These rights exist only when employee returns immediately from FMLA leave. They are not guaranteed under any other circumstances.

- Upon return from FMLA approved leave, an employee will be reinstated to the same or to an equivalent position as that which the employee held when leave commenced.
- Upon return from FMLA approved leave, whether the employee is being restored to the same or to an equivalent position, the employee will be restored with the same benefits on the same terms as prior to taking the leave, unless changes have occurred for all employees during the time the employee was on FMLA leave.

Contacts

Keisha Pottinger, Human Resources Manager/Benefits Officer
718-518-6652, kpottinger@hostos.cuny.edu

Bridget Sheridan, Timekeeper
718-518-6819, bsheridan@hostos.cuny.edu

Attachments

CUNY FMLA Leave Policy
Family and Medical Leave Request form (available on the Hostos HR website)
CUNY FMLA Certification of Health Care Provider form (available on the Hostos HR Website)
Certification of Qualifying Exigency for Military Family Leave form
FMLA Questions and Answers for Employees

CUNY Policy on Family & Medical Leave Act

SCOPE

This policy applies to all members of the faculty and staff of The City University of New York (CUNY).

PURPOSE

CUNY recognizes the concerns of its faculty and staff to balance the demands of the workplace with the needs of his/her family. To address these interests, the CUNY FMLA Leave policy adopts the provisions of The Family and Medical Leave Act of 1993 (FMLA) and extends those provisions to cover domestic partner relationships.

STATEMENT OF POLICY

The CUNY FMLA Leave policy provides eligible employees with up to 12 weeks of unpaid, job-protected leave for qualifying reasons during the designated leave year *i.e.*, September 1st through August 31st. In order to be eligible, an employee must have been employed by the University for at least 12 months cumulatively, and must have worked at least 1,250 hours during the 12-month period preceding the requested commencement of the leave. The employee's FMLA 12 week leave period entitlement will commence anew for the subsequent period of September 1st through August 31st, provided that the eligibility requirements are fulfilled. The FMLA also provides for 26 weeks leave during a single 12 month period for a spouse, son, daughter or parent or next of kin to care for a member of the Armed Forces (including the National Guard or Reserves) who has a serious injury or illness.

Qualifying reasons for FMLA leave include the following:

- Childbirth and/or care for a newborn (within the first 12 months of birth)*;
- Childcare needs resulting from an adoption or foster care placement (within the first 12 months of the adoption or placement);
- Care for employee's spouse, domestic partner, child, or parent with a serious health condition;
- Employee's own serious health condition;
- Circumstances relating to the fact that an employee's spouse, son, daughter, or parent is on, or has been called to, active duty in the Armed Forces;
- Employee who is caring for a spouse, son, daughter, parent, or next of kin who is a seriously injured or ill service member.

**Spouses or domestic partners who are employed at the same CUNY College are limited to a combined total of 12 weeks within the FMLA leave year, when taking leave for these reasons.*

Leave taken for a newborn, adopted or foster child as described herein must be taken all at once. If the employee takes leave to care for a family member or for his/her own illness, he/she may take the time on an intermittent or reduced-time basis, but only if the medical condition necessitates this type of schedule.

For the purpose of this policy, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves incapacity or treatment connected with:

- inpatient care in a hospital, hospice or residential medical facility;
- pregnancy or prenatal care; or
- continuing treatment by a health care provider.

Under the CUNY FMLA Leave policy, an employee's leave of absence may be either paid or unpaid. However, before unpaid FMLA leave may be authorized, the employee will be required to exhaust any appropriate accrued paid leave.

Leave for illness granted under the University's temporary disability leave policy which extends beyond five (5) workdays will be counted as part of the annual FMLA entitlement, starting from the first day of leave. In addition, the first 12 weeks of any authorized leave taken pursuant to University policies or collective bargaining agreements that qualify as FMLA leave will be counted against the FMLA entitlement for that leave year.

For the serious health condition of an employee, which may include a pregnancy-related condition, paid sick leave accruals must be used first, followed by all other available time and leave accruals.

For the birth and care of a newborn, placement with the employee of a child for adoption or foster care, or for care necessitated by the serious health condition of a family member, all available paid time and leave accruals other than sick leave accruals must be charged before unpaid leave may be granted.

While on paid/unpaid leave, CUNY will maintain group health benefits in the same manner as prior to leave. Pension contributions will continue, however, only during the paid portion of the leave.

Upon return from FMLA leave, the employee will be restored to the position held prior to the leave or to an equivalent position with equivalent benefits. If the employee fails to return to work upon expiration of the FMLA leave and has not received authorization for his/her continued absence, he/she may be subject to disciplinary action in accordance with University policies and applicable collective bargaining agreements.

Family and Medical Leave Request Form

THE CITY UNIVERSITY OF NEW YORK

Hostos Community College

Eligible employees are entitled to up to 12 weeks of unpaid job-protected leave for certain family and medical reasons. If you wish to request family and medical leave under the CUNY FMLA Policy, submit this completed request form to your Human Resources Director/Personnel Officer as early as practicable, preferably no fewer than 30 days in advance of the start of your leave. **If requesting intermittent or reduced schedule leave, you must attempt to work out a schedule with your supervisor which meets your needs without unduly disrupting your department's operations.** CUNY reserves the right to deny or postpone leave for failure to give appropriate notice.

(Please Type or Print)

1. _____
LAST NAME FIRST NAME MIDDLE INITIAL

JOB TITLE DEPARTMENT

2. REASON FOR REQUESTING LEAVE --please check the appropriate box.

- A. My own serious health condition (Certification of Health Care Provider required.)
- B. Birth of my child; to care for my new born child – Date of birth: _____ (Appropriate documentation required)
- C. Placement of child with me for adoption or foster care. Date of placement: _____ (Appropriate documentation required)
- D. To care for my family member (including spouse, domestic partner, child or parent) with a serious health condition. (Certification of Health Care Provider and proof of relationship required.)
- E. To care for a seriously injured or ill service member
- F. Family member called to active duty in the military.

Name/Relationship: _____ Please identify documentation on file _____

3. I request CONTINUOUS FMLA LEAVE starting (date): _____ and ending (date): _____.

4. I request INTERMITTENT FMLA LEAVE starting (date): _____. My anticipated schedule of absence is as follows (attach an additional sheet if needed):

5. I request FMLA LEAVE in the form of a REDUCED WORK SCHEDULE from _____ hours/week to _____ hours/week starting (date): _____ and ending (date): _____.

6. Intermittent or reduced work schedule leave is medically necessary because: (attach an additional sheet if needed):

EMPLOYEE STATEMENT OF UNDERSTANDING

I am aware of and understand the following:

- I must return a completed medical certification form to the Human Resources Director/Personnel Officer within 15 days of submitting this request, or as soon as practicable. Failure to do so may result in my leave being delayed until I provide this documentation;
- Before I return to work following a leave for my own serious illness, I may be required to present a fitness for duty certification to the Human Resources Director/Personnel Officer;
- My health benefits will continue during my leave and I am expected to continue to pay my share of health insurance premiums, if any;
- If, under current University leave policies, I am eligible to lengthen this leave or request other leave benefits, I will submit the appropriate documents to the Human Resources Director/Personnel Officer prior to the conclusion of my family and medical leave; and,
- If I fail to return to work upon the conclusion of this leave, I may be subject to disciplinary proceedings or other action in accordance with CUNY policies, rules and regulations, and applicable collective bargaining agreements.

Signature of Employee Date: _____

Received by: _____ Date: _____
Human Resources Director/Personnel Officer

PART A: MEDICAL FACTS

1. Approximate date condition commenced _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
___ No ___ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ___ Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment, such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ___No ___Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ___No ___Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
___No ___Yes

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ___No ___Yes

Is it medically necessary for the employee to be absent from work during the flare-ups?
___No ___Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Signature

Date

(Family and Medical Leave Act)

HOSTOS COMMUNITY COLLEGE

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. Your response is voluntary, and while you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations.

Employer name: _____

Contact Information: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. Your employer must give you at least 15 calendar days to return this form to your employer.

Your Name: _____
First Middle Last

Name of covered military member on active duty or call to active duty status in support of a contingency operation:

First Middle Last

Relationship of covered military member to you: _____

Period of covered military member's active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

PART A: QUALIFYING REASON FOR LEAVE

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached. Yes No None Available

PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: _____

Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency? No Yes.

If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? No Yes

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.

PART C:

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Certification of Qualifying Exigency
For Military Family Leave

THE CITY UNIVERSITY OF NEW YORK

(Family and Medical Leave Act)

HOSTOS COMMUNITY COLLEGE

Telephone: (_____) _____ Fax: (_____) _____

Email: _____

Describe nature of meeting: _____

PART D:

I certify that the information I provided above is true and correct.

Signature of Employee

Date

FMLA Questions and Answers for Employees

Q. Who do I contact if I have questions about taking time off for family and medical (serious health condition) needs?

Keisha Pottinger- Human Resources Manager/Benefits Officer- ext. 6652
Bridget Sheridan- Timekeeper- ext. 6819

Q. What forms are needed to receive FMLA?

There are only two forms needed to request FMLA:

1) Family and Medical Leave Request Form and 2) The CUNY FMLA Certification of Health Care Provider Form or the Certification of Qualifying Exigency For Military Family Leave Form. All forms are located on the Hostos HR website and in the Human Resources Office-B-215.

Q: When should I contact the HR department or my supervisor if I need FMLA or have a medical issue (pregnancy, illness, injury for myself or family member, etc.)?

If you are an "eligible" employee, as with any type of leave, advance notice and approval is expected, except in emergencies. You should give ***at least 30-days written notice*** before leave starts. If 30-days notice is not possible, notice is expected as soon as practical, which means at least verbal notice within 3 business days of learning of your need for leave followed by written confirmation. If you do not provide timely notice, your rights to family/medical leave may be affected.

Q: How is the 12-month period calculated under FMLA?

CUNY calculates the 12-month for FMLA from September 1st through August 31st.

Q: Does the law guarantee paid time off?

No. The FMLA only requires unpaid leave. However, the law permits an employee to elect or CUNY to require the employee, to use accrued paid sick or vacation leave or, subject to certain restrictions, sick or family leave, for some or all of the FMLA leave period. When paid leave is substituted for unpaid FMLA leave, it may be counted against the 12-week FMLA leave entitlement.

Q: Does workers' compensation leave count against an employee's FMLA leave entitlement?

It can. FMLA leave and workers' compensation leave can run together, provided the reason for the absence is due to a qualifying serious illness or injury.

Q: Can CUNY count leave taken due to pregnancy complications against the 12 weeks of FMLA leave for the birth and care of my child?

Yes. An eligible employee is entitled to a total of 12 weeks of FMLAA leave in a 12-month period. If the employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of the 12-week FMLA leave entitlement.

Q: Can CUNY count time on maternity leave or pregnancy disability as FMLA leave?

Yes. Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA leave for a serious health condition and may be counted in the 12 weeks of leave.

Q: Who is considered an immediate "family member" for purposes of taking FMLA leave?

An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law". The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of mental or physical disability that limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the [Americans With Disabilities Act \(ADA\)](#).

Q: May I take FMLA leave for visits to a physical therapist, if my doctor prescribes the therapy?

Yes. FMLA permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for therapy treatments such as those ordered by a doctor for physical therapy after a hospital stay or for treatment of severe arthritis.

Q: Do the 12 months of service with the CUNY have to be continuous or consecutive?

No. The 12 months do not have to be continuous or consecutive; all time worked for the CUNY is counted.

Q: Can CUNY require me to return to work before I exhaust my leave?

Subject to certain limitations, your CUNY may deny the continuation of FMLA leave due to a serious health condition if you fail to fulfill any obligations to provide supporting medical certification. The employer may not, however, require you to return to work early by offering you a light duty assignment.

Q: Can CUNY make inquiries about my leave during my absence?

Yes, but only to you. CUNY may ask you questions to confirm whether the leave needed or being taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work after leave. Also, if the employer wishes to obtain another opinion, you may be required to obtain additional medical certification at the employer's expense, or rectification during a period of FMLA leave. CUNY may have a health care provider representing the employer contact your health care provider, with your permission, to clarify information in the medical certification or to confirm that it was provided by the health care provider. The inquiry may not seek additional information regarding your health condition or that of a family member.