



**The College at Brockport  
State University of New York**

**Category:**

Office of Human Resources

**Responsible Office:**

**Office of Human Resources**

**Policy Title:**

Family and Medical Leave Act

**Effective Date:** January 16, 2009

**Policy:**

Background

Employees who meet certain service requirements are entitled, through the federal Family and Medical Leave Act (FMLA), to take leave of up to 12 weeks per year for serious personal or family health conditions. This leave can also be used for the arrival of a new child by birth, adoption, or foster placement.

Although FMLA leave is unpaid, the employee may elect to charge appropriate leave credits in order to continue income during such an absence. FMLA may be taken in consecutive "blocks" of time, or intermittently as needed.

Eligibility

1. Employee has completed a minimum of one year of State Service (months do not need to be consecutive)
2. Employee has at least 1250 working hours for the employer during the 12-month period before the leave begins. (These months are consecutive.)
3. Employee works at a work site that employs at least 50 employees at or within a 75-mile radius of that work site.
4. Absence due to a serious health condition of the employee, the child, parent, or spouse of the employee.

Definitions

1. Serious health condition – 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 or prevents the qualified family member from participating in school or other daily activities.
2. Child - a newborn, a child 18 and under, a child 18 and over unable to care for self due to disability, foster children, wards of the state, stepchildren.
3. Parent - biological or legal guardian since childhood.

Medical Documentation

Satisfactory medical documentation must accompany all requests for FMLA leave. Acceptable documentation should include prognosis, start date of the illness, and anticipated return to work date. For a personal serious health condition, employees should complete the Certification of Health Care Provider Form WH-380-E. For a family member's serious health condition, employees should complete the Certification of Health Care Provider Form WH-380-F.

### FMLA and the NDAA

On January 28, 2008, President Bush signed into law H.R. 4986, the National Defense Authorization Act for FY 2008 (NDAA). Among other things, section 585 of the NDAA amends the Family and Medical Leave Act of 1993 (FMLA) to permit a "spouse, son, daughter, parent, or next of kin" to take up to 26 workweeks of leave to care for a "member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness."

The NDAA also permits an employee to take FMLA leave for "any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation."

The final rule, effective January 16, 2009; defines "qualifying exigency" as follows:

- 1) Short-notice deployment
- 2) Military events and related activities
- 3) Childcare and school activities
- 4) Financial and legal arrangements
- 5) Counseling
- 6) Rest and recuperation
- 7) Post-deployment activities
- 8) Additional activities not encompassed in the other categories, but agreed to by the employer and employee

### Documentation

Employees requesting leave under this section should complete the Certification for Serious Injury of Illness of Covered Servicemember for Military Family Leave, Form WH-385 or Certification of Qualifying Exigency for Military Family Leave, Form WH-384 as applicable.

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### **Procedure:**

1. Employee submits written request to supervisor of need for FMLA as soon as possible (within thirty days for a scheduled surgery or other planned absence). Written request should be accompanied by a Leave Request Form and the appropriate certification. **(Supervisors have a responsibility to keep medical information and documentation confidential.)**
2. Employee completes timesheets for submission to payroll with a clear indication if time accruals are to be used. \*Supervisor may complete upon verbal verification with employee.
3. The supervisor prepares an *Appointment Form* placing the employee on FMLA leave. The supervisor will indicate leave date and expected return to work date. The supervisor will also indicate if the leave is to be taken using accruals at full, partial, or no pay. The *Appointment Form* should be sent with the employee's request for leave, and the appropriate certification to the Office of Human Resources for final verification and approval.  
**\*Partial documentation will be sent back to the supervisor for completion.**

4. Upon verification of eligibility and designation of FMLA leave, the employee shall receive a letter from the Office of Human Resources.

**Procedure for Requesting Unplanned FMLA**

1. Employee should notify supervisor verbally as soon as possible. Employee should include expected dates of absence, usage of accruals for said absence, and reason for absence.
2. Steps two through four shall be followed as described above\*  
\*Medical documentation due from employee two days of returning to work or FMLA status may be revoked.

**Extended Absences**

If the medical provider extends the employee's absence, the employee must submit additional medical documentation to his/her supervisor. At that time, the supervisor/employee should follow procedural steps one through three as described for a planned FMLA absence.

**Returning to work**

Employees must submit a Return To Work Authorization Form to their supervisors indicating that they are able to perform the full range of duties **prior** to being allowed to return to work after being out on leave for a serious health condition (If said leave was for the employee, not an eligible family member, or approved intermittent leave). The supervisor should e-mail, call, or fax the Office of Human Resources indicating when the employee is returning to work. The supervisor must complete an *Appointment Form* returning the employee from leave on the date the employee returns to work and route the form to the Office of Human Resources.

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**Forms: -**

Appointment/Status Change Recommendation Form

Leave Request Form

Certification- Form WH-380-E, WH-380-F, WH384, or WH-385

Return To Work Authorization Form

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