

APPLICATION FOR LEAVE UNDER FMLA

Please review the attached FMLA Procedure before completing your application. For anticipated absences, this FMLA application should be submitted at least thirty days before the leave is to begin, or as soon as the employee becomes aware of the necessity of the absence. For an unanticipated absence, notice of intent to use FMLA leave must be given within five business days of the leave-qualifying event when the absence is expected to continue or has extended beyond five calendar days. FMLA qualifying absences for medical reasons, paid or unpaid, anticipated or unanticipated, will be designated as FMLA leave from the beginning of the absence even if the Application for FMLA leave has not been made by the employee. Notification of such absence will be made to the Foundation's Department of Human Resources by the employee's immediate supervisor. Oral notice may precede written notice. The HR Department may request a medical certification. Failure to comply in a timely manner may result in the leave being delayed. See RFCUNY's website at www.rfcuny.org for more information on policies and procedures governing FMLA leave, which supersede all prior written communications on this subject. Any approved leave for illness granted under the Foundation's temporary disability leave provisions, which extends beyond five days or which otherwise qualify under federal guidelines, will be considered as part of the employee's Family and Medical Leave Act of 1993 (FMLA) entitlement, assuming that it qualifies for FMLA under the attached procedure.

To Be Completed By the Employee:

Name _____ Employee ID No. _____ Title _____

Campus/Program _____ Daytime Telephone # _____

I hereby apply for leave under the FMLA for the period: From _____ To _____

Indicate Reason for Taking Leave: (Please check one)

Serious health condition (Self) (defined below)
Birth/Adoption of a Child

Serious health condition (Family)
Service member Exigency/Caregiver

If leave of absence is for other than your own serious medical condition or covered military family member, indicate and attach documentation establishing relationship (do not attach originals):

Full Name of Family Member _____

Relationship _____

Reason Leave is Requested _____

I understand that:

- Upon request, I will be required to furnish a medical certification and, if necessary, re-certification for my serious health condition directly to the Department of Human Resources.
- I may be reinstated to the same or a similar position.
- If I fail to return to work immediately upon the conclusion of FMLA leave, I shall be treated as having voluntarily terminated my employment with the Research Foundation. If, under the Foundation's personnel policies, I am eligible to lengthen this leave, I will submit the appropriate documents prior to the conclusion of my FMLA leave. (NOTE: FMLA leave is limited to 12 weeks within a 52-week period.)
- The Research Foundation will recover any insurance premiums or payments made on my behalf by the Foundation while I am on unpaid leave.

Signature of Applicant _____ Date _____

Approved by _____ Date _____
Sr. Director of Human Resources or Designee

FAMILY AND MEDICAL LEAVE ACT (FMLA) PROCEDURE

All RF employees are entitled to benefits under the Family and Medical Leave Act of 1993.

Eligibility

An employee must:

- have worked for the Foundation for a total of at least 12 months, and
- have worked at least 1,250 hours over the previous 12 months

Eligible employees may take up to 12 work weeks of leave during any 12-month period. The 12-month period is a rolling period measured backwards from the date an employee uses any FMLA leave.

The FMLA entitles eligible employees of covered employers to take 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 employee had not taken leave. Eligible employees 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 employee 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 employee's spouse, child, or parent who has a serious health condition;
 - a serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - any qualifying exigency arising out of the fact that the employee'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 employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

Request for FMLA Leave

A request for FMLA leave must be submitted in writing using the Application for Leave under FMLA, within 30 days prior to the commencement of the leave, if the need for the leave is foreseeable, or as soon as possible in the event of an emergency. Failure to initiate or complete a written request in a timely manner may result in the delay of the leave.

Spouses employed by the Research Foundation are jointly entitled to a combined total of 12 work weeks of FMLA leave for the birth or placement of a child for foster care or adoption and to care for a parent (but not parent-in-law) with a serious health condition.

Serious Health Condition includes:

- Inpatient care: A condition that involves an overnight stay and/or any period of incapacity or subsequent treatment in connection with an overnight stay.
- Continuing care: A condition that requires continuing treatment. This means that the incapacity last more than three consecutive calendar days AND involves:
 - Two or more treatments by or under supervision or referral of a health care provider within 30 days of the start of the incapacity, provided that the first treatment must occur within seven days of the first day of incapacity, OR
 - One treatment by a health care provider within seven days of the first day of incapacity that results in a regimen of continuing treatment (an example would be prescription medication or therapy with specialized equipment)
- Chronic condition: A condition that-
 - Requires periodic treatment (two or more per year) by or under the direct supervision of a health care provider, AND
 - Continues over an extended period, including recurring episodes (such as asthma, diabetes and epilepsy)
- Permanent or long-term incapacity: A condition for which treatment may be ineffective and which requires the supervision of, but not necessarily treatment by, a health care provider (examples would include Alzheimer's and paralysis)
- Multiple treatments: A condition that requires, by or under the supervision, orders, or referral of a health care provider:
 - Restorative surgery after an accident or injury, or
 - A condition that is likely to result in incapacity of more than three consecutive calendar days without medical intervention or treatment (examples include cancer, severe arthritis, kidney disease). This includes the recovery period.

Birth of a Child or Adoption Leave may be taken for the birth or placement of a child only within 12 months of that birth or placement. Appropriate paid leave will run concurrently with Family Leave. When available, all appropriate paid leave must be used prior to the commencement of unpaid Family Leave. A copy of the adoption papers and an indication of the expected return-to-work date in the written leave request are sufficient to document the use of Family Leave for adoption purposes.

Family Leave Certification requests must be documented by a health care provider's certification of a serious health condition for the employee or that of a family member (spouse, child, or parent). Recertification may be required as needed. For paid leave to be used for absences relating to childbirth, personal illness, or the illness of a family member covered by Time & Leave Policy (506), a health-care provider's certification is also necessary (see "Sick Leave" section). For care of a family member, proof of relationship is required and the employee may only use "Annual Leave." Failure to provide certification in a timely fashion may delay the commencement of leave or result in denial of the request for Family Leave.

Military Exigency Family Leave eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post- deployment reintegration briefings.

Military Caregiver Leave permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member or veteran of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Intermittent FMLA Leave requests must be submitted in a written request at least 30 days prior to the commencement of leave in cases where the leave is foreseeable. When an employee becomes aware of a need for Family Leave less than 30 days in advance, the employee must provide notice as soon as practical. The employee may work a reduced schedule if "medically necessary." Leave may be taken on an intermittent basis or work schedule may be reduced for the birth or placement of a child only if the arrangement is agreed upon by the employer. If the employee is part-time, the leave entitlement is pro-rated. For example, if the employee normally works 30 hours per week, the employee is entitled to up to 26 weeks of leave at 30 hours per week. Leave taken on an intermittent basis is calculated by the hour. If the employee is full-time working 35 hours per week, they are entitled up to 420 hours of leave. A part-time employee's hourly entitlement is prorated. For example, if the employee normally works 30 hours per week, their hourly entitlement is 360 hours.

Regulations Governing FMLA Leave

For the purposes of granting of FMLA qualifying leave, an eligible full-time employee who has met the FMLA eligibility requirements on one grant/contract, and who moves from one grant/contract to another grant/contract under approved Research Foundation policies, without a break in continuous service, shall be eligible to request use of any unused FMLA entitlement provided the employee's current appointment end date exceeds the FMLA period.

Time and Accruals

Approved paid leave must be used prior to unpaid leave.

- For a serious medical condition of an employee, paid sick leave accruals must be used first, followed by all other available time and leave accruals. Accruals must be charged before unpaid leave may be granted. In addition, any employee illness or non-job related injury must comply with the Foundation's procedure regarding short-term disability. FMLA entitlements will run concurrent with the Foundation's temporary disability leave and personal leaves.
- For the care of a newborn, placement with the employee of a child for adoption or foster care (child care leaves), or for care necessitated by the serious medical condition of a family member, any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or 26 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 employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave), all available paid time and leave accruals, other than sick leave accruals, must be charged before unpaid leave may be granted.
- Employees on unpaid FMLA leave will not accrue annual leave, temporary disability leave, or holidays (both scheduled and unscheduled). Employees on a reduced or intermittent schedule will earn accruals at the appropriate part-time rate.

Continuity of Benefits

The Research Foundation will maintain whatever health insurance coverage an employee was enrolled in during the period of paid FMLA leave, and on the same terms. Employees on an unpaid FMLA leave are responsible to pay their contributions of the monthly premium. The Research Foundation will continue to contribute its portion of the total premium. The Department of Human Resources will notify the employee by mail regarding the amount of the monthly premium due and the deadline for remittance of payment. Failure to remit payment may result in the termination of health insurance coverage. The Foundation has the right, upon the employee's return from leave, not to reinstate any benefit or condition of employment that has been discontinued. When an employee notifies the Foundation that s/he is not returning from leave, the Foundation shall terminate the employee's health benefits. The employee shall be entitled to continuation of health benefits in accordance with the provision of COBRA and the health plan.

The Research Foundation may require updated medical certifications periodically.

Returning from FMLA Leave

Under one of the qualifying entitlements for FMLA, intermittent leave (taken either in blocks of time or a reduced work schedule) may be designated by the employer. In all cases, this leave may not exceed 12 weeks in the designated 12-month period. In such cases, supervisors may assign the employee to an alternative position with equivalent pay and benefits.

Provided that an employee's current appointment has not ended, when on leave, staff is required to report periodically regarding the status of the medical condition and their intent to return to work. In certain instances, re-certification may be necessary. Fitness certification stating the employee may safely perform their job, must be submitted to the Department of Human Resources, prior to return of duty.

When an employee returns immediately from FMLA leave the following provisions are guaranteed:

- 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 the 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 or the employee is classified with a different status.

When an employee notifies the Foundation that s/he is not returning from leave, s/he shall no longer have a right to restoration to the same or equivalent position.

Confidentiality

In recognition of the need for employee privacy, and to protect personal health information, the Research Foundation has implemented safeguards to insure confidentiality, security and integrity of confidential health information. In this regard, all requests for leave must be submitted directly to the Department of Human Resources. In order to respond timely to employees' requests for FMLA leave, the employee must complete an RF/CUNY Application for Leave under FMLA and, upon request by the Leaves Management Administrator, a Medical Certification Form (WH-380E or WH-380F). This procedure does not amend or change the continuance of any and all internal Research Foundation, Board of Directors, or legal notification requirements currently in effect.

The employee's supervisor will ensure that all information relating to requests for family or medical leave will be kept confidential. Due to HIPAA regulations, the employee's supervisor will not see any of his/her private medical records unless they allow them to. Medical documentation is usually sent directly to the short-term disability underwriter, and the employee's privacy is protected by law. Supervisors must submit all records to the Foundation's Department of Human Resources and shall not retain any copies in their files.

Appeals

Any appeal made by a Research Foundation employee regarding denial of FMLA leave shall be presented in writing to the Department of Human Resources.

Other Provisions

The Research Foundation, consistent with the Family and Medical Leave Act of 1993, shall interpret all provisions of this procedure. The Research Foundation reserves the right to modify this procedure at any time. This procedure does not create any employment rights to any individual other than specifically stated in the procedure. This procedure is not intended to create any rights greater than that conferred on employees by the Family and Medical Leave Act of 1993.

For further information regarding the FMLA, please contact the Department of Human Resources at (212) 417-8300.