



### Campus Guideline

<b>Guideline Title:</b>	<b>Family and Medical Leave for Classified Staff</b>
Source:	Human Resources
Prepared by:	Assistant Vice Chancellor for Human Resources
Approved by:	Teresa Berryman, Vice Chancellor for Administration and Finance
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Replaces:	Classified Staff Family and Medical Leave Rules and Procedures (HSC and Denver)
Referral:	Personnel Director's Administrative Procedures - Chapter 5 State of Colorado Employee Handbook Family Medical Leave Act 1993
Applies to:	All campuses

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#### A. Introduction

These guidelines communicate the campus procedures for compliance with State Personnel Director's Administrative Procedures on Family Medical Leave (FML), and apply only to classified staff. The [Human Resources Department](#) (HR) has a designated [FML Coordinator](#)

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#### C. Eligibility

Classified staff are eligible for up to 13 weeks (520 hours) of FML in a fiscal year if they have worked for the State for at least 12 months, not necessarily consecutively. A temporary employee must also have worked at least 1,250 hours in the past 12 months. Employees in the Reserves or National Guard are entitled to count active military duty absences as time worked to establish eligibility (like other employees on the payroll even if on an unpaid leave).

The 520 hours is prorated for part-time employees. Eligibility is calculated from the date leave will begin.

Appointing authorities may approve additional time beyond the FML, which is treated the same as any other type of paid or unpaid leave.

### Reasons for Family Medical Leave

Family Medical Leave may be taken for the following:

- Employee serious health condition
- Birth and care of child. The leave must be completed within one year of the birth.
- Placement and care of a child from adoption or foster care. The leave must be completed within one year of the placement.
- Care of a child, parent, or spouse with a serious health condition.

The following definitions and information are provided to clarify the application of the Family Medical Leave Act.

Definition of immediate family member: The employee's child under the age of 18 including foster or step child or an adult child incapable of self care; parent or legal dependent for whom the employee is the primary caregiver; or another person living in the employee's household for whom the employee is the primary caregiver. The appointing authority may require documentation confirming the family relationship.

Incapable of self-care: The individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" such as grooming and hygiene, bathing, dressing and eating.

Incapacity: Inability to work, attend school or perform other regular daily activities.

Serious health condition: An illness, injury, impairment, physical or mental condition that requires:

- In-patient care in a hospital, hospice, or residential medical facility;
- Continuing treatment by (or under supervision of) a health care provider;
- Incapacity of more than 3 consecutive calendar days and subsequent treatment where the person cannot perform regular daily activities;
- Any period of incapacity due to pregnancy or for prenatal care, severe morning sickness and delivery;
- Any period of incapacity or treatment for such incapacity due to a chronic serious health condition.

A chronic serious health condition:

- Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
- Continues over an extended period of time;
- May cause episodic rather than a continuing period of incapacity (e.g., diabetes, epilepsy, etc.).
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. Examples include Alzheimer's, stroke, or terminal stage of an illness/disease.

Conditions not eligible: Cosmetic treatments (such as acne or plastic surgery), the common cold, upset stomach, routine dental problems, flu, minor headaches, periodontal disease, ear aches, minor ulcers, etc.

Health care provider: A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, clinical social workers who are

authorized to practice under state and any health care provider from whom the University's health care plans will accept certification of the existence of a serious health condition.

#### **D. Requesting FML**

As with any type of leave, advance notice and approval is expected, except in emergencies. Employees must give at least 30 days written notice before leave starts. If 30 days notice is not possible, notice is expected as soon as practical. "As soon as practical" means at least verbal notice within two business days of learning of the need for leave followed by written confirmation. If an employee does not provide timely notice, his/her rights to FML may be affected.

The [State of Colorado Leave/Absence Request and Authorization form](#) should be used to request leave. Appointing authorities are responsible for determining if leave qualifies for FML. It is the employee's responsibility to provide enough information so that the appointing authority can make this determination. Employees cannot waive their rights under the FML.

##### **1. Intermittent Leave & Reduced Schedule**

In the case of a serious health condition and when medically necessary, FML can be used on an intermittent basis or with a reduced work schedule. Requests for intermittent leave or a reduced schedule in other circumstances may be granted at the sole discretion of the appointing authority. To accommodate such requests, the appointing authority may temporarily transfer the employee to another position. No temporary reduction in schedule is allowed until all paid personal leave is exhausted.

Employees must work with their appointing authority to establish a mutually satisfactory treatment schedule that does not unduly disrupt business and meets the employee's (or the patient's) medical needs. If an employee fails to consult with the appointing authority, the employee may be requested to reschedule treatments, subject to the approval of the health care provider.

When FML is used for reasons where intermittent/reduced schedules are not medically necessary, the employee may still request such a schedule. However, the appointing authority has the discretion to approve or deny the request.

##### **2. Medical Certifications**

In the case of a serious health condition for the employee or family member, the employee must supply a [medical certificate](#) from the health care provider(s) for any absence of more than three consecutive, regularly scheduled, full working days. The appointing authority has the discretion to request a medical certification for an absence of less than three days. If the appointing authority wants to pay for a second opinion, s/he should consult with the FML Coordinator.

The appointing authority may request additional medical certificates at intervals of 45-60 days or when there is a change in condition or the conclusion date in the original certificate.

The appointing authority will notify the employee of the need for any medical certificates which are due within 15 calendar days. Failure to provide the required medical certificate(s) may result in delay or denial of FML. All medical information will be maintained in confidence, as required by the Americans with Disabilities Act.

##### **3. Approval**

The appointing authority accepts the leave request and the medical certification and consults with the [FML Coordinator](#) on any issues pertaining to the approval or disapproval of FML for the employee. The appointing authority then sends a [Notice to Employee](#) letter advising the employee of the approval or denial of FML and the conditions. If the employee does not have the medical certification; the appointing authority acknowledges receiving the FML request and grants a conditional approval under two conditions:

- a. The employee provides a medical certification within 15 days and,
- b. The employee would qualify otherwise.

Once the medical certification is received the appointing authority proceeds with the approval and the sending of the Notice to Employee letter.

[Notice to Employee](#): original to employee, copy to Department and FML Coordinator  
[Medical Certification](#): original to Department, copy to employee and FML Coordinator

4. **Fitness-To-Return**  
At the end of an employee's own FML, a fitness-to-return certificate may be required to verify his/her ability to return to work. A fitness-to-return certificate is required if the employee is absent for more than 30 days. or may be required based on the nature of the medical condition in relation to the employee's assignment.
5. **Periodic Communication**  
Communication between the employee and appointing authority is a vital part of making sure the employee receives all of his/her rights under FML. It should begin at the point the employee is aware of the need for leave and continue through the conclusion of the FML. The employee and appointing authority are expected to work out a mutually satisfactory check-in schedule during the absence, including updates on the employee's current status and intent to return to work.
6. **Substitution of Paid Leave**  
FML is a guaranteed period of leave with job protection. The amount of paid or unpaid FML depends on the individual situation and the amount of accrued leave. Employees are required to use accrued sick leave and annual leave before being placed on unpaid FML. In addition, all other absences, such as holidays, funeral, short-term disability leave, and injury leave (not make whole) under worker's compensation that would also qualify for FML will be counted toward the 13 weeks of FML. In other words, all paid leaves run concurrently and do not extend the time that employees are entitled to under FML. The only exception is when an employee is being "made whole" while receiving workers' compensation payments the FML clock stops.

During any paid leave, employees will continue to earn annual and sick leave. During any unpaid leave, employees will not earn annual and sick leave, the anniversary date will be adjusted, and they will not receive service credit for retirement purposes.

#### **E. Steps to Process and Approve Classified FML**

1. The employee requests FML from their department, use of the [State leave form](#) is sufficient.
2. Department gives a verbal approval based on the condition that a valid [medical certification](#) is provided.
3. The employee has their medical provider fill out the [medical certification](#) form and returns the completed form to their department.
4. Department reviews the medical certification, consults with [FML Coordinator](#).
5. Department issues the [Notice to Employee](#); Appointing Authority, Chair or Dean signs authorizing the leave for FML.
6. Copies of both, the medical certification form and Notice to Employee are sent to [FML Coordinator](#).

## **F. FML Forms for Classified Employees**

1. Employee starts by filling out [Medical Certification](#) and [Leave Request](#).
2. Supervisor responds by sending employee [Notice to Employee](#) and [Fitness to Return to Work](#).
3. [FML informational handout](#) for both supervisor and employee available.

## **G. Additional Information**

### **1. Benefits**

University insurance eligibility continues while on approved FML. If FML is paid, the employee share of the premiums will continue to be paid through normal payroll deductions. If the FML is unpaid and the employee elects to maintain university insurance coverage, the employee must pay his/her portion of the premium (the amount deducted from pay) as due monthly. Failure to make payments when due could result in coverage cancellation retroactive to the last month for which full payment was made. If the employee elects not to maintain coverage during unpaid FML (subject to Section 125 requirements), the insurance coverage will be reinstated upon return to work. Contact the [University Payroll Benefit Services](#) for specific information and arrangements.

If open enrollment occurs while an employee is on FML, he/she will still have an opportunity to participate. The materials will be sent to the home address. The employee will need to meet the deadlines given in those materials, unless there are special extenuating circumstances worked out through the Payroll Benefit Services.

### **2. Job Protection**

When employees return to work, they will be restored to their position or an equivalent one, subject to the provisions of the Family and Medical Leave Act of 1993. An equivalent position is one with the same pay grade, benefits, work schedule, proximate geographic location, and other terms and conditions of employment. This does not apply if employment would have otherwise been terminated had the employee not taken FML, such as lay off or disciplinary termination.