

Family and Medical Leave Act of 1993 (FMLA) FAQs

1. What is FMLA?
 - a. The Family and Medical Leave Act (FMLA) provides covered employees with up to 12 weeks of unpaid, job-protected leave per year.
2. What types of situations does it cover?
 - a. Eligible employees may take up to 12 work weeks of leave in a 12-month period for one or more of the following reasons:
 - The birth of a son or daughter, or placement of a son or daughter with the employee for adoption or foster care;
 - To care for a spouse, son, daughter, or parent who has a serious health condition;
 - For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
 - For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or called to covered active duty status.
3. What is a serious health condition?
 - a. A serious health condition is 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.
 - b. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition.
4. Do I have to take the 12 weeks all at one time?
 - a. An employee does not need to use this leave entitlement in one block.
 - b. Leave can be taken intermittently or on a reduced leave schedule when medically necessary.
 - c. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations.
 - d. Leave due to qualifying exigencies may also be taken on an intermittent basis.
5. Is FMLA paid or unpaid?
 - a. Protected FMLA leave is unpaid
 - b. The employee will be required to use their available accrued leave during the FMLA absence. This means that the employee will receive the paid leave and the leave will also be considered protected FMLA leave and counted against the FMLA leave entitlement.

6. Why should I fill out the forms?
 - a. The information in the forms is required to help the University to remain in compliance with FMLA and to ensure we are able to provide you the following rights under FMLA:
 - i. Maintain your health insurance as if you were not on leave (you are required to continue to pay your normal employee contributions while on leave)
 - ii. As long as you are able to return to work before you exhaust your FMLA leave, you must be returned to the same job (or one nearly identical to it). This job protection is intended to reduce the stress that you may otherwise feel if forced to choose between work and family during a serious medical situation.
 - iii. Time off under the FMLA may not be held against you in employment actions such as hiring, promotions, or discipline.
7. Who is eligible for FMLA?
 - a. Employees are eligible for leave after working for the University for at least 12 months with at least 1,250 hours of service to the University during the 12-month period immediately preceding the leave.
8. Do you accrue time for FMLA?
 - a. FMLA is not accrued.
 - b. Eligible employees may take up to 12 work weeks of leave in a 12-month period.
9. How far in advance do I need to apply?
 - a. Generally employees must request leave 30 days in advance when the need for leave is foreseeable.
 - b. When the need for leave is unforeseeable less than 30 days in advance is accepted, provided the employee gives notice as soon as possible and practicable under the circumstances.
10. How do I apply for FMLA if I have emergency surgery?
 - a. If an emergency comes up notify your supervisor and Human Resources. Human Resources can then help you get the appropriate paperwork to your physician as soon as you are able.
11. What are military family leave entitlements?
 - a. 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.
 - b. FMLA also includes a special leave entitlement that 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 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.

- c. [Department of Labor - Military Family Leave Provisions](#)

12. Who is considered family? **Is a significant other/domestic partner included?**

- a. **Spouse** means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage.
- b. **Son or daughter (or child)** means a biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence.
- c. **Parent** means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents-in-law.
- d. A person stands in **loco parentis** if that person provides day-to-day care or financial support for a child. Employees with no biological or legal relationship to a child can stand in loco parentis to that child, and are entitled to FMLA leave (for example, an uncle who cares for his sister’s children while she serves on active military duty, or a person who is co-parenting a child with his or her same-sex partner). Also, an eligible employee is entitled to FMLA leave to care for a person who stood in loco parentis to that employee when the employee was a child.

13. Does my FMLA 12 week entitlement re-set at the beginning of a calendar year?

- a. The University measures FMLA using a rolling calendar year.
- b. **The 12-month period measured forward** — 12-month period measured forward from the first date an employee takes FMLA leave. The next 12-month period would begin the first time FMLA leave is taken after completion of the prior 12-month period.
- c. **A “rolling” 12-month period measured backward** — 12-month period measured backward from the date an employee uses any FMLA leave. Under the “rolling” 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

14. What happens to my health benefits while on FMLA leave?

- a. During FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work.

15. How does it work?

- a. Notify Human Resources if you feel you may qualify for FMLA leave.
- b. Human Resources will send you the appropriate paperwork.
 - i. Eligibility notice stating if you are eligible to apply.
 - ii. Forms for the employee to complete.
 - iii. Medical Certification Form for the physician to complete.
- c. Physician will complete the paperwork and can fax directly back to Human Resources.
- d. Human Resources will notify you if you are approved along with the approval dates.

- e. You are expected to communicate with your supervisor and Human Resources periodically throughout your leave with any updates.

Contact Information

- Human Resources — Maris Owens — mtowens@sewanee.edu or ext. 1230

Additional Resources:

- [Department of Labor - The Family and Medical Leave Act](#)
- [Department of Labor - 12-month period under the Family and Medical Leave Act](#)
- [Department of Labor - Employee's Guide to the FMLA](#)