Medical Leaves of Absences

Medical Leaves of Absence

This page helps you with Illness, injury or leave not related to work. See these other links for illness or injury related to work (workers’ comp) and non-medical leaves (including personal leave).

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- Policies and Procedures
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  - Family and Medical Leave Act (FMLA) Overview
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Policies and Procedures

The laboratory policies and procedures are located in the Berkeley Lab Requirements and Policies Manual:

- The Family and Medical Leave Policy
- Pregnancy Disability Leave Policy
- Family Friendly Policies
- Parking Policy for Expectant Mothers
- Catastrophic (Voluntary) Leave Donation

Medical Leave Types

- Family and Medical Leave Act (FMLA) Overview
- Pregnancy/Maternity
- Non-Pregnancy Parental Leave
- Military Leave
- Summary of Protected Leave Laws and Policies <attach file from Google folder>

Family and Medical Leave Act (FMLA) Overview

The Family and Medical Leave Act (FMLA) is a federal law that grants an eligible employee up to 12 weeks/480 hours of unpaid, job and benefit protected leave in a calendar year for any of the following reasons:

- incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee’s child after birth, or placement for adoption or foster care;
- to care for the employee’s spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee’s job.

To be eligible for FMLA benefits, an employee must have:

- At least 12 months of Laboratory/University service (need not be continuous), and
- At least 1,250 hours of work in the 12 months immediately preceding the leave.

FMLA General Notice (English): Regarding Family Medical Leave Act - Employee Rights & Responsibilities
FMLA General Notice (Spanish) Regarding Family Medical Leave Act - Employee Rights & Responsibilities
Family and Medical Leave Fact Sheet

Benefits and Protections

During a 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. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Substitution of Paid Leave for Unpaid Leave

Although FMLA leave is unpaid, Laboratory/University policies and collective bargaining agreements may require or allow an employee to use accrued sick and vacation leave before the employee takes a leave without pay.

Disability Insurance Benefits: Review Your Guide to UC Disability Benefits for information on benefits while on leave.

Use of Leave

An employee does not need to use the leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatments so as not to unduly disrupt the employer’s operations.

An employee’s rights under FMLA can run concurrently with other types of leave. For example, an employee may be eligible for both Workers’ Compensation and FMLA benefits because a work-incurred injury could also be a serious health condition that qualifies under FMLA.

UC Supplemental Family Medical Leave

Non-represented employees may be eligible for additional 12 weeks of job-protected medical leave in the following circumstances per Lab/UC Policy:

- If the employee exhausted the maximum Family and Medical Leave (12 weeks/480 hours per calendar year) and the initial leave continues for the employee’s own serious medical condition, an additional 12 workweeks or until the end of the calendar year, whichever is less, of job-protected leave is available.
- If the employee exhausted the maximum Family and Medical Leave (12 weeks/480 hours per calendar year) and the initial leave was to care for a family member with a serious health condition, an additional 30 work days of job-protected leave is available.
- The Lab’s contributions to employee’s health insurance premiums do NOT continue during the additional UC Supplemental Family Medical Leave.

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Pregnancy/Maternity Leaves (FMLA and/or PDL)

General Notice “A”: Your Rights and Obligations as a Pregnant Employee

General Notice “B”: Regarding California Family Rights Act and Pregnancy Disability Leave Law

Three separate entitlements interact and overlap with each other:

- Family and Medical Leave Act (FMLA - Federal)
- California Family Rights Act (CFRA - CA)
- Pregnancy Disability Leave (PDL - CA)

Family and Medical Leave Act (FMLA)

Under the Family and Medical Leave Act (FMLA), an employee may take up to 12 weeks/480 hours of leave for the birth of a child and/or to care for a newborn child. PDL runs concurrently with FMLA.

California Pregnancy Disability Leave (PDL)

- Under the California Fair Employment and Housing Act (FEHA)
- Provides up to 4 months (17 1/3 weeks) of medically necessary pregnancy disability leave, while the employee is actually disabled due to a pregnancy-related condition. For a normal pregnancy, this timeframe is usually 2 weeks prior to the birth, and 6-8 weeks after the birth.
- No eligibility requirements
- PDL runs concurrently with FMLA but not with CFRA

California Family Rights Act (CFRA)

In addition to FMLA, employees are also covered under the California Family Rights Act (CFRA), which provides up to 12 weeks/480 hours of family and medical leave for reasons unrelated to pregnancy disability. This can include the employee’s own serious health condition, or that of a family member, but can also include care for a newborn child or recently placed adopted or foster child.

CFRA generally provides the same eligibility and protections as FML:

- Leave is unpaid, and
- Leave runs concurrently with FML except it does not provide leave for disability due to pregnancy, childbirth, or related medical conditions (this is covered by PDL).

CFRA begins when PDL ends and runs concurrently with any remaining FMLA leave.
Pregnancy/Maternity Leave Phases

- **Phase 1 - Paid Leave:** You are on pay status from the time you leave work until the time you use up any accrued sick leave and/or vacation leave you choose to use. If you are applying for disability benefits through Liberty Mutual, you must use up to 22 days of sick leave, not including holidays, if you have them, even if you have the seven-day waiting period. After that, the decision to use additional sick leave is voluntary. If you are applying for disability benefits through Mutual of Omaha (postdoctoral fellows), there is a seven-calendar-day waiting period before your disability benefits begin, and you may use your accrued sick time during this waiting period. You receive your full regular pay during Phase 1.

- **Phase 2 - Disability Benefits:** Once you have used up the required sick leave and any additional sick and/or vacation leave, you are eligible to apply for disability insurance benefits income. For a normal pregnancy, this is generally two weeks before and six weeks after delivery or eight weeks after if delivery via c-section. Your eligibility lasts for the amount of time it is medically determined and certified that you are unable to work. Refer to Your Guide to UC Disability Benefits.

- **Phase 3 - After Disability Ends:** Phase 3 begins once it is medically determined that you are no longer disabled. This is when disability income benefits end. If you want to continue to stay home with your child, you may be eligible for an additional 12 weeks/480 hours under CFRA to bond with your child. CFRA is unpaid protected time; however, you may elect to use your sick/vacation time to receive pay.

For more information regarding pregnancy leave, see the Pregnancy, Newborn Child, and Adopted Child Fact Sheet. See the Family Changes Fact Sheet for benefits enrollment options upon the birth of the baby. Don’t forget to use the Benefit Enrollment Form (UPAY 850) to add your new baby to your insurance plans within 31 days of the birth.

MyFamily at LBNL has detailed information on a variety topics including information for nursing and expectant mothers, lactation accommodation program, Breastfeeding Resources from UC medical plans, employee assistance programs, backup dependent care and a lot more.

Temporary Blue Triangle Parking Privileges for Expectant Mothers

To initiate a request for this temporary accommodation, complete the Expectant Mother Parking Form and return to the FML/Disability Specialist.

Non-Pregnancy Parental Leave (FMLA)

- An employee who is expecting a baby or an employee who is adopting or fostering a child may be eligible to take up to 12 weeks/480 hours of protected leave (FMLA/CFRA runs concurrently) for bonding and newborn care purposes within 12 months of the birth or placement of the child.
- FMLA/CFRA leave is unpaid, however, subject to collective bargaining, sick and/or vacation time can be used.
- The leave taken for baby bonding or placement of a child need not be taken all at once.

Military Family Leave Entitlements (FMLA)

Eligible employees whose spouse, son, daughter or parent is on covered active duty or called to covered active duty status 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.

FMLA also includes 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 is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on temporary disability retired list, for serious injury or illness*;
- a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

* The FMLA definitions of “serious injury or illness” for current service members and veterans are distinct from the FMLA definition of “serious health condition”.

How to Initiate a Medical Leave of Absence (non-occupational)
Initiate a medical leave request within thirty (30) days of the need for the leave, if possible. If the leave is unforeseeable, notify your supervisor, your HR division partner and/or the FML/Disability Specialist as soon as possible about your need for leave.

- The medical leave request can be initiated by the employee, the supervisor or HR Division Partner if there is a possible need for the employee to be off of work for five (5) or more consecutive days or if the employee has a need for an Intermittent/Reduced Work Schedule due to a medical condition.
- The FML/Disability Specialist will make the determination of whether an employee qualifies for a protected leave.
- A leave packet containing the necessary forms to review and complete will be sent to the employee.
- Once the FML/Disability Specialist receives the completed required forms, the official Designation Notice(s) will be sent with the dates of the medical leave, LETS timekeeping instructions and any necessary Return to Work information.

**Employee Responsibilities Prior to Going on Medical Leave**

- Provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave.
- Inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified.
- Provide a completed medical certification from your healthcare provider to the FML/Disability Specialist.
- Understand how taking medical leave may affect your benefit coverage.
  - If the employee is off pay status for a month or longer (not receiving a paycheck from Berkeley Lab), the employee will need to pay benefit premiums directly to the Benefits Office to continue benefits coverage.
  - The HR Benefits Office will send a Benefit Premium Continuation letter to the employee’s home address with detailed information on the benefit premiums due and deadline for submitting payments.
- Ensure your contact information is updated and accurate. Keep your address, phone number and other contact information up to date through Employee Self Service.
- Initiate disability insurance claims directly with Liberty Mutual or Mutual of Omaha (postdoctoral fellows) if you plan on initiating a disability claim.

**Employee Responsibilities While on a Medical Leave**

- If not medically cleared to work, do not perform work.
- Make sure your time is entered into LETS accurately. LETS time can be entered by the employee, supervisor or LETS timekeeper. Generally, when an employee is off work, the LETS timekeeper or supervisor will enter time into LETS using the LETS codes as indicated by the Disability/FML Specialist.
- Do not let your benefits coverage lapse. If you are unpaid leave, you must make any necessary benefit premium payments directly to the HR Benefits Office within payroll processing deadlines.
- If your leave was due to a Maternity Leave or Parental Bonding, notify the FML/Disability Specialist as soon as possible with the actual date of the birth of the baby, so the leave designation information can be updated.
- Enroll your new baby into your benefits within 31 days of birth, adoption or placement using the Benefit Enrollment Form (UPAY 850) and send the completed form to the HR Benefits Office for processing.
- Stay in communication with the FML/Disability Specialist, supervisor and Health Services. If your leave is extended beyond the date originally identified by your healthcare provider, notify the FML/Disability Specialist and Health Services immediately, and provide the updated medical information.
- Cooperatively participate in the interactive process if you believe you will need an accommodation when you return to work.
- If you need leave intermittently or on a reduced work schedule, make a reasonable effort to schedule treatment so as not to interrupt the operations of your work group.

**Employee Responsibilities When Returning from a Medical Leave**

- Employees who have been off of work for five (5) or more consecutive days for their own serious medical condition must take the completed Return to Work Certification Form to Health Services (Building 26) and be medically cleared to return to work by Health Services Medical Staff.
- Review LETS to make sure the medical leave was recorded correctly and immediately report any problems to your timekeeper for correction, and notify your supervisor and FML/Disability Specialist so the proper corrections can be made.
- Check to ensure your benefits coverage has been returned to what it was prior to your medical leave.
- If you were not getting paid by Berkeley Lab payroll while on a medical leave, you may be able to buy back UCRP service credit for your leave period. Generally the sooner you do this, the less it will cost you. For more information, review the UCRP Service Credit Buy Back Booklet.

**Supervisor’s Responsibilities**
• Request a FMLA packet be sent to an employee if the employee informs you of the need to take medical leave of five or more days or if an employee needs to take an intermittent or reduced work schedule even if the employee has sick/vacation time accruals. The employee needs to be officially notified of their FML eligibility and their rights and responsibilities.
• Do not discuss medical diagnoses. Do discuss whether the employee needs a leave of absence. If the employee takes a leave of absence, you may ask about the return-to-work date.
• Review, approve, and release the employee’s timecard as per the instructions received from the FML/Disability Specialist.
• If the employee was off work for five or more days, make sure the employee visiting Health Services and was cleared to return to work. If the employee has work restrictions, contact the Return-to-Work Specialist for assistance with the interactive process and to ensure reasonable accommodation is provided if necessary.
• Contact the FML/Disability Specialist with any questions regarding an employee’s medical leave.

LET'S Timekeeper Responsibilities While an Employee Is on an Approved Medical Leave

• Review, enter, and release the employee’s time in as per the instructions received from the FML/Disability Specialist.
• Process any necessary corrections to the employee’s time card.