
Requesting and Processing FMLA

Family and Medical Leave Act (FMLA) is a federal law that provides unpaid, job-protected leave to eligible employees, both male and female, in order to care for their families or themselves for specified family and medical conditions. FMLA provides eligible employees with up to 12 work-weeks of unpaid leave in a 12 month period. CUNY, however, allows its employees to use accrued leaves during the period covered by an approved FMLA leave.

If you are going to be out of work for more than 3 days because of illness to either yourself or a family member, you should request FMLA.

The following is a summary of guidelines and instructions for requesting FMLA.

Eligibility

- Have been employed by the College for at least 12 cumulative months, not necessarily consecutive; and
- Have worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.
- Reemployed members of the National Guard or reserve whose military service combined with the time employed and hours actually worked for CUNY satisfy the time and service requirements are eligible for FMLA.
- When counting the number of work-hours necessary for an employee to meet the maximum hourly requirements all regular scheduled and overtime hours must be included.
- An eligible CUNY employee who has met the FMLA eligibility requirement at his/her college, and then transfers or moves to another college without a break in continuous service, shall be eligible to request use of any unused FML/FLMA entitlement for that year at the receiving college.

Instructions

1. Arrange a meeting with or call the Benefits Officer in Human Resources thirty (30) days prior to requesting FMLA leave to receive the FMLA Leave Request Form information and the Certification of Health Care Provider Form.
2. Complete and sign the FMLA Leave Request Form and attach the required certification to the request form***.
3. Return ALL forms to the HR Department before you go on leave (if possible, if not, return ALL forms within 3 days of leave). The Benefits Officer will review the package for completeness and ensure the following are included:
 - Employees statement including reason for leave and expected return date
 - Physician's certification including start and end dates for duration of inability to work (or estimate).

4. The Timekeeper will get a time and leave report to determine whether leave accruals are available.
5. The Benefits Officer will review all paperwork to determine eligibility for FMLA based on length of service, reason for leave, and prior use of FMLA.
6. Notice of approval or denial of FMLA will be sent to the employee.
7. HR will notify your Supervisor of your plans to be out on FMLA. To the extent that is possible, employees must notify their supervisor of their intention to take FMLA leave as soon as possible, so work coverage can be arranged during their leave.

ALL completed forms are to be submitted to the Benefits Officer for approval of leave, fifteen (15) days prior to the FMLA leave. The Benefits Officer will notify the employee's supervisor and the employee of approval or rejection upon receipt of the completed forms. Both the FMLA Leave Request and the Certification of Health Care Provider forms are needed in order to be granted FMLA and to receive pay for any accrued leave that you may have and want to use.

***** Documentation for Employees Requesting FMLA:**

- ❖ The birth of a child would require the employee or faculty member to provide medical certification form to include: the date of birth, or date from which the employee would be unable to work; the probable duration of the condition; the appropriate medical facts within the knowledge of the health care provider regarding the condition; and a statement that the employee is unable to perform the functions of their position.
- ❖ The placement of a child with any employee or faculty member for adoption or foster care would require the employee to provide certification of the event.
- ❖ Caring for the employee or faculty member's sick child, spouse or parent requires medical certification form to include: the date on which the serious health condition commenced; the probable duration of the condition; the appropriate medical factors within the knowledge of the health care provider regarding the condition; a statement that the eligible employee is needed to care for the son, daughter, spouse or parent, and an estimate of the amount of time that the employee is needed to care for the son, daughter, spouse or parent.
- ❖ An employee or faculty member's own serious health condition requires medical certification form to include: the date on which the serious health condition commenced; the probable duration of the condition, the appropriate medical facts within the knowledge of the health care provider regarding the condition and a statement that the employee is unable to perform the functions of their position.

Two weeks prior to the approved expiration of FMLA leave, you must notify the Benefits Officer your intention to either return to work or to request an extension of leave of absence. Certification from the appropriate health care provider is required in order to return to work or to support a request for a continuation of medical leave.

Failure to report back to work on or before the expiration date or failure to request and receive approval for an extension to this leave will result in an AWOL status of employment. In addition, if you do not return to work for a minimum of thirty days, you will be held responsible for reimbursing Hostos Community College for the premiums that are paid to maintain your benefits coverage during you unpaid FMLA leave.

Note: In order to comply with HIPAA privacy rules, all medical documentation should go directly to HR. Unless the employee makes the personal decision to discuss medical information with his/her supervisor. Supervisor should not ask for medical information.

A fitness for duty certification may be required prior to the employee's return to work. In instances where the leave has been requested due to a serious medical condition of the employee, medical certification confirming fitness must be submitted and approved prior to return to duty. For staff serving in titles represented by the Professional Staff Congress, the University may require further medical documentation for staff absent more than thirty days. The college may implement the negotiated contract provision 16.3 (1) which permits the college to require a second or third medical opinion, at the college's expense, prior to return to work when the temporary disability leave has been for more than 30 days.

Procedures Governing Intermittent or Reduced Schedule Leave Usage

- The college will determine on a case-by-case basis whether such requests will be granted for birth, adoption or foster care placement.
- The minimum leave increment shall be one (1) hour.
- An employee taking FMLA leave on an intermittent or reduced schedule may be transferred to an alternate temporary position. The alternative position shall have equivalent pay and benefits. The alternative position does not have to have equivalent duties but will better accommodate the recurring periods of requested leave than does the employee's regular position.

Rights of Reinstatement and Restoration Upon Return from FMLA Leave

These rights exist only when employee returns immediately from FMLA leave. They are not guaranteed under any other circumstances.

- 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 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.

Contacts

Keisha Pottinger, Human Resources Manager/Benefits Officer
718-518-6652, kpottinger@hostos.cuny.edu

Bridget Sheridan, COA/Timekeeper
718-518-6819, bsheridan@hostos.cuny.edu

Attachments

CUNY FMLA Leave Policy

Family and Medical Leave Request form (available on the Hostos HR website)

CUNY FMLA Certification of Health Care Provider form (available on the Hostos HR Website)

FMLA Questions and Answers for Employees

CUNY FMLA Leave Policy

SCOPE

This policy applies to all members of the faculty and staff of The City University of New York (CUNY).

PURPOSE

CUNY recognizes the concerns of its faculty and staff to balance the demands of the workplace with the needs of his/her family. To address these interests, the CUNY FMLA Leave policy adopts the provisions of The Family and Medical Leave Act of 1993 (FMLA) and extends those provisions to cover domestic partner relationships.

STATEMENT OF POLICY

The CUNY FMLA Leave policy provides eligible employees with up to 12 weeks of unpaid, job-protected leave for qualifying reasons during the designated leave year *i.e.*, September 1st through August 31st. In order to be eligible, an employee must have been employed by the University for at least 12 months cumulatively, and must have worked at least 1,250 hours during the 12-month period preceding the requested commencement of the leave. The employee's FMLA 12 week leave period entitlement will commence anew for the subsequent period of September 1st through August 31st, provided that the eligibility requirements are fulfilled.

Qualifying reasons for FMLA leave include the following:

- childbirth and/or care for a newborn (within the first 12 months of birth)*;
- childcare needs resulting from an adoption or foster care placement (within the first 12 months of the adoption or placement)*;
- care for employee's spouse, domestic partner, child, or parent with a serious health condition;
- employee's own serious health condition,
- the care of a spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty. (Entitlement to up to 26 weeks of leave in a single 12-month period to care for the service member).

* Spouses or domestic partners who are employed at the same CUNY College are limited to a combined total of 12 weeks within the FMLA leave year, when taking leave for these reasons.

Leave taken for a newborn, adopted or foster child as described herein must be taken all at once. If the employee takes leave to care for a family member or for his/her own illness, he/she may take the time on an intermittent or reduced-time basis, but only if the medical condition necessitates this type of schedule.

For the purpose of this policy, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves incapacity or treatment connected with:

- inpatient care in a hospital, hospice or residential medical facility;
- pregnancy or prenatal care; or
- continuing treatment by a health care provider.

Under the CUNY FMLA Leave policy, an employee's leave of absence may be either paid or unpaid. However, before unpaid FMLA leave may be authorized, the employee will be required to exhaust any appropriate accrued paid leave.

Leave for illness granted under the University's temporary disability leave policy which extends beyond five (5) workdays will be counted as part of the annual FMLA entitlement, starting from the first day of leave. In addition, the first 12 weeks of any authorized leave taken pursuant to

University policies or collective bargaining agreements that qualify as FMLA leave will be counted against the FMLA entitlement for that leave year.

For the serious health condition of an employee, which may include a pregnancy-related condition, paid sick leave accruals must be used first, followed by all other available time and leave accruals.

For the birth and care of a newborn, placement with the employee of a child for adoption or foster care, or for care necessitated by the serious health condition of a family member, all available paid time and leave accruals other than sick leave accruals must be charged before unpaid leave may be granted.

While on paid/unpaid leave, CUNY will maintain group health benefits in the same manner as prior to leave. Employees are still responsible for the portion of Pension contributions will continue, however, only during the paid portion of the leave.

Upon return from FMLA leave, the employee will be restored to the position held prior to the leave or to an equivalent position with equivalent benefits. If the employee fails to return to work upon expiration of the FMLA leave and has not received authorization for his/her continued absence, he/she may be subject to disciplinary action in accordance with University policies and applicable collective bargaining agreements.

THE CITY UNIVERSITY OF NEW YORK
Hostos Community College

Family and Medical Leave Request Form

Eligible employees are entitled to up to 12 weeks of unpaid job-protected leave for certain family and medical reasons. If you wish to request family and medical leave under the CUNY FMLA Policy, submit this completed request form to your Human Resources Director/Personnel Officer as early as practicable, preferably no fewer than 30 days in advance of the start of your leave. **If requesting intermittent or reduced schedule leave, you must attempt to work out a schedule with your supervisor which meets your needs without unduly disrupting your department's operations.** CUNY reserves the right to deny or postpone leave for failure to give appropriate notice

(Please Type or Print)

1.

LAST NAME	FIRST NAME	MIDDLE INITIAL
JOB TITLE		DEPARTMENT

2. REASON FOR REQUESTING LEAVE --please check the appropriate box.

- A. My own serious health condition (Certification of Health Care Provider required.)
- B. Birth of my child; to care for my new born child – Date of birth: _____
(Appropriate documentation required)
- C. Placement of child with me for adoption or foster care.
Date of placement: _____ (Appropriate documentation required)
- D. To care for my family member (including spouse, domestic partner, child or parent) with a serious health condition.
(Certification of Health Care Provider and proof of relationship required.)
Name/Relationship: _____

Please identify documentation on file _____

3. I request CONTINUOUS FMLA LEAVE starting (date): _____ and ending (date): _____

4. I request INTERMITTENT FMLA LEAVE starting (date): _____. My anticipated schedule of absence is as follows (attach an additional sheet if needed):

5. I request FMLA LEAVE in the form of a REDUCED WORK SCHEDULE from _____ hours/week to _____ hours/week starting (date): _____ and ending (date): _____.

6. Intermittent or reduced work schedule leave is medically necessary because: (attach an additional sheet if needed):

EMPLOYEE STATEMENT OF UNDERSTANDING

I am aware of and understand the following:

- I must return a completed medical certification form to the Human Resources Director or Benefit Officer within 15 days of submitting this request, or as soon as practicable. Failure to do so may result in my leave being delayed until I provide this documentation;
- Before I return to work following a leave for my own serious illness, I may be required to present a fitness for duty certification to the Human Resources Director or Benefit Officer;
- My health benefits will continue during my leave and I am expected to continue to pay my share of health insurance premiums, if any;
- If, under current University leave policies, I am eligible to lengthen this leave or request other leave benefits, I will submit the appropriate documents to the Human Resources Director or Benefit Officer prior to the conclusion of my family and medical leave; and,
- If I fail to return to work upon the conclusion of this leave, I may be subject to disciplinary proceedings or other action in accordance with CUNY policies, rules and regulations, and applicable collective bargaining agreements.

Signature of Employee

Date: _____

Received by: _____ Date: _____
Human Resources Director or Benefits Officer

**THE CITY UNIVERSITY OF NEW YORK
Hostos Community College/CUNY**

CUNY FMLA Certification of Health Care Provider

Please complete this form in its entirety. **Print** or type all information provided unless a signature is requested.

<p>Instructions for Employee/Patient</p> <ol style="list-style-type: none"> 1. Complete Section <u>A</u>. 2. Give form to your health care provider and request the provider to complete and return the form directly to you. 3. Bring the form to Human Resources no later than 15 days following the date you received the form. 	<p>Instructions for Health Care Provider</p> <ol style="list-style-type: none"> 1. Complete Sections <u>B-D</u>. 2. Return to employee/patient within two weeks of receipt of form. 3. If you have any questions, contact The Human Resources Office. Ext. 6652
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Section A: To Be Completed by the Employee

Name:	Department:	Phone Number:
		Office - Home -
Supervisor's Name:	Supervisor's Title:	Supervisor's Phone Number:
Patient's Name (if different from above):	Relationship of Patient to Employee: Self Parent Spouse Domestic Partner Dependent Child	
Employee Signature:		Date:

Section B: To Be Completed by Health Care Provider

The City University of New York fully complies with the Family and Medical Leave Act (FMLAA) of 1993, which provides benefits and job protection for eligible employees facing their own "serious health condition" or that of a family member. Under FMLAA, a serious health condition is defined as an illness, injury, impairment or physical or mental condition involving any one or more of the qualifying treatments and conditions cited below. The above-named employee is requesting a family and medical leave of absence for his/her own serious health condition or that of a family member. Kindly check all treatments/conditions that apply.

Hospital Care, Inpatient Care – This is defined as an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care. (**Note:** Incapacity means inability to work, attend school or perform regular daily activities due to the serious health condition, associated treatment, or recovery from treatment/condition)

Absence Plus Treatment – A period of incapacity of **more than three (3) consecutive calendar days** (including any subsequent treatment or period of incapacity relating to the same condition) that also involves: 1) **Treatment two or more times** by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by a health care provider; or 2) **Treatment** by a health care provider on **at least one occasion** which results in a **regimen of continuing treatment** under the supervision of the health care provider.

Pregnancy – Any period of incapacity due to pregnancy, or for prenatal care.

Chronic Conditions Requiring Treatments – For FMLA purposes, a **Chronic condition** 1) 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, 2) Continues over an **extended period of time**, including recurring episodes of a single underlying condition and; 3) May cause **episodic** rather than a continuing period of incapacity (e.g., asthma, diabetes or epilepsy.)

Permanent or Long-term Conditions Requiring Supervision – This condition is defined as a period of **incapacity** which is **permanent or long because of** a condition for which treatment may not be effective. The employee or family member must be **under the continuing supervision of, but need not be receiving active treatment by a health care provider**. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

Section B: (Continued)

Multiple Treatments for Non-Chronic Conditions – This situation is defined by any period of absence to receive **multiple treatments** by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for **restorative surgery** after an accident or other injury, **or** for a condition that **would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment**, such as cancer (chemotherapy, or radiation), severe arthritis (physical therapy), and kidney disease (dialysis). This also includes any time off for a period of recovery from treatments.

Section C: To Be Completed by Health Care Provider

Describe the **medical facts of patient** supporting your certification that would help us understand how the patient's condition meets one of the "Serious Health Condition" categories you checked.

Indicate whether incapacity is episodic, periodic, or extended, and the approximate date the condition commenced.

If additional treatments or a regimen of treatments will be required (by you or under your supervision), please provide a general description of the regimen (*e.g.*, prescription drugs, physical therapy requiring special equipment.)

If the employee will be absent from work on an intermittent or part-time basis, please provide the following:

Probable number of treatments _____ Interval between treatment _____

Dates of treatment if known _____ Period required for recovery if any _____

If FMLA leave is for a family member, explain whether the family member requires physical and/or psychological assistance or comfort from the employee.

What is the actual or estimated duration of any incapacity of employee or the family member?

Employee's return to work date:

Section D: To Be Completed by Health Care Provider

Health Care Provider's Name:

Type of Practice:

Address:

Phone Number:

Health Care Provider's Signature:

Date:

FMLA Questions and Answers for Employees

Q. Who do I contact if I have questions about taking time off for family and medical (serious health condition) needs?

Keisha Pottinger- Human Resources Manager/Benefits Officer- ext. 6652
Bridget Sheridan- COA/Timekeeper- ext. 6819

Q. What forms are needed to receive FMLA?

There are only two forms needed to request FMLA:

1) Family and Medical Leave Request Form and 2) The CUNY FMLA Certification of Health Care Provider Form. Both are located on the Hostos HR website and in the Human Resources office-B-215.

Q: When should I contact the HR department or my supervisor if I need FMLA or have a medical issue (pregnancy, illness, injury for myself or family member, etc.)?

If you are an "eligible" employee, as with any type of leave, advance notice and approval is expected, except in emergencies. You should give ***at least 30-days written notice*** before leave starts. If 30-days notice is not possible, notice is expected as soon as practical, which means at least verbal notice within 2 business days of learning of your need for leave followed by written confirmation. If you do not provide timely notice, your rights to family/medical leave may be affected.

Q: How is the 12-month period calculated under FMLA?

CUNY calculates the 12-month for FMLA from September 1st through August 31st.

Q: Does the law guarantee paid time off?

No. The FMLA only requires unpaid leave. However, the law permits an employee to elect or CUNY to require the employee, to use accrued paid sick or vacation leave or, subject to certain restrictions, sick or family leave, for some or all of the FMLA leave period. When paid leave is substituted for unpaid FMLA leave, it may be counted against the 12-week FMLA leave entitlement.

Q: Does workers' compensation leave count against an employee's FMLA leave entitlement?

It can. FMLA leave and workers' compensation leave can run together, provided the reason for the absence is due to a qualifying serious illness or injury.

Q: Can CUNY count leave taken due to pregnancy complications against the 12 weeks of FMLA leave for the birth and care of my child?

Yes. An eligible employee is entitled to a total of 12 weeks of FMLAA leave in a 12-month period. If the employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of the 12-week FMLA leave entitlement.

Q: Can CUNY count time on maternity leave or pregnancy disability as FMLA leave?

Yes. Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA leave for a serious health condition and may be counted in the 12 weeks of leave.

Q: Who is considered an immediate "family member" for purposes of taking FMLA leave?

An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a parent "in-law". The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of mental or physical disability that limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the [Americans With Disabilities Act \(ADA\)](#).

Q: May I take FMLA leave for visits to a physical therapist, if my doctor prescribes the therapy?

Yes. FMLA permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for therapy treatments such as those ordered by a doctor for physical therapy after a hospital stay or for treatment of severe arthritis.

Q: Do the 12 months of service with the CUNY have to be continuous or consecutive?

No. The 12 months do not have to be continuous or consecutive; all time worked for the CUNY is counted.

Q: Do I have to give CUNY my medical records for leave due to a serious health condition?

No. You do not have to provide medical records. CUNY may, however, request that, for any leave taken due to a serious health condition, you provide a medical certification confirming that a serious health condition exists.

Q: Can CUNY require me to return to work before I exhaust my leave?

Subject to certain limitations, your employer may deny the continuation of FMLA leave due to a serious health condition if you fail to fulfill any obligations to provide supporting medical certification. The employer may not, however, require you to return to work early by offering you a light duty assignment.

Q: Can CUNY make inquiries about my leave during my absence?

Yes, but only to you. CUNY may ask you questions to confirm whether the leave needed or being taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work after leave. Also, if the employer wishes to obtain another opinion, you may be required to obtain additional medical certification at the employer's expense, or rectification during a period of FMLA leave. CUNY may have a health care provider representing the employer contact your health care provider, with your permission, to clarify information in the medical certification or to confirm that it was provided by the health care provider. The inquiry may not seek additional information regarding your health condition or that of a family member.