

BOSTON COLLEGE
PAID FAMILY AND MEDICAL LEAVE (PFML) POLICY
January 2021

Statement of Policy

Boston College (or the “University”) will provide job-protected paid family and medical leave to eligible employees and former employees in accordance with the Massachusetts Paid Family Medical Leave Law (“MPFMLL” or “the Law”) M.G.L. c. 175M, § 1, *et seq*, and accompanying regulations. This Policy sets forth the eligibility requirements for leave, the conditions for using leave, the process for requesting leave, protections to employees who apply for and/or use leave, and other related provisions. This Policy addresses how the Paid Family and Medical Leave benefits required under the law (“PFML”) will interact with other leaves, including, but not necessarily limited to, those taken under the federal Family and Medical Leave Act (“FMLA”), the Massachusetts Earned Sick Time Law, M.G.L. c. 149, § 148C, the Massachusetts Parental Leave Act, M.G.L. c. 149, § 105D, applicable collective bargaining agreements, and other University benefit policies and programs. The University shall make all presumptions in favor of the availability of leave and the payment of leave benefits to an employee or former employee covered by this Policy.

Eligibility

This Policy applies to all “financially eligible” Boston College employees—including full-time, part-time, permanent, on call, per diem, temporary and seasonal employees—who perform services within Massachusetts. This Policy also applies to such unemployed former employees for twenty-six (26) weeks after separation or until re-employed, whichever comes first. This Policy does not apply to: (a) existing or former employees who do not perform services within Massachusetts, (b) independent contractors, (c) exempt student workers, (d) H-2A visa holders, or (e) any other categories of workers who are exempted under the MPFMLL. Current and former employees as described in this section may be referred to collectively in this Policy as “covered individuals.”

Definitions

For purposes of this Policy, the following terms shall have the following meanings:

Average Weekly Wage: An amount equal to one twenty-sixth of the total wages earned by the employee at Boston College in the two highest quarters of the 12 months preceding the start of leave taken under this Policy.

Benefit Year: The period of 52 consecutive weeks beginning on the Sunday immediately preceding the first day that an employee takes leave under this Policy.

Child: A biological, adopted, or foster child, a stepchild or legal ward, a child to whom the employee stood in *loco parentis* when the person was a minor child, or a child with whom the employee had legal guardianship regardless of age or dependency status.

DFML: The Massachusetts Department of Family and Medical Leave

Employee: Any person employed by the University on a full-time, part-time, temporary, or seasonal basis, who is “financially eligible” under the MPFMLL, excluding exempt student employees, H-2A visa holders, any employees who do not perform services in Massachusetts, and any other employees exempted under the Law.

Family Member: The spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the employee; a person who stood *in loco parentis* to the employee when the employee was a minor child; or a grandchild, grandparent, or sibling of the employee.

Financially Eligible Employee: An employee who earned at least \$5,100 in the preceding 12 months, and who is otherwise eligible for coverage under the Massachusetts unemployment insurance law. Specific questions regarding financial eligibility may be directed to benefits@bc.edu.

Healthcare Provider: A person licensed to practice medicine, surgery, dentistry, chiropractic, podiatry, midwifery, or osteopathy or other persons determined by the DFML to be capable of providing healthcare services.

MPFMLL: The Massachusetts Paid Family and Medical Leave Law, M.G.L. c. 175M.

Serious Health Condition: According to the DFML, a serious health condition is a physical or mental condition that prevents covered individuals from performing their job for more than 3 consecutive full calendar days and requires:

- Two or more treatments by a health care provider (in-person or during telehealth visit) within 30 calendar days of an inability to perform job duties, or
- Overnight stay in a hospital, hospice, or medical facility, or
- At least one treatment by a health care provider within 30 days of an inability to perform job duties, with plans for continued treatment, including prescriptions.

Serious health conditions include:

- Pregnancy, including prenatal care and post birth medical recovery.
- Chronic conditions, like asthma or diabetes, that stop a covered individual from working some of the time, continue, and require going to the doctor more than twice a year.
- Permanent or long-term conditions like Alzheimer's disease, stroke, or terminal cancer, that might not be curable and will need ongoing attention but will not necessarily require active treatment.
- Conditions requiring multiple treatments, like chemotherapy, kidney dialysis, or physical therapy after an accident.
- A substance abuse disorder if the patient is receiving treatment from a health care provider, by a provider of health care services on referral by a health care provider, or by a program licensed by the MA Department of Public Health. (Note - Absences due to an employee's use of the substance does not qualify for PFML).

State Average Weekly Wage: The average weekly wage for the Commonwealth of Massachusetts as determined by the Deputy Director of the Division of Employment and Training.

Types and Amounts of PFML

The types and duration of paid leave available to a covered individual under this Policy are as follows (family and/or medical leave):

- 20 weeks of medical leave if an employee is unable to work due to his/her own serious health condition;

- 12 weeks of family leave to provide care to a family member, including a child, with a serious health condition;
- 12 weeks of family leave to bond with a child during the first 12 months after the child’s birth, adoption, or foster care placement;
- 12 weeks of family leave for a qualifying exigency arising out of a family member’s current membership in the Armed Forces; and
- 26 paid weeks of family leave in a benefit year to care for a family member who is or was a covered service member of the Armed Forces and who requires medical care as a result of an illness or injury related to the family member’s active service.

In each benefit year, the maximum amount of PFML that may be taken under this Policy is 26 weeks in the aggregate. Below, is a summary table to illustrate available PFML with effective dates:

Type of Leave	Annual Benefit Allotment	Effective Date
Medical (employee’s own serious health condition)	20 weeks	January 1, 2021
Family (bonding with new child, care for a family member with a serious health condition, or qualifying military exigency)	12 weeks	January 1, 2021 - bonding and military exigency July 1, 2021 - family member with serious health condition
Family (injured service member)	26 weeks	January 1, 2021
Maximum Combined Family/Medical	26 weeks	January 1, 2021

Counting Leave: Leave allotments are based on the number of hours or days an employee works. When the employee works variable hours, the amount of leave that the employee uses is determined on a pro rata or proportional basis. If an employee’s schedule varies from week to week, a weekly average of the hours scheduled over the 12 months prior to the beginning of the leave period will be used.

Coordination With Other Types of Leave or Approved Time Off: If an employee takes leave that is associated with a qualifying reason under this Policy and is also eligible for leave or approved time off under any other law (including, but not limited to, the federal Family and Medical Leave Act (“FMLA”), the Massachusetts Earned Sick Time Law, and the Massachusetts Parental Leave Act) other University policies and programs (including, but not limited to, parental leave, short and long term disability, vacation time, sick time, personal time, or any other type of approved absence from work), or collective bargaining agreement, such absence shall run concurrently with leave under this Policy, regardless of whether the employee applies for benefits under this Policy.

Intermittent or Reduced Schedule PFML

Subject to the above limits on the length of leave, paid leave may be approved by the University on an intermittent or reduced leave schedule for the serious health condition of the employee, the serious health condition of an employee’s family member, to care for a family member who is a covered service member, or for a qualifying exigency arising out of a family member’s active duty or impending call to active duty in the Armed Forces.

In the case of leave to bond with a child during the first twelve months after the child’s birth, adoption, or foster care placement, leave may be taken intermittently or on a reduced leave schedule only if the employee and Boston College mutually agree to the arrangement. Any scheduled intermittent periods must typically be in full week increments.

Taking leave intermittently or on a reduced leave schedule shall result in a proportionate reduction in the employee’s available allotment of leave.

Where the employee is taking leave on an intermittent or reduced schedule basis, the waiting period shall be seven consecutive calendar days, starting from the first instance of leave, not the aggregate accumulation of seven days of leave.

An employee who is approved for and takes leave on an intermittent or reduced leave schedule and who fails to work during the times or on the schedule to which they agreed may be subject to discipline.

Where intermittent leave has extended for a period of more than the initial period cited in the healthcare certification or more than six months from the date

of approval by Boston College, Boston College may seek a medical recertification of the employee's serious health condition.

For employees taking intermittent leave, a fitness for duty certification may be required once every 30 days if reasonable safety concerns exist regarding the employee's ability to perform his/her duties.

Amount of Pay Employees Receive While on PFML

Weekly Wage Replacement Benefit: An employee who is taking paid leave under this Policy will receive a minimum weekly wage replacement benefit as follows: (a) that portion of the employee's average weekly wage at Boston College that is equal to or less than 50% of the state average weekly wage shall be replaced at a rate of 80%; and (b) that portion of the employee's average weekly wage that is more than 50% of the state average weekly wage shall be replaced at a rate of 50%. Per the MPFMLL, the maximum benefit for any employee is currently set at \$850 per week and shall be updated by the DFML on an annual basis.

Offsets: The weekly benefit amount shall be offset or reduced by the amount of wages or wage replacement benefits that an employee on PFML receives from any government program or law, including unemployment or workers' compensation benefits, other than for permanent partial disability incurred prior to the PFML claim; or under any other state or federal temporary or permanent disability benefits law; or through a permanent disability policy or program offered by Boston College.

Initial Seven-Day Waiting Period: No wage replacement benefits are payable during the first seven calendar days of leave; however, the employee may utilize accrued sick, vacation, or other accrued paid leave during this time. Whether or not accrued paid time is used, the initial seven-day waiting period will count against the total available period of leave in a benefit year. If an employee takes medical leave that is supported by documentation from a healthcare provider during pregnancy or recovery from childbirth and such medical leave is immediately followed by family leave, the seven-day waiting period shall not apply to the family leave.

Use of Accrued Paid Time Benefits: Employees on PFML may choose (but are not required) to use accrued sick time, vacation time, and/or other accrued paid leave provided by the University rather than receive the wage replacement benefits provided for in this Policy. Employees must comply with Boston College's normal

policies for use of accrued paid time off. If an employee chooses to use accrued paid leave, such leave will run concurrently with the leave periods under this Policy.

University Wage Replacement Benefits: Benefits-eligible employees are eligible to receive wage replacement benefits under other University policies and benefit programs and collective bargaining agreements (including, but not limited to, Short Term Disability) that may exceed wage replacement benefits required under the MPFMLL. In such cases, the employee will receive the greater of the various benefits that are available for the covered reasons, and the leave taken will run concurrently with PFML.

Contributions by Employees for PFML Benefits: For the first year, Calendar Year 2021, Boston College is self-insuring the benefit payments and has elected not to require state-allowed contributions by employees. To administer PFML benefits Boston College has engaged The Standard Insurance Company (“The Standard”), rather than to use the state's process. As noted below, the University maintains its right to amend this Policy consistent with the MPFMLL. No paid leave benefits will be available to covered individuals from the state-sponsored benefit plan administered by the DFML while this policy remains in effect.

Wage Replacement Received While on Intermittent or Reduced Schedule Leave: For an employee who takes leave on an intermittent or reduced schedule leave for any of the qualifying reasons set forth above, the weekly benefit will be reduced in direct proportion to the intermittent or reduced leave schedule.

Health Benefits During PFML

During the duration of a current, benefited employee's PFML, the University shall continue to provide for and contribute to the employee's employment-related health insurance benefits, at the level and under the conditions that coverage would have been provided if the employee had continued working continuously for the duration of such leave. This provision shall not apply to former employees. Current employees will be required to remit their portion of the premiums in accordance with the procedures applicable to other types of leave.

Requesting PFML

Boston College has selected The Standard to serve as the third-party administrator for PFML. Covered individuals can make requests for PFML to The Standard (specific contact information to be supplied for January 2021). Absences can also be initiated by contacting the Benefits Office, Human Resources at benefits@bc.edu.

Covered individuals must provide at least 30 calendar days' notice of the anticipated start date of the leave, the anticipated length of the leave, the type of leave, and the covered individual's expected return date. If, for reasons beyond the covered individual's control, the covered individual cannot provide 30 days' notice, then the covered individual must provide notice as soon as is practicable. Covered individuals seeking PFML must submit a certification evidencing that the leave is for a qualifying reason. The specific Certification Form required, and to be supplied by The Standard, will depend on the type of leave requested.

When requesting leave for planned medical treatment, the covered individual must consult with the University and make a reasonable effort to schedule the treatment so as not to unduly disrupt unduly University operations, subject to the approval of the healthcare provider.

Approval of PFML

Covered individuals requesting PFML under this Policy will be notified by The Standard within 14 calendar days regarding whether they are approved or denied, or if additional information or documentation is needed to review and process the claim.

Notice regarding approval of leave shall include: (a) the reason for the approved leave benefits, (b) the duration of the approved leave benefits, (c) for intermittent leave, the frequency and duration of the leave benefits, and (d) the expiration of the approved leave benefits.

Notice regarding denial of leave shall include information about the employee's right to appeal under this Policy as well as the rights afforded the employee pursuant to the MPFMLL and applicable regulations.

The University shall commence payment of leave benefits not less than 14 calendar days after approving a request, unless that determination occurs more than 14 days before the onset of eligibility, in which case payment of benefits will commence as soon as eligibility begins.

PFML benefits (i.e., leave benefits not covered by existing BC policies, programs, or agreements) shall be paid by The Standard.

When a leave of absence request is considered under this Policy, all presumptions shall be made in favor of the availability of leave and the payment of leave benefits.

Appeals

Covered individuals shall have up to ten (10) calendar days to file an internal appeal of a denial of PFML with The Standard. The ten-day period may be extended where the employee establishes that circumstances beyond their control prevented the filing of a request for an appeal within ten calendar days. Appeals must be in writing and must include: (a) a detailed explanation of why the covered individual believes that the denial was in error, and (b) copies of any available supporting documentation. All appeals under this Policy should be submitted in accordance with The Standard's appeals process.

Covered individuals will be informed in writing of the outcome of the internal appeal and of their rights under the MPFMLL and applicable regulations.

Covered individuals also have a right to appeal to the DFML. Covered individuals are required to participate in the internal appeal process prior to exercising their right to appeal with the DFML. The DFML may be contacted at MassPFML@Mass.gov.

Reinstatement Following PFML

Upon return from PFML, a current employee shall be restored to the employee's previous position or to an equivalent position with the same status, pay, employment benefits, if any, length-of-service credit, and seniority as of the date of the leave. This provision shall not apply to persons who were former employees as of the date they went out on leave. An employee will not be entitled

to any employment rights or benefits greater than those the employee would have had in the absence of taking such a leave.

Employees will not be restored to a previous or to an equivalent position if other employees of equal length-of-service credit and status in the same or equivalent positions have been laid off due to economic conditions or other changes in operating conditions affecting employment during the period of leave; provided, however, that the employee who has taken leave shall retain any preferential consideration for another position to which the employee was entitled as of the date of the leave.

Employees who are hired for a specific term or only to perform work on a discrete project shall not be reinstated if the employment term or project is over and the University would not otherwise have continued to employ the employee.

The University will ensure the continuance of employees' existing rights, if any, to vacation time, sick leave, bonuses, advancement, seniority, length-of-service credit or other employment benefits, plans or programs upon their return to employment.

Leave Extensions

Employees who are unable to return to work on the date scheduled must notify both their supervisor/manager and the Benefits Office, Human Resources immediately. Employees who experience a change in relevant circumstances that would justify an extension, reduction or other modification of the period of leave or the amount of benefits must notify their supervisor/manager and the Benefits Office, Human Resource within seven (7) days of the change. Employees must provide information requested by the Benefits Office, Human Resources to support any request for an extension or modification of leave, which may include a newly completed or updated certification. If an employee fails to return to work as scheduled or does not receive approval to extend the return to work date, PFML payments will cease.

The initial seven calendar day waiting period for benefits shall not apply to an approved extension of benefits, and any extension of a leave shall be limited to the period of PFML for which the employee remains eligible in the benefit year under this Policy.

Job Protection

The University prohibits discrimination and retaliation against an employee who takes leave pursuant to this Policy or who otherwise exercises rights provided for by the Law. Employees similarly shall not be subject to retaliation or threats of retaliation for filing a complaint or instituting or causing to be instituted a proceeding under or related to the Law, or for testifying in an inquiry or proceeding or giving information connected to any inquiry or proceeding relating to the Law. Nothing in this section shall limit the University's ability to reasonably communicate with an employee who is approved for leave benefits under this Policy. Similarly, this section shall not limit the obligation of employees who are approved for leave benefits to comply with the reasonable attendance and call-in procedures established for their position.

Policy Amendments

Boston College will promptly update this Policy and its claims practices to comply with any changes, amendments, or regulatory clarifications of provisions of the MPFMLL. Boston College may amend or terminate this Policy at other times in its discretion. If Boston College terminates this Policy for any reason, it will comply with the requirements for transferring coverage to another compliant PFML fully insured private plan or comply with requirements for beginning or resuming participation in the state plan. If coverage under this Policy is terminated or modified, the University shall provide written notice to the DFML and employees no later than 30 calendar days prior to the effective date of such change. If coverage under this Policy is terminated for any reason, the University will continue to pay benefits on any claims for leave that commenced prior to the effective date of the termination of the Policy. Boston College shall comply with any other requirements associated with termination and modification of plans as established by the DFML.