



Boston College
Family and Medical Leave Policy

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Introduction

Boston College understands the importance of family issues to today's workforce and recognizes that its employees often face conflicting demands of family obligations and work requirements. Because employees may find it necessary to take leave from their jobs for a temporary period to address certain family responsibilities or their own serious health conditions, and in order to comply with the Family and Medical Leave Act of 1993 (FMLA), the University has established the following policy governing parental, family, and medical leaves.

[A notice entitled "[Employee Rights and Responsibilities under the Family and Medical Leave Act](#)" is available on the Human Resources website and is posted outside the Benefits Office in the Department of Human Resources.]

I. General

A. Covered Leaves

1. Maternity Leave

Upon the birth of a child, the mother is entitled to a leave for up to 12 consecutive weeks. The first eight weeks will be considered as paid medical leave related to childbirth, and the employee will receive her regular pay for that period, provided she has completed at least eight months of continuous service at a minimum of 20 hours per week. (An employee with less than eight months' service will be entitled to one week of paid medical leave for each full month of continuous service.) The eight-week paid leave will not apply to periods when the employee would otherwise not be working - for example, in the case of an academic year position where the eight-week period extends into the summer. The paid period is not extended by the occurrence of any holidays that fall within the first eight weeks. The remainder of the leave may be paid or unpaid (see Section IV-Substitution of Sick Leave and Vacation Time).

2. Paternity Leave

Upon the birth of a child, the father is entitled to a maximum leave of 12 consecutive weeks within the 12-month period following birth. The first week of the leave will be paid (and not charged to sick or vacation accruals), provided it is taken within 12 weeks following the birth of the child. The remainder of the leave will be unpaid unless the employee has accrued vacation time (see Section IV).

3. Adoption Leave

Employees will be granted up to 12 weeks of leave to care for an adopted child within the 12-month period following the adoption or placement. Normally, the leave must be taken all at one time, but alternative arrangements will be considered if necessary to comply with court or agency requirements.

For employees who have completed at least one year of benefits-eligible service, Boston College will grant up to eight weeks of Paid Adoption Leave during the period immediately following placement of the adopted child in the employee's home. To be eligible, the employee must certify that he or she is the *primary caregiver* for the adoptive child, and the child must be under the age of 13. This leave will not be charged to the employee's sick or vacation accruals.

A benefits-eligible employee who is an adoptive parent, but not the *primary caregiver*, will be granted one week of Paid Adoption Leave, also not charged to sick or vacation

accruals. The leave must be taken within 12 weeks of placement of the child in the employee's home.

For additional information, employees should refer to the [Adoption Leave Policy](#) online, or request a copy from the Benefits Office (also see Section IV).

4. Foster Care Leave

Employees will be eligible for up to 12 consecutive weeks of FMLA leave during the 12-month period following official placement of a child into their foster care. The first week of the leave will be paid (and not charged to sick or vacation accruals), provided it is taken within 12 weeks following placement of the child. The remainder of the leave will be unpaid unless the employee has accrued vacation time (see Section IV).

5. Family Leave

Employees will be eligible for up to 12 weeks of leave during a 12-month period to care for a "family member" with a "serious health condition" (see Section II-Definitions and Section IV).

6. Medical Leave

An eligible employee will be entitled to 12 weeks of leave if a "serious health condition" renders the employee unable to perform his or her job functions. This leave will be coordinated with the University's sick leave and short-term disability policies (see Section IV).

Employees are limited to a maximum of 12 weeks' leave for any of the above purposes. For example, a person cannot take 12 weeks' parental leave and 12 weeks' paid sick leave during the same 12-month period.

7. Military Family Leave

(a) Military Caregiver Leave – An eligible employees who is the spouse, child, parent, or next of kin of an Armed Forces member, including the National Guard or Reserves, may take up to 26 weeks of leave in a 12-month period to care for the servicemember who is recovering from a serious illness or injury. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

(b) Qualifying Exigency Leave – An eligible employee with a spouse, child, or parent serving in the National Guard or Reserves may use up to 12 weeks of FMLA leave for "any qualifying exigency" arising out of the fact that the military member is on active duty or is called to active duty in support of a contingency operation. A "qualifying exigency is broadly defined as: (1) short-notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; and (8) additional activities agreed to by the employer and employee.

B. Eligibility

An employee is eligible if he or she has been employed by the University for at least 12 months and has worked at least 1,250 hours during the 12-month period prior to the time leave would begin under this policy. Hours are calculated based upon actual hours worked, including overtime.

Note: Employees eligible for FMLA leave must also be eligible for the University's benefit programs in order to be entitled to any paid leave referenced in this policy. Otherwise, the entire FMLA leave will be unpaid.

C. The 12-Month Period

Available leave will be calculated by determining the amount of leave used by an employee for the 12 months prior to the period for which leave is requested and subtracting that number from the total days equal to 12 work weeks. Employees will be advised when requesting leave of the amount of FMLA leave they have available.

D. Spousal Exception

If a husband and wife both work for Boston College, and are eligible for leave, they are only entitled to a combined 12 work weeks of leave taken for birth, adoption, foster care, and to care for a parent. Both employees are entitled to the full 12 weeks for their own illness or to care for a sick child or spouse.

E. Intermittent Leave

An employee taking leave for personal illness or to care for a sick family member may take it on an intermittent basis, or by reducing scheduled work hours, if medical certification is provided that leave must be taken in that manner. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the University's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

II. Definitions

A. "Family Member"

"Family member" is defined as the employee's spouse, son, daughter or parent (but not a parent "in-law"). A "son" or "daughter" is any child under 18 who is the biological child of the employee, who is adopted by the employee, or whom the employee supervises on a day to day basis and for whom the employee is financially responsible. A "son" or "daughter" is also a child over 18 who is incapable of self-care because of a mental or physical disability. A parent is any individual who assumed day to day and financial responsibility for the employee when the employee was a child.

B. "Serious Health Condition"

"Serious health condition" is defined as 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.

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. Other conditions may also meet the definition of continuing treatment.

C. "Health Care Provider"

The definition of "health care provider" includes physicians, podiatrist, dentists, clinical psychologists, optometrists, chiropractors (for certain treatments), Christian Science practitioners, nurse practitioners and nurse midwives performing within the scope of their practice as defined under state and federal regulations.

III. Procedures for Requesting Leave

A. Request for Leave

1. Procedure by Employee

All requests for leave under this policy should ordinarily be initiated in writing through the employee's supervisor, with a copy to the Benefits Director. An [Employee Request for Leave](#) form is available for this purpose, but is not required to be used. If an employee has any questions or any problems obtaining approval for the leave, or needs further information about his or her rights under this law, the employee should contact the Benefits Office.

2. Scheduling

When the leave is foreseeable, an employee must give Boston College thirty (30) days advance notice. When the leave is not foreseeable, notice should be given as soon as possible. In the case of medical emergencies the employee or a family member should contact the department supervisor by telephone as soon as possible. A formal request for leave should then be submitted in writing as soon as practicable.

In addition, when the leave is for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the department's operation.

3. Benefits Office Notification

After receiving a request for leave, the Benefits Office will provide a notice detailing specific expectations and obligations of the employee, as well as any additional information that may be required.

B. Proof

1. Medical Certification

For leaves involving serious health conditions, the University may require verification of necessity for family or medical leave by a health care provider. The information required shall include:

- * the date on which the serious health condition commenced and the probable duration of the condition;
- * appropriate medical facts within the knowledge of the health care provider that would entitle the employee to take family or medical leave; and
- * an estimate of the amount of time that the employee is needed to care for a family member, or statement explaining the extent to which the employee is unable to perform the functions of his/her position.

Certifications must be submitted within 15 days of the date requested by the University.

2. Second Opinions

The University has the option of requiring the employee to get a second opinion from an independent medical provider selected and paid for by Boston College. If the two opinions conflict, the issue may be resolved by a third opinion from a provider agreed to by the University and the employee which shall be considered final and binding. Boston College will pay for the third opinion.

3. Medical Recertification

During a leave, Boston College reserves the right to request recertification of the medical condition that caused the employee to take the leave.

C. Transfer to Alternative Position

The University reserves the right to transfer an employee to another position whenever an employee's use of leave for one or more qualifying reasons is so frequent and intermittent that it is impossible to predict and schedule for coverage.

D. Confidentiality

Boston College will keep confidential all information relating to requests for family or medical leave. This information will be used only to make decisions in regard to the provisions of this policy. Supervisors should not retain any copies of relevant records in their files.

IV. Substitution of Sick Leave and Vacation Time

A. Maternity Leave

As noted above, the first eight weeks of maternity leave will be considered as paid medical leave related to childbirth. The remainder of the leave will be unpaid, unless the employee is medically disabled and is due payments under the University's sick leave and short-term disability policies, or, if not disabled, unless the employee has accrued vacation time, in which case the vacation time must be applied toward the leave.

B. Adoption Leave

Any portion of an adoption leave that is not covered by the Paid Adoption Leave policy will be unpaid, unless the employee has accrued vacation time, in which case the vacation must be applied toward the leave.

C. Paternity Leave and Foster Care Leave

Following the first week of paid leave, the leave will be unpaid, unless the employee has accrued vacation time, in which case the vacation time must be applied toward the leave.

D. Family Leave and Military Family Leave

Leaves taken to care for a family member with a serious health condition will be unpaid, with the following exception. Under the University's sick leave policy, employees are permitted to use up to five days of sick leave per year to care for ill members of their immediate family. Those five days, if not previously used, may be applied toward the FMLA leave under this section. The employee's department may require that any accrued vacation time be used as part of the FMLA leave before the unpaid portion begins.

E. Medical Leave

Employees on leave due to a serious health condition will be entitled to pay in accordance with the University's sick leave and short-term disability policies. Any portion of a medical leave not covered by those policies will be unpaid unless the employee elects to use accrued vacation time.

V. Benefits

A. Health Benefits

During the leave, the University will maintain the employee's medical and dental coverage, provided the employee continues to pay his or her normal portion of the premiums. In the case of paid leave, the premiums will be deducted from the employee's checks. During unpaid leave, the employee will be required to submit checks, payable to Boston College, to the Benefits Office by the first of each month. If the employee fails to make the required payments for health coverage within 30 days of the date that such payments are due, health coverage will be discontinued.

B. Other Benefits

Other, non-health, benefits will be treated the same way during an FMLA leave as they are during other approved leaves without pay. Group Life Insurance will continue at no cost to the employee. Disability Insurance will only continue if the FMLA leave is for maternity purposes or the employee's own illness. Tuition remission benefits will continue. Retirement Plan contributions will cease during an unpaid leave.

Employees do not accrue vacation or sick time while on an unpaid FMLA leave. Employees on an intermittent or reduced-scheduled leave will accrue vacation and sick time at the same rate as part-time employees working similar schedules.

VI. Reinstatement

A. General

An employee taking leave under this policy will be returned to the same position or to an equivalent position, unless the employee would have been terminated in the absence of any leave (e.g., layoff, downsizing, or termination of a temporary job). Taking a leave will not result in any loss of benefits or conditions of employment accrued prior to the beginning of the leave period, unless the benefit or condition of employment was discontinued or changed for other employees during the leave period.

B. Medical Certification

Boston College reserves the right to require a medical certification or a medical examination, at its expense, to ensure that employees returning from leave for a serious health condition can safely perform all the functions of the job.

C. Periodic Reporting

Employees on leave are expected to maintain contact with their supervisor on a periodic basis (at least monthly) regarding their status and intent to return from leave.

D. COBRA

Upon notification that the employee is not returning from leave, Boston College shall terminate the employee's health benefits, and he or she shall be entitled to continuation of

health benefits only in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") and the provisions of the health plan.

E. Repayment of Premiums

Employees who return to work should contact the Benefits Office to verify whether all required health premium payments are up-to-date and, if not, to work out an appropriate payment arrangement. Should the employee not return to employment with Boston College upon expiration of the leave, he or she shall owe the cost of any health benefits provided during the leave, including both the employer and employee premiums.

F. Failure to Return to Work

Employees who fail to return to work after FMLA leave shall be treated as having voluntarily terminated their employment.

VII. General Provisions

Boston College is the sole administrator of this policy and is the exclusive interpreter of its terms. All provisions of this policy shall be interpreted consistent with the Family and Medical Leave Act of 1993.

The University reserves the right to modify or terminate this policy at any time.

Except as otherwise stated, this policy is not intended to create any rights greater than those conferred on employees by the Family and Medical Leave Act of 1993.