



# Boston College

## Family and Medical Leave Policy

### 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.

[**NOTE:** As of January 1, 2021, the Massachusetts Paid Family and Medical Leave (PFML) law became effective. Many of the PFML benefits overlap the FMLA benefits, but in some ways PFML benefits are more extensive. Also, the categories of Eligible Family Members are broader under the PFML law than under the FMLA. (PFML leaves to care for eligible family members are effective July 1, 2021.)

For all FMLA leaves listed below, employees are advised to also review the leave provisions under Boston College's [\*MA PFML policy\*](#), which can also be found under the Leaves & Absences section in the online Employee Handbook.]

### I. General

#### A. Covered Leaves

##### 1. Maternity Leave

Upon the birth of a child, a mother who has completed at least one year of service is eligible for a leave for up to 12 consecutive weeks. The first four weeks will be considered paid Birth Recovery Leave, and the employee will receive her regular pay for that period, not charged to sick or vacation time. Following those weeks the mother is also eligible for four consecutive weeks of paid Parental Leave, also not charged to sick or vacation time.

An employee who is not eligible for FMLA leave because she has less than one year of service will be eligible for one week of paid Birth Recovery Leave for each full month of continuous service at a minimum of 20 hours per week (maximum four weeks paid leave), followed by one week of paid Parental Leave for each subsequent month of service (maximum four weeks of additional paid leave).

The paid leaves 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 leave periods would extend into the summer. The paid periods are not extended by the occurrence of any holidays that fall within the leave periods. The remainder of the leave may be paid or unpaid (see Section IV-Substitution of Sick Leave and Vacation Time).

**Full-time Faculty** should refer to the Maternity Leave Policy in the Faculty Handbook.

## 2. Paternity Leave

Upon the birth of a child, a father who has completed at least one year of service is eligible for a maximum leave of 12 consecutive weeks of FMLA leave within the 12-month period following birth. The first four weeks of the leave will be paid Parental Leave, not charged to sick or vacation time, provided it is taken within 12 weeks following the birth of the child. This pay period is not extended by the occurrence of any holidays that fall within the four weeks. The remainder of the leave will be unpaid unless the employee has accrued vacation time (see Section IV).

An employee who is not eligible for FMLA leave because he has less than one year of service will be eligible for one week of paid Parental Leave for each full month of continuous service at a minimum of 20 hours per week (maximum four weeks of paid leave).

## 3. Adoption Leave

Eligible 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 four weeks of paid Adoption Placement Leave to be taken 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. Those four weeks may be followed by up to four weeks of paid Parental Leave, to be taken within 12 weeks of placement of the child in the employee's home. [Note: The paid Parental Leave is available to an adoptive parent whether or not the parent is the *primary caregiver*.] The paid leaves will not be charged to the employee's sick or vacation time.

An employee who is not eligible for FMLA leave because he or she has not completed a year of service, and who is the *primary caregiver*, will be eligible for one week of paid Adoption Placement Leave for each full month of continuous service at a minimum of 20 hours per week (maximum four weeks of paid leave). This may be followed by one week of paid Parental Leave for each subsequent month of service (maximum four weeks of additional paid leave). Paid Parental Leave is available whether or not the employee is the *primary caregiver*.

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

**Full-time Faculty** should also refer to the Adoption Leave Policy in the Faculty Handbook.

## 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 time), 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 FMLA 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 employee will be eligible for 12 weeks of FMLA 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 for FMLA leave 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 eligible for a combined 12 work weeks of leave taken for birth, adoption, foster care, and to care for a parent. Both employees are eligible for 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 four weeks of maternity leave will be considered as paid medical leave related to childbirth. An additional four weeks of paid Parental Leave are also available. 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. Vacation time may be applied toward the last four weeks of a 12-week FMLA maternity leave at the employee's option.

#### **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. Use of vacation time is optional during an FMLA leave.

#### **C. Paternity Leave and Foster Care Leave**

Following the four weeks of paid Parental Leave, the leave will be unpaid, unless the employee has accrued vacation time. Use of vacation time is optional during an FMLA leave.

#### **D. Foster Care Leave**

Following the first week of paid leave, the leave will be unpaid, unless the employee has accrued vacation time. Use of vacation time is optional during an FMLA 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. Any accrued vacation time may also 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 may 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 premiums provided during the leave, including both the employer and employee amounts. Failure to pay any past-due amounts may result in retroactive termination of coverage.

### **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, as amended.

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