



Brandeis University

Family and Medical Leave Policy for Faculty

Policy Statement

Brandeis University has adopted the following leave policy for faculty members in compliance with the Family and Medical Leave Act of 1993 (FMLA). Brandeis University reserves the right to change, amend or limit this policy at any time without notice, subject to applicable law.

Applicability

This policy applies to Brandeis faculty members who:

1. occupy tenured or tenure-track positions or hold renewable contracts outside the tenure structure;
2. are employed half-time or more; and
3. have been employed by the University for the two semesters prior to the semester in which the leave is sought.

This policy does not apply to faculty holding temporary (non-renewable) appointments.

Under the FMLA, faculty members are eligible for up to twelve (12) weeks of Family and Medical Leave during a twelve-month period. Brandeis University uses a 12-month look back period in determining entitlement for FMLA. The look back period will begin on the first date that any FMLA leave commenced in the prior twelve months, or, if no leave has been taken in the previous twelve months, on the date that the requested leave begins. In certain circumstances, the University offers more generous leave benefits than those required under the FMLA. The different types of qualifying leaves and their corresponding benefits are outlined below.

TYPES OF FAMILY AND MEDICAL LEAVE

- *Paid Leaves:* Although the FMLA provides for a twelve (12) week unpaid leave entitlement, faculty members who qualify may receive up to six (6) calendar months of paid medical leave (described below). In such cases, the first twelve weeks of paid medical leave shall be considered as Family and Medical Leave for purposes of this policy, and will count against the faculty member's FMLA entitlement. Note, in addition, that a faculty member may not take more than six (6) months total paid leave for Medical and Parental Leave entitlements in any consecutive three (3) semesters.
- *Medical Leave:* An eligible faculty member who has a "serious health condition" (as defined on the following page) will continue, upon appropriate certification by a health care provider, to receive his or her salary (as determined by the terms of his or her appointment) for a period of up to six (6) calendar months, provided that this period does not exceed the duration of his or her appointment. Paid Medical Leave time may be prorated for an eligible faculty member who requires intermittent or reduced work leave (as set forth on the following page).
- *Parental Leave:* An eligible faculty member who assumes "primary care responsibility" (as defined below) for a newborn, a newly adopted child, or a newly placed foster child may receive

his or her salary, as determined by the terms of his or her appointment, for a period of up to twelve (12) consecutive weeks, provided that this period does not exceed the duration of the appointment and, together with any paid Medical Leave, does not exceed six (6) months. Furthermore, as stated above, a faculty member may not take more than six months total paid leave for Medical and Parental Leave entitlements in any consecutive three semesters.

Parental leave must conclude within twelve months of the birth or placement of the child. In order to receive Parental Leave, the faculty member shall submit a written request to the appropriate Dean specifying the extent of his or her responsibility for providing childcare. If both parents work for the University, they will be permitted to take only a combined total of twelve (12) weeks of Parental Leave.

“Primary care responsibility” means day-to-day principal responsibility for the care of the child, and is not intended to include parents whose newborn or newly placed child is in the full-time care of either a spouse or a professional childcare provider.

- Unpaid Leaves:

An eligible faculty member may take up to twelve (12) weeks of unpaid FMLA leave during a twelve-month period (subject to the applicable limits):

1. To care for a spouse, same-sex spouse, child or parent (as defined below) with a serious health condition, or, if the faculty member does not qualify for paid Parental Leave, to care for a newborn, newly adopted or newly placed foster child. If both parents of a newborn, newly adopted child or newly placed foster child work for the University, they will be permitted to take only a combined total of twelve (12) weeks of FMLA leave to care for the child.
2. Due to incapacity caused by pregnancy, for prenatal care, or for her own serious health condition following the birth of a child. A spouse or same-sex spouse is entitled to FMLA leave needed to care for the pregnant spouse under any of these circumstances.
3. Because of a qualifying exigency arising out of the fact that the employee’s spouse, same-sex spouse, child or parent is a covered military member on active duty (or had been notified of an impending call to active duty) in support of a contingency operation.

An eligible faculty member may take up to twenty-six (26) weeks of unpaid FMLA leave in a single 12 month period to care for a covered service member with a serious injury or illness incurred in the line of duty if the faculty member is the spouse, same-sex spouse, child, parent or next of kin of the service member. The 12 month period begins on the first day the employee takes such leave.

An eligible faculty member who elects to take unpaid FMLA leave will be paid on a prorated basis based on an academic year of thirty-nine (39) weeks.

- Intermittent or Reduced Work Leave: FMLA leave for a faculty member’s or family member’s serious health condition may be taken intermittently or on a reduced work schedule if medically necessary. FMLA leave on an intermittent or reduced work schedule for childbirth, adoption or foster placement may be taken only with the prior approval of the appropriate Dean. If the need

for intermittent leave or a reduced work schedule is foreseeable, the University may transfer faculty to alternative teaching schedules or assignments that better accommodate the intermittent leave or reduced work schedule. Intermittent or reduced work leave will be paid or unpaid as determined under the policies outlined above.

DEFINITIONS

- **Family Members:** Under the FMLA, a “spouse” is defined as a husband or wife as recognized under state law. Brandeis University will also treat a same-sex spouse, as a “spouse” for purposes of this policy. A “parent” is defined as the biological parent of the faculty member, or a person who stood in loco parentis to the faculty member when the faculty member was a child. A parent-in-law is not a “parent”. A “child” is defined as a biological, adopted, or foster child, stepchild, legal ward or “a child of a person standing in loco parentis” who is under 18 years of age, or 18 or older and incapable of self-care because of mental or physical disability at the time that FMLA leave commences.
- **Serious Health Condition:** A serious health condition under the FMLA is defined as an illness, injury, impairment, or physical or mental condition that involves (1) inpatient care in a hospital, hospice, or residential medical care facility, or (2) a period of incapacity requiring an absence of greater than three days and continuing treatment by a health care provider. Continuing treatment is defined as (1) two or more visits to a health care provider within 30 days of the first day of incapacity, or (2) a single visit that results in a regimen of continuing treatment under the supervision of the health care provider. The visits must be in person and the first visit must occur within 7 days of the first day of incapacity. For chronic conditions, visits to a health care provider at least twice a year are required.

A “regimen of continuing treatment” includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

- **Because of a Qualifying Exigency.** An eligible employee may be approved for a maximum of 12 weeks leave in a 12 month period, calculated on a “rolling” basis. Qualifying exigencies include short-notice deployment, military events, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, as well as other circumstances. Employees are advised to consult with the Human Resources Office regarding eligibility.

FAMILY AND MEDICAL LEAVE PROCEDURES

- Applications for Family and Medical Leave are available from the Office of Human Resources. In order to make the most appropriate arrangements and to protect their rights, faculty members should complete applications as promptly as possible after deciding to request Family and Medical Leave. Once the application has been completed and signed by the faculty member and submitted with the medical certification described below, and has been approved by the appropriate Dean and the Office of Human Resources, the faculty member and the appropriate department chair(s) will be notified regarding the outcome of the leave request within 5 business days (absent extenuating circumstances).

Medical Certification: Applications for Family and Medical Leave with respect to a faculty member's or a family member's serious health condition must be accompanied by a certification from a health care provider demonstrating that the leave is necessary. The appropriate form is available from the Office of Human Resources. The medical certification must state the date on which the serious health condition began, the probable duration, and appropriate medical facts about the condition. If there are deficiencies in the medical certification, the University will explain in writing what additional information is needed and the faculty member will have seven days to provide the requested information. If questions still remain after receiving information from the faculty member or the faculty member does not provide the requested information within seven days, the University's Human Resources Office may contact the faculty member's health care provider for clarification and/or confirmation of the authenticity of the medical certification. In these situations, faculty members must sign a HIPAA release form permitting the Human Resources Office to contact their health care provider, or leave may be denied. In certain instances, a second or third medical opinion may be required, at the University's expense.

A faculty member requesting leave to care for a spouse, same-sex spouse, child or parent with a serious health condition must provide a completed medical certification form with respect to the spouse, same-sex spouse, child or parent. This certification must also include a statement that the faculty member is needed to care for the family member.

- **Notice Before Leave:** In instances where a Family and Medical Leave is foreseeable, a faculty member must provide thirty (30) days advance notice of the leave request. Notice may not be given on a retroactive basis. Where leave is not foreseeable, such as during a medical emergency, notice must be given as soon as is practicable. In the case of planned medical treatment, a faculty member should make a reasonable effort to schedule treatment in order not to disrupt the work of his or her department.
- **During a Leave:** Except in cases involving service members, a faculty member on Family and Medical Leave for a serious health condition is required to submit medical re-certification and statements of intent to return to work once a month during the leave. This information will be reported to the Office of Human Resources and shared with the Dean and the department chair(s) on a need-to-know basis. A faculty member may not engage in other employment during a Family and Medical Leave without the approval of the appropriate Dean.
- **Returning From Leave:** At the end of a faculty member's Family and Medical Leave for his or her own serious health condition, he or she will be required to submit a health care provider's statement to the Office of Human Resources certifying that he or she is able to resume work (unless the leave was taken on an intermittent basis). The University reserves the right, subject to the applicable terms of the Faculty Handbook, to institute disciplinary action against a faculty member who does not report to work after the expiration of a Family and Medical Leave.

CONFIDENTIALITY OF MEDICAL RECORDS

Medical records related to a faculty member's or family member's serious health condition will be kept strictly confidential, and will be shared with University personnel only on a need-to-know basis. The application for Family and Medical Leave and all medical certifications will be retained in a confidential file in the Office of Human Resources.

STATUS OF BENEFITS DURING FMLA LEAVES

The University will continue a faculty member's medical and/or dental coverage during both paid and unpaid FMLA leaves provided the faculty member continues to pay his/her portion of the premiums. Premium payments will continue to be deducted from your paycheck during a paid leave. Faculty members should make arrangements with the Benefits section of the Office of Human Resources to continue the premium payments during an unpaid leave. A faculty member who does not return to work following a FMLA leave for reasons within his or her control must reimburse the University for the cost of University health insurance contributions paid on his or her behalf during any period of unpaid leave.

Group Basic Life Insurance and Long-Term Disability Insurance will continue at no cost to the faculty member during an approved FMLA leave. If the faculty member is enrolled in the Supplemental Life Insurance premium payments will continue to be deducted from your paycheck during a paid leave. Faculty should make arrangements with the Benefits section of the Office of Human Resources to continue the premium payments during an unpaid leave.

Retirement Plan contributions will continue during a paid FMLA leave based on eligible compensation received. Under IRS rules, Retirement Plan contributions cannot be continued during an unpaid leave.

Faculty members who participate in the Flexible Medical and/or Dependent Care Reimbursement Accounts will continue to have their deductions taken from their paychecks during a paid FMLA leave. Deductions for faculty who are on an unpaid FMLA leave will stop immediately. Faculty may submit claims for covered expenditures during the leave and continue to be subject to plan provisions.

Tuition Remission benefits for dependent children will continue during a paid or unpaid FMLA leave.

REAPPOINTMENT AND TENURE REVIEW

As provided in the Faculty Handbook, a faculty member who has taken Family and Medical Leave for a minimum of seven (7) weeks may postpone a scheduled reappointment or tenure decision. The faculty member must notify the appropriate Dean of such a postponement by May 1 of the calendar year in which his or her department or school is scheduled to make a reappointment or tenure recommendation to the Dean. The length of such a postponement shall be two semesters. Such postponements may not exceed a total of four (4) semesters.

WORKER'S COMPENSATION

A faculty member who experiences a serious health condition as a result of a worker's compensation accident is required to complete an application for Family and Medical Leave.

This policy is for general guidance only. It does not create an employment contract or any right to continued employment at Brandeis University. Brandeis University reserves the right to modify, revoke, suspend, terminate and/or change any and all policies and procedures at any time, with or without notice.