



XAVIER UNIVERSITY

Family and Medical Leave Act (FMLA)

Effective: April 30, 2008

Last Updated: May 25, 2023

Last Reviewed: May 25, 2023

Responsible University Office: Office of Human Resources

Responsible Executive: Associate Vice President for Human Resources

Scope: All University Employees

Policy

It is the policy of Xavier University to provide a leave of absence in accordance with the requirements of the Family and Medical Leave Act of 1993. Employees who have worked at Xavier University for at least 12-months and have been employed for at least 1,250 hours of service during the 12-month period preceding the commencement of the leave are eligible for unpaid leave under the Family and Medical Leave Act of 1993 (FMLA). Through FMLA employees are entitled to a maximum of 12 weeks of leave in a 12-month period. Xavier University has elected to utilize a rolling calendar year when determining the effective 12-month period. Employees who qualify and approved for FMLA may be entitled to up to 8 weeks of base pay while utilizing FMLA.

Employees can request to be excused from work for:

- a. The care of a family member, defined under FMLA, who has a serious health condition;
- b. The employee's own serious health condition;
- c. The birth, adoption, or foster-placement of a child;
- d. When a family member is on or called to active duty when they experience a qualifying exigency; or
- e. To care for a service member that sustained an injury or illness in the line of military duty (under this category employees are entitled to a maximum of 26 weeks of leave when requesting leave)

While an employee is on approved FMLA leave, Xavier University will continue to pay its portion of the employee's medical insurance. The employee is responsible for paying for his/her portion of the applicable insurance(s). Leave because of a serious health condition may be taken intermittently or on a reduced leave schedule where medically necessary.

Only one (1) 12-week leave per rolling calendar year, per employee, will be allowed under FMLA. However, if the University is closed for an entire week, that week will not count toward the employee's 12-week leave period.

If both spouses are employees of the University, each is entitled to one 12 week leave per rolling calendar year.

A leave under this policy may be concurrently counted toward both the 12 weeks of FMLA and unpaid leave balances.

Upon return from an approved FMLA leave, the employee will be restored to his/her prior position or an equivalent position.

When a holiday falls during a week in which an employee is taking the full week of FMLA leave, the entire week is counted as FMLA leave. However, when a holiday falls during a week when an employee is taking less than the full week of FMLA leave, the holiday is not counted as FMLA leave, unless the employee was scheduled and expected to work on the holiday and used FMLA leave for that day.

When determining the amount of FMLA leave taken, a holiday occurring within a week of FMLA leave has no effect. The week is still counted as a week of FMLA leave.

Classifications of Leaves Under FMLA

1. New Child
 - a. Granted for the birth, adoption, or foster care placement of a child
 - b. May only be granted within 12 months of birth or placement of a child;
 - c. Employee must provide 30 days advance notice before the date on which the requested leave would begin. If unable to provide 30 days' notice due to unforeseen circumstance, notice must be given as soon as possible.

2. Family Serious Health Condition (A serious health condition is defined as an illness, injury, impairment, or physical or mental condition(s) involving either inpatient care or continuing treatment by a health care provider). Leave will be considered for the following reasons:

- a. The serious health condition of the employee or their family member;
- b. Employee must provide documentation of his/her family member's serious health condition. This must include: date the leave will begin, probable duration, and appropriate facts regarding condition;
- c. In the event that the serious health condition is foreseeable based on planned medical treatment, employees are required to provide advance notice.
- d. To care for an injured or seriously ill servicemember or veteran who is a spouse, parent, child or next of kin.
- e. To handle exigencies related to the deployment to a foreign country with the armed services of a spouse, parent, child or next of kin.
- f. Military Caregiver Leave / Military Exigency Leave

The FMLA entitles eligible employees to Military Caregiver Leave. The FMLA includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. This leave is per-servicemember and per-injury. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties, for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. The maximum amount of FMLA any eligible employee may take in a 12-month period is 26 weeks.

The first time an employee requests FMLA Exigency Leave, an employer may require that the employee provide a copy of the family member's active duty orders or other reasonable documentation. Xavier University may require the employee provide reasonable documentation for each specific exigency where leave is required.

Xavier University may require the employee to submit a certification providing sufficient facts to support the request for leave, including certification by the servicemember's health care provider and written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider.

Procedures

- a. The employee must complete and submit a Certification of Health Care Provider Form to the Office of Human Resources. The form is available at <https://www.dol.gov/agencies/whd/fmla/forms>. This form must be complete and include all pertinent data. If approved, the effective date of the leave of absence is the day following the last day worked. The employee will receive notice from OHR if the leave is approved.

- b. Individuals seeking Military Caregiver or Military Exigency must complete and submit the appropriate leave form to OHR .The form is available at <https://www.dol.gov/agencies/whd/fmla/forms>.This form must be complete and include all pertinent data. If approved, the effective date of the leave of absence is the day following the last day worked. The employee will receive a notice indicating whether the leave is approved.
- c. The employee must contact the OHR to assure proper benefit coverage and arrange for employee insurance contribution payments as appropriate.
- d. Employees may be required to report periodically on their status and intent to return to work while on FMLA.
- e. Upon return from leave for a personal serious health condition, the employee must present a return to work note and/or fitness-for-duty certificate from the health care provider, as appropriate. The employee's return to work may be delayed until such note and/or certificate is submitted.
- f. FMLA leave will run concurrently with Family Leave, Sick Leave, Workers' Compensation and Xavier University's Unpaid Leave.
- g. Employees who qualify for FMLA leave up to 12 weeks in a rolling calendar year must use the following paid leave in order and exhaust each: (1) Family Leave, (2) Sick Leave, and (3) Vacation. Employees must use vacation concurrent with FMLA, as permitted by state and federal laws.
- h. Employees must exhaust all paid leave under Xavier University's leave policies before utilizing unpaid leave. Unpaid leave is subject to the requirements in the Unpaid Leave policy.

Other applicable policies and/or resources:

Holidays
Vacation
Unpaid Leave
Sick Leave