



Policy Name: Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) Policy

Policy Number: 3120

I. Policy Statement

The Family and Medical Leave Act (“FMLA”) and California Family Rights Act (“CFRA”) Policy (collectively “Policy”) sets out information concerning employee FMLA and CFRA entitlements and obligations during such leaves. The CFRA largely mirrors the FMLA and to the extent that benefits afforded to California employees under the CFRA differ from those under the FMLA, HUC-JIR will comply with the law that provides employees with greater or more generous benefits.

II. Purpose of Policy

The policy ensures that HUC-JIR complies with the FMLA and CFRA provisions.

III. Applicability (Audience)

The FMLA applies to all employees who are eligible under the FMLA statute.

The CFRA applies only to California employees who are eligible under CFRA statute.

IV. Definitions

Provide definitions for any specific terminology in the document.

V. Procedures and Implementation

For the purpose of this policy, the term FMLA shall be considered synonymous with CFRA for California employees, unless indicated otherwise.

I. Employees Eligible for FMLA Leave

FMLA leave is available to “eligible employees.” To be an “eligible employee,” an employee must: (1) have been employed by HUC-JIR for at least 12 months; (2) have been employed by HUC-JIR for at least 1250 hours (about 1 month 3 weeks) of service during the 12-month period immediately preceding the commencement of the leave; and (3) be employed at a worksite where 50 or more employees are located within 75 miles of the worksite.



II. Employee Entitlements for FMLA Leave

As described below, the FMLA provides eligible employees with a right to leave, health insurance benefits and, with some limited exceptions, job restoration.

A. **Basic FMLA Leave Entitlement**

The FMLA provides eligible employees up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12-month period. The 12-month period is determined as measured forward from the date an employee's first FMLA leave begins. Unless noted otherwise, FMLA and CFRA leave run concurrently for California employees. Leave may be taken for anyone, or for a combination, of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, registered domestic partner (California only), child or parent (but not in-law) who has a **serious health condition**;
- For the employee's own **serious health condition** (including any period of incapacity due to pregnancy, prenatal medical care, or childbirth) that makes the employee unable to perform one or more of the essential functions of the employee's job; and/or
- Because of any **qualifying exigency** arising out of the fact that an employee's spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty) in the Reserve component of the Armed Forces for deployment to a foreign country in support of a contingency operation or Regular Armed Forces for deployment to a foreign country.

A **serious health condition** is 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 (3) 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 meet the definition of continuing treatment.



Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

Because the CFRA does not apply to leave for a qualifying exigency arising out of covered active military duty of a family member, or to care for an injured covered service member, FMLA leave for these reasons does not run concurrently with CFRA leave therefore, California employees may have remaining CFRA leave available.

B. Additional Military Family Leave Entitlement (Injured Service member Leave)

In addition to the basic FMLA leave entitlement discussed above, an eligible employee who is the spouse, son, daughter, parent or next of kin of a **covered service member** is entitled to take up to 26 weeks (about 6 months) of leave during a single 12-month period to care for the service member with a serious injury or illness. Leave to care for a service member shall only be available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks (about 6 months) during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured service member.

A “**covered service member**” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary retired list, for a serious injury or illness. These individuals are referred to in this policy as “current members of the Armed Forces.” Covered service members also includes a veteran who is discharged or released from military service under condition other than dishonorable at any time during the five (5) year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. These individuals are referred to in this policy as “covered veterans.”

The FMLA definitions of a “serious injury or illness” for current Armed Forces members and covered veterans are distinct from the FMLA definition of “serious health condition” applicable to FMLA leave to care for a covered family member. For additional information regarding what qualifies as a “serious injury or illness,” please contact the National Office of Human Resources.



C. Intermittent Leave and Reduced Leave Schedules

FMLA leave usually will be taken for a period of consecutive days, weeks, or months. However, employees also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the employee or covered family member or the serious injury or illness of a covered service member. Qualifying exigency leave also may be taken on an intermittent basis.

For California Employees: Leave to bond with or care for a newborn or adopted child under the CFRA may be taken intermittently in increments of no less than two weeks, or in shorter increments on only two occasions, and all CFRA bonding leave must be taken within one year of the qualifying event.

D. Protection of Group Health Insurance Benefits

During FMLA leave, eligible employees are entitled to receive group health plan coverage on the same terms and conditions as if they had continued to work.

E. Restoration of Employment and Benefits

At the end of FMLA leave, subject to some exceptions including situations where job restoration of “key employees” will cause HUC-JIR substantial and grievous economic injury, employees generally have a right to return to the same or equivalent positions with equivalent pay, benefits, and other employment terms. HUC-JIR will notify employees if they qualify as “key employees, if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible employee’s FMLA leave.

F. Notice of Eligibility for, and Designation of, FMLA Leave

Employees requesting FMLA leave are entitled to receive written notice from HUC-JIR telling them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA leave, employees are entitled to receive written notice of: 1) their rights and responsibilities in connection with such leave; 2) HUC-JIR’s designation of leave as FMLA-qualifying or non-qualifying, if not FMLA-qualifying, the reasons why; and 3) the amount of leave, if known, that will be counted against the employee’s leave entitlement.

HUC-JIR is committed to timely administration of this policy; however, circumstances may arise where FMLA leave is not approved and designated prior to the leave being taken. If necessary, HUC-JIR may retroactively designate leave as FMLA leave with appropriate written notice to employees provided HUC-JIR’s retroactive designation does not prejudice the employee. In all cases where leaves



qualify for FMLA protection, HUC-JIR and employee can mutually agree that leave be retroactively designated as FMLA leave.

III. Employee FMLA Leave Obligations

A. Provide Notice of the Need for Leave

Employees who take FMLA leave must notify HUC-JIR of their need for FMLA leave. The following describes the content and timing of such employee notices.

Content of Employee Notice

To trigger FMLA leave protections, employees must inform the National Office of Human Resources of the need for FMLA-qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA leave specifically or explaining the reasons for leave so as to allow HUC-JIR to determine that the leave is FMLA-qualifying. For example, employees might explain that:

- a medical condition renders them unable to perform the functions of their job;
- they are pregnant or have been hospitalized overnight;
- they or a covered family member are under the continuing care of a health care provider;
- the leave is due to a qualifying exigency caused by a military member being on covered active duty or called to covered active duty status to a foreign country; or
- if the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered service member with a serious injury or illness.

Calling in “sick,” without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Employees must respond to HUC-JIR’s questions to determine if absences are potentially FMLA-qualifying.

If employees fail to explain the reasons for FMLA leave, the leave may be denied. When employees seek leave due to FMLA-qualifying reasons for which HUC-JIR has previously provided FMLA-protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA leave.



Timing of Employee Notice

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, employees must provide HUC-JIR notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Employees, who fail to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

B. Cooperate in the Scheduling of Planned Medical Treatment (Including Accepting Transfers to Alternative Positions) and Intermittent Leave or Reduced Leave Schedules

When planning medical treatment, employees must consult with HUC-JIR and make a reasonable effort to schedule treatment so as not to unduly disrupt HUC-JIR's operations, subject to the approval of an employee's health care provider. Employees must consult with HUC-JIR prior to the scheduling of treatment to work out a treatment schedule which best suits the needs of both HUC-JIR and the employees, subject to the approval of an employee's health care provider. If employees providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, HUC-JIR may require employees to attempt to make such arrangements, subject to the approval of the employee's health care provider.

When employees take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition or to care for a covered service member, HUC-JIR may temporarily transfer employees, during the period that the intermittent or reduced leave schedules are required, to alternative positions with equivalent pay and benefits for which the employees are qualified and which better accommodate recurring periods of leave.

When employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, employees must advise HUC-JIR of the reason why such leave is medically necessary. In such instances, HUC-JIR and employee shall attempt to work out a leave schedule that meets the employee's needs without unduly disrupting HUC-JIR's operations, subject to the approval of the employee's health care provider.



C. Submit Medical Certifications Supporting Need for FMLA Leave (Unrelated to Requests for Military Family Leave)

Depending on the nature of FMLA leave sought, employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three types of FMLA medical certifications: an **initial certification**, a **recertification**, and a **return to work/fitness for duty certification**.

It is the employee's responsibility to provide HUC-JIR with timely, complete, and sufficient medical certifications. Whenever HUC-JIR requests employees to provide FMLA medical certifications, employees must provide the requested certifications within 15 calendar days after HUC-JIR's request, unless it is not practicable to do so despite an employee's diligent, good faith efforts. HUC-JIR will inform employees if submitted medical certifications are incomplete or insufficient and provide employees at least seven calendar days to cure deficiencies. HUC-JIR will deny FMLA leave to employees who fail to cure deficiencies or otherwise fail to submit requested medical certifications in a timely manner.

With the employee's permission, HUC-JIR (through individuals other than an employee's direct supervisor) may contact the employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If employees choose not to provide HUC-JIR with authorization allowing it to clarify or authenticate certifications with health care providers, HUC-JIR may deny FMLA leave if certifications are unclear.

Whenever HUC-JIR deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

Initial Medical Certifications

Employees requesting leave because of their own, or a covered family member's, serious health condition, or to care for a covered service member, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If employees provide at least 30 days' notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If HUC-JIR has reason to doubt initial medical certifications, it may require employees to obtain a second opinion at HUC-JIR's expense. If the opinions of the initial and second health care providers differ, HUC-JIR may, at its expense, require



employees to obtain a third, final and binding certification from a health care provider designated or approved jointly by HUC-JIR and the employee.

Medical Recertification

Depending on the circumstances and duration of FMLA leave, HUC-JIR may require employees to provide recertification of medical conditions giving rise to the need for leave. HUC-JIR will notify employees if recertification is required and will give employees at least 15 calendar days to provide medical recertification.

Return to Work/Fitness for Duty Medical Certifications

Unless notified that providing such certifications is not necessary, employees returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide HUC-JIR medical certification confirming they are able to return to work and the employees' ability to perform the essential functions of the employees' position, with or without reasonable accommodation. HUC-JIR may delay and/or deny job restoration until employees provide return to work/fitness for duty certifications.

D. Submit Certifications Supporting Need for Military Family Leave

Upon request, the first time employees seek leave due to qualifying exigencies arising out of the covered active duty or call to covered active duty status of a military member, HUC-JIR may require employees to provide: 1) a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to active duty status and the dates of the military member's covered active duty service; and 2) a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. Employees shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active duty status of the same or a different military member.

When leave is taken to care for a covered service member with a serious injury or illness, HUC-JIR may require employees to obtain certifications completed by an authorized health care provider of the covered service member. In addition, and in accordance with the FMLA regulations, HUC-JIR may request that the certification submitted by employees set forth additional information provided by the employee and/or the covered service member confirming entitlement to such leave.



E. Substitute Paid Leave for Unpaid FMLA Leave

Employees may use any accrued paid time while taking unpaid FMLA leave. The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leaves and the paid time will run concurrently with an employee's FMLA entitlement.

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall run concurrently with any FMLA leave entitlement. Upon request, HUC-JIR will allow employees to use accrued paid time to supplement any paid disability benefits.

F. Pay Employee's Share of Health Insurance Premiums

As noted above, during FMLA leave, employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless HUC-JIR notifies employees of other arrangements, whenever employees are receiving pay from HUC-JIR during FMLA leave, HUC-JIR will deduct the employee portion of the group health plan premium from the employee's paycheck in the same manner as if the employee was actively working. If FMLA leave is unpaid, employees must pay their portion of the group health premium via check or money order, payable to HUC-JIR and due each pay date.

HUC-JIR's obligation to maintain health care coverage ceases if an employee's premium payment is more than 30 days late. If an employee's payment is more than 15 days late, HUC-JIR will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date. If employees do not return to work within 30 calendar days at the end of the leave period (unless employees cannot return to work because of a serious health condition or other circumstances beyond their control) they will be required to reimburse HUC-JIR for the cost of the premiums HUC-JIR paid for maintaining coverage during their unpaid FMLA leave.

G. Coordination of FMLA Leave with Other Leave Policies

The FMLA does not affect any federal, state, or local law prohibiting discrimination, or supersede any State or local law which provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult HUC-JIR's other leave policies in this Handbook or contact the National Office of Human Resources.

VI. Enforcement

Most Recent Revision Effective Date: 11.2021
Initial Adoption Date: 6.2021
Previous Revision Dates: 11.2021



HUC-JIR is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain, or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If employees believe their FMLA rights have been violated, they should contact the National Office of Human Resources immediately. HUC-JIR will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation.

VII. Policy Owner, Management and Point of Contact Information

Global Director of Human Resources

VIII. Exclusions

None.

IX. Effective Date

Reissued June 1, 2021.

X. Related HUC-JIR Policies and Documents

Identifies related HUC-JIR policies, Code of Regulations (bylaws), and HUC-JIR Board of Governors documents relevant to the policy.

XI. Notification of Policy Changes and Revision History

The College-Institute reserves the right to change this policy at any time. This policy is posted in the Policy Library and the Employee Handbook.

XII. Appendices, References, and Related Materials

The Appendices provide links to external guidelines, or federal, state, or local laws or regulations relevant to the policy.

XIII. Forms

[Request for Leave of Absence](#)

Most Recent Revision Effective Date: 11.2021

Initial Adoption Date: 6.2021

Previous Revision Dates: 11.2021



[Certification of Health Care Provider for Employee's Serious Health Condition](#)
[Certification of Health Care Provider for Family Member's Serious Health Condition](#)