

# **FML GUIDELINES**

Family and Medical Leave Act (FMLA)

California Family Rights Act (CFRA)

Pregnancy Disability Leave Law (PDLL)

*Note: For Pregnancy Disability Leaves, consult Sections I and II.*

## **I. PROCEDURAL GUIDELINES FOR ROUTINE FML REQUESTS**

### **Step 1: Employee states need for leave for potentially FML-qualifying reason.**

Employee provides enough information for supervisor to determine that leave being requested is for a reason that may qualify for Family and Medical Leave (FML).

Employee need not mention FML specifically. For example, the following would be adequate notice Employee is seeking leave for a potentially FML-qualifying reason, provided this information is obtained directly from Employee or Employee's spokesperson:

- Employee is in hospital
- Employee is unable to work because of pregnancy
- Employee needs to care for family member who is under a doctor's care

Simply calling in "sick" is not enough.

### **Step 2: Determine whether Employee is eligible for FML.**

Employee must have worked for UC (on payroll status) for at least 12 months. The 12 months do not have to be consecutive.

- Time spent on a military leave from UC counts toward the 12 months.

Employee also must have worked at least 1250 actual hours in the 12 months immediately prior to the beginning date of leave.

- Hours that an employee would have worked but for time spent on military leave from UC count toward the 1250 hours.
- Exempt employees with appointments of 60% time or greater are presumed to have worked the 1250 hours if they have met the 12-month requirement. However, consult HR if such an employee had extended absences during the previous 12 months.

### **Step 3: Confirm that Employee has not exhausted leave entitlement in applicable 12-month period.**

Entitlement for all FML leaves other than Military Caregiver Leave: 12 workweeks per calendar year.

Entitlement for Military Caregiver Leave: 26 workweeks in the 12-month period beginning with the first day of Military Caregiver Leave.

### **Step 4: Provide completed Notice of Eligibility and Rights & Responsibilities to Employee.**

**Due Date:** To employee within 5 *business* days of receipt of notice of need for leave.

Depending on employee's eligibility and remaining leave entitlement, follow A, B, or C:

#### **A. If Employee is not FML eligible:**

- Fill out Part A of [Notice of Eligibility and Rights & Responsibilities](#) form.
- Send Employee appropriate [Sample Letter](#) (1 or 9, as applicable) **and** enclosures identified in that letter.

#### **B. If Employee is FML eligible but Employee's FML leave entitlement has been exhausted for the applicable 12-month period:**

- Fill out all of [Notice of Eligibility and Rights & Responsibilities](#) form.
- Fill out top section and Part B of [Designation Notice](#) form.
- Send Employee appropriate [Sample Letter](#) (2 or 10, as applicable) **and** enclosures identified in that letter.

#### **C. If Employee is FML eligible and has not exhausted his or her FML leave entitlement for the applicable 12-month period:**

- Fill out all of [Notice of Eligibility and Rights & Responsibilities](#) form.
  - If requiring a Certification (recommended best practice), check applicable box in Part B of Notice. Then, fill out Section I of appropriate Certification form (depending on type of leave requested).

Note: If Employee is requesting leave for Employee's own serious health condition, check box in Section I of Certification indicating job description is attached (recommended best practice) and attach job description to Certification.

- If Employee is requesting Parental Leave or leave to care for a family member with a serious health condition, check box in Part B of Notice requiring documentation of family relationship (recommended best practice) and enclose [Declaration of Relationship](#) form.
- Refer to appropriate collective bargaining agreement or policy, as applicable, to determine whether Employee has option to or is required to substitute paid leave for any of the FML leave.
- Send Employee appropriate [Sample Letter](#) (3, 4, 5, 6, 7, 8, or 11, depending on type of leave requested) **and** enclosures identified in Sample Letter.

### **Step 5: Follow up if Certification is not returned.**

Employee should return the completed Certification within 15 *calendar* days of UC's request, absent extenuating circumstances. Grant Employee a reasonable amount of additional time if Employee has been unable to obtain Certification in spite of Employee's diligent, good faith efforts.

If Certification is *not* received within 15 calendar days or the additional time provided, send [Sample Letter 12](#) to Employee, along with enclosures identified in that letter.

After the letter is sent, Employee should provide Certification within 7 *calendar* days of request. Again, grant Employee a reasonable amount of additional time if Employee has been unable to obtain Certification in spite of Employee's diligent, good faith efforts.

Employee's request for FML leave may be denied or delayed if Certification is not received within stated deadline(s).

### **Step 6: Follow up if Certification is not complete and sufficient.**

If Employee returns Certification, but it is not complete and sufficient, send [Sample Letter 13](#) to Employee identifying deficiencies in Certification. Employee should then return completed Certification within 7 *calendar* days. Grant Employee a reasonable amount of additional time if Employee has been unable to obtain complete and sufficient Certification in spite of Employee's diligent, good faith efforts.

### **Step 7: Provide completed Designation Notice to Employee.**

**Due Date:** To Employee within 5 *business* days of receiving complete and sufficient Certification or sufficient information to determine whether leave is FML-qualifying.

Depending on whether leave is being designated as FML, follow A or B:

**A. If leave is being designated as FML:**

- Complete top section of [Designation Notice](#) and Part A.
  - If leave is for Employee's serious health condition, check box requiring [Return to Work Certification](#) (recommended best practice, provided that department has uniform practice of requiring such certifications for similarly situated employees). If this is done, check box indicating that Employee's job description is attached (recommended best practice).
  - If requiring Return to Work Certification, fill out top section of [Return to Work Certification](#) form and, if applicable, attach Employee's job description.
- Send Employee appropriate [Sample Letter \(14 or 15\)](#) **and** enclosures identified in that letter.

**B. If leave is not being designated as FML:**

- For all leaves except PDL, complete top section of Designation Notice and Part B and send Employee [Sample Letter 14](#) **and** enclosures identified in that letter.
- Note: For PDL leaves requested by an employee who is not FML eligible, Designation Notice should have been sent already as part of Step 4.C.

**Step 8: If Employee is exempt and taking leave on reduced schedule or intermittent basis, reach agreement regarding "workweek."**

In conjunction with Step 7 above, have Employee fill out [Exempt Employee Workweek Agreement for FML Leaves Taken on Reduced Schedule or Intermittent Basis](#) form. When agreement is reached, have form signed by Employee and Supervisor.

**Step 9: Track FML time used.**

If Employee's leave is due to **Employee's own serious health condition**, track time used for leave against Employee's FMLA and CFRA leave entitlements.

If Employee's leave is to care for a **family member with a serious health condition**, track time used for leave against Employee's FMLA and CFRA leave entitlements.

If Employee's leave is due to **pregnancy disability**, track time used for leave against Employee's PDLL leave entitlement. If Employee is FMLA eligible, also track time used for leave against her FMLA leave entitlement. Do not track against Employee's CFRA leave entitlement.

If Employee's leave is to **bond with a newborn child or a child newly placed with Employee (Parental Leave)**, track time used for leave against Employee's FMLA and CFRA leave entitlements.

If Employee is taking a **combined** leave for **pregnancy disability** and to **bond with a newborn child (Parental Leave)**:

- (a) Track time used for pregnancy disability portion of leave against Employee's FMLA and PDL leave entitlements only. Do not track against Employee's CFRA leave entitlement.
- (b) Track time used for Parental Leave portion of leave against Employee's FMLA leave entitlement (if any remains) and CFRA leave entitlement.

If Employee's leave is **Military Caregiver Leave**, track time used for leave against Employee's FMLA entitlement only. Do not track against Employee's CFRA leave entitlement.

If Employee's leave is **Qualifying Exigency Leave**, track time used for leave against Employee's FMLA entitlement only. Do not track against Employee's CFRA leave entitlement.

## **Step 10: Return to work/reinstatement.**

If [Return to Work Certification](#) was required in [Designation Notice](#), be sure Certification is received on or before date Employee returns to work. Shortly before anticipated return date, consider reminding Employee that Return to Work Certification will be required.

If Employee is released to return with restrictions, contact campus disability management office (or campus equivalent) for advice.

## **II. PROCEDURAL GUIDELINES FOR PREGNANCY DISABILITY (PDL) LEAVES**

Employees are eligible for up to 4 months of PDL even if they are not eligible for FML.

Depending on Employee's eligibility for FML and remaining leave entitlement(s), follow A, B, or C:

### **A. If Employee is not FML eligible:**

- Follow Step 4A above and use [Sample Letter 9](#).
- After Employee returns complete and sufficient Certification of Health Care Provider for Employee's Pregnancy Disability, send Employee [Sample Letter 16](#), designating the beginning and end dates of Employee's PDL leave.
- Track time used for leave against Employee's PDL leave entitlement.

- If Employee requests additional PDL and has not yet used her full entitlement, follow guidelines below regarding changes in leave dates or schedule.

**B. If Employee is FML eligible but Employee's FML entitlement has been exhausted for the calendar year:**

- Follow Step 4B above and use [Sample Letter 10](#).
- After Employee returns complete and sufficient Certification of Health Care Provider for Employee's Pregnancy Disability, send Employee [Sample Letter 16](#), designating the beginning and end dates of Employee's PDL leave.
- Track time used for leave against Employee's PDL leave entitlement.
- If Employee requests additional PDL and has not yet used her full entitlement, follow guidelines below regarding changes in leave dates or schedule.

**C. If Employee is FML eligible and has not exhausted her FML entitlement for the calendar year:**

- Follow Step 4C and use [Sample Letter 8](#) (if Employee requested combined PDL and Parental Leave) or [Sample Letter 11](#) (if Employee requested PDL only).
- After Employee returns complete and sufficient Certification of Health Care Provider for Employee's Pregnancy Disability, follow Step 7A above and send [Sample Letter 15](#) (if Employee requested combined PDL and Parental Leave) or [Sample Letter 14](#) (if Employee requested PDL only).
- Track time used for leave against Employee's PDL and FMLA leave entitlements (not against her CFRA leave entitlement) during her PDL. If Employee is taking leave to bond with a newborn child (Parental Leave) after her PDL, track time used for Parental Leave portion of leave against Employee's FMLA entitlement (if any remains) and CFRA leave entitlement.
- If Employee has requested a combined leave for PDL and Parental Leave and dates for the PDL portion of her leave change, refer to guidelines below regarding changes in leave dates or schedule and send her [Sample Letter 17](#).

### **III. ADDITIONAL GUIDELINES**

#### **Changes in leave dates or schedule:**

If Employee provides notice that approved FML leave dates or schedules need to be extended or otherwise changed and Employee has not exhausted applicable leave entitlements, confirm the changes with Employee in writing. If Employee is on a combined leave for PDL and Parental Leave and the dates for the PDL portion of her leave change, use [Sample Letter 17](#) for this purpose.

Consult Recertification guidelines below to determine whether change in dates or schedule should be supported by a new Certification.

Employee cannot be required to take more FML leave than Employee needs.

## **Recertifications:**

Employee may be asked to provide a new Certification:

- When Employee requests an extension of leave and Certification states that serious health condition of Employee or Employee's family member will last a specified period and that period has ended;
- When circumstances described in the Certification have changed significantly (e.g., change in duration or frequency of Employee's absence);

Also, when the Certification states that serious health condition of Employee or Employee's family member will last indefinitely, Employee may be asked to provide a new Certification, but no more frequently than every 30 days.

Send [Sample Letter 18](#) when requesting a new Certification.

Employee must be given at least 15 *calendar* days to provide the new Certification. Grant Employee a reasonable amount of additional time if Employee has been unable to obtain Certification in spite of Employee's diligent, good faith efforts.