

NYS Paid Family Leave

POLICY:

Utica University will provide eligible staff members with partially paid time off necessitated by family care in accordance with the New York State Paid Family Leave (PFL) Benefits Law, effective January 1, 2018. Guidelines for taking leave are fully explained in the Procedure section, below.

SCOPE:

This policy and PFL regulations apply to all eligible staff members at Utica University.

REASON FOR POLICY:

Utica University is committed to providing leave to eligible staff members in accordance with the PFL. This policy is designed to ensure compliance with New York State laws and regulations.

DEFINITIONS:

Eligible Staff Member: To be eligible to apply for leave under the PFL, a staff member must meet the following requirements:

- Staff members who regularly work 20 hours or more per week must have been employed for at least 26 consecutive weeks.
- Staff members who regularly work less than 20 hours per week must have worked at least 175 days.

Family Member: A child, parent, grandparent, grandchild, spouse, or domestic partner of the employee. "Parent" refers to a biological, foster, or adoptive parent, a parent-in-law, a step-parent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

FMLA Leave: A leave covered under the Family and Medical Leave Act of 1993 that provides employees with job-protected and unpaid leave for qualified medical and family reasons.

Care: For the purpose of this policy, may include necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters, and personal attendant services. For the purpose of this policy, the employee must be in close and continuing

proximity (but not necessarily in the same dwelling) to the care recipient. This means being present at the same location as the family member during the majority of the employment period during which leave has been taken. Travel necessitated for the purpose of securing medication or to arrange care for the family member, or other such deviations determined to be reasonably related to providing care, shall satisfy this definition.

Qualifying Event: An occurrence that causes an employee to be eligible for paid family leave.

Qualifying Exigency: Family leave benefits for an eligible staff member are based upon a qualifying exigency as interpreted under the Family and Medical Leave Act, 29 U.S.C.S 2612(a)(1)(e) and 29 C.F.R. 825.126(b)(1)-(9), arising out of the fact that the spouse, domestic partner, child, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice, or residential health care facility or continuing treatment or continuing supervision by a health care provider. Further details regarding this definition are available from the [Office of Human Resources](#).

An eligible staff member shall be granted leave and pay based upon the following schedule:*

Beginning	Duration of benefit period	Weekly cash benefit
January 1, 2018	8 weeks during a 52-week calendar period	50% of employee's average weekly wage up to a maximum of 50% of the state average weekly wage.
January 1, 2019	10 weeks during a 52-week calendar period	55% of employee's average weekly wage up to a maximum of 55% of the state average weekly wage.
January 1, 2020	10 weeks during a 52-week calendar period	60% of employee's average weekly wage up to a maximum of 60% of the state average weekly wage.
January 1, 2021	12 weeks during a 52-week calendar period	67% of employee's average weekly wage up to a maximum of 67% of the state average weekly wage.

*Information about the state average weekly wage can be found at: <https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-information-employees>

The 52-week calendar period is calculated by measuring backwards from each day for which PFL is taken. Leave may be taken continuously in a single block of time or intermittently in increments of one work day.

Leave may be requested for the following purposes:

- To bond with a child following the child's birth, adoption, or placement in foster care. The employee's entitlement to family leave for a birth begins at birth and expires one year following the child's birth. The employee's entitlement to family leave for adoption or foster care placement may begin prior to the adoption or placement if the employee's absence is necessary for the placement or adoption to proceed. PFL taken for these circumstances must be used within one year of the first day of leave, or within one year of the adoption / placement, whichever is earlier.
- To care for a family member with a serious health condition.
- For a qualifying exigency arising from the service of a family member in the armed forces of the United States.

PFL is not available for the employee's own disability or serious health condition. Disability and/or FMLA may be available in those circumstances. Please see the Short-Term Disability and FMLA sections of the Utica University Employee Handbook for additional information.

When the reason for leave qualifies under both FMLA and PFL, the two periods of absence will run concurrently. In these cases, employees will be required to comply with all applicable employee requirements (e.g., application, certification, notice, etc.) under both policies. Accordingly, employees should also review and refer to the University's FMLA Policy. If an employee's need for leave qualifies under both PFL and FMLA, but the employee declines to apply for PFL benefits (despite being notified that the reason for leave is a PFL-qualifying reason), any leave taken by the employee for such reason will nevertheless be counted against the employee's PFL allotment.

Leave granted under this policy will be supplemented with available leave time (vacation or floating holiday and/or University Holiday or Winter Break Days, as applicable) unless the employee chooses not to supplement with available time. Once all earned paid time has been used, employees will be entitled to only the partially paid leave provided under the PFL.

Employees must provide 30 calendar days' advance notice of the need to take PFL leave when the need is foreseeable, as detailed further below.

PROCEDURE:

Requesting a Leave

Application for any leave covered by this policy requires the completion of a Paid Family Leave request form with the proper authorizations and supporting documentation as

follows (all forms related to New York State Paid Family Leave can be found at <http://www.utica.edu/hr/forms>).

a. Employees are expected to provide written advance notice of at least 30 calendar days for the birth of a child or for the placement of a child through adoption or foster care. If it is not possible to give 30 days' notice, the employee must give as much notice practicable. Calling in sick without providing more information will not be considered sufficient notice to trigger the University's obligations under the PFL. [Forms PFL-1 and PFL-2 are required, plus the supporting documentation outlined on the forms.]

b. If the employee is requesting a leave because of the serious health condition of a family member, the employee must provide written advance notice to their supervisor of at least 30 calendar days if the need for leave is foreseeable, or otherwise as soon as is practicable. The employee must also provide necessary medical certification to the Office of Human Resources. [Forms PFL-1, PFL-3, and PFL-4 are required, plus the supporting documentation outlined on the forms.]

c. If the employee is requesting a leave due to a qualifying exigency due to the fact a spouse, son, daughter, or parent is on covered active duty, the employee must provide written notice that is reasonable and practical to their supervisor. [Forms PFL-1 and PFL-5 are required, plus the supporting documentation outlined on the forms.]

In addition, employees taking leave intermittently (in daily increments), must provide notice to the Office of Human Resources and their supervisor prior to each day of leave.

All requests for PFL leave should be submitted on the proper forms to the Benefits Coordinator. Employees must also provide a copy of the PFL-1 to their immediate supervisor.

Employees are strongly encouraged to submit the PFL forms to the Benefits Coordinator prior to the leave in order to ensure the benefit payment is processed on a timely basis. In exceptional circumstances where it is not possible to submit the forms prior to the leave due to a medical emergency or other unexpected situation, the forms should be submitted as soon as practicable after the start of the leave, and in no case more than 30 calendar days after the start of the leave. No PFL benefit payments will be made until the forms and supporting documentation are fully submitted.

Determination of Leaves

Employees who submit a request and provide documentation for PFL-protected leave will hear from the University's third-party leave administrator (TPA), who must approve or deny the claim within 18 business days of receipt.

Benefits and Employment Protection

During the period of approved PFL leave, Utica University will continue the employee's benefit (health, dental, vision, etc.) coverage. Employees must make arrangements through the Office of Human Resources for payment of benefits if their PFL check will

not fully cover the premium costs. If payment is more than 30 calendar days late, the employee's health insurance coverage may be dropped for the duration of PFL. The University will provide 15 calendar days' notice prior to terminating coverage.

At the end of the approved leave, an employee will be reinstated to their position or a comparable position. Return from PFL leave should be at the same workweek schedule at which the employee was working when they left.

If the position has been eliminated due to a reduction in the work force or other operational change under circumstances applying equally to other similar positions in the department or University, efforts will be made to find comparable employment at the University.

Dispute Resolution

Employees wishing to appeal a denial made by the University or its TPA regarding PFL may do so in writing to the [Workers' Compensation Board](#) within 26 weeks of the denial. Such appeals will be handled by a WCB-appointed arbitrator.

Fraud

An employee who fraudulently obtains PFL, or who uses PFL in an improper manner, is subject to disciplinary action, up to and including termination.

Non-Discrimination

PFL makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under PFL; or
- Discharge or discriminate against any person for opposing any practice made unlawful by the PFL or for involvement in any proceeding under or related to PFL.

RESPONSIBILITY:

It is the responsibility of the employee to file a written request in a timely manner as outlined in the Procedure section of this policy. It is the responsibility of the supervisor to contact the Office of Human Resources if they are aware that an employee is likely to take PFL or if the employee has discussed PFL with the supervisor. It is the responsibility of the Office of Human Resources to collect all paperwork and documentation and forward it to the University's third party leave administrator. It is the responsibility of the TPA to notify the employee of final approval or denial of the written request within 18 business days.

ENFORCEMENT:

Enforcement of Utica University policies is the responsibility of the office or offices listed in the “Resources/Questions” section of each policy. The responsible office will contact the appropriate authority regarding faculty or staff members, students, vendors, or visitors who violate policies.

Utica University acknowledges that University policies may not anticipate every possible issue that may arise. The University therefore reserves the right to make reasonable and relevant decisions regarding the enforcement of this policy. All such decisions must be approved by an officer of the University (i.e. President, Provost and Senior Vice President for Academic Affairs, Vice President for Financial Affairs, Senior Vice President for Student Life and Enrollment Management, or Vice President for Legal Affairs and General Counsel).

RESOURCES/QUESTIONS:

Request for Paid Family Leave and other forms are available through the Office of Human Resources or in this policy’s Related Documents section. Contact the Office of Human Resources at (315) 792-3276 or hr@utica.edu for questions or more information regarding this policy.

Please note that other Utica University policies may apply or be related to this policy. To search for related policies, use the Keyword Search function of the online policy manual.