

## Benefits

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# Family & Medical Leave

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FMLA is a law that protects an employee’s job when the employee needs to be away from work due to their own serious health condition or that of a family member, for the birth (including prenatal care) or placement for adoption/foster care of the employee’s child, or for a qualifying exigency for military deployment. It entitles eligible employees of covered employers to take up to 12 work weeks (26 for military exigency) of unpaid leave for themselves or specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. More information regarding FMLA can be found on the Department of Labor website at <http://www.dol.gov/whd/fmla/>.

## Eligibility

Those eligible are all employees who have been employed at the University at least 12 months (need not be consecutive); and who have worked at least 1,250 hours for the university during the 12-month period



## Resources

## Nursing Mothers in the Workplace

- Memo to Supervisors - 08/20/12
- Memo to Employees - 08/21/12
- Wage & Hour Fact Sheet

## Pregnancy Act Discrimination

Pregnancy Act Discrimination Fact Sheet

## Questions about FMLA?

Contact us at

immediately preceding the commencement of the leave. NMSU **does not** limit spouses who both work for NMSU to a combined period, as permitted under the Family and Medical Leave Act. Both employees will be entitled to the full period of time allowed under the law as an individual employee.



[fmla@nmsu.edu](mailto:fmla@nmsu.edu)  
US Dept of Labor  
Website  
Family and Medical  
Leave Act poster  
Employee's Guide to  
FMLA

The university uses a rolling 12 month calendar measured backward from the first date Family Medical Leave was is to determine availability of FMLA hours.

## FMLA Conditions

The FMLA entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. For a list of specified reasons, please see the Department of Labor Employee Guide at <http://www.dol.gov/whd/fmla/employeeguide.htm> or the Entitlement Information at <http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>.

## Use of Paid Accrued Leave During Approved FMLA Leave

- FMLA leave periods will run concurrently with any accrued paid leave taken.
- Employees approved to take leave for FMLA purposes must use accrued sick leave for conditions involving themselves and qualified dependents as defined in the Act. (see Policy 7.20.45 at <http://manual.nmsu.edu/policies-and-procedures/>)
- Accrued annual leave for purposes of the FMLA may only be taken when available accrued sick leave is exhausted.
- If accrued leave is not available, the employee will be placed on leave without pay.

## Job Restoration and Health Benefits

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. For more information visit the Department of Labor website at

<http://www.dol.gov/whd/regs/compliance/whdfs28a.htm>.

- While using available accrued leave, all enrolled benefits will continue for the employee and covered dependents. Premium costs will continue to be paid by both the employee and the employer at the normal rate.
- If the employee is placed on Leave without Pay, the employee will need to coordinate payment for continued benefit premiums with the Benefit Services department. The employee will only be responsible for the employee portion of the premium. The university will continue to pay the employer portion of the premium while the employee is on approved Family and Medical Leave.

## Types of Leave

**Block Time Leave:** If leave is taken in block time, the employee has a specific leave and return date, based on the documentation presented by the health care provider or other appropriate authority. The return to work requires a written release from the physician if the employee was out for their own health condition.

**Intermittent Leave:** Employees may take FMLA leave intermittently (as needed) or on a reduced schedule (consistently working less than full schedule) when medically necessary, within one year of the birth or placement for adoption/foster care of the employee's child, or when the leave is due to a qualifying exigency.

If leave is taken intermittently there is an approval period for the FMLA usage based on the documentation presented by the health care provider or other appropriate authority. The total amount of job-protected leave taken cannot exceed the amount of time allowed under FMLA.

All medical information relating to FMLA time and condition should be directly communicated to Benefit Services and will be kept in a separate, secure file.

## Procedure for Requesting FMLA

### When the supervisor should contact Human Resources

Every time the department obtains information that suggests an employee may have a need for FMLA leave, the supervisor must contact Benefit Services.

- When an employee uses more than 3 continuous days of sick leave, annual leave or leave without pay (LWOP) for time off related to birthing/adopting /fostering children, medical circumstances or military deployment or injury for themselves or his/her family member.
- When an employee is consistently missing work due to illness of him/herself or a family member, even if the days are not consecutive.

## How the supervisor should contact Human Resources

An **FMLA Request for Leave** form should be completed whenever possible. If the supervisor does not have enough information to complete the form, then:

- Send the employee name and Aggie ID number to [fmla@nmsu.edu](mailto:fmla@nmsu.edu).
- If an e-mail cannot be sent, please call 575-646-1546 or 575-646-3637 to provide the employee name and Aggie ID.

## How the employee should contact Human Resources

If an **FMLA Request for Leave** form has not already been completed, the employee should complete and submit the form.

- If the employee is unable to submit the request, the request can be completed by the the employee's department or the employee's family member/representative.
- If the request form cannot be completed, the employee or employee's family member/representative may contact Benefit Services via phone, fax or e-mail with the details needed to designate the time as protected under FMLA.

## When the notice is sent to the employee

Benefit Services will determine if the employee is eligible for Family Medical Leave and send notice to the employee regarding his/her eligibility and provide him/her the written notice of rights and responsibilities under the law.

Once the employee submits the information needed to designate FMLA (usually through the request form online), a preliminary designation letter is e-mailed to the employee's NMSU email address and mailed to the employee's home, with the appropriate documentation.

## When the notice is sent to the department

Once the information needed to designate FMLA is submitted (usually through the request form online), a notification of the FML request and the preliminary designation will be e-mailed to the employee's supervisor and the unit HR Liaison.

- For faculty, a copy will also be sent to the College Dean.

## When FMLA is approved

If certification is received and FML approved, the approval paperwork is e-mailed and mailed to the employee. Additionally, a memo is e-mailed to the supervisor/HR liaison with the leave approval and instructions for time/leave reporting. Deans will be included for faculty.

For childbirth, medical certification is not needed unless there is medical related event resulting from the pregnancy or birth; however the employee will need to confirm delivery date to ensure FMLA time is appropriately designated.

## When FMLA is NOT approved

If certification is not received and Benefit Services does not have enough information to designate the absence as FML time, a letter is e-mailed and mailed to the employee cancelling the request for FML.

A memo is e-mailed to the supervisor and unit HR Liaison indicating the request has been cancelled and another request can be made if needed.

- Deans will be copied for faculty requests.
- Time off may still be granted; however the time is not protected under the Family and Medical Leave Act.

If certification is received but FML is denied a letter is e-mailed and mailed to the employee denying the request for FML, providing the reason for denial.

A memo is e-mailed to the supervisor and unit HR Liaison indicating the request has been denied, providing the reason for denial.

- Deans will be copied for faculty requests.
- Time off may still be granted; however the time is not protected under the Family and Medical Leave Act.

### Procedure for Tracking FMLA

If FML is taken in BLOCK time (more than three consecutive work days):

#### *Department Responsibility:*

##### *Staff and 12 month faculty*

- Prepare PAF placing employee on leave with or without pay and FMLA leave type.
- Prepare PAF returning employee to ACTIVE effective date of return to work.

##### *9 month faculty*

- Benefit Services will initiate all PAFs and send a copy to the HR Liaison for internal distribution.
- Faculty Care Leave (FCL) will be designated, tracked and communicated to Payroll and the HR Liaison
  - Once FCL has been exhausted, the faculty member will be placed on Leave Without Pay (LWOP)
- Academic Department Heads should identify discrepancies in reported time off and notify [fmla@nmsu.edu](mailto:fmla@nmsu.edu) for resolution.

***Employee Responsibility:******Staff and 12 month faculty***

- Arrange for continued submission of the normal timesheet or leave report within payroll deadlines until sick leave and/or annual leave is exhausted.
  - 12 month faculty with Faculty Care Leave (FCL) balances will coordinate use of FCL with Benefit Services.
  - Use of FCL in lieu of Sick Leave will be reported through Benefit Services to Payroll Services and HR Liaisons.

***9 month faculty***

- Communicate any changes (dates, type of leave) to the initial leave request to [fmla@nmsu.edu](mailto:fmla@nmsu.edu) and copy the academic department head.

**If FML is taken as INTERMITTENT or REDUCED SCHEDULE:*****Department Responsibility:******Staff and 12 month faculty***

- Reconcile the dates/times the employee submits via the intermittent FMLA leave report form for FML hours with departmental timesheet/leave report approvals. Some cases may warrant a reduction in FTE. Department should contact Benefit Services to review specific cases.

***9 month faculty***

- Faculty Care Leave will be designated, tracked and communicated to Payroll and the HR Liaison by Benefit Services
  - Once FCL has been exhausted, the faculty member will be placed on Leave Without Pay (LWOP)
- Academic Department Heads should identify discrepancies in reported time off and notify [fmla@nmsu.edu](mailto:fmla@nmsu.edu) for resolution.

***Employee Responsibility:******Staff and 12 month faculty***

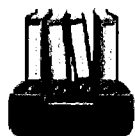
- Submit normal timesheet or leave report within payroll deadlines until sick leave and/or annual leave is exhausted.

- 12 month faculty with Faculty Care Leave (FCL) balances will coordinate use of FCL with Benefit Services.
- Use of FCL in lieu of Sick Leave will be reported through Benefit Services to Payroll Services and HR Liaisons.
- Complete a report of all intermittent FMLA leave hours taken each month and submit to Benefit Services with a copy to your supervisor.

*9 month faculty*

- Complete the intermittent FMLA leave report monthly to report of all intermittent FMLA leave hours taken and submit to Benefit Services with a copy to your supervisor and academic department head.

## Policy and Other Links



NMSU Policy  
Manual  
Business  
Procedures

Manual  
HR Forms  
HR for Academic Personnel

## Important Note

This is a summary description of benefits available to New Mexico State University employees. This information does not set a contractual commitment of benefits. If you have questions concerning benefits, please contact the Benefit Services department.

## Contact Benefit Services

Benefits is a division of HR Services located at Hadley Hall, Room 17 (map it) | MSC 3HRS  
Ph: 575.646.8000 | Email: [benefits@nmsu.edu](mailto:benefits@nmsu.edu)  
NMSU Phonebook | [More contact info »](#)

Contact Benefits Web Administrator

