

Guidelines for Postdoctoral Associates and Postdoctoral Scholars

Office of the Provost
University of Pittsburgh

Effective: July 2005*

DEFINITIONS

Postdoctoral education is an important element in the research and scholarship environment at the University of Pittsburgh. In general, a postdoctoral appointment provides a recent Ph.D. graduate with opportunities to continue development of his or her research skills, learn new research techniques, and work under the supervision of a senior research faculty member. While developing their own professional skills, postdoctoral appointees provide significant contributions to the research enterprise, including the discovery and creation of new knowledge, and by providing research direction to both undergraduate and graduate students.

Postdoctoral Associates (PDA) and Postdoctoral Scholars (PDS), non-faculty positions at the University of Pittsburgh, are defined below in accordance with the Association of American Universities, Committee on Postdoctoral Education, Report and Recommendations¹:

- The appointee was recently awarded a Ph.D. or equivalent doctorate (e.g., Sc.D., M.D., or D.V.M.) in an appropriate field; and
- the appointment involves substantially full-time research or scholarship; and
- the appointment is a transition position and is viewed as preparatory for an academic and/or research career; and
- the appointment is not part of a clinical training program; and
- the appointee works under the supervision of a faculty member; and
- the appointee has the freedom and is expected to publish the results of his/her research during the period of appointment.

Postdoctoral Associate (PDA): a postdoctoral appointment meeting the above listed requirements and supported on research funds, external or internal, in return for duties performed to meet the goals for which the funds were awarded. As such, the PDA is an employee of the University and paid through the University (with a fringe benefit rate collected on the salary).

Postdoctoral Scholar (PDS): a postdoctoral appointment meeting the above listed requirements and supported from an external grant that prohibits the individual from being considered an employee (as determined by the Office of Research or other entity), or from a grant whose funding source does not permit collection of a fringe benefit rate,

* Updated August 2006; September 2008; July 2009.

or is being paid a stipend by an agency outside the University. For example, a PDS may include persons supported by training grants or individual postdoctoral fellowships.

APPOINTMENT GUIDELINES

A Postdoctoral Associate or Postdoctoral Scholar (PDA/PDS) must receive a letter that states the general conditions of the appointment and specifies the following: title of the appointment, salary, fringe benefits, appointment start and end dates (duration), general duties, and other pertinent terms of the appointment. The letter of appointment should outline the scope of the anticipated research project and the PDA/PDS's role within it. If there are expectations with respect to teaching responsibilities, these should be included, along with the amount of compensation for this activity and the funding source. If the position is supported by external funds, the source of external funds should be stated as well as that these funds are available for the duration of the appointment. The letter of appointment should be jointly signed by the faculty mentor/principal investigator² and the department chair or other responsible University official. The letter of appointment should be sent in duplicate. If the appointment is accepted, he/she must sign one copy and return it to the designated authority. When an appointment is accepted, the terms shall be binding on both the PDA/PDS and the faculty mentor/principal investigator. A copy of this document (*Guidelines for Postdoctoral Associates and Postdoctoral Scholars*) should be included with the appointment letter.

Appointment Requirements: The Immigration Reform and Control Act requires employers to institute procedures for verifying that a job applicant is authorized to be employed in the United States. A PDA/PDS is required to produce the necessary documentation that he or she is either a US citizen or authorized to be employed in the United States as a condition of the appointment. Please refer to University Policy and Procedure 07-01-04, *Employment Eligibility Verification: Immigration Reform and Control Act* (<http://www.bc.pitt.edu/policies/policy/07/07-01-04.html>).

REAPPOINTMENT GUIDELINES

Initial PDA/PDS appointments should normally be no longer than two years in duration. As a general rule, the total time spent in postdoctoral appointments by a given individual should not exceed four years. Exceptions to such guidelines should be granted only after careful review by the department and the dean of the relevant school.

During the course of postdoctoral education and training, it is recognized that the source of funding for this appointment may vary, such that the individual may move from PDA to PDS status and vice versa, with an associated change in benefits. While a change in postdoctoral employment classification does not necessarily impact the scope, responsibilities and duration of this position, such a change requires that the individual be notified in writing in accordance with the above appointment letter guidelines. The

faculty mentor and the department should make every effort to inform the PDA/PDS in advance of any implications for certain benefits.

The regulations that pertain to original appointments apply to reappointments and should also be governed by the following considerations:

- Reappointment requires satisfactory research or scholarship performance as determined by the faculty mentor and continuation of funding for the position.
- Reappointment should be made at the same or higher salary.
- Written notice from the faculty mentor and department chair of reappointment or of non-reappointment, including an explanation of the circumstances, should be provided at least 90 days prior to the end of the current contract. Extending delay of this notification should be granted only with the mutual agreement of the PDA/PDS, the faculty mentor and the department chair, for specific reasons made clear to the PDA/PDS.

RESPONSIBILITIES

Each party to the appointment bears certain responsibilities. See the Appendix, *Suggested Good Practices for Postdoctoral Associates and Postdoctoral Scholars*, for an elaboration of good practices optimally exercised by the faculty mentor and by the PDA/PDS.

Faculty Mentor: Moving a junior scientist and/or scholar toward an independent, productive and satisfying career is the goal of postdoctoral training. The faculty mentor has the responsibility of providing a postdoctoral training experience that will foster the individual's intellectual, technical and professional development. Annual performance evaluations should be conducted by the faculty mentor for each PDA/PDS, and a statement of objectives for the ensuing year should be jointly developed by the individual and the faculty mentor. This performance evaluation should be conducted according to departmental and school policies.

PDA/PDSs shall not be exploited nor their research and scholarship training compromised in the service of sponsored research or the financial gain of the faculty mentor.

Postdoctoral Associates/Postdoctoral Scholars: The PDA/PDS has full responsibility for actuating his/her postdoctoral training and should carefully investigate the details of the position, including the expected responsibilities, opportunities for professional development, and the expected nature and quality of mentorship to be provided by the faculty mentor. The individual is responsible for meeting the obligations and expectations provided in the letter of appointment and in initial discussions with the faculty mentor and for adhering to all University policies regarding research conduct.

Department: The department is responsible for oversight of the postdoctoral appointment letter. It is also the responsibility of the department to contribute to providing an environment that supports a high-quality postdoctoral training experience. The department provides oversight for annual postdoctoral performance evaluations, as well as for decisions relating to reappointments and terminations.

School: It is the responsibility of the school to support the efforts of the department to provide a high-quality postdoctoral training environment. The school should provide oversight to ensure that the highest standards for postdoctoral training are being met, as exemplified by monitoring best practices at comparable peer institutions.

GRIEVANCE SITUATIONS

This section covers two grievance categories: Unfair Treatment and Early Termination of Appointment. It should be noted that such issues as sexual harassment, creation of a hostile work environment, or discrimination based on race, sex, ethnic origin, age or handicap, are subjects of separate University policies and therefore are not considered as grievance situations within the scope of this document. (See the next section, “Campus Workplace Policies and Procedures,” for information on specific policies and procedures relating to these issues.)

Unfair Treatment: A PDA/PDS who believes that he or she has been treated unfairly should first discuss the problem with the faculty mentor and the department chair. Each school should designate a faculty member, or member of the administration experienced in postdoctoral education, whose duties are to serve as a resource to the PDA/PDS in addressing and resolving grievances. If a resolution can not be reached at either the departmental level or through the efforts of the designated resource person, the PDA/PDS should present the grievance to the dean for informal evaluation and, as necessary, adjudication. The determination by the dean is the final step in the grievance process.

Early Termination of Appointment: Early termination refers to the dismissal of a PDA/PDS prior to the end date of the contractual period of appointment. Early termination may be initiated only if the PDA/PDS has received an appropriate and timely written warning with respect to his or her performance, or has clearly violated one of the major canons of institutional responsibility or University Policy. The PDA/PDS must be informed in writing of the reasons for the termination. The termination letter must be signed by the faculty mentor and co-signed by the department chair. The appeals procedure must be included with the early termination letter.

The appeals procedure for early termination is as follows: (1) The PDA/PDS must appeal to the dean in writing within two weeks of receiving the notification of termination. (2) The dean or his/her designee will appoint a panel of two faculty members and two PDA/PDSs recommended by the University of Pittsburgh Postdoctoral Association (UPPDA). The dean or his or her designee will serve as chair. No one from the involved academic department shall be eligible to serve on the appeals panel. All involved parties

shall represent themselves before the panel. (3) Within six weeks of filing the appeal with the dean, the appellant shall be provided with a hearing, and subsequently shall be notified of the panel's findings and recommendation. The dean's decision will be rendered in a timely fashion, and the appellant so notified as soon thereafter as possible. The dean's decision is the final step in the appeals process.

CAMPUS WORPLACE POLICIES AND PROCEDURES

As members of the University community, it is important that PDA/PDSs are familiar with the following policies and procedures, as well as their potential roles and responsibilities in the University workplace:

- 07-01-03, *Nondiscrimination, Equal Opportunity, and Affirmative Action* (<http://www.bc.pitt.edu/policies/policy/07/07-01-03.html>)
- 07-06-04, *Sexual Harassment* (<http://www.bc.pitt.edu/policies/policy/07/07-06-04.html>)
- 07-01-03, *Nondiscrimination and Anti-Harassment Procedure* (<http://www.bc.pitt.edu/policies/procedure/07/07-01-03.html>)
- 06-03-03, *Harassment by Telecommunication* (<http://www.bc.pitt.edu/policies/policy/06/06-03-03.html>)
- 02-04-03, *Faculty-Student Relationships* (<http://www.bc.pitt.edu/policies/policy/02/02-04-03.html>)
- 10-02-05, *Computer Access and Use* (<http://www.bc.pitt.edu/policies/policy/10/10-02-05.html>), and 10-02-99, *Access of Obscene Material* (<http://www.bc.pitt.edu/policies/policy/10/10-02-99.html>)

PDA/PDSs are also encouraged to complete the online sexual harassment training program described at <http://training.newmedialearning.com/psh/pitt/>.

RESEARCH INTEGRITY

The University seeks excellence in pursuit of knowledge and scholarship and requires all members of the University community to adhere to the highest standards of responsible conduct and integrity in research. Should a violation of research integrity and/or research misconduct appear to occur, the University of Pittsburgh Research Integrity Policy (<http://www.bc.pitt.edu/policies/policy/11/11-01-01.html>) contains the details of procedures to be followed. This Policy applies to all PDA/PDS positions. Research misconduct is defined as: (1) fabrication, falsification, plagiarism and other practices that seriously deviate from those that are commonly accepted in the scientific community for proposing, conducting or reporting research; (2) material failure to comply with federal requirements for the protection of researchers, human subjects or the public or for the welfare of laboratory animals; and (3) failure to meet other material legal requirements governing research.

A PDA/PDS should make every effort to receive training in research protocol issues, including training in responsible conduct; IRB and IACUC issues; and intellectual property issues, including conflict of interest. Training may be provided by the faculty mentor, the home department, the school and the University, and should be supported by the faculty mentor.

All PDAs and PDSs must also subscribe to the principles with respect to responsible authorship and publications practices that are set forth in Research Integrity (Formerly RPF Module 1), Chapter 1, “Responsible Authorship and Publication Practices,” available through <https://cme.hs.pitt.edu/servlet/IteachControllerServlet?actiontotake=faq&source=non-hipaa>; and the *Guidelines for Ethical Practices in Research*, 4. Authorship and Other Publication Practices, available at <http://www.pitt.edu/~provost/ethresearch.html>.

APPLICATION FOR RESEARCH GRANTS AND AWARDS: A PDA/PDS may serve as the designated principal investigator (PI) on an application for a fellowship to support his or her salary, e.g., a National Research Service Award, and also may serve as co-investigator of an application for other external funding.

PATENT RIGHTS: Patent rights resulting from research conducted in whole or in part by a PDA/PDS are subject to the University of Pittsburgh Patent Rights and Technology Transfer Policy (<http://www.bc.pitt.edu/policies/policy/11/11-02-01.html>). It should be noted that data collected as part of the assigned research duties of the PDA or as part of postdoctoral training and education are the property of the University, including original research notebooks and electronic files. Patent rights resulting from externally-sponsored research grants, contracts, or other such arrangements are also subject to the terms of those agreements. The faculty mentor should make every effort to give fair credit to the PDA/PDS for his/her research and scholarly contribution to a creative work.

SALARIES

Appointments of Postdoctoral Associates and Postdoctoral Scholars shall normally be made on a full-time basis. The minimum and maximum base salary is set annually by the Provost, and the maximum level may only be exceeded in accordance with school policies and with the approval of the dean. Within the announced range, each year the level of compensation will be reconsidered and adjustments made as appropriate and financially feasible. Full-time base salaries below the recommended minimum are not permitted.

It should be recognized that part-time PDA/PDS positions are only permitted on an occasional, case-by-case basis with the approval of the dean.

HEALTH INSURANCE COVERAGE

The University is committed to ensuring that all postdoctoral appointees have access to a comprehensive health care plan for themselves and their families. PDAs and PDSs who receive full-time or fractional appointments are eligible to participate in the University's health insurance plan for faculty and staff. The University will provide individual coverage at an assigned cost to the individual. Family coverage (for spouses and dependent children) is available by paying the supplemental premium per University guidelines. To enroll in the individual or family plan, the PDA/PDS must complete an enrollment form. PDA/PDSs who participate in the University health insurance plan may elect to purchase optional dental and vision coverage. As non-employees, the value of the Postdoctoral Scholars' University contribution to health insurance is subject to IRS reporting as imputed income.

ACCESS TO UNIVERSITY LIBRARIES, RECREATIONAL FACILITIES, COMPUTING AND TRANSPORTATION SERVICES

The University photo I.D. card issued to all PDA/PDSs guarantees access to the University libraries and recreational facilities on the same basis as faculty members and staff. They will also receive e-mail accounts and access to the University's computing and network services. In accordance with the University's current contract with Port Authority Transit of Allegheny County, the University I.D. card can also be used to access PAT bus services in a manner comparable to faculty, staff and students.

OTHER BENEFITS

Vacation/Personal Days/Sick Days/University Holidays and University Holiday Recess

A PDA/PDS on a 12-month contract receives 20 compensated days annually that can be used for vacation, personal days, brief sick day periods, and University-wide holidays and the Holidays recess. Other than sick days, University holidays and the Holiday recess, these compensated days must be taken at times that are approved by the faculty mentor. More protracted illnesses are covered by the medical leave provision outlined in the next section.

Leaves Under the Family and Medical Leave Act (FML)

The University provides for family and medical leaves in accordance with the Family and Medical Leave Act (FMLA). A government notice that fully explains employee rights and responsibilities under the FMLA is included in Appendix B to these Guidelines. In brief, PDA/PDSs who have worked for the University for at least 12 months and for a minimum of 1,250 hours in the preceding 12 months are eligible for a total of 12 weeks per year of unpaid leave for the following reasons: incapacity due to pregnancy, prenatal medical care or child birth, to provide care following the birth or adoption of a child, to care for an immediate family member who has a serious health condition, incapacity due

to a serious health condition, and/or to address qualifying exigencies due to an immediate family member's active military duty or call to active duty status. Eligible PDA/PDSs are also entitled to up to 26 weeks of unpaid leave to care for an injured covered service member during a single 12 month period. PDA/PDSs are subject to the same FMLA policy and procedure as regular University staff (see Policy 07-07-02, *Leave Under the Family and Medical Leave Act for Staff* (<http://www.bc.pitt.edu/policies/policy/07/07-07-02.html>); and Procedure 07-07-02 (<http://www.bc.pitt.edu/policies/procedure/07/07-07-02.html>)). Additional information on the FMLA is also available online at <http://www.dol.gov/elaws/esa/fmla/faq.asp>.

Certain funding agencies may provide paid sick days for PDSs on an annual basis.

Retirement Plan Participation

As University employees, Postdoctoral Associates appointed prior to July 1, 2005, remain eligible to participate in the University's contributory pension plan. The University's contribution under the plan is subject to a specified vesting period. Information on retirement plan options is available online (<http://www.hr.pitt.edu/benefits/retirement.htm>) or from the Office of Human Resources.

Effective July 1, 2005, newly appointed Postdoctoral Associates will not be eligible for the University's 401(a) matching contribution plan but continue to have the option of placing pre-tax contributions in the University's 403(b) tax-deferred savings plan with either TIAA-CREF or Vanguard. A new option, known as the Roth after-tax 403(b) option, is available effective October 1, 2008, to members of the University community whose appointments allow them to elect pre-federal tax deferred contributions to TIAA-CREF and/or Vanguard. The tax implications of choosing one of these options should be explored with a personal tax advisor or investment counselor.

Life Insurance

Postdoctoral Associates and Postdoctoral Scholars are provided with the University paid basic group life insurance coverage at one times base salary up to a maximum of \$50,000. Additionally, both categories are eligible for participant-paid optional life insurance as well as spouse and dependent life insurance coverages. Additional life insurance coverage information can be found at <http://www.hr.pitt.edu/benefits/Insurance.htm>.

As non-employees, the value of the Postdoctoral Scholars' University-paid life insurance is subject to IRS reporting as imputed income.

Tuition Scholarships

Postdoctoral Associates and Postdoctoral Scholars and their families are eligible to participate in the University's tuition scholarship program. As is the case for faculty and staff, the value of tuition scholarships is subject to IRS reporting as imputed income. (Information on this program is available online at: <http://www.bc.pitt.edu/policies/policy/02/02-07-01.html>).

APPENDIX A

Suggested Good Practices for Postdoctoral Associates and Postdoctoral Scholars

Content of the Letter of Appointment

This letter of appointment is an ideal opportunity for the faculty mentor to outline the scope of the anticipated research project, commitment to the professional development of the PDA/PDS, and other relevant policies, such as discussions of authorship, travel to national meetings, and use of resources for professional development training. In turn, the PDA/PDS should utilize the appointment letter as a basis for discussion with the faculty mentor regarding training goals, specific training needs, long-term career goals and other components of an effective, individual development plan³. If teaching responsibilities are envisaged, these duties should also be included in the letter of appointment.

Responsibilities of the Faculty Mentor and PDA/PDS

Faculty Mentor: Moving a junior scientist and/or scholar toward an independent, productive and satisfying career is the goal of postdoctoral training for which the faculty mentor has the responsibility of providing a postdoctoral training experience which will foster the individual's intellectual, technical and professional development. The responsibility of the faculty mentor should include regular meetings to provide feedback and advice on the PDA/PDS research and scholarship, such as review of research results, identification of alternative resources and approaches, etc., and discussion of career advancement plans and strategies, such as plans for presentation of research results at national professional meetings. The faculty mentor should provide opportunities for the individual to advance by enabling his/her participation in laboratory, department and University-based professional development opportunities; the faculty mentor should ensure that the PDA/PDS attends seminars and presents research seminars, has opportunities to gain experience in teaching, and develops oral and written communication skills, such as public speaking, manuscript preparation and grant-writing. It is the faculty mentor's obligation to provide an environment of scientific and scholarly inquiry that enables the PDA/PDS to participate in research decisions, permits independent exploration of ideas, and provides full credit for his/her creative and scholarly work. The faculty mentor also has the obligation to provide fair counsel and advice to assist the PDA/PDS in moving to a subsequent career position.

Annual performance evaluations should be conducted by the faculty mentor for each PDA/PDS, and a statement of objectives for the ensuing year should be jointly developed by the individual and the faculty mentor. This performance evaluation should be conducted according to departmental and school policies.

The obligations of mentorship can be best met by frank and open discussions of expectations, goals and policies at the beginning of the training period. In this regard, the

letter of appointment provided by the faculty mentor should “set the stage” for the responsibilities listed above, expectations that may be unique to a given laboratory or research setting, and should provide indications of the processes for annual review, renewal decisions (reappointment), and salary adjustments based on performance.

PDA/PDS shall not be exploited or their research and scholarship training compromised in the service of sponsored research or the financial gain of the faculty mentor. Employment by companies in which the faculty mentor has an economic interest must be disclosed in the University Conflict of Interest Policy Disclosure Form (Part II) by the faculty mentor (see University Policy 11-01-03, *Conflict of Interest – Research/Teaching* at: <http://www.bc.pitt.edu/policies/policy/11/11-01-03.html>). All necessary precautions must be taken to ensure that the individual’s progress and professional standing are not jeopardized by violations of any professional norms in projects in which they participate under the supervision of the faculty mentor. The PDA/PDS should be informed of circumstances surrounding industry-sponsored research (i.e., publication restrictions) in advance by the faculty mentor.

Postdoctoral Associate/Postdoctoral Scholar: The PDA/PDS has full responsibility for actuating his/her postdoctoral training and should carefully investigate the details of the position, including the expected responsibilities, opportunities for professional development, and the expected nature and quality of mentorship to be provided by the faculty mentor. The individual is responsible for meeting the obligations and expectations provided in the letter of appointment and in initial discussions with the faculty mentor, including demonstration of ethical standards, maintaining good laboratory practices, engaging in collegial conduct with his/her mentor and coworkers, and meeting additional obligations or activities as stated in the letter of appointment (i.e., teaching, grant writing, training laboratory members). A PDA/PDS must adhere to all University policies regarding research conduct.

The PDA/PDS should meet on a regular basis with the faculty mentor to receive feedback and guidance on research and scholarship and to discuss career advancement plans and strategies. Regular and open communication is the best means of ensuring that the postdoctoral training period is productive and meets the goals of the individual and the faculty mentor. Ultimately, the PDA/PDS is responsible for his/her own professional development and progress toward an independent, productive and satisfying career.

In the event that it becomes necessary for a PDA/PDS to resign his or her position, it is expected that timely notification be provided to the faculty mentor so that a reasonable transition arrangement can be entered into.

Notes

1. Association of American Universities, Committee on Postdoctoral Education, Report and Recommendations, March 31, 1998.
2. This assumes that the faculty mentor and the principal investigator are one and the same individual; if not, the principal investigator should sign the letter of appointment and the faculty mentor should be clearly identified in the letter.
3. Federation of American Societies for Experimental Biology, Science Policy Committee, Individual Development Plan for Postdoctoral Fellows, September 1, 2002. (This document can be found online at <http://www.faseb.org>.)

APPENDIX B

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintroduction briefings.

FMLA also 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. 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.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

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 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.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employers may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

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, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

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

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV



U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division

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