

## Notice of Eligibility and Rights & Responsibilities (Family and Medical Leave Act & New Jersey Family Leave Act)

In general, to be eligible under the Federal Family Medical Leave Act (FMLA) and/or the New Jersey Family Medical Leave Act (NJFLA) an employee must have worked for Rutgers University for at least 12 months and have worked at least 1,000 hours in the 12 months preceding the leave. In addition, to be eligible under FMLA, an employee must work at a site with at least 50 employees within 75 miles. Under NJFLA, an employee must work at a site with at least 50 employees worldwide. When fully completed, this form provides employees with the information required by 29 C.F.R. § 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R. § 825.300(b), (c) and taking NJFLA leave.

### **Part A – NOTICE OF ELIGIBILITY**

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
Employee

FROM: \_\_\_\_\_  
Employer Representative

On \_\_\_\_\_, you informed us that you needed leave beginning on \_\_\_\_\_  
for:

- \_\_\_\_\_ The birth of a child, or placement of a child with you for adoption or foster care;
- \_\_\_\_\_ Your own serious health condition;
- \_\_\_\_\_ Because you are needed to care for your \_\_\_\_\_ spouse; \_\_\_\_\_ civil union partner; \_\_\_\_\_ domestic partner; \_\_\_\_\_ child; \_\_\_\_\_ parent due to his/her serious health condition.
- \_\_\_\_\_ Because of a qualifying exigency arising out of the fact that your \_\_\_\_\_ spouse; \_\_\_\_\_ son or daughter; parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- \_\_\_\_\_ Because you are the \_\_\_\_\_ spouse; \_\_\_\_\_ son or daughter; \_\_\_\_\_ parent; \_\_\_\_\_ next of kin of a covered service member with a serious injury or illness.

This Notice is to inform you that you:

- \_\_\_\_\_ Are eligible for  FMLA/  NJFLA leave (See Part B below for Rights and Responsibilities)
- \_\_\_\_\_ Are **not** eligible for  FMLA/  NJFLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
  - \_\_\_\_\_ You have not met the  FMLA's and/ or the  NJFLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately \_\_\_\_\_ months towards this requirement.
  - \_\_\_\_\_ You have not met the 1,000-hours-worked requirement.
  - \_\_\_\_\_ You do not work and/or report to a site with 50 or more employees within 75-miles and/or worldwide.
  - \_\_\_\_\_ You are an "Exempt" employee as defined by the NJFLA.

If you have any questions about the information provided in this form, contact \_\_\_\_\_  
or view the FMLA and NJFLA posters located in \_\_\_\_\_.

**PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA/NJFLA LEAVE**

As explained in Part A, you meet the eligibility requirements for taking  FMLA and/or  NJFLA leave and still have  FMLA leave available in the applicable 12-month period and/or  NJFLA leave available in the applicable 24-month period. **However, in order for us to determine whether your absence qualifies as FMLA and/or NJFLA leave, you must return the following information to us by (Enter date)**

\_\_\_\_\_. (If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

\_\_\_\_ Sufficient certification to support your request for FMLA/NJFLA leave. A certification form that sets forth the information necessary to support your request is/ is not enclosed.

\_\_\_\_ Sufficient documentation to establish the required relationship between you and your family member.

\_\_\_\_ Other information needed: \_\_\_\_\_

\_\_\_\_ No additional information requested

**If your leave does qualify** as FMLA and/or NJFLA leave, you will have the following **responsibilities** while on FMLA/NJFLA leave (only checked blanks apply):

\_\_\_\_ Contact Rutgers Payroll – Financial Data Control at \_\_\_\_\_ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

\_\_\_\_ You will be required to use your applicable \_\_\_\_\_ **sick** days prior to your FMLA and/or NJFLA absence.

\_\_\_\_ Due to your status within the institution, you are considered a “key employee” as defined in the FMLA. As such, restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We have/ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.

\_\_\_\_ While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every \_\_\_\_\_. (Indicate interval of periodic reports, as appropriate for the particular leave situation).

**If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on your certification form, you will be required to notify us at least two workdays prior to the date you intend to report for work.**

**If your leave does qualify** as FMLA and/or NJFLA leave, you will have the following **rights** while on leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as the 12-month period measured forward from the date of your first FMLA leave usage. You have a right under the NJFLA for up to 12 weeks in a 24 month period calculated as the 24-month period measured forward from the date of your first NJFLA leave usage.
- You have a right only under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered Servicemember with a serious injury or illness. This single 12-month period commenced on \_\_\_\_\_.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA/NJFLA-protected leave. (If your leave extends beyond the end of your applicable FMLA or NJFLA entitlement(s), you do not have return rights under FMLA/NJFLA.)
- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- You have the right to have \_\_\_\_\_ **Vacation**, \_\_\_\_\_ **AL** and/or \_\_\_\_\_ **PH** run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the time off policies. Applicable conditions related to the substitution of paid time are referenced below. If you do not meet the requirements for taking paid time you remain entitled to take unpaid FMLA and/or NJFLA leave. If you would like to take any paid time as outlined above concurrently with your unpaid leave entitlement, please contact \_\_\_\_\_ at \_\_\_\_\_. For conditions applicable to vacation/AL/PH usage please refer to University Policies 60.3.3, 60.3.10, and 60.3.11 as well as departmental policies and collective bargaining agreements.
- Your leave will run concurrently with any other leaves that you may be eligible for pursuant to University regulations and/or your collective bargaining agreement.

**Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA and/or NJFLA leave and count towards your FMLA and/or your NJFLA leave entitlement.**

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**PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT**

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

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# 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 reintegration 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

Employees 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](http://WWW.WAGEHOUR.DOL.GOV)

