# CUNY Policy on Family & Medical Leave Act

## SCOPE

This policy applies to all members of the faculty and staff of The City University of New York (CUNY).

## PURPOSE

CUNY recognizes the concerns of its faculty and staff to balance the demands of the workplace with the needs of his/her family. To address these interests, the CUNY FMLA Leave policy adopts the provisions of The Family and Medical Leave Act of 1993 (FMLA) and extends those provisions to cover domestic partner relationships.

## STATEMENT OF POLICY

The CUNY FMLA Leave policy provides eligible employees with up to 12 weeks of unpaid, job-protected leave for qualifying reasons during the designated leave year *i.e.*, September 1st through August 31st. In order to be eligible, an employee must have been employed by the University for at least 12 months cumulatively, and must have worked at least 1,250 hours during the 12-month period preceding the requested commencement of the leave. The employee's FMLA 12 week leave period entitlement will commence anew for the subsequent period of September 1st through August 31st, provided that the eligibility requirements are fulfilled. The FMLA also provides for 26 weeks leave during a single 12 month period for a spouse, son, daughter or parent or next of kin to care for a member of the Armed Forces (including the National Guard or Reserves) who has a serious injury or illness.

Qualifying reasons for FMLA leave include the following:

- Childbirth and/or care for a newborn (within the first 12 months of birth)*;
- Childcare needs resulting from an adoption or foster care placement (within the first 12 months of the adoption or placement);
- Care for employee's spouse, domestic partner, child, or parent with a serious health condition;
- Employee's own serious health condition;
- Circumstances relating to the fact that an employee's spouse, son, daughter, or parent is on, or has been called to, active duty in the Armed Forces;
- Employee who is caring for a spouse, son, daughter, parent, or next of kin who is a seriously injured or ill service member.

* *Spouses or domestic partners who are employed at the same CUNY College are limited to a combined total of 12 weeks within the FMLA leave year, when taking leave for these reasons.*

Leave taken for a newborn, adopted or foster child as described herein must be taken all at once. If the employee takes leave to care for a family member or for his/her own illness, he/she may take the time on an intermittent or reduced-time basis, but only if the medical condition necessitates this type of schedule.

For the purpose of this policy, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves incapacity or treatment connected with:

- inpatient care in a hospital, hospice or residential medical facility;
- pregnancy or prenatal care; or
- continuing treatment by a health care provider.

Under the CUNY FMLA Leave policy, an employee's leave of absence may be either paid or unpaid. However, before unpaid FMLA leave may be authorized, the employee will be required to exhaust any appropriate accrued paid leave.

Leave for illness granted under the University's temporary disability leave policy which extends beyond five (5) workdays will be counted as part of the annual FMLA entitlement, starting from the first day of leave. In addition, the first 12 weeks of any authorized leave taken pursuant to University policies or collective bargaining agreements that qualify as FMLA leave will be counted against the FMLA entitlement for that leave year.

For the serious health condition of an employee, which may include a pregnancy-related condition, paid sick leave accruals must be used first, followed by all other available time and leave accruals.

For the birth and care of a newborn, placement with the employee of a child for adoption or foster care, or for care necessitated by the serious health condition of a family member, all available paid time and leave accruals other than sick leave accruals must be charged before unpaid leave may be granted.

While on paid/unpaid leave, CUNY will maintain group health benefits in the same manner as prior to leave. Pension contributions will continue, however, only during the paid portion of the leave.

Upon return from FMLA leave, the employee will be restored to the position held prior to the leave or to an equivalent position with equivalent benefits. If the employee fails to return to work upon expiration of the FMLA leave and has not received authorization for his/her continued absence, he/she may be subject to disciplinary action in accordance with University policies and applicable collective bargaining agreements.