

UConn

FISCAL INSTITUTE FOR
TRAINING (FIT)

Human Resources – Absence Management

Family/Medical Leave Entitlements and Other Leaves





TODAY'S OBJECTIVES

- Explain the laws governing employee leaves and entitlements
- Illustrate the purpose, eligibility requirements, and lengths of major leave types
- Highlight other notable leave types

COMPLIANCE WITH LAWS AND AUDITS

Leaves of absence are specified by:

Federal Law

State of CT statute

University policy

collective bargaining contract

or a combination thereof, so it is important for you to understand what to do should one of your direct reports need to go out on leave.

The university is audited by different State of CT agencies to make sure that we are compliance with the applicable laws, statutes and bargaining union contracts.



COMPLIANCE WITH COLLECTIVE BARGAINING

The basics of leaves are the same across the board, but there are some differences in each collective bargaining contracts with how paid time off is accrued, timesheet coding and how much time is allowed under different types of leaves. We work with each employee to ensure that all applicable laws and policies are being followed.

AVAILABLE ENTITLEMENTS

A state employee may be eligible for one or more of the following leave entitlements

FEDERAL FMLA

STATE FMLA

SEBAC SUPPLEMENTAL LEAVE

PREGNANCY DISABILITY LEAVE

ORGAN DONOR LEAVE

BONE MARROW DONOR LEAVE

These leave entitlements are collectively referred to as “Family & Medical Leave Entitlements”.

PURPOSE OF LEAVE ENTITLEMENTS

Federal & State FMLA

- Provides job and benefit protection for employees for the following reasons:
- the employee's own serious health condition (personal illness)
- to care for an immediate family member (child, spouse, parent) with a serious health condition
- CT Law – broader definition of family member – to care for parent-in-law, sibling (in-law), grandparent (in-law), grandchild, person related by blood or affinity equal to one of these relationships
- the birth and care of a newborn child
- placement of a child for adoption or foster care
- Military Caregiver and Qualifying Exigency

SEBAC Supplemental Leave is leave in addition to the leave taken under federal FMLA, state FMLA, and Pregnancy Disability and leave provided under the state Workers' Compensation statutes.

EMPLOYEE ELIGIBILITY

Federal FMLA
Requirements

State FMLA Requirements

SEBAC Requirements

- 12 months of service
- 1,250 hours in the 12 months immediately preceding the beginning of the leave.

EMPLOYEE ELIGIBILITY CONT.

Federal FMLA Requirements

State FMLA Requirements

SEBAC Requirements

- 3 months of service

EMPLOYEE ELIGIBILITY CONT.

Federal FMLA Requirements

State FMLA Requirements

SEBAC Requirements

- Must be a permanent employee
- Classified state employee: completed the initial working test period.
- Unclassified state employee: have passed the probation period.

LENGTH OF LEAVE

Federal FMLA Entitlements

- 12 weeks in the 12-month period

State FMLA Entitlements

- 12 weeks in a 12-month period

An employee may be eligible for 2 additional weeks of leave for incapacity **during** pregnancy

SEBAC Entitlements

- 24 weeks in a 24-month period
- 4 calendar months for a bonding leave in a 24-month period

Activity:

Ryan was hired on 10/25/2021 and he needed to have surgery on 4/15/2024. He has worked 1,470 hours from 4/15/2023 – 4/14/2024. He is a member of UCPEA.

What leave entitlements is Ryan eligible for?

Activity:

Sally was hired on 1/28/2024. Sally needed to be out of work starting on 5/13/24 to care for a parent that is having surgery. She has worked 490 hours from 05/13/2023 – 05/12/2024. Sally is a confidential employee.

What leave entitlements is Sally eligible for?

Counting Entitlements:

Ryan that had surgery on 4/15/2024 needs to be out of work through 5/10/2024. He works Monday through Friday.

How much FMLA leave entitlements will he use?

April 2024

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2024

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April 2024

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2024

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Calculate New Entitlements:

Ryan had a complication from his surgery and his leave has now been extended through 7/12/2024. His first day out was 4/15/2024.

How much FMLA and SEBAC leave entitlements will he use?

April 2024

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2024

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June 2024

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

July 2024

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

LEAVE TYPES

FMLA

Block Leave - A one-time continuous absence for a single qualifying reason

Intermittent Leave – Leave taken repeatedly for a single qualifying reason

Reduced Schedule Leave – A leave schedule reducing working hours per workweek or day



FMLA vs SEBAC

SEBAC

- Block leave only
- With the exception of bonding leaves that can be taken as a reduced schedule (with department approval)
- SEBAC begins when FMLA entitlements are exhausted
- For personal illness leaves, the employee must exhaust sick time and FMLA before SEBAC begins.

How am I paid during a FMLA leave?

The State FMLA law allows an employee to keep up to 2 weeks of paid time off

Personal Illness:

- Must use current sick time first, then can use the Prior “as if” sick time and/or banked sick time
- After sick time is exhausted, can use any accrued paid time off

Caregiver:

- Can use any accrued paid time off
- If using sick time, must use current sick time first, before using the Prior “as if” sick time and/or banked sick time
- Contractual sick family limits do not apply while on an approved FMLA leave

Maternity:

- Must use current sick time first, then can use the Prior “as if” sick time and/or banked sick time
- After sick time is exhausted, can use any accrued paid time off
- (There may contractual time available under certain bargaining unions)

Bonding:

- Can use any accrued paid time off
- If using sick time, must use current sick time first, before using the Prior “as if” sick time and/or banked sick time
- Contractual sick family limits do not apply while on an approved FMLA leave

EFFECTIVE JANUARY 1, 2022



CT Paid Family Medical Leave

- No job protection
- Administered by Aflac
- Employee will work directly with Aflac
- At this point no unions have asked to be included

ELIGIBILITY:

- a Connecticut resident enrolled in the program – you will have a payroll deduction
- have earned wages of at least \$2,325 in the highest quarter of the first four of the five most recently completed quarters and are currently employed, or have been employed within the last 12 weeks
- up to twelve (12) weeks of paid leave benefits and up to 2 additional weeks for incapacity during pregnancy

Formula for PAID Leave Benefits:

- If the employee's base weekly earnings are less than or equal to the minimum wage multiplied by 40
- The weekly benefit payment will be 95% of the covered worker's base weekly earnings

Worker A earns Minimum Wage:

Worker A works 40 hours at **\$15.69/hour**

Base weekly earnings:

$40 \times \$15.69 = \$627.60/\text{weekly}$

Benefit: $95\%(\$627.60) = \596.22

Worker A receives \$596.22 in benefits

- If the employee's base weekly earnings are more than the minimum wage multiplied by 40
- The weekly benefit payment will be 95% of the covered worker's base weekly earnings
- Plus 60% of the difference between the base weekly earnings amount and the CT minimum wage multiplied by 40

Worker B **earns above Minimum Wage** - works 40 hours at **\$16.50/hour**

Base weekly earnings $40 \times \$16.50 = \$660/\text{weekly}$

Benefit: $95\% (\$627.60) + 60\% (\$660 - \$627.60)$

$\$596.22 + \$19.44 = \$615.66$

Worker B receives \$615.66 in benefits

Note Maximum Payments: 60 times the minimum wage. In 2024 minimum wage is $\$15.69 \times 60 = \941.40 maximum weekly payment.

Discussion:

How will Ryan be paid for his leave of absence from 4/15/2024 through 7/12/2024?

Leave / Compensatory Time			Summary	Reported Time Status	Payable Time
Leave and Compensatory Time Balances			Personalize	Find	1-5 of 5
Plan Type	Plan	Available Balance			
Leave	Sick	113.75			
Leave	Vacation	401.75			
Leave	Personal	16.00			
Comp Time	SPUCN000N	522.50			
Comp Time	HAUTOEXPN	0.00			

BREAK



MILITARY CAREGIVER & EXIGENCY LEAVE

Military Caregiver Leave is leave to care for a covered service member (who has a serious injury or illness while on covered active duty) or, under federal FMLA only, leave to care for a covered veteran (who incurred a serious injury or illness while on covered active duty), if the employee is the service member's spouse, son, daughter, parent, or next of kin.

Qualifying Exigency Leave is leave for reasons arising from the foreign deployment of the employee's spouse, son, daughter, or parent on covered active duty with the Armed Forces. This could include making alternative childcare or school arrangements, financial and legal arrangements, attending family support or assistance programs and informational briefings sponsored or promoted by the military that are related to the covered active-duty call of a covered military member.

PREGNANCY DISABILITY LEAVE



This is afforded to all pregnant women under C.G.S. §46a-60(b)(7) and a woman is always entitled to Pregnancy Disability leave regardless of whether she is also eligible for any other Family and Medical Leave Entitlements (i.e. federal FMLA, state FMLA, and/or SEBAC Supplemental leave).

It provides a reasonable period of leave for the “disability resulting from her pregnancy,” usually 6 to 8 weeks and usually dependent on the type of delivery (vaginal vs. cesarean).

PREGANCY DISABILITY LEAVE CONT.

This “disability period” includes both the hospital stay and any period of time prior to and subsequent to the delivery certified by the attending physician as time when the employee is unable to perform the requirements of the job. It does not include bonding.

The SEBAC Supplemental leave is in addition to the Pregnancy Disability leave, a pregnant employee will never use her SEBAC Supplemental leave entitlement during her pregnancy; however, SEBAC Supplemental leave remains available for bonding.



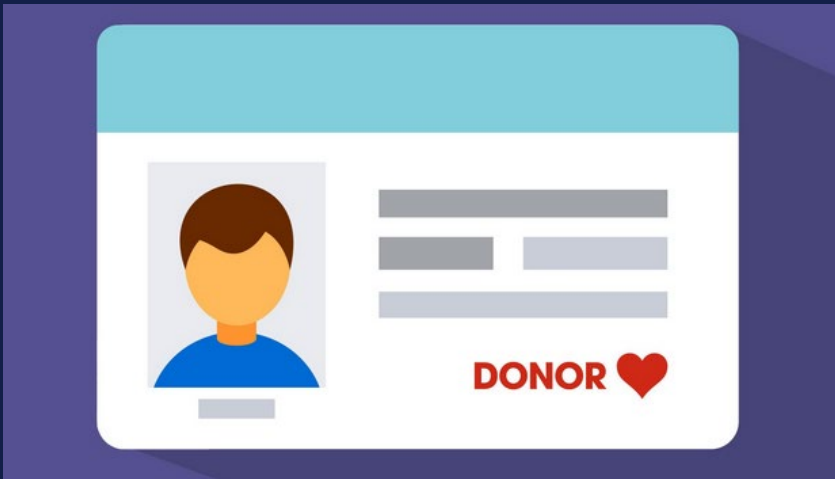
Activity:

Janice was hired on 03/08/2024 and she is pregnant with a due date of 05/12/2024. She gives birth on 05/13/2024 by C-section. She is coming back to work on 8/1/2024. Janice is a management employee.

What leave entitlements is Janice eligible for?

ORGAN & BONE MARROW DONOR LEAVE CONT.

All employees are eligible for job-protected leave regardless of their eligibility for any leave such as FMLA.



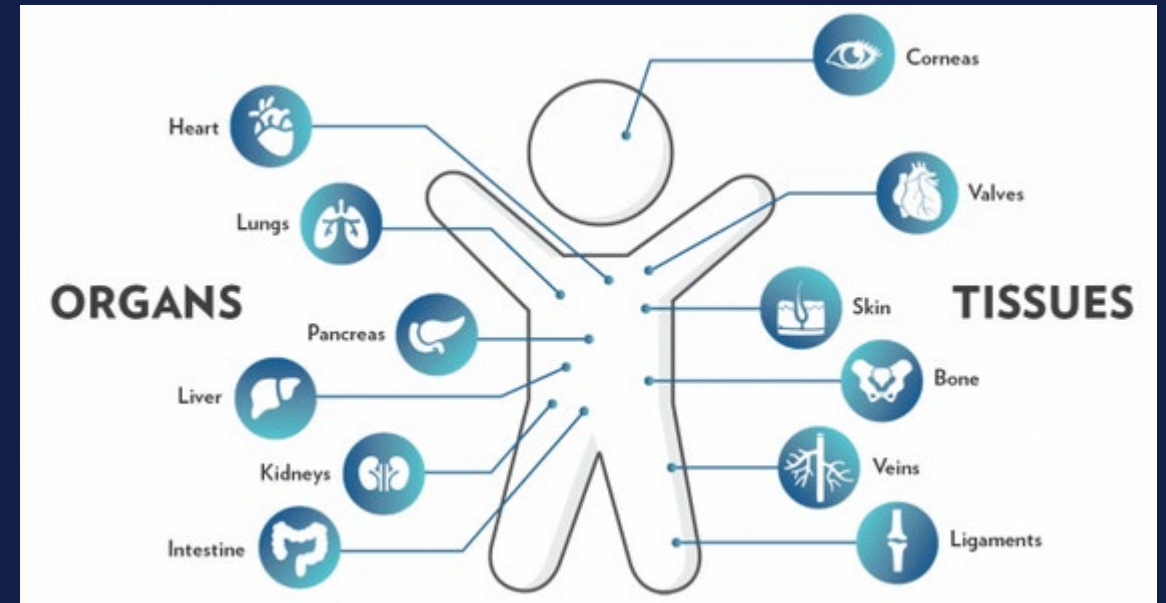
Scope: This entitlement applies to pre-donation medical appointments, tests, exams, counseling, surgery and the recovery from the surgery.

Length of time: This entitlement provides up to 15 workdays of paid leave for organ donation and up to 7 workdays of paid leave for bone marrow donation.

ORGAN & BONE MARROW DONOR LEAVE

Taking leave pursuant to this statute shall not result in a reduction in pay, the loss of any leave to which the employee is otherwise entitled, or a loss of credit for time or service. It shall not affect the employee's rights with respect to any other employee benefits provided under federal or state law.

An employee who needs to take organ donor or bone marrow donor leave must provide at least seven days' advance notice when practicable.



LEAVE ENTITLEMENT SUMMARY

Leave Entitlement	Standard Leave	Military Family Leave – Caregiver	Military Family Leave- Qualifying Exigency
Federal FMLA	Up to 12 workweeks within a 12-month period	Up to 26 workweeks in a single 12-month period	Up to 12 workweeks within a 12-month period
State FMLA	Up to 12 workweeks within a 12-month period	Up to 26 workweeks in a single 12-month period	Up to 12 workweeks within a 12-month period
SEBAC Supplemental	Up to 24 workweeks within a 2-year period	N/A	N/A
Pregnancy Disability	A “reasonable amount of leave”	N/A	N/A
Organ Donor Leave	Up to 15 days	N/A	N/A
Bone Marrow Donor Leave	Up to 7 days	N/A	N/A

LEAVE PROCESS

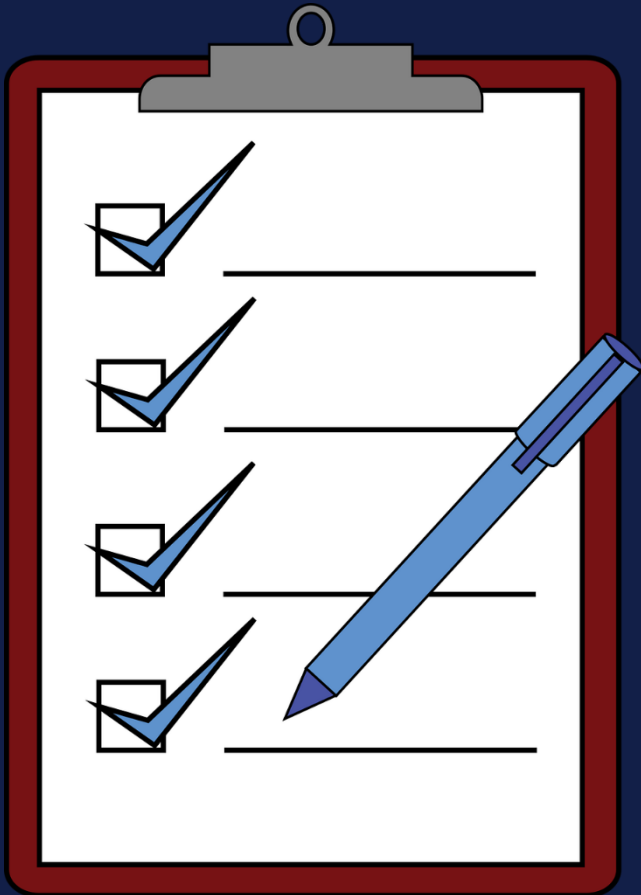
HR Responsibilities:

- notified of an employee's need for a leave
- works with the employee to gather further information
- looks at the employee's eligibility for Family and Medical Leave entitlements
- completes a HR2a form regarding their rights and eligibility
- completes a HR2b form to gather additional information, or to approve or deny the leave, and specify what entitlements will be used
- completes a HR2c form to provide the supervisor and the employee with the timesheet coding

Employee Responsibilities:

- completes the Employee Request Form (HR1) and the Intent to Return to Work Form (HR3)
- provides medical documentation that needs to be complete and sufficient
- Stays in communication with HR regarding any changes to their leave

MEDICAL DOCUMENTATION



Documentation must be complete and sufficient:

- Medical Certificate (P33a Form) - for personal illness
- Medical Certificate (P33b Form) – Caregiver
- Separate forms for Military Leaves

Returning to Work

A fitness for duty form is required before the employee can return to work. It must state any work restrictions if applicable.

Light Duty

If there are restrictions, then HR will work with the supervisor and department to see if they can be accommodated, length of time of the restrictions and if there are any special considerations that are needed.

Discussion:

Is this medical certificate sufficient?

Why or why not?

5. Is it medically necessary for the patient to receive continuing treatment by a medical provider?

NO YES

If YES, provide the following information about the treatment:

- Dates you treated the patient for the condition: 1/25/22, 2/8/22 + 4/1/22
- Will the patient need to have treatment visits at least twice per year due to the condition?
 NO YES
- Was medication, other than over-the-counter medication, prescribed? NO YES
- Was the patient referred to other health care provider(s) for evaluation or treatment?
 NO YES
- Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave. Include, as applicable, a description of relevant symptoms, the regimen of continuing treatment or the plan for continuing supervision provided by the health care provider for a condition for which treatment may not be effective.

6. Is the employee unable to perform any of their job functions due to the medical condition (including the need for treatment and recovery)? NO YES

If YES, identify the job functions the employee is unable to perform (using the employee's job specification, if provided, as a reference).

MANAGERS/SUPERVISORS RESPONSIBILITIES

Identify Indicators for FMLA

- ✓ An employee is absent more than 5 consecutive days
- ✓ An employee is calling out for the same reason
- ✓ An employee is being counseled for repeated absences
- ✓ An employee has used all of their sick family accruals for a single person

Maintain Confidentiality

- ✓ Medical documentation sent to HR
- ✓ Do not solicit or disclose medical information

Effective Call-In Procedure

- ✓ Ensure employees are familiar with your call-out procedure for absences
- ✓ Supervisors should document call-outs
- ✓ Employees must specifically state their absence is for FMLA

MANAGERS/SUPERVISORS RESPONSIBILITIES

HR2C

- ✓ Ensure proper timesheet coding
- ✓ For intermittent leaves:
- ✓ Must notify HR of any patterns of absence that are inconsistent with the HR2c.

Performance

- ✓ FMLA should not be mentioned
- ✓ Rated for work performed when not out on FMLA

Avoid Retaliation / Interference Claims

- ✓ Harassing an employee for taking leave
- ✓ Making negative comments about FMLA rights
- ✓ Discouraging an employee from using FMLA
- ✓ Denying a promotion due to the FMLA
- ✓ Treating employees who take FMLA differently
- ✓ Failing to reinstate an employee who has taken FMLA to a similar position as held before the leave

Discussion:

Your employee John calls you and says I will be out of work today I have a migraine headache. John calls out the following week and says I have a migraine headache. Then on the third week, John calls out again and says I have a migraine.

As John's manager what should you do?

Discussion:

John calls you on Monday and says I will be out of work today as I have a migraine headache. He calls out the next day for the same reason and then the next day for the same reason. He then tells you I saw my doctor yesterday and I will be out of work until next Wednesday.

As John's manager what should you do?

OTHER LEAVES

- Military Leaves for reservists, active duty, training, weekend drills
- VSRP (Voluntary Schedule Reduction Program)
- Personal/Emergency Leave of Absence
- Educational Leaves
- Family Violence Leave under Connecticut General Statute 46b-38a
- American Red Cross Connecticut under General Statute 5-249 (b), employees are eligible for paid leave if they are certified as a disaster service volunteer of the American Red Cross.
- ADA (American with Disabilities Act)
- Worker's Compensation

COMPLIANCE

Employers have ethical and moral responsibilities to assure employees receive the benefits and protections these laws provide.

Violations of these laws may result in lost wages, back pay, reinstatement, retroactive benefits, compensatory damages, and punitive damages

WHO CAN BE HELD LIABLE?

Depending upon the circumstances, one or more of the following could be held liable for non-compliance with the requirements of the Family and Medical Leave Entitlements:

- Agency
- Human Resources
- Managers/Supervisors

WHAT ARE THE PENALTIES?

FEDERAL FMLA

If an employer violates one or more of the “provisions of federal FMLA”, and if justified by the facts of a particular case, an employee may receive one or more of the following:

- Wages, employment benefits, or other compensation denied or lost to the employee by reason of the violation; or
- Where no such tangible loss has occurred, such as when federal FMLA leave was unlawfully denied, any actual monetary loss sustained by the employee as a direct result of the violation.
- When appropriate, the employee may also obtain appropriate equitable relief, such as employment, reinstatement and promotion.
- A reasonable attorney’s fee, reasonable expert witness fees, and other costs of the action from the employer in addition to any judgment awarded by the court.
- If the employer willfully violates the “employer notice requirements”, the employer may be assessed a civil money penalty for each separate offense.

STATE FMLA

- If the State Department of Labor (“DOL”) Commissioner concludes that the employer has violated the State FMLA, the Commissioner may order the employer to comply with the applicable requirements of the law and provide such relief as the Commissioner determines will remedy the harm, including but not limited to:
- Restoration of any rights, benefits, entitlements or protections afforded to the employee by the state FMLA;
- Reinstatement to employment, back pay, and any other monetary compensation for any loss which was the direct result of the employer’s violation, discharge, or discrimination.

PREGNANCY DISABILITY LEAVE

- If the complaint is heard by a Commission on Human Rights and Opportunities (“CHRO”) Human Rights Referee presiding over a Public Hearing, the penalties include the following:
 - Cease & desist order
 - Reinstatement of lost job benefits
 - Back pay
- If the complaint is filed in Superior Court instead of with the Office of Public Hearing, the court has the authority to award additional remedies, including compensatory damages.

SEBAC

SEBAC SUPPLEMENTAL LEAVE AND ORGAN AND BONE MARROW DONOR LEAVE

- SEBAC Supplemental Leave and Organ and Bone Marrow Donor Leave do not explicitly address penalties; however, the denial of the benefits provided under these Family and Medical Leave Entitlements may result in a grievance pursuant to the employee's collective bargaining agreement ("CBA") or the regulations of the Employee Review Board.

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QUESTIONS

