

Family Medical Leave Act (FMLA)

Policy Owner Human Resources

Responsible Office(s) Human Resources

Policy

Under the Family and Medical Leave Act (FMLA), employees may be eligible for a period of job-protected unpaid leave for certain family and medical reasons as described below. This Family Medical Leave Act Policy ("Policy") provides an overview of employees' rights and responsibilities under the FMLA as well as the University's own policies regarding the FMLA. The University has posted notices of the FMLA in University facilities and intranet. The information in those posters is incorporated into this policy by reference.

General Eligibility

Employees who: (1) have worked 12 months of prior service at Converse; (2) have worked at Converse at least 1,250 hours during the 12 months immediately preceding the date on which FMLA would commence; and (3) work at a location where at least 50 employees of Converse are employed (or where at least 50 employees are employed within a 75 mile radius) are eligible for unpaid FMLA. Eligibility will be determined as of the date the FMLA leave commences. When a request for FMLA leave is made, the University will advise the employee of the employee's eligibility and the employee's rights and responsibilities.

Circumstances of Family and Medical Leave

Parental Leave – Leave needed by the employee in connection with the birth of the employee's child and to bond with the child; or for placement through adoption or foster care and to bond with the newly-placed child. Parental leave must be concluded no later than 12 months after the birth or placement of the child with the employee.

Serious Family Illness Leave – Leave needed by the employee in order to care for a spouse, child (under 18 years old, or 18 and over and incapable of self-care because of a disability), or parent who has a serious health condition (as defined below and/or by law).

Serious Personal Illness Leave – Leave needed by the employee because of a serious health condition which renders the employee unable to perform the essential functions of their job.

Qualifying Military Exigency Leave – Leave needed by the employee because of a qualifying military exigency related to active duty, or a call to active duty status of the employee's spouse, child, or parent who is or will be deployed to a foreign country.

Service Member Family Leave – Leave needed by the employee to care for a spouse, child, parent or next-of-kin (nearest blood relative of the service member) who is a member or veteran of the Armed Forces (including a member of the National Guard or Reserves and those on the temporary disability or retired list) who has a serious injury or illness or who has a pre-existing condition that was aggravated by service where the conditions was incurred in the line of duty while on active duty for which they are: (1) undergoing medical treatment, recuperation, or therapy; (2) otherwise in outpatient status; or (3) otherwise on the temporary disability retired list. If the spouse, child, parent, or next-of-kin (nearest blood relative of the service member) is a veteran who meets the prior requirements, then leave is allowed if such family member was a member of the Armed Forces (including a member of the National Guard or Reserves) any time during the five-year period preceding the date on which the veteran undergoes such medical treatment, recuperation, or therapy.

Definitions

Serious Health Condition: A serious health condition is an illness, injury, impairment or physical or mental condition which involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition which 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 three (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 serious health condition.

An employee's on-the-job injury may also qualify as a serious health condition. In this instance, the University will designate the leave of absence due to an on-the-job injury as FMLA. The leave of absence will begin to run from the beginning of the absence caused by the on-the-job injury and will run simultaneously with any worker's compensation benefits that also may be provided to the employee. Employees may also qualify for paid leave benefits while on FMLA. Although an employee may receive paid leave benefits, the leave is still considered and counted as FMLA.

Qualifying Exigencies: Qualifying exigencies for FMLA may include: (1) short-notice deployment; (2) military events and related activities; (3) non-routine childcare and school activities; (4) care of the covered service member's parent if the parent is incapable of self-care; (5) non-routine financial and legal arrangements; (6) related counseling; (7) rest and recuperation; (8) post-deployment activities; and (9) additional qualifying activities.

Covered Service Member: A covered Service Member 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 which may render the service member medically unfit to perform their duties for which they are undergoing medical treatment, recuperation or therapy; or are in outpatient status; or are on the military's temporary disability retired list.

Duration of Leave

In General – Except in cases of Service Member Family Leave, eligible employees are entitled to a total of 12 weeks of FMLA during any “rolling backward” 12-month period (measured backward from the date the FMLA sought by the employee would begin).

Service Member Family Leave – Eligible employees are entitled to a total of 26 weeks of leave in a single 12-month period. This 12-month period begins on the first day an eligible employee takes FMLA to care for a covered service member and ends 12 months after that date. No more than a total of 26 weeks of all FMLA types of leave may be taken in a single 12-month period by any employee. Service Member Family Leave applies on a per-covered service member, per-injury basis, so that an employee may be eligible to take more than one 26-week period of Service Member Family Leave, but no more than 26 weeks of leave may be taken during any one 12-month period.

Married Employee Couples – In cases where both husband and wife work for the University, they will be eligible for a combined total of 12 weeks of FMLA for the birth or placement of a child, or to care for a parent with a serious health condition (not parent-in-law). Similarly, if both husband and wife work for the University, they will be eligible for a combined total of 26 weeks of leave for Service member Family Leave or for Service member Family Leave combined with any other type of FMLA.

Intermittent Leave or Reduced Work Schedule Leave – Qualifying Military Exigency Leave may be taken intermittently, in separate blocks of time (no less than one hour), or on the basis of a reduced leave schedule under which an employee's usual working hours each day or each week are reduced. When medically necessary, other types of FMLA may also be taken intermittently, in separate blocks of

time (no less than one hour), or on the basis of a reduced leave schedule under which an employee's usual working hours each day or each week are reduced. The University does not grant intermittent leave or a reduced leave schedule as FMLA leave for the birth or placement of a child.

In some instances, the University may require employees taking foreseeable intermittent or reduced schedule leaves to transfer temporarily to an alternative position for which the employee is qualified and which better accommodates the employee's leave schedule. Pay and shifts would not be affected by a change to an alternate position. Time worked in the alternate position would not count towards the employee's FMLA leave entitlement.

Requests for and Approval of Leave

Notice and Scheduling of Leave – Employees must provide the Human Resources Department with at least thirty (30) days notice whenever the need for the leave is foreseeable (such as when the leave is for an expected birth or placement for adoption or for planned medical treatment). For planned medical treatment, employees must consult with the Department manager and make reasonable efforts to schedule the treatment so as to minimize the impact of the employee's absence on the operations of the University and fellow employees. In cases where the need for leave cannot be anticipated thirty (30) days in advance, the employee must give notice of the need for leave as soon as practicable. Failure to give proper notice of the need for FMLA may result in delay of the commencement of leave, and may result in the absences counting against the employee for attendance and/or disciplinary action purposes, up to and including termination from employment.

Employees are also expected to comply with the University's or their department's normal call-in procedures when reporting absences, including, but not limited to, absences that are covered by the FMLA. Failure to add to normal call-in procedures can result in discipline, as with any other type of leave.

Employees also must inform the University if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Employees are also required to contact their managers every 30 days during an approved FMLA leave.

Documentation – The University requires that employees provide documentation to support the need for FMLA leave. Employees may request these documents from the Human Resources Department. FMLA for a serious health condition will require the employee to submit a completed health care provider certification within 15 calendar days. For Service Member Family Leave requests, invitational travel orders (ITOs) or invitational travel authorizations (ITAs) issued by the Department of Defense are acceptable.

Failure to provide the required medical certifications may result in denial of FMLA or other leave, automatic redesignation of the leave as other than FMLA, or treatment of the absence in accordance with the attendance/disciplinary policy up to and including termination from employment. Absences counted against the employee for a late certification will not be reversed absent exceptional circumstances. If an employee never returns the completed form, the FMLA will be denied and the absences will be unprotected. If the certification form is incomplete or insufficient, an employee will be given written notification of the information needed and will be given a period of seven (7) days to provide the necessary information.

In the case of Qualifying Military Exigency Leave, a copy of the family member's active duty orders and documentation of the qualifying exigency will be required.

Eligibility Notice – The University will generally notify employees of their eligibility to take FMLA Leave. If employees are not eligible, they will be told why.

Designation Notice – Once the University determines whether an employee's leave qualifies as FMLA, the University will notify the employee of the determination with a Designation Notice.

Recertification – The University may request medical recertification of the condition in accordance with the FMLA statute or regulations. The University may also provide the employee's health care provider with information about the employee's attendance and ask the provider to evaluate whether that attendance pattern is consistent with the need to be absent for the condition in question.

Second and Third Opinions – The University may also require the employee to obtain a second opinion and third opinion as to the medical condition. The University will let the employee know if such is required and will provide a reasonable amount of time for that opinion to be obtained.

Benefit Participation While On Leave

An employee on approved Family and Medical Leave may continue group health insurance coverage during the leave by paying the employee's normal share of the cost of such coverage during the leave on or before the date when payroll deductions for such costs would normally be made. If the payment is not received on the due date or after, the University will provide the employee written notice of non-payment and provide 15 days to make the payment. If the payment is not made within the 15-day window, and at least 30 days have passed from the due date, then coverage under the benefit plan will lapse, retroactively to the original due date.

Use of Available Paid Time Off

Employees must concurrently exhaust any available paid time off (such as vacation, sick pay, or personal time off), short-term disability benefits, workers' compensation benefits, Converse Leave, or any other form of applicable paid leave during FMLA leave. All substituted paid leave that is being concurrently exhausted will be counted against an eligible employee's FMLA leave entitlement.

Crediting of Benefits While On Leave

Benefits such as sick pay and vacation do not accrue for employees who are out on unpaid leave. Similarly, employees do not receive holiday pay for holidays that occur while the employee is on unpaid leave and holiday time is counted toward the FMLA leave time.

Reinstatement Following Leave

Request for Reinstatement – FMLA leave must be used for its intended purpose. If Converse determines that the employee provided false information in order to obtain the leave, or is using leave when such leave is not or is no longer medically necessary or otherwise unnecessary, the employee may be subject to discipline, up to and including termination. If the qualifying reason for taking leave ends, then the employee must immediately contact the University and make arrangements to return to work. An employee returning from FMLA for their own serious health condition should notify their supervisor of availability immediately upon being released to return to work by the employee's health care provider. Employees returning from FMLA leave must be able to assume all of the essential functions of their jobs upon return. The University will provide time for the employee to learn of any changes or new technology implementations. Unless required otherwise by law, an employee granted a leave of absence under these provisions who fails to return to work upon expiration of the leave will no longer have protected absences. Further absences would count against the attendance policy. As a condition of restoring an employee whose leave is based on the employee's own serious health condition, the employee must provide the University with certification from the employee's health care provider confirming the employee's fitness to return to their normal duties or the health care provider must identify any specific limitations placed on the employee related to the performance of their job duties. Failure to provide a requested fitness-for-duty certification may result in denial of reinstatement until this certification is provided. An employee desiring to return from FMLA leave prior to the date the leave was due to expire, must also give written notice to their supervisor of the desire to return to work at least two (2) working days prior to the desired return date.

Reinstatement – An employee returning from FMLA will normally be reinstated to the position held by the employee at the time the leave commenced or to an equivalent position; however, an employee returning from FMLA leave will have no greater right to employment or reinstatement to a specific position than an employee who had been continuously employed. For example, if the employee's position is eliminated because of a reduction in force, then no reinstatement right exists.

Version History

Sun, 08/13/2023 - 22:01