

## New York Paid Family Leave for Staff Members

Eligible employees in New York State may be entitled to job-protected leave and a certain amount of compensation and benefits continuation through New York's Paid Family Leave (PFL) for the purposes set forth below. This leave is **not** for an employee's own illness or serious health condition.

### Eligibility:

All staff employees who work 20 hours or more per week are eligible for PFL after 26 consecutive weeks of employment. Employees who work a regular schedule of less than 20 hours per week are eligible for PFL after 175 workdays, which do not need to be consecutive, in a 52-consecutive-week period. Once an employee is eligible, there is no waiting period for PFL benefits. If two spouses work for the University, only one employee **at a time** is eligible for PFL :

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- Bonding with a Child: is for the parent to bond with their child the first year after birth, adoption, or foster placement (including time before the actual adoption or placement of a child if an absence from work is required for the adoption or foster placement to proceed).
  - Caring for a family member with a Serious Health Condition: which includes, but is not limited to, necessary physical or psychological care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily-living matters, and personal attendant services. The employee must be in close and continuing proximity to the care recipient. This means present at the same location as the family member during the majority of the employment period from which leave has been taken, as well as travel necessitated for the purpose of securing medication or to arrange care for the family member, or other such deviations determined to be reasonably related to providing care. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment or continuing supervision by a health care provider. Proof of such condition will be required.
  - Active Duty Deployment: For a military exigency due to any qualifying exigency pursuant to the Family and Medical Leave Act (FMLA), arising out of active duty or an impending call or order to active duty in the Armed Forces of the United States for the spouse, domestic partner, child, or parent of the employee. Paid Family Leave cannot be used for one's own qualifying military event.

### Benefit Amount:

Employees will be eligible to take up to 12 weeks of PFL in any 52-consecutive week period. The 52-week clock starts on the first day the employee takes Paid Family Leave. Benefits will be

paid at the rate of 67% of the employee's average weekly wage, but not more than 67% of the state average weekly wage.

For example, in 2023, the NY State Average Weekly Wage is \$1,688.19, which means that the maximum weekly benefit an employee may receive is \$1,131.08 (not more than 67% of the state average weekly wage).

Cost:

The benefit is funded through an insurance plan administered by the University's Short Term Disability Insurance Provider. The premium will be **fully paid by staff employees through payroll deductions**. The cost of the premium will be established each year by New York State. These premiums will change whenever New York State changes its NYSAWW or changes the premium rate.

1199 Union members should consult the union to determine the funding of this benefit through the union's benefit trust.

Waivers of NY PFL Coverage:

In most cases, employees are not allowed to waive coverage in the NY PFL program. The only exception is if (1) an employee's schedule is 20 hours or more per week but the employee is not expected to work 26 consecutive weeks in a 52-consecutive-week period or (2) the employee's schedule is fewer than 20 hours per week and the employee is not expected to work a total of 175 workdays in a 52 consecutive-week period. If an employee meets either of those conditions, the employee will be provided with the option to waive NY PFL benefits and thereby become exempt from the obligation to incur payroll deductions. However, if the employee subsequently meets these thresholds, the employee will be required to make the premium contributions/payroll deductions and back premiums will be collected.

Coordination with other paid leaves:

Employees may not use NY PFL while they are collecting worker's compensation or NY Disability benefits. Employees do not have to use vacation before using Paid Family Leave. However, an employee may use accrued vacation leave to add to the benefit to obtain full pay. The employee should work with the University's Benefits Office to arrange to use their vacation accruals if they wish to exercise this option. Sick days may not be used for Paid Family Leaves with the exception of benefits under the New York City Earned Sick Time Act:

[https://www.yu.edu/sites/default/files/legacy//uploadedFiles/Offices\\_and\\_Services/HR/Working at YU/policies/NYCEarnedSickTimeActPolicy.pdf](https://www.yu.edu/sites/default/files/legacy//uploadedFiles/Offices_and_Services/HR/Working_at_YU/policies/NYCEarnedSickTimeActPolicy.pdf)

PFL runs concurrently with FMLA. If approved FMLA is taken that is eligible for NY PFL but the employee does not file a request for NY PFL benefits, the FMLA leave period will still count against the employee's maximum NY PFL duration.

Coordination with NY Statutory Disability Benefits (DBL): An employee may not collect DBL and PFL at the same time, though an employee may take PFL at the end of a period of disability



- *Care for a family member:* submit a medical certification from the family member's health care provider.
- *Birth or placement of a child:* submit proof of the birth or placement for adoption or fostering.
- *Military exigency leave:* submit a copy of the family member's military orders and other documentation regarding the reasons for the leave.

1199 Union members will have to make a claim through their union benefit plan and should consult with the union to determine how to submit their claims and documents.

### **Eligible Family Members**

**Child** means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis (i.e., in the place of).

**Family member** means a child, parent, grandparent, grandchild, spouse, domestic partner, or sibling.

**Parent** means a biological, foster, or adoptive parent, a parent in law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

### **Other Definitions in the Regulations**

#### Disqualification of Eligibility

Employees are disqualified from eligibility and no NY PFL benefits will be paid for the following:

1. Any disability caused by willful intention of the employee to cause injury to himself/herself or another;
2. On any day when the employee works part of the day for the University;
3. On any day in which the employee is entitled to receive from the E2 -2.15 TdC -32.04(r)3 yRfB-B&M1

7. During periods when the employee receives total disability payments pursuant to a claim for workers' compensation, volunteer firefighters' benefits, or volunteer ambulance workers' benefits, unless it is partial disability or reduced earnings;
8. When the employee is not employed or is on administrative leave from employment; or
9. For any period of family leave when notice and medical certification has not been filed.

Review/approval process

Within five business

1. Within five business days of receipt of an Advance Request, the insurance carrier will provide the employee with:
  - a. Notice that the claim is pending;
  - b. A list of the required missing information;
  - c. Instructions for how to submit the missing information; and
  - d. Contact information.
2. Once the insurance carrier receives a completed Request, the insurance carrier will provide the employee a confirmation of receipt of the completed claim within three business days.
3. If a completed request for PFL is received more than 18 calendar days before the occurrence of a qualifying event, the insurance carrier will send payment to the employee within five business days following the qualifying event.

Denial of NY PFL Benefits

### Health insurance

The NY PFL law requires employers to continue existing health insurance benefits while an employee is on NY PFL according to the same conditions prescribed by the FMLA. Employees must pay their portion of the health insurance premium, and employers may terminate coverage if an employee fails to do so. If an employee chooses not to retain health plan coverage while on PFL or the coverage lapses due to non-payment of premiums, upon the employee's return from PFL, the employee shall be reinstated into the health plan on the same terms the employee had prior to taking leave. (Other benefits will be governed in accordance with the terms of each benefit plan.)

### Job protection/No retaliation or discrimination

Upon returning from NY PFL, an employee is entitled to reinstatement to their prior job position or to a comparable position with comparable pay, benefits, and other terms and conditions of employment, consistent with applicable law. In addition, an employee may not be discriminated against, disciplined or retaliated against for requesting NY PFL or for absences that are covered under the NY PFL law.

### **Disputes**

Any disputes relating to NY PFL are required to be arbitrated in accordance with procedures established by the New York Worker's Compensation Board (WCB). Further information and contact information for the WCB can be found at: <http://www.wcb.ny.gov/content/main/Contact.jsp>. Requests for arbitration must be submitted to the WCB within 26 weeks of the denial of the request for NY PFL.

### **Summary Only**

This is intended only to be a summary of the requirements of the NY PFL. Additional requirements and benefits relating to NY PFL may be set forth in the NY PFL law. If there is a conflict between this document and the NY PFL law, the terms of the NY PFL law will govern.