

Subject: **Paid Family Leave (PFL)**

Applies To: This policy applies to eligible faculty, staff, residents, fellows, postdoctoral appointees and student employees (undergraduate students employed through Student Employment and graduate students not paid a stipend or fellowship in furtherance of their degree)¹ who work in New York State.²

- I. **Policy:** In accordance with the New York State Paid Family Leave Act, which was effective January 1, 2018, all eligible employees will receive partial wage replacement when requesting Paid Family Leave (PFL) to:
- A. Provide physical or psychological care for a spouse, domestic partner, child, parent, grandparent or grandchild with a serious health condition. This includes “in-laws,” “step,” and “*in loco parentis*” relationships.
 - B. Bond with a child during the first 12 months following birth, adoption, or foster placement.
 - C. Attend to a qualified military exigency or an impending call to active duty (as defined under the Family Medical Leave Act) of a covered service member who is a spouse, domestic partner, child or parent of the employee.

PFL cannot be used to address issues related to the employee’s own health condition.

The University will not interfere with, restrain or deny an employee’s PFL rights. The University will not discriminate or retaliate against any employee for requesting, taking, or attempting to take leave to which they are entitled under the PFL law.

¹ Faculty, residents, graduate students and postdoctoral appointees should refer to their respective policy manuals for information about leaves in addition to PFL that may pertain to their specific appointments.

² Employees working outside of New York State should contact Leave Administration to determine eligibility for leave in accordance with the laws of the state where they work.

II. **Eligibility:**

- A. To be eligible for PFL, employees must meet the following work criteria:
1. Work a regular schedule of 20 or more hours per week and have worked for at least 26 consecutive workweeks, OR
 2. Work a regular schedule that is less than 20 hours per week and have worked for at least 175 days.
- B. The use of scheduled vacation time, PTO, sick, holidays or other time away from work that has been approved, or other periods where the employee is away from work but is still considered to be active, count as continuous weeks of employment or days worked for purposes of eligibility. Absences during which the employee is receiving disability benefits (short-term or long-term disability) are not counted as continuous weeks of employment or days worked for purposes of meeting the work criteria for PFL eligibility.
- C. Once qualified for PFL, an employee will remain eligible (even if their standard hours are reduced) until their employment with the University ends. If an employee separates from the University and is rehired, then the employee must again satisfy the work criteria listed above before becoming re-eligible.
- D. Each eligible employee may qualify for a combined total of 26 weeks of short-term disability leave and PFL in one 52-week period. The maximum amount of this leave that can be PFL is described in Section IV.

III. **Definitions:**

“Child” for purposes of PFL, means a biological, adopted, or foster child; stepchild; legal ward; child of a domestic partner; or a child of a person acting in the capacity of a parent (i.e., *in loco parentis*). The child may be older than 18 years of age.

“Day of Paid Family Leave” means any full day in which the employee was prevented from performing work because the employee used paid family leave.

“Domestic Partner” means an individual who is at least 18 years of age, who is not related by blood to the employee in a fashion that would bar marriage to the employee in New York, and who is either (1) registered as the employee’s domestic partner; or (2) an individual who is dependent on the employee as defined by New York law.

“Grandchild” means a child of the employee’s child.

“Grandparent” means a parent of the employee’s parent.

“Intermittent leave” means leave which is taken in individual days and not in blocks of time.

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

“Providing Care” includes providing necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters and personal attendant services, and requires that the employee must be in close and continuing proximity to the care recipient.

“Qualifying Exigency” has the meaning as provided in the federal Family and Medical Leave Act, and may include the need to address issues arising from short-notice deployment, attending certain military events and related activities, arranging for alternative childcare, providing care for the parents of the service-member who are incapable of active care, addressing certain financial and legal arrangements, attending certain counseling sessions, spending time with a covered service-member who is on a short-term temporary rest and recuperation leave during deployment, attending post-deployment activities, and other activities that the employee and the employer agree upon.

“Serious Health Condition” means an illness, injury, impairment, or physical or mental condition that involves either: (a) an overnight stay in a hospital, hospice, or residential health care facility, or (b) continuing treatment or continuing supervision by a health care provider as defined by law.

“The Carrier” means Hartford Insurance which insures the University’s PFL benefits.

IV. **Scope, Guidelines, Conditions and Limitations**

A. **Length of Leave and Amount of Payment**

1. During the calendar year beginning on January 1, 2018, an eligible employee may request up to 8 weeks of PFL. The employee will be compensated at the rate of 50% of the employee’s average weekly wage, but the maximum rate of compensation that any employee can receive is 50% of the New York Statewide Average Weekly Wage (NYSAWW). The employee’s average weekly wage will be calculated over the 8-week period preceding the leave. By law, the maximum

leave amount and PFL compensation will increase on January 1 of each year through January 1, 2021, per the schedule below:

Effective date	Maximum Leave Amount	Benefit Amount	Maximum Benefit
January 1, 2018	8 weeks or 40 days	50% of employee's avg. weekly wage ("AWW")	50% of NYSAWW
January 1, 2019	10 weeks or 50 days	55% of employee's AWW	55% of NYSAWW
January 1, 2020	10 weeks or 50 days	60% of employee's AWW	60% of NYSAWW
January 1, 2021	12 weeks or 60 days	67% of employee's AWW	67% of NYSAWW

(If New York State delays or alters any of the increases described above, the University reserves the right to modify the benefit schedule so it is consistent with the law.)

2. Employees who take PFL in weekly increments are eligible for the maximum number of weeks of leave, as indicated in the above chart, using a 52-week look back period.

B. Intermittent Use

1. Eligible employees may take PFL on an intermittent basis in full-day increments. Employees may not take partial-day PFL.
2. Employees who take PFL intermittently are eligible for paid leave based on the average number of days worked per week during the 8-week period prior to the leave. For example, a part-time employee who works three days per week during the eight weeks preceding the leave would be entitled to 24 days of PFL in 2018 (8 weeks X 3 days per week).
3. When an employee is approved for and takes intermittent PFL, the employee must provide notice per the normal call-in policies and procedures established by the employee's supervisor. The employee must indicate to the supervisor that the time is to be counted towards PFL. The employee must also provide notice of each PFL day to the Carrier.
4. An employee's use of intermittent FMLA leave on a partial-day basis may, under certain circumstances, reduce an employee's PFL benefit amount. Specifically,

when an employee takes partial-day intermittent FMLA leave during a 12-month period, when that partial leave, added together, equals the number of hours in an employee's usual workday, the University may deduct one day of PFL benefits from the employee's annual PFL benefit allotment. This may only occur when the leave under FMLA also is a qualified leave under PFL.

C. Conditions and Limitations

1. An employee may not be entitled to be paid for PFL under the following circumstances:
 - a) The employee otherwise received full pay;
 - b) The employee performed any work for pay on that day;
 - c) The employee is receiving workers' compensation or disability benefits; or
 - d) The employee does not provide the required notice or certification, as described below.
2. For all PFL, the 52-week period is a "rolling" 52-week period, measured backward from each day that leave is taken.
3. If more than one family member works for the University, the University may limit PFL usage so that more than one employee cannot use the same period of PFL to care for the same family member at the same time. In this circumstance, employees will be required to stagger their PFL usage, but all employees will retain their full PFL entitlement.

D. Funding and Contributions for PFL Benefits

1. PFL payments are provided by the Carrier
2. Determining an Employee's PFL Contribution
 - a. In accordance with New York law, PFL benefits are funded by employee contributions, which are made through automatic payroll deductions from employees' paychecks. These payroll deductions will be collected from employees' after-tax wages. PFL benefits paid to employees will be taxable, non-wage income that must be included in federal gross income.
 - b. Employees must continue to make PFL contributions while using PFL.

- c. Employee contributions are calculated on a weekly basis at the rate set by the New York State Department of Financial Services (“DFS”). This rate is adjusted annually by DFS. (*see Leave Administration [website](#) for PFL deduction information*)
- d. Employees who do not expect to become eligible for PFL based on the eligibility criteria described in Section II may sign a waiver opting out of PFL benefits. When an employee’s schedule changes such that they will be able to attain eligibility for PFL, the waiver will be revoked. At that time, a notice will be provided to the employee to alert them that PFL deductions will begin and will be applied retroactively to their hire date (or to January 1, 2018, whichever is later). *Waiver form can be found in HRMS<Main Menu<Self Service<Paid Family Leave<Waiver*

E. Procedures

- 1. Employees must call their claim into the Carrier (1-866-548-3101) who will explain the process and send the employee an acknowledgement letter along with applicable certification forms to the employee. For any type of foreseeable PFL, an employee must provide at least 30 days’ notice before the leave begins.
- 2. If the employee is unable to foresee the need for PFL 30 days in advance, then the employee must give notice as soon as practicable and must follow usual and customary call-in procedures for reporting an absence, absent unusual circumstances. If an employee does not give timely notice, the employee’s PFL benefits may be delayed or denied.
- 3. The Carrier will request the employer information from Leave Administration, which will be provided directly to the Carrier within 3 business days.
- 4. Supervisors must immediately inform Leave Administration of an employee’s request for PFL if an employee seeks leave for a qualifying event but does not expressly request PFL, the employee should be directed to <http://www.rochester.edu/working/hr/leave/>, and encouraged to seek PFL benefits, if applicable. If a supervisor is aware that an employee has been absent from work for more than seven consecutive days for a PFL-qualifying reason, the supervisor must immediately notify Leave Administration at hrpaidfamilyleave@ur.rochester.edu.

5. The Carrier will provide oversight of PFL claims and will approve or deny the request for PFL. The Carrier may require the employee to complete a certification and/or submit additional documentation to support the request for leave. Certification forms and documentation vary by leave type. The Carrier will provide guidance to the employee regarding what forms may be needed to complete the request for PFL.
6. Once the Carrier receives a completed request for PFL leave from the employee, with the necessary certification, the Carrier should either pay or deny the claim within 18 days of receipt of the completed claim.
7. The Carrier will determine the approved period of PFL and will advise the employee, the supervisor and Leave Administration of the approved PFL. The Carrier will pay the PFL benefit directly to the employee.
8. Employees have the option of supplementing their PFL benefits with accrued PTO or vacation days. Importantly, when supplementing PFL benefits with vacation/PTO, an employee's total benefit (PFL + vacation/PTO) may not equate to a full day of regular pay. This is because:
 - a. PFL benefits are capped at the state's average weekly wage,³ which may be less than the employee's actual weekly wage. See section IV(A)(1), above.
 - b. For purposes of calculating the amount of vacation/PTO that will be applied for each day of PFL, a "day" of vacation/PTO equals one-fifth the employee's standard weekly work hours. An employee's standard weekly work hours are reflected in the University's Human Resource Management System (HRMS). In 2019, 45% of this "day" of vacation will then be paid to the employee for each day of PFL.⁴ Thus, adding this amount to an employee's PFL benefit may not equate to a full day of regular pay.
9. To the extent permitted by law, employees may elect to use vacation or PTO and receive full pay instead of applying for PFL payment. In such cases, the time off, which otherwise qualified as PFL, will still be counted towards the annual PFL entitlement.

³ The average weekly wage is defined annually by New York State, and this percentage increases to 55% in 2019, 60% in 2020, and 67% in 2021.

⁴ In 2019, 45% of a day of vacation/PTO will be used and paid. In 2020, 40% of a day of vacation/PTO will be used and paid. In 2012, 33% of a day of vacation/PTO will be used and paid.

V. **Benefits During Leave**

A. **PFL, Family Medical Leave and Disability Leave**

1. If an employee takes PFL for an event that also qualifies under the Family Medical Leave Act (“FMLA”), the employee’s PFL will run concurrently with the employee’s available FMLA entitlement.
2. Employees cannot use PFL and short-term disability benefits at the same time, but may use them consecutively. Employees are limited to a maximum of 26 weeks of disability and PFL benefits combined in a rolling 52-week period.

B. **Continuation of Group Health Plans during PFL**

1. During an approved leave under PFL, the employee’s coverage under the University’s group health insurance plan (health and dental) will continue as if the employee had not been on leave, unless the employee signs a form(s) canceling the coverage(s). As such, an employee is required to continue paying the employee’s portion of the cost of coverage during any leave under PFL (unless an employee elects not to continue any of the employee’s medical or other group insurance coverages). If the employee supplements PFL with PTO or vacation pay, health care premiums will be deducted. However, if this pay does not cover health care deductions or there is no supplement to PFL time off paid through the employer’s payroll, unpaid health care premiums will be deducted from the employee’s paycheck upon their return to work.
2. If the University advances the employee’s share of the premiums to continue benefits during leave, and the employee does not make the required premium payment, then under certain circumstances, an employee may be required to reimburse the University from other available pay during leave or after returning to work.
3. Benefits coverage may cease if an employee’s premium payment is overdue. The University will notify the employee in writing at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter, unless payment has been received by that date.
4. If an employee chooses not to retain group health plan coverage during PFL leave, then upon the employee’s return from leave, the employee shall be reinstated into the health plan on the same terms the employee had prior to taking leave.

C. Continuation of Other Benefits During PFL

1. The following plans continue for active faculty and staff, if the employee was eligible and enrolled prior to going out on PFL: Long-Term Disability, Life Insurance, Retirement Program, and Tuition Benefits. The employee is required to continue paying his/her portion of the cost of coverage during any PFL leave. Specific benefit questions can be directed to the Total Rewards office.
2. An employee's use of PFL will not result in the loss of any employment benefits that accrued prior to the start of the employee's PFL (unless accrued benefits, such as paid time off, were used during PFL leave). The employee will generally not accrue any sick time, PTO, or vacation time during a PFL leave, unless otherwise required by law. However, if the employee works any part of a pay period, accruals will occur during that pay period.
3. Employees are not paid for a University observed holiday when PFL is taken on a University observed holiday. However, if the employee uses intermittent PFL during a week with a University holiday, but the actual leave does not fall on the holiday, the standard holiday policy applies (see Policy 330).

VI. Job Protection and Return from Paid Family Leave

If an employee is able to return to work at or before the end of the applicable PFL leave period, an employee will be entitled to return to the same position the employee held when leave began, or to a comparable position. The department may temporarily fill the position during the employee's absence. Termination of employment may occur while the employee is on leave if, for example, there is a layoff or reduction in force, or for cause that would otherwise support dismissal if the employee was actively working.

VII. Other Terms and Conditions

The policies and guidelines stated in this policy shall be subject to such other terms and conditions as are provided in the New York State Paid Family Leave Benefits Law, their respective implementing regulations, and any other applicable federal, state, and local leave laws, and the PFL certificate of insurance or governing plan documents.

Employees who have questions about their exercise of PFL rights should contact their [Human Resources Business Partner](#) or Leave Administration at hrpaidfamilyleave@ur.rochester.edu.

See also Policies:

271 Workers' Compensation Benefits
330 Holidays
336 Military Leave
345 Vacation
339 Sick Leave Plan and Short Term Disability
358 Family Medical Leave
[Leave Administration](#) Website

The University reserves the right to modify, amend, or terminate the Paid Family Leave policy at any time, including actions that may affect coverage, cost-sharing, or covered benefits, as well as benefits that are provided to current and future retirees. A paper copy of this information is available for free from the Leave Administration Office. The plan documents will govern in the event of any discrepancies.