

FAMILY AND MEDICAL LEAVE OF ABSENCE (FMLA)

This policy contains information consistent with and in addition to the information contained in the “[Employee Rights Under the Family and Medical Leave Act](#)” notice and is meant to provide additional information about RAILS’s specific policies and procedures under the Family and Medical Leave Act (FMLA). In the event of any conflict between the “Employee Rights” notice and this policy, the “Employee Rights” notice will prevail.

Commented [SD1]: Legal should conduct a secondary review of this policy to confirm that no additional provisions of the Act have been overlooked.

Basic Leave Entitlement

Employees may be eligible to take up to 12 weeks of unpaid family/medical leave within a rolling 12-month period and be restored to the same or an equivalent position upon return, provided that the employee has worked for RAILS for at least 12 months *and* worked at least 1,250 hours in the last 12 months.

Reasons for Leave

If an employee is eligible, the employee may take family/medical leave for any of the following reasons:

(1) the birth of a child and in order to care for such child; (2) the placement of a child with the employee for adoption or foster care; (3) to care for a spouse, son, daughter or parent (“covered family member”) with a serious health condition; or (4) because of the employee’s own serious health condition that renders the employee unable to perform the functions of the employee’s position. Leave because of reasons one and two above must be completed within the 12-month period beginning on the date of birth or placement. In addition, both spouses employed by RAILS who request leave because of reasons one or two or to care for an ill parent may only take a combined aggregate total of 12 weeks leave for such purposes during any 12-month period.

Military Family Leave Entitlement

If an employee is eligible, the employee may use the 12-week FML entitlement to take military family leave. This leave may be used to address certain qualifying exigencies related to the covered active duty or call to covered active duty of a spouse, son, daughter or parent. Qualifying exigencies may include (1) attending certain military events; (2) arranging for alternative childcare; (3) addressing certain financial and legal arrangements; (4) attending certain counseling sessions; (5) addressing issues related to short-notice deployment; (6) spending time with a covered family member who is resting and recuperating; (7) attending post-deployment briefings; and (8) for certain activities relating to the care of the military member’s parent who is incapable of self-care where those activities arise from the military member’s covered active duty.

An employee may also be eligible for up to 26 weeks of leave to care for a covered service member during a single 12-month period. This single 12-month period begins with the first day the employee takes the leave. A covered service member includes: (1) 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 that may render the service member medically unfit to perform their duties for which the service member is undergoing medical treatment, recuperation, or therapy or is in outpatient status; or (2) is on the temporary disability retired list; or (3) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment recuperation or therapy.

Employees may not be granted a FML leave to gain employment or work elsewhere, including self-employment. If an employee misrepresents facts in order to be granted an FMLA leave, the employee may be subject to immediate termination.

Notice of Leave

If the FML is foreseeable, the employee must give RAILS at least 30 days' notice in accordance with the usual procedure for requesting a leave of absence. When the need for leave is not foreseeable, the employee is expected to notify RAILS as soon as practicable and, absent unusual circumstances, in accordance with RAILS' attendance policy.

Medical Certification—Leave for Employee's Own or a Covered Family Member's Serious Health Condition

If the employee is requesting leave because of the employee's own or a family member's serious health condition, the employee and the relevant health-care provider must supply appropriate medical certification. The medical certification must be provided within 15 days after it is requested, or as soon as reasonably possible under the circumstances. RAILS, at its expense, may require an examination by a second health-care provider designated by RAILS, if it reasonably doubts the medical certification you initially provide. If the second health-care provider's opinion conflicts with the original medical certification, RAILS, at its expense, may require a third, mutually agreeable health-care provider to conduct an examination and provide a final and binding opinion. RAILS may also require medical recertification periodically during the leave. Upon their return to work following a leave for their own illness employees will be required to present a fitness for duty verification specifying that the employee is fit to perform the essential functions of the job.

Certification for a Qualifying Exigency

If the employee requests leave because of a qualifying exigency arising out of a covered family member's active duty or call to active duty, the employee must supply a copy of the covered military family member's active duty orders or other documentation issued by the military indicating that the covered military member is on active duty or call to active duty (including the dates of the active duty service). RAILS may also request additional information pertaining to the leave.

Certification for Service Member Family Leave

If an employee requests leave because of the need to care for a covered service member with a serious injury or illness, RAILS may require the employee to supply certification completed by an authorized health-care provider of the covered service member. In addition, RAILS may also request additional information pertaining to the leave.

Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave

If an employee requests leave because of the need to care for a covered veteran with a serious injury or illness, RAILS may require the employee to supply certification completed by an authorized health-care provider of the covered veteran. In addition, RAILS may request additional information pertaining to the leave.

Use of Paid Leave

FML is unpaid leave. Short-term/long-term disability and/or workers compensation leave run concurrently with FML (where appropriate) and will not extend the leave period. Employees have the option of using paid leave ([paid family leave](#), [vacation](#), [personal-PLAW](#), and sick) [concurrently](#) ~~or consecutively~~ with FML. When using paid leave in conjunction with FML, employees must comply with the requirements of the applicable paid leave policy.

Commented [SD2]: (PFL, vacation, PLAW, and sick)

Commented [SD3]: Concurrently

Benefits During Leave

During an approved FML leave, RAILS will maintain the employee's health benefits as if the employee continued to remain actively employed. The employee is responsible for paying their share [of health premiums](#) [regardless](#) of whether or not they are using paid leave.

Commented [SD4]: "...share of health premiums regardless of whether or not they are using paid leave"

Intermittent Leave

Leave because of a serious health condition, to care for a service member with a serious injury or illness or because of a qualifying exigency may be taken intermittently (in separate blocks of time due to a single covered health condition) or on a reduced leave schedule (reducing the usual number of hours an employee works per workweek or workday) if necessary. If leave is unpaid, RAILS will reduce the employee's salary based on the amount of time actually worked. In addition, while the employee is on an intermittent or reduced scheduled leave, RAILS may

temporarily transfer the employee to an available alternate position that better accommodates the recurring leave and that has equivalent pay and benefits. A fitness for duty certification will be required to return from an intermittent absence if reasonable safety concerns exist concerning the employee's ability to perform job duties.

Job Restoration

If the employee wishes to return to work at the expiration of the leave, the employee is entitled to return to the same position or to an equivalent position with equal pay, benefits and other terms and conditions of employment. If the employee takes leave because of their own serious health condition, the employee will be required to provide medical certification that the employee is fit to perform the essential functions of the job. Employees failing to provide the certification will not be permitted to resume work until it is provided.