

Disability and Family Leaves

Authority Approved by the Vice President of Human Resources.

Applicability Applies to regular Stanford University employees not covered by collective bargaining agreements, regular Academic Staff - Research, and regular Academic Staff - Libraries. (The term “regular employee” is defined in [Guide Memo 23.1](#), Definitions.) For policies that apply to employees covered by a collective bargaining agreement, refer to the agreements at <http://elr.stanford.edu/union/index.html>.

Notes:

- Procedures for SLAC employees may vary.
- Faculty may consult the [Faculty Handbook](#), chapter 3.
- See information on each disability plan for specific details about plan eligibility.

Summary This Guide Memo describes medical and other disability-type leaves, and the coordination of these types of leave with University benefit plans.

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1. OVERVIEW

Eligible University employees can participate in a variety of family and medical leaves (also known as Family and Medical Leave Act, and referred to in this document as FMLA) and disability benefit plans. Policies are described in this document. Before you go out, consult your local Human Resources Office and Stanford Benefits at <http://benefits.stanford.edu/> or (650) 736-2985, option 4. Important information regarding the scope and use of the disability benefit plans is included in the relevant plan brochures available on the Stanford Benefits website.

a. Specific Process for a filing a disability claim:

- (1) The employee reports the absence (or planned absence) to his/her immediate supervisor.
- (2) The employee calls Liberty Mutual's toll-free number, (800) 896-9375, or uses www.mylibertyclaim.com to initiate a claim. Liberty Mutual will inform the employee if there are any forms to submit.
- (3) If the employee does not call Liberty Mutual, it is the department's responsibility to notify Liberty Mutual.
- (4) Continue steps per general process for all disabilities in section 1.b.

b. General Process:

- (1) **Timeliness** – Employees must give notice of anticipated family or medical leaves and file claims for disability plan benefits as soon as feasible. Notice should be given to the immediate supervisor, the HR Disability Leave Administrator and Liberty Mutual. For work-related leaves, refer to section 4, Workers' Compensation.

For example, an employee who will be hospitalized on a pre-determined date should contact Liberty Mutual before entering the hospital. In addition, the employee must submit the signed Authorization to Release Information card to his/her physician's office as soon as possible. No disability benefits can be paid until Liberty Mutual has received the completed physician's form with appropriate verification of the disability. If not hospitalized, the employee still needs to report the absence to Liberty Mutual and his/her supervisor.
- (2) **Workers' Compensation** – When the employee's disability is, or may be, work-related, the department should report the circumstances to the Risk Management Office within 24 hours of the employee's injury. See section 4, Workers' Compensation. SLAC employees should refer to <http://www-group.slac.stanford.edu/hr/wc/> for the relevant reporting requirements.
- (3) **The HR Disability Leave Administrator** – The local HR Disability Leave Administrator notifies and coordinates with Disability and Leave Services (DLS) in Human Resources. The local HR Disability Leave Administrator works with the employee, his/her supervisor and DLS to ensure that information is communicated in a timely manner.
- (4) **DLS** – DLS updates the employee's Axxess/PeopleSoft record and works with Stanford's benefits vendors and the local Disability Leave HR Contact. For more information see the HR Data Services website at <http://hrdata.stanford.edu>
- (5) **Supervisor's Ongoing Communication** – The supervisor (or local Human Resources Office on the supervisor's behalf) should routinely check the determination made on the employee's claim for short-term (VDI/SDI) disability benefit or Workers' Compensation benefit payments. The supervisor should arrange with the employee to be kept informed about the estimated return to work date for an employee who is absent for an extended period. If the employee is unable to advise the supervisor personally about his/her inability to return to work, the supervisor should make other arrangements to be kept advised of the status of the employee's return to work.
- (6) **Medical Certification** – The employee must call Liberty Mutual to initiate a leave request and open a disability or FTD claim. Liberty Mutual will work with the employee to obtain the necessary certification from a health care provider. The employee must provide certification within 15 days to Liberty Mutual. Certification is also required to request a leave extension.
- (7) **Length of Leave** –
 - a) **Maximum Duration** – Except as otherwise required by law, the maximum duration that a regular employee is eligible to be on an approved medical leave of absence due to a non-work-related injury or illness is no more than 12 consecutive months, inclusive of any periods of full- or part-time leave, Family Medical leave, pregnancy disability leave, or leave for personal reasons. If an employee is unable to return to work at the end of an approved medical leave, the employee will be terminated. Twelve months of leave is not guaranteed. The maximum duration of leave will be determined based on the particular circumstances of the situation, including the operational needs of the department, the number of times extensions of leave have been previously granted, and any disability accommodation leave that may have been granted.
 - b) **Exceptions** – If a proposed leave will result in a total period of absence exceeding 12 months, prior approval is required from the local Human Resources Office and in concurrence with the Vice President of Human Resources (or his/her designee). Requests for exceptions must be submitted in writing to the local Human Resources Office. Such exceptions are likely to be approved only in limited circumstances.

2. FAMILY AND MEDICAL LEAVES (FMLA)

a. **Introduction** – Family Medical Leave is leave authorized by the federal Family and Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA). Certain leaves for members of the armed forces and their families are outlined in [Guide Memo 22.17](#). In most cases, FMLA and CFRA run concurrently with each other and with Short-Term Disability Leave, including leave due to work-related illness or injury. Eligible employees are assured up to 12 weeks unpaid leave during a 12-month period beginning January 1 of each calendar year. “Assured” means the department cannot refuse the leave when any one of the following situations is appropriately verified:

- The birth of a child or the placement of a child with the employee for adoption or foster care.

Limitations – Leave for birth or placement of a child for adoption or foster care should generally be taken in blocks of time (two weeks minimum) and must be concluded within the first 12 months after the birth or placement. A request for baby bonding leave in less than two weeks’ duration may be granted on any two occasions.

- A serious health condition that makes the employee unable to perform his or her job.
- The serious health condition of a spouse, same-sex domestic partner, parent or child that requires the employee’s absence from work to care for the ill family member.

Definition of “Serious Health Condition” – Serious health condition (as defined by the Dept. of Labor) means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (*i.e.*, inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; **or**
- Continuing treatment by a health care provider, which includes:
 1. A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that **also** includes:
 - a. treatment two or more times by or under the supervision of a health care provider (*i.e.*, in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); **or**
 - b. one treatment by a health care provider (*i.e.*, an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (*e.g.*, prescription medication, physical therapy); **or**
 2. Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**
 3. Any period of incapacity or treatment for a chronic serious health condition that continues over an extended period, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**
 4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**
 5. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

- b. **Eligibility** – Employees working in the U.S. are eligible if employed by Stanford at least one year and have worked at least 1,250 hours (paid time off, paid leave and unpaid leave not included) during the 12 months before the start of the requested leave.
- c. **Notification** – Employees are expected to provide 30 days advance notice to their manager when the need for leave is foreseeable (i.e., anticipated date of birth, adoption or planned medical treatment). When advance notice is not possible, employees should give as much advance notice as feasible.

If advance notice is not provided when the employee had sufficient prior knowledge of the need for leave, the department may deny leave until 30 days have elapsed. Such denial should be made only when operationally necessary, and always in consultation with the local Human Resources Office.

Employees are required to give a minimum of two days notice if the return to work will be later or earlier than the expected return date.

- d. **Medical Certification** – The employee must call Liberty Mutual to request FML/CFRA leave. Liberty Mutual will work with the employee to obtain certification from a health care provider that the employee, his/her child, parent, spouse, or same-sex domestic partner in fact has a serious health condition, the condition's expected duration, and the need for the employee to attend to the family member. The employee must provide certification within 15 days to Liberty Mutual. Certification is also required to request a leave extension.
- e. **Intermittent Leave** – Under some circumstances, employees may take FMLA leave intermittently (taking leave in separate blocks of time for a single qualifying reason) or on a reduced schedule (reducing the employee's usual weekly or daily work schedule). When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment to avoid unduly disrupting department operations.

For birth and care of a child or "baby bonding" under California (CFRA) law, an employee may use intermittent leave in segments of two weeks. A request for baby bonding leave of less than two weeks duration may be granted on any two occasions.

3. PREGNANCY DISABILITY LEAVE

Pregnancy and Childbirth - California law currently provides eligible employees up to four months off for pregnancy disability leave (PDL). The first three months of PDL run concurrently with the employee's federal FMLA entitlement. Following PDL, the employee may be eligible to use up to 12 weeks of California Family Rights Act (CFRA) leave.

Verified pregnancy disability leave does not count against an employee's California Family Rights Act (CFRA) leave entitlement **unless the employee has exhausted the maximum pregnancy disability leave permitted by law.**

4. PAID ORGAN DONOR LEAVE

- a. **Introduction** - Under California law, eligible employees are entitled to a paid leave of absence up to 30 days for the purpose organ donation and up to 5 days for bone marrow donation. The leave may be taken in increments during any one-year period. The one-year period starts on the first day of leave. Use of accrued time for a portion of the leave will be required (see section 4.d). Periods of authorized Paid Organ Donor leave do not run concurrently with either FMLA or CFRA leave and are not counted against an employee's annual FMLA/CFRA entitlement.
- b. **Eligibility** – The employee must complete at least 90 days of service with the University before requesting Paid Organ Donor leave.

- c. **Medical Certification** – The employee must call Liberty Mutual to request a Paid Organ Donor leave and provide written medical verification that he /she is an organ or bone marrow donor and the medical necessity for the donation. Liberty Mutual must receive the certification within 15 days of the Paid Organ Donor leave request.
- d. **Pay During Leave** – During the period of Paid Organ Donor leave, employees will be required to use 5 days of accrued time for bone marrow donation and 10 days for organ donation. Once the amount of required accrued time is used, the employee will be on paid leave of absence for the remainder of the Paid Organ Donor leave.

5. WORKERS' COMPENSATION

- a. **Introduction** – The purpose of this coverage is to provide partial income continuation during absences resulting from work-related injuries or illnesses, and payment of necessary medical, surgical, and hospital services for such injuries and illnesses. The University pays the full cost of Workers' Compensation coverage.

Workers' Compensation payments are a non-taxable benefit paid directly to the employee by Zurich North America, a third party administrator.

- b. **Eligibility** – All employees of the University, including student employees, staff, and faculty, are covered by Workers' Compensation. Work-related disability provisions are applicable to temporary, student and casual employees; however, the charging (or not charging) of vacation and/or sick time is not applicable.
- c. **Reporting and Recording Work Injuries and Related Absences From Work** – Departments have additional requirements for reporting all work-related injuries and illnesses. See [Guide Memo 25.6](#), Accident and Incident Reporting.
- d. **Payments** – The Workers' Compensation administrator (Zurich) normally pays benefits from the fourth day of the disability period or the first day of hospitalization, whichever occurs first. If the employee is out of work more than 14 days (need not be consecutive) with a doctor's authorization, the three-day waiting period is waived and retroactive payments will be made so that payments start with the first day of disability.

For Workers' Compensation, Stanford charges up to the initial five full work days of absence (days need not be consecutive) of an accepted claim to work-related disability paid leave. The University will augment the Workers' Compensation benefit with salary during this period. An employee's sick time or vacation is not charged for these days of absence.

By state law, an employee may not receive both Workers' Compensation benefits and full pay. Therefore, employees are required to reimburse the University for any Workers' Compensation benefits paid for the first five days including any associated holidays, because the University has already paid the employee for the time. For part-time employees, the full day is prorated based on the employee's normal work schedule.

- e. **Delayed Claims** – If acceptance of a claim is delayed, the initial five full days of absence (need not be consecutive) are charged to accumulated sick time and the claim is handled as a short-term non-work-related disability. If accumulated sick time is exhausted, the time is charged to accrued PTO, floating holiday and vacation, in that order. If the employee does not have enough accrued time, the remaining hours are unpaid. If the claim is then accepted under Workers' Compensation, any sick, PTO, floating holiday, and /or vacation taken during the first five days will be restored.

- f. **Supplementing Workers' Compensation Payments** – Employees may receive both paid leave and disability plan benefits concurrently, not to exceed the employee's base pay. After the initial five work days of disability, accumulated sick, PTO, floating holiday and vacation time will be used, in that order, to supplement Workers' Compensation benefits. Thus, the employee continues to receive income equivalent to full pay.
- g. **Role of Disability and Leave Services** – Disability and Leave Services (DLS) updates Axxess/PeopleSoft HRMS records each pay period for all employees on absences due to work-related disability. DLS makes certain that combined income from disability payments and Stanford does not exceed pre-disability pay and keeps accurate records of leave time used.
- h. **More Information** – Details regarding claims procedures, accident reports, and related matters may be obtained from the Risk Management Office, (650) 723-7400, <http://www.stanford.edu/dept/Risk-Management/docs/workcompben.shtml>. Also, [Guide Memo 25.6](#), Accident and Incident Reporting, has additional information about Workers' Compensation. SLAC employees should refer to <http://www-group.slac.stanford.edu/hr/wc/>.

6. INCOME DURING FAMILY AND MEDICAL LEAVES

- a. **Use of Accrued Time** – Accrued time consists of sick time, PTO for the calendar year, floating holiday for the calendar year and vacation, to be used in that order. During medical leaves (including Workers' Compensation, FMLA, CFRA and PDL), the University will use an employee's accrued time to maintain the employee's base pay. For FTD leaves, please see section 6.d. When the employee is also receiving disability benefits, DLS ensures that combined income from both the disability vendor and the University does not exceed pre-disability pay. Accrued time is used until the employee goes off disability, including Worker's Compensation, or until all balances are exhausted. The use of some forms of accrued time is at the employee's option during certain FMLA leaves. If an employee chooses not to use accrued time during a medical leave, the employee must contact the department's HR Disability Leave Administrator or HR department to complete the Disability/Leave Request Form. An employee's request to opt out of the payment practice can only be for future pay cycles and not retroactively. Disability and Leave Services (DLS) administers the employee's records in the Human Resources Management System (Axxess/PeopleSoft HRMS). Procedures at SLAC will differ.

Thus, if the employee has accrued time and is also receiving disability benefits, the employee will receive disability checks from Liberty Mutual and/or Zurich and reduced paychecks from the University until his/her accrued time has been exhausted. Once the accrued time is exhausted, the employee will only receive disability checks from the disability vendor for the duration of the approved leave.

- b. **Overpayment** – If an employee has been overpaid, the employee must reimburse the University for the overpayment either by direct payment or through payroll deduction.
- c. **Voluntary Disability Insurance / Short-Term Disability**
 - (1) **Introduction** – The University's VDI plan is state-approved to take the place of SDI by providing benefits that are better than those of the state's plan. The VDI plan provides partial income continuation for periods of disability of up to 52 weeks or a maximum dollar amount. This plan is described in the Statement of Coverage available on the Stanford Benefits website at <http://benefits.stanford.edu> or by calling (650) 736-2985, press option 9. For information on SDI, go to the Employment Development Department's website at www.edd.ca.gov.
 - (2) **Eligibility** – Faculty and staff based in California are covered for short-term disabilities by either the University's voluntary disability insurance plan (VDI) or State Disability Insurance (SDI) if the employee opted out of VDI. Non-California employees are covered under a separate 13-week short-term disability plan (STD).

- (3) **Benefit Waiting Period** – Refer to the Voluntary Disability Insurance Statement of Coverage on the Benefits website at <http://benefits.stanford.edu>, or call (650) 736-2985, press option 9.
- (4) **Taxability** – Short-term disability (VDI/SDI) payments are non-taxable benefits. These non-taxable benefits are paid directly to the employee by Liberty Mutual.

d. Family Temporary Disability (FTD)

- (1) **Introduction** – This California state program provides partial income replacement during absences from work to care for seriously ill family members or to bond with a new child.
- (2) **Eligibility** – Faculty and staff based in California contribute to a Family Temporary Disability Insurance Benefit (FTD) according to state law as part of the VDI deduction.
- (3) **Vacation usage** – Employees must take two weeks of earned but unused vacation leave before receiving FTD insurance benefits. One of these vacation weeks can be used during the seven-day waiting period. If an employee does not have two weeks accrued vacation time, vacation time will be used to the nearest full day increment up to the two-week requirement. If less than one week of vacation is available, PTO or floating holiday will be used for the remaining portion of the waiting period. If no PTO or floating holiday is available, the remaining portion of the waiting period will be without pay. For a new mother who has received pregnancy disability benefits due to pregnancy/maternity disability the two-week vacation period will apply, however, there is no additional waiting period for bonding.
- (4) **Supplementing FTD Payments** – During Family Temporary Disability Leaves the University will use an employee's accrued time to maintain the employee's base pay during times when the employee is receiving FTD benefit payments as described below:

In cases of FTD Bonding Leaves, eligible accrued time consists of PTO for the calendar year, floating holiday and vacation, in that order.

In cases of FTD Family Care Leaves eligible accrued time consists of Family Sick Leave, as restricted by the FSL policy, PTO for the calendar year, floating holiday and vacation, in that order.

This accrued time is used until the employee goes off approved Family Temporary Disability Wage Replacement (FTD), or until all balances are exhausted. Disability and Leave Services (DLS) administers the employee's records in the human resources management system (Axess/PeopleSoft HRMS). DLS ensures that combined income from both the disability vendor and the University does not exceed pre-disability pay. Procedures at SLAC will differ.

Thus, if the employee has accrued time, the employee will receive FTD benefit checks from Liberty Mutual, and a reduced paycheck from the University while on approved FTD until the employee's applicable accrued time has been exhausted. Once the applicable accrued time is exhausted, the employee will only receive the FTD benefit checks from Liberty Mutual for the duration of the approved leave.

- (5) **Overpayment** – If an employee has been overpaid, the employee must reimburse the University for the overpayment either by direct payment or through payroll deduction.
- (6) **Taxability** – FTD is a non-taxable benefit for state and FICA, but is a taxable benefit for Federal tax purposes.
- (7) **More Information** – The benefit is described at <http://benefits.stanford.edu/>. Forms are available on this website in the [Resource Library](#).

e. Long-Term Disability (LTD)

- (1) **Introduction** – This plan provides partial income continuation during longer periods of disability. LTD benefits could start after a disability period of 90 consecutive days. After a disability period of 15 months, the plan's benefits are more restricted because a more stringent definition of "disability" is used.
- (2) **Eligibility** – Employees whose approved disability continues past 90 consecutive days may be eligible for Long-Term Disability. The disability vendor provides the employee with the appropriate information when the employee's disability period approaches 90 days.
- (3) **Taxability** – Long-term disability benefits are taxable for federal and state, non-taxable for FICA.
- (4) **More Information** – The Summary Plan Description for the Long-Term Disability Plan provides information about coverage, definition of disability, and benefits. It is available in the Resource Library of the Stanford Benefits website – <http://benefits.stanford.edu>.

7. BENEFITS DURING DISABILITY PERIODS**a. Health and Life Benefits**

- (1) **Paid Leave** – There will be no change in benefit deductions. Employees on paid FMLA, FTD, VDI or Workers' Compensation will have their applicable benefit contributions deducted from their reduced paychecks. See (3) for LTD.
- (2) **Unpaid Leave** – Employees on unpaid FTD, VDI, Workers' Compensation, and all LTD participants (paid or unpaid) will have the same University benefit contributions as when actively employed. The employee will be billed for the employee portion of the costs on an after-tax basis on the 7th and 22nd of each month.
- (3) **LTD and Part-Time Work** – If an employee continues to receive LTD benefits, but is able to work part-time, there will be no change in benefit contributions. Employees will have applicable benefit contributions deducted from their reduced paychecks.

b. Retirement Savings Plan (SCR)

- (1) **Paid Leave** – When an employee continues to receive pay for accrued sick, PTO, floating holiday and vacation, retirement savings plan benefit accruals and/or contributions continue, subject to plan provisions.
- (2) **LTD Plus Paid Leave** – Employees who supplement LTD benefits with accrued time (e.g., sick, vacation, PTO, floating holiday) will have that paid time counted as earnings for University retirement savings plans, subject to plan provisions.

c. Retiree Medical Eligibility

During the first 90 days on Short-Term Disability or Workers' Compensation, time is counted toward official retiree medical eligibility. After 90 days on LTD, the time does not count toward official retiree medical eligibility.

d. Benefits in Cases of Termination

- (1) **Medical and Dental Coverage** – A regular employee whose University employment is terminated while the employee is receiving benefit payments from a Short-Term Disability plan or Workers' Compensation plan may continue medical and dental coverages at the employee's expense through COBRA for 18 months, or until LTD is approved. If LTD is approved, the employee may contact Stanford Benefits, <http://benefits.stanford.edu/> for information on their eligibility for medical and life insurance plans.
- (2) **Life Insurance** – Life insurance portability or conversion to an individual plan is available. The employee should contact Stanford Benefits at the time of termination for the appropriate forms.

8. FOR MORE INFORMATION

Consult with your local Human Resources Office or the Stanford Benefits website at <http://benefits.stanford.edu/>.

General questions about State Disability Insurance (SDI) and Workers' Compensation should be referred to the appropriate government office.