

Notice of Eligibility and Rights & Responsibilities (Family and Medical Leave Act)

In general, to be eligible an employee must have worked for an employer for at least 12 months, have worked at least 1,250 hours in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. § 825.3000 (b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 C.F.R §825.3000 (b), (c).

[PART A- NOTICE OF ELIGIBILITY]

TO: _____
Employee

FROM: _____
Employer Representative

DATE: _____

On _____, you informed us that you needed leave beginning on _____ for:

____ The birth of a child, or placement of a child with you for adoption or foster care.

____ Your own serious health condition.

____ Because you are needed to care for your ____ spouse; ____ child; ____ parent ____ Duke registered same sex spousal equivalent due to his/her serious health condition.

____ Because of a qualifying exigency arising out of the fact that your ____ spouse; ____ son ____ Duke registered same sex spousal equivalent or daughter; ____ parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.

____ Because you are the ____ spouse; ____ son or daughter; ____ parent; ____ next of kin ____ Duke registered same sex spousal equivalent of a covered service member with a serious injury or illness.

This notice is to inform you that you:

____ Are eligible for FMLA leave (See PART B below for Rights and Responsibilities).

____ Are **NOT** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):

____ You have not met the FMLA's 12- month length of service requirement. As of the first date of requested leave, you will have worked approximately ____ months towards this requirement.

____ You have not met the FMLA's 1,250 hours-worked requirement.

____ You have exhausted your FMLA entitlement.

____ You do not work and/or report to a site with 50 or more employees within 75 miles.

If you have any questions, contact _____ or view the FMLA policy at www.hr.duke.edu or Corporate HR at 919-684-5600.

[PART B- RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE]

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** (If a certification is required, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

____ Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request ____ is / ____ is not enclosed.

____ Sufficient documentation to establish the required relationship between you and your family member.

____ Other information needed: _____

___ No additional information requested.

If your leave does qualify as FMLA leave you will have the following **responsibilities** while on FMLA leave (only checked blanks apply):

___ You have a minimum 30-day grace period in which to make premium payments. Payments for premiums are due by the 25th of each month, prior to the month of coverage. Payments should be sent to Benefits Accounting, Box 104132, Durham, NC 27708. Personal checks, money orders or cashier's checks are accepted and should be made payable to "Duke University." Please include your Duke Unique ID and reason for payment (i.e. FMLA) on the memo line. If payment is not made timely, your group medical insurance may be cancelled provided Duke notifies you in writing at least 15 days before the cancellation of your medical benefits occur.

___ Due to your status within the company, you are considered a "key employee" as defined in the FMLA. As a "key employee", restoration to employment may be denied following the FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We ___ **have** / ___ **have not** determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on the reverse side of this form, you will be required to notify us as least two work days prior to the date you intend to report for work. If you fail to notify your supervisor 14 calendar days prior of your request for extension, or decide not to return from an approved leave of absence by the conclusion of your leave, you will be considered to have resigned your position voluntarily or your department may terminate your employment after the twelve week period allotted to you by the Family Medical Leave Act.

If your leave does qualify as FMLA leave, you will have the following **rights** while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as a "rolling" 12-month period measured backward from the date of any FMLA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave under in a single 12-month period to care for a covered service- member with a serious injury or illness. This single 12-month period commenced on _____.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA).
- If you do not return to work following FMLA leave for a reason other than : 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered service-member's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- If we have not informed you above that you must use PTO accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have ___ **sick**, ___ **vacation**, or ___ **PTO** run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to make unpaid FMLA leave.

For a copy of conditions applicable to sick/ vacation/other leave usage, please refer to Duke Leave of Absence at www.hr.duke.edu.

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact: _____ at _____.

Supervisor Signature: _____ **Date:** _____

Employee Signature: _____ **Date:** _____