

Effective Date: January 1, 2021

POLICY

EMPLOYMENT

Boston University Paid Family and Medical Leave Law Policy

NOTE: This Policy is effective on January 1, 2021

This Boston University Paid Family and Medical Leave Law Policy (“BU PFMLL Policy”) describes the leave benefits for which Boston University employees and former employees are eligible pursuant to the Massachusetts Family and Medical Leave Law (the “Law”), M.G.L. c. 175M, § 1, *et seq.*, and accompanying regulations. The leave benefits provided under this BU PFMLL Policy are the minimum benefits eligible employees of the University are entitled to receive. University employees and former employees are entitled to the greater of any benefits provided by the Law, this BU PFMLL Policy, or any other applicable Boston University leave policies. The University shall make all presumptions in favor of the availability of leave and the payment of leave benefits to a University employee or former employee.

The University reserves the right to alter, change, or amend this BU PFMLL Policy at any time in accordance with applicable laws and regulations. Leave taken pursuant to this BU PFMLL Policy shall run concurrently with leave taken under Boston University leave policies and other applicable federal and state leave laws, including, but not limited to, the Massachusetts Earned Sick Time Law, M.G.L. c. 149, § 148C, and the Massachusetts Parental Leave Act,

M.G.L. c. 149, § 105D, and accompanying regulations when the employee is eligible for both and leave is for a qualified reason under those laws. Further, if a current or former employee takes a leave associated with a qualifying reason under the Law pursuant to any other Boston University policy or collective bargaining agreement, leave under this Policy will run concurrently regardless of whether the employee or former employee applies for benefits under this Policy.

Definitions

- Child: A biological, adopted, or foster child, a stepchild or legal ward, a child to whom the employee stands *in loco parentis*, or a person to whom the employee stood *in loco parentis* when the person was a minor child, regardless of age or dependency status.
- Employee: Any person employed by the University on a full-time, part-time, temporary, or seasonal basis, excluding exempt student employees, H-2A visa holders, any employees who do not perform services in Massachusetts, and any other employees exempted under the Law.
- Family member: The spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the employee; a person who stood *in loco parentis* to the employee when the employee was a minor child; or a grandchild, grandparent or sibling of the employee.
- Serious health condition: An illness, injury, impairment or physical or mental condition that involves in-patient care in a hospital, hospice or residential medical facility; or continuing treatment by a health care provider, as those terms are defined under the Law. The term serious health condition includes any period of incapacity due to pregnancy or for prenatal care. The term serious health condition does not include cosmetic treatments or substance abuse disorders unless inpatient hospital care is required or unless complications develop.
- Benefit Year: The 52-week period beginning on the Sunday immediately preceding the first day that the leave starts.

Eligibility

All Boston University employees, as defined below, are eligible to apply for benefits under this Policy if, over the previous 12 months, they have earned the minimum State published earnings requirement while working for the University or any other Massachusetts employer,

and the amount of those earnings meets or exceeds 30 times the amount the employee would receive in weekly benefits under the Law (the “Financial Eligibility Requirement”). In addition, former Boston University employees who met the Financial Eligibility Requirement at the time of separation from employment may also apply for benefits for up to 26 weeks after separation from employment or until they have obtained other employment, whichever is sooner. Current and former employees as described in this section may be referred to in this Policy as “Eligible Employees.” Boston University School of Medicine professorial faculty, lecturers, and instructors who have employment contracts with practice plans are not Eligible Employees under this Policy but are eligible for family and medical benefits in accordance with the policies adopted by the Boston University Medical Group.

Types and Amounts of Leave

The types and duration of paid leave available to an Eligible Employee under this Policy are as follows (Family and/or Medical Leave):

- 20 weeks of Medical Leave if an employee is unable to work due to their own serious health condition;
- 12 weeks of Family Leave to provide care to a family member, including a child, with a serious health condition;
- 12 weeks of Family Leave to bond with a child during the first 12 months after the child’s birth, adoption, or foster care placement;
- 12 weeks of Family Leave for a qualifying exigency arising out of a family member’s current membership in the Armed Forces; and
- 26 paid weeks of Family Leave in a benefit year to care for a family member who is or was a covered service member of the Armed Forces and who requires medical care as a result of an illness or injury related to the family member’s active service.

In each Benefit Year, the maximum amount of Family and Medical Leave that may be taken under this Policy is 26 weeks in the aggregate.

Subject to the above limits on the length of leave, paid leave may be approved by the University on an intermittent or reduced leave schedule for the serious health condition of the employee, the serious health condition of an employee’s family member, to care for a family

member who is a covered service member, or for a qualifying exigency arising out of a family member's active duty or impending call to active duty in the Armed Forces. Intermittent leave may be taken in increments of no less than one (1) hour. In the case of leave to bond with a child during the first twelve months after the child's birth, adoption, or foster care placement, leave may not be taken on an intermittent or reduced schedule basis unless permitted under another University policy.

Weekly Benefit Amount

For qualified leave under this BU PFMLL policy, an employee is eligible to receive a minimum weekly benefit amount that is calculated as follows:

- The portion of an employee's average weekly wage that is equal to or less than 50 percent of the state average weekly wage will be replaced at a rate of 80 percent; and the portion of an employee's average weekly wage that is more than 50 percent of the state average weekly wage will be replaced at a rate of 50 percent.
- The maximum weekly benefit amount will be 64 percent of the state average weekly wage, as adjusted annually by the DFML.
- For an employee who takes leave on an intermittent or reduced schedule leave for any of the qualifying reasons set forth above, the weekly benefit will be reduced in direct proportion to the intermittent or reduced leave schedule.
- For an applicant whose work schedule varies from week to week, the minimum weekly benefit amount will be calculated based on the average number of hours worked in the two highest quarters of the twelve months preceding the application for benefits.

Benefits are payable after a waiting period of the first seven calendar days of an approved leave under this Policy. Where the approved leave involves leave on an intermittent or reduced leave schedule, the wait period shall be seven consecutive calendar days, not the aggregate accumulation of seven days of leave. The initial seven-day waiting period for paid leave benefits will count against the total available period of leave in a benefit year. If an employee takes Medical Leave that is supported by documentation from a health care provider during pregnancy or recovery from childbirth and such leave is immediately followed by Family Leave to bond with a child, the seven-day waiting period shall not apply to the Family Leave.

The University will continue to contribute to an employee's health and dental insurance benefits, if any, at the level and under the conditions coverage would have been provided if the employee had continued working continuously for the duration of Family and/or Medical Leave. This provision shall not apply to former employees. During the duration of the Family and/or Medical Leave benefit period, employees are responsible for paying their portion of the insurance premiums.

Reduction in Benefits

The benefits paid to Eligible Employees under this Policy will be reduced by the amount of wages or wage replacement that the employee receives for that period from (a) any government program or law, including unemployment benefits, workers' compensation (other than for permanent partial disability incurred prior to the leave), (b) under other state or federal temporary or permanent disability benefits law, (c) a permanent disability policy or program of the University, or (d) unless the aggregate amount an Eligible Individual receives would exceed the employee's average weekly wage, the weekly benefit amount for a period shall not be reduced by the amount of wage replacement that an employee on Family and/or Medical

Leave receives for that period from a University temporary disability policy or program, a paid family or medical leave policy of the University, or any wages received from another employer other than the University or through self-employment.

No paid leave benefits will be available to Eligible Employees from the State-sponsored benefit plan administered by the Massachusetts Department of Family and Medical Leave while this policy remains in effect.

Application and Return to Work Procedure

University employees seeking leave under this Policy must notify their supervisor and the Human Resources Service Center of their need for leave under this Policy up to thirty (30) days in advance when practicable. When 30 days' notice is not possible for reasons beyond an employee's control, the employee is required to contact their supervisor and the Human Resources Service Center as soon as is practicable. Former employees must contact the

Human Resources Service Center to initiate a request for Family and/or Medical Leave under this Policy.

Prior to returning to work, employees on Medical Leave must be cleared to return by the Boston University Occupational Health Center by providing documentation from their health care provider that they are able to resume work. Any restrictions must be reviewed in advance by the Boston University Equal Opportunity Office as a request for reasonable accommodation. The University will consider reasonable accommodations for employees in accordance with its Reasonable Accommodations For Individuals With a Disability Policy. Employees requiring a reasonable accommodation in order to return to work at the University after a Medical Leave must contact the University's Equal Opportunity Office to request such an accommodation.

Employees who are unable to return to work on the date scheduled must notify both their supervisor/manager and the Human Resources Service Center immediately. Employees who experience a change in relevant circumstances that would justify an extension, reduction or other modification of the period of leave or the amount of benefits must notify their supervisor/manager and the Human Resource Service Center within seven days of the change. Employees must provide information requested by the Human Resources Service Center to support any request for an extension or modification of leave, which may include a newly completed or updated certification. If an employee fails to return to work as scheduled or does not receive approval to extend the return to work date, Family and/or Medical Leave payments will cease.

An employee returning to work after taking Medical or Family Leave will be restored to their previous position or to an equivalent position, with the same status, pay, employment benefits, length-of-service credit and seniority as of the date of leave, except that the employee will not be entitled to any employment rights or benefits greater than those the employee would have had in the absence of taking such a leave.

The University will ensure the continuance of employees' existing rights, if any, to vacation time, sick leave, bonuses, advancement, seniority, length-of-service credit or other employment benefits, plans or programs upon their return to employment.

Appeals

Employees may submit an internal appeal if Family or Medical Leave benefits are denied. Information about the appeal process is available at <https://www.bu.edu/hr/paid-family-and-medical-leave/>. Appeals must be submitted within ten days of the denial of a request for benefits, unless extended for circumstances beyond the employee's control. Employees will be informed in writing of the outcome of the internal appeal and of their rights under the Law and applicable regulations.

Employees also have a right to appeal to the Massachusetts Department of Family and Medical Leave ("DFML"). Employees are required to participate in the internal appeal process prior to exercising their right to appeal with the DMFL. The DFML may be contacted at MassPFML@Mass.gov.

Job Protection

The University prohibits discrimination and retaliation against an employee who takes leave pursuant to this BU PFMLL Policy or who otherwise exercises rights provided for by the Law. Employees similarly shall not be subject to retaliation or threats of retaliation for filing a complaint or instituting or causing to be instituted a proceeding under or related to the Law, or for testifying in an inquiry or proceeding or giving information connected to any inquiry or proceeding relating to the Law. Nothing in this section shall limit the University's ability to reasonably communicate with an employee who is approved for leave benefits under this Policy. Similarly, this section shall not limit the obligation of employees who are approved for leave benefits to comply with the reasonable attendance and call-in procedures established for their position.

Additional Resources Regarding This Policy

Related Policies and Procedures

- [Employee Handbook Policies Manual](#) (staff)
 - [Section 315 Leave of Absence – Personal \(unpaid\)](#) - effective through Dec. 31, 2020
 - [Section 315 Paid Family and Medical Leave](#) - effective January 1, 2021
- [BU Paid Family and Medical Leave Law Policy](#) - effective January 1, 2021 [this Policy]
- [Boston University Family and Medical Leave Policy for Temporary Employees, Part-Time Faculty, and Former Employees](#) - effective January 1, 2021
- [Faculty Handbook](#) (faculty)

Related BU Websites

- [Human Resources](#)
 - [HR Policies](#)
 - [Manager Resources](#) - HR Website

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