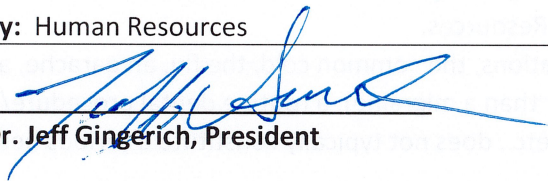




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UNIVERSITY

New York State Paid Family Leave	
Administered By: Human Resources	
Approved By:  Dr. Jeff Gingerich, President	
Policy Effective Date: April 29, 2024	
Policy Number: HR-2024-19	New Policy <u>X</u> or Revision of Existing Policy _____ Name of Previous Policy:

New York State Paid Family Leave

Effective January 1, 2018, the University will provide its employees working in New York with paid leave benefits in accordance with the New York State Paid Family Leave Benefits Law (“PFL”). PFL is designed to enable covered, eligible employees to take time off from work to care for family members under circumstances as outlined below. Employees taking PFL will receive partial wage replacement through an insurance policy that is funded by biweekly, post-tax employee payroll deductions (established annually in accordance with state law). Payroll deductions will begin on January 1, 2018, or the employee’s first day of employment, whichever is later. Participation in the PFL program is mandatory for all employees, except for those individuals eligible for a waiver (explained below).

Employee Eligibility

An employee regularly scheduled to work at least 20 hours per week is eligible to take PFL after he/she has been employed by the University for 26 consecutive weeks. An employee regularly scheduled to work less than 20 hours per week is eligible to take PFL after working for the University for 175 days. Note: Time spent on paid time off will count towards an employee’s eligibility determination, provided deductions were taken during that period of paid time off. However, time that an employee spends on New York State Disability Leave or unpaid leave will not be counted towards an employee’s eligibility determination. Eligible employees may apply to take PFL for the following qualifying reasons:

1. Caring: To provide care for their child (regardless of age), parent (including parent-in-law), grandparent, grandchild, spouse and/or domestic partner with a “serious health condition.”

- “Providing care” includes: 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.

- o Note: During the leave, the employee must be in close physical proximity to the identified family member who is receiving care.

- “Serious Health Condition” means: an illness, injury, impairment or physical or mental condition that involves either in-patient care or continuing treatment (or supervision) by a health care provider. Questions regarding the definition of “serious health condition” should be directed to the Office of Human Resources.

- o Note: Absent complications, the common cold, the flu, an earache, an upset stomach, a minor ulcer, a headache (other than a migraine), a routine dental procedure/orthodontia problem, a periodontal disease, etc., does not typically constitute a serious health condition.

2. **Bonding**: To bond with their child following the child’s birth, adoption or placement in foster care.

- In the case of adoption or placement, PFL may be taken prior to the adoption or placement if the employee’s absence is necessary for the placement or adoption to proceed. PFL taken for these circumstances must be used within one year of the first day of leave, or within one year of the adoption/placement, whichever is earlier.

- In the case of the birth of a newborn child, PFL taken to bond with the child must be used within the first year following the child’s birth.

3. **Preparing**: To prepare for, or attend to, a qualifying exigency arising out of a family member’s military service.

- “Family member”, as applied to this particular provision, shall include the employee’s spouse, domestic partner, child or parent who is currently on active duty or has been notified of an impending call to active duty in the Armed Forces of the United States.

- “Qualifying exigency” shall have the same meaning and interpretation under PFL as the term is currently used under the federal Family and Medical Leave Act (“FMLA”). Questions regarding the definition or application of “qualifying exigency” should be directed to the Office of Human Resources.

PFL is not available for the employee’s own disability or serious health condition. Disability, FMLA or a non-FMLA medical leave may be available in those circumstances. Please see the University’s Short-Term Disability, FMLA and other medical leave policies for additional information.

Note: **PFL will run concurrently with leave under the FMLA where the reason for leave qualifies under both PFL and FMLA.** In these cases, employees will be required to comply with

all applicable employee requirements (e.g., application, certification, notice, etc.) under both policies. Accordingly, employees should also review and refer to the University's FMLA Policy. If an employee's need for leave qualifies under both PFL and FMLA, but the employee declines to apply for PFL benefits (despite being notified that the reason for leave is a PFL-qualifying reason), any leave taken by the employee for such reason will nevertheless be counted against the employee's PFL allotment.

Waivers

Employees have the opportunity to waive PFL benefits under the following limited circumstances:

- The employee's regular work schedule is 20 or more hours per week, but the employee will not work for the University for 26 consecutive weeks.
- The employee's regular work schedule is less than 20 hours per week and the employee will not work for the University for 175 days during a consecutive 52-week period.

If an employee elects to waive PFL coverage, the University will not take PFL payroll deductions from that employee. However, if an employee elects to waive PFL coverage and his/her regular schedule changes such that he/she works for either 26 consecutive weeks or 175 days in a consecutive 52-week period, the employee's waiver will be automatically revoked under the law. When such a waiver is revoked, the University will notify the employee regarding his/her contribution obligations. Thereafter, the University may begin taking PFL payroll deductions from the employee, including any retroactive amounts from the employee's date of hire or the amount necessary to prevent the University from having to pay the applicable PFL insurance premium.

Amount of PFL Leave Available

Employees are entitled to 12 weeks of PFL during a 52-week period.

The 52-week time period is calculated by measuring backwards from each day for which PFL is taken. PFL may be taken in daily or weekly increments. In the event that an employee also collects New York State Disability Leave Benefits (DBL) for his/her own disability, the maximum amount of time that can be taken for both DBL and PFL can total no more than 26 weeks during a 52-week time period.

The University will not permit more than one employee to use PFL to care for the same family member at the same time.

Example: If both spouses work for the University, the University may deny PFL to one spouse if both employees have requested to take PFL during the same period of time to bond with the same child. However, both spouses could take PFL at different times to bond with the same child.

PFL Benefit Levels

Employees do not continue to receive their full pay from the University during PFL. Rather, they will receive a partial wage replacement benefit payment which will be paid directly from the University's insurance carrier. Benefit levels are set by state law as a percentage of the employee's average weekly income, which will be capped as a percentage of the state average weekly wage.

The maximum benefit is prescribed by law and is currently 67% of an employee's average weekly wage, but capped at 67% of New York State's average weekly wage.

If PFL leave spans across calendar years, the employee's benefit amount/rate is set at the time the PFL leave begins and does not increase during the leave period.

Intermittent Leave

PFL may be taken on either a weekly or intermittent basis (i.e., separate blocks of time). Intermittent PFL must be used in full-day increments.

If an employee takes intermittent FMLA in partial day increments for a reason that also qualifies for PFL, and the employee is paid and works at least part of a day, the University will track the hours taken against the employee's FMLA allotment. When the partial day increments taken total the number of hours in the employee's regular workday, the University will deduct one day of PFL from the employee's available PFL allotment.

Employee Notice Requirements

Employees must provide the University with notice regarding the need for PFL before the start of the leave. Notice should be given to the Office of Human Resources. Employees are required to provide sufficient information and notice to inform the University of the Qualifying Event, the anticipated timing, and the duration of leave.

- If the need for PFL is foreseeable (i.e., planned medical treatments/appointments, to bond with a child, a qualifying military exigency, etc.), the employee must provide The University with at least 30 days' advance notice, or as soon as the need for leave becomes known.
- If the need for PFL is not foreseeable because of a medical emergency, change in circumstances or lack of advance knowledge, the employee must notify the University as soon as practicable under the circumstances. See "Absence", page 13.
- If an employee fails to provide 30 days' advance notice of foreseeable PFL and provides no reasonable excuse for the delay, the insurance carrier may partially deny the claim for a period of up to 30 days from the date the notice is given.
- If leave is taken on an intermittent basis, the employee must provide notice as soon as is practicable before each day taken as intermittent leave.

When the need for PFL is foreseeable, including intermittent leave, employees are encouraged to consult with their supervisor and the Office of Human Resources regarding leave scheduling so as to minimize operational disruptions to the University.

Applying for PFL Benefits

Employees needing PFL should notify the Human Resources Department. In order to receive income replacement benefits while on PFL, an employee must submit a claim form to the University's PFL insurance carrier using the applicable Request for Paid Family Leave forms. The claim form(s) will provide details regarding the documentation that will be required to support the request for PFL benefits. These forms may be obtained from the Office of Human Resources.

Employees are responsible for timely filing their own PFL claim(s) with the University's insurance carrier. While employees have 30 days from the date PFL is taken to file the claim, employees should consider filing the claim as quickly as possible to ensure prompt payment of PFL benefits if the claim is ultimately approved. The University will not file a claim on an employee's behalf. In addition, an employee will not receive any PFL benefits until the claim has been fully submitted and approved by the insurance carrier. The insurance carrier has 18 days, from the date of submission, to make this decision.

An employee who is absent from work and whose PFL claim is later denied by the insurance carrier, may be authorized for leave, if eligible, under the University's other leave of absence policies.

If the employee is not eligible under any other leave of absence policy, the employee will be required to apply any accrued, unused paid time off (vacation, sick or personal time). If the employee does not have any accrued, unused paid time off, the employee's absence may be treated as unexcused and subject to the University's attendance policy.

Reminders:

- If the employee's need for leave is for an FMLA-qualifying event and the individual is an eligible employee under the FMLA, the employee must also apply for FMLA pursuant to the University's FMLA Policy.
- If an employee's need for leave qualifies under both PFL and FMLA, but the employee declines to apply for PFL benefits (despite being notified that the reason for leave is a PFL-qualifying reason), any leave taken by the employee for such reason will nevertheless be counted against the employee's PFL allotment.

Substitution of Paid Time Off

If an employee takes PFL, but would prefer to receive his/her full pay, the employee may elect to substitute a full day of paid time off. In this instance, the employee is still required to file a claim with the University's insurance carrier, though the employee will not receive the PFL wage replacement benefit. Any paid time off substituted by the employee will be counted against his/her PFL allotment.

Maintenance of Health Benefits

While an employee is out of work on an approved PFL, the University will maintain the employee's health benefits as if the employee continued to be actively employed. Specifically, SBU will continue to pay its portion of the group health insurance premium (where applicable) while the employee is on PFL.

The employee will be responsible for continuing to contribute his/her portion of the health insurance premium(s) and is expected to make arrangements with the Office of Human Resources to ensure timely payment. If payment is more than 30 days late, the employee's health insurance coverage may be dropped for the duration of PFL. The University will provide 15 days' notice prior to terminating coverage.

Restoration of Employment

An employee who returns to work at the conclusion of an approved period of PFL will be restored to the same position or to a comparable position (with comparable pay, benefits and other terms and conditions of employment). If the employee has exhausted all weeks of available PFL and is still unable

to return to work, the employee is no longer provided with any job restoration rights under PFL, unless other job protections apply (e.g., FMLA).

Appeal Rights

If an employee's request for PFL has been denied by the insurance carrier, the employee has the right to appeal the determination through an arbitration proceeding. Information regarding the appeal process is available from the insurance carrier.

Protection from Discrimination and Retaliation

The University will not discriminate and/or retaliate against any employee for inquiring about, applying for, or using PFL benefits. Employees who believe they have experienced discrimination and/or retaliation should immediately notify their supervisor, the Office of Human Resources or any other member of management.

Fraud

An employee who fraudulently obtains PFL, or who uses PFL in an improper manner, is subject to disciplinary action, up to and including termination.

Questions

An employee who has questions concerning PFL is encouraged to contact the Office of Human Resources for more information, clarification and/or appropriate guidance.