

Navigating Medical Leave and Reasonable Accommodation: What Employees and Managers Need to Know

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Agenda

- FMLA Overview
- ADA Overview
- FMLA/ADA Intersection
- Reasonable Accommodation Process
- Medical Leaves of Absence
- Q&A



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The Family and
Medical Leave Act

Let's Talk About the FMLA

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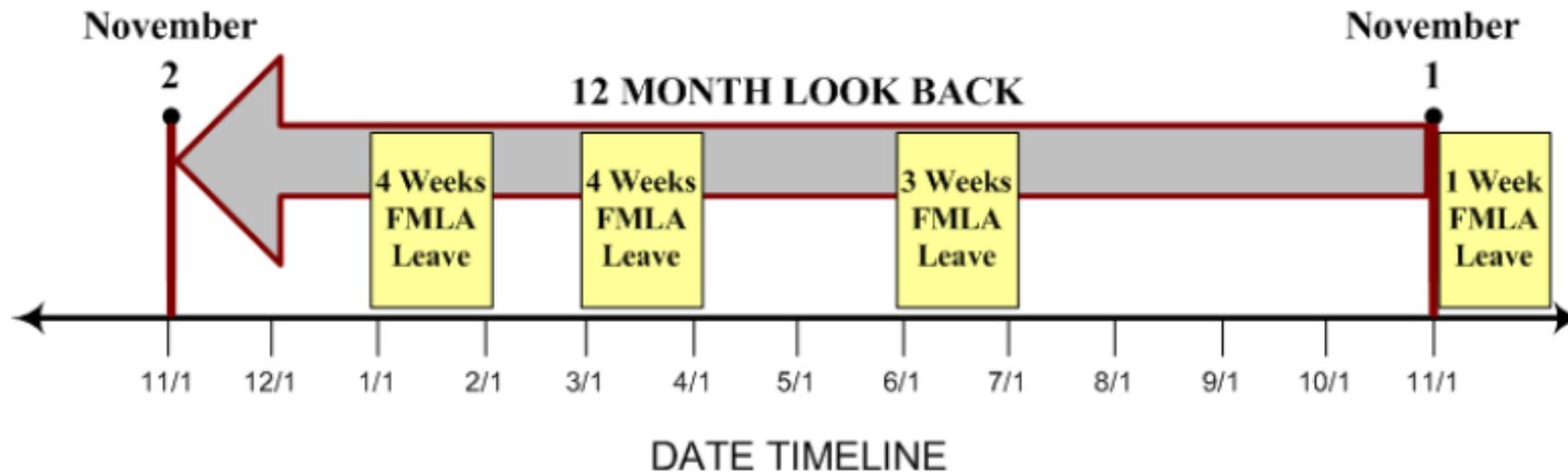
- What is the FMLA?
 - The Family and Medical Leave Act of 1993 (FMLA) is a federal labor law requiring covered employers to provide employees with up to 12 workweeks of job-protected, unpaid leave for qualified medical and family reasons
 - Leave may be taken on a continuous or intermittent (as needed) basis
 - Leave is calculated using a rolling 12-month period measured backward

Does the FMLA apply to UNC Charlotte?

- Yes. Government agencies (including local, state and federal employers) and elementary and secondary schools are covered by the FMLA, regardless of the number of employees.
 - Private employers with fewer than 50 employees are not covered by the FMLA
- UNC Charlotte FMLA Policies
 - [PIM No. 09](#) for staff and 12-month faculty
 - [University Policy 102.6](#) for 9-month faculty

DOL Example – Rolling 12-Month Period

- Example 2:* Patricia requests two weeks of FMLA leave to begin on November 1st. The employer looks back 12 months (from November 1st back to the previous November 2nd) and sees that Patricia had taken four weeks of FMLA leave beginning January 1st, four weeks beginning March 1st, and three weeks beginning June 1st. Patricia has taken 11 weeks of FMLA leave in the 12-month period and only has one week of FMLA-protected leave available. After Patricia takes the one week in November, she can next take FMLA leave beginning January 1st as the days of her previous January leave “roll off” the leave year.





Am I Eligible for FMLA Leave?

Staff and 11 or 12-Month Faculty	9-Month Faculty
<ul style="list-style-type: none">• Have worked for UNC Charlotte for at least 12 months• Have been in paid status for at least 1040 hours in the last 12 months• Have a qualifying family or medical reason	<ul style="list-style-type: none">• Must work for the University for one full academic year• Have a qualifying family or medical reason

What is a qualifying family or medical reason?

- | | |
|---|---|
| <ul style="list-style-type: none">• employee's own <u>serious health condition</u> (including pregnancy)• caring for an immediate family member (spouse, parent, child) with a serious health condition• caring for or bonding with a new child (birth, adoption, foster placement) in the first year | <ul style="list-style-type: none">• any qualifying exigency arising from the active military duty of the employee's immediate family member• care for a family member who is a covered servicemember with a serious injury or illness incurred or aggravated in the line of duty (up to 26 work weeks of leave allowed in a 12-month period) |
|---|---|

What is a “Serious Health Condition”

The most common serious health conditions that qualify for FMLA leave are:

- conditions requiring an overnight stay in a hospital or other medical care facility;
- conditions that incapacitate you or your family member (for example, unable to work or attend school) for more than three consecutive days and have ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication);
- chronic conditions that cause occasional periods when you or your family member are incapacitated and require treatment by a health care provider at least twice a year; and
- pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

What are my responsibilities as an employee?

- At least 30 days advance notice for foreseeable leave (e.g., planned surgery or other medical procedure, or birth/adoption)
- For unforeseeable leave, notice should be given as soon as practicable
- Ensure FMLA forms are completely correct with sufficient information for the Benefits Office to understand why leave is needed
- Timely notice to the Benefits Office of leave being FMLA qualifying if not discussed prior to leave
- Provide medical certification forms in a timely manner
- Provide periodic updates to the Benefits Office and supervisor regarding return to work status
- Submit fitness for duty upon RTW

What are my responsibilities as a manager?

- Notify the Benefits Office if an employee is absent for more than 3 days because of the following circumstances:
 - The employee has indicated that he/she is or was hospitalized related to an injury or illness;
 - The employee has provided information that he/she is or will be absent from work due to his/her own serious health condition or that of a family member; or
 - The supervisor has information that the employee suffers from a chronic condition and has been or will be absent from work due to that condition.
- Provide the employee with an Extended Leave of Absence Resource Guide
- Complete the supervisor's certification form contained in the Extended Leave of Absence Guide
- Track leave and time sheets through the university leave and time keeping system
- Submit leave usage and time worked in the university leave and time keeping system, if the employee is unable to make the entries
- Maintain periodic contact with the employee
- Advise the Benefits Office of the employee's first day of leave without pay, if applicable



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Let's Talk About the ADA

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- The Americans with Disabilities Act of 1990 (as amended in 2008 (ADAAA)) prohibits discrimination based on disability and requires employers to provide certain reasonable accommodations so that an employee with a disability can continue to perform the essential functions of their job
- State and local government employers are covered by the ADA, regardless of size
- In FY 2021, the EEOC received 22,843 cases that involved an alleged ADA violation



Who Has Rights Under the ADA?

- Applies to all applicants or employees who:
 - Have a disability
 - Have a record of having a disability (even if they do not currently have a disability)
 - Are regarded as having a disability
- If any of the three prongs are satisfied, the individual counts as disabled under the law.
- “Disabled” mean a physical or mental impairment that substantially limits one or more **major life activity or major bodily function**. The impairment needs to be a physiological or mental disorder.



Major life activities

- Caring for oneself
- Performing manual tasks
- Seeing // hearing
- Eating // Sleeping
- Walking // Standing
- Lifting // Bending
- Speaking // Breathing
- Learning // Reading
- Concentrating // Thinking
- Communicating // Working

Major bodily functions

- functions of the immune system
- normal cell growth
- Digestive
- Bowel
- Bladder
- Neurological // brain
- Respiratory // circulatory
- Endocrine // reproductive functions

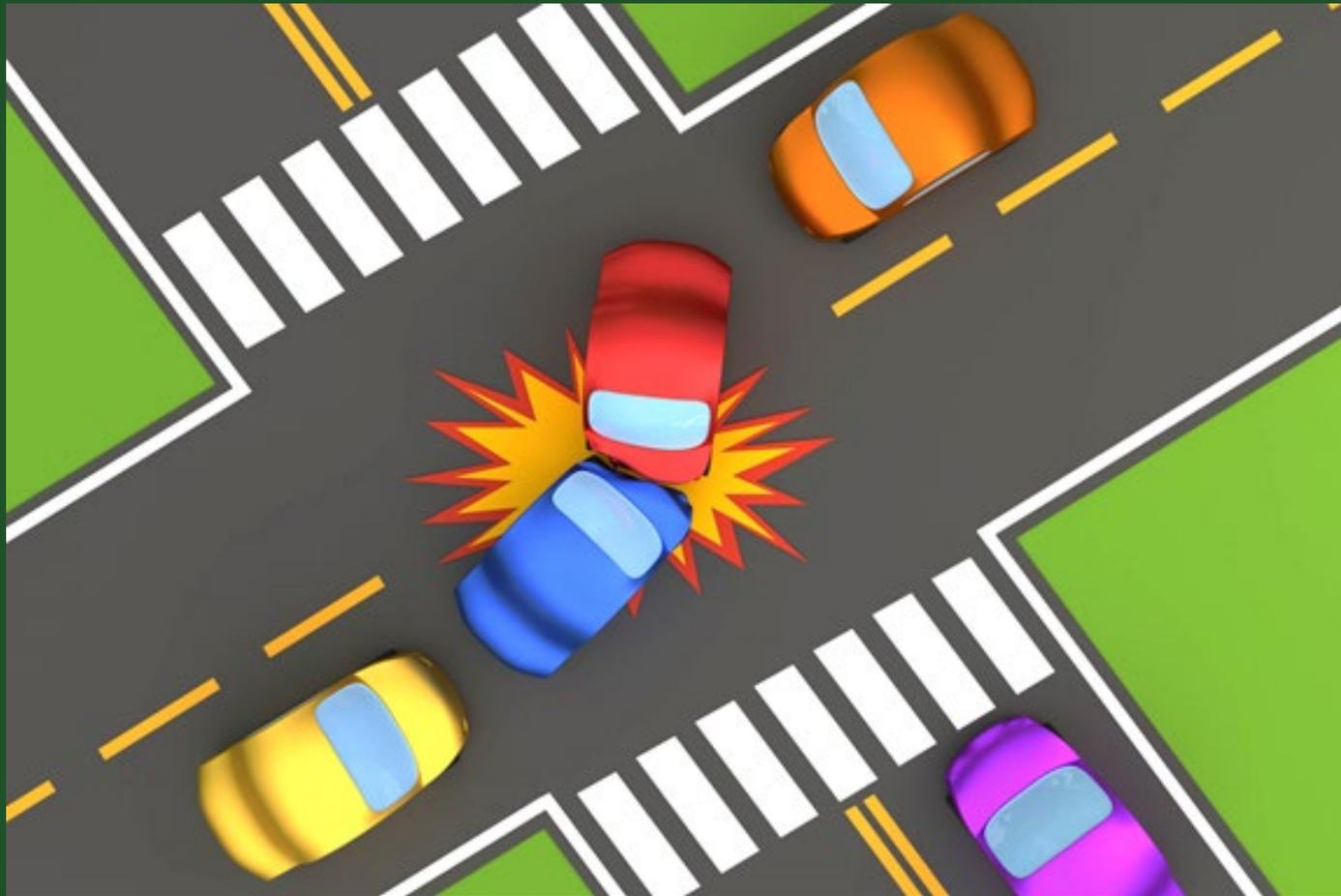


Reasonable Accommodation

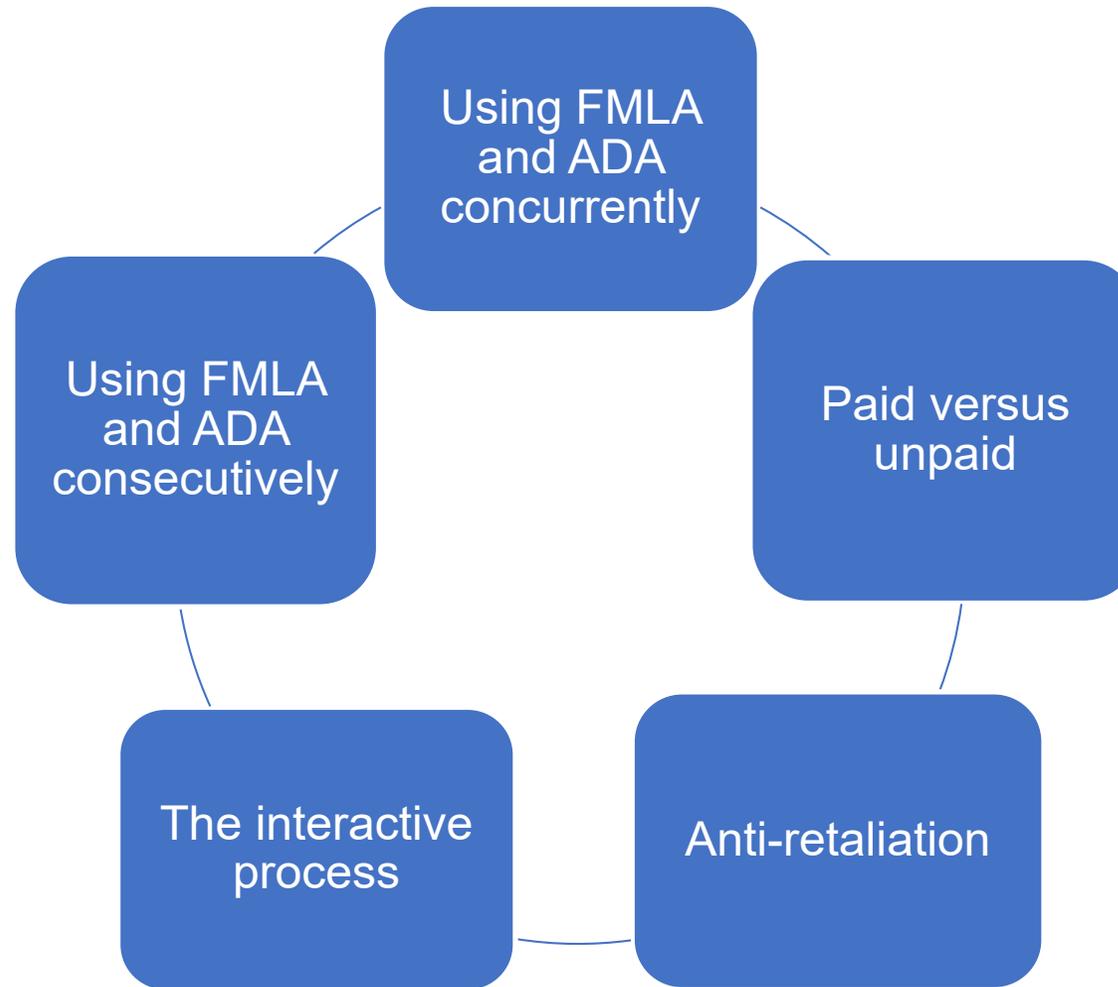
- Alteration to University policies or the work environment that would allow a disabled employee or applicant for employment to perform the essential functions of the job unless the accommodation is an undue hardship or creates a direct threat.
- There are three categories of reasonable accommodations:
 - (i) modifications or adjustments to a job application process
 - (ii) modifications or adjustments to the work environment, or to the manner or circumstances under which the job is customarily performed
 - (iii) modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities



Intersection of FMMLA Blvd and ADA Ave



FMLA and ADA intersect



Important Reminders

- The University provides Continuation Pay for a period of up to one semester for eligible faculty
- When a non-tenured, tenure track faculty member is granted Continuation Pay, an automatic one-year extension of the tenure clock will be granted, up to a maximum of two years.
- Retaliation is strictly prohibited by the Act and under University policy
- Upon return from FMLA leave all employees are entitled to reinstatement to same or equivalent position with equal pay, benefits and other terms and conditions
- Abusing FMLA or ADA leave will result in disciplinary action

Reasonable Accommodations

How Reasonable Accommodations Requests Are Received by Human Resources

- Traditional ADA accommodation request in support of a recognized disability
- Employees released to return to work with restrictions after:
 - Medical issue
 - FMLA Leave
 - Short Term Disability Leave





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Who can request a reasonable accommodation?

- Applies to all qualified applicants and employees with disabilities, including:
 - part-time or full-time
 - probationary or permanent
 - non-career status employees
 - temporary employees
 - student employees

Steps For Requesting Reasonable Accommodation

1. Submit request to the ADA Coordinator - Human Resources Employee Relations Department by completing the Accommodation Request form
 - a) The form must identify the functional limitations with respect to their disability
 - b) The form must identify the requested accommodation(s)
2. Provide documentation from physician that sufficiently identifies the disability and specific accommodations being recommended
3. Supervisors who have been notified by an employee of the possible need for an accommodation must contact the ADA Coordinator

Accommodation Request Form

UNCC will provide, upon request, reasonable accommodation to qualified employees or applicants for employment with disabilities in accordance with PIM 50.

Employee Information:

Name:		UNC Charlotte ID:	
Job Title/Position:		Work Extension/ Email:	
College/Division:		Department:	
Work Schedule (Days/Hours):		Work Location:	
Supervisor:			

Accommodation Request Information: *(Please attach additional sheets as necessary)*

1. Describe the limitation(s) due to your disability that impacts the performance of your job or accessing university benefits.

2. How does the limitation(s) described above affect your ability to perform essential job functions or access a university benefit?

3: What specific accommodation(s) are you requesting and how will this accommodation assist you? *(Please include alternatives.)*

4. If you are not sure what accommodation is needed, do you have any suggestions on options we can explore? Yes No
If yes, please explain.

5. Is your accommodation request time sensitive? Yes No If yes, please explain.

6. Have you had any accommodations in the past for this same limitation? Yes No If yes, what were they and how effective were they?

7. Have you discussed your request with your supervisor? Yes No

Please provide any additional information that might be useful in processing your accommodation request:

8. Have you attached any supplemental information to this form? Yes No

Signature

Date

Return this form to your supervisor or the Employee Relations Unit of the Human Resources Department (King 113).

Reasonable Accommodation Decision Making Process

1. Each request for an accommodation is evaluated by the ADA Coordinator on a case-by-case basis
2. If the specific accommodation requested cannot be granted, the initial review will be followed by an interactive process
3. Under the interactive process, the employee, supervisor, and ADA Coordinator discuss potential alternative accommodations
4. Where more than one effective accommodation is available, the final decision as to which accommodation will be provided shall be made by the ADA Coordinator
5. The employee will be notified in writing from the ADA Coordinator of the decision on the accommodation request

Implementing the Reasonable Accommodation

- ADA Coordinator will work with the employee's supervisor to implement the accommodation
- The employee is not required to accept an accommodation, aid, service, opportunity or benefit being offered
- If reasonable accommodations are rejected by the employee the following will occur:
 - Employee will not be considered a qualified individual with a disability
 - May be subject to disciplinary policies if not meeting job expectations

Medical Leaves of Absence (LOA)



LOA - Benefits Team Members

Service	Staff
Family Medical Leave (FMLA), FIL,VSL, PPL	Marina LeLeux, Benefits Consultant
Disability, Other LOA: Military, Personal, Educational, Faculty, LWOP	Maria Sanchez, Benefits Consultant
ACA, Assist LOA/General Service	Yevone Sherrill, Benefits Counselor

Benefits General Inquiries:

Email: benefits@uncc.edu, Phone: [\(704\) 687-8134](tel:(704)687-8134)



LOA - Benefits Team Members

Service	Staff
Offboarding (Retirement/Separations)	Gina Ewart, Benefits Consultant
Onboarding (NEO), General Service	Shay McLean, Benefits Counselor
Systems, File Loads, Deductions, Reconciliations	Jen Tronzo, eBenefits Systems Analyst

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Medical LOA Benefits

- Family Medical Leave (FMLA)
- Family Illness Leave (FIL)
- Paid Parental Leave (PPL)
- Income Protection
 - Disability Income Plan of North Carolina (DIPNC)
 - Supplemental Disability

How to Use FMLA

- Up to 12 weeks of unpaid, job-protected leave for specified family and medical reasons (use own leave accruals to be paid)
- FMLA can be taken, full-time, intermittent, or combination
- Apply if out for more than 3 days (due to serious health condition for yourself or to care for serious health condition of immediate family member)
- FMLA 12 weeks based on rolling calendar year (hours prorated if job is less than 1 FTE –less than 40 hours a week)
- Provides continuation of group health insurance coverage

FMLA Eligibility

Employment	Service/Hours
FT (Permanent, probationary, trainee, or time-limited),	12+ months total service with the State, and in a pay status at least 1,040 hours in the previous 12 months
PT (half-time or more permanent, probationary, trainee, or time-limited)	Pay status 1,040+ hours during the previous 12-months
Temporary, intermittent, or part-time (less than half-time)	Pay status 1,250+ hours during the previous 12 months

FMLA Application (12 Month Employee)

Online Form:

- [Online FMLA Application](#) (Part A)

Paper forms also required:

- [FMLA Medical Certification \(Part B\)](#)
- [FMLA Fitness for Duty](#)

Benefits Office to process applications and notify employees of status

FMLA Application (9 Month Faculty)

Must complete both forms below:

- [9 Month Faculty FMLA \(Extended Leave of Absence Resource Guide\)](#) (Send to Benefits Office via secure method)
- [Request for Leave of Absence \(9 month Faculty AA-32\)](#) (Form to complete and send to Academic Affairs)

Benefits Office to process applications and notify employee of status

Family Illness Leave (FIL)

Up to 52 weeks of unpaid job protection, may begin after FMLA:

- Used to care for employee's child, parent or spouse with serious health condition
- Limited extension of unpaid job protected leave (beyond FMLA)
- Increments of 1+ hour = 1 week
- Does not run concurrently with FMLA
- May continue coverage for State Health (if LWOP must pay full premium)

Eligibility: Same eligibility as FMLA, except temp employees and PT employees less than half-time are not eligible for Family Illness Leave

Application: [Family Illness Leave \(Used after FMLA is exhausted\)](#)

Paid Parental Leave (PPL)

Up to 8 weeks of paid leave:

- 4 weeks birthing parent (recuperation during the disability period associated with the birth)
- 4 weeks bonding (used within the first twelve months of the birth and must be used as a continuous four-week period of leave)

Eligibility: FT or PT (half-time or more) employees in permanent, probationary or time-limited (benefits-eligible) position,

Temp and PT (less than half-time) not eligible to participate in this program

Application: [Paid Parental Leave Request Form](#)

Voluntary Shared Leave (VSL) Program

- Allows employees to donate leave (Sick, Vacation, BONREG) to others on approved LOA, that have exhausted their own leave accruals (cannot donate BONSAL, BONSPL)
- Eligibility rules apply to donors and recipients
- Reference the [Voluntary Shared Leave PIM](#) for more details (eligibility, maximum and minimum that can be donated or received, and forms to apply or donate)

Disability Income Plan of North Carolina (DIPNC)

Monthly replacement income if you become disabled while you are a permanent employee and are enrolled in ORP or TSERS.

Employee determined to be mentally or physically disabled for the further performance of their usual occupation

- Short Term Disability (61st-365 days)
- Extended Short Term Disability (potential additional 365 days)
- Long Term Disability (potential benefits beyond short term/extended short term)

Auto enrolled
No cost to employees
Eligibility rules apply

Disability: Short and Long Term

	Short-Term Disability	Long-Term Disability
Requirement:	One year retirement plan contributions	Five years retirement plan contributions, and not eligible for unreduced retirement
Benefit:	50% eligible compensation \$3,000/month cap	65% eligible compensation \$3,900/month cap
Payable:	Up to 365 days after 60-day waiting period (Extended Short Term, potential of additional 365 days)	Based on eligibility

Note: Less than 5 years employment, employee pays both employee & employer premiums for health coverage

Disability: Supplemental

Purpose	Bridges cap for short term disability, pays higher benefit
Vendors	Lincoln Financial (TSERS) The Standard (ORP)
Benefit	66-2/3% of eligible compensation \$15,000 cap Coordinated with other disability payments
Enrollment deadline	60 days from hire date, evidence of insurability required for late enrollees

Voluntary
employee
enrollment
Employee paid

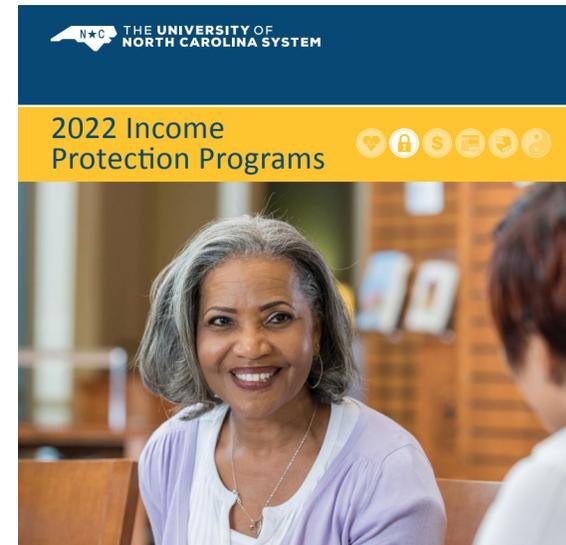
Disability Application

- Schedule meeting (virtual, phone, or in person) with Benefits Consultant at UNC Charlotte
- Review the guides on the applicable disability forms at: [Applying for Disability Benefits](#)
- Submit complete disability application packet to Benefits Office
- Obtain forms from vendor (if applying for Supplemental Disability)

LOA More Information

- [Family Medical Leave Act](#)
- [Family Illness Leave](#)
- [Paid Parental Leave](#)
- [Voluntary Shared Leave Program](#)

[2022 Income Protection Programs](#) [Booklet](#)





LOA Benefits Recap (Eligibility Rules Apply)

FMLA:

Unpaid job protection up to 12 weeks

- Apply if out more than 3 days (own serious health condition, or to care for immediate family member with serious health condition)
- Must use your own accruals for paid leave
- Notify the HR Benefits Office when returning

Disability:

Replacement income if you become disabled while actively employed and meet eligibility

- If out 45+ days and anticipate the disability will continue, contact Maria Sanchez to discuss options
- 60 day waiting period applies

THANK YOU!



Questions

