

**UNIVERSITY OF NORTH CAROLINA
CHARLOTTE**

Topics

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- Benefits Under the Disability Income Plan of North Carolina
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Legal and Policy Overview



FMLA Celebrating 30th Anniversary





FMLA Leave Entitlement

- 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 (or 26 weeks for military servicemember leave) of job-protected, unpaid leave for qualified medical and family reasons
- Leave may be taken on a continuous or intermittent (as needed) basis or a combination of both
- Leave is calculated using a rolling 12-month period measured backward



FMLA Qualifying Reasons

- Eligible employees may take FMLA leave:
 - The birth of a child and to care for the newborn child within one year of birth.
 - The placement of a child for adoption or foster care with the employee and to care for the newly placed child within one year of placement.
 - To care for the employee’s spouse, child, or parent who has a serious health condition.
 - The employee’s own serious health condition that impacts the employee’s ability to perform the essential functions of their job.
 - Military Family Leave
 - Because of a qualifying reason arising out of the covered active duty status of a military member who is the employee’s spouse, son, daughter, or parent (qualifying exigency leave)
 - To care for a covered servicemember with a serious injury or illness when the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember (military caregiver leave)

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PIM Number 09 (Staff & 12-Month Faculty)

- Eligibility requirements (which differ from the Act)
- University responsibilities
- Employee responsibilities
- Supervisor responsibilities
- Reduced or Intermittent Work Schedules
- Using Leave Accruals

Policy available at : <https://hr.charlotte.edu/pims/family-and-medical-leave>

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University Policy 102.6 (9-Month Faculty)

- Explains eligibility requirements
- Availability pay continuation
- Leave administration process
- Coordination with other policies

Policy available at: <https://legal.charlotte.edu/policies/up-102.6>

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Eligibility Requirements

<p>Staff (incl. 12-month faculty)</p> <ul style="list-style-type: none"> • Full-time (Permanent, probationary, trainee, or time-limited), has at least 12 months total service with the State, and has been in a pay status at least 1040 hours in the previous 12 months. • Part-time (half-time or more permanent, probationary, trainee, or time-limited) and has been in pay status at least 1040 hours during the previous 12-months. • Temporary, intermittent, or part-time (less than half-time) and has been in pay status at least 1,250 hours during the previous 12 months. 	<p>9-Month Faculty</p> <ul style="list-style-type: none"> • Has at least 12 months total service with the State, and has been in a pay status at least 1040 hours in the previous 12 months. • Applies to faculty with academic year appointments who: <ul style="list-style-type: none"> (a) do not accrue sick leave; and (b) are eligible for membership in TERS or the State's Optional Retirement Program. • Does not apply to faculty with fiscal year (11- or 12-month) appointments, because they are eligible for and accrue sick and vacation leave that can be used for FMLA leave.
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Legal Protections

- Continuation of the group health insurance coverage during FMLA leave on the same terms as if he or she had continued to work.
 - If family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave.
 - The employee must continue to make any normal contributions to the cost of the health insurance premiums.
- Substitution of paid leave with FMLA leave.
 - Employee can use accrued leave (sick or vacation) while on FMLA leave.
- Restoration to the same job or to an "equivalent job".
 - The employee is not guaranteed the actual job held prior to the leave.
 - An equivalent job means a job that is virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions (including shift and location).
- No retaliation for taking leave
- No interference with the ability to take leave

ADA Reasonable Accommodation

ADA

- 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
- UNC Charlotte is a covered employer



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.
- Accommodation requests are considered on a case-by-case basis.





Undue Hardship

- A determination of undue hardship should be based on several factors, including:
 - the nature and cost of the accommodation needed;
 - the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility;
 - the overall financial resources, size, number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity);
 - the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer; and
 - the impact of the accommodation on the operation of the facility.
- Accommodations that cause undue financial hardship, are too extensive or disruptive or fundamentally change the nature or operation of the business are considered an undue hardship



PIM Number 50 - Reasonable Accommodation

- The purpose of the policy is to “assist qualified UNC Charlotte employees and/or applicants with disabilities in requesting reasonable accommodations related to position responsibilities. This procedure applies to all qualified applicants and university employees with disabilities. This includes SHRA and EHRA employees who are in assignments considered part-time, full-time, probationary, career status, adjunct, or temporary (which includes student employees).”
- Employees and/or applicants are protected from retaliation for requesting an accommodation or disclosing a disability.
- Policy available at: <https://hr.charlotte.edu/pims/reasonable-accommodation>



The FMLA Process



FMLA Application Process

- Employees may apply online (<https://hr.charlotte.edu/forms/benefits>) or submit the paper application securely as by:
 - Uploading the documents to the Benefits secure portal
 - Fax to (704) 687-5254
 - Mail to - Human Resources Department - Benefits, 9201 University City Boulevard, Charlotte, NC 28223-0001
- Benefits Office provides Eligibility Notice, Notice of Rights and Responsibilities and a medical certification form (Part B)



FMLA Application Process

- Employee has 15 days to return the medical certification (Part B)
 - Only required for serious health condition for self or family member
 - Use secure methods to return medical certification to Benefits
- Once the Benefits Office receives the completed medical certification the FMLA application will be processed
- The employee will receive an FMLA status email from the Benefits Office
- The department manager will receive a separate email notification



Employee Responsibilities

- Provide notice at least 30 days in advance of leave (or as soon as practicable for emergencies)
- Enter time off requests in Kronos using the appropriate code (e.g., FMLA sick or FMLA vacation)
- Provide regular updates to manager regarding return to work status
- If FMLA leave is extended beyond approval date, provide a doctor's note to the Benefits Office with new end date
- Before returning to work provide doctor's note/fitness for duty certification to the Benefits Office, *if FMLA was continuous and for your own serious health condition*
- If returning to work with medical restrictions, complete the ADA application form



Supervisor Responsibilities

- Make sure the employee's time is entered in Kronos using the correct code
- If employee runs out of their own accruals complete a LWOP form
- It is important that time in Kronos is updated daily or in advance if an employee is on LWOP to avoid over payment
- Complete the Payroll overpayment form if the employee is overpaid
- Confirm with the Benefits Office that employee has been cleared to return to work if they were out for a serious medical condition



Additional Information

- Review the Extended Leave of Absence Resource Guide which is accessible at <https://hr.charlotte.edu/forms/benefits>
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Benefits Under the Disability Income Plan of North Carolina (DIP-NC)

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Disability Benefits Under DIP-NC

- Short-Term Disability (STD)
- Extended Short-Term Disability (E-STD)
- Long Term Disability Benefits (LTD)

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Short-Term Disability Benefits

- State employees in North Carolina are eligible at no cost for [basic short-term disability](#) (STD) and long-term disability (LTD) benefits if they participate in the Teachers' and State Employees' Retirement System (TSERS) or Optional Retirement Plan (ORP) and meet other eligibility criteria.
- The basic STD and LTD insurance is available through the Disability Income Plan of North Carolina (DIP-NC).

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Short-Term Disability Benefits

- Short-term disability insurance provides income replacement if an employee becomes unable to work due to a medical disability
- Whether an employee qualifies for STD depends on the number of years of creditable service they have as a participant in TSERS or ORP
- Disability benefits may be limited if they have less than five years of creditable service

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Short-Term v. Long-Term Disability Benefits

	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

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When Can I Take Short-Term Disability?

- Must have one year of retirement plan contributions to TSER or ORP
- If on a continuous medical leave of absence, employee may apply after the 60-day waiting period (this includes after 60 days of being on FMLA leave)
- The benefit will last for up to 365 days after the 60-day waiting period

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Short-Term Disability Application Process

- Schedule meeting (virtual, phone, or in person) with:
 - Maria Sanchez (msanch40@uncc.edu)
Benefits Consultant
UNC Charlotte Benefits Office
- Complete and submit disability application packet to Benefits Office
 - The packet is provided by Benefits once Benefits receives notice of intent to apply
- If also applying for Supplemental Disability, obtain forms from third-party provider
- Physician must complete Form 7A - Medical Report for Disability Eligibility Review
- Employee should promptly return Form 7A to Maria Sanchez
- Benefit payments will commence once all required forms are submitted

Employee Responsibilities

- On a monthly basis submit Form 703 that has been completed by employee's physician to Maria Sanchez by fax (704) 687-5254 or through the secure upload portal at <https://hr.charlotte.edu/benefits>
- Provide regular updates to manager regarding return to work status
- Before returning to work provide doctor's note/fitness for duty certification to the Benefits Office
- Advise the Benefits Office if employee wishes to use all of their accumulated sick and vacation leave hours prior to receiving STD benefits
 - If you choose this option, it will not extend the 365-day duration of the short-term benefit period
 - Employee will receive 100% pay from accrued hours
 - Cannot combined accruals with 50% STD benefit

Supervisor Responsibilities

- Make sure the employee's time is entered in Kronos using the correct code
- If employee runs out of their own accruals complete a LWOP form
- It is important that time in Kronos is updated daily or in advance if an employee is on LWOP to avoid over payment
- Complete the Payroll overpayment form if the employee is overpaid
- Confirm with the Benefits Office that employee has been cleared to return to work before the official RTW date

Extended Short-Term Disability Overview

- Monthly replacement income if you become disabled while you are a permanent employee and are enrolled in ORP or TSERS
- It is generally a continuation of STD benefits through the State
- Employee determined to be mentally or physically disabled for the further performance of their usual occupation are eligible
- Extended STD is up to 365 additional days after the last day of your short-term disability benefits, if your disability is likely to be temporary

Long-Term Disability Benefits Overview

- Must have five years of retirement plan contributions
- The plan pays 65% of the employee's monthly salary, up to \$3,900 per month
- Long Term Disability is after your short-term disability benefits period expire, if your disability is likely to be permanent

ADA Reasonable Accommodation

Who is eligible for ADA accommodations?

- Applies to all qualified applicants and state employees with disabilities
- Includes qualified employees regardless of whether they work part-time or full-time or are considered "probationary" or "non-career status", or if they are temporary employees or student employees

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Requesting Accommodation

Current Employee or Applicants Offered Job

- Supervisors who have been notified by an employee for an accommodation should contact ADA Coordinator(Employee Relations) for assistance
- The University may require an employee or applicant offered a job requesting accommodation to undergo further testing or evaluation by qualified professionals to:
 - Verify or further establish the claimed disability
 - Determine the need for an accommodation

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Requesting Accommodation

Current Employee or Applicants Offered Job

- If an employee is having difficulty performing his/her job due to a disability, the supervisor, in consultation with Human Resources ADA Coordinator, should inform the employee of the existence of University's policy to provide reasonable accommodations
- An accommodation will not be offered nor provided unless requested by an employee

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How does the ADA interactive process work?

- Each request for an accommodation will be reviewed on a case-by-case basis
- The employee (or applicant), supervisor and ADA Coordinator will participate in the review of the accommodation request as part of the interactive process
- The ADA Coordinator will advise the employee of the decision regarding the reasonable accommodation request
- Decision on a request for an accommodation will be in writing and provided to the employee
- If the employee's specific accommodations cannot be provided, alternative accommodations will be offered by the University
- Where more than one effective accommodation is available, the final decision as to which accommodation will be provided will be made by the University

How does the ADA interactive process work?

- The employee is not required to accept an accommodation, aid, service, opportunity or benefit being offered
- If a reasonable accommodation is rejected by the employee the employee will not be considered a qualified individual with a disability and may be subject to discipline if they do not meeting job expectations

Leave As A Reasonable Accommodation

- Leave of absence is a form a reasonable accommodation under certain circumstances
- There is no set amount of leave that the employer must provide
- As with all accommodations, the amount of leave granted depends on the job and the disability and must be determined on a case-by-case basis

Leave As A Reasonable Accommodation

- Some situations that may require leave as a reasonable accommodation including the following:
 - when there is no other effective accommodation
 - when an employee is not eligible to take leave under the Family Medical Leave Act (FMLA), but has a qualifying disability under the ADA
 - when an employee is FMLA eligible, but requires additional time off beyond the twelve-week
 - when an employee has exhausted paid vacation and sick leave and requires additional intermittent time off *because* of a qualifying medical impairment

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Confidentiality and Record Keeping

- All information received regarding an employee’s accommodation request will be considered confidential information and be kept in separate file
- Upon completion of the reasonable accommodation process, all information will be kept in a separate, locked ADA file maintained by Human Resources


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Confidentiality and Record Keeping

- Exceptions to confidentially:
 - Supervisors/managers may be informed of necessary accommodations or restrictions on the work or duties of the employee
 - First aid/safety personnel may be informed, when appropriate, if disability might require alternative actions in emergency situations (i.e., disabilities involving mobility)
 - Government officials investigating compliance with non-discrimination laws shall be provided relevant information on request
- ADA Coordinator will periodically monitor the effectiveness of accommodations provided to applicants or employees

 **Take-Aways**

- ✓ Review the applicable policy when leave is required
- ✓ If unsure, contact the Benefits Office or Employee Relations
- ✓ Provide 30 days notice of the need for medical leave, or as soon as practicable for emergencies
- ✓ Work with your medical provider to submit all required information timely to avoid delay in the approval of leave
- ✓ While on leave ensure that your hours are being entered correctly
- ✓ Provide regular updates to your supervisor and HR regarding your return-to-work status
- ✓ Provide a fitness-for-duty prior to returning to work from medical leave



Where to Get Help!

- Need assistance?
 - Contact the Benefits Office
 - Marina LaLeux (mialeux@uncc.edu) for FMLA questions
 - Maria Sanchez (msanch40@uncc.edu) for Short-Term and Long-Term Disability questions
 - Contact Employee Relations
 - Cindy Edwards (ckedward@uncc.edu) for ADA Accommodation
 - April Edwards (april.edwards@uncc.edu) for ADA Accommodation
 - Online FMLA Information
 - <https://hr.charlotte.edu/forms/benefits>
 - Online Reasonable Accommodation Information
 - <https://hr.charlotte.edu/pims/reasonable-accommodation>

