

Paid Family Leave Benefits Policy

Beginning January 2018, Paid Family Leave (PFL) becomes a mandatory benefit in New York State, providing eligible employees with job protection and paid time off for certain qualifying events for certain family members.

I. Eligibility: Eligible Employees

A. An employee of Colgate University (“the University”), working in New York State whose regular employment schedule is 20 or more hours per week will become eligible to receive PFL benefits after 26 consecutive weeks of employment.

B. An employee of the University working in New York State whose regular employment schedule is less than 20 hours per week will become eligible to receive PFL benefits after 175 days of employment.

C. An employee who will not meet the eligibility requirement will be afforded the opportunity to waive PFL benefits by completing a PFL waiver form (e.g. certain temporary or part-time employees, including student employees). The waiver, available on the Human Resources website, must be submitted to Human Resources. Waivers that are deemed eligible will be processed accordingly. If an employee elects to waive coverage and his/her regular schedule changes such that he/she works for 26 consecutive weeks or 175 days in a consecutive 52-week period, the waiver will be automatically revoked. When the waiver is revoked, the University may begin deducting contributions from the employee, including any retroactive amounts from the date of hire.

D. The use of scheduled benefit time (e.g. vacation) that has been approved by the University; or other periods where the employee is away from work on a paid leave are counted as days/weeks of employment for purposes of determining eligibility to receive PFL benefits during employment, so long as the required PFL premium is paid by the employee during such periods of time.

E. Time spent on short-term disability (i.e. DBL) shall not be counted as days/weeks of employment for purposes of determining eligibility to receive PFL benefits during employment.

F. An employee who is eligible for both DBL benefits and PFL benefits during the same period of 52 consecutive calendar weeks shall not receive more than 26 total weeks of combined DBL benefits and PFL benefits during that period of time.

G. Individuals working in a “teaching capacity” which would include a majority of the University’s faculty, are not eligible for leave under this specific policy.

II. Premium

A. The University is responsible to collect the premium contributions for the statutory PFL coverage from each covered employee. Payroll deductions began on January 1, 2018, or the employee’s first day of employment, whichever is later. The University is not required to fund any portion of the statutory PFL benefit.

B. The employee’s maximum contribution is 0.511% of weekly wage capped at New York State’s average weekly wage (NYSAWW). The PFL contribution rate is set by New York State and will be determined on an annual basis effective every January 1.

III. Statutory PFL Benefits

A. An eligible employee may be entitled to benefits for leave taken from work for the following qualifying events:

(1) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(2) For the employee to bond with the employee’s child:

- during the first 12 months after the child’s birth;
- during the first 12 months after the placement of the child for adoption or foster care; or
- before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed;

(3) Due to any qualifying exigency pursuant to FMLA, arising out of deployment abroad on active military service or an impending call or order to active military deployment abroad in the Armed Forces of the United States for the spouse, domestic partner, child or parent of the employee.

PFL will run concurrently with leave under the Family and Medical Leave Act (FMLA) where the leave qualifies under both laws. In these cases, the employee will be required to comply with notice and application procedures under both policies. If an employee whose absence qualifies for both PFL and FMLA but declines to apply for PFL benefits (despite being notified he/she is also taking leave for a PFL-qualifying reason), such time will nevertheless count against the employee’s PFL allotment.

B. PFL benefits phase in over four years with gradually increasing benefit amount and duration as follows: for leave taken in weekly increments.

Benefit Stage Effective Date*	Maximum Length of Paid Leave	Maximum Benefit Amount	
		Payable % of Employee’s Average Weekly Wage	Statewide Benefit Cap
1/1/2018	8 weeks	50%	\$653/week
1/1/2019	10 weeks	55%	\$746.41/week
1/1/2020	10 weeks	60%	\$840.70 / week
1/1/2021	12 weeks	67%	\$971.61/ week

* The statewide benefit cap for years after 2018 will be determined annually by the state and applied in January. For 2021 the State Average Weekly Wage (SAWW) is \$1,450.17.

The benefit rate for the employee’s period of family leave shall be the rate that is in effect on the first day of family leave taken.

The 52 consecutive week period is computed retroactively to the first day for which benefits are currently being claimed. A single claim may not cover more than 52 consecutive weeks.

C. Intermittent Leave. PFL can be taken intermittently (in separate blocks of time) in full-day increments. If an employee is taking intermittent FMLA leave in partial-day increments for a PFL-qualifying reason, and the employee is paid for working part of a day, the University will track the hours taken as FMLA and will deduct one day of PFL benefits from the employee’s annual available PFL benefit.

IV. Employee Notice Requirements When Requesting PFL Benefits

A. Foreseeable leave

(1) The employee must provide 30-days advance notice to the University prior to the first day of leave taken for a foreseeable qualifying event. If 30-days advance notice is not practicable, then notice must be given as soon as practicable.

(2) The advance notice must include the anticipated timing and duration of the leave for;

(a) continuous leave; or

(b) intermittent leave. The employee should provide notice as soon as practicable before each day of intermittent leave. The employee shall advise the University and the PFL carrier of the schedule of intermittent leave. The PFL carrier may withhold payment pending submission of a request for payment together with the dates of intermittent leave.

(3) The employee shall advise the University of any change in the timing and/or duration of the leave.

(4) If the employee fails to give 30-days advance notice of foreseeable leave the University may request that the PFL carrier delay the payment of benefits to the employee (known as a partial denial) for a period of up to 30 days from when the notice was given.

B. Unforeseeable Leave

(1) When the need for continuous leave is unforeseeable, the employee must provide notice to the University as soon as practicable.

(2) When the need for intermittent leave is unforeseeable, the University may require the employee to provide notice as soon as practicable before each day of intermittent leave. The employee shall advise the University and the PFL carrier of the schedule of intermittent leave. The PFL carrier may withhold payment pending submission of a request for payment together with the dates of intermittent leave.

V. Applying for PFL Benefits

A. The employee requests PFL benefits by completing a *Request for Paid Family Leave and Certification form* (PFL-1 claim form), which is available from the PFL carrier or from Human Resources.

B. The employee provides the University with the request for PFL claim form to complete the employer information section. The employee completes the appropriate certifications or proof of claim documentation and submits the request to the PFL carrier. No benefits are required to be paid by the PFL carrier until the completed request for PFL together with the necessary certifications or proof of claim documentation have been submitted to the PFL carrier.

C. The employee must submit the completed request for PFL together with the necessary certifications or proof of claim documentation to the PFL carrier no later than 30 days from the first day of leave. For a previously unspecified day of intermittent leave, the request for payment must be made within 30 days of the leave. However, employees are encouraged to file claims as quickly as possible to ensure prompt payment of benefits for qualifying leaves.

D. The PFL carrier will make the final determination of whether the employee is eligible for PFL, whether the reason for the leave qualifies under the law, and whether the employee has provided sufficient documentation to

support the need for the leave. This determination is not made by the University. Employees will not receive PFL benefit payments until the claim is fully submitted to and approved by the PFL carrier. The PFL carrier will pay or deny the claim within 18 days of the submission.

E. Advance Request for PFL for Foreseeable Qualifying Events.

(1) An employee may submit a request for PFL in advance of the happening of a foreseeable qualifying event. Any such request shall indicate that it is being submitted in advance of the qualifying event.

(2) The PFL carrier will provide the employee with information regarding the claim and the manner in which missing information shall be submitted.

(3) Once PFL carrier receives a completed request for PFL, the PFL carrier shall make the final determination of whether the employee is eligible for PFL, whether the reason for the leave qualifies under the law, and whether the employee has provided sufficient documentation to support the need for the leave.

F. An employee who is absent from work and whose PFL claim is not fully submitted to or approved by the PFL carrier may be authorized for leave, if eligible, under the University's other leave policies. However, if the employee does not qualify under those policies, or has no available, accrued paid time off, the absence may be treated as unexcused and subject to the University's attendance policies.

VI. Employee Use of Accruals and Employer Request for Reimbursement

A. When an employee provides the University with advance notice of PFL, the University provides an option for employees to supplement PFL payments from the carrier with all or part of unused accruals or other paid time off to receive full salary during the period of family leave. In no case can the combination of benefits result in the receipt of more than 100% of an employee's normal wages. Benefit time payments will be paid through the University's payroll department and PFL benefits will be paid by the PFL carrier.

B. For unforeseen PFL and PFL that is determined retroactively, the University provides an option to employees to elect to use all or part of unused accruals or other paid time off to receive full salary during the period of family leave. In such situations, the time off will still count against the employee's maximum PFL allotment and the employee will be paid in full directly from the University rather than receiving monetary PFL benefits from the PFL carrier. The employee will still file a claim for PFL benefits, but the University will request reimbursement for the PFL benefits due by filing its claim for reimbursement with the PFL carrier in accordance with Workers' Compensation Law §205(2)(c).

VII. Restoration to Employment. Employees who return to work at the conclusion of an approved PFL leave will be restored to the same or to a comparable position (with comparable employment benefits, pay and other terms and conditions of employment) upon their return from leave.

VIII. Maintenance of Benefits

If an employee's PFL claim is approved by the PFL carrier, the University will maintain the employee's health, Rx, dental and life benefits as if the employee continued to be actively employed. Specifically, the University will continue to pay its portion of the employee's premium while the employee is on PFL.

The employee will be responsible for continuing to contribute his/her portion of the health premium along with other normal deductions and is expected to make arrangements with Human Resources so that this payment is made in a timely fashion. If the payment is more than thirty (30) days late, the employee's health care coverage

may be dropped for the duration of the leave. The University will provide fifteen (15) days notification prior to the employee's loss of coverage.

IX. Appeal Rights. An employee whose claim for PFL benefits has been denied has the right under state law to appeal the determination through an arbitration proceeding. Appeal information is available from the PFL carrier.

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

XI. Protection from 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 or Human Resources.

Definitions for PFL

Average Weekly Wage means, for the purpose of computing the PFL benefit, the average of the total wages of the last eight weeks, excluding the week in which PFL began.

Child means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis.

Family Member means a child (regardless of age), parent, grandparent, grandchild, spouse, or domestic partner.

Foreseeable Qualifying Events include an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of a family member, the planned medical treatment for a serious injury or illness of a covered service member, or other known military exigency.

Grandchild means a child of the employee's child.

Grandparent means the parent of the employee's parent.

Parent means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

Providing Care may include 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.

Serious Health Condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider. Note that ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, routine dental or orthodontia problems, etc. do not constitute a serious health condition.

Statewide Average Weekly Wage means the average weekly wage of employees in this State for the previous calendar year as reported by the NYS Commissioner of Labor.

Wages means the money rate at which employment with a covered employer is recompensed by the employer as more fully set forth in 12 NYCRR 357.1 and in the case of a self-employed person, the person's self-employment income as defined in 26 U.S.C. § 1402(b).