

Paid Family Leave for PSC-Represented Employees

Introduced in 2018, New York State's Paid Family Leave (PFL) legislation provides employees paid time off and job protection to bond with a newly born, adopted or fostered child, care for sick family members, and assist family members when a family member in the armed services is deployed on active duty abroad.

Pursuant to bargaining between the City University of New York (CUNY) and the Professional Staff Congress (PSC), PFL benefits will be available for PSC-represented employees at Senior Colleges (including the Brooklyn EOC and Queens EOC) beginning March 8, 2021, and at Community Colleges (including employees on the NYC payroll at the Bronx EOC, Manhattan EOC and Hunter Campus Schools) beginning April 11, 2021.

- Paid Family Leave is available to both full-time and part-time CUNY employees represented by the PSC who meet the eligibility requirements detailed below.
- PFL will pay for up to 12 weeks of leave in any 52-week period at 67% of the employee's average weekly wage, not to exceed 67% of the State Average Weekly Wage.
- The payroll deduction for 2021, set by New York State, is 0.511% of salary, capped at a maximum deduction of \$385.43 per year.
- The Paid Parental Leave negotiated by CUNY and the PSC remains available to eligible employees under the terms of the Collective Bargaining Agreement.

PFL Benefits are provided through insurance policies approved by NY State and funded through payroll deductions. While on PFL, employees are paid by the insurance company, not by CUNY, at the rates established by New York State. PSC-represented employees at Community Colleges and on New York City payroll will have their PFL benefits covered by MetLife. PSC-represented employees at Senior Colleges and on New York State payroll will have their PFL benefits covered by the Standard Insurance Company.

Eligible PSC-represented employees are entitled to PFL benefits for leave taken for the qualifying reasons below. (See below for application and documentation requirements.)

1. To bond with a newly born, adopted, or fostered child.
 - Both parents are permitted to take this leave within the first 12 months of the birth, adoption or placement for foster care.
 - For fostering and adoption – employees may take leave before the actual placement of the child if absence from work is required as part of the process.
 - For new birth – employees may take leave only after the birth, not before the child is born.
2. To participate in providing care for a family member with a serious health condition.¹
 - Serious health condition is defined as an illness, injury, impairment or physical or mental condition which requires:

¹ A new NYS law enacted in April 2020 guarantees workers job protection and financial compensation in the event they, or their minor dependent child, are under an order of quarantine or isolation due to COVID-19. In these situations, Paid Family Leave may be available for use. Paid Family Leave may also be used to care for a family member who has contracted COVID-19, which may qualify as a serious health condition.

- Inpatient care in a hospital, hospice or residential care facility; or
 - Continuing treatment or supervision by a health care provider
 - Close family member is defined as: spouse, domestic partner (including same and different gender couples; legal registration not required), child, stepchild, foster child (and anyone for whom you have legal custody), grandparent, grandchild, or parent (including step-parent, parent-in-law, foster or adoptive parent)
3. To attend to family obligations when a family member is deployed on active military service in a foreign country.
- May take leave to attend to family matters if a family member is on active duty, called to active duty or has been notified of impending call to active duty.
 - PFL may be taken if a spouse, domestic partner, child or parent is called. Not for one's own call to active duty.

Advance Notice:

- When the need for leave is foreseeable, PSC-represented employees must provide at least 30 days' notice to their College Human Resources Office before taking leave. Examples of foreseeable use of leave include: expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of a covered family member or service member, or known military exigency.
- For unplanned leave, employees must provide as much notice as practicable.
- Employees must also advise their College Human Resource Office as soon as possible when dates of a scheduled leave change, are extended, or were initially unknown.

Benefit:

PFL benefits are not paid by CUNY, but by an insurance carrier.

- If you are a PSC-represented employee at a Senior College (or at the Brooklyn EOC or Queens EOC) on New York State Payroll, your benefits will be paid by the Standard.
- If you are a PSC-represented employee at a Community College on New York City Payroll (or at the Bronx EOC, Manhattan EOC and Hunter Campus Schools), your benefits will be paid by MetLife, through AbSolve.

PFL will pay for up to 12 weeks of leave in any 52-week period at 67% of the employee's average weekly wage, not to exceed 67% of the State Average Weekly Wage.

An employee's average weekly wage is the average of the last 8 weeks of wages immediately preceding PFL Leave. If the employee was on a reduced schedule prior to PFL, the payment will be based on that reduced schedule.

Every July, the New York State Department of Labor determines the State Average Weekly Wage for the upcoming year. For 2021, the State Average Weekly Wage is \$1,450.17 – so the maximum weekly PFL benefit a member may receive is 67% of that amount, or \$971.61.

Scheduling Continuous or Intermittent Leave:

PFL may be taken on a continuous or intermittent basis. If taken on an intermittent basis, it must be taken in full-day increments.

An employee's average daily rate is calculated by dividing the employee's average weekly wage by the average number of days the employee worked per week during the 8 weeks used to calculate the employee's average weekly wage.

All eligible employees, regardless of how many days a week they work, are entitled to 12 weeks of PFL if the PFL is taken in week-long segments. If, however, the employee wishes to take PFL as intermittent days, rather than as full weeks, the number of intermittent days available is determined by the employee's average number of paid workdays per week in the 8 weeks prior to the start of PFL. For example, hourly employees working 3 days per week are entitled to up to 12 weeks of PFL if the leave is taken in week-long segments, but to 36 days of PFL if taken in one-day increments.

Guidance for Faculty Members taking Intermittent Leave:

Full-time and part-time faculty members are encouraged to meet with their department chair or his/her designee as soon as possible upon deciding that they plan to apply for PFL to discuss how their teaching obligation will be handled while they are on PFL. If the full-time or part-time faculty member's family needs require the intermittent use of PFL in such a way as to prevent him or her from fulfilling his or her entire classroom teaching workload obligation in any given week, it is understood by the parties that the faculty member should apply for one week of PFL in such week and that the faculty member will be relieved of all service obligations during that week.

In accordance with the statute, which requires that PFL be taken in increments no smaller than one day, if the full-time faculty member's use of PFL will result in the faculty member's being unable to fulfill some or all of his or her teaching responsibilities, the faculty member should apply for PFL as specified below.

- **90% - 100%** of the faculty member's teaching contact hour workload in any given week will not be covered: the faculty member should apply for **5 days of PFL** for that week and be relieved of all service obligations.
- **75% - 89%** of the faculty member's teaching contact hour workload in any given week will not be covered: the faculty member should apply for **4 days of PFL** for that week and be relieved of a proportionate share of service obligations.
- **50% - 74%** of the faculty member's teaching contact hour workload in any given week will not be covered: the faculty member should apply for **3 days of PFL** for that week and be relieved of a proportionate share of service obligations.
- **25% - 49%** of the faculty member's teaching contact hour workload in any given week will not be covered: the faculty member should apply for **2 days of PFL** for that week and be relieved of a proportionate share of service obligations.
- **less than 25%** of the faculty member's teaching contact hour workload in any given week will not be covered: the faculty member should apply for **1 day of PFL** for that week and be relieved of a proportionate share of service obligations.

Benefit Calculator:

Employees may estimate their weekly Paid Family Leave benefit amount by using the Weekly Benefits Calculator available at <https://www.ny.gov/PFLbenefitscalculator>.

Health Benefit Continuation:

Employees are entitled to continuation of their CUNY health insurance benefits and Welfare Fund benefits during PFL. Employees who pay a premium for health insurance through payroll deductions will remain responsible for the employee share of premium during PFL. If the employee is using PFL on an intermittent basis and is still receiving a paycheck for days not charged to PFL during that period, health insurance premiums will be deducted from the paycheck so long as there is enough money in the paycheck to cover the deductions. If the amount of the check is insufficient to cover the deductions or if the employee is off payroll and using PFL for one or more full pay periods, the employee may be direct-billed.

Employee Payroll Deductions:

The insurance premiums for the PFL policies are paid for through payroll deductions paid by all PSC-represented employees. The amount of the deduction is determined annually by the New York State Department of Financial Services.

- For 2021, the payroll deduction is 0.511% of the employee's wages each pay period, up to a cap established by NY State.
- Employees may calculate their deduction using the NYS PFL [deduction calculator](#).
- The annual maximum employee contribution is \$385.34, which is 0.511% of the Statewide Average Weekly Wage.
- In 2021, the maximum annual deduction for employees earning \$75,411 or more will be \$385.34, or \$14.82 per biweekly paycheck.

The PFL payroll deductions are automatic for all employees unless it is anticipated that they will not meet any of the eligibility requirements (see below). In that case, a Waiver Form must be filed with and accepted by the employee's Campus HR Office.

Eligibility:

All PSC-represented CUNY employees are covered under the PFL Policy and entitled to benefits once they have met the corresponding eligibility requirements:

- **Instructional Staff** who work 20 hours or more a week are eligible once they have completed 26 consecutive weeks of employment. Breaks between semesters during which the employee remains on payroll are counted toward the 26 consecutive weeks of employment.
- **Instructional Staff** who work fewer than 20 hours a week (except for Teaching Adjuncts and Graduate Assistants) will be eligible once they have completed 175 days of employment. For purposes of eligibility, a workday for instructional staff working fewer than 20 hours a week includes any day that the employee is scheduled to work.

Days on annual leave, sick leave, holiday leave, Fellowship Leave, unscheduled holiday leave or any other leave during which the employee remains on payroll are counted towards the 26 weeks of employment or the 175 workday requirements.

Employees who had previously established eligibility and are separated from employment for more than 26 weeks will have to meet the corresponding eligibility requirements anew.

- **Teaching Adjuncts and Graduate Assistants** shall be eligible once they have completed 26 weeks or 175 days of employment, whichever is reached first. Teaching Adjuncts and Graduate Assistants shall be credited one workday for every contact hour they teach per semester, with a maximum of five workdays per week. For Teaching Adjuncts, each week worked counts as a week for purposes of establishing the 26 weeks of employment, regardless of how many contact teaching hours the adjunct teaches per week.

The use of annual leave, sick leave, holiday leave, unscheduled holiday leave or any other leaves while remaining on payroll are counted towards the 26 weeks of employment or the 175 workday requirements.

Teaching Adjuncts and Graduate Assistants who had previously established eligibility and have a separation from employment of more than 26 weeks will have to meet the corresponding eligibility requirement anew. However, a Teaching Adjunct who was initially assigned hours in a semester, but then loses those hours because of insufficient enrollment or reassignment will not be considered to have lost employment for that one semester, for purposes of PFL exclusively. If the loss of employment for the reasons above continues for consecutive semesters, the employee will not be considered to have lost employment for those semesters, for purposes of PFL exclusively.

- Citizenship and immigration status are not factors in eligibility.

Eligibility and Benefit Amount Examples for Employees in Full-Time Titles:

Example 1

An Assistant to HEO earning \$43,313 annually is approved to take 9 weeks of PFL to care for a seriously ill child. He was hired on September 1 and wants to start the PFL on June 1 of the following year. Because he will have worked full time for 26 consecutive weeks, he is eligible for the leave. His average weekly pay over the last 8 weeks has been \$833. On PFL he is entitled to be paid 67% of his average weekly wage, up to a cap of \$971.61 per week. In this case, 67% of his weekly wage is \$558, which falls below the cap, so he will be paid \$558 per week by the insurance carrier while on PFL.

Example 2

An Associate Professor who has taught at CUNY for 15 years is approved to take 4 weeks of PFL, covering the entire month of March, to care for her father as he recovers from surgery. Her annual salary is \$89,861, or \$1,728 per week. Under PFL, she is entitled to receive 67% of her weekly wage, up to a cap of \$971.61. Because 67% of the faculty member's weekly salary would exceed the cap, she will receive \$971.61 per week from the insurance carrier during each of her 4 weeks on PFL.

Example 3

A Senior College Laboratory Technician earning \$61,594 per year is approved to take PFL on intermittent days to care for his grandson, who is being treated for serious mental illness. He requests and is approved to take 2 days of PFL per week for 20 weeks, or 40 days in total. In each of the 20 weeks he will be paid for 3 of the 5 days at his regular rate of pay by CUNY, and for 2 of the 5 days at 67% of his regular CUNY pay by the insurance carrier. His weekly pay during these 20 weeks will be: 3 days at his full rate of pay, \$236 per day, and 2 days at 67% pay, \$158 per day, for a total of \$1,024 per week. By reducing his pay to 67% for 2 days a week, he reduces his total weekly pay by \$156 and gains 2 days a week totally free to care for his grandson.

Eligibility Examples for Employees in Part-Time Teaching Titles:

Example 4

An Adjunct Lecturer who has taught for 7 consecutive semesters at CUNY is currently teaching two 3-credit courses and earning \$79 per contact teaching hour, or \$9,480 this semester. Her weekly pay is \$632. She is approved to take 4 weeks of PFL, starting October 1, to care for her wife, who is being treated for a serious medical condition. Because she has completed 26 weeks of employment, she is eligible for PFL. While on PFL she is entitled to receive 67% of her weekly pay, up to a cap of \$971.61 per week. 67% of her weekly pay falls below the cap, so she will be paid \$423 per week (67% of \$632) for the 4 weeks in October. She will resume working at the end of the PFL period and will not be considered to have a break in service for purposes of determining eligibility for a three-year appointment or other contract provisions.

Example 5

An Adjunct Lecturer teaches one course a semester at CUNY throughout an entire academic year and thus establishes eligibility for PFL after the 11th week of the second semester. She decides to take a year off to pursue a professional opportunity outside of CUNY but resumes teaching at CUNY as an adjunct after a year off payroll. She will have to reestablish eligibility for PFL when she returns.

Example 6

A Non-Teaching Adjunct seeks to use PFL to take his foster child to a weekly appointment for medical treatment. He has been assigned to work as a librarian 3 days a week for 4 hours a day, and he has maintained the same assignment for the past 4 semesters. He is eligible for PFL because he has worked for 4 consecutive semesters at 45 days per semester, or a total of 180 days. As a part-time employee working fewer than 20 hours a week, he qualified for PFL after 175 days of employment.

Waiver/Opt-Out:

Employees may opt out of PFL only if it is anticipated that they will not meet any of the eligibility requirements. Employees who would not meet the eligibility requirements are:

- Instructional Staff who work 20 hours or more per week but will not work 26 consecutive workweeks for CUNY.
- Instructional Staff who work fewer than 20 hours per week but will not work 175 days in 52 workweeks for CUNY.
- Teaching Adjuncts and Graduate Assistants who will not work 26 workweeks or 175 days in 52 workweeks for CUNY.

Employees who believe they are not eligible and who wish to receive a waiver from participation must fill out the [Employee Opt-Out of Paid Family Leave Benefits Form](#) and submit it to their College Human Resources Office for approval. After the form is approved, the college will stop the PFL deduction. Previous amounts deducted from the employee's pay will not be refunded to the employee.

The waiver may be revoked by the employee at any time after approval. CUNY may take retroactive deductions for the period the employee was covered by the waiver.

If the employee's schedule changes such that the employee no longer qualifies for a waiver, the waiver will be **automatically revoked**. If the waiver is revoked, the employer may begin taking payroll deductions and may retroactively collect deductions from the date of the waiver.

[Coordination with Other Leaves](#)

Employees receiving PFL benefits are on a leave-without-pay status because they are being paid by the insurance carrier, not by CUNY. Employees on PFL may not use or charge any other leave accruals and receive PFL on the same day.

FMLA: The federal [Family and Medical Leave Act \(FMLA\)](#) is a United States labor law that provides job-protected, **unpaid** leave for employees for qualified medical and family reasons. If an employee takes PFL for a qualifying event that is also covered under the FMLA, these leaves will run concurrently. The employee will be notified that their event qualifies for both PFL and FMLA, and their leave will be designated as such. In some situations, however, an event may qualify for PFL or for FMLA, but not for both. There are family relationships not covered under both leaves, and PFL does not cover time off for one's own health condition.

Paid Parental Leave: Instructional Staff employees who are eligible under the Paid Parental Leave Policy will be eligible for both Paid Parental Leave and Paid Family Leave. However, Paid Parental Leave and Paid Family Leave cannot be used at the same time. No later than 24 months from the effective date of this agreement, the parties will meet to review the experience on coordination of these leave benefits.

[PFL Claim Submission Procedure](#)

It is the employee's responsibility to submit all necessary forms and documentation to the insurance carrier. Eligible PSC-represented employees who work at [Community Colleges](#), are on New York City Payroll, and qualify for PFL will be paid while on PFL by MetLife, through its service-provider AbSolve. To utilize the PFL benefits, employees must complete the appropriate Request for Paid Family Leave Forms:

AbSolve – PFL Bonding Packet

AbSolve – PFL Care for Family Member Packet

AbSolve – PFL Military Leave Packet

Eligible PSC-represented employees who work at [Senior Colleges](#), are on New York State Payroll, and qualify for PFL will be paid by the Standard. To utilize the PFL benefits, employees must complete the appropriate Request for Paid Family Leave Forms:

[The Standard – PFL Bonding Packet](#)

[The Standard – PFL Care for Family Member Packet](#)

[The Standard – PFL Military Leave Packet](#)

Employees who work at both Senior Colleges and Community Colleges should apply to both AbSolve and the Standard to receive 67% of their total average weekly wage at both the Senior and Community College separately.

Once the employee completes the appropriate form, he/she should submit the form to the College Human Resources Office, which will complete the employer portion and return it to the employee. The employee should then submit the completed form along with the necessary certifications or documentation to the appropriate insurance carrier.

In most cases, the insurance carrier must pay or deny benefits within 18 days of receiving the employee's completed request or his/her first day of leave, whichever is later.

The following are general documentation requirements for employees requesting PFL:

Childbirth - The documentation requirement for a claim for PFL to bond with a newly born child depends on whether the applicant is the birth parent or the non-birth parent. The birth parent must submit a birth certificate, if available, or documentation of pregnancy or birth from a health care provider. The document must include the birth parent's name and the child's due date or birth date.

The non-birth parent must submit, if available, a birth certificate naming them as a parent. If a birth certificate naming the non-birth parent is not available, the non-birth parent may submit a Voluntary Acknowledgment of Paternity or a Court Order of Filiation naming them as a parent. If those documents are not available, the non-birth parent may submit birth documentation from the birth parent's health care provider and either a marriage certificate or evidence of a civil union or domestic partnership to demonstrate the relationship to the birth parent.

If none of these documents are available, the non-birth parent may submit other documentary evidence of parental relationship to the child, to be evaluated on a case-by-case basis by the insurance carrier.

Foster Care – A claim for PFL to bond with a fostered child requires the submission of a letter of placement issued by a county or city department of social services or local voluntary agency. If a second parent is not named in the documentation, a copy of the document plus a document verifying the relation to the parent named in the foster care placement will be needed.

Adoption – A claim for PFL to bond with an adopted child requires a court document finalizing adoption or, for PFL taken before the adoption is complete, a document showing that the adoption process is underway. Examples of proof of a pending adoption include a signed statement from an attorney, adoption agency, or adoption-related social service provider stating the employee is in the process of adopting a child.

If the second parent is not named in that document, they must also file documentation verifying the relationship to the parent named in the adoption.

Serious Health Condition – A claim for PFL to care for a family member with a serious health condition requires a medical certification completed by the care recipient's health care provider. An authorization for personal health disclosure form is required by the HIPAA Privacy Rule and must be completed by the care recipient and retained on file with the health care provider in order to submit the required medical information.

Active Military Duty Deployment – A claim for PFL to assist loved ones when a family member is deployed abroad on active military duty generally requires a US Department of Labor "Certificate of Qualifying Exigency for Military Family Leave." Those forms include (1) military documentation

of the family member's deployment or impending deployment (active duty orders or other notice from the military), and (2) documentation of the reason for leave.

Job Protection:

Upon returning to work after PFL, PSC-represented employees will be restored to the same position or to a position similar to the one they held prior to taking PFL.

Retaliation against an employee for requesting or for receiving PFL benefits is prohibited under the law.

Statutory Definitions

The following definitions are from N.Y. Workers' Compensation Law § 201 and are used in the administration of the Paid Family Leave Benefit.

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, 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, including transplantation preparation and recovery from surgery related to organ or tissue donation, that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider.

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.

Questions regarding PFL absences, including questions about eligibility, should be directed to your college Human Resources Office.

Questions regarding the claims process, reporting, claim-specific questions and questions about claims payments should be directed to:

- Community College Employees: AbSolve (800) 401 - 2691
- Senior College Employees: the Standard (833) 960 - 1237