Uses of FMLA leave. In accordance with the Family and Medical Leave Act (FMLA), Rose-Hulman provides eligible employees up to 12 weeks of unpaid leave in a rolling 12-month period measured backward from the date the employee uses any FMLA leave. *Service Member Family Leave* may be taken for up to 26 weeks during a single 12-month period. This FMLA leave is a guaranteed period of time eligible employees can be absent from work with job protection. The time off is not paid, unless the employee is taking vacation or sick leave concurrently with FMLA leave. If you choose not to use paid sick and vacation time concurrently with FMLA leave, you will not continue to accrue additional sick and vacation hours, as you will be in an unpaid status. Employees who are on Family and Medical Leave or an approved leave of absence may not engage in any form of self-employment or perform work for any other employer during that leave, except when the leave is for military or public service or when the secondary employment has been approved by the Institute. As an employee of Rose-Hulman Institute of Technology, we are your primary employer. Employees can request or use FMLA leave, or Human Resources may place the employee on FMLA leave, to cover the time they need to be away from work for any of the following purposes:

- To care for a newborn child or a newly adopted or newly placed foster care child, as long as the leave is taken in the year following the child's birth or placement;
- To care for their child, spouse, or parent who has a serious health condition;
- To provide employees time to attend to their own serious health condition that leaves them unable to perform their job.
- To provide the employee with time off arising from the fact that the employee's spouse, child or parent is on covered active duty or called to covered active duty in the Armed Forces (including a member of the National Guard or Reserves) being deployed in a foreign country. Qualifying exigencies may include attending to certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment activities and parental care.

*Service Member Family Leave* is available to employees who are the spouse, parent, child or next of kin of a "covered service member" in need of care. A covered service member is a current member (or covered veteran) of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status, or is on the temporary disability retired list for a serious injury or illness. A covered veteran was a member of the Armed Forces, National Guard or Reserves who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to requiring care. Employees may use it to care for a covered service member's serious injury or illness that was incurred in service on active duty or one that existed before the beginning of active duty and was aggravated by service on active duty.

**Serious health condition** “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves one of the following:
1. **Hospital Care**

   **Inpatient care** (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

2. **Absence Plus Treatment**

   (a) A period of incapacity of three or more consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

      (1) **Treatment two or more times** by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

      (2) **Treatment** by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

3. **Pregnancy**

   Any period of incapacity due to pregnancy, or for prenatal care.

4. **Chronic Conditions Requiring Treatments**

   A **chronic condition** which:

      (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;

      (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

      (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc).

5. **Permanent/Long-Term Conditions Requiring Supervision**

   A period of incapacity which is **permanent or long-term** due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.

6. **Multiple Treatments (Non-Chronic Conditions)**

   Any period of absence to receive multiple treatments (including any period of recovery from) by a health care provider or by a provider of health services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc), severe arthritis (physical therapy), and kidney disease (dialysis).

**Eligibility** To be eligible for FMLA leave, an employee must be employed by Rose-Hulman for at least 12 months and have at least 1,250 hours of service during the previous 12 months.
**Requesting leave** Employees who know they need FMLA leave a month before the leave begins MUST give their supervisors 30 calendar days advance notice. Employees who cannot foresee the need for FMLA leave 30 days in advance must give as much notice as possible. This generally means notifying Rose-Hulman within one or two workdays of the time an employee first learns of the need for leave, unless extenuating circumstances exist.

**Worker’s Compensation** In addition, any worker’s compensation absence will run concurrently with, and be counted as, FMLA leave to the extent the illness, injury, or condition would otherwise qualify as FMLA leave.

**Health care provider certification** Employees who request FMLA leave because of a serious health condition, whether their own or a family member's, also must submit a completed "Certification of Health Care Provider" to Human Resources before the leave can be approved.

* The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

**Amount of Leave** Employees can take up to 12 weeks of FMLA leave in a rolling 12-month period measured backward from the date the employee uses any FMLA leave. However, where a husband and wife both work for Rose-Hulman, the two employees are limited to a combined total of 12 weeks of family leave to cover the time off they need after the birth or placement of a child. However, each employee is eligible to take any unused portion of the 12 weeks for a serious health condition. For those using FMLA under the *Service Member Family Leave* the employee can take up to 26 weeks of leave.

**Intermittent Leave** Employees taking leave because of their own or a relative's serious health condition can take their allotment of FMLA leave intermittently or in accordance with a reduced work schedule, if this is medically necessary. An employee who has a family member called to covered active duty or covered under the *Service Member Family Leave* can also take their allotment of FMLA leave intermittently or in accordance with a reduced work schedule. Where employees have some control over the timing of their leave, they are expected to consult with their supervisors to try to arrange a mutually acceptable time. Employees taking leave to care for a newly born or newly placed child do not have a legal right to take intermittent leave. Proof of birth or placement will be required.

**Privacy and leave requests** Employees must inform their supervisors that they need family or medical leave and when they expect to be absent. However, supervisors do not ask or inquire about the reasons for the employee's leave request. Instead, to ensure the worker's privacy, Human Resources make any necessary inquiries and evaluates whether there is a medical need for the leave. Human Resources also is responsible for ensuring that all medical information provided by employees is maintained in the strictest confidence.

**Compensation and benefits during leave.** FMLA leave is unpaid for staff, unless it is taken together with accrued paid leave. Faculty does not accrue vacation or sick leave. The current practice of granting faculty full pay for FMLA leave will continue as in past practice. Employees on FMLA leave continue to be covered by Rose-Hulman's group insurance benefits (health, life, long-term disability) on the same terms that are applicable for active employees. FMLA leave does not cause employees to lose any previous accrued employment benefits.
Reinstatement following leave Upon returning from an FMLA leave of absence, employees will generally be restored an equivalent position with equivalent pay, benefits, and other employment terms. The only exceptions to this restoration procedure are for certain key employees, who are notified of their status when they first request FMLA leave. Key employees who take FMLA leave are reinstated to their former or equivalent positions only if their reinstatement does not cause Rose-Hulman substantial and grievous economic injury.

Post-FMLA unpaid leave Rose-Hulman may allow employees who have exhausted the leave available to them under FMLA to take additional unpaid leave. Rose-Hulman does not guarantee that it will be able to reemploy individuals who take post-FMLA leave. Further, during a period of post-FMLA leave, an employee’s group insurance benefits may not continue, unless approved by the President. Employees should be aware that a lapse in benefits coverage or plan participation during a period of post-FMLA leave might affect an employee's coverage after the employee returns to work.

Compliance with FMLA requirements This policy is intended to comply with FMLA and should be interpreted in light of regulations implementing that act. In particular, terms used in this policy have the meanings they are given in the regulations implementing FMLA.

Effect of state law Rose-Hulman complies with all requirements, prohibitions, and other provisions of the state and local laws applicable. If a state law entitles an employee to more generous benefits than FMLA does, the employee receives the more generous benefits.

Next of Kin - Next of kin of a covered service member means the nearest blood relative other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered Service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member’s only next of kin.