

**From:** "Chambers, Yohna"  
**Date:** Wednesday, June 10, 2020 at 4:14 PM  
**To:** TCU All Faculty/Staff  
**Subject:** Return to Campus - Phase 2 - FMLA and ADA



June 10, 2020

Dear TCU Colleagues –

I hope this email finds you and your VIPs (Very Important People) safe and well. This week begins Phase 2 of the TCU Return to Campus.

As supervisors request employees return to campus, a number of questions have come up regarding individual situations that may affect employees' ability to reengage and/or return to campus. Many questions are related to employees' obligations to care for family members, an employee's own health condition or risk factors that may affect reengagement or return to campus. To answer some of your questions, we have information regarding FMLA – Family and Medical Leave Act as well as the Americans with Disabilities Act Amendments Act (ADA) to determine if any of the following reasons are applicable to your situation.

### **Family and Medical Leave (FMLA)**

An eligible employee may take leave for one of the following family and/or medical reasons:

- The birth of a child or placement of a child with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying event arising from a spouse, son, daughter, or parent who is on active duty or called to active duty status.

During the current COVID period, FMLA would also apply for the following reasons:

- To care for a spouse, son, daughter, or parent living in the employee's household who is in a high-risk category for a serious health condition related to COVID\*
- Positive COVID-19 test result – applicable for employee or eligible family member
- 14-day self-observation due to close contact or exposure to COVID-19
- Employee is unable to work due to a dependent, minor child's school or daycare closure and no alternatives are available (Provide proof of dependent status and include the notice from your child's school or daycare to include dates that fall within the requested leave)

**Through the end of June**, employees remain able to use TCU COVID-19 paid leave up to 480 hours (pro-rated based on FTE) in my.tcu.edu. Beginning July 1, employees will use accrued leave (sick or vacation) to accommodate required absences. If approved for FMLA, employees must use their accrued sick and vacation to remain in a paid status while on FMLA.

For more information, visit the [Family and Medical Leave Act](#) information page on the Human Resources website, which includes eligibility requirements and instructions on how to begin the process to certify the leave under FMLA.

### **Americans with Disabilities Act Amendments Act (ADA)**

The ADA's basic definition of "disability" is a mental or physical impairment that substantially limits one or more major life activities, having a record of such an impairment, or being "regarded as" having such an impairment. During the current COVID period, ADA includes accommodations for employees that the [CDC](#) considers high risk for severe illness.

Eligibility requirements for consideration to receive reasonable accommodations under the federal ADA include an individual [must have an "actual" or a "record of" a disability](#), as defined by the [ADA Amendments Act](#). In addition, there must be some connection between the impairment and specific need for accommodation. For example, the individual might have an underlying impairment and limitation that, if contracting coronavirus, may lead to severe illness. There is no comprehensive list of such impairments; however, individuals with conditions such as heart disease, diabetes, lung disease or asthma, a weakened immune system, kidney disease, cirrhosis of the liver, and other conditions are considered at higher risk by the [CDC](#) for developing severe illness and serious complications. In the absence of pre-existing serious health conditions, testing positive for Coronavirus, is likely not a disability under the ADA.

Other individuals who are at higher risk for severe illness from contracting COVID-19 are individuals age 65 and older, as well as women who are pregnant.

Employees who are the primary caregiver of an individual with disabilities are ineligible to receive reasonable accommodations under the federal ADA; however, employees may be eligible for job-protected leave under the federal [Family and Medical Leave Act \(FMLA\)](#).

Log on to my.tcu.edu; select My Employee Center; select Employee Accommodation Request – then select "Create New Accommodation" to submit your request for an accommodation. A medical certification must be submitted to complete the request.

**If neither FMLA nor ADA apply, discuss the situation with your supervisor to explore possible solutions. If you are unable to achieve resolution, contact the Employee Relations team in Human Resources at [resolve@hr.tcu.edu](mailto:resolve@hr.tcu.edu).**

I hope this communication provides answers to many of your questions. Often, there are personal situations that our general information may not cover. We are available to assist you as best we can with finding a resolution – email us at [hrfmla/ada@tcu.edu](mailto:hrfmla/ada@tcu.edu).

As always, take care of yourselves and take care of one another – you are our VIPs.

~In Peace,

*Yohna*

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~Salaam~Shalom~Paz~Peace~

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