



Family and Medical Leave Act (FMLA) For Supervisors

APPLYING THE FMLA LAW AND YOUR RESPONSIBILITY AS A SUPERVISOR

The everyday application of FMLA can get complex. Below are guidelines for Supervisors to reference when determining if FMLA applies.

Supervisor Obligations

Notify Human Resources (HR) as soon as possible when an employee has requested leave or is absent from work for a reason that may be covered by FMLA. When in doubt contact HR.

- **Confidentially:** Supervisors must keep an employee's medical condition and FMLA confidential. You cannot share this information with co-workers. All a supervisor should say is the person is out on leave.
- **Consistent Policy Enforcement:** If your department has certain call-in procedures for employees on leave (including FMLA), it is important the policies apply to everyone.
- **Continuous FMLA:** When an employee is absent for more than three consecutive business days. Contact HR to review and begin the process of FMLA.
- **FMLA Tracking:** Employers are required to track ALL FMLA time. It is important to engage with HR as soon as possible.
 - FMLA time should be tracked closely to ensure everyone knows how much protected leave an employee has used and what amount is available for use.
 - Supervisors must ensure the employee knows call-in procedures and how to report their leave.
 - When tracking leave, FMLA runs concurrently with workers' compensation, annual leave, sick leave, and compensatory leave.
- **Intermittent FMLA:** FMLA is not always long-term. A few separate absences with a recurring issue may be intermittent FMLA. Supervisors should consult with HR if recurring issues continue.
- **Obligations Beyond FMLA:** The 12 weeks of FMLA does not end an employer's obligations to provide leave or accommodations. The supervisor along with HR must:
 - Evaluate each request for additional time off beyond the 12 weeks of FMLA;
 - Evaluate requests for work restrictions for accommodation under the Americans with Disability Act (ADA). Can we accommodate the request or not?
 - Discuss the details of the requests with the employee and try to accommodate.
 - ✦ Employers must engage in the interactive process and make a reasonable accommodation to the known disability of a qualified employee if it would not impose "undue hardship" on the operation of business.

- ✦ Leave and reduced/modified schedules must be explored as reasonable accommodations.
- **Potential Serious Health Condition:** It is important for supervisors to know when an employee's illness could potentially turn into something more. Monitor the situation and if absences continue beyond 3 days contact HR so the situation can be evaluated and the FMLA process can be implemented if needed.
- **Reduced Schedule FMLA:** When an employee needs to reduce their work hours during the qualifying FMLA event. Supervisors should work with HR to determine what is reasonable.
- **Returning to Work:** An employee cannot return to work without the proper medical certification and release from their treating physician.
 - If the employee presents a certification that they can return to work with restrictions (not a full-release), it must be specific (i.e. cannot lift anything over 10 pounds, no sitting for long periods of time).
 - Supervisors must work with HR when providing accommodations for any employee returning with restrictions.
 - If the employee returns to work without proper medical certification and release to work, they are to be sent home until the proper release can be obtained.

Human Resources Obligations

- Review and ensure the employee is eligible for FMLA.
- Send the employee written notification regarding their FMLA eligibility. The notice should be sent within **five days** of receiving a request or inquiry.
- Manage the tracking of the employee's FMLA time.
- Provide employee and supervisor with information on leave taken while maintaining confidentiality. Medical information should be sent directly to HR by the employee.

FMLA BACKGROUND AND ADDITIONAL INFORMATION

FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Eligible employees are entitled to: [\(U.S. Department of Labor Fact Sheet #28F\)](#)

Twelve workweeks of leave in a 12-month period for:

- Birth of a child and to bond with the newborn child within one year of birth.
- The placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one year of placement.
- A serious health condition that makes the employee unable to perform the functions of his or her job.
- To care for the employee's spouse, child, or parent who has a serious health condition.
- Any qualifying exigency (urgent need or demand) arising out of the fact that the employee's spouse, child, or parent is a covered military member on "covered active duty".

Twenty-six workweeks of leave during a single 12-month period for:

- To care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, child, parent, or next of kin (military caregiver leave).

[U.S. Department of Labor Fact Sheet #28K](#) – In general, an employee may not take FMLA to care for a son or daughter who is 18 years of age or older. However, an employee may take FMLA to care for a biological, adopted, foster child, stepchild, legal ward, or a child to whom the employee

stands in loco parentis, who is 18 years of age or older and incapable of self-care because of mental or physical disability at the time that FMLA leave is to commence.

[U.S. Department of Labor Fact Sheet #28L](#) – When spouses work for the same employer and each spouse is eligible to take FMLA leave, the FMLA limits the combined amount of leave they may take for some, but not all, FMLA-qualifying leave reasons. Eligible spouses who work for the same employer are limited to a combined total of twelve workweeks of leave for the following reasons:

- Birth of a child and bonding with the newborn child,
- The placement of a child with the employee for adoption or foster care and bonding with the newly-placed child, and
- The care of a parent with a serious health condition.

FMLA can be confusing, but the information above should give you a starting point for understanding FMLA and helping your employees through the process.

If you have any questions about FMLA, please consult with the Department of Human Resources.

: