



Family and Medical Leave Act of 1993 (FMLA) Procedures

Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees up to 12 workweeks or 480 hours of unpaid job protected leave, continuation of health benefits, and reinstatement to the same or equivalent job upon return. An eligible employee may take up to 12 workweeks of FMLA within a 12-month period measured forward from the first date an employee takes FMLA leave. The next 12-month period would begin the first time the employee takes FMLA leave after the completion of the prior 12-month period. Leave granted under the FMLA will be counted against the annual 12-workweek or 480-hour entitlement. Eligible employees may also take up to 26 workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness when the employee is the spouse, son, daughter, parent, or next of kin of the service member.

Eligibility Requirements

An eligible employee is one who has at least 12 months of employment with the State of Arkansas and has worked at least 1,250 hours during the previous 12-month period.

Qualifying Reasons

Eligible employees may take FMLA for one or more of the following reasons:

- The birth of a child, or placement of a child for adoption or foster care, and to bond with the newborn or newly-placed child;
 - To care for a spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal medical care;
 - For a serious health condition that makes the employee unable to perform the essential functions of his or her job, including incapacity due to pregnancy and for prenatal medical care; or
 - For any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or call to covered active duty status
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Requesting FMLA Leave

An employee should request FMLA by completing the **Family and Medical Leave Request Form** and submitting the signed form to the Department of Human Resources. An employee must provide the supervisor at least 30-day advance notice before FMLA leave is to begin if the need for leave is foreseeable. If a 30-day notice is not practicable, notice must be given as soon as possible.

Medical Certification

Eligible employees must provide a complete **Certification of Health Care Provider Form** and submit to the Department of Human Resources within 15 calendar days. Failure to provide the certification may result in denial of FMLA until the completed certification is received. The University may request re-certification for continual FMLA usage.

Pay

The FMLA does not mandate payment for leave. However, UA Little Rock requires employees to use any available accrued paid leave, which will run concurrently with FMLA. The accrued paid leave is used for as much of the twelve (12) week period as it will cover before moving into an unpaid leave status. In cases of Maternity Leave, the employee may elect to use unpaid leave without exhausting accrued paid leave. All applicable accumulated paid leave must be exhausted before Leave without Pay (LWOP) will be granted except for maternity leave requests.

Continuation of Benefits

The FMLA requires that employers maintain an employee's health benefits during leave. The university will continue to pay the employer's matching portion of Health, Dental, basic Life insurance, and basic Long Term Disability insurance for employees on FMLA leave. If you are receiving pay, your benefits deductions will continue as normal. Employees are responsible for paying their portion of the premium if the employee's paycheck is not sufficient to cover the premium deduction, or if the employee is on Leave without Pay (LWOP). If the employee does not continue to pay the employee portion of the premium, the insurance may be canceled. If you go on a LWOP status, you will be expected to pay your portion of benefits to keep them active.

Premiums should be paid to an HR Benefits Representative in the Department of Human Resources. The University's obligation to maintain health benefits under the FMLA ceases when an employee informs the employer of their intent not to return from leave, the employee fails to return from leave, or the employee exhausts their FMLA entitlement. The University will recover any premium payment missed by the employee and may recover the University's share of premiums if the employee fails to return to work or leave expires, except in certain stipulated circumstances.

An employee may choose not to retain insurance coverage during FMLA. However, the employee is entitled to be reinstated on the same terms as prior to taking the leave upon returning to work.

If you have questions regarding your benefits while on leave, please contact an HR Benefits representative at HR-Benefits@ualr.edu or 501.569.3180.

Job Restoration

The FMLA requires that employers restore employees to their same or an equivalent job after leave. The employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits, and working conditions at the conclusion of the leave, unless identified as a key employee.

Concurrent Leave

FMLA runs concurrently with Catastrophic Leave, Workers Compensation, Leave of Absence Without Pay (LWOP) and accrued leave.

Returning to Work

If FMLA is granted for the employee's own serious health condition, the employee must provide a statement from the healthcare provider stating that the employee is able to return to work. The medical release must be submitted to the Department of Human Resources on or before your return to work. Any work restrictions must be identified on the statement and approved prior to returning to work. All job restrictions must be reviewed by the Department of Human Resources prior to the employee's return to work.

Retaliation

The law protects employees from interference and retaliation for exercising or attempting to exercise their FMLA rights. The law also includes certain employer recordkeeping requirements.

Leave Abuse

Any employee who knowingly and/or purposefully provides false information in an attempt to gain approval of FMLA may be subject to disciplinary action, up to and including termination.

Any employee who knowingly abuses the use of approved FMLA leave for the purpose of monetary gain, recreational pleasures, or any such actions that are deemed contrary to the basic intent of the FMLA may be subject to disciplinary action, up to and including termination.

In the event you are not eligible for FMLA leave, UA Little Rock has additional leave programs in which you may qualify.

For more information on your options, contact the Department of Human Resources at 501.569.3180 or visit the HR webpage at <http://ualr.edu/humanresources/>.

Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Statement for Family Member

Note to Employee: You may provide this notice to the health care provider with the appropriate certification form.

Pursuant to GINA's "safe harbor" provision in 29 CFR §1635.8(b)(1)(i) and 29 CFR § 1635.8(b)(3) (providing for an exception for FMLA requests regarding the medical condition of a family member), the following language must be included with requests under the FMLA concerning a spouse, parent, or child's medical condition.

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 service.

EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS



Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

*Special "hours of service" requirements apply to airline flight crew employees.

ELIGIBILITY REQUIREMENTS

REQUESTING LEAVE

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

EMPLOYER RESPONSIBILITIES

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division





FMLA Procedures Acknowledgement Form

Instructions

This form acts as a comprehensive signature acknowledgement for all of the sections within the FMLA Procedures packet:

- Family and Medical Leave Act (FMLA)
- Eligibility Requirements
- Qualifying Reasons
- Requesting FMLA Leave
- Medical Certification
- Pay
- Benefits
- Job Restoration
- Concurrent Leave
- Returning to Work
- Retaliation
- (GINA) Disclosure Statement for Family Member

Any employee who knowingly and/or purposefully provides false information in an attempt to gain approval of FMLA may be subject to disciplinary action, up to and including termination.

Any employee who knowingly abuses the use of approved FMLA leave for the purpose of monetary gain, recreational pleasures, or any such actions that are deemed contrary to the basic intent of the FMLA may be subject to disciplinary action, up to and including termination.

Signature

By signing below, you acknowledge receipt of the FMLA Procedures including sections as listed above. You further acknowledge that you have read, understand, and accept each statement in its entirety, and have indicated so by signing below. This Signature Acknowledgement Form will become part of your medical file.

Employee Print Name: _____

Employee Signature: _____ Date: ____/____/____

T Number: _____ Phone Number: _____

Mailing Address: _____