

# Avoiding the Return-to-Work Quagmire: Do's and Don'ts When Returning from a Medical Leave of Absence

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# Agenda

- Medical Leave of Absence Overview
- Employee Responsibilities
- Supervisor Responsibilities
- Important Take-Aways
- Q&A

# Types of Medical Leaves

- **Family and Medical Leave Act (FMLA)**
- **Reasonable Accommodation Under Americans with Disabilities Act (ADA)**
- **Short-Term Disability**
- **Extended Short-Term Disability**

# FMLA Leave

- Eligible employees may take FMLA leave for up to 12 weeks for the following:
  - The birth of a child and to care for the newborn child within one year of birth.
  - The placement of a child for adoption or foster care with the employee and to care for the newly placed child within one year of placement.
  - To care for the employee's spouse, child, or parent who has a serious health condition.
  - The employee's own serious health condition that impacts the employee's ability to perform the essential functions of their job.
  - Military Family Leave
    - Because of a qualifying reason arising out of the covered active duty status of a military member who is the employee's spouse, son, daughter, or parent (qualifying exigency leave)
    - To care for a covered servicemember with a serious injury or illness when the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember (military caregiver leave)

# Applicable Policies

- PIM Number 09 – Family and Medical Leave for Staff and Twelve-Month Faculty
  - Policy available at : <https://hr.charlotte.edu/pims/family-and-medical-leave>
- University Policy 102.6 – Family and Medical Leave for Nine-Month Faculty
  - Policy available at: <https://legal.charlotte.edu/policies/up-102.6>

# ADA Reasonable Accommodation

- The Americans with Disabilities Act of 1990 (as amended in 2008 (ADAAA)) prohibits discrimination based on disability and requires employers to provide certain reasonable accommodations so that an employee with a disability can continue to perform the essential functions of their job.
- A reasonable accommodation is an alteration to University policies or the work environment that would allow a disabled employee or applicant for employment to perform the essential functions of the job unless the accommodation is an undue hardship or creates a direct threat.
- Accommodation requests are considered on a case-by-case basis.



# Who Has Rights Under the ADA?

- Applies to all applicants or employees who:
  - Have a disability
  - Have a record of having a disability (even if they do not currently have a disability)
  - Are regarded as having a disability
- If any of the three prongs are satisfied, the individual counts as disabled under the law.
- “Disabled” mean a physical or mental impairment that substantially limits one or more **major life activity or major bodily function**. The impairment needs to be a physiological or mental disorder.



# Leave As A Reasonable Accommodation

- Some situations that may require leave as a reasonable accommodation include the following:
  - when there is no other effective accommodation
  - when an employee is not eligible to take leave under the Family Medical Leave Act (FMLA), but has a qualifying disability under the ADA
  - when an employee is FMLA eligible, but requires additional time off beyond the twelve-weeks
  - when an employee has exhausted paid vacation and sick leave and requires additional intermittent time off *because* of a qualifying medical impairment



# Applicable Policy

- PIM Number 50 - Reasonable Accommodation
  - Policy available at: <https://hr.charlotte.edu/pims/reasonable-accommodation>

# Short-Term Disability Leave

- Short-term disability insurance provides income replacement if an employee becomes unable to work due to a medical disability
- Whether an employee qualifies for STD depends on the number of years of creditable service they have as a participant in TSERS or ORP
- Disability benefits may be limited if they have less than five years of creditable service

# Extended Short-Term Disability Leave

- Monthly replacement income if you become disabled while you are a permanent employee and are enrolled in ORP or TSERS
- It is generally a continuation of STD benefits through the State
- Employee determined to be mentally or physically disabled for the further performance of their usual occupation
- Extended STD is up to 365 additional days after the last day of your short-term disability benefits, if your disability is likely to be temporary

# Short-Term v. Long-Term Disability Benefits

	Short-Term Disability	Long-Term Disability
Requirement:	One year retirement plan contributions	Five years retirement plan contributions, and not eligible for unreduced retirement
Benefit:	50% eligible compensation \$3,000/month cap	65% eligible compensation \$3,900/month cap
Payable:	Up to 365 days after 60-day waiting period (Extended Short Term, potential of additional 365 days)	Based on eligibility

***Note: Less than 5 years employment, employee pays both employee & employer premiums for health coverage***

# Employee Responsibilities when Returning from Medical Leave

- Provide regular updates to manager regarding return-to-work status
- If FMLA leave is extended beyond approval date, provide a doctor's note to the Benefits Office with new end date
- Submit Fitness for Duty form to the Benefits Office at least 2 weeks in advance of the return-to-work (RTW) date
- If returning to work with medical restrictions, complete the ADA accommodation request form at least 2 weeks in advance of the RTW date

# Fitness for Duty Certification

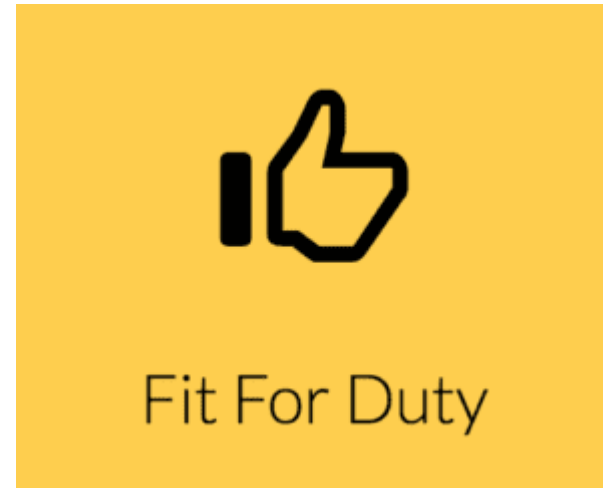


## Fitness for Duty Certification

Required of all employees returning from a Medical/Disability Leave of any kind.

Return to the Benefits Office, King Building, Room 207

<b>Part I: TO BE COMPLETED BY EMPLOYEE (Please Print or Type)</b>	
<i>Please attach a job description listing physical requirements of your position to this form</i>	
Name:	Job Title:
Date Leave Begins:	University ID #:
Employee Signature: _____ Date: _____	
<b>PART II: TO BE COMPLETED BY MEDICAL PRACTITIONER</b>	
1. I certify that I have read the employee's job description attached to this form and that the above-named employee is physically fit to meet the physical/mental requirements listed in the description <b>(please check one)</b> : <input type="checkbox"/> with or <input type="checkbox"/> without reasonable accommodation.	
<i>If accommodation is required, please list specific limitations to activity in remarks section (section 4).</i>	
Signed: _____ Date: _____	
2. Healthcare Provider's Name: Address: Phone:	3. Area of Practice/Specialty (if any)
4. Please list specific restrictions to duty, if any: <i>(Please use extra paper if necessary.)</i>	
5. Additional remarks:	
6. Date Released to Return to Work:	



# Supervisor Responsibilities

- Check-in with the employee
- Don't ask employee to perform any work tasks
- Stay in contact with HR Benefits Office about RTW status
- Make sure the employee's time is entered in Kronos using the correct code
- If employee runs out of their own accruals complete a LWOP form
- It is important that time in Kronos is updated daily or in advance if an employee is on LWOP to avoid over payment
- Complete the Payroll overpayment form if the employee is overpaid
- Confirm with the Benefits Office that employee has been cleared to return to work if they were out for a serious medical condition



# Important Take-Aways

- ✓ Review the applicable policy when needing leave
- ✓ Communication is key! Provide regular updates to your manager and HR regarding your return-to-work status
- ✓ Timing is everything! Provide a fitness-for-duty at least 2 weeks prior to returning to work from medical leave
- ✓ While on leave ensure that your hours are being entered correctly
- ✓ No work during medical leave period
- ✓ If unsure, contact the Benefits Office or Employee Relations





# Where to Get Help!

- Need assistance?
  - Contact the Benefits Office
    - Marina LaLeux ([mleleux@charlotte.edu](mailto:mleleux@charlotte.edu)) for FMLA questions
    - Maria Sanchez ([msanch40@charlotte.edu](mailto:msanch40@charlotte.edu)) for Short-Term and Long-Term Disability questions
  - Contact Employee Relations
    - Samantha Floyd ([sfloyd18@charlotte.edu](mailto:sfloyd18@charlotte.edu)) for ADA Accommodation
  - Online Reasonable Accommodation Information
    - <https://hr.charlotte.edu/about-hr/personnel-information-memorandums-pims/pim-50-reasonable-accommodation>

Questions

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Answers

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