





Family Medical Leave Act

FMLA Essentials Part I

(Employee Rights & Responsibilities)

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Agenda Items

- FMLA – The Law and University Policy
- When and How to Apply
- Intermittent v. Fulltime Leave
- Confidentiality
- Timekeeping/Kronos
- Recertification
- FMLA and Holidays
- Return-to-Work & Fitness for Duty

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What is The Family and Medical Leave Act of 1993 (FMLA) ?

- A federal labor law requiring covered employers to provide employees with:
 - Up to 12 workweeks of job-protected, unpaid leave for qualified medical and family reasons or 26 workweeks for military caregiver leave
 - Continuation of health insurance coverage under the same terms and conditions
- Upon return from FMLA leave, an employee is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment

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What's Prohibited Under the FMLA?

- Interfering with, restraining, or denying the exercise, or the attempt to exercise, any FMLA right
- Prohibited from discriminating or retaliating against an employee or prospective employee from exercising or attempting to exercise
- Firing or discriminating against any person (regardless of employment status) for opposing or complaining about unlawful practice
- Prohibited from firing or discriminating against any person (regardless of employment status) for:
 - filing a charge or proceeding under or related to the FMLA
 - Giving, or is about to give, any information in connection with an injury or proceeding relating to any right under the FMLA; or
 - testifying, or is about to testify, in any proceeding relating to the right under the FMLA

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Does the FMLA apply to UNC Charlotte?

- Yes – Government agencies (including local, state and federal employers) and elementary and secondary schools are covered by the FMLA, regardless of the number of employees.
- Private employers with fewer than 50 employees are not covered by the FMLA
- UNC Charlotte FMLA Policies
 - [PIM No. 09](#) for staff and 12-month faculty
 - [University Policy 102.6](#) for 9-month faculty

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Am I Eligible for FMLA Leave?

Staff and 11 or 12-Month Faculty (PIM No. 09)	9-Month Faculty (Univ. Policy 102.6)
• Have worked for UNC Charlotte for at least 12 months • Have been in paid status for at least 1040 hours in the last 12 months • Have a qualifying family or medical reason	• Must work for the University for one full academic year • Have a qualifying family or medical reason

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What is a qualifying family or medical reason?

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| <ul style="list-style-type: none"> Employee's own <u>serious health condition</u> (including pregnancy) Caring for an immediate family member (spouse, parent, child) with a serious health condition Caring for or bonding with a new child (birth, adoption, foster placement) in the first year | <ul style="list-style-type: none"> Any qualifying exigency arising from the active military duty of the employee's immediate family member Care for a family member who is a covered servicemember with a serious injury or illness incurred or aggravated in the line of duty (up to 26 work weeks of leave allowed in a 12-month period) |
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What is a "Serious Health Condition"

Serious health conditions that qualify for FMLA leave under the law are:

- conditions requiring an overnight stay in a hospital or other medical care facility and subsequent treatment;
- conditions that incapacitate you or your family member (for example, unable to work or attend school) **for more than three consecutive days and have ongoing medical treatment** (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication);
- chronic conditions that cause occasional periods when you or your family member are incapacitated and require continuing treatment by a health care provider at least twice a year; and
- pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

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How do we Track FMLA? Rolling 12-Month Period

- Example 2:* Patricia requests two weeks of FMLA leave to begin on November 1st. The employer looks back 12 months (from November 1st back to the previous November 2nd) and sees that Patricia had taken four weeks of FMLA leave beginning January 1st, four weeks beginning March 1st, and three weeks beginning June 1st. Patricia has taken 11 weeks of FMLA leave in the 12-month period and only has one week of FMLA-protected leave available. After Patricia takes the one week in November, she can next take FMLA leave beginning January 1st as the days of her previous January leave “roll off” the leave year.

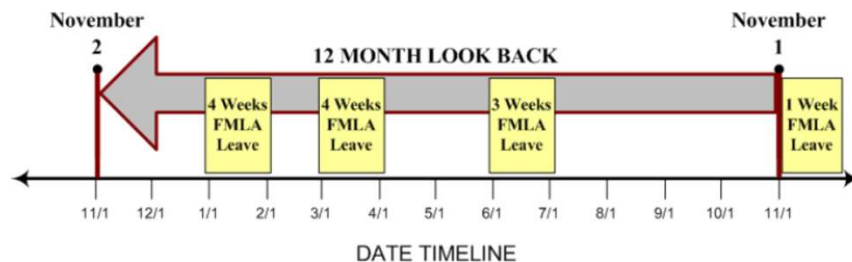


Photo courtesy of the EEOC

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When and How to Apply for FMLA



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Notice Requirement

- To take FMLA leave, you must provide HR with appropriate notice
- Complete FMLA paperwork at least 30-days in advance for known or planned events or as soon as possible in an emergency
- A known or planned medical event includes
 - Surgery or other scheduled medical procedures
 - Childbirth
 - Recurring medical appointments

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FMLA Application

- [Online FMLA Application \(Part A\)](#)
 - Online FMLA form lets the Benefits Office know you need FMLA
 - Faculty should also complete Academic Affairs Form AA-32 to obtain all the necessary departmental and college approvals for paid FMLA
- **Medical Certification**
 - DOL Forms provided by Benefits Office depending on type of qualifying event
 - *Must be returned within 15 calendar days*
- Benefits Office processes applications and notifies employees of status within 5 business days after completed medical certification received

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When Will Benefits Reach Out?

- To inquire about sick leave – The Benefits Office runs periodic reports and may reach out to an employee to provide information about Benefits Options when employee is out of work for more than 5 – 10 work days for sick leave
- To evaluate leave without pay (LWOP) – Prior to each payroll run, the Benefits Office runs reports to review employees in a LWOP status. The Benefits Office contacts employees showing up on the LWOP report to provide guidance on benefits options
- For clarification purposes – To seek clarification about FMLA communication or documentation

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Authorization to Contact Doctor's Office

- Benefits Consultant may request authorization to contact your doctor's office for authentication or clarification of the medical certification
- Benefits Consultant will not ask for additional information beyond that contained in the medical certification
- While an employee chooses to provide authorization to communicate directly with the health care provider of the employee or their covered family member, the employee is not be required to provide such an authorization
- Ultimately, it is the employee's responsibility to provide a complete and sufficient certification and failure to do so may result in the denial of FMLA leave

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Full-time v. Intermittent FMLA

- Leave earning eligible employees start off with 480 hours of FMLA (pro-rated for part-time and temporary employees)
- Leave may be taken all at one or intermittently over an extended period based on the medical condition or qualifying event
- Leave may also be taken as a combination of full-time and intermittent leave

Example of combination FMLA leave

Employee A need 4 weeks of full-time FMLA leave due to knee surgery and the recovery time following the procedure. Employee A will also need 6 months of intermittent FMLA when they return to work for follow-up appointments and physical therapy.

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Confidentiality Requirements

- What does the law say?

“Records and documents relating to certifications, recertifications or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files.”

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Confidentiality Requirements at Charlotte

- UNC Charlotte strictly complies with the confidentiality requirements of the Act and DOL regulations
- Employees are never required to disclose a medical diagnosis to anyone, including a supervisor or the Benefits Office
- The Medical Certification form does not ask for a diagnosis
- The Benefits Consultant does not share employee or a family member's medical information with anyone who does not have a need to know
- Your FMLA information is stored in a separate file in the Benefits Office and is not part of your personnel file.
- What is shared with a supervisor?
 - Dates of FMLA leave and anticipated return to work date.

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Kronos Leave Entry While on FMLA

Intermittent Leave

- Employee enters leave in Kronos and specifies if leave is FMLA or other (i.e., sick leave for dental appointment)
- If LWOP, employee enters hours in Kronos real-time (daily), or in advance to help prevent or minimize overpayments. If overpaid, the manager must complete an overpayment form and Payroll will collect from the following pay period

Full-time FMLA

- During an approved full-time FML, employees should not complete any work or make timekeeping, leave, or leave without pay entries in Kronos. The supervisor is responsible for the leave entries
- Employees should consult with their supervisor on eligible options to use their accruals and indicate any preferences
- If on a Full-time LWOP for more than 10 days, the employee also needs to contact the Benefits Office for guidance regarding benefit impact (i.e., health insurance premium payments)

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FMLA & Holidays

- If a University holiday occurs during a period of a full week of FMLA leave, then those hours count toward FMLA leave entitlement
- If a University holiday occurs during a partial week of FMLA leave, then those hours do not count against the FMLA leave entitlement, unless the employee was otherwise scheduled and expected to work during the holiday
- OSHR FMLA Policy:
<https://oshr.nc.gov/policies/family-and-medical-leave-policy>

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FMLA & Holidays

Example 1 – Partial Week FMLA

- Work week: Monday - Friday (Nov. 25, 26, 27 scheduled workdays, Nov. 28 and Nov. 29 Thanksgiving Holidays)
 - Employee starts FMLA Wed. Nov. 27, projected to end FMLA Tues. Dec. 3
 - Nov. 27, coded as (FMLA Sick, FMLA Vacation, FMLA Bonus, FMLA Comp, or FMLA LWOP)
 - Nov. 28 & 29 coded as Holiday, not FMLA

Example 2 – Full Week FMLA

- Work week: Monday - Friday (Nov. 25, 26, 27 scheduled workdays, Nov. 28 and Nov. 29 Thanksgiving Holidays)
 - Employee starts FMLA Mon. Nov. 25, projected to end FMLA Tues. Dec. 3
 - Nov. 26 thru Nov. 27, coded as (FMLA Sick, FMLA Vacation, FMLA Bonus, FMLA Comp, or FMLA LWOP)
 - Nov. 28 & 29 coded as FMLA Holiday

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Returning to Work After FML

- Employees returning from a full-time FMLA leave for their own serious health condition
 1. Requires a Fitness For Duty (FFD) form a week before returning
 2. If restrictions are received, employees will be referred to the ADA Consultant to review for potential accommodations and interim arrangements
- Employees returning from a full-time leave caring for a family member
 1. Not required to provide a Fitness For Duty Form (FFD)
 2. Employee would only need to let Benefits Office know when they have returned from leave
- Employees whose intermittent leave is ending:
 1. Not required to provide a Fitness For Duty Form (FFD).
 2. Employees will need to let Benefits Office know if they need to renew FMLA
- See [PIM 09: Family and Medical Leave](#) for more details

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Exhausting FMLA

- If an employee has exhausted their FMLA hours and need to continue to be out:
 - If for their own serious health condition, their leave case is referred to the ADA Consultant for review of a possible ADA accommodation. Reference [PIM 50 Reasonable Accommodations](#) for more details
 - If out to care for their immediate family member, they may qualify for the Family Illness Leave benefit (up to 52 weeks of leave without pay during a 5-year period). Reference [Family Illness Leave, OSHR Policy Manual, Section 5](#) for more details