

## **General Questions**

### **1. What are the requirements of the employee in the Family and Medical Leave (FML) process?**

- For a foreseeable leave, give notice to supervisor and [FML Administrator](#) as far in advance as possible.
- For unforeseeable leave, give notice to supervisor and FML Administrator as soon as practical.
- Request the health care provider complete the [Medical Certification of Health Care Provider for Employee's Serious Health Condition](#) form or the [Medical Certification of Health Care Provider for Family Member's Serious Health Condition](#) form and return the form to the FML Administrator within 15 calendar days.
- Follow the fitness-for-duty requirements and submit a dated health care provider return to work statement to the FML Administrator.
- Submit requests for intermittent or reduced schedule leave in a timely manner and schedule leave in a manner that is least disruptive to the administrative unit.
- For military related certifications:
  - Submit [Certification of Qualifying Exigency for Military Family Leave](#) form and written documentation such as duty order, dates of active service and date of commencement of exigency.
  - Submit [Certification for Serious Injury or Illness of Covered Servicemember for Military Family](#) form and written documentation confirming the current servicemember's injury or illness was incurred in the line of duty while on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current servicemember is undergoing treatment for such injury or illness.

### **2. Who should an employee contact to request FML?**

An employee must contact their [FML Administrator](#), and notify their supervisor or HRP of the need for leave. The FML Administrator is responsible for administering FMLA leave.

### **3. What is the FML Administrator required to do?**

- Determine employee eligibility under FMLA.
- Upon notification by the employee of the need to take leave or recognizing an FML event, the FML Administrator must issue to the employee within *five business days* the [Notice of Eligibility and Rights and Responsibility](#) form of potential eligibility for FML. The letter may include one of the following four forms: 1) [Medical Certification of Health Care Provider for Employee's Serious Health Condition](#), 2) [Medical Certification of Health Care Provider for Family Member's Serious Health Condition](#), 3) [Certification of Qualifying Exigency for Military Family Leave](#), or 4) [Certification for Serious Injury or Illness of Covered Servicemember for Military Family](#) for the employee to get completed and return within 15 calendar days.
- Upon receipt of employee's medical documentation to support the leave request, the FML Administrator must review the documentation and determine if it meets the criteria for a qualifying event. The FML Administrator must issue an approval or denial [Designation Notice \(FML\)](#) form to the employee within *five business days*.
- If documentation is incomplete or insufficient, the FML Administrator will notify the employee of the need for clarification and specifically what additional details are required. The FML Administrator will provide the employee with seven calendar days to obtain and resubmit a complete certification.
- Ensure that requests for fitness-for-duty certification are included in the letter of designation. If requiring a fitness-for-duty certification, attach a copy of the employee's position description or physical job requirements sheet. The health care provider will assess the employee's ability to perform the functions as specified in the position description or physical job requirements sheet.



- Maintain FML claim documentation, including a copy of the written notice provided to the employee, letter of designation, medical documentation to support the absence, the letter approving or denying the leave, release to return to work documentation and information regarding FML usage. These records are confidential and must be maintained separately from the personnel file.
- Obtain fitness-for-duty certification for the employee's return to work and notify department of employee's return to work date.
- Provide current FML balance to the employee upon request.

**4. What is the unit HR professional required to do?**

- Post [FMLA Rights and Responsibilities](#) notice on premises or electronically.
- Upon employee's return to work, place employee in same or equivalent position with equivalent pay, benefits and other terms and conditions of employment.
- Ensure supervisors approve and enter timekeeping appropriately in accordance with FML designation approvals.
- Contact the FML Administrator when an FML event is known or anticipated.
- Contact the FML Administrator if the employee's absence is not aligned with the approved FML frequency and duration.

**5. What is my supervisor required to do?**

- Contact the FML Administrator when an FML event is known or anticipated.
- Ensure all timekeeping reporting codes are approved and entered in accordance with the FML designation.
- Contact the FML Administrator if the employee's absence is not aligned with the approved FML frequency and duration.
- Ensure the employee provides a release to return to work prior to returning and contact the FML Administrator upon the employee's return to work.

**6. As an employee, do I have to provide written notification of my leave request to a specific person?**

Yes, the employee must submit written notification of their request for FML to their FML Administrator. If the employee fails to follow the notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied.

**7. Can supervisors contact the employee's health care provider directly?**

No. The employee's supervisor is expressly prohibited from contacting an employee's health care provider. The FML Administrator can contact the employee's health care provider to clarify or authenticate information.

**8. Does my manager have the right to see medical documentation, or ask about my medical condition?**

Under the FMLA, confidentiality of medical information is an employee right. An employee's supervisor is not provided a copy of the completed medical certification form, or other medical documentation. They will receive a copy of an employee's rights and responsibility form and FML designation. These forms may provide information on the type and length of leave, for whom the leave is to be taken, and the frequency and duration of leave.

Information may only be shared for extremely limited purposes:

- to supervisors and managers where they need medical information in order to provide a reasonable accommodation
- to first aid and safety personnel if an employee would need emergency treatment
- to individuals investigating compliance with the ADA and with similar state and local laws
- pursuant to worker's compensation laws

In all cases, the assigned FML Administrator works to assure sensitive information is kept confidential. If an employee is uncomfortable talking to their manager about the situation, they can contact the unit HRP or [Employee Labor Relations](#).



**9. Can a unit take action against an employee under the unit's "no fault attendance policy" based on use of FML?**

No, the unit cannot discipline an employee for taking FML. The unit may discipline an employee for a failure to follow the established call off procedures. If a bonus, award or other payment is based on the achievement of a specified goal (examples: perfect attendance or safety) and an employee has not met the goal due to time spent on FML, then the bonus or payment can be denied as long as other employees on an equivalent leave that does not qualify as FML (vacation or sick) are treated the same.

**10. Will the employee continue to have health benefits during the FML period?**

If the employee is in a paid leave status, their health care premiums will continue to be deducted from their paycheck. If the employee is in an unpaid leave status, the employee is responsible for the payment of benefits, for which they will receive an invoice. See [Benefits Continuation while on Approved Leave of Absence](#) for additional information.

**11. My health care provider has assigned the physician assistant to care for me. Is that OK?**

Yes, the health care provider must be licensed by a state to deliver health care services in order to certify FML. Health care providers may be a doctor of medicine or osteopathy, dentist, clinical psychologist, social worker, physician assistant, optometrist, podiatrist, chiropractor, nurse practitioner, nurse mid-wife, or Christian Science practitioner who certify within the scope of their practice.

**12. How does the rolling 12-month period work?**

The rolling 12-month period is measured backward from the date FML is scheduled to commence. If the employee has taken some or all of their FML time in the previous 12 months that time will be subtracted from the total 12-week allowance. For example, on March 1, 2016, the employee takes four weeks of leave. On June 1, 2016, the employee takes eight additional weeks of leave. The employee requests FML leave again on February 14, 2017. The leave will be denied because they do not gain back potential FML hours until March 1, 2017, (12 months prior to when their leave first commenced). Employees do not gain back FML hours in a lump sum, rather they earn them back day by day, hour by hour based on the rolling 12-month period.

**13. How are hours worked calculated for purposes of FML?**

An employee may be in an active pay status, however, for purposes of calculating hours worked, the employee must have physically worked in a regular and/or overtime status. Vacation, sick and compensatory time do not constitute hours worked.

**14. How do multiple approved FML certifications impact an employee's leave entitlement?**

An employee with approved FML certifications is only eligible for up to 12 weeks (480 hours) of FML leave regardless of the number of approved conditions.

**15. What is not covered under Family and Medical Leave?**

Family and Medical Leave is not intended to cover short-term conditions for which treatment and recovery are very brief (i.e., colds, flu, etc.). Treatment does not include routine physical exams, eye exams or dental exams. Over-the-counter medications are not considered part of a regimen of treatment.

**16. What if there is no medical end date on the certification?**

The FML Administrator will return the form to the employee and ask the employee to get more specific information and dates from their health care provider.

**17. What if an employee has a migraine headache that usually lasts only one day at a time? Are these absences from work covered under FML?**

They could be covered if the migraine headaches constitute a serious health condition under FMLA. Typically, the employee's physician would have to diagnose that the migraine is a serious chronic health condition, which requires



periodic visits for treatment; continues over an extended period of time; and may cause episodic rather than continuing period of incapacity. If there appears to be a pattern of absences or other reasons that indicate abuse of FML, the university may ask for further medical documentation and possibly deny FML.

**18. What if an employee has a broken ankle that has healed, and they have to go to physical therapy three times a week. Does the supervisor have to let the employee go whenever they want?**

If an employee uses FML “intermittently” for purposes such as physical therapy, the supervisor may require the employee to schedule the leave ahead of time and when it is least disruptive to the unit.

**19. An employee has intermittent leave for a back injury that is approved for a year; and within that approval year the employee needs surgery for an ankle injury, does the employee need to file a new FML claim for the ankle surgery?**

Yes, the employee’s ankle surgery is considered a new qualifying condition. The new condition requires complete and sufficient medical certification be submitted.

**20. What type of documentation can be requested to establish a relationship to an immediate family member?**

This documentation may take the form of a written statement from the employee, a child’s birth certificate, a court document, etc. Per the policy, an immediate family member is defined as any one of the following:

1. Spouse or domestic partner;
2. Biological, adoptive, step-, or foster parent;
3. Individual who stood in loco parentis to an employee when the employee was a child; or
4. Biological, adopted, step-, or foster child; a legal ward; or a child of a person standing in loco parentis to the child who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

**21. What if I need to care for a person who does not qualify as an immediate family member under the FML policy?**

If the family member does not qualify under the FML policy as an immediate family member, consult with your unit human resources professional or manager on other leave options that may be available in accordance with the [Paid Leave Programs](#) policy and [Unpaid Leave](#) Policy.

**22. An employee is requesting FMLA leave for their adult child, can they take FML leave to care for their adult child?**

Yes, only if the adult child is determined to be incapable of *self-care* because of a disability. In order for a parent to take FMLA leave to care for an adult child, the adult child must also have a serious health condition, and *need care* because of the serious health condition.

*Serious health condition* - A serious health condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. (See the FMLA regulations at [29 C.F.R. 825.113-115](#) for additional information.)

*Needed to care* - A parent may be needed to care for an adult child if, for example, the adult child is unable to provide self-care for basic medical, hygienic, nutritional needs, or safety, or, is unable to arrange for transport, or self-transport to the doctor, because of the serious health condition. “Needed to care” also includes providing psychological comfort and reassurance that would be beneficial to an adult child with a serious health condition who is receiving inpatient or home care.

**23. What if the employee states they do not want their condition covered by FML? Can they save it?**

It is the employer’s responsibility to designate leave as FML when there is a known qualifying reason and the employee is eligible for FML. The FML designation is not at the discretion of the employee.



**24. What if an employee needs to extend the leave period beyond the specified amount of time designated in the policy (beyond 12 weeks) due to complications?**

If the employee has medical documentation that requires them to be off work for a longer period of time than originally designated, the employee may apply for a medical leave of absence and may use paid leave pursuant university policy for the remainder of the time needed. The Office of Human Resources, [Integrated Absence Management and Vocational Services](#) will consult with the employee and their unit concerning approval of further leave as well as other accommodations that may be appropriate under the Americans with Disabilities Act Amendments Act (ADAAA).

**25. Does the law guarantee paid time off for FML?**

No. The Family Medical Leave Act (FMLA) only requires unpaid job protected leave. Pursuant to the [Paid Leave Programs](#) policy, the university requires employees to take sick leave for their own serious health condition or an immediate family member's serious health condition. Sick leave must be exhausted prior to the use of vacation leave or vacation in lieu of sick leave. Vacation in lieu of sick leave should be taken in accordance with collective bargaining agreements and department attendance policies.

**26. What is the difference between FML and sick, vacation and parental leave?**

FML is an unpaid job protection benefit that is a federal entitlement program under the Family and Medical Leave Act (FMLA) available to eligible employees. In order for an employee to be paid while on FML leave, sick, vacation and parental leave are paid leave programs offered by the university. Sick, vacation and parental leave run concurrently with FML. Accordingly, FML is the unpaid job protection; and, if eligible and with an available balance, sick, vacation and parental leave ensure that an employee continues to be paid during the use of FML.

**27. Do holidays count toward the 480 hours of FML?**

The fact that a holiday may occur within the week taken as FMLA has no effect; the week is counted as a week of FMLA leave. However, if an employee is using FML in increments of less than one week, the holiday will not count against the employee's FML entitlement unless the employee was scheduled and expected to work during the holiday.

**28. Do holidays count toward the 480 hours of FML if the university closes or employees are not expected to report to work?**

If the university closes or employees are not expected to report to work for one or more weeks, the days the university's activities have ceased do not count against the employee's FML entitlement.

**29. How does parental leave work in combination with FML if a holiday falls during the period of FML leave?**

Parental leave is considered active pay status, thus the employee is eligible to receive holiday benefit pay on the day of the university holiday and does not need to request parental leave on that day; however, that day counts as a FML protected day.

**30. What if I am receiving workers' compensation or Short-Term Disability (STD)/Long-Term Disability (LTD)? Is that also FML?**

Yes, it can be. If the employee is eligible for FML, time spent on workers' compensation, STD, or LTD benefits will be concurrently designated as FML as long as the injury/illness meets the requirements for an FML qualifying event.

**31. Can a department take corrective action when an employee requests time off for substance abuse treatment?**

A department cannot take action against an employee for exercising the employee's FML right to take time off for substance abuse treatment. An employee may be subject to discipline, including termination, for violation of an established, consistently enforced, substance abuse policy.



**32. What happens if an employee knew about the need for FML leave prior to 30 days before the leave but did not provide notice within 30 days?**

For foreseeable leaves, FMLA leave may be delayed or denied when an employee does not provide notice as soon as practicable, and no unusual circumstances justify failure to comply. In these cases, an employee will be asked about their inability to provide proper notice.

**33. Is an employee who is out on FML from the university allowed to work outside the university at another job?**

This should be reviewed on a case-by-case basis. There may be cases when an individual may not be able to perform the functions of their job at the university but they do have the ability to perform the functions of a second job.

**34. What does authentication of medical information mean?**

Authentication is defined as requesting verification that the information on the form is accurate and was authorized by the health care provider who signed it. No additional medical information can be requested and the employee's permission is not needed to obtain this information.

**35. What does clarification of medical information mean?**

Clarification generally refers to requests to decipher handwriting or to understand the meaning of a health care provider's response. No additional information may be obtained. An employee can choose not to allow the FML Administrator to seek clarification, but then the FML Administrator may deny the leave if the certification is unclear.

**36. Can an employee be required to submit a re-certification in less than 30 days?**

Yes, if circumstances such as duration or frequency of absences, the severity of the condition or complications as described in the previous certification have significantly changed, or if information that casts doubt on the reason for the prior certification is obtained recertification would be requested.

**37. Can an employee be required to submit to a fitness for duty certification before returning to work?**

Yes, as long as the employee has been advised of this requirement when the FML Administrator designated the leave as FML.

**Leave for qualifying exigency and/or care for covered service member**

**38. What circumstances constitute a qualifying exigency?**

A qualifying exigency arises out of the fact that the employee's family member (spouse, domestic partner, parent, son or daughter) is on covered active duty in a foreign country or has been notified of an impending call to active duty in a foreign country. A qualifying exigency includes:

- a) Short-notice deployment – call/order to covered active duty seven days prior to date of deployment.
- b) Military and other activities related to call to covered active duty.
- c) Child care and school activities – e.g. arrange for alternative child care, enroll child in new school or day care, attend meetings with school or day care staff, and provide childcare on urgent or immediate need basis.
- d) Parental care leave – to provide care on an immediate need basis for the military member's parent who is incapable of self-care, e.g., admitting or transferring the parent to a care facility, attending meetings with staff at a care facility, etc.
- e) Make or update financial and legal arrangements.
- f) Counseling that arises out of the military service.
- g) Rest and recuperation – limited to 15 days per leave to spend with military member on short-term leave.
- h) Post-deployment activities – leave to attend post-deployment functions such as arrival ceremonies, reintegration briefings, funeral arrangements that occur within 90 days following termination of covered active duty status.
- i) Additional activities – must be agreed to by the supervisor, the employee, and the Office of Human Resources, Employee and Labor Relations in consultation with the Office for Military and Veterans Services.



**39. Does leave for a qualified exigency cover active military members?**

No. Qualified exigency leave is not available to employees whose family members are already on active duty in the regular U.S. Armed Forces or are National Guard members called to state service.

**40. What is a contingency operation?**

It is a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the Armed Forces, or any other provision of law during a war or during a national emergency declared by the President or Congress

**41. May an employee use sick time when they take time off due to qualified exigency?**

A qualified exigency could involve multiple scenarios. If the reason that the individual needs to be off work is due to a medical reason then they would use their accumulated sick time. If they are requesting the leave to make arrangements for a military leave then they would use vacation.

**42. What is included in Armed Forces?**

The term “Armed Forces” includes the U. S. Army, Navy, Air Force, Marine Corps, Coast Guard and the National Guard or Reserves.

**43. Do I use vacation or sick leave time for the military portion of this policy?**

You may use vacation, unless it is for a medical reason, in which case you would use sick leave.

**44. Can I require confirmation of a family relationship if an employee requests leave based on an immediate family member?**

Yes. It can take the form of a simple statement from the employee, a child’s birth certificate, a court document, etc. The employee is entitled to the return of the official document after review.

**45. What type of documentation should an employee submit to support a request for military leave involving an injured/ill servicemember?**

An employer must accept International Travel Orders (known as ITOs) and Invitational Travel Authorizations (known as ITAs). These documents permit the family member to join the injured/ill servicemember.

**46. If the employee is not the only family member that is available to care for a servicemember that needs care, can the unit deny the leave request?**

No. The unit cannot scrutinize the availability of other family members.

**Student Employees**

**47. How is FML leave handled for student employees with multiple employee appointments on campus?**

Ohio State is one employer, so in the event a student employee holds multiple appointments, they must do so in compliance with the Student Employment Policy. If the employee is granted FML leave from the university, they may be granted leave for all the appointments held at Ohio State based on the approved medical certification on file.

**48. What student employee positions are eligible for FML leave?**

Any student employee or graduate associate position is eligible for FML leave if the employee meets the eligibility criteria as set forth in the Family Medical Leave Policy 6.05. Service as a graduate fellow does not constitute university employment and, therefore, does not count towards FML eligibility.



**49. Where can I obtain additional information?**

- Review the [Family and Medical Leave](#) policy and the [FML](#) website
- Contact [Integrated Absence Management and Vocational Services](#) (IAMVS) via phone (614-292-3439) or email ([hr-integrateddisability@osu.edu](mailto:hr-integrateddisability@osu.edu))
- Contact [Employee and Labor Relations](#) via phone (614-292-2800) or email ([hr-elr@osu.edu](mailto:hr-elr@osu.edu))