



# Supervisor Toolkit

## Managing the Family and Medical Leave Act

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# FMLA Overview

## What is FMLA?

The Family and Medical Leave Act (FMLA) is a federal regulation that entitles eligible faculty/staff members (employees) to up to 12 weeks of job-protected leave and benefits continuation for qualifying events including:

- The employee's own serious health condition
- A family member's serious health condition (spouse, parent, or child under the age of 18)
- The birth or care of a newborn child
- The adoption or foster care of a child
- Qualifying military exigencies
- Military caregiver leave (up to 26 weeks)

## Types of FMLA Leave

There are two types of FMLA leave.

### 1) Continuous or Block Leave

*Leave is for a consecutive number of days.*

#### **Tracking Block Leave:**

When an employee is designated for continuous, block leave they will be provided job-protected leave for a single period of time based on a medical certification completed by a medical provider. The supervisor is provided with a leave duration, as well as a return to work date. The Leave Coordinator will reach out to the employee at least one week prior to the return to work date and confirm that they do not need to extend the leave and is medically fit to return (if applicable). The supervisor will be copied on this confirmation email. If the employee does not show up on the return to work date, the supervisor should contact the Central HR Leave Team. A member of Human Resources will attempt to reach out to the employee.

Example: John has surgery and needs 6 weeks of FMLA leave to recover.

### 2) Intermittent Leave

*Leave is taken in separate blocks of time or a reduced schedule is implemented.*

#### **Tracking Intermittent Leave:**

While an employee is taking intermittent leave, the need for leave may not be foreseeable or predictable. However, the medical provider will be able to estimate the frequency of the leave. When the employee is designated for intermittent leave, a general leave schedule will be provided to the supervisor. If the employee is taking more leave than what they have been approved for, it is the supervisor's responsibility to contact the leave team. The leave team will attempt to obtain additional medical documentation from the employee, and any leave taken that is not documented in the leave schedule will be considered unauthorized under the FMLA.

Example: Sam needs treatment 2 times a week for his chronic health condition. Sam needs to reduce his schedule on Tuesday and Thursday to work 4 hours a day.

## Who is Eligible for FMLA?

In order to be eligible for FMLA leave, the employee must:

- Be employed at the University for at least 12 months
- Have worked at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

OR

- Be employed at a state employer for 12 months (Classified Staff Only)

## How Does FMLA Work?

### **If the employee is taking FMLA leave for their own serious health condition or pregnancy:**

The employee must submit a medical certification that will require information from the medical provider. The medical certification will be reviewed to ensure the need for leave is qualified under the Family and Medical Leave Act. The University requires that the employee substitute available paid leave (sick and annual) for unpaid FMLA leave. If the employee's leave has a duration of 29 consecutive calendar days (30 calendar days for Classified Staff), short-term disability (STD) pay may apply. Employees who elect to remain out of work longer than the disability period (such as after the birth of a child), will use their remaining sick, annual, or paid parental leave as pay. If the employee does not have any sick, annual, or paid parental leave left, the employee's leave will be unpaid.

### **If the employee is taking FMLA leave for a family member's serious health condition:**

The employee must submit a medical certification that will require information from the medical provider regarding the family member's medical condition. The medical certification will be reviewed to ensure the need for leave is qualified under the Family and Medical Leave Act. The employee will be required to substitute available paid leave (sick and annual) for unpaid FMLA leave. If the employee does not have any accrued time, the leave will be unpaid.

## Benefits and Payroll Deductions

During the FMLA leave period, there are certain payroll deductions that will continue as long as the employee is on paid leave. These deductions include medical and dental premiums, life insurance, retirement contributions, parking fees, Rec Center membership fees, etc. Should any portion of the leave go unpaid, the employee will maintain coverage under CU's benefit plans. CU will continue to pay the employer portion of the premium while the employee is on leave. The employee will need to arrange to continue payment of their share of the premium. The employee is ultimately responsible for managing their benefits while on leave. The Benefits Office can be reached at **303-860-4200**.

## FMLA Supervisors Checklist

If an employee requests FMLA leave, or has been out on sick leave for more than three consecutive days, the supervisor should refer the employee to the Central HR Leave Team at [FMLA@colorado.edu](mailto:FMLA@colorado.edu). A Leave Coordinator or another member of Human Resources will work with the employee directly to obtain a medical certification, and notify the supervisor as soon as the leave has been approved/denied.

If Human Resources has notified the supervisor that an employee has been approved for Family and Medical Leave, the supervisor should consider the following:

- ✓ Review the designation e-mail from Human Resources to ensure the FMLA start and end dates are correct.
- ✓ Meet with the employee to review any work-related information that needs to be obtained, prior to the employee starting their leave (if foreseeable).
  - Project status updates
  - Day to day tasks
  - Obtain any important contacts or information
- ✓ Get the work covered – it is the supervisor’s responsibility to ensure work is completed, even if an employee is out on leave. Work with your department and Human Resources to explore possible options and resources. Human Resources can be reached at 303-492-6475.
- ✓ At least one week before the employee is scheduled to return, work with the leave team to ensure the employee has returned or will be returning a **“Fitness to Return”** certification.
- ✓ Once there is confirmation that the employee will be returning to work on the scheduled return to work date, the supervisor should prepare for the employee’s transition back into their role.

## Supervisor Rights & Responsibilities

### Prior to Leave

Before an employee begins Family and Medical Leave (if block leave), Human Resources recommends meeting with the employee to discuss the following:

- Updates on projects/day to day tasks
- Information sharing for the employee to provide any work related updates to the supervisor

When an employee is out on leave, they will not be working at any capacity. If possible, please ensure all necessary information is obtained from the employee prior to the start of the leave.

If the employee has started leave unexpectedly, the supervisor will not have had the opportunity to gather this information from the employee and should not burden the employee with work-related questions and tasks.

Please note: supervisors and colleagues should not ask or request any information related to the employee's medical condition. Supervisors will not have access to review any medical information provided by the employee. If a supervisor has any questions or concerns related to the employee's medical leave, please contact the leave team at [FMLA@colorado.edu](mailto:FMLA@colorado.edu).

### Returning the Employee to Work

When an employee returns to work, the FMLA requires that the employer return them to the same job that they were in when the leave began, or one that is nearly identical. If it is not possible to return the employee to the exact same job, the new position must:

- Involve the same or substantially similar duties, responsibilities, and status
- Include the same general level of skill, effort, responsibility and authority
- Offer identical pay, including equivalent premium pay, overtime and bonus opportunities
- Offer identical benefits (such as life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, pensions, etc.);
- Offer the same general work schedule, and be at the same (or nearby) location.
- Please keep in mind that if an employee exhausts the FMLA leave entitlement and is unable to return to work, the employer is not required to restore the employee to their position.

## Supervisor FAQs

### **Do I have the option to delay FMLA if our department is busy?**

No. If the employee is eligible and approved for FMLA, they are entitled to the leave.

### **When should I start the FMLA Process?**

The supervisor should contact the leave team to initiate the FMLA process when an employee informs them that they need time off for a reason that may be covered by the FMLA. The employee may not be as clear as to mention the “FMLA” when asking for the time off, but the supervisor should be aware that the reason might qualify for FMLA. When in doubt, contact Human Resources.

### **Is it my responsibility to confirm if the employee is eligible for FMLA?**

No. Human Resources will work directly with the employee to confirm eligibility.

### **An employee has been approved for intermittent leave. Can I ask the employee to work with me to schedule the leave, or can they schedule the leave when it is convenient for them?**

It depends. Some leave is unpredictable (example: for medical flare-ups). The employee should work with the supervisor and make a reasonable effort to schedule appointments or foreseeable leave at a time that will not disrupt the work of the department.

### **Does an employee need to exhaust sick and annual leave before they can start FMLA?**

No. Sick and annual leave run concurrently with Family Medical Leave.

### **Can I (the supervisor) confirm that sick time was used for the FMLA qualifying condition?**

Yes. If the supervisor is aware that an employee used sick time, the supervisor can check-in with the employee to see if that time was related to the FMLA qualifying condition or if the time was used for another reason (the flu, a cold, etc.).

## Contacts and Resources

<p style="text-align: center;">Family and Medical Leave (FMLA) at CU Boulder</p> <p style="text-align: center;">Parental Leave</p>	<p style="text-align: center;">Employee Relations Central HR Leave Team Department of Human Resources <a href="mailto:Leave@colorado.edu">Leave@colorado.edu</a></p>	<p style="text-align: center;">Administrative Research Center 3100 Marine St. 3<sup>rd</sup> Floor Boulder, CO 80309</p>
<p style="text-align: center;">Short-term Disability and Benefits</p>	<p style="text-align: center;">Employee Services 303-860-4200 <a href="mailto:employeeservices@cu.edu">employeeservices@cu.edu</a></p>	<p style="text-align: center;">1800 Grant St. Suite 400 Denver, CO 80203</p>
<p style="text-align: center;">On-the-Job Injury and Workers' Compensation</p>	<p style="text-align: center;">Risk Management <a href="mailto:urmucbdirs@cu.edu">urmucbdirs@cu.edu</a></p>	<p style="text-align: center;">Marine St. Science Center 3215 Marine St. Boulder, CO 80303</p>
<p style="text-align: center;">Americans with Disabilities Act (ADA)</p>	<p style="text-align: center;">ADA Compliance Unit ADA Coordinator 303-492-9725 <a href="mailto:ADAcoordinator@Colorado.edu">ADAcoordinator@Colorado.edu</a></p>	<p style="text-align: center;">Administrative Research Center 3100 Marine St. 2nd Floor Boulder, CO 80309</p>