

1. What documentation will an employee need to submit to the department to request FML for herself/himself or to care for a family member?

An employee needs to:

- Review FML policy and determine if eligible for FMLA-protected leave. Contact supervisor, unit Human Resource Professional (HRP) or the Office of Human Resources if eligibility and/or medical documentation questions exist.
- For foreseeable leave, give notice to supervisor or unit administrator, as far in advance as possible, followed by written documentation submitted 30 calendar days before the leave.
- For unforeseeable leave, give notice to supervisor or unit administrator as soon as practical.
- Request the health care provider to 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. Return the form to the supervisor within 15 calendar days.
- Submit a dated health care provider return to work statement to the supervisor and follow fitness-for-duty requirements.
- Submit requests for intermittent or reduced 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 servicemember's injury or illness was incurred in the line of duty while on active duty and is undergoing treatment for such injury or illness.

2. What is the unit HR professional required to do?

- Post FMLA rights and responsibilities notice on premises or electronically.
- Determine employee eligibility under FMLA.
- Upon notification by the employee of the need to take leave or recognizing an FML event, the unit 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 must include an [Application for Leave](#) and one of the following four forms: [Medical Certification of Health Care Provider for Employee's Serious Health Condition](#), [Medical Certification of Health Care Provider for Family Member's Serious Health Condition](#), [Certification of Qualifying Exigency for Military Family Leave](#), or [Certification for Serious Injury or Illness of Covered Servicemember for Military Family](#).
- Upon receipt of employee's medical documentation to support the leave request, the HRP must review the documentation and determine if it meets the criteria for a qualifying event. The HRP must issue an approval or denial [Designation Notice \(FML\)](#) form to employee within *five business days*.
- 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. Failure to notify the employee of the need for a fitness-for-duty certification will preclude its requirement.
- Maintain employee records of FML usage and balances. These records include 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 and the amount of FML used during the benefit year. These records are confidential and must be maintained separately from the personnel file.
- Upon employee's return to work, place employee in same or equivalent position with equivalent pay, benefits and other terms and conditions of employment.
- Provide current FML balance to the employee upon request.

3. 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.

4. 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 the department must subtract that time from the total 12 week allowance.

5. Does my manager have the right to ask about my medical condition?

The department will need to have a description of the medical condition to allow them to designate FML appropriately. If the employee is uncomfortable talking to their manager about the situation they can contact the HR professional in the unit or Employee and Labor Relations.

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

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

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

Yes, the employee will continue to have the same coverage during the FML as they had prior to the leave. If the employee is in a paid leave status then they will continue to pay the health care premiums as usual. However, if the employee is in an unpaid leave status then the university will cover the cost of the premiums during the FML.

8. 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.

9. 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.

10. What if the employee states they don't 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.

11. 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 sick leave for the remainder of the time needed. This would be subject to department approval. In addition, the employee may contact the ADA Coordinator's Office to determine if accommodations would be appropriate under the Americans with Disabilities Act (ADA).

12. Do holidays count toward the 480 hours of FMLA?

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 FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was scheduled and expected to work during the holiday.

13. 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 FMLA leave entitlement.

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

Supervisors 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.

15. 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.

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

A supervisor cannot take action against an employee for exercising her/his FML right to take time off for substance abuse treatment. Nothing in the FMLA regulations protect the employee from discipline, including termination, for violation of an established, consistently enforced, substance abuse policy.

17. 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?

When an employee does not provide at least 30 days notice of foreseeable leave, the supervisor can ask for a reason and the employee must explain it. If the employee does not comply with the notice requirement, and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied.

18. 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.

19. Can a supervisor require that the employee notice be issued in writing or that the employee contact a specific individual?

Yes they can. It is preferable that the employee submit written notification of their request for FML. 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.

20. 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. A designated university health care provider, the unit's HR professional, leave administrator, or management official can contact the employee's health care provider to clarify or authenticate information.

21. 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.

22. 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 supervisor to seek clarification, but then the supervisor may deny the leave if the certification is unclear.

23. Can a department require an employee 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 the unit supervisor received information that casts doubt on the reason for the prior certification.

24. Can a supervisor require an employee 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 supervisor designated the leave as FML.

25. 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.

26. 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.

27. 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.

28. What is included in Armed Forces?

The term "Armed Forces" includes the U. S. Army, Navy, Air Force, Marine Corps, and Coast Guard.

29. 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.

30. What if I am on workers' compensation? Is that also Family Medical Leave?

Yes, it can be. Time spent on workers' compensation will be concurrently designated with FML as long as the illness/injury meets the requirements of an FML qualifying event.

31. 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.



Policy 6.05 Family and Medical Leave (FML) Frequently Asked Questions

32. Does the law guarantee paid time off for FML?

No. The Family Medical Leave Act (FMLA) only requires unpaid leave. The university requires employees to take sick leave for their own serious health condition or an immediate family member's serious health condition. The university also permits an employee to elect to use accrued paid sick and/or vacation leave for some or all of the FML period. When paid leave is substituted for unpaid FML, it will be counted against the 12-week FML entitlement.

33. 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. 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.

34. 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.

35. Where can I obtain additional information?

- Visiting hr.osu.edu/policy Policy 6.05 Family and Medical Leave
- Contacting [Employee and Labor Relations, ohrc@hr.osu.edu](mailto:ohrc@hr.osu.edu), 614- 292-2800