

# FMLA Procedure

## Introduction

This information is a general summary of the steps to follow when considering a request for family or medical leave. An employee may specifically request an FMLA leave, or may tell you that they need to take time off for a medical issue. In either case, take the following steps to determine whether the FMLA applies and properly document the process. LER has provided a checklist for supervisors or departmental HR personnel to assist in following the process described in this document.

## Step 1. Employee expresses need for leave and completes Leave of Absence Form

If an employee informs you of their need for a leave of absence, ask them to fill out the UVM Leave of Absence form. Explain the purpose of FMLA to the employee and/or encourage them to follow up with their LER representative. Create a new FMLA checklist for the employee, noting the date on which you were informed of the need for leave and the date on which you directed them to fill out the Leave of Absence form. Have the employee return the form to you as soon as possible.

- While it is important to have the employee complete a Leave of Absence form, this is not a requirement for taking FMLA leave.

## Step 2. Determine Eligibility

Within 5 business days of when you are informed of the need for leave, you must, under the law, notify the employee as to their eligibility for FMLA. To be eligible, the employee must meet *all* of the requirements described below. The employee must have:

- Been employed at UVM for at least 12 months. Employment does not need to have been continuous, except that separate periods of employment in which the break in service exceeds 7 years are not used to determine FMLA eligibility.
  - Worked at least 1,250 actual work hours during the 12-month period prior to the first day of the leave. Use only time actually worked in the calculations. Time paid but not worked (such as vacation, sick, etc.) does not count toward the 1,250 hours.
  - Not already used 12 weeks of FMLA entitlement in the previous twelve months.
  - The 1,250 work hour requirement also applies when an employee is reapplying for FMLA for a new year. The supervisor should ask the employee to complete a new Leave of Absence Request for the new twelve month period and submit new medical certification.
  - If the employee does not meet eligibility requirements for FMLA, contact LER. There may be other options available, including Vermont Parental and Family Leave.
- ➔ **Proceed to Step 3** (*Determining Qualifying Reasons*) if the employee meets all of these requirements. If the employee does not meet all of the requirements, then proceed to Step 7 (*Denial of Leave*).

### Step 3. Determine Qualifying Reasons

Determine if the reason for the absence is one of the qualifying reasons listed below.

- Childbirth, or care and bonding with an infant, within the first year of the child's life.
- Placement of a child with the employee, through adoption or foster care.
- Care for any of the following family members who has a qualifying serious health condition: the employee's spouse or partner in a civil union, the employee's child under the age of 18, or the employee's parent.
- Care for the employee's child 18 or older who has a qualifying serious health condition and is incapable of self-care because of a mental or physical disability.
- A qualifying serious health condition that renders the employee unable to perform the functions of his or her job.

➔ **Proceed to Step 4** (*Selecting Reason and Completing Forms*) if the employee meets any of these qualifying reasons. If the employee does not meet any of the qualifying reasons, proceed to Step 7 (*Denial of Leave*).

If you are uncertain whether the reason or relationship is a qualifying one, contact LER for assistance.

### Step 4. Select Reason for Leave and Complete Appropriate Forms

#### Qualifying Reason #1: Birth, adoption, or care of a newborn

If the absence is for the care of a newborn or the birth of a child, or the placement of a child for adoption or foster care (with the employee) *and* the employee is eligible under the law, do the following:

- Complete the Notice of Eligibility and Rights & Responsibilities. Fill in the appropriate dates and details of the employee's situation. If you need assistance determining any of the information requested on the Notice, contact LER.
- Medical certification is not requested for births unless there are medical complications. If the absence is due to a health problem related to the pregnancy, proceed to Qualifying Reason #2: serious health condition.
- Provide a copy of the completed Notice of Eligibility and Rights & Responsibilities to the employee within five business days of learning of the employee's need for leave, and attach it to the ePar.
- Because no medical certification is needed for a normal birth or bonding with a newborn or for placement of a child for adoption or foster care, you must also complete the Notice of Designation at this time. Complete the Notice of Designation and provide a completed copy to the employee and attach it to the ePAR.
- Note the date that the Notice of Eligibility and Rights & Responsibilities and the Notice of Designation was provided to the employee on their FMLA checklist.

➔ **Proceed to Step 5** (*Record FMLA time*)

## Qualifying Reason #2: Serious health condition

If the absence is because of the employee's serious health condition, or to care for the employee's seriously ill spouse, partner in a civil union, parent, or child who has a serious health condition *and* the employee is eligible under the law, do the following:

- Complete the Notice of Eligibility and Rights & Responsibilities. Fill in the appropriate dates and details of the employee's situation. If you need assistance determining any of the information requested on the Notice, contact LER.
- Check the box on the Notice of Eligibility and Rights & Responsibilities that reads, "you must submit appropriate medical documentation in support of your leave (WH-380E attached) on or before [insert date 15 calendar days in the future]."
- Provide a copy of the completed Notice of Eligibility and Rights & Responsibilities and the medical certification form (WH-380E, available on the LER website) to the employee within five business days of learning of the employee's need for leave. Attach the Notice to the ePAR.
- Inform the employee that they should have their healthcare provider fax the certification form to HR. It will not be kept in the departmental files.
- Note the date that the Notice of Eligibility and Rights & Responsibilities was provided to the employee on their FMLA checklist.
- The employee has 15 calendar days, or more if necessary, from when you provide the medical certification to return the form completed by a healthcare provider to HR. Note the date the certification is to be returned on the checklist. (UVM's preference is that the healthcare provider fax the completed form directly to HRS at 802-656-3476.)
- Within five business days of receipt of the completed Medical Certification Form, HR will assist you in making a final determination to approve or deny the FMLA coverage.
- When the completed Medical Certification Form is returned, note the date that it was received on the employee's FMLA checklist.
- When final approval is determined, complete the Notice of Designation. The Notice of Designation must be provided to the employee within five business days from when they provided enough information to make a determination as to whether the leave qualifies for FMLA protection. Provide a completed copy of the Notice of Designation to the employee and attach it to the ePAR.
- Note the date that the Notice of Designation was provided to the employee on the employee's FMLA checklist.
- If the approved FMLA is for the employee's own serious health condition, they may be required to provide documentation from their healthcare provider, clearing them to return to work. This return-to-work note may or may not contain certain restrictions that the department will need to ensure that it can manage. It may be helpful if the physician has a copy of the employee's position description or a statement of their essential functions. If return to work certification is required, check the appropriate box on the Notice of Designation.

➔ **Proceed to Step 5** (Record FMLA time)

### Step 5. Designate FMLA Leave in Timekeeping System and Record FMLA Time

If you are the employee's supervisor, ask your department/unit business manager or the ABSC to initiate an ePAR for "FMLA leave" or "intermittent FMLA leave." Note the employee's FMLA time on the employee's timesheet in PeopleSoft using the "add comment" field in the Approve Payable Time module. During the leave period, keep track of the actual number of hours taken for each approved instance of FMLA. The maximum hours of leave taken as FMLA in any one twelve month period cannot exceed twelve weeks (480 hours for a 40 hour per week employee or 450 hours for a 37.5 hour per week employee). For employees who are not 1.0 FTEs, FMLA leave entitlements are prorated by the number of hours the employee works per week. For example, an eligible employee who works 30 hours per week is entitled to 360 hours of FMLA leave per year.

- Be sure to fill in the FMLA Tracking Spreadsheet to track the number of FMLA hours used by the employee ([Forms | Human Resource Services and Operations | The University of Vermont \(uvm.edu\)](#)).
- Consult the employee's Medical Certification when necessary to make sure that the employee is not taking more FMLA leave than they are entitled to. A change in circumstances may require a new Medical Certification and new forms. Contact LER if a discrepancy arises.
- Periodically run a query in PeopleSoft to determine how much FMLA time has been used and how much remains. Use the query "UV\_Reported\_Time\_Comments" and search for FMLA-designated time.

### Step 6. Prepare for the Employee's Return

- Depending on the reason for the absence, the employee may be required to provide documentation from their healthcare provider, clearing them to return to work. This return-to-work note typically goes directly to the supervisor or HR Rep.
- When the employee submits the return to work certification, note the date that it was provided on the employee's FMLA checklist.

### Step 7. Deny Leave of Absence if Applicable

- If the employee does not meet eligibility requirements, check the "are not eligible for FMLA leave" on the Notice of Eligibility and Rights & Responsibilities and indicate the reason why. Provide the completed Notice of Eligibility and Rights & Responsibilities to the employee, attach it to the ePar, and note on the employee's FMLA checklist the date that the Notice was given or sent to the employee.
- If the employee is eligible for FMLA leave and received the Notice of Eligibility and Rights & Responsibilities, but has not provided sufficient information on their Medical Certification, check the appropriate box on the Notice of Designation to let the employee know this. The employee then has seven calendar days to resubmit their medical certification with sufficient information. Provide the completed Notice of Eligibility and Rights & Responsibilities to the employee and LER, and note on the employee's FMLA checklist the date that the Notice of Eligibility and Rights & Responsibilities was given or sent to the employee.
- If the employee is eligible for FMLA leave but is requesting the leave for a non-covered reason (e.g., to care for someone other than a covered family member), provide the employee with a Notice of Eligibility and Rights & Responsibilities Notice as well as a Notice of Designation

indicating that their reason for leave does NOT qualify for FMLA leave. Specifically, please check “The FMLA does not apply to your leave request” box on the Notice of Designation. This way, the employee knows that they are eligible but that the situation is not covered by the FMLA. Provide the completed Notice of Designation to the employee, attach it to the ePar, and note on the employee’s FMLA checklist the date that the Notices were given or sent to the employee.

- For any of the above denials, contact LER to discuss whether other leave options might apply to the employee’s request.