Introduction

This information is only a general summary of the steps to follow when considering a request or need for family or medical leave. An employee may specifically request an FMLA leave, or may just provide you with information to make you aware of absences that may be eligible for FMLA protection. 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 informs you of need for leave and completes Leave of Absence Form

If an employee informs you of the need for a leave of absence orally or in another informal way, ask them to fill out the appropriate UVM Leave of Absence form. Explain the purpose of FMLA to the employee. 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 notify the employee as to their eligibility for FMLA under the law. 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 have 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.
- 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 fill in a new Leave of Absence Request for the new calendar year and request new medical certification, if for a serious health condition.
- If the employee does not meet eligibility requirements for FMLA, contact LER. There may be other options available, including leave under the Vermont Parental and Family Leave Act.
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.

- Birth of a child and to care for a newborn child.
- Placement with the employee of a child through adoption or foster care.
- Care for any of the following who has a 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 serious health condition and is incapable of self-care because of a mental or physical disability.
- A serious health condition that renders the employee unable to perform the functions of his or her job.
- Care for an injured covered military service member who is the eligible employee’s spouse, son, daughter, parent, or eligible “next of kin”.
- Certain activities defined as “qualifying exigencies” related to the eligible employee’s spouse, child, or parent who is an active military service member.

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 the qualifying reason is related to caring for a service member or qualifying exigency leave, please contact LER for details and regulations.

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 the child or placement of a child for adoption or foster care placement (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 to be requested or required for normal births. 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 and LER within five business days of learning of the employee’s need for leave.
• 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 to LER.
• 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 future].”
• Provide a copy of the completed Notice of Eligibility and Rights & Responsibilities and the appropriate certification form (available on the LER webpage) to the employee and LER within five business days of learning of the employee’s need for leave. (For the employee’s serious health condition, use WH-380-E; for a family member’s serious health condition, use WH-380-F; for a qualifying exigency use WH-384; and for a Military Caregiver use WH-385 and HW-385-V).
• Inform the employee that they should have their medical provider fax the certification form to HR. It will not be kept in the departmental files.
• Submit a copy of the completed Notice of Eligibility and Rights & Responsibilities to LER. 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 health care provider to HR. Note the date the certification is to be returned on the checklist.
• When the completed Medical Certification Form is returned, note the date that it was received on the employee’s FMLA checklist.

• 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 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 final copy to the employee and LER.

• 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 and if the position so requires, also provide them with a copy of the Return to Work Certification to be completed by the health care provider before the employee is permitted to return to work. Attach a copy of the essential functions of the employee’s position if necessary. If a 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**

Ask your department/unit business manager to initiate an ePAR for “FMLA leave” or “intermittent FMLA leave.” Note the employee’s FMLA time 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 FMLA. The maximum hours of leave taken as FMLA in any one calendar year cannot exceed 480 hours for a 40 hour per week employee and 450 hours for a 37.5 hour per week employee (12 weeks). 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 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

- If the employee is required to provide a Return to Work Certification, the employee must return the completed form signed by the health care provider before they can be allowed to return to work.

- When the employee returns 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 and LER, 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 an immediate family member), provide the employee with a Notice of Eligibility and Rights & Responsibilities Notice indicating that they are eligible for FMLA leave as well as a Notice of Designation indicating that their reason for leave does NOT qualify for FMLA leave. Specifically, please check the “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 and LER, 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.