

FMLA ADMINISTRATION CHECKLIST

This FMLA Administration Checklist is provided by our strategic partners at [Constangy, Brooks, Smith & Prophete, LLP](#). This checklist provides only a general overview of the process of administering leave under the Family and Medical Leave Act (FMLA). The FMLA regulations are extremely complex and may address situations that are not included in this checklist. Employers should consult counsel before making any decision to deny an otherwise eligible employee leave under the FMLA.

Begin the Process...

- An employee requests leave for, or you learn that the employee is absent for, one of the following FMLA reasons:
 - Serious health condition of employee, or employee's spouse, parent, or child.
 - Birth, adoption, or foster placement of child.
 - Military "qualifying exigency."
 - Serious injury or illness of "covered servicemember" (military caregiver leave).
- Determine eligibility.
 - Employee has been employed with you for at least 12 months (need not be consecutive).
 - Employee has worked at least 1,250 hours in past 12 months (this 12-month period must be consecutive).
 - Employee works at facility that has a least 50 employees within 75-mile radius, or reports to a facility with a least 50 employees (such as a corporate headquarters).
- Gather/issue/prepare initial documentation.
- Within five business days of notification:
 - Document the date leave is initially requested, or date that you otherwise received "notice" of need for leave.
 - Calculate amount of leave that is available to employee. (For serious health condition, new child, or military "qualifying exigency" leave, maximum leave is 12 weeks per 12-month FMLA "leave year" used by your company. For Military Caregiver leave, employee is entitled to 26 weeks' leave in a single 12-month period that runs from date that leave would begin.)
 - Issue to employee the following:
 - An FMLA leave request form (you can complete form for employee if employee is unable to do it, or you can accept a request form completed by a family member or friend).
 - An FMLA eligibility form completed by you. This will inform employee whether FMLA has been provisionally granted.
 - A copy of your company's FMLA policy.
 - A copy of the U.S. Department of Labor's Notice of Rights and Responsibilities.
 - If you are going to require it, the applicable certification form.
 - Notification as to whether you will require a fitness for duty certification before the employee returns to work.
- If reasonable accommodation may be needed, begin the interactive process with employee.

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- Provide a reminder to yourself to follow up with employee in 15 calendar days if certification has not been returned by that time.
- Provide contact information to employee.
- Document all actions taken.

Upon Receipt of Certification Form

- Verify that you have received a completed leave request form.
- Document date certification form was received.
- Determine whether certification is complete or incomplete:
 - If incomplete, communicated deficiencies to employee and request completed certification to be returned in 7 days.
 - If clarification or authentication is needed, contact health care provide (may not be done by employee's supervisor).
- Determine whether leave is for a qualifying reason:
 - Serious health condition of employee.
 - Serious health condition of family member.
 - Pregnancy.
 - Birth/adoption/foster care (can include meetings with agencies, attorneys involved with adoption or foster placement).
 - Qualifying exigency related to a family member in the military being deployed to a foreign country.
 - To care for a family member who has an injury or illness (including aggravation of injury or illness in connection with military service).
- Issue to employee within 5 business days:
 - Completed Department of Labor designation form.
 - Fitness for duty form with current and accurate job description if employee will be required to obtain to return to work.
- Calculate amount of FMLA leave that has been used/remains and notify employee.
- Advise employee of the return-to-work process.
- If FMLA does not apply, consider whether employee should be allowed non-FMLA leave under company policies or applicable disability laws.
- Determine whether employee might require additional reasonable accommodations. If so, engage in interactive process with employee.
- Create calendar reminder for dates that recertifications will be due.
- Create calendar reminder of estimated date that FMLA will be exhausted.
- Create calendar reminder for two weeks before estimated FMLA exhaustion date to contact employee about intention to return to work and actions necessary for return to work.

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During Leave

- Is employee following proper call-out procedures?
- Is employee's leave consistent with certification?
- Has something changed sufficiently such that the recertification form should be issued?
- Does employee need reasonable accommodation? If appropriate, engage in interactive process.

End of Leave

- Approximately two weeks before FMLA leave is exhausted, communicate to employee:
 - Estimated or actual exhaustion date.
 - Return-to-work procedures and requirements.
 - Re-issue fitness for duty form with job description if it will be required to return to work.
 - Options available if leave will be needed beyond FMLA exhaustion date.
- If applicable, review fitness for duty form:
 - Is form complete?
 - Does it provide sufficient information to determine need for accommodations? If not, contact employee or health care provider for completion or additional information. If form releases employee to return to work without restrictions, employee must be returned to work.
 - Are reasonable accommodations needed? If so, engage in interactive process. (This could include an extension of the FMLA leave if there is an anticipated return-to-work date that is not long after the end of the FMLA leave.)
- If employee is not able to return to work with or without a reasonable accommodation, prepare document for employee explaining options and what will happen next.
- If employee is not able to return to work by date that you would terminate employment, make one final documented contact with employee to make sure that employee's condition has not changed and that employee cannot return to work with reasonable accommodations. If not, then terminate employment. Otherwise, engage in interactive process.

Additional Resources

Law and Regulations

- > [The Family and Medical Leave Act of 1993](#)
- > [FMLA Regulations](#)

Forms

- > [WH-380-E Certification of Health Care Provider for Employee's Serious Health Condition](#)
- > [WH-380-F Certification of Health Care Provider for Family Member's Serious Health Condition](#)

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- › WH-381 Notice of Eligibility and Rights & Responsibilities
- › WH-382 Designation Notice
- › WH-384 Certification of Qualifying Exigency For Military Family Leave
- › WH-385 Certification for Serious Injury or Illness of Covered Servicemember - for Military Family Leave
- › WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave

Fact Sheets

- › Fact Sheet #28: The Family and Medical Leave Act of 1993
- › Fact Sheet #28A: Employee Protections under the Family and Medical Leave Act
- › Fact Sheet #28B: FMLA leave for birth, bonding, or to care for a child with a serious health condition on the basis of an “in loco parentis” relationship
- › Fact Sheet #28C: FMLA leave to care for a parent with a serious health condition on the basis of an “in loco parentis” relationship
- › Fact Sheet #28D: Employer Notification Requirements under the Family and Medical Leave Act (FMLA)
- › Fact Sheet #28E: Employee Notice Requirements under the Family and Medical Leave Act
- › Fact Sheet #28F: Qualifying Reasons for Leave under the Family and Medical Leave Act
- › Fact Sheet #28G: Certification of a Serious Health Condition under the Family and Medical Leave Act
- › Fact Sheet #28H: 12-month period under the Family and Medical Leave Act (FMLA)
- › Fact Sheet #28I: Calculation of Leave under the Family and Medical Leave Act
- › Fact Sheet #28J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act
- › Fact Sheet #28K: “Son or Daughter” 18 years of age or older under the Family and Medical Leave Act
- › Fact Sheet #28M: The Military Family Leave Provisions under the Family and Medical Leave Act
- › Fact Sheet #28M(a): Military Caregiver Leave for a Current Servicemember under the Family and Medical Leave Act
- › Fact Sheet #28M(b): Military Caregiver Leave for a Veteran under the Family and Medical Leave Act
- › Fact Sheet #28M(c): Qualifying Exigency Leave under the Family and Medical Leave Act
- › Fact Sheet #77B: Protection for Individuals Under the Family and Medical Leave Act