



**The Family and Medical Leave Act
University of Oklahoma
Employee Rights, Responsibilities and Guidelines (updated 4-11-12)**

- 1) **What is FMLA?** The Family and Medical Leave Act of 1993 is a federal law designed to provide employees with up to 12 weeks of unpaid job-protected leave for qualified family and medical related reasons.
- 2) **Who is eligible under FMLA?** To be eligible for FMLA protected leave, the individual must have been employed for 12 months or a total of 52 weeks **and** have worked at least 1,250 hours during the most recent 12-month period prior to the FMLA qualifying event. This policy is applicable to both faculty and staff.

Clarification: The 52 weeks of employment does not have to be 52 consecutive weeks.

- 3) **What types of qualifying events are covered under FMLA?** There are four types of qualifying events that are covered under FMLA:
 - a) *The birth and care of a newborn child;
 - b) *The placement of a child for adoption or foster care and to care for the newly placed child;
 - c) To care for the employee's spouse, or parent with a serious health condition; or son or daughter who is under the age of 18.
 - d) **To care for a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness;
 - e) The employee's own serious health condition.

Clarification: *The total FMLA protected leave taken for the birth of a child or adoption of a child can be up to twelve weeks, but the leave must be taken all during a single time period. Time off cannot be taken intermittently. "Parent" may be biological or the person who raised the employee, i.e., adoptive parents or guardians. "Child" may be biological or someone the employee is responsible for raising who is under the age of 18 or is permanently incapable of self-care.

**Military FMLA allows up to 26 workweeks of leave for a qualifying employee.

- 4) **When and how should an employee request FMLA protected leave?** Employees should request FMLA protected leave anytime the individual will be absent from work because of a serious health condition or if the absence extends for three or more days and the reason for that absence is covered by any of the four types of qualifying events. Paid Leave (PL), Extended Sick Leave (ESL), On the Job Injury (OJI), Shared Leave (SL), and leave without pay (LOA) run concurrently with FMLA and the Medical Certification form is required to access Extended Sick Leave or Shared Leave. Non-emergency requests for FMLA protected leave should be made at least 30 days before the requested leave date. If that is not possible, then as soon as practicable, the employee should have the medical certification completed. Worker's Compensation (OJI) runs concurrently with FMLA and that documentation is managed by the Office of Risk Management. All requests for FMLA protected

leave must be forwarded to the Office of Human Resources, Attention: Payroll and Employee Services.

- 5) What documentation is required to request FMLA protected leave?** To request FMLA protected leave, including PL, ESL, SL, OJI, (provided the employee qualifies for FMLA at the time of OJI), or LOA, a request for leave should be made by the employee to their supervisor. The Certification by Health Care Provider document must be completed for any medically related FMLA leave requests. To maintain patient confidentiality, this document should be sent directly to the Office of Human Resources, Payroll & Employee Services. The Adoption/Placement Certification Form must be completed by the adoption agency or legal advisor and returned to the Office of Human Resources for any adoption or child placement related FMLA leave requests. NOTE: Worker's Compensation (OJI) medical certifications are usually obtained by the Office of Risk Management and provided directly to OHR. However, if the employee did not qualify for FMLA at the beginning of OJI, the department and OHR should be notified when eligibility occurs. The FMLA documents are available from the dean or director's office and online at www.hr.ou.edu. The University of Oklahoma fully complies with the Genetic Information Nondiscrimination Act (GINA) and does not require disclosure to qualify for the Family and Medical Leave Act (FMLA).
- 6) How will the employee know if they are eligible under FMLA?** The Office of Human Resources will issue a "Notice of FMLA Status" email within 3 – 5 working days of receipt of all requested documentation. This is prior to the formal letter that is sent to the employee's home address once Payroll and Employee Services receives a Personnel Action Form from the department. If a letter has not been delivered to the employee's home address within seven working days, the employee should contact Payroll and Employee Services at 325-2961.
- 7) Will an employee receive pay while on FMLA protected leave?** FMLA only requires unpaid job-protected leave. However, employees who have accumulated PL, ESL, or are approved for SL and employees on paid Workers' Compensation will receive pay as provided under current university policy. All paid time off runs concurrently with FMLA except compensatory time taken. Holidays and compensatory time off will not be counted as part of FMLA protected leave.
- 8) Will the employee still receive university benefits while on FMLA protected leave?** The university will continue to pay the cost of the university provided insurance coverage for employees for the 12 weeks of FMLA protected leave. The employee will continue to be responsible for payment of premiums for any additional coverage or elected dependent coverage. It is the employee's responsibility to contact the Payroll & Employee Services office at 325-2961 as soon as possible to determine premium payment requirements. Employees on FMLA protected leave will be eligible to change insurance coverage during the Annual Enrollment Period. If an employee on FMLA protected leave does not return to work, he or she will also be eligible for continued insurance coverage as provided by the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provision.
- 9) What are the employee's responsibilities while on FMLA protected leave?** The employee's responsibilities include the following:

 - a)** Once the employee has qualified for FMLA, the individual should keep their supervisor informed of absences each time he or she needs to be absent due to his/her qualifying event.

- b) It is the employee's responsibility to distinguish FMLA from other types of leave not covered by FMLA. Time sheets and monthly certifications should also reflect time off, not FMLA or FMLA "with" or "without" pay in order to maintain an accurate leave record.
- c) For every new event (serious health condition of the employee, family member, pregnancy, adoption, etc), within a 12 month period, a new medical certification is required. Regardless of the number of events an employee has in a 12 month period, he or she will only receive 12 weeks of FMLA in a 12 month period.
- d) In some situations, an employee may not have been eligible for FMLA protected leave at the beginning of a leave period but, because of later events, he or she becomes eligible. At that time, the employee has a responsibility to inform their department of a possible change in FMLA eligibility and provide the required medical certification.
- e) Unless advised otherwise (departments or Worker's Comp may require a different timeframe for updates), the employee may be required to present the department, Office of Human Resources and the Employee Relations, updates from the health care provider if there is a significant change in absences reported on the original FMLA certification signed by his/her healthcare provider. A new medical certification may be required. The form or memo used by the doctor's office to provide the medical update should indicate if the employee is continuing to be seen, treated or provided physical therapy for the current FMLA event, and include an estimate of how long visits or treatments will last and/or the next anticipated doctor's visit. It is the employee's responsibility to keep his or her supervisor informed of time off and notice of a return to work in these instances.
- f) Each employee is entitled to a full 12 week FMLA allowance for each 52 week period. If access to FMLA protected leave is needed beyond the original 52 week period, the employee should request that a new "Notice of FMLA Status" letter be issued. This letter should be issued on the anniversary of the original FMLA date. At that point, the employee will have access to an additional 12 weeks of FMLA job protected leave for the next 52 week period. A new medical certification will be required at that time.
- g) Employees are expected to present a release to return to work at least 2 days prior to returning to work at the end of the 12 week period. Job and benefits protections are provided for the 12 week period.
- h) The University of Oklahoma is considered the employee's primary employer. Employees may not be able to work for any other employer while on FMLA protected leave. For questions regarding this issue, please contact Payroll & Employee Services at 325-2961.

10) What does the employee need to know before returning to work from a FMLA leave for their own serious health condition? The employee will be required to obtain a medical release, for both intermittent and full releases, from the attending health care provider, and possibly a Fitness for Duty certificate before returning to the workplace. An employee returning from FMLA job-protected leave is restored to the same benefits eligibility, seniority, position or equal position including the same shift, skill level, effort requirements and responsibility. The employee will also have the opportunity to meet any license requirements required for the position.

11) What if the employee has additional questions? Questions regarding this policy or anything covered in this document should be directed to the Office of Human Resources, Payroll and Employee Services 325-2961. Questions regarding accumulated FMLA time off should be directed to the employee's departmental payroll representative. Employee Relation questions related to FMLA should be directed to Employee Relations and Development 325-3706.