



Family and Medical Leave Act (FMLA) Supervisor FAQs

1. Do I have the option to deny FMLA if our department is busy?

No. If the employee is eligible and approved for FMLA, they must be able to take the leave.

2. Does the employee return to the same position after FMLA leave?

Yes. Under FMLA, the employee is returned to the same or equivalent position upon return from leave. Exceptions might exist if the employee's job would have been lost if they had been working, such as through position elimination, layoff, non-renewal, program curtailment, or a cause that would otherwise support dismissal.

3. When should I start the FMLA process?

You should contact the Absence Management Specialist to initiate the FMLA process when an employee informs you that they need time off for a reason the FMLA may cover. The employee may not be as clear as to mention the "FMLA" when asking for the time off, but you should be aware that the reason may qualify. If in doubt, contact the Absence Management Specialist.
absence@okstate.edu 405.744.7401

Sometimes an employee may not ask for the time off, or you may not immediately know if the FMLA could cover an absence. You should monitor your employee's attendance. You should consult with the Absence Management Specialist when an employee is off to care for a covered family member for:

- A period of incapacity of more than three-five consecutive full calendar days (which can include absences Friday and the following Monday) and any subsequent treatment or period of incapacity relating to the same condition that also involves either treatment two or more times within 30 days, or treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider.
- Any period of incapacity due to pregnancy or prenatal care.
- Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition requires periodic visits (i.e., at least twice per year) for treatment by a healthcare provider, which continues over an extended period and may cause episodic rather than a continuing period of incapacity.
- Permanent or long-term conditions

- Conditions requiring multiple treatments
- Hospital Care: Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care
- Absence Plus Treatment: A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - Treatment two or more times by a health care provider, by a nurse or physician's assistant under the direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider, or
 - Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the health care provider's supervision.
- Pregnancy: Any period of incapacity due to pregnancy or for prenatal care.
- Chronic Conditions: Requiring Treatments: A chronic condition which:
 - Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under the direct supervision of a health care provider;
 - Continues over an extended period (including recurring episodes of a single underlying condition); and
 - May cause episodic rather than continuing incapacity (i.e., asthma, diabetes, epilepsy, etc.)
- Permanent/Long-Term Conditions Requiring Supervision: A period of permanent or long-term incapacity due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- Multiple Treatments (Non-Chronic Conditions): Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under the orders of, or on referral, by a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), kidney disease (dialysis).
- Care for a covered family member returning from covered active duty with the Armed Forces or a veteran who has sustained an injury or illness.

4. Is it my responsibility to confirm that the employee is eligible for FMLA?

Yes. The Absence Management Specialist will likely need your assistance to determine whether the employee is eligible; that is, has the employee been employed for at least 12 months, has

the employee worked at least 1,250 hours in the 12 months preceding the leave, and how many FMLA hours if the employee has taken any this calendar year.

5. I am a supervisor, and one of my employees has been out unexpectedly for a week. Does FMLA cover this?

It could be. It would be best if you tried communicating with the employee. You should also contact Absence Management so they can send the employee the appropriate paperwork to determine whether FMLA covers the absence.

6. I am a supervisor, and one of my employees regularly takes sick leave for appointments and treatment. Does FMLA cover this?

It could be if the underlying condition qualifies. You should contact the Absence Management Specialist so they can send the appropriate paperwork to determine whether FMLA covers the absences.

7. Must I allow an employee an extension of leave beyond FMLA?

There may be instances where extending a leave of absence could be reasonable after an employee has used all of the allowable time under the FMLA. Please work with the Absence Management Specialist in these situations. It is best to keep in touch with the employee before the FMLA ends so there are no surprises at the end of the leave.

8. What if the employee cannot perform some or all of their position duties after FMLA leave?

The FMLA provides only the 12/26 weeks of leave. If the employee cannot perform their position at the end of the FMLA leave, the Office of Equal Opportunity Services should engage in an interactive discussion with the employee regarding what limitations the employee has and what would help the employee return to work. Please consult with your department's Human Resource Consultant, as it may be necessary to initiate an accommodation process. Employees who cannot perform the essential functions of their job description with or without accommodation may not be eligible to return to work.

9. What if I have a temporary light-duty position available for the employee – do I still have to allow the FMLA leave?

Yes. You can certainly offer the light duty work, but if the employee is otherwise eligible for FMLA leave, the employee may choose to take the FMLA leave and not accept the light duty work.

10. What if a faculty or staff member gives notice of intent not to return? Are their benefits terminated?

Yes, as long as the notice is “unequivocal” or definite. One form of an unequivocal notice is when the employee submits a written letter of resignation. The individual has the option to continue coverage through COBRA following termination of employment.

There is also no right to reinstatement once the employee “unequivocally” or gives notice that they will not return. Consult with your department’s Human Resource Consultant before concluding that you have received unequivocal notice.

11. Can I discharge an employee who is on FMLA leave?

Yes. Termination of employment may occur while an employee is on approved FMLA leave if the employee’s job would have been lost if they had been working, such as through position elimination, layoff, non-renewal, program curtailment, or a cause that would otherwise support dismissal. In this situation, consult with your Human Resource Consultant before taking any action. You cannot discharge an employee simply because they are taking FMLA leave or otherwise retaliate against the employee for taking FMLA leave.

12. Can I discipline an employee who is on FMLA leave?

Yes. You may discipline an employee who is on FMLA leave for any legitimate reason that is not related to the FMLA leave. For instance, if the employee fails to follow proper call-in protocol for reporting absences. In this situation, consult with your department’s Human Resource Consultant before taking any action. You cannot discipline an employee simply for taking FMLA leave or otherwise retaliate against an employee for taking FMLA leave.

13. An employee is approved for intermittent leave for treatment (for his/herself or a family member). Can I ask the employee to work with me to schedule those appointments, or can they schedule them when it is convenient for them?

The employee must work with you and make a reasonable effort to schedule those planned appointments at a time that will not disrupt the work of your department.

14. An employee is approved for intermittent FMLA. Do they need to call in for each absence?

Yes. For intermittent or unplanned absences, the employee must follow your department’s call-in procedures (i.e., when and whom to call). Make sure these rules are known and evenly applied to everyone.

15. An employee is approved for intermittent FMLA. Does the employee need to provide a new medical certification for each absence?

No, the employee does not need new medical certification of the condition that causes the intermittent absence if that condition is already approved. However, it may be necessary to document the reason for the absence – that is, that the employee was out that day for that reason and not some other reason.

If the employee develops new conditions that require absence from work, you may need to seek certification of that new condition to determine if FMLA will apply. Contact the Absence Management Specialist in that situation.

16. An employee is approved for FMLA. How will I know which absences are for the FMLA-covered reason?

Ask the employee. First, the employee must follow your department's call-in procedure for absences (i.e., when and whom to call). Second, when the employee calls in, you need to ask the employee whether the absence is for one or more FMLA-covered reasons. The employee must answer your questions that are reasonably directed to determining whether the absence is covered. You do not need much information, but you do need to know enough to determine whether the absence is FMLA or not (e.g., "Are you out today for an FMLA reason?" or "I understand you are unable to work today – is this related to your FMLA leave?").

17. Can the university place an employee on FMLA leave if the employee fails to request the leave?

Yes. If the employee is eligible for FMLA and takes time off for a covered situation, the university can designate the time off as FMLA even if the employee did not request it. You should only count leave as FMLA if it is covered. Please get in touch with your Human Resource Consultant in these instances.

18. When should an employee's absence be designated as FMLA leave?

Designation of absences as FMLA leave should occur as soon as possible. For this reason, it is essential that you work with the Absence Management Specialist to determine that the employee is eligible and that the absence qualifies for FMLA leave.

Sometimes, because the information has not been shared quickly, the absence can't be designated as FMLA leave until the employee returns to work. Otherwise, a retroactive designation is discouraged.

19. Can the university deny FMLA leave even if the employee meets the eligibility requirements and has a serious health condition?

No. However, FMLA leave could be delayed or denied if the employee fails to submit the required paperwork.

20. What if the employee's absences are inconsistent with the information I received from the Absence Management Specialist? (i.e., the employee is absent more often than the health care provider suggested)

Contact the Absence Management Specialist. It may be necessary to have the employee recertify the FMLA absences if the number or frequency of absences differs from what the healthcare provider suggested. The specialist will only know the number of absences if you let them know. Once notified, they will send a recertification request to the employee.

21. Can I ask for updates from the employee on leave?

Yes. A supervisor can ask the employee for periodic updates on their status and intent to return to work. These are not medical certifications or paperwork but informal touching base with the employee.

22. Are there differences in how FMLA leave is administered between different categories of personnel? (Ex. faculty and staff)

No, all groups of employees have the same rights under the FMLA. However, the university leave policies that outline how employees may be paid during their time off may differ depending on the employee category.

23. An employee is a full-time faculty member on a 9-month appointment. How does FMLA apply?

The FMLA covers the employee, assuming they meet the eligibility criteria set out in the policy. FMLA only governs leaves of absence from when the employee would otherwise be working – the 9-month appointment. FMLA would not cover the three months the employee is not employed by OSU. If OSU pays the employee and continues to perform services for OSU over the summer, seek clarification on whether the FMLA might cover the employee in such a situation.

24. An employee is on a full-time 9-month faculty appointment and had a baby in June. The appointment requires the employee to return to work in August. How does FMLA apply to this situation?

For the birth or care of a baby (or placement of a child through foster care or adoption), leave must be taken and completed within the first year of the birth (or placement). Either parent may take FMLA within 12 months after the baby is born. So even though the baby was born in June, the employee may still use FMLA when the appointment commences in August.

25. An employee's partner is pregnant. Do both parents have FMLA time for the birth or adoption of a child or placement of a foster child?

Yes, both parents are eligible for FMLA leave in covered situations. However, the University leave policies that outline how employees may be paid during their time off may differ. For instance, birth mothers typically need time to recover physically from pregnancy and childbirth, which would be covered by sick leave. Or, if the child developed a serious health condition, either parent could use available sick leave per university policy for such situations. Alternatively, if the birth mother has a serious health condition, the spouse could take sick leave to care for her. Finally, both parents could take time to care for and bond with a healthy child – that time will either be paid through vacation or unpaid because there is no medical need for the leave.

26. How does an employee start the FMLA process?

The employee should contact the Absence Management Specialist and notify you that they will need time off. The employee may also want to check their paid leave balances to determine whether FMLA leave will be paid or unpaid. The employee will most likely be asked to provide documentation to certify the need for FMLA.

27. How should FMLA be administered for individuals with “potential” absence due to a disclosed illness? (i.e., cancer diagnosed but never missed three days)

If you know that the person may need time off because of an illness or injury, you should contact the Absence Management Specialist so they can send the FMLA paperwork to the employee. The “3-to-5-day rule” is just one example of a covered condition under the FMLA – there are other conditions that FMLA covers.

28. Where is FMLA paperwork kept?

FMLA paperwork will be kept confidential in Absence Management. There should be no medical information in the employee's personnel file. If you have any medical information, it should be kept separately from the department personnel file.

29. What is the department's responsibility after FMLA has been approved?

The department is responsible for tracking the employee's absences and knowing when the FMLA leave will expire. It is helpful to contact the employee before the FMLA expires so they can plan for their return to work. The department needs to stay in contact with the Absence Management Specialist regarding absences and leave. The supervisor should receive the employee's FMLA Return to Work Release before the employee returns (if they are out for their own health condition). If the release requires work restrictions, please get in touch with Absence Management to discuss the restrictions.

30. Can time spent as a student employee be combined with that of a regular appointment to fulfill the eligibility requirement of at least 1,250 hours and twelve months?

Yes, provided all of the employment at issue has been within the university.

31. Is Workers' Compensation leave counted simultaneously with FMLA leave?

Yes, if the injury or illness meets the definition of a serious health condition.

32. How do you calculate intermittent leave?

To track intermittent leave, the hours taken must be counted. For example, an employee with a full-time appointment on intermittent leave is entitled to the hourly equivalent of 12 weeks full-time (480 hours).

33. If FMLA leave is taken for the birth or placement of a child, when must the leave conclude?

An employee's FMLA leave taken for the birth or placement of a child must be completed by the end of the 12-month period that begins on the date of the birth or placement.

34. Is there 12 weeks of leave per calendar year or 12 weeks per situation?

The employee may use 12 weeks during the rolling backward calendar year regardless of how many qualifying situations exist.

35. May an employee drop optional insurance coverage during FMLA leave?

Yes, an employee may drop optional insurance coverage during FMLA and has the right to be reinstated into such coverage at the end of the FMLA leave. Please get in touch with OSU Benefits at 405-744-5449 or osu-benefits@okstate.edu for assistance.

36. Do temporary employees have any rights under FMLA?

Temporary employees are eligible for FMLA if they meet the same eligibility criteria: They have worked (anywhere at Oklahoma State University) for at least 12 months. They have worked at least 1,250 hours in the 12 months immediately preceding the leave.

If otherwise eligible, temporary employees may only use FMLA during their appointment. If the appointment was set to expire or end, the FMLA will not extend the employment.

37. What happens if the employee doesn't complete the paperwork?

FMLA leave could be delayed or denied if the employee does not complete the necessary paperwork.

38. The employee has a large amount of sick leave available. Why do they need to go through the FMLA process for the absence if the employee has available sick leave to use?

The university is required to designate and track FMLA, per Department of Labor guidelines, even if the employee has sufficient sick leave to cover the leave of absence. Remember, sick leave and FMLA run together at the same time.

39. Should I wait until the employee uses all their sick leave before contacting Absence Management to start FMLA?

No. The FMLA process should begin as soon as you know the employee needs leave for a covered reason, even if the employee has paid leave available. Do not wait for the employee to exhaust the paid leave. Paid leave and FMLA leave should run together at the same time.

40. Can FMLA be unpaid if an employee wants to save their paid leave for another situation?

No, not if the employee has paid leave available to use. The FMLA allows employers to require employees to use paid leave during an FMLA absence.

41. Who is responsible for tracking FMLA absences?

The properly designated departmental employee is responsible for tracking an employee's FMLA absences. It is essential that the tracking is accurate. This is especially true when an employee is taking intermittent FMLA leave. The Absence Management Specialist will need this information since they will not know about the employee's attendance or absences.

When an employee whom FMLA covers is absent, you should ask whether the absence is due to the FMLA condition. For example, the person could be certified to take FMLA for chemotherapy sessions but may be absent for an unrelated illness. Only count FMLA for the absence supported by the FMLA documentation. If the employee develops multiple conditions, each condition must be certified as FMLA-qualifying and tracked accordingly.

Absence Management will provide the tracking spreadsheet to the supervisor and department.

42. What are the supervisor's responsibilities?

Be receptive to requests about FMLA. If you do not know the answer, please refer the employee to the Absence Management Specialist. If you have received a request for FMLA, contact the specialist, so they can begin the process to determine if the employee is eligible and if FMLA is warranted under the circumstances. Remember that the request may be written or verbal, and the employee may not always mention “FMLA.”

If an employee is absent from work for reasons you know or suspect to be covered by FMLA, consult the Absence Management Specialist to determine if FMLA is implicated. The “3-5-day rule” is just one situation that may call for FMLA when the employee is ill or out of work for 3-5 consecutive calendar days.

Explain your expectations to the employee so there are no surprises, especially about calling in for intermittent or unexpected absences. Keep the Absence Management Specialist updated on these absences and whether those absences are consistent with the expected need for leave. If the employee is unable to return to work at the end of the FMLA leave, engage in an interactive discussion with the Office of Equal Opportunity with the employee regarding limitations and the ability to return.

Review the employee’s Release to Return to Work form and consult with the Absence Management Specialist if the health care provider has indicated work restrictions.

43. Who should enter FMLA time and leave information on the employee’s timesheet?

If an employee is on a continuous block of leave, the supervisor should make these entries on behalf of the employee.

Employees on intermittent leave should enter their time and leave unless an extenuating circumstance does not allow them to do this. The employee should communicate this to their supervisor as soon as possible before the deadline and provide the information so they can make the entries on behalf of the employee.

44. How do I make these entries for an employee on a continuous block of leave or unable to make the entries while on intermittent leave?

Please refer to the Employee Dashboard Proxy and Super User resource located here: [Banner Resources | Oklahoma State University \(okstate.edu\)](#)

University Human Resources
Absence Management Specialist
absence@okstate.edu
405.744.7401