

HR Insights

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Tips for Training Managers on FMLA Compliance

The Family and Medical Leave Act (FMLA) is a federal law providing eligible employees of covered employers with unpaid, job-protected leave for specified family and medical reasons. In general, eligible employees may take up to 12 weeks of leave each year for FMLA-qualifying reasons, including for treatment of a serious health condition. Employers are often forced to rely on managers and supervisors to enforce FMLA leave requirements, which can lead to issues if training is incomplete or inconsistent.

Despite employers' best efforts, training managers and supervisors can be challenging due to limited time, high turnover and lack of support from upper management. It can be further complicated by the fact that employees often do not mention the FMLA in their leave requests. Additionally, it may be difficult to determine whether some employees' leave requests are covered under the FMLA. Proper and thorough training allows managers and supervisors to recognize and appropriately respond to FMLA-qualifying leave requests.

This article explores tips for helping employers train managers and supervisors to recognize and address such requests. The information in this article comes from the U.S. Department of Labor's (DOL) most current guidance for employers.

Knowing Leave Requirements

To be eligible for FMLA leave, an employee must:

- Be employed by a covered employer

- Have worked for their employer for at least 12 months as of the date the leave is to start
- Have accrued at least 1,250 hours of service for their employer during the 12-month period before the leave
- Work at a location where their employer has at least 50 employees in a 75-mile radius

A private-sector employer is considered a covered employer under the FMLA if it employs 50 or more employees in 20 or more workweeks in the current or previous calendar year.

As a general rule, when eligible employees take time off from work for FMLA-covered reasons, employers should designate the time off as FMLA leave, even if employees do not specifically request FMLA leave. Understanding the FMLA and its requirements can empower managers and supervisors to recognize and properly respond to employee leave requests.

An eligible employee may take up to 12 weeks of leave in a 12-month period for any of the following FMLA-qualifying reasons:

- The birth of a child or placement of a child with the employee for adoption or foster care, as well as the need to bond with the child within one year of birth or placement



- The treatment of a serious health condition that results in the employee being unable to perform their essential functions, including incapacity due to pregnancy and prenatal medical care
- The employee's need to care for an immediate family member who has a serious health condition, including incapacity due to pregnancy and prenatal medical care
- Any qualifying exigency arising out of the fact that the employee has an immediate family member who is a military member on covered active duty or has been called to covered active duty status

In addition, covered employers must grant eligible employees up to 26 weeks of unpaid leave during a 12-month period to care for covered service members with serious injuries or illnesses if these individuals are their spouses, children, parents or next of kin.

Leave requests may be made under separate policies, such as paid sick leave or paid time off (PTO). These policies may require accrued paid leave to run concurrently with FMLA leave, which means that PTO and FMLA leave will occur at the same time.

Recognizing Leave Eligibility Requirements

Employees are not required to mention the FMLA in order to have it apply to their absence; however, employers are required to begin the FMLA leave process when they have enough information to believe that employees' leave requests may be covered by the FMLA. To identify when employees' leave requests should be designated as FMLA leave, managers and supervisors should receive training to recognize FMLA-qualifying reasons for leave, such as for treatment of a serious health condition.

A "serious health condition" is an illness, injury, impairment or physical or medical condition that involves inpatient care or continuing treatment by a health care provider. The FMLA does not apply to routine medical examinations (e.g., an annual physical) or common conditions (e.g., an upset stomach), unless complications develop.

Here are some additional FMLA terms to understand:

- For all conditions, "incapacity" refers to an employee's inability to work, including being unable to perform any essential functions of their position, attend school or perform other regular daily activities due to a serious health condition, as well as treatment of and recovery from the condition.
- The term "treatment" includes—but is not limited to—examinations to determine whether a serious health condition exists and evaluations of the condition.

To identify when employees' leave requests should be designated as FMLA leave, managers and supervisors must be able to recognize FMLA-qualifying reasons for leave. Some types of leave requests may be clearly covered under the FMLA, such as an employee requesting time off from work following the birth of their child. Other leave requests, including requests for intermittent leave, may be more difficult to evaluate. Often, employees do not mention the FMLA in their leave requests. However, managers are generally in the best position to identify when these requests are covered by the FMLA, as they will likely know why employees are requesting time off.

Identifying Leave Requests

Leave circumstances vary between employees, making it important for managers and supervisors to understand the types of requests covered under the FMLA and make a careful judgement with each personal situation. Here are some examples of leave requests that may be covered under the FMLA:

- An employee requests time off because their spouse, child or parent is in the hospital.
- An employee requests time off for an upcoming surgery and follow-up treatment.
- An employee is diagnosed with pneumonia and indicates that they will miss at least a week of work.
- An employee requests time off for days when they suffer from migraines.

- An employee is diagnosed with cancer and requests time off for periodic chemotherapy appointments and recovery.
- An employee requests leave for two days per week to care for a spouse, child or parent with a chronic health condition.
- An employee requests several weeks of time off to be with their newborn child (within one year of the child's birth).
- An employee requests time off to make child care arrangements arising out of a spouse's military deployment.

While organizations can train their managers to recognize FMLA-qualifying leave requests, there may be some situations where they are unsure whether these requests are covered. If managers are unsure whether a request is covered under the FMLA, they can reach out to the HR department, or any other individuals within their organization who are responsible for managing FMLA requests, for assistance.

Processing Leave Requests

An employer or manager should begin the FMLA leave process after determining that an employee's need for leave may be for an FMLA-qualifying reason. This process includes the following steps:

- Verifying the employee's eligibility for FMLA leave and providing them with an eligibility notice
- Providing a written rights and responsibilities notice detailing the specific expectations and obligations of the employee relating to their FMLA leave (if they are eligible)
- Requesting a medical certification for the employee's or family member's serious health condition or requesting a certification for military family leave

It's important to note that requiring certifications for FMLA leave is optional for employers. In many organizations, the HR department is responsible for processing FMLA leave requests. In these cases, employers can train managers to

contact the HR department as soon as employees make leave requests that may be covered under the FMLA. The DOL maintains [model FMLA forms](#) to assist employers with their compliance obligations. Employers can use the model forms or create their own versions.

Reintegrating Employees Returning From Leave

The transition from being on leave to working again can be difficult for employees. As such, returning employees may feel overwhelmed. They may be forced to adjust to changes in the workplace that occurred while they were on leave. To ensure these employees are successfully reintegrated into the workplace, managers and supervisors can establish clear expectations before employees take leave. Establishing detailed plans prior to employees taking leave that address what will happen during their leave and when they return can help ensure a smooth return. These employees may also need to feel welcomed and wanted when returning from leave. To ease their return, managers and supervisors can meet with employees to review any expectations set prior to their leave and discuss workplace changes that occurred while they were away.

Additionally, training managers and supervisors to understand what is required when employees return from leave can help employers avoid FMLA violations. Employers must reinstate employees returning from FMLA leave to either the same positions they held prior to leave or "equivalent positions." Such positions are those that are nearly identical in terms of pay, benefits and other working conditions, such as responsibilities, schedule, work location and skill level. Managers are often most familiar with employees' job positions and specific duties, allowing them to help ensure these factors do not change when employees return from leave.

An employee returning from FMLA leave may have rights under the Americans with Disabilities Act (ADA) if they have a qualifying disability. For example, an employee may have ongoing health issues that restrict their ability to perform the essential functions of their job. Since managers and supervisors are often first responders to employee disability disclosures, they need to be able to identify conditions and accommodation requests that may be covered by the ADA. Managers and supervisors may be required to communicate

with the employee to determine how best to accommodate the employee's health issues.

Summary

Despite the time and resources required to train managers and supervisors on FMLA compliance, organizations can cut costs in the long run by prioritizing these efforts. Employers can use these government resources to train managers and supervisors:

- [The Employer's Guide to the FMLA](#), a publication from the DOL's Wage and Hour Division
- The DOL's [web page](#) on FMLA compliance, including links to model forms
- The DOL's [web page](#) on medical- and disability-related leave

Contact Towne Benefits for additional FMLA information and training resources.