




Family Medical Leave Act

FMLA Essentials Part II

(Supervisor Responsibilities)

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Agenda Items

- Law and University Policy
- Supervisor Responsibilities
- Understanding FMLA Timeline
- Returning to Work After FMLA
- Working While on FMLA
- Communicating with Employees on FMLA
- Timekeeping/Kronos
- Navigating Intermittent FMLA
- Confidentiality
- Communication with Benefits Consultant
- Mental Health Days
- Teleworking
- Scenario

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What is The Family and Medical Leave Act of 1993 (FMLA) ?

- A federal labor law requiring covered employers to provide employees with:
 - Up to 12 workweeks of job-protected, unpaid leave for qualified medical and family reasons or 26 workweeks for military caregiver leave
 - Continuation of health insurance coverage under the same terms and conditions
- Upon return from FMLA leave, an employee is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment

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What's Prohibited Under the FMLA?

- Interfering with, restraining, or denying the exercise, or the attempt to exercise, any FMLA right
- Discriminating or retaliating against an employee or prospective employee for exercising or attempting to exercise any FMLA right
- Firing or discriminating against any employee (regardless of employment status) for opposing or complaining about unlawful FMLA practice
- Firing or discriminating against any employee (regardless of employment status) for:
 - filing a charge or proceeding under or related to the FMLA
 - Giving, or is about to give, any information in connection with an injury or proceeding relating to any right under the FMLA; or
 - testifying, or is about to testify, in any proceeding relating to the right under the FMLA

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Does the FMLA apply to UNC Charlotte?

- Yes – Government agencies (including local, state and federal employers) and elementary and secondary schools are covered by the FMLA, regardless of the number of employees.
- UNC Charlotte FMLA Policies
 - [PIM 09: Family and Medical Leave](#) for staff and 12-month faculty
 - [University Policy 102.6](#) for 9-month faculty

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Who is Eligible for FMLA Leave?

Staff and 11 or 12-Month Faculty (PIM No. 09)	9-Month Faculty (Univ. Policy 102.6)
<ul style="list-style-type: none"> • Have worked for UNC Charlotte for at least 12 months • Have been in paid status for at least 1040 hours in the last 12 months • Have a qualifying family or medical reason 	<ul style="list-style-type: none"> • Must work for the University for one full academic year • Have a qualifying family or medical reason

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What is a qualifying family or medical reason?

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| <ul style="list-style-type: none"> • Employee's own <u>serious health condition</u> (including pregnancy) • Caring for an immediate family member (spouse, parent, child) with a serious health condition • Caring for or bonding with a new child (birth, adoption, foster placement) in the first year | <ul style="list-style-type: none"> • Any qualifying exigency arising from the active military duty of the employee's immediate family member • Care for a family member who is a covered servicemember with a serious injury or illness incurred or aggravated in the line of duty (up to 26 work weeks of leave allowed in a 12-month period) |
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What is a "Serious Health Condition"

Serious health conditions that qualify for FMLA leave under the law are:

- conditions requiring an overnight stay in a hospital or other medical care facility and subsequent treatment;
- conditions that incapacitate you or your family member (for example, unable to work or attend school) **for more than three consecutive days and have ongoing medical treatment** (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication);
- chronic conditions that cause occasional periods when you or your family member are incapacitated and require continuing treatment by a health care provider at least twice a year; and
- pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

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Properly Inquiring About An Employee's Leave

- If an employee is absent and using sick leave for more than 5 workdays, the supervisor may ask the employee:
 - Do you need additional time off from work?
 - Have you completed the FMLA leave application?
 - Have you contacted the Benefits Office regarding your leave options?
- Supervisors should not do the following:
 - Ask any questions about the nature of the employee's illness
 - Request the employee provide medical documentation to support future absences

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Supervisor's Responsibilities

- If an eligible employee is absent from work for more than five (5) working days and is taking sick leave, the supervisor must:
 - Promptly notify the Benefits Office of the employee's absence. Do not request or collect medical information from the employee.
 - Request that the employee contact the Benefits Office and provide sufficient information so that the FMLA Consultant can assess whether the leave is FMLA-qualifying.
 - Track and timely approve leave and time sheets through the university leave and time keeping system (KRONOS).
 - If employee is unable to do time entries, submit leave usage and time worked in the university leave and time keeping system (KRONOS).

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Understanding Timeline for Leave Case

Action	Timeline	Employee	Benefits Office
Apply for FMLA	30-days in advance for known/ planned, or as soon as possible	<input checked="" type="checkbox"/>	
Send Notice of Eligibility - Rights & Responsibilities, and applicable documents, medical certification, and position description	Within 5 business days of application		<input checked="" type="checkbox"/>
Provides medical certification to Benefits Office	Within 15 calendar days of date Notice of Eligibility sent	<input checked="" type="checkbox"/> (Employee/ Provider)	
Send Designation Notice of approval/denial	Within 5 business days of receipt of medical certification		<input checked="" type="checkbox"/>
Send Fitness for Duty form (for employee's own serious health condition)	One week prior to anticipated return date, or as soon as possible	<input checked="" type="checkbox"/> (Employee/ Provider)	
Return employee back to work	Depends on situation (with/without restrictions)		<input checked="" type="checkbox"/>

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Returning to Work After FMLA

- Employees returning from a full-time FMLA leave for their own serious health condition
 1. Requires a Fitness For Duty (FFD) form a week before returning
 2. If restrictions are received, employees will be referred to the ADA Consultant by the Benefits Office to review for potential accommodations and interim arrangements
 3. If employee returns to work without a FFD, consult with the Benefits Office for guidance
- Employees returning from a full-time leave caring for a family member
 1. Not required to provide a Fitness For Duty Form (FFD)
 2. Employee would only need to let Benefits Office know when they have returned from leave
- Employees whose intermittent leave is ending:
 1. Not required to provide a Fitness For Duty Form (FFD)
 2. Employees may request a renewal if needed
- See [PIM 09: Family and Medical Leave](#) for more details

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Working While on Full-Time FMLA

- FMLA is an unpaid, job-protected leave of absence
- Employees cannot be required to work during their FMLA leave period
- Employees on intermittent FMLA leave are not expected to work during the period of intermittent leave, but may be required to work before or after the intermittent leave period
 - Example: Employee takes three hours, one day per week for 5 weeks for follow up appointments.
- Managers should consult with Benefits before approving voluntary work

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Communication with Employees on FMLA

- Supervisor may engage in limited communications with employee who are on continuous FMLA leave
- Supervisor may contact the employee to request information about a pending project, the location of a file, passwords, etc.
- Such communications should be the exception, not the rule
- Depending on the circumstance, the employee on continuous FMLA may not be able to respond to communications
- Employees on intermittent FMLA are expected to be responsive to communications

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My Employee's FMLA Was Not Approved

Reasons:

- Not eligible (employee did not meet the year/service requirements)
- Non-qualifying FMLA reason
- Medical certification was not provided, incomplete or insufficient
- Employee exhausted their FMLA hours

What happens next:

- The Benefits Office reviews leave case, coordinates with Employee Relations, if applicable, and provides employee and department with further guidance.

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Kronos Leave Entries for FMLA

Pending

- Employee or manager enters available accruals (i.e., sick or vacation), or Leave Without Pay (LWOP)
- Upon FMLA approval, retroactive leave changes in Kronos will need to be made

Approved Intermittent Leave

- Employee enters leave as FMLA or other (i.e., sick leave for dental appointment)

Approved Full-time

- Employees should not make timekeeping/leave entries
- Employees should consult with the benefits office regarding any FMLA questions, or if on LWOP for more than 10 days due to benefit impacts
- Benefits Office to assist supervisors with leave entries.

LWOP entries should be made real-time (daily)/or in advance of the leave date(s) to prevent overpayments

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Navigating Intermittent FMLA

- Leave earning eligible employees may start off with 480 hours of FMLA (pro-rated for part-time and temporary employees)
- Leave may be taken all at once or intermittently over an extended period based on the medical condition or qualifying event
- Leave may also be taken as a combination of full-time and intermittent leave

Example of combination FMLA leave

Employee A need 4 weeks of full-time FMLA leave due to knee surgery and the recovery time following the procedure. Employee A will also need 6 months of intermittent FMLA when they return to work for follow-up appointments and physical therapy.

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Confidentiality Requirements

- What does the law say?

“Records and documents relating to certifications, recertifications or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files.”

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Confidentiality Requirements at Charlotte

- UNC Charlotte strictly complies with the confidentiality requirements of the Act and DOL regulations
- Employees are never required to disclose a medical diagnosis to anyone, including a supervisor or the Benefits Office
- The Medical Certification form does not ask for a diagnosis
- The Benefits Consultant does not share employee or a family member's medical information with anyone who does not have a need to know
- FMLA information is stored in a separate file in the Benefits Office and is not part of your personnel file.
- What is shared with a supervisor?
 - Dates of FMLA leave and anticipated return to work date
- Supervisors are not permitted to share FMLA information with other employees, but may share it with their higher-level manager on a need-to-know basis

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Mental Health Days as FMLA or Not FMLA

- Generally, a mental health day is not FMLA or sick leave
- It is FMLA only if the employee has an approved intermittent FMLA and the reason for the absence is related to the FMLA qualifying condition
- Supervisor may ask if the reason for the leave is related to the employee's intermittent FMLA
- Employees may request to use vacation or comp time to cover a mental health day

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FMLA and Teleworking

When should an employee complete a temporary one-week form for medical reasons?

- Employees should not telework or adjust their work schedule in lieu of taking FMLA
- If an employee is requesting to telework during a pending or approved FMLA leave for more than five consecutive workdays, the employee should submit a Temporary Telework Request form in advance of teleworking

Example: Employee traveling to care for immediate family member in state (one week a month for three months). During the one-week period they are taking FMLA, they are requesting to telework. Employee must complete the Temporary Telework Request form and use approved FMLA, when applicable.

Resource: [Flexible Work and Telework Arrangements for SHRA and EHRA Non-Faculty Employees -University Policy 101.22](#)

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What Managers Need to Know About FMLA Leave at UNC Charlotte

What is FMLA? FMLA is a federal labor law requiring covered employers to provide employees with: up to 12 workweeks of job-protected, unpaid leave for qualified medical and family reasons, or 26 workweeks for military caregiver leave.

Understanding the timeline for leave cases: There are several steps in the FMLA process: application; notification of eligibility; sending/receiving medical certifications; follow-up for missing/incomplete/insufficient information; approval/denial; and review of fitness for duty forms, if applicable. The Benefits Office provides guidance to the employees and managers throughout the process.

Supervisors may properly inquire about an employee's leave in the following manner:

- If an employee is absent from work and using sick leave for more than 5 workdays, the supervisor may ask:
 - Do you need additional time off from work?
 - Have you completed the [Online FMLA Application](#) application?
 - Have you contacted the Benefits Office regarding your leave options?
- The supervisor should not do the following:
 - Ask any questions about the nature of the employee's illness.
 - Request the employee provide medical documentation to support ongoing/future absences (supervisors may still request a medical note to support non-FMLA sick leave of 3 days or more).

Supervisor's Responsibilities (If an employee is absent using sick leave for more than 5 workdays):

- Promptly notify the Benefits Office of the employee's absence
- Do not request or collect medical information from the employee
- Request that the employee contact the Benefits Office and provide sufficient information so that the FMLA Consultant can determine whether the leave is FMLA-qualifying
- Track and timely approve leave and time sheets through KRONOS
- If an employee is unable to do time entries, submit leave usage and time worked in KRONOS.

Return to Work/Ending FMLA

- **Own serious health condition (continuous/full-time leave):**
 - Fitness For Duty (FFD) form required (a week before returning)
 - If with restrictions, employees are referred by Benefits Office to ADA for potential accommodations and interim arrangements
 - If an employee returns without a FFD, consult the Benefits Office for guidance.
- **Care for family member (continuous/full-time leave):**
 - Employee notifies Benefits Office to let them know when they have returned from leave
 - Fitness for Duty form not applicable.
- **Employees on intermittent leaves (own serious health condition or care for family member):**
 - Employees are not required to provide a Fitness For Duty Form, and may request a renewal if needed.

Kronos Leave Entries for FMLA

- **Pending Application:** Employee or manager enters available accruals (i.e., sick or vacation), or Leave Without Pay (LWOP). Upon FMLA approval, retroactive leave changes in Kronos will be made
- **Approved Intermittent Leave:** Employee enters leave as FMLA or other (i.e., sick leave for dental appointment).
- **Approved Full-time:** Employees should not make timekeeping/leave entries. Employees should consult with the Benefits Office regarding any FMLA questions. The Benefits Office will assist supervisors with leave entries.
- LWOP entries should be made real-time (daily) or in advance of the leave date(s) to prevent overpayments.

Contacts:

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- Maria Sanchez | Benefits Consultant | msanche40@charlotte.edu | 704-687-0492

Resources:

- [PIM 09: Family and Medical Leave](#) (staff and 12-month faculty)
- [University Policy 102.6](#) (9-month faculty)
- [Employee Assistance Program](#): Call: 1-877-603-8259/TDD: 800-697-0353, Visit: guidanceresources.com. Company Web ID: UNCC - Headspace Care

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The End!

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