

THE FAMILY MEDICAL LEAVE ACT (FMLA) SUPERVISOR CHECKLIST

GENERAL FMLA REGULATIONS & KNOWLEDGE:

FMLA provides up to 12 weeks of unpaid, job-protected leave in a 12-month period to eligible employees for certain family or medical situations such as:

- Birth or a child or placement of a child with the employee for adoption or foster care.
- To care for a child, spouse or parent with a serious health condition.
- Employee’s own serious health condition which leaves them unable to work.
- Reasons related to a family member’s service in the military including:
 - Qualifying exigency leave- leave for certain reasons related to a spouse, child (any age) or parent’s foreign deployment.
 - Military caregiver leave- leave when a spouse, child, parent or next of kin is a current servicemember or recent veteran with a serious injury or illness.

An employee must meet the following qualifications to be eligible for FMLA:

- Worked for employer for at least 12 months (does not have to be consecutive). C&B grants FMLA for all maternity leaves regardless of tenure
- Worked 1,250 hours over past 12 months

While the law states that location size should be 50 or more employees within 75 miles, C&B permits FMLA at all locations, regardless of size

SUPERVISOR’S RESPONSIBILITY REGARDING FMLA:

DO’S	DON’TS
Notify HR when aware of a possible qualifying situation and inform the employee that HR will be reaching out.	Never approve or deny FMLA without consulting HR and never dissuade an employee from applying for FMLA.
Notify HR if an employee is off work unplanned for three or more days, as this could signal a need for FMLA.	Don’t assume that someone is eligible for FMLA leave based on their description.
Ensure the employee is not performing work while on FMLA.	Respect the privacy and confidentiality of the situation. Communications to teammates regarding employee’s FMLA should simply be related to the employee being absent from work. No details should be provided to others.
Remember FMLA guarantees employees will be restored to the same or equivalent position at the end of leave and ensure that no one is retaliated against for exercising FMLA rights. Remember that the reasons underlying an FMLA leave are often sensitive	

- Be prepared to explain to employees the company policy about whether paid time off, such as PTO or Short-Term Disability (STD) runs concurrently with FMLA leave. If supervisors are not confident in their understanding, they should refer employees to HR.
- Supervisors should inform Human Resources of the timing/work schedule related to an employee's hours.

WHAT TO EXPECT FROM HR:

- HR is responsible for determining FMLA eligibility
- HR will reach out to the employee to discuss:
 - What is FMLA
 - How FMLA works
 - The required certification documentation
- HR will work with the employee and supervisor to manage the timeframe requirements and to communicate the approval/denial of FMLA eligibility and certifications.
- HR will track FMLA in Workforce Management and on a separate tracking sheet to include potential PTO & concurrent FMLA time based off communication with employee AND supervisor.
- HR will ensure the frequency/duration of the leave matches the certification.
- Some states have other nuances/requirements; HR will manage appropriately as FMLA cases arise

Contact HR at human.resources@cottinghambutler.com for any FMLA needs.

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take **up to 12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less hours each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?

You are an **eligible employee** if **all** of the following apply:

- You work for a covered employer,
- You have worked for your employer at least 12 months,
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

Airline flight crew employees have different "hours of service" requirements.

You work for a **covered employer** if **one** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
- You work for an elementary or public or private secondary school, or
- You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

How do I request FMLA leave?

Generally, **to request FMLA leave you must:**

- Follow your employer's normal policies for requesting leave,
- Give notice at least 30 days before your need for FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

You **do not have to share a medical diagnosis** but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You **must also inform your employer if FMLA leave was previously taken** or approved for the same reason when requesting additional leave.

Your **employer may request certification** from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

What does my employer need to do?

If you are eligible for FMLA leave, your **employer must:**

- Allow you to take job-protected time off work for a qualifying reason,
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your **employer cannot interfere with your FMLA rights** or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your **employer must confirm whether you are eligible** or not eligible for FMLA leave. If your employer determines that you are eligible, your **employer must notify you in writing:**

- About your FMLA rights and responsibilities, and
- How much of your requested leave, if any, will be FMLA-protected leave.

Where can I find more information?

Call **1-866-487-9243** or visit dol.gov/fmla to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

