



UTEP
OFFICE OF
INSTITUTIONAL COMPLIANCE

Family and Medical Leave Act (FMLA)

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Family and Medical Leave Act (FMLA)

- FMLA provides eligible employees up to **12 weeks of unpaid, job-protected leave in a rolling 12-month period** for the following reasons:
 - Prenatal care, birth and bonding with newborn child
 - Adoption or foster care placement and bonding time with a child under the age of 18
 - Care of the employee's spouse, child, or parent, who has a serious health condition
 - Employee's own serious health condition
 - Military Exigency

Eligibility requirements

- Employees may be eligible for Family Medical Leave (FML) if they are on the payroll and meet the requirements below, **prior to the start of the leave request**:
 - The employee must have at least **12 months of state service**. (Does not have to be consecutive months)
 - Worked at least **1,250 hours** during the 12-month period before the leave begins. (These months are consecutive).
 - One-month advance notice must be given to supervisors when the leave is foreseeable. Leave must be communicated through the UTEP FMLA Application Form which can be found in the HR Forms Mine.
 - Sick leave will be administered concurrently during the leave to continue salary and benefits. **An employee who is on paid leave on the first workday of a month may not take sick or vacation leave accrued for that month until the employee has returned to duty.**
 - If at any time the employee is expected to exhaust their sick accruals during the leave they should contact Human Resources - Leave Administration **HRLeaveAdmin@utep.edu** to make payment arrangements for their voluntary benefit premiums. The University will continue to provide contributions to the employee only level of health insurance coverage for the twelve-week period.

Events that should trigger Family Medical Leave (FML)

- Employee notifies department or supervisor of the pending birth of their child, intent to adopt, or receive a child from foster care
- Employee misses work to care for a child, spouse or parent suffering from a qualifying serious health condition
- Employee misses work due to a chronic health condition
- Employee is placed in a hospital, or other care facility for any length of time
- **Employee is absent for more than three (consecutive) business days**
- Employee is absent from work due to a preparation for deployment of a service member who is an immediate relative
- Employee needs to care for a returning qualifying service member due to illness



Types of leave covered under FMLA

- Continuous Leave - when an employee takes off from work for a specified, uninterrupted block of time. For example, an employee who takes leave and does not work from October 1st through December 1st is considered continuous FML.
- Intermittent leave and reduced schedule - Intermittent FML may be taken under certain circumstances in separate blocks of time due to a single qualifying reason. A reduced leave schedule is leave that reduces an employee's number of working hours per work week or per day.

National Defense Authorization Act (NDAA) of 2010 – Section 565

- Provides eligible employees up to twelve (12) weeks of FML for any **qualifying exigency** that arises when the employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.
- NDAA expands the **military caregiver leave** provisions and allows eligible employees who are the next of kin to take up to twenty-six (26) work weeks of FML in a single 12-month period to provide care for the “covered service member” with a “serious injury or illness”.

FMLA military leave entitlements and qualifying exigencies

- **Qualifying Exigencies** - arising out of pre and post deployment which may include:
 - certain military ceremonies and briefings
 - contingency operations
 - spending time with a military member on Rest and Recuperation leave **during** deployment
 - arranging for alternative childcare
 - addressing certain financial and legal arrangements
 - attending certain counseling sessions
 - attending post-deployment reintegration briefings
 - certain activities related to care of the parent(s) of the military member while the military member is on covered active duty



FMLA military leave entitlements for military caregivers

- **Covered Member with a serious injury or illness** -
 - Expanded to cover employees who are the eligible family members of active duty or certain veterans with a serious injury or illness incurred or aggravated in the line of duty and that manifested before or after the veteran separated from active duty.
 - Expands definition for a current service member to include injuries or illnesses that existed prior to the service member's active duty but were aggravated in the line of duty on active duty.

Summary of the FMLA Process

1. Identify the need for FML (i.e. triggers).
2. Employee should contact HR Leave Administration for the initial FML Packet.
3. The application should be signed by both the employee and the department supervisor and submitted to HR Leave Administration.
4. The employee must submit a Healthcare Provider Certification to HR Leave Administration within fifteen (15) days from the date of the request.
 - **Health condition, treatment, and documentation is private and personal. This information should not be discussed or disclosed to anyone outside of HR Leave Administration.**
5. HR Leave Administration reviews the employee's documentation and makes a determination based on federal guidelines.
6. HR Leave Administration notifies both the employee (via email and USPS) and the department supervisor via email.
7. FML is processed by HR Leave Administration.
 - **Employees on intermittent FML must submit a summary of FML absences to HR Leave Administration monthly.**
8. Return-to-work (or Release to "return to work") documentation must be submitted directly to HR Leave Administration prior to the employee's returning to work. **The Release to "return to work" documentation is not to be submitted to the department or supervisor.**

Mid-module questions

Question #1 (Refer to Slide #3)

An employee who is on paid leave on the first workday of a month may not take sick or vacation leave accrued for that month until the employee has returned to duty.

True or False

Question #2 (Refer to Slide #3)

Two-weeks advance notice must be given to supervisor when the leave is foreseeable. Leave must be communicated through the UTEP FMLA Application form which can be found in the HR Forms Mine.

True or False

Question #3 (Refer to Slide #3)

Employees with paid leave balances must use all applicable paid sick leave and vacation leave concurrently while on FML.

True or False

Question #4 (Refer to Slide #3)

Employees and supervisors should consult with the HR Leave Administration for all FMLA related leave and for any extended Leave of Absence as it may impact employee benefits.

True or False

Question #5 (Refer to slide #6)

An employee may submit a return-to-work release to their department supervisor on the day they return from leave.

True or False

Question #6 (Refer to slide #6)

Employees on intermittent FML must submit a summary of FML absences to HR Leave Administration every month.

True or False

Supervisor role and responsibility

- Supervisors have the unique responsibility for ensuring UTEP's compliance with the FMLA.
- When employees are absent, sick, or injured, employees generally consult with their supervisor before anyone else. As soon as an employee confides in the supervisor, the supervisor must adhere to the FMLA requirements.
- In order to do this, the supervisor should...
 - Attend an HR FMLA training via **Mine Tracker**.
 - Know what are the **employee's rights**.
 - Be able to **recognize the triggers to know when to refer employees to HR Leave Administration**.
 - Refer the employee to HR Leave Administration immediately if they suspect that the employee may qualify for FML.
 - Work with the employee to develop a pre-leave plan (when possible).
 - **Do not retaliate** in any manner against an employee for taking FML.
 - Partner with HR Leave Administration throughout the FML process.
- **Remember: Employees should not disclose any medical information or condition to their department or supervisor.**



UTEP Employee Rights

- **Length of FML:**
 - Eligible employees are allowed up to a total of twelve (12) weeks off during a “rolling” twelve-month period for birth and bonding with a new child, for their own serious health condition or for a serious health condition of your spouse, child, or parent.
 - If leave is for a service member with a qualified serious illness or injury, a total of twenty-six (26) work weeks is allowed during a “rolling” twelve (12) month period.
- **Job Protection while on FML:**
 - Eligible employees have a right to return to the same position or an equivalent position with same pay and benefits.
- **Benefit Protection during FML:**
 - Employer premium sharing for coverage under the basic medical plan will continue.

Important information for faculty members

- All eligibility and entitlements for FML remain the same for faculty members.
- Deans, Chairs, and faculty members **must consult with HR Leave Administration** for guidance on extended leave of more than three (3) consecutive days, or intermittent absences, due to an employee’s well-being.



FMLA Scenarios

- **Scenario A:**

A recently hired faculty member informs their supervisor she is pregnant and plans to stay home for the first three months after her child is born. What are her options?

- **Possible solutions:**

The faculty member must consult with HR Leave Administration for guidance on all available options.

Alternate solutions or options should be sought in consultation with HR, the Department Chair and/or Program Director, and/or Dean.

- **Scenario B:**

A staff or faculty member's spouse is a member of the Army Reserve. They are called to active military duty and will be deployed. The spouse is the primary caregiver for their two-year-old child, so arrangements must be made for childcare.

- **Possible solutions:**

Leave may be taken under FMLA to care for the child on a temporary-basis while making arrangements for daycare. Such leave qualifies under both UTEP's Leave Policy and the FMLA allowances for military families. (Military orders will be requested to apply for this type of FML.)

- **Scenario C:**

A staff or faculty employee mentions they are exhausted from taking their child to therapy appointments. The employee misses work 1-2 days at a time, on a monthly basis to care for their child.

- **Possible solutions:**

Immediate supervisors should recognize this trigger and notify HR Leave Administration regarding employees who are caring for a family member with a serious illness. Supervisors should also refer employees to HR Leave Administration to inquire about available resources.

Teachable Takeaways

- FML is 12 weeks (480 hours) of unpaid, job protected medical leave.
- Sick leave will be administered concurrently during the leave to continue salary and benefits.
 - If at any time the employee is expected to exhaust their sick accruals during the leave they should contact Human Resources-Leave Administration HRLeaveAdmin@utep.edu to make payment arrangements for their voluntary benefit premiums. The University will continue to provide contributions to the employee only level of health insurance coverage for the twelve-week period.
- A medical certification is required for all leave requests under the FMLA.
- Supervisors should readily identify events that trigger FML and always consult with HR Leave Administration for guidance on extended leave of more than three (3) consecutive days, or intermittent absences, due to an employee's well-being and the possible impact on benefits.
- One-month advance notice must be given to supervisors when the leave is foreseeable. Leave must be communicated through the UTEP FMLA Application Form which can be found in the HR Forms Mine.
- It is the employee and supervisor's responsibility to submit all intermittent FML hours utilized **monthly** to HR Leave Administration for tracking purposes.
- When FML is taken for the employee's own serious health condition, return to work documentation must be submitted directly to HR Leave Administration **prior** to the employee resuming work.
- Employees should not disclose any medical information or condition to their department or supervisor.

Additional resources

- For additional information on any of the policies or training, please visit:
 - **HOP Section V Human Resources, Chapter 17: Family and Medical Leave**
<https://www.utep.edu/vpba/hoop/section-5/ch-17.html>
 - **Professional Development Platform**
<https://minetracker.utep.edu/>
 - **The Employee's Guide to the Family and Medical Leave Act**
https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/employee_guide.pdf
- For additional information please contact:
 - **Your supervisor**
 - **Office of Human Resources Leave Administration**
(915) 747-5202
 - **Office of Institutional Compliance**
(915) 747-6478
- Campus resources for accommodations:
 - **Equal Opportunity Office**
(915) 747-5662



End-module questions

Question #7 (Refer to Slide #9)

The FMLA provides an eligible employee up to twenty-six (26) weeks of FML for any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) "covered active duty" in the Armed Forces.

True or False

Question #8 (Refer to Slide #11)

It is the employee and supervisor's responsibility to submit all intermittent FML hours utilized monthly to HR Leave Administration for tracking purposes.

True or False

Question #9 (Refer to Slide #9)

Eligible employees are allowed up to a total of twelve (12) weeks off during a rolling 12-month period for a serious personal illness or a serious illness to your spouse, child, or parent.

True or False

Question #10 (Refer to Slide #9)

Deans, Chairs, and faculty members must consult with HR Leave Administration for guidance on extended leave of more than five (5) consecutive days, or intermittent absences, due to an employee's well-being.

True or False

Question #11 (Refer to slide #8)

Supervisors can approve their employee's sick leave request to take a week off for surgery without notifying HR Leave Administration.

True or False