

# FAMILY & MEDICAL LEAVE ACT (FMLA) QUICK REFERENCE

Refer to the following University resources simultaneously with this FMLA reference guide:

FMLA Toolkit: [hr.unm.edu/fmla-toolkit](http://hr.unm.edu/fmla-toolkit) Military Leave Policy: [policy.unm.edu/university-policies/3000/3425.html](http://policy.unm.edu/university-policies/3000/3425.html)

FMLA Policy & Forms: [hr.unm.edu/benefits/fmla](http://hr.unm.edu/benefits/fmla) Benefit Plan Policy: [policy.unm.edu/university-policies/3000/3600.html](http://policy.unm.edu/university-policies/3000/3600.html)

## A. DEPARTMENT RESPONSIBILITY – MONITORING EMPLOYEE LEAVE

- When Employee is absent for **three (3)** consecutive work days, and/or an absenteeism pattern or chronic condition is suspected by their Supervisor, the Supervisor will provide the Employee with University resources (*see above*)

## B. EMPLOYEE RESPONSIBILITY

- If possible, **30 days** prior to or as soon as you have an FMLA intermittent or consecutive qualifying event, notify your Supervisor of FMLA request and see below: (**refer to** [hr.unm.edu/docs/benefits/fmla-process-flow.pdf](http://hr.unm.edu/docs/benefits/fmla-process-flow.pdf))
  1. Complete the **FMLA Employee Request** and **Medical Certification** forms and submit to your Supervisor
  2. Specify the use of Sick or Annual Leave concurrently with FMLA on Request Form
  3. Within **five business days** of the request, your Supervisor will review the request and provide a **Notice of Eligibility, Rights & Responsibilities Form with the following specific notice:**
    - ✓ If Supervisor needs more information to make determination, Supervisor will notify Employee on this form and request information **within 15 calendar days** of that request.
    - ✓ If request is complete and Employee is eligible/entitled to FMLA, Supervisor will notify Employee of approval on this form. Supervisor will also provide **Designation Notice** approving the request.
  4. Communicate any changes and updates to your Supervisor including condition and return date
  5. You must **re-certify the original FMLA event** and/or update **Medical Certification** if the:
    - ✓ Use and frequency of FMLA is in excess of the **Medical Certification** provided
    - ✓ Duration of approved FMLA leave was exhausted and maximum allotment has not been reached
    - ✓ Medical condition or dates have changed and require additional consideration
  6. You may initiate a **new/modified** FMLA request for any new, changed, or additional FMLA events
  7. Refer to FMLA, Sick, Annual, and Catastrophic leave policies regarding concurrent usage
  8. Health Premiums and UNM Benefits: (*see above policy*)
    - ✓ **Paid leave** – Regular benefit deductions will continue
    - ✓ **Unpaid leave** – Employees are billed for their portion of benefit premiums. For **consecutive** FMLA, Employee may cancel benefits within 31 calendar days from the start of event. If the Employee returns to benefits eligible/paid status s/he may re-enroll within 31 calendar days from the return date for coverage, **OR** wait for next Open Enrollment period. *The Cancellation and Re-enrollment process must be completed via MyUNM.*

## C. DEPARTMENT RESPONSIBILITY – EVENT & ELIGIBILITY ASSESSMENT

- Confirm that the **Event/Request** is **covered** under FMLA qualifiers:
  1. Birth, Adoption, or Foster Care
  2. Serious medical illness for:
    - ✓ Self or immediate family (*sons, daughters, spouses or domestic partners, parents, grandchildren, siblings, step-children, adoptees, foster children, legal wards, or loco parentis to a child.*)
  3. Military FMLA (Caregiver), and
  4. Military FMLA Qualifying Exigencies
- Confirm FMLA **Eligibility** (Review *My Reports* and *HR Reports*):
  1. Must be employed at UNM for at least 12 months in total within the last seven (7) years (*temporary, on-call, staff, student, and faculty employment are counted in determining employment period*), **and**
  2. Worked at least 1,250 hours during the 12-month period preceding the start of the leave
  3. Use **FMLA Eligibility & Entitlement Calculator** and consider the following:
    - ✓ Check Employee's appointment percentage/full-time equivalent (**FTE**), prior to FMLA and Annual/Sick Leave used
    - ✓ Paid, unpaid, **and** prior FMLA leave are **NOT** counted towards work hours. However, periods of covered military leave (*see USERRA*) are counted towards the 1250 required work hours.
    - ✓ UNM defines the 12-month period as a rolling 12-month period measured backward from the date an Employee uses any FMLA leave.
- If the Event qualifies and the Employee is eligible, **Refer to Section D**
- If the Event **does not** qualify and/or Employee is **not** Eligible, within **five (5) business days** of request:
  1. Provide the Employee with a completed **Notice of Eligibility, Rights & Responsibilities Form** and check off areas where the Employee has not met the general eligibility requirements for FMLA
  2. Consult with your Human Resources Consultant (HRC) to discuss other options for the Employee

## D. DEPARTMENT RESPONSIBILITY: REVIEW FOR COMPLETED DOCUMENTS

- If Employee's **Request Form** is **Complete** (*with supporting Medical Certification*): **Refer to Section E or F**
- If Employee's **Request Form** is **Incomplete** (*missing Medical Certification, dates are inconsistent, missing signatures, employee has requested multiple leaves in one form, or more information is needed, i.e. use and frequency*):
  1. **Within five (5) business days** of Employee's request:
    - ✓ Complete and Provide **Notice of Eligibility, Rights & Responsibilities Form** asking for missing information
    - ✓ Remind Employee of the **15 calendar days** requirement to provide completed/signed **Medical Certification** form (if applicable) or any missing information to Supervisor

## E. IF EVENT/ELIGIBILITY QUALIFIES UNDER FMLA: DEPARTMENT WILL

- Within five (5) business days** of Employee's submission of completed **Request** and **Medical Certification** forms, provide Employee with:
  1. Completed **Notice of Eligibility Rights & Responsibilities**
  2. Completed **Designation Notice**
- Begin **tracking** Employee's leave hours upon start of approved leave (*Refer to FMLA Tracking Log*)
  1. Understand leave allowance according to the event:
    - ✓ For Serious Health Conditions (self or immediate family), birth, adoption, foster care, bonding, military event for self – Up to **12 weeks** of job-protected leave or **480 hours**
    - ✓ For Military Caregiver – up to **26 weeks** of job-protected leave or **1040 hours**
  2. Be sure to prorate the total FMLA leave allowance based on Employee's current FTE
  3. Enter FMLA time: deduct from total leave allowance e.g., **Sick** = Illness/ Injury, **Annual** = Bonding/Military Exigencies
  4. If Sick leave is exhausted, charge the Sick leave usage (timesheet) from Annual leave bank for deduction
  5. Maintain the log after each occurrence as Employee has the right to request FMLA balance *once every 30 days*
  6. Consult your HRC for guidance if Employee exhausts any of their leave
- Follow these administrative processes for UNPAID and PAID FMLA leave:
  1. **UNPAID** – Submit **ePAN** to HRC if FMLA leave is **consecutive** and the FMLA leave is without pay
  2. **PAID** – Do **NOT** submit **ePAN** if FMLA leave is intermittent **or** Employee will use available leave for pay
- Report any changes to HRC (e.g., *employee returns early or cannot return as anticipated*)

## F. IF EVENT/ELIGIBILITY DOES NOT QUALIFY: DEPARTMENT WILL

- Within five (5) business days** of Employee's submission of **Request** and **Medical Certification** forms, provide **Designation Notice** *disapproving* FMLA request due to non-qualifying event

## G. IF MORE INFORMATION IS NEEDED FOR DETERMINATION: DEPARTMENT WILL

- Within five business days** of Employee's submission of completed **Request** and **Medical Certification** forms to Supervisor, provide Employee with **Designation Notice** and:
  1. Inform Employee that information provided is insufficient, and that the Employee has **seven (7) calendar days** to provide additional/sufficient information to support their request
  2. **Within five (5) business days** of receipt of additional information, Supervisor will make determination

## H. PLANNING FOR THE RETURN TO WORK: DEPARTMENT WILL

- Within five (5) working days** of the **Employee's anticipated return date**, the Supervisor should call to confirm the Employee will return on the scheduled return date, and also ensure that:
  1. If Employee was out for bonding, adoption, foster care, military leave, **or** caring for immediate family member:
    - ✓ Keep any records/tracking in a separate medical file for future reference
  2. If Employee was out for his/her own serious health condition, the Employee may do either of the following:
    - A.** Employee may set an appointment with his/her own treating healthcare provider to obtain **clearance** and completion of a **Return to Work Physician Medical Certification** (*Employee should take their **Job Description** to this appointment*).
    - B.** Employee may set an appointment with **UNM's Employee Occupational Health Services (EOHS, 505-272-0843)** to obtain clearance and completion of a **Return to Work Physician Medical Certification** (*Employee should take their **Job Description** to this appointment*).
      - ✓ Employee must submit to their Supervisor either the documentation from their own healthcare provider or the **EOHS Release/Confirmation** outlining whether the Employee can return to work and perform the essential functions of their job with/without restrictions
      - ✓ Consult with HRC to discuss any restrictions/accommodations before returning Employee to their position
      - ✓ Keep any records/tracking in a separate medical file for future reference
- Upon receipt of Employee's request for early return**, the Supervisor will ensure that:
  1. Applicable steps 1 or 2 above are completed
  2. An **ePAN** is submitted to HR with the updated dates of return
- If the Employee is NOT able to return to work** and requests an **extension** on their return date, the Supervisor will ensure that:
  1. The total amount of hours used under FMLA are reviewed to confirm eligibility for additional FMLA benefit
  2. If Employee is **eligible**:
    - ✓ Request updated **Medical Certification** from the Employee to recertify under FMLA
    - ✓ Track FMLA usage
    - ✓ Submit **ePAN** (*if unpaid*) to HR to extend FMLA (*repeat applicable steps in FMLA Quick Reference*)
  3. If Employee is **not eligible**, (*has exhausted FMLA leave or non-qualifying event*)
    - ✓ Contact HRC to discuss options
    - ✓ Send Employee the FMLA leave exhaustion letter (**contact HRC for letter**)
- Resignation may be considered for the following** (*please submit ePAF with separation dates*):
  1. If Employee resigns, obtain **resignation notice** for separation process
  2. If Employee **fails to return to work** within three (3) work days after an approved leave, including any approved extensions, the Employee will be considered to have resigned (**contact HRC for letter**).