

FAMILY AND MEDICAL LEAVE ACT (FMLA) NOTICE OF ELIGIBILITY, RIGHTS AND RESPONSIBILITIES

This form must be provided to an employee within five (5) business days of an employee request for leave that may be covered under FMLA, or from when a supervisor learns that leave taken was for an FMLA-qualifying purpose.

NOTICE OF ELIGIBILITY

To: _____ Date: _____

From: _____
(Employer Representative)

On _____, you informed us you needed leave beginning on _____ per the attached copy of your request.

This notice is to inform you that:

- You have met the general eligibility requirements for FMLA leave and have FMLA leave time available in the current rolling 12 month period. Eligibility based on the type of leave requested must still be determined.**

1. Please provide certification to support your request for FMLA leave:

- _____ Documentation supporting birth or placement of child for adoption or foster care
- _____ Certification of Health Care Provider for Employee's Own Serious Health Condition
- _____ Certification of Health Care Provider for Family Member's Serious Health Condition
- _____ Certification for Serious Injury or Illness of a Covered Service member for Military Family Leave
- _____ Certification of a Qualifying Exigency for Military Family Leave

OR

- Based on the submitted Employee Request form for FMLA, the following information is required to complete the review and determine your eligibility: _____

You have **15 calendar days** to respond with the certification (or an explanation of extenuating circumstances and the date the certification can be provided). If sufficient information is not provided in a timely manner, your leave may be denied. **You must respond by** _____.

Once we obtain information from you as specified above, we will inform you **within 5 business days** whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlements.

OR

- 2. No additional information is needed at this time. You will receive a final designation notice within five (5) business days.**

You have not met the general eligibility requirements for FMLA leave, because:

- _____ You do not have the required 12 months of employment in the last 7 years
- _____ You have not worked the required 1,250 hours in the preceding 12-month period
- _____ You have exhausted your FMLA leave entitlement in the applicable rolling 12-month period
- _____ You do not work and/or report to a site with 50 or more employees within 75 miles

For more information about FMLA provisions, including links to FMLA forms, go to: <http://hr.unm.edu/benefits/fmla.php>

Supervisor Signature: _____ Date: _____

Rights and Responsibilities for Taking FMLA Leave

If your leave qualifies as FMLA leave, you will have the following rights:

- You have a right for up to 12 weeks of unpaid leave based on a rolling 12-month period measured backward from the date of any FMLA leave usage.
- You have a right for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered service member with a serious injury or illness.
- An employee **not** considered a “key employee” must be reinstated by the University upon return from FMLA leave to the same or equivalent position with equivalent pay, benefits, and other employment terms and conditions.
- If you are a “key employee” as defined in §825.217 of the FMLA regulations, restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us as described in §825.218. A “key employee” is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees within 75 miles of the worksite.
- An employee on FMLA leave does not have any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.
- An employee has no right to reinstatement if the employee would not have otherwise been employed at the time of the request for reinstatement.
- If the request is due to your own serious health condition, you will be required to present a fitness-for-duty certificate to be returned to employment. This certification should normally be provided 5 days prior to return. If it is not received in a timely manner, your return to work may be delayed until certification is provided. The fitness-for-duty must address your ability to perform the essential functions listed in your position description.
- If an employee fails to return within three (3) work days after an approved leave, including any approved extensions, the employee will be considered to have resigned. Refer to Section 2.1. [“Separation of Employment” Policy 3225](#)
- When using paid sick leave, annual leave, or catastrophic leave, an employee who carries health and/or life insurance through the University will continue to have their premiums deducted from their paycheck.
- If an employee is on unpaid leave he/she must pay their portion of insurance premiums. The University will mail the employee a monthly bill showing the amount due. If the employee does not pay his/her portion of premiums in a timely manner, the University has the right to cancel coverage. If so, the employee will be notified in writing prior to such action. In certain circumstances, arrangements may be made to recuperate payments through payroll deductions upon the employee’s return.
- You have the right to use paid sick leave and/or annual leave for FMLA qualifying medical conditions for yourself or a qualified family member simultaneously with FMLA. If you elect this option, please advise your supervisor. The 12 weeks of FMLA leave will be reduced by any catastrophic leave or Worker’s Compensation.
- GINA prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of employees or their family members with certain exceptions including requests for family medical history to comply with the certification provisions of the FMLA or State or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of Federal, State, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave." If this exception provision is not applicable in your case, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information,’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.