

FAMILY & MEDICAL LEAVE ACT (FMLA) REFERENCE GUIDE

The purpose of this Reference Guide is to outline the procedures for administering [the Family Medical Leave Act \(FMLA\) of 1993](#) to eligible University of Delaware employees.

Eligibility Requirements

- Worked at UD for a total of at least 12 months
- Worked at least 1,250 hours over the 12 months prior to the leave date
 - Just over 33 weeks / 8 months of employment, based on a 37.5 hour work week

Eligible employees are entitled to up to 12 weeks of leave for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth
 - Employees must receive notice of their rights related to pregnancy and pregnancy accommodation within 10 days of notifying the University of the pregnancy
- To care for the employee's child after birth, or placement for adoption or foster care
- To care for the employee's immediate family member (spouse, child or parent) with a serious health condition
- For a serious health condition that makes the employee unable to perform their job
- For Qualifying Exigency Leave (Active Duty Leave) – The employee's family member must be deployed to a foreign country
- For Military Caregiver Leave eligible employees are entitled to up to 26 weeks

Employee Notice Requirements

- Must provide 30 days advance notice to their supervisor if need for FMLA is foreseeable
- If 30 days is not possible, must notify supervisor the same or next business day after employee learns of the need for leave, absent emergency circumstances
- Must follow department's call-out procedures, absent emergency circumstances

Employer Notice Requirements

- Department designee is responsible for providing the [Employee Rights Notice](#), along with the completed Notice of Eligibility and Rights and Responsibilities ([Form WH-381](#)) (and other short term disability and pregnancy (DDEA) notices when applicable). Complete certification form(s), along with a job description (if employee's own serious health condition), and provide to employee (see sample letter)
- Department designee should forward copy of Notice of Eligibility ONLY to requesting employee's supervisor
- Employees have 15 calendar days to return the completed certification form
- Once certification form is received, the department designee is responsible for completing the following forms: Approval/Designation of FMLA Leave Letter, Designation Notice ([Form WH-382](#)) and, when applicable, Denial of FMLA Leave Letter, Designation Notice ([Form WH-382](#))
 - The Designation Notice must be provided within 5 days of the University having enough information to make the determination
 - If employee returns an incomplete or insufficient certification form, they must supplement the certification within 7 calendar days to cure the deficiency. If the employee fails to cure the deficiency, FMLA leave may be denied
 - If an employee fails to return a completed certification, the FMLA leave may be denied
- After receipt of completed medical certification, complete and send to employee the [Designation Notice Form WH-382](#) within 5 days. Be sure to check the Return to Work note box if required

- Department Designee should forward copy of Designation Notice to requesting employee's supervisor with dates of anticipated leave. That is the ONLY information supervisor needs. Do not forward any medical information. Employee is not required to "call out" during this designated period
- Process JED and submit forms WH-381 and WH-382 to HR at hrrsystemsadmin@udel.edu. Do not send medical certification – stays in the department/unit
- Track FMLA leave (especially important for intermittent leave)
 - Receive any additional dr.'s notes, forms, etc.
- Return employee back to original status upon their return from FMLA (JED)
- Employees must be notified (complete and send [Form WH-382](#)) when their FMLA leave entitlement is exhausted in the applicable 12-month period

Relevant University Policies

- [Disability](#)
- [Employee Disability Accommodation Policy](#)
- [Family and Medical Leave](#)
- [Holidays](#)
- [Jury Duty](#)
- [Leave of Absence Without Pay](#)
- [Military Leave](#)
- [Nursing Mothers in the Workplace](#)
- [Parental Leave](#) (Parental Leave is available for benefited employees, regardless of FMLA eligibility)
- [Sick Leave](#)
- [Vacation Accrual and Use](#)

NOTE: FMLA, Short Term Disability (STD) & Parental Leave May Run Concurrently

FMLA provides employees with 12 weeks of paid or unpaid leave during any 12-month period. Employees will use their sick and/or vacation balances for paid leave under FMLA. If sick/vacation time is exhausted, employee will go on unpaid leave and will be responsible for the employee portion of University benefits.

Recommended Steps

1. Determine Eligibility
2. Prepare sample letter, fill out necessary forms and notices; send to employee
3. Within 15 days the Medical Certification must be completed and returned by employee's health care provider
4. Once the Medical Certification is received, complete and send Designation Notice to employee within 5 days
5. Process JED and send WH-381 and WH-382 to hrrsystemsadmin@udel.edu
6. Track FMLA time
7. Receive any additional dr.'s notes/forms
8. Return employee to normal status on JED upon their return, OR notify them when leave has been exhausted

SAMPLE FMLA LETTER

Date

Name

Address 1

Address 2

Dear Name:

This is to inform you that you are eligible for FMLA leave. For consideration of your FMLA status, enclosed you will find DOL Form WH-380, Certification of Health Care Provider. The Certification must be completed by your health care provider and returned to my attention no later than (15 days from date of letter). It is your responsibility to have the Certification of Health Care Provider form submitted in a timely manner. In accordance with the DOL guidelines, other pertinent documents enclosed are DOL WHD Publication 1420, Notice to Employees of Rights Under FMLA and DOL Form WH-381, Notice of Eligibility and Rights & Responsibilities, the Hartford STD information (for State pension eligible employees only), the DDEA Notice, (Pregnancy Notice). These documents provide you with more information regarding the Family and Medical Leave Act. You must comply in order to be eligible for FMLA.

If it is more convenient to you and/or your health care provider, you may submit the completed Certification of Health Care Provider form in confidence to fax number (302) 831-****. If I can be of further assistance, please do not hesitate to contact me at (302) 831-****. If you are unable to reach me by phone, please leave a message and I will return your call.

Sincerely,

Enclosures:

- (1) DOL Form WH380 – Certification of Health Care Provider Form
- (2) DOL WHD Publication 1420 – Notice to Employees of Rights Under FMLA
- (3) DDEA Notice – (Pregnancy Notice) – if applicable
- (4) DOL Form WH-381 – Notice of Eligibility and Rights & Responsibilities
- (5) Short Term Disability Notice (The Hartford) – if applicable
- (6) Job Description

Certification Requirements and FMLA Forms

- Certification forms to determine eligibility:
 - For employee's own serious health condition use [WH-380E](#)
 - For the serious health condition of employee's family member use [WH-380F](#)
 - For military caregiver use or serious injury or illness of a veteran use Form [WH-385V](#)
 - For qualifying exigency leave use Form [WH-384](#)

[WH-381 Notice of Eligibility](#)

[WH-382 Designation Notice](#)

[Employee Rights Notice](#)

[DDEA \(Pregnancy\) Notice](#)

[Short Term Disability Notice](#)

[FMLA Tracking Tool](#)

[Road Map/Holidays](#)