

## Family Medical Leave Act - FAQ for Supervisors

Your supervisory responsibilities with FMLA include:

- Understanding and complying with FMLA, related state laws, and FSCJ leave policies
- Recognizing when an employee’s absence may fall under FMLA
- Assessing and responding to employee leave requests
- Planning for coverage of the employee’s job duties while the employee is absent
- Ensuring that the employee’s FMLA usage in myFSCJ is accurately recorded

<p><b>When an employee needs FMLA Leave</b></p>	<p>As a supervisor, you need to be attentive to whether an employee’s absence may be related to FMLA. Employees don’t always know about or understand FMLA protection, so don’t rely on them to request it by name.</p> <p>Sometimes an employee will tell you directly that they need time off for medical treatment or other FMLA reasons. Sometimes you learn indirectly, such as through an extended absence or repeated requests for leave.</p> <p><b>Supervisors should not ask about or get involved in the medical issues of the employee.</b></p> <p>Supervisors should notify the Benefits Office. (It is then the responsibility of HR to initiate the FMLA certification process.) Supervisors should continue to record absences per policy.</p> <p>Employees seeking to use FMLA leave are required to provide <b>30-day advance notice</b> of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable – generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case.</p>
<p><b>Can supervisors deny FMLA?</b></p>	<p>No. If the employee is eligible and approved for FMLA, they must be able to take the leave.</p>

<p><b>What are eligible employees entitled to?</b></p>	<ul style="list-style-type: none"> <li>• Twelve workweeks of leave in a 12-month period for: <ul style="list-style-type: none"> <li>○ the birth of a child and to care for the newborn child within one year of birth;</li> <li>○ the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;</li> <li>○ to care for the employee’s spouse, child, or parent who has a serious health condition;</li> <li>○ a serious health condition that makes the employee unable to perform the essential functions of his or her job;</li> <li>○ any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” <b>or</b></li> </ul> </li> <li>• Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member’s spouse, son, daughter, parent, or next of kin (military caregiver leave).</li> </ul>
<p><b>Is it the supervisor’s responsibility to confirm the employee is eligible for FMLA?</b></p> <p><b>What are the eligibility guidelines?</b></p>	<p>No. The Benefits Office will approve the leave as FMLA in myFSCJ when it receives a completed health-care provider certification form supporting your employee’s FMLA leave request or deny the request if the employee is not FMLA eligible. Both you and your employee will receive a communication explaining the approval or denial.</p> <p>Eligible employees have to have been employed at least 12 months, worked at least 1,250 hours in the 12-month period preceding the leave, and not have previously exhausted FMLA hours, if any have been taken the same calendar year by the employee.</p>
<p><b>My employee has been out unexpectedly for a week. Is this covered by FMLA?</b></p>	<p>Maybe. Supervisors must be able to recognize FMLA qualifying reasons for leave and properly initiate the required notifications and eligibility checks. <b>If your employee will be out over five consecutive days, they should be advised of their rights under FMLA.</b></p> <p>Supervisors should also contact the Benefits Office at the same time to assist you with this process.</p>
<p><b>My employee regularly takes sick leave for appointments and treatment. Is this covered by FMLA?</b></p>	<p>Maybe. Supervisors should contact the Benefits Office who will send the employee FMLA information to determine whether the absences are covered by FMLA.</p>
<p><b>Must I allow an employee an extension of leave beyond FMLA?</b></p>	<p>There may be instances where it could be reasonable to extend a leave of absence after an employee has used all of the allowable time under the FMLA. Reference Leave Without Pay APM <a href="#">here</a> .</p>

<p><b>Does the employee return to the same position after FMLA leave?</b></p>	<p>Yes. Under FMLA, the employee is returned to the same or equivalent position upon return from leave. Exceptions might</p>
	<p>exist if the employee's job would have been lost if he or she had been working, such as through position elimination, nonrenewal or cause that would otherwise support dismissal.</p>
<p><b>What should a supervisor do if an employee gives notice of intent not to return?</b></p>	<p>Supervisors should process the termination in myFSCJ after receiving a separation letter from the employee. Additionally, a Clearance form should be completed by the supervisor and the employee.</p>
<p><b>Can I discipline an employee who is on FMLA leave?</b></p>	<p>Yes. You may discipline an employee who is on FMLA leave for any legitimate reason that is not related to the FMLA leave. For instance, if the employee fails to follow proper call-in protocol for reporting absences. In this situation, consult with Human Resources before taking any action. You cannot discipline an employee simply for taking FMLA leave, or otherwise retaliate against an employee for taking FMLA leave.</p>
<p><b>Can an employee request sick leave or vacation for a serious health condition and NOT count this toward the FMLA period?</b></p>	<p>No. The employee's leave would count as part of their FMLA leave entitlement.</p>
<p><b>What is Intermittent FMLA leave?</b></p>	<p>Intermittent leave is FMLA leave taken in separate blocks of time for a single illness or injury. A reduced leave schedule reduces an employee's usual number of working hours per workweek, or hours per workdays.</p> <p>Supervisors must permit employees to take intermittent leave when there is a medical need for such leave for an employee's own serious health condition, to care for a spouse, parent, son, or daughter with a serious health condition, or to care for a covered service member with a serious injury or illness.</p> <p>The Benefits Office will inform the supervisor of the timing and frequency of intermittent absences as expected by the employee's health-care provider. Supervisors should work with the employee to schedule their planned FMLA-related absences ahead of time when possible. This can make staffing and timekeeping easier. However, if the employee cannot give advance notice for intermittent time off, you may not deny the leave.</p>
<p><b>Can I ask for updates from the employee on leave?</b></p> <p><b>As the supervisor, can I ask the employee to perform official college business while on FMLA?</b></p>	<p>Yes. A supervisor can ask the employee for periodic updates on status and intent to return to work.</p> <p>Generally, an employee out on FMLA leave should be left to enjoy his or her FMLA rights (not interfered with) and not be asked to perform work while on leave.</p>

<p><b>What is the supervisor’s responsibility after FMLA has been approved?</b></p>	<p>Supervisors and the Benefits Office must maintain two-way communication.</p>
<p><b>Is Workers Compensation leave counted simultaneously with that of FMLA leave?</b></p>	<p>Yes, if the injury or illness meets the definition of a serious health condition.</p>
<p><b>What happens if the employee doesn’t complete the paperwork?</b></p>	<p>FMLA leave could be delayed or denied if the employee does not complete the necessary paperwork.</p>
<p><b>An employee would like to save his or her paid leave for another situation, can FMLA be unpaid?</b></p>	<p>No. If an employee has any non-compensatory sick, sick, and/or annual leave available, they will be paid from those leave buckets before going into an unpaid status.</p>
<p><b>Additional resources</b></p>	<p>HR webpage for information on FMLA -<a href="#">FMLA</a></p> <p>Leave Without Pay APM – <a href="#">Leave without Pay</a></p> <p>Sick Leave APM - <a href="#">Sick Leave</a></p> <p>Benefits email – <a href="mailto:benefits@fscj.edu">benefits@fscj.edu</a></p>