

# Best Practices:

## Meeting the Legal Requirements of Family Medical Leave

- Avoid discouraging employees from exercising their rights under the FMLA due to business needs. Do not pressure employees with regard to their request.
- Complete the FML Request Form for employees who are out more than three days due to illness or who inform you that they or a spouse, child, or parent has a serious health condition. Please consult HR-Employee Relations at 901-448-8481 or the UT System policy HR0338 to determine what constitutes a serious health condition. Know that many health conditions are considered serious under the FMLA. For example, a chronic condition that requires two healthcare provider visits a year constitutes a serious health condition. HR will determine whether the condition is a serious health condition; do not ask the employee questions about his or her condition. Under the FMLA, employees never have to specifically request FML to trigger our obligation to respond. For example, if an employee informs his or her supervisor that he or she needs time off for chemotherapy, UTHSC is required to offer FML. The supervisor is ultimately responsible for ensuring that HR is contacted when an employee communicates a FML-covered condition.
- Understand that a final determination of the status of the FML request may take up to three weeks. While the request is pending no further action should be taken regarding the employee's absence. Until medical certification is received by HR and HR has made a decision, employees are provisionally approved for FML.
- Employee timesheets should reflect the hours of absence under FML. If time approval occurs prior to the approval of FML, corrected timesheets should be completed and forwarded to payroll as soon as possible.
- Allow the employee to determine the level of information that is provided regarding the nature of his or her health condition. Understand that employees are not required to disclose the details of their health condition with their department.
- If the employee's original return to work date occurs and the employee fails to report to work, contact HR-Employee Relations. Avoid calling the employee prior to the original return to work date. You may occasionally contact an employee on FML for work-related issues. Excessive contact with the employee could be considered FMLA interference. Consequently, it is best to avoid contacting the employee unless absolutely necessary.
- When employees on intermittent FML call-in, ask them if they are out due to their FML-covered illness. It is important that FML is accurately recorded.
- While on FML, employees must follow proper call-in procedures, make an effort to schedule treatment at times that are not disruptive to business operations, and provide advance notice of appointments and procedures. Contact HR-Employee Relations if an employee is not abiding by these requirements.
- If an employee is taking more leave than outlined in his or her FML approval letter, contact HR-Employee Relations.
- Retaliation for exercising one's right to FML is prohibited by law. Do not treat an employee on FML any differently than you would other employees.

If you suspect FMLA abuse or have concerns or questions at any point during this process contact HR-Employee Relations at 901-448-8481. Understand that employees on FML can be disciplined for performance issues as well as attendance issues not covered under FML. The Family Medical Leave Act is a federal law, and violations of this law can be costly for the university.