

Family Medical Leave Act (FMLA) Employee Packet

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- **Employee Request Form**
- **Medical Certification Form**
- **Employee Rights and Responsibilities**

Family Medical Leave Act (FMLA)

Introduction and Qualifications

Clemson University recognizes that during an employee's career, situations requiring prolonged or intermittent absences from work can occur.

Clemson University and the Family and Medical Leave Act (FMLA) provide you with the right to take job-protected leave with continued medical benefits.

Who Can Use FMLA?

In order to take FMLA leave, you must work for a covered employer such as the State of South Carolina and have met these additional criteria:

- You must have been employed by a State of South Carolina agency for at least 12 months.
 - These 12 months must not be consecutive, but your break in service cannot have been more than a seven-year period.
- You must have worked for the State of South Carolina agency for at least 1250 hours in the last 12 months before you take leave.
 - This minimum 1250 hours calculation includes actual hours worked, including overtime hours worked.
 - This minimum 1250 hours calculation excludes annual, sick, personal, holiday, or compensatory time.

When Can You Use FMLA?

If you are an eligible employee, you can take up to 12 weeks of FMLA leave in a calendar year for a variety of reasons, including:

Serious Health Condition

- You are unable to work because of your own serious health condition.
- You need to care for your spouse, child or parent who has a serious health condition.

Military Family Leave

- Your leave is for specified reasons related to certain military deployments.
- You need to care for a covered service member with a serious injury or illness.

Expanding Your Family

- You are unable to work because of the birth of a child and to bond with the newborn child.
- You are unable to work because of the placement of a child for adoption or foster care and to bond with that child.

What Can the FMLA Do for You?

Approved FMLA leave offers you the following:

- 12 weeks of leave in a calendar year period.
- Uninterrupted health care insurance. The University will continue to pay the employer portion of your health insurance premiums, and you will continue to pay your portion of the insurance premiums.
- Job protection. As long as you are able to return to work before you exhaust your FMLA leave, you will be returned to the same job (or one nearly identical to it).
- Flexibility:
 - You can take FMLA leave as a single block of time or in multiple, smaller blocks of time, or on a part-time basis if the need to do so has been medically documented.

- By itself, FMLA leave is unpaid leave. However, if you are eligible for paid leave and have sick leave, annual leave, grant personal leave or other paid leave available, you will be required to use your available balances.

Application Suggestions

- When possible, give the University at least 30-days advance notice.
- Immediately contact the Workforce Benefits and Well-being team at (864-656-2000) in the event of an emergency situation.
- Provide the University information, which allows the leave administrator to act as your advocate when necessary and to determine whether your leave can be covered by the FMLA, affording you job protection.

Step I

Review the Department of Labor "Employee Rights and Responsibilities under the Family Medical Leave Act" poster included on page 5 of this packet.

Step II

Complete and sign the enclosed "FMLA Employee Request Form," obtain your supervisor's signature within form, and submit the completed form to the University Workforce Benefits and Well-Being team within the Office of Human Resources.

Step III

If the need for FMLA is a serious health condition, provide the enclosed "Medical Certification Form" to the treating physician. Suggested: If you are the patient, include a copy of your current position description.

Step IV

Provide prompt follow-up. Supply the Workforce Benefits and Well-Being team the "Medical Certification Form" and / or any additional documentation that supports your application.

What You Can Expect

You will receive two communications from the Office of Human Resources throughout the request process. These communications will be mailed to your home address listed in the human resources information system:

1. Within five business days of receiving your "Employee Request Form," the Office of Human Resources will notify you whether you are *eligible* for FMLA leave and if additional documentation is needed to determine if your leave qualifies as FMLA leave. Documentation must be provided in a timely manner.
2. Within five business days of receiving all requested documentation, the Office of Human Resources will notify you if your leave has been *approved* as FMLA leave and the final decision regarding your request.

Questions

If you have any questions regarding the Family Medical Leave Act, please contact Workforce Benefits and Well-being team at empins@clemsun.edu or at (864) 656-2000.

**CLEMSON UNIVERSITY
FAMILY MEDICAL LEAVE ACT (FMLA)
EMPLOYEE REQUEST FORM**

Office of Human Resources, Administrative Services Building, 108 Perimeter Rd, Clemson, SC 29631

Family medical leave is governed by the Dept. of Labor's Family Medical Leave Act of 1993. This request for leave must be accompanied by the *Clemson University Medical Certification Form*, which is to be completed by your health care provider.

Employee Name: _____ **Employee ID#:** _____

Mailing Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Department Number: _____ **Department Name:** _____

Supervisor Name: _____

Purpose of Leave (check one):

- Employee's personal illness Nature of illness: _____
- Childbirth Adoption Foster Child Expected date: _____
- Military Caregiver Leave (Employee's spouse, child, parent, or next of kin)
Name of family member: _____ Relationship: _____
- Military Qualifying Exigency Leave (Employee's spouse, child, or parent)
Name of family member: _____ Relationship: _____
- Care of seriously ill family member (Employee's spouse, child or parent)
Name of family member: _____ Relationship: _____

FMLA Request Begin date: _____ **FMLA Request End date** (if known): _____

Types of leave which must be taken concurrently during FMLA, in accordance with Clemson University policy:

- | | |
|----------------------------|---|
| Paid Sick Leave: | During FMLA period for personal illness. |
| Paid Family Sick Leave: | During FMLA period taken for the care of a seriously ill family member for a maximum of ten calendar days per year. |
| Paid Annual Leave: | During any FMLA period after eligible sick leave has been exhausted or for periods of FMLA that do not qualify for sick leave. |
| Paid Grant Personal Leave: | During the FMLA period for personal illness or care of a seriously ill family member. |
| Paid Compensatory Time: | During any FMLA period after eligible sick leave has been exhausted or for periods of FMLA that do not qualify for sick leave. |
| Unpaid Leave: | During any FMLA period after which all other types of leave have been exhausted. <ul style="list-style-type: none">▪ If the unpaid leave of absence extends more than 30 days, an Extended Leave of Absence Request form must be completed. |

I certify that the information above is accurate. I understand that I must provide medical documentation for any FMLA period requested and that I must notify my department and/or the Office of Human Resources immediately if any of the information above changes.

Employee signature: _____ **Date:** _____

As the supervisor of the employee named above, I am aware that the employee is applying for family medical leave.

Supervisor signature: _____ **Date:** _____

CLEMSON UNIVERSITY
FAMILY MEDICAL LEAVE ACT (FMLA)
MEDICAL CERTIFICATION FORM
(To be completed by health care provider)

Office of Human Resources, Administrative Services Building, 108 Perimeter Rd, Clemson, SC 29631

Note to employee: Family medical leave is governed by the Dept. of Labor’s Family Medical Leave Act of 1993. Have your health care provider complete this form and submit it using the mailing directions below. Applicants must submit the [Family Medical Leave Request Form](#). Also, you are encouraged to provide your health care provider with a copy of your current position description, which can be obtained from your HR partner.

Note to Health Care Provider: “The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, 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.”

Employee Name: _____

Patient Name: (If other than the employee): _____

Name of Health Care Provider: _____

Name and Type of Practice: _____

Address: _____ City: _____

State: _____ Zip Code: _____ Telephone Number: _____

Date Condition Began: _____ **Expected Duration/End Date:** _____

If FMLA is for illness of the employee, is the employee able to perform essential job functions?

Yes No FMLA is not for illness of employee

If FMLA is for the care of a seriously ill family member, does the family member need assistance with basic care?

Yes No FMLA is not for the care of a seriously ill family member

Is inpatient hospitalization of the patient required? Yes No Begin date: _____

State reason for FMLA and the nature of care the patient requires (e.g. dependent child born premature; requires 6 weeks additional in-home, ongoing care): _____

Is the reason for FMLA and the care the patient requires medically necessary? Yes No

Please check one. The patient/caregiver needs FMLA:

For a single continuous period of time (full-time) On a part-time or reduced schedule (intermittent)

If you selected “part-time or reduced schedule (intermittent)” above, please estimate the treatment schedule or reduced work schedule, including dates and times, reduction of hours, etc.: _____

Signature of Health Care Provider: _____ **Date:** _____

Health Care Provider: Please return completed form to:

Attn: The Workforce Benefits and Well-being Team

Clemson University, Office of Human Resources, Box 345337 – 108 Pearman Blvd., Clemson, SC 29634-5337

Fax (864) 656-4672; Phone (864) 656-2000

The Office of Human Resources reserves the right to verify the information provided on this document, including but not limited to the patient’s medical condition, beginning and ending dates, and physician’s signature.

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take **up to 12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less hours each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?

You are an **eligible employee** if **all** of the following apply:

- You work for a covered employer,
- You have worked for your employer at least 12 months,
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

Airline flight crew employees have different "hours of service" requirements.

You work for a **covered employer** if **one** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
- You work for an elementary or public or private secondary school, or
- You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

How do I request FMLA leave?

Generally, to **request FMLA leave you must**:

- Follow your employer's normal policies for requesting leave,
- Give notice at least 30 days before your need for FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

You **do not have to share a medical diagnosis** but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You **must also inform your employer if FMLA leave was previously taken** or approved for the same reason when requesting additional leave.

Your **employer may request certification** from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

What does my employer need to do?

If you are eligible for FMLA leave, your **employer must**:

- Allow you to take job-protected time off work for a qualifying reason,
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your **employer cannot interfere with your FMLA rights** or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your **employer must confirm whether you are eligible** or not eligible for FMLA leave. If your employer determines that you are eligible, your **employer must notify you in writing**:

- About your FMLA rights and responsibilities, and
- How much of your requested leave, if any, will be FMLA-protected leave.

Where can I find more information?

Call **1-866-487-9243** or visit **dol.gov/fmla** to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

