

FMLA and Leave of Absence: Information for Managers

UNT System Benefits Team

Disclaimer: This presentation is intended to offer a brief overview of FMLA and select State leave types that may be available to UNT System employees. As such, it is not intended to include all information, processes, procedures, or policy guidance that may be needed to appropriately facilitate employee leave. Additionally, this information is not intended to supersede or replace any requirements or guidance contained in Federal and State laws or UNT System policies that may apply.



AGENDA

- Family and Medical Leave Act (FMLA)
- Parental Leave
- Introduction to FMLA Source
- Sick Leave Pool (SLP)
- Sick Leave Donation (SLD)
- Employee Responsibilities
- Supervisor/Manager Responsibilities
- Benefits and Campus HR Teams' Responsibilities
- What to do when things go wrong
- Q&A



FAMILY AND MEDICAL LEAVE ACT (FMLA)

The Family and Medical Leave Act (FMLA) of 1993 is a federal law requiring covered employers to provide eligible employees with up to 12 weeks of unpaid, job-protected leave for certain medical, family, and military reasons including:

- Pregnancy and Prenatal Care including complications of pregnancy
- Arrival of a new child (birth, adoption, or foster care)
- Permanent or long-term conditions such as cancer, stroke, dementia
- Care for a family member who is seriously ill or injured during military service
- Inpatient Hospitalization
- Illness or incapacitation for more than 3 full consecutive calendar days
- Repeated absences for a chronic health condition such as migraines, diabetes, etc.
- Emergencies caused by family member being called into military service

FMLA leave may be taken for the employee's own serious health condition or for a serious health condition affecting the employee's spouse, child, or parent, including step-child/parent, foster child/parent, or in-loco parentis relationships.



FAMILY AND MEDICAL LEAVE ACT (FMLA)

Requirements for FMLA Eligibility:

- At least 12 months of total state service, including student employment and other non-benefits eligible employment, whether at a UNT institution or other Texas State Agency.
- Must have worked a minimum of 1,250 hours within the UNT System or other Texas State Agency in the 12 months immediately preceding the beginning date of the leave.

Types of FMLA leave:

- **Continuous** - one continuous block of time. Supervisor will be notified of the dates of approved leave.
- **Intermittent** – recurring absences which may be irregular or on a fixed schedule. Supervisor will be given an *estimate* of the frequency/duration of absences.
- **Reduced Schedule** – decreased hours on a regular schedule (e.g., 6 hours per day, off work on Tuesdays).
- **Any combination** of these three types.

Employer Responsibilities while an employee is on FMLA leave:

- Continue paying the state contribution to medical insurance.
- Reinstatement the employee to their previous job upon return from leave.
- Take no negative action toward the employee.



FAMILY AND MEDICAL LEAVE ACT (FMLA) TIMELINE

Please be patient! The application and approval process for FMLA leave takes time.

- Employees should request FMLA leave “as soon as practicable” after recognizing the need for potentially qualifying time off by contacting FMLA Source.
- Once FMLA Source receives the request, they are allowed **5 business days** to send the required notices and paperwork to the employee.
- The employee has **15 calendar days** to return the medical certification to FMLA Source.
- FMLA Source then has an additional **5 business days** to make a determination on the request.
- If the medical certification is incomplete or insufficient, they will notify the employee and allow an additional **7 calendar days** for the employee to have their medical provider provide the required information.
- Once a complete, sufficient medical certification is submitted to FMLA Source, they will issue a decision within **5 business days**.

If the employee is eligible for FMLA leave, we should assume that the FMLA request will be approved during this time (provisional approval). During the provisional approval period, the employee is required to stay in contact with their Supervisor, to use accrued paid leave to cover any absences, and to provide a medical release to return to work if needed. Once approved for FMLA, the assigned Benefits Advisor will reach out to the employee and Supervisor.



PARENTAL LEAVE

Parental Leave is a state law that provides up to 12 weeks of unpaid, job-protected leave for employees who do not qualify for FMLA leave.

- Parental leave is limited to and begins with the date of birth of a natural child, the adoption date, or the date of foster care placement of a child under three years of age.
- All eligible accrued leave must be exhausted prior to taking unpaid Parental Leave.
- Employees who adopt a child under age three will be treated as though they have undergone pregnancy and childbirth and may use sick leave equivalent to the amount of sick leave that would be medically necessary to recover from pregnancy and childbirth (usually 6 weeks).
- Unlike FMLA, if an employee goes into unpaid status, they are responsible for paying both the employee portion and the state contribution toward medical insurance.



FMLA SOURCE

FMLA Source is the contracted third-party vendor UNT System uses to provide services related to FMLA and Parental Leave including:

- Managing FMLA and Parental Leave Applications
- Determining employee eligibility for FMLA or Parental Leave
- Sending leave-related notices and correspondence
- Processing and evaluating certification paperwork
- Tracking leave entitlement and usage
- Reporting leave requests, decisions, and absences
- Helping to identify leave fraud or abuse

FMLA Source handles these administrative tasks in collaboration and partnership with the UNTS Benefits Team. Since they are a UNTS contracted third-party service provider, UNTS retains final decision-making authority.



PAID LEAVE WHILE ON FMLA OR PARENTAL LEAVE

Employees may not go on unpaid FMLA or Parental Leave until all applicable paid leave is exhausted including:

- Sick Leave
- Vacation Leave
- Comp Time
- Wellness Leave
- Star Performer

Sick Leave must be used in accordance with the Sick Leave Policy. In general, sick leave may be used for FMLA leave for the employee's own serious health condition or for a serious health condition affecting the employee's spouse, child, or parent.

Customarily, Sick Leave following the birth of a child, adoption, or placement for foster care may only be used for the portion of the leave that would be required to medically recover from childbirth. Additionally, the non-birth parent may also be able use Sick Leave for the portion of the leave that would be required to medically recover from childbirth. Requests for Sick Leave in excess of 6 weeks following childbirth may require medical certification.



SICK LEAVE POOL (SLP)

Sick Leave Pool (SLP) is a state program that may provide additional sick leave to employees who have exhausted all paid leave due to a catastrophic illness or injury to themselves or an immediate family member.

- Available only to benefits-eligible employees (regular full-time and part-time).
- Provides a maximum lifetime benefit of 720 hours.
- SLP is not job-protected leave.
- Runs concurrently with FMLA when applicable.
- SLP may not be awarded retroactively. It is vital that employees requesting SLP submit all required documentation as quickly as possible.
- No guarantees. Documentation must be complete and sufficient, and applications will be reviewed by the Benefits Team and the Sr. Director of Benefits.

Exclusions:

- SLP does not apply to pregnancy/childbirth or elective procedures unless life-threatening complications arise.
- Workers' Comp injuries or illnesses are not eligible for SLP.

Employees who terminate employment with UNTS institutions may donate their remaining sick leave to the Sick Leave Pool. Active employees may also donate if desired.



SICK LEAVE DONATION (SLD)

Sick Leave Donation (SLD) is a state program that allows eligible employees to transfer sick leave hours voluntarily to another employee within the same agency.

- The employee must have a medical need and provide an application and medical certification.
- Must be used in accordance with the Sick Leave Policy. If approved, donated leave will be provided to the employee based on the certified medical need.
- Donated Sick Leave hours are not considered job-protected, and donations are irrevocable.
- Employees may not provide or receive payment or a gift in exchange for a donation.
- Employees and departments should not solicit sick leave donations.
- Employees may not use donated sick leave until all accrued sick leave is used, including any time they may be eligible to withdraw from the Sick Leave Pool.

Taxability to the Donor:

- To be non-taxable, the employee must have a **medical emergency** under IRS guidelines and must have exhausted *all paid leave* prior to using donated sick leave.
- Any period of incapacitation due to pregnancy or childbirth is considered to meet the IRS definition of medical emergency.
- The cash value of taxable sick leave donations will be included in the donor's gross income and donations will be taxed up to 25%.

EMPLOYEE RESPONSIBILITIES

Employees must:

- Comply with policies and respond to requests for information in a timely manner.
- Provide 30 days advance notice of the need to take leave when the need is foreseeable. When 30 days notice is not possible, the employee must follow normal call-in procedures and provide notice as soon as is practicable.
- Provide enough information for the employer to determine if the leave may qualify for FMLA and the expected timing and duration of leave.
- State that an absence is related to the reason for which FMLA was previously taken or certified when requesting time off.
- Provide a medical certification and periodic recertification supporting the need for leave
- Use all eligible paid leave while on FMLA. Paid leave will run concurrently with FMLA.
- Attempt to schedule planned appointments so as not to unduly disrupt operations.



TIMEKEEPING

Intermittent or Reduced Schedule FMLA:

- The employee or Supervisor is responsible for entering intermittent or reduced schedule paid leave in EIS and checking the “FMLA” flag.
- The Benefits Team is responsible for appropriately awarding, entering, and monitoring all Sick Leave Pool and Sick Leave Donation hours if applicable.
- The Benefits Team is responsible for final review and approval of all eLeave requests in EIS.

Continuous FMLA:

- The Benefits Team is responsible for entering continuous paid leave related to FMLA.
- The eLeave will be routed to the Supervisor for initial approval and then to the Benefits Team for final review and approval.

If no Paid Leave is available:

- For FMLA, the Supervisor is responsible for entering FDOC in the employee’s timesheet for absences of 10 working days or fewer. If FMLA doesn’t apply, enter Dock time as usual.
- For longer-term absences, the department is responsible for submitting an ePAR to place the employee on Leave of Absence Without Pay (FMLA, Parental Leave, etc.) in EIS.

Role of Departmental Timekeepers

- The Supervisor is responsible for ensuring that timekeeping is completed as required. If your department chooses to use a departmental timekeeper, it is the Supervisor’s responsibility to provide necessary information to that individual. Supervisors may not share medical information with the departmental timekeeper.
- In addition to the Benefits Team and FMLA Source, communication on leave cases is limited to the employee, Supervisor or Manager in the employee’s direct line of supervision and Campus HR when appropriate.



SUPERVISOR/MANAGER RESPONSIBILITIES

Supervisors and Managers must:

- Ensure proper timekeeping. Enter Dock Time or FDOC to avoid overpaying employees who do not have sufficient paid leave to cover their absence. Initiate ePAR if needed.
- Identify the potential need for leave. Remember that there are no “magic words” for requesting FMLA leave. Direct employees to FMLA Source and/or the Benefits Team as appropriate.
- Reinforce call-in requirements:
 - **Intermittent Leave:** the employee must follow normal call-in procedures.
 - **Continuous Leave:** no need to call with each absence but the employee must contact you and FMLA Source if the start date or end date changes.
 - **Reduced Schedule:** no need to call for each absence, the approved schedule serves as notice, but employee must contact you, the Benefits Team and FMLA Source if the schedule changes.
- Partner with the Benefits Team to record/reconcile absences.
- Work with the Benefits Team and Campus HR Team when issues or questions arise.
- Maintain employee confidentiality.
- Consistently apply and adhere to policies and procedures.
- Require a return-to-work release before allowing an employee to return from continuous leave for their own health condition (not required for return from maternity leave unless the birth parent wants to return earlier than 6 weeks post-partum or if medical complications apply).
- Notify the Benefits Team of suspected leave abuse or fraud, e.g., regularly or significantly exceeding frequency or duration, patterning, or doubt regarding reasons leave is taken.



Supervisor/MANAGER RESPONSIBILITIES

Supervisors and managers must ***NOT***:

- Terminate or discipline employees on approved or requested leave without contacting Benefits Team and Campus HR. We, not FMLA Source, will guide you through employment decisions and can provide latest status updates to help assess risk.
- Ask about medical conditions or diagnoses.
- Mandate or expect work from an employee on leave.
- Discourage employees from taking leave. This includes treating employees differently, making disparaging remarks about taking leave, or using absences against the employee in any way.

BENEFITS TEAM AND CAMPUS HR RESPONSIBILITIES

The Benefits Team will:

- Work with the employee, department, and FMLA Source to administer FMLA and Parental Leave.
- Work with the employee, department, and campus HR to administer Sick Leave Pool, Sick Leave Donation, and other types of leaves.
- Enter continuous FMLA leave, SLP, and SLD in EIS.
- Approve intermittent leave that is entered in EIS by employee and approved by supervisor.
- Audit leave tracked by FMLA Source to ensure accuracy.
- Work with the department and Campus HR to address non-compliance or other issues.

Campus HR – “Same team, different positions and responsibilities”

- While the Benefits Team and Campus HR Teams partner together to administer FMLA, Parental, SLP, and SLD leave, they are in different positions with different responsibilities.
- During the leave process, your Campus HR Team’s focus will be to assist you and provide guidance with any issues regarding the employment relationship, including any problems related to attendance, performance, conduct, or return-to-work.



WHAT TO DO WHEN THINGS GO WRONG

Q: What if an employee fails to call in as required when they're going to miss a shift?

A: Follow the normal process you would use for No Call-No Show. First try to contact the employee; if unsuccessful, contact your Campus HR representative for guidance.

Q: What if an employee is approved for intermittent leave only but has been taking off work continuously?

A: Notify the Benefits Team and Campus HR, and we will all work together to address the issue appropriately based on the specific circumstances associated with the case.

Q: What if an employee's request for FMLA leave is denied?

A: First contact the Benefits Team to discuss the reason for denial and to receive guidance on next steps.

Q: What should I do if I suspect abuse?

A: First, contact the Benefits Team to discuss your concerns, and if needed, the Benefits Team will assist you in escalating to the appropriate Team.



RESOURCES

FMLA Source:

Webpage: <https://www.fmlasource.com/>

Email: FMLACenter@fmlasource.com

Phone: 877.462.3652

App: FMLASourceNow (download the app for free in your app store)

UNT System Benefits:

Employee Leave webpage: <https://hr.untsystem.edu/benefits/employee-leave/index.php>

Email: HRBenefits@untsystem.edu

Phone: 940.369.7650

Campus HR Teams:

UNT - HRAdministration@untsystem.edu; 940.565.2281

UNT Health Fort Worth - HSC.HR@untsystem.edu; 817.735.2690

UNT Dallas - HR@untdallas.edu; 972.338.1410

UNT System - HR@untsystem.edu; 855.878.7650



Questions?