



Leave Management – A Comprehensive Look at Leaves of Absence in Higher Education



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and Outsourcing (HRCO)

Talent Solutions Helps Clients Attract, Retain, Engage and Grow People

HRCO Offerings

HR Services

- Assessment
- Consulting
- Outsourcing
- Compliance

Total Rewards

- Compensation
- Benefits
- Recognition

Leadership Development and Organizational Change

- Workforce Planning
- DEI
- Leadership Training
- Coaching & Facilitating



Learning Objectives

After this session, you'll be able to:

- *Understand the complexities and obligations of HR in administering leaves*
- *Identify risks and create compliant employee leave policies*
- *Develop workflows and utilize leave management tools to streamline administration of leave policy*



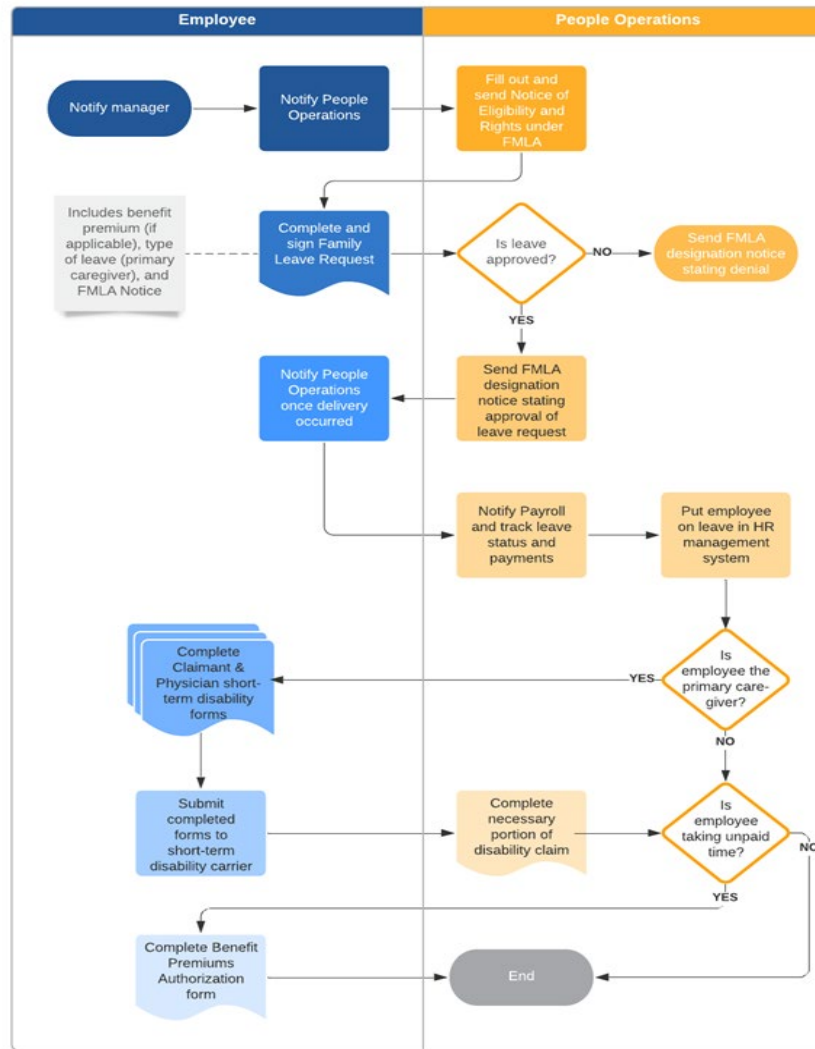
It's Complicated!

HR Operations

- Keeping current on leave law as state laws change and/or employees work in other states as well as best practice to attract and retain faculty and staff
- Structuring a process that respects employee confidentiality, prevents data breach and is operationally effective
- Process must also provide support and care for the person seeking assistance while working with the department on replacement assistance or other support



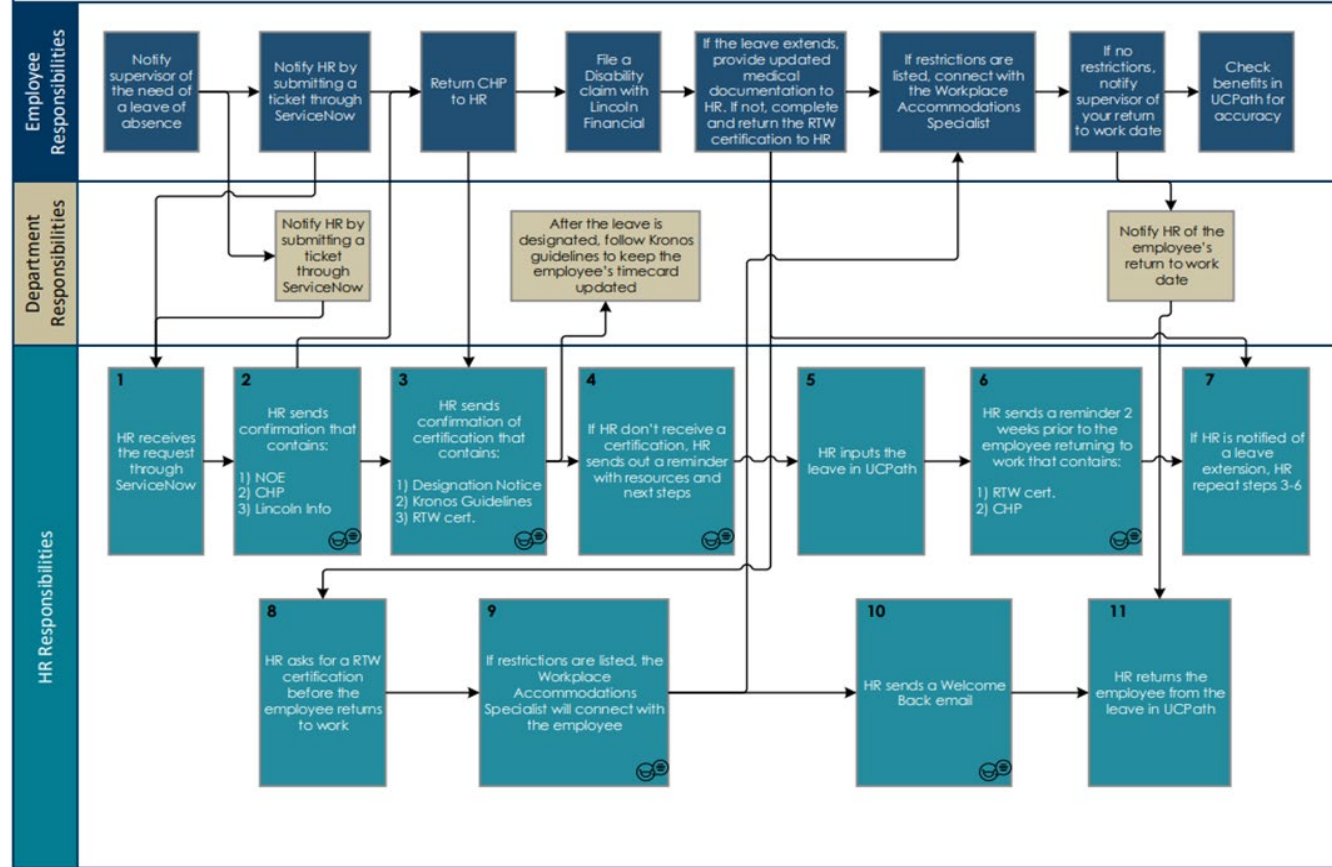
See?



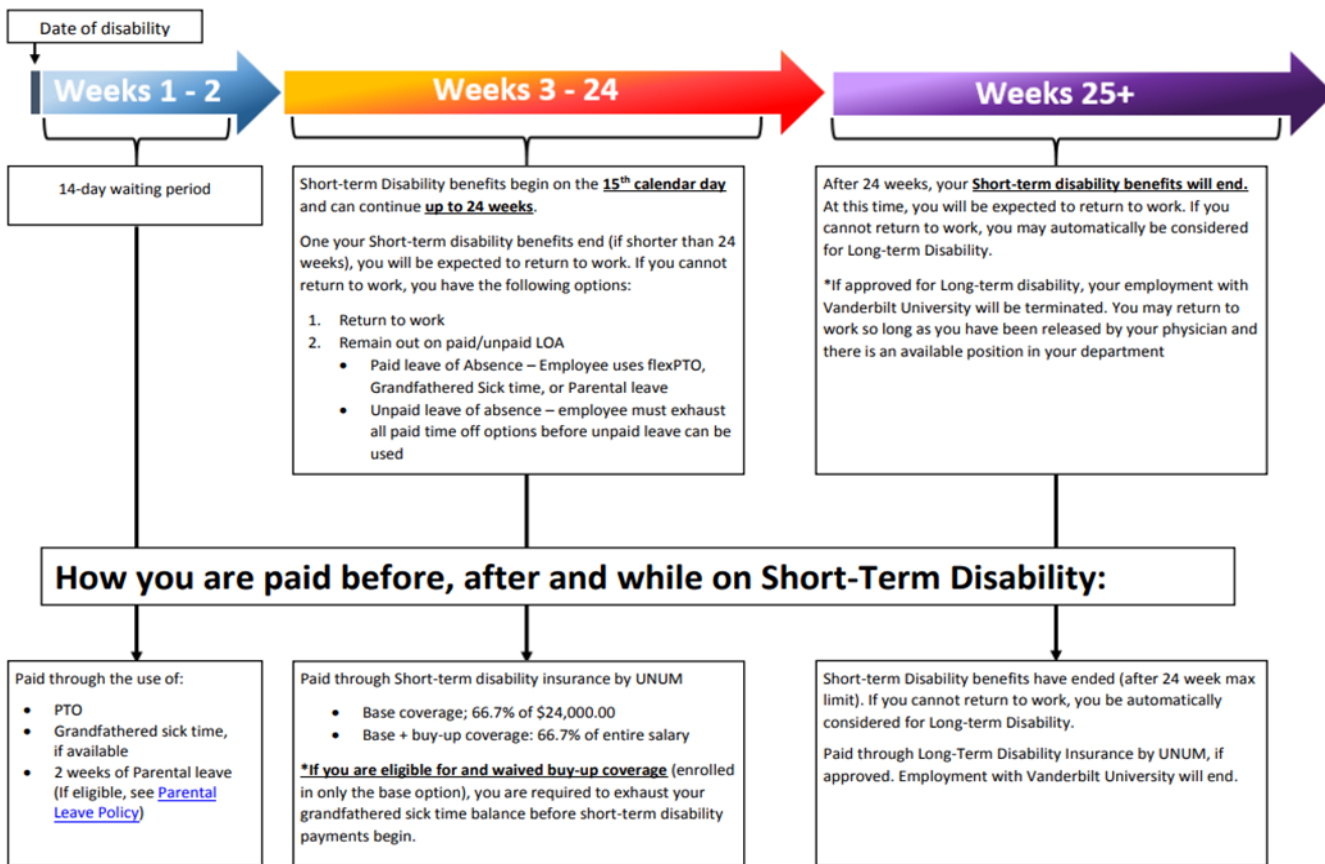
Uncomplicated Medical Leave Process



Uncomplicated?



Understanding your Short-Term Disability Leave:



Checklist, Checklist, Checklist!

Checklist: Individual FMLA Leave Request

Employee name: _____

Date of leave request: _____

Dates of anticipated leave: _____

- ☐ Obtain FMLA forms from the U.S. Department of Labor or create similar internal forms.
- ☐ Determine whether an employee's request for leave is for one of the following FMLA-qualifying reasons:
 - ☐ The birth of a son or daughter and to care for the newborn child.
 - ☐ Placement with the employee of a son or daughter for adoption or foster care.
 - ☐ To care for the employee's spouse, son, daughter or parent with a serious health condition.
 - ☐ A serious health condition of the employee that makes the employee unable to perform the functions of his or her job.
 - ☐ A covered family member's active duty or call to active duty in the National Guard or Reserves in support of a contingency operation.
 - ☐ To care for an injured or ill covered service member.
- ☐ Within five days of learning of an employee's need for leave that may be FMLA-qualifying, provide the employee with the Notice of Eligibility and Rights & Responsibilities form (WH-381).

Date notice provided: _____
- ☐ Determine whether the employee is eligible for FMLA leave. An eligible employee is an employee of a covered employer who:
 - ☐ Has been employed by the employer for at least 12 months.
 - ☐ Has worked at least 1,250 hours (actual hours worked) during the 12-month period immediately preceding the start of the FMLA leave.
 - ☐ Is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.
- ☐ Determine whether the employee has used FMLA leave previously and calculate how much FMLA leave the employee has available. An eligible employee is entitled to take up to 12 weeks of FMLA leave during a 12-month period (26 weeks to care for an injured or ill covered service member). The employer's FMLA policy should specifically state which one of the following methods it uses to calculate the 12-month period.



A Little History

- Leaves have always existed in Higher Ed (even sabbaticals are technically leaves after all) as have paid time off programs
- FMLA, effective in 1993, created the federal entitlement you know today.
- With this came the need for ensuring the unpaid leave was tracked and created job protected status when approved
- Since ADA was enacted in 1990, these two laws served to shape higher ed HR policy, procedure and benefits administration for that decade and beyond.



Today

- The landscape has grown increasingly complex with state FML, state paid family leave, local laws, sick mandates and now COVID emergency and permanent pandemic mandates in some states.
- Higher Ed must not simply seek to comply with the laws, but manage them to bring value and ensure uninterrupted campus operations.
- Never look at a mandate as a burden, take credit for it and make it work for your culture and your workforce



Today

- Among my higher ed clients, I see more and more policies being adopted that may mimic state and local mandates where not required
- Another trend is the redesign of extended sick leave benefits using disability and medical management with special policies for what the institution wishes to incent instead of broad policies for any use
- Remember, while higher ed may have been slow to develop the analytics to measure lost time and the cost of leaves, it is now a priority as we bring higher ed more firmly into the 21st century.



Today

- Now Higher Ed HR must no longer simply comply with leave law, but seek to serve in a more proactive fashion. We are looking at best practice, our competition for talent and employee demographics to ensure a program that is competitive, effective and operationally streamlined.
- Examples include offering leave benefits for those later in life...Think hip replacement, not just baby leave.



Today

- We may program HRIS systems with workflows to accommodate the program
- We can be medical privacy compliant and cybersecure, using
 - leave software to help us ensure compliant and best practice management, especially in multi-state environments, or
 - an outsourced leave management service or
 - have a manual process with a robust “cascading leave” policy.
- Important to dovetail effectively so no overlapping or conflicting workflows or services





(Workforce)

Solutions

- Cascading leave policy
- Leave management software
- Leave management services
- Medical management
- Disability provider services



Sparrow

Ilen LLP

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(AbsenceSoft)



Examples

- South Carolina does not have its own FML or PFL laws, or even sick mandates. For comparison, see what happens if you suddenly find yourself with employees in other states....

New Jersey

- State FML
- Paid Family Leave
- Sick mandates
- COVID special sick mandates



Examples

California

- State disability insurance
- State and local FML
- Paid Family Leave
- Sick mandates
- COVID special sick mandates



Examples

District of Columbia

- District FML (16 weeks!)
- Paid Family Leave
- Sick mandates
- COVID special sick/vaccine mandates –for testing, vaccination & recovery and illness itself



Medical Leave Prevention – is there such a thing?

Not exactly, BUT....

- Your benefits program can include physical and emotional wellness interventions
- Your medical programs can include disease management and prevention
- Will want to include families to form habits and create the environment for success.
- Careful not to run afoul of EEO and GINA



Medical Leave Prevention – is there such a thing?

Then there's COVID

- Pay attention to the COVID landscape, not just FFCRA type mandates by state, both temp and perm, but the recognition of long-haul COVID as a disability
- Don't forget that COVID traced to the workplace can also be your worker's compensation claim.



Medical Leave Prevention – is there such a thing?

Guidance from DOL on Long Haul Covid:

- Does not change the ADAAA regs, still must meet definition of disability, it's not its own category
- [Workers With Long COVID-19: You May Be Entitled to Workplace Accommodations | U.S. Department of Labor Blog \(dol.gov\)](#)
- [JAN - Job Accommodation Network \(askjan.org\)](#)



Speaking of PTO Reform....

- Higher ed increasingly looking to create one pool of PTO, not unfunded liability of sick time
- Does not preclude targeted paid time benefits by policy as described earlier
- Chance to manage the institutional and faculty/staff needs, not be on the receiving end of what the employee wants
- Remember, only approved FML (and ADA) enjoy job protected status. Use of paid time off can still be considered performance as one must be present in order to succeed in one's role.



Other Benefits

Leave law provides the time away from work, benefits provide the income replacement and care

- Extended sick leave policies v. disability insurance
- Section 125 plan rules for premium payments on unpaid LOA
- Remember there are contractual obligations in your insurance plans dictating coverage rules

We recommend manager (and HR generalist staff where needed) education on leave law and how OSHA and worker's compensation may relate to help bring the right resources at the right time with respect and discretion.



Resources

CUPA HR Knowledge Center

[Employee Leaves | CUPA-HR \(cupahr.org\)](#)

Employee Leaves

Overseeing leave policies and administration can be one of the most challenging and complex aspects of an HR professional's role. There are a variety of general leave types, including sick time, PTO, administrative leave, medical leave, FMLA qualifying leave, military leave, jury leave, sabbatical leave, bereavement leave and more.

It may come as a surprise that many types of leave, such as vacation time, are not federally mandated, leaving state and local governments to determine their own policies. In some cases, leave may purely be an agreement between employee and employer, governed by internal policy only. Depending on the type of leave and the federal, state or local laws, or internal policies that apply, an employee's time off may be paid, unpaid or partially paid.

Federally Mandated Leaves

Federal law provides the following leave protections and regulations:

- FMLA qualifying leave
- Military leave under USERRA
- Leave as a potential accommodation under the ADA
- Jury leave under the Jury Systems Improvement Act of 1978

It's important to note that, while state and local laws may have additional requirements, federal law does not require that these leaves be paid by the employer.

Employer Provided Leaves

Leave time, both paid and unpaid, is an important benefit to many employees, and a robust leave program can add key value to an institution's total compensation package for candidates. Some commonly provided leaves include:

- Paid vacation time
- Paid holidays
- Paid sick time
- Bereavement or funeral leave
- Sabbatical leave
- Medical leave for employees or situations that do not qualify for FMLA

There are multiple different approaches for determining employee eligibility for additional leave benefits. Some institutions may choose to limit leave benefits to full-time workers. Others require a wait period before leave accrual commences; some at the end of a probationary period and others on anniversary dates.

As an additional leave benefit, some institutions may also create a leave donation or leave pool program, allowing employees to donate unused leave and providing additional paid leave opportunities to those who need it.


State and Local Laws

There is great variation in individual state's regulations – some may require additional types of leave or may stipulate that certain leaves or situations requiring leave are to be paid. Additionally, while some states may not mandate the actual paid vacation or sick time, they may have rules that guide how any paid time off is awarded to an employee during or after their time with an organization.



Resources

[FMLA Frequently Asked Questions | U.S. Department of Labor \(dol.gov\)](#)

 U.S. DEPARTMENT OF LABOR

Wage and Hour Division

ABOUT US | CONTACT I

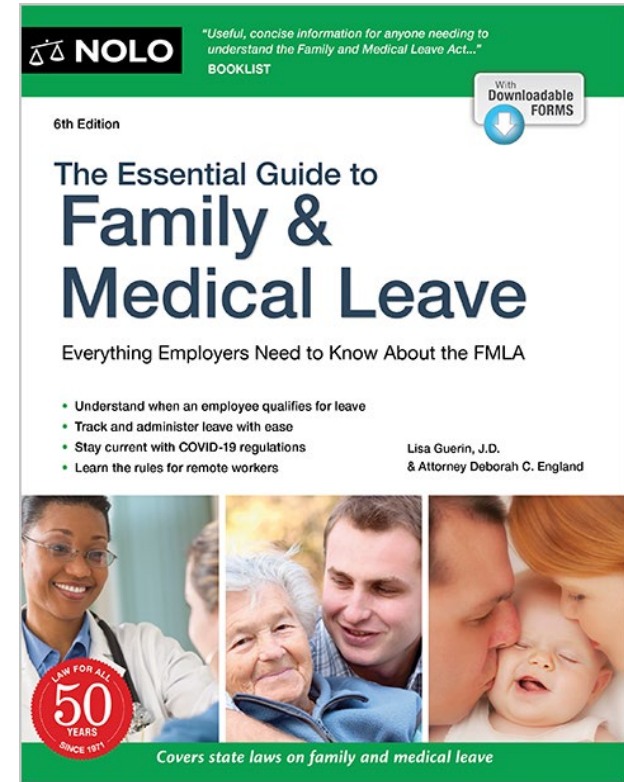
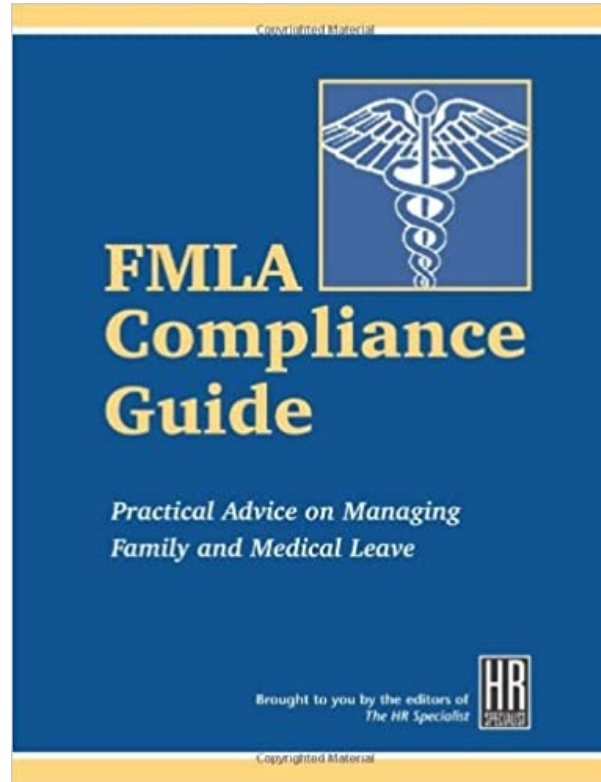
TOPICS ▾ | WORKER RIGHTS | FOR EMPLOYERS ▾ | RESOURCES ▾ | INTERPRETIVE GUIDANCE ▾ | STATE LAWS ▾ | NEWS RELEASES

WHD > Family and Medical Leave Act > FMLA Frequently Asked Questions

FMLA Frequently Asked Questions

- [General](#)
- [Coverage](#)
- [Eligibility](#)
- [Hours of Service Requirement](#)
- [Unpaid leave](#)
- [Qualifying conditions](#)
- [Birth and bonding](#)
- [Intermittent/reduced leave schedule](#)
- [Serious health condition](#)
- [Certification](#)
- [Job restoration](#)
- [Employee notice](#)
- [Employer notice](#)
- [Military provisions](#)
- [Caregiver leave](#)
- [USERRA-FMLA Questions](#)
- [Airline flight crew employees](#)
- [Miscellaneous Questions](#)
- [Prohibited acts](#)
- [Additional Information / Complaints](#)

Resources



Questions?



Contact Information

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Talent Solutions : Outsourcing : Services : CLA
(CliftonLarsonAllen) (claconnect.com)



CLAconnect.com



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create opportunities —
for our clients, our people,
and our communities.

Thank You

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