

FAMILY MEDICAL LEAVE ACT (FMLA)

GUIDANCE FOR EMPLOYEES

The Family and Medical Leave Act, or FMLA, entitles eligible employees to take unpaid, job-protected leave for their own, or a qualifying family member's, serious medical condition. It also allows for military caregiver leave.

When am I eligible for FMLA?

- Employees who have been employed with the Superior Court in Pinal County for at least one (1) year and have worked at least 1,250 hours.
 - Please note that part time employees may not qualify for FMLA. Please contact Court HR for determination. Other types of leave may be available.

When should I notify my employer that I plan to take FMLA Leave?

- Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave or whenever possible.
 - If leave is foreseeable more than 30 days in advance, the employee must provide notice as soon as possible – 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 possible.

Who determines if I qualify for FMLA?

- Court HR will work with the employee to determine FMLA eligibility and if their medical condition qualifies for FMLA.

What is the difference between intermittent leave and continuous leave?

- Intermittent leave is when an employee is taking time off in separate blocks due to a serious health condition.
- Continuous leave is when an employee is absent for more than 3 consecutive days and is being treated by a doctor during that time.

What is covered under the FMLA?

- Employees may take up to twelve (12) weeks (480 hours) for any of the following reasons:
 - the birth of a child and to care for the newborn child within one year of birth;
 - 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;
 - a serious health condition that makes the employee unable to perform the essential functions of their job; or
 - to care for the employee's qualifying family member who has a serious health condition.
 - A qualifying family member is: spouse; biological, adopted, or foster child, stepchild, legal ward, or child for whom an employee stands in *loco parentis*; parent (biological or legally adoptive parent or an individual who stands, or stood, in *loco parentis* to an employee when the employee was a child. This term does not include parents of an employee's spouse (e.g. "in-law").

Are there any other leave types covered under FMLA?

- Eligible employees whose spouse, son, daughter or parent is on covered active military duty or called to covered active duty status may use their 12-week entitlement to address certain qualifying exigencies (urgent needs).
 - Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings in accordance with USERRA.
- FMLA also includes a special leave entitlement called “military caregiver leave” that permits eligible employees who are the spouse, son, daughter, parent, or next of kin of a covered service member, to take up to 26 weeks of leave to care for a covered service member, during a single 12-month period.
 - Next of kin is defined as the servicemember’s nearest blood relative, other than the covered servicemember’s spouse, parent, son or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles and first cousins.
 - A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
 - a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

What happens if I exhaust my FMLA allotment?

- Employees may request additional Medical Leave from their appointing authority. The request should be submitted in writing and the approval is at the discretion of their appointing authority.

What happens if I exhaust all of my leave balances?

- Employees who exhaust all of their leave balances will be in a Leave Without Pay (LWOP) status and will need to contact County HR Benefits in order to pay for their portion of their benefits.

What happens if I exhaust both my FMLA allotment of 480 hours and all of my leave accruals?

- If an employee exhausts their FMLA allotment and their leave accruals, they will need to request, in writing, an extension for continuous leave and to go in an LWOP status from their appointing authority.

Am I required to follow the normal call in procedures for my department while on FMLA?

- Yes. When an employee is out on FMLA leave, they must report all FMLA-related time to both Court HR and their department, unless unusual circumstances prevent the employee from doing so (in which case the employee must provide notice as soon as he or she can).

- Employees are not required to give their supervisor any details regarding their serious health condition.
- If an employee fails to provide timely notice, they may have their FMLA leave request delayed and may be subject to disciplinary action.

If I am out on continuous leave, who completes my timesheet?

- Effective June 1, 2018, your direct Supervisor or your department time keeper will complete your timesheet while you are out on Continuous FMLA.

How are my accruals used when I am out on FMLA?

- Court HR will check leave balances and will use the employees sick, comp, and then vacation time if available.

Can I flex out my FMLA time?

- No. An employee cannot adjust their schedule or flex time for FMLA-related appointments. Any FMLA time used must be reported on timesheets to ensure hours are accurately tracked in the timekeeping system.

How long do I have to return my medical certification to Court HR?

- The medical certification should be returned to Court HR within fifteen (15) days after the employee has requested FMLA leave.

Am I required to give my employer my medical records for leave, due to a serious health condition?

- No. Court HR, however, may request the employee provide medical certification containing sufficient medical facts to establish that a serious health condition exists.
 - Medical records should be related to the FMLA request.

How soon after I request leave does my employer have to request a medical certification for a serious health condition?

- In most cases, at the time an employee gives notice of the need for leave or within five (5) business days.

When will Court HR determine whether I am eligible for FMLA leave?

- Court HR will notify you of your FMLA eligibility within five (5) business days of the request for FMLA leave.

Can Court HR contact my health care provider about my serious health condition?

- Yes, but only to clarify information on the medical certification.

How often can my employer ask for medical certification for an on-going serious health condition?

- Court HR will request that you provide an updated medical certification once the original certification expires, but no more than every 30 days.

Am I required to submit a fitness-for-duty certification before returning to work after being absent, due to a serious health condition?

- Yes. As a condition to return to work; following FMLA leave due to the employee's own serious health condition, an employee is required to provide a fitness-for-duty certification.

What happens if I do not submit a fitness-for-duty certification?

- If an employee fails to submit fitness-for-duty certification, they may be sent home from work until one is provided. If the employee never provides the certification, they may be denied reinstatement to their position.

Will I be returned to my original job upon my return from continuous FMLA?

- When returning from FMLA leave (whether after a continuous leave or an intermittent leave), FMLA requires that the employer return the employee to the same job, or one that is similar.

If you have additional questions, need more information or guidance about FMLA leaves, please contact Court HR at (520) 866-5574 or PinalSCHR@courts.az.gov.