

# FMLA Compliance Procedure

This playbook describes the structured approach required for organizations to comply with the Family and Medical Leave Act (FMLA). It covers determination of employee eligibility, managing leave requirements, and fulfilling employer responsibilities.

## Step 1: **Eligibility Check**

Verify that the employee requesting leave meets the FMLA eligibility criteria, which generally include having worked for the employer for at least 12 months, with a minimum of 1,250 hours during the 12 months prior to the start of leave, and working at a location where the employer has at least 50 employees within 75 miles.

## Step 2: **Notice Posting**

Ensure that a general notice about the FMLA is posted prominently where it can be readily seen by employees and applicants for employment, and includes all pertinent information required by the regulations.

## Step 3: **Policy Distribution**

Distribute FMLA policies and procedures in written form to employees, generally within an employee handbook, or provide information individually if no handbook exists. Ensure employees are informed about their FMLA rights and obligations.

## **Step 4: Leave Request**

Have a system in place for employees to report FMLA leave requests. Ensure that employees provide notice of the need for leave as soon as practicable and in compliance with the employer's usual and customary notice and procedural requirements for requesting leave.

## **Step 5: Certification Request**

When necessary, request certification (in written or electronic form) to verify the need for FMLA leave from the employee. This must be done within five business days of the employee's leave request, or if the need for leave is unforeseeable, as soon as practicable.

## **Step 6: Certification Analysis**

Review the certification to confirm that it contains all required information. If the certification is incomplete or insufficient, provide written notice to the employee detailing what additional information is required, allowing the employee seven calendar days to remedy any deficiency.

## **Step 7: Designate Leave**

Officially designate leave as FMLA-protected and give written notice to the employee of the designation within five business days, absent extenuating circumstances, after the employer has enough information to determine whether the leave is being taken for a FMLA-qualifying reason.

## **Step 8: Maintain Benefits**

During FMLA leave, maintain the employee's group health insurance coverage under the same terms and conditions as if the employee had

not taken leave. Ensure the employee's contribution remains consistent, and reach out for payment if necessary.

## **Step 9: Job Restoration**

Upon conclusion of the FMLA leave, restore the employee to the same job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. Ensure restoration and compliance with all FMLA regulations regarding reinstatement.

## **Step 10: Recordkeeping**

Maintain records pertaining to FMLA leave for no less than three years and make them available for inspection, upon request, by the Department of Labor. Records should document FMLA leave days/hours taken by employees, FMLA notices distributed, records of disputes regarding FMLA, etc.

# **General Notes**

## **Employee Communication**

Communication with employees is key throughout the FMLA process. Ensure that employees understand their rights and responsibilities as well as the steps and expectations involved in reporting and taking FMLA leave.

## **Anti-Retaliation**

Keep in mind the anti-retaliation provisions of the FMLA. Employers are prohibited from interfering with, restraining, or denying the exercise of, or the attempt to exercise, any FMLA right. Ensure that no retaliatory actions are taken against an employee for taking FMLA leave.

