

FMLA Compliance Checklist

It is critical to assess FMLA compliance on an ongoing basis. Given the changing and updated regulations, auditing your plan is critical. The key questions below are intended to prompt discussion internally and with your outsourcing partners and legal counsel to ensure you are currently in compliance, but also pinpoint areas where better processes can be developed to improve the employee, supervisor, and human resource experience as it relates to FMLA absences, as well as their links with other paid and unpaid time away from work.

KEY QUESTIONS	ANSWERS	COMMENTS
Employer Communication Responsibility		
Is a general notice (poster) available, and does it comply with the regulations?		
What is provided to new employees as a general notice, and does it comply with the regulations?		
What is included in the initial packet to employees who request leave? Does it comply with the regulations, and is the timing appropriate?		
What medical certification documentation will be used for serious health conditions, and does it comply with the regulations?		
How are decisions communicated to employees, and does it comply with the regulations?		
Certifications		
Are timeframes for certifications appropriate and in line with requirements?		
Who reviews the medical certification documentation? Are they an appropriate party? If an outbound call is made to the provider, who will make that call? Is this in line with the regulations and respectful of privacy considerations?		
Are uniform policies established for documentation beyond certification of a serious health condition?		
Training		
Do human resource professionals understand the intricacies of FMLA, including overlapping statutory leaves? Are new employees continually trained? Who updates this team on regulatory changes?		
Do supervisors and managers understand their responsibility as it relates to FMLA within your organization? Is a process established to support managers and supervisors when they have questions or concerns? How are new supervisors and managers trained?		
Do employees within your organization understand their FMLA rights and obligations? How are these formally communicated to new hires? Is there a formal process for addressing questions from employees?		

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Integration Points		
How are statutory leaves managed? Are processes coordinated where appropriate?		
Are FMLA absences coordinated with disability and workers' compensation absences? If not, it should be considered within a comprehensive review.		
Insource Versus Outsource		
Has your organization considered other sources of FMLA administration?		
If you currently outsource FMLA administration, have you recently explored the market to understand the current landscape and ensure your current partner is the best fit? Even if a change is not made, it is important to ensure your current arrangement is best for your employees, supervisors, and stakeholders.		
If you currently insource FMLA administration, have you considered outsourcing this service to an insurance company, third-party administrator, or specialty firm? This is an important consideration, and examining the benefits and risk of change is very valuable.		
Ongoing Compliance		
Is documentation maintained securely and appropriately?		
Who is responsible for keeping abreast of regulatory updates?		
When is internal versus external counsel used?		