

Q&A

Legal Compliance



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Q

What notice do employees need to give their employers for FMLA leave?

A

In general, employees should give their employers as much notice as possible when requesting leave under the FMLA. While not required to use the term "FMLA" when seeking leave, the employee must provide sufficient information for the employer to determine if the leave qualifies for FMLA protection. When an employee seeks leave due to an FMLA-qualifying reason for which the employer has previously provided FMLA leave, the employee must specifically reference the qualifying reason for leave in notifying the employer.

- Foreseeable leave
 - If leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or family member, or for the planned medical treatment for a serious injury or illness of a covered servicemember, the employee must provide the employer with at least **30 days' advance notice** before the leave is to begin.
 - When leave will begin in fewer than 30 days, employees must give notice to an employer as soon as practicable.
 - For foreseeable qualifying exigency leave, notice must be provided as soon as practicable, regardless of how far in advance the leave is foreseeable.
- Unforeseeable leave - When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular situation.

Depending on the circumstances, an employer may delay FMLA leave if an employee fails to comply with the timing requirements for providing notice of FMLA leave.

In some cases, verbal notice is sufficient to inform employers of leave. Notice may be given by the employee's spokesperson (for example, spouse or adult family member) if the employee is unable to do so personally.



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An employer may require an employee to comply with the employer's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances (for example, no one answers the call-in number and the voicemail box is full). Where an employee does not comply with the employer's usual procedure, and no unusual circumstances justify that failure, the employer may delay or deny FMLA leave.