PLEASE NOTE THE FOLLOWING:

The following slides are intended to provide general information regarding the FMLA and are not intended to provide individualized or legal advice concerning particular circumstances.

Specific information regarding the FMLA is available on the Department of Labor website https://www.dol.gov/whd/fmla/
WHAT DOES FMLA MEAN TO YOU?
WHAT IS THE FMLA?

- Federal law designed to provide unpaid, job-protected leave for specified family and medical reasons
- FMLA may be taken all at once or intermittently as the medical condition requires
- FMLA “entitlement”—up to 12 work weeks in a 12-month period
Qualifying absences under FMLA cannot be held against employees with regard to hiring, promotions, or discipline.

Protection to the extent that employee should be treated just as if working during qualifying FMLA absence.

Employees returning to work from FMLA must be returned to same (or nearly identical) job.
WHO IS ELIGIBLE?

All types of University faculty and staff members, including graduate assistants and student employees who have:

- Worked at UMN for at least 12 months (need not be consecutive)

AND

- Physically worked at least 1,250 hours in the 12 months prior to the start of leave (unpaid leave, including FMLA leave, are not counted toward the 1,250 hours)
WHEN CAN AN ELIGIBLE EMPLOYEE USE FMLA LEAVE?

- for the birth of a son or daughter, and to bond with the newborn child;
- for the placement with the employee of a child for adoption or foster care, and to bond with that child;
- to care for an immediate family member (spouse, child, or parent – but not a parent “in-law”) with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition; or
- for qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on covered active duty or call to covered active duty status as a member of the National Guard, Reserves, or Regular Armed Forces.
- to care for a covered service member with a serious injury or illness.
A serious health condition under the FMLA is an illness, injury, impairment or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or

- a period of incapacity requiring absence of more than 3 calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or

- any period of incapacity due to pregnancy, or for prenatal care; or
WHAT IS A SERIOUS HEALTH CONDITION?

- any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or

- a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,

- any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.)
UNABLE TO PERFORM THE ESSENTIAL FUNCTIONS OF A POSITION?

- Health care provider finds employee unable to work at all or unable to perform any one of the essential functions of position
  - Employee must receive medical treatment
  - Employee’s condition makes him/her unable to perform some of the usual duties of the position
Unless complications arise, the following are NOT covered under FMLA:

- Common cold, flu, earaches, upset stomach, minor headaches
- Routine dental or orthodontic problems
- Other short-term voluntary treatments and immunizations unless they result in hospitalization
FMLA ENTITLEMENT

- Twelve of employee’s regularly scheduled workweeks during 12-month period
- Entitlement is based on FTE
  - Full-time employees (1.00 FTE) have maximum entitlement of 480 hours
  - Part-time employees’ entitlement depends on FTE—ex. .50 FTE equates to 20-hour workweek with maximum entitlement of 240 hours
- Important: UMN’s FMLA entitlement period is based on the *fiscal year* (July 1 to June 30)
USE OF ENTITLEMENT—EMPLOYEE’S RESPONSIBILITY

- Provide employer with at least 30 days advance notice, when practical
- If FMLA leave is needed unexpectedly, inform employer as soon as possible
- Follow employer’s usual notification or “report-in” procedure related to FMLA
- Indicate that leave is due to an FMLA-protected condition when notifying employer of absence (not necessary to tell the diagnosis or medical condition)
Medical Certification and Fitness for Duty Certification

- Medical Certification may be required for FMLA in the event of a serious health condition of the employee or immediate family member.
  - If required, certification must be provided within 15 days.
- Fitness for Duty Certification—Under some circumstances, a certification from employee’s health care provider that employee may resume work following FMLA leave may be required.
FMLA is unpaid leave, however:

- Employees may use sick or vacation time while on qualifying FMLA leave so that they continue to be paid
- Employer can require use of paid leave for employees on FMLA
  - UMN requires use of accrued (1) sick time, (2) compensatory time, (3) vacation time in excess of 10 days
- An eligible employee has a right to take FMLA leave even if unqualified to take paid leave
- Any leave designated as qualifying FMLA leave must be counted against FMLA entitlement
USE OF ENTITLEMENT

- When using approved FMLA-qualifying leave the employee may:
  - Be completely absent (full day or work week)
  - Be absent from time to time or sporadically (intermittent leave)
  - Work a reduced schedule on an ongoing basis
- Must be supported by medical documentation

Example: Full-time employee with 480 hours entitlement can reduce work to half time and take 24 weeks to use up entitlement hours.
DESIGNATING LEAVE AS FMLA-QUALIFYING

- Absences due to Workers’ Comp injury/illness are FMLA-qualifying
- Overtime compensatory leave *cannot* be designated as FMLA-qualifying per federal law
  - EXCEPTION: Can be used on FMLA leave to remain in pay status, but cannot be counted against an employee’s entitlement
- The employee’s health care provider makes a determination on *Certification of Health Care Provider* form
COMMON MISCONCEPTIONS

- An employee is using time off banks, so it is not FMLA.
  - Untrue, UMN still needs to comply with the law
  - The FMLA notice is not an employer/employee choice, it is a requirement

- The employee does not want or ask for FMLA or leave, so there is nothing more to do
  - False, UMN has a legal obligation to inform the employee of their rights
 COMMON MISCONCEPTIONS (CONT.)

- If an employee is calling in sick frequently, this is not FMLA
  - Not necessarily, please call HR to discuss

- The employee had pre-approved time off, therefore it is not FMLA
  - False, the need for FMLA leave supersedes any previously scheduled or approved time off
  - It is the reason the employee is off work that triggers what may qualify for FMLA leave
If I turn in a medical certification or use FMLA, everyone will know my medical condition

- False, medical information received for FMLA leave is considered confidential and shall be disclosed only to those involved in the FMLA leave determination (HR)

- Medical information received is kept separate from your personnel file

- You may share as much, or as little, with your supervisor and coworkers as you deem appropriate

- Your supervisor will need to know when you are off for your FMLA-covered reason, vs other reasons
MORE INFORMATION REGARDING FMLA

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University Policy Library: Family and Medical – FMLA Leave
https://policy.umn.edu/hr/fmla

Department of Labor (DOL) FMLA website:
https://www.dol.gov/whd/fmla/

DOL Employee Guide: