

Mandatory and Optional FMLA Notices

Every employer covered by the FMLA is required to keep a [general FMLA notice](#) on its premises in conspicuous places where employees are working. The notice explains the provisions of the FMLA and provides information concerning the procedures for filing complaints of violations of the FMLA with the Department of Labor's Wage and Hour Division.

- Covered employers must post this general notice even if no employees are eligible for FMLA leave.
- The poster must be displayed prominently where both employees **and applicants for employment** can see it.
- The poster and all text must be large enough to be easily read and contain fully legible text.

If an FMLA-covered employer has *any* eligible employees, the employer must provide this same general notice to each employee by including the notice in an employee handbook or other similar written communication to employees concerning employee benefits or leave rights, if such written materials exist. Alternatively, the employer may distribute a copy of the general notice to each new employee upon hiring.

An employer may duplicate the text of the poster to meet this general notice requirement, or may use another format so long as the information provided includes, at a minimum, all of the information contained in that notice. If an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer must provide the general notice in a language in which the employees are literate.

The distribution of the general notice may also be made electronically.

GINA and Requesting Health Information from an Employee

The Equal Employment Opportunity Commission (EEOC) provides the following guidance for employers to help them comply with the [Genetic Information Nondiscrimination Act](#) (GINA) when they request medical certification from an employee taking FMLA leave:

Title II of GINA prohibits the use of genetic information in employment, restricts employers from requesting, requiring, or purchasing genetic information, and strictly limits the disclosure of genetic information. Based on the [final rule](#) issued by the EEOC, there are certain steps an employer should take to comply with GINA when lawfully requesting health-related information from an employee.

[FAQs](#) released by the EEOC address this topic. Specifically, [FAQ #17](#) states that the final rule provides that when an employer makes a request for health-related information (e.g., to support an employee's request for reasonable accommodation under the ADA or a request for sick leave), it should warn the employee and/or health care provider from whom it requested the information not to provide genetic information.

The warning may be in writing or oral (if the employer typically does not make such requests in writing). The [final rule](#) suggests language such as the following:

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

According to the EEOC, if this type of warning is provided, any resulting acquisition of genetic information will be considered inadvertent, and therefore not in violation of GINA. In other words, use of this type of warning creates a “safe harbor” for employers who receive genetic information in response to a request for health-related information.

For additional guidance, please consult a knowledgeable employment law attorney.

Mandatory Notices

[The Family and Medical Leave Act Poster/General Notice](#) - English (PDF)

[The Family and Medical Leave Act Poster/General Notice](#) - Spanish (PDF)

Every employer covered by the FMLA is required to post (and keep posted) a notice on its premises explaining the FMLA and providing information concerning the procedures for filing FMLA-based complaints.

[WH-381 Notice of Eligibility and Rights & Responsibilities](#) (PDF)

A fully completed Form WH-381 satisfies an employer’s obligation to provide notice:

- Of an employee’s eligibility to take FMLA leave; and
- Detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations.

This notice must be provided within five business days of the employee notifying the employer of the need for FMLA leave.

[WH-382 Designation Notice](#) (PDF)

When the employer has enough information to determine whether the leave is being taken for a FMLA-qualifying reason (e.g., after receiving a certification), the employer must notify the employee whether the leave will be designated and counted as FMLA leave **within five business days**, unless there are extenuating circumstances. This notification is made through the Designation Notice.

Optional Notices

[WH-380-E Certification of Health Care Provider for Employee’s Serious Health Condition](#) (PDF)

An employer may require an employee seeking FMLA leave for his or her own serious health condition to submit a medical certification issued by the employee’s health care provider.

[WH-380-F Certification of Health Care Provider for Family Member’s Serious Health Condition](#) (PDF)

The FMLA provides that an employer may require an employee seeking FMLA leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member.

[WH-384 Certification of Qualifying Exigency for Military Family Leave](#) (PDF)

An employer may require an employee seeking FMLA leave due to a qualifying military exigency to submit a certification supporting the need for leave.

[WH-385 Certification for Serious Injury or Illness of Current Servicemember -- for Military Family Leave](#) (PDF)

An employer may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave.

[WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave](#) (PDF)

An employer may require an employee seeking military caregiver leave under the FMLA due to a serious injury or illness of a covered veteran to submit a certification providing sufficient facts to support the request for leave.

Additional Information and Resources

- [Family and Medical Leave Act Compliance Assistance from the Department of Labor](#)
- [Fact Sheet on the FMLA](#)
- [Family and Medical Leave Act Regulations, By Subpart](#)
- [FMLA 2010 Military Amendments](#)
- [The Family and Medical Leave Act Poster](#)
- [The Family and Medical Leave Act Poster — in Spanish](#)
- [Log of Employee's Yearly Attendance](#) (includes FMLA leave)
- [The Employee's Guide to the Family and Medical Leave Act](#)
- [Guidance on the Final Rule Implementing Statutory Amendments to FMLA for Military Families](#)
- [The Employer's Guide to the Family and Medical Leave Act](#)