

FMLA, ADA, & Time Worked

Supervisor Training Session

Agenda

Family and Medical Leave

Americans with Disabilities Act

Time Worked

Exit Interviews

Family and Medical Leave Act (FMLA)

Requires private employers with 50 or more

Employees to provide up to 12 weeks of unpaid leave to employees in certain circumstances, in compliance with the requirements of the *Family and Medical Leave Act of 1993*, and up to 26 weeks of leave in accordance with the expansion of FMLA under the *Support for Injured Service Members Act of 2007*.

FMLA Eligibility

Employee must have worked for at least 12 months and 1250 hours or more within the preceding 12 months. In addition, to be eligible, employees must work at a facility where at least 50 employees of the College work within a 75-mile radius.

FMLA- Leave Entitlement

1. For the birth of a child, and to care for the newborn child;
2. For placement with the employee of a child for adoption or foster care;
3. To care for the employee's spouse, child or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job;
5. Because of a qualifying exigency arising out of the fact that a spouse, son, or daughter, or parent is on active duty or called to active duty in support of a contingency operation;
6. Because you are the spouse, son or daughter, parent, or next of kin of a covered service member with a serious injury or illness. (This leave may extend up to 26 weeks in a 12-month period.)

FMLA

Computing the 12 weeks

May not take more than 12 weeks of FMLA in a 12- month period

College uses a “rolling” 12-month period, using the date the leave first started

Simultaneous use of paid leave

All paid leave must be exhausted before beginning unpaid family/medical leave

FMLA runs concurrently with these paid leaves:

Sick, vacation, short-term disability, workers comp, etc.

FMLA- Notifications Requirements

Advance notice requirements

If leave is foreseeable, such as birth or adoption of a child or planned medical treatment, employees must give reasonable notice (to help with scheduling of coverage).

When an employee calls in stating he/she will be unable to work, specific reference to FMLA or a qualifying reason for the needed leave must be stated in order for the absence to be counted towards FMLA leave.

Ex. Calling in “sick” without offering additional information is not sufficient to be considered for FMLA leave.

FMLA

Job Restoration – upon return the employee will generally be reinstated to the same or an equivalent job with the same pay, benefits, terms and conditions of employment.

Certification requirements – documentation from a healthcare provider or documentation confirming military status before taking leave. If certification cannot be provided before taking leave, it must be provided as soon as possible.

FMLA

HR must be notified as soon as it known that an employee will be out for a serious health condition. HR has five days to ask for medical certification.

Intermittent leave is ~~allowed~~

See handbook for more details

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Americans with Disabilities Act

Randolph College is committed to complying fully with the Americans with Disabilities Act (ADA) and the ADA Amendments Act of 2008 (ADAAA), as well as applicable state and local laws to ensure equal opportunity in employment for qualified person with disabilities.

All employment practices, decisions, and activities are conducted on a non-discriminatory basis.

To be protected under ADA

A person has to be an individual with a disability who can perform the essential functions of a job, with or without reasonable accommodations.

Definition:

Disability – Is a physical or mental impairment that substantially limits a major life activity.

ADAAA of 2008

Effective January 1, 2009

Expanded definition of “disability”

1. An impairment must be considered without corrective measures. The impairment must also be evaluated without the effects of “learned behavioral.”
2. A disability where the impairments are episodic or in remission, if the medical condition would fall within the definition when active.
3. Major life activities is expanded to eating, sleeping, walking, standing, lifting, bending, reading, concentrating, thinking, and communicating, as well as the bodily functions.
4. Directs the EEOC that they should adopt a broader interpretation of what “substantially limits” means.

ADA

The College will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship on the College.

Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job, or to access to an employment benefit should contact the HR Department. An employee requesting a reasonable accommodation will be asked to complete a Reasonable Accommodation Request Form. See employee handbook for additional information

Time Worked

Hourly employees must be paid overtime for any hours worked over 40 in a 40 hour workweek.

Fair Labor Standard Act requires that overtime be paid on time worked, not time compensated (example: sick, vacation, holiday, etc.)

Hours worked between 35 and 40 hours are paid at straight time (or comp time at straight time in the same pay period).

Compensation time, if allowed by supervisor, must be taken within the same pay period.

Time Worked

Overtime must be approved in advance by supervisor.

If hourly employees sit at their desk and answer the phone/check e-mails while at lunch, they must be paid for that time (best to have them get away from their desks).

Exit Interviews

HR must be notified immediately via phone or e-mail once a resignation has been given.

HR will need to meet with every employee on his/her last day of employment to go over benefits, exit interview comments, and collect:

Badge

Keys

Credit Cards

HR will send out a change in staff, prior to last day of employment

Supervisor/Manager will need to collect laptop, cell phone, blackberry, etc.