

A woman with voluminous, curly, light-brown hair is smiling and talking on a black smartphone. She is wearing a light blue button-down shirt and is holding several white papers in front of her. The background is a bright, out-of-focus office setting with a window and some office supplies. The overall tone is professional and positive.

LEADERS' GUIDE TO LEAVES OF ABSENCE

As a Memorial Healthcare System leader, you will need to manage employees' requests for leaves of absence (LOA). This guide will give you the basics of LOA – what they are, who can take them, and what your responsibilities are for administering them.

Types of Leave at Memorial

Job-Protected Leave

Employees on job-protected leaves have reinstatement rights, meaning that when their leaves end, they must be returned to their same positions and pay. Job protection also means that absences under these leaves cannot be “held against” employees or considered for purposes of transfer, promotion, performance rating or attendance.

Family & Medical Leave Act leave (FMLA), Americans with Disability Act leave (ADA) and military leaves are administered according to federal law. Memorial complies with the law and does not deny these leaves to employees who are eligible for them.

Job-protected leaves like FMLA, ADA, and military leaves are not considered paid leaves in that leave provides only the time away from work, with no separate or additional pay. Any

pay the employee receives is by using available paid leave or disability leave hours. Employees with insufficient hours of paid or disability leave are unpaid during the leave.

Memorial continues benefits for employees while they're on leave, automatically deducting the premiums if employees on leave are receiving paychecks. Employees not receiving paychecks are responsible for paying Memorial for their portion of the premiums.

Family and Medical Leave Act (FMLA)

FMLA is a federal leave program that provides up to 12 weeks of leave in a rolling 12-month period for eligible employees with certain qualifying events.

In general, employees must be employed for 12 months before

becoming eligible for this leave, although rehires can have prior service considered in order to meet this requirement.

This leave can be taken as a continuous block of time or intermittently, as needed. See HR Policy #B-2.

Americans with Disabilities Act (ADA) Leave

ADA is a federal law that requires employers to accommodate employees with disabilities, including those who are disabled due to a health condition. Memorial may offer ADA leave to employees in order for them to receive treatment that will allow them to once again perform the essential functions of their job if they are not able to do so without accommodation.

This leave is generally granted in a continuous block of time, but may also be provided intermittently.

Military Leave

Military leave is mandated by another federal law, the Uniformed Services Employment and Re-employment Rights Act (USERRA), and provides leaves for military or uniformed service for up to five years. While this leave is job-protected, employers may hire someone to perform employees' jobs while they're on military leave. Employees must be reinstated to their positions upon their return.

Bereavement

When a death occurs in an employee's immediate family, Memorial will provide up to three days of paid leave. This applies to all regularly scheduled full-time and part-time, benefits-eligible employees who have not elected to waive benefits for cash conversion. Pay for time off shall be at the employee's regular rate, including shift differential if applicable, for regularly scheduled hours. See HR Policy #B-2.

Jury Duty

Memorial provides paid leave for employees summoned to jury duty. Jury duty includes actual jury duty service and all preliminary examinations and interviews that may be required prior to the service. Jury duty pay shall be at the employee's regular rate, including shift differential if applicable, and for regularly scheduled hours, up to a maximum of 40 hours per week. See HR Policy #B-8.

Administrative Leave

There may be times when one of your employees is involved in an investigation, facing pending charges, or is up for renewal of employment authorization. These types of leaves may not be job protected. Please discuss with your HR team; they will advise. Memorial may determine that it is in his or her best interest to

remain off work on administrative leave until a resolution is found. HR will work with you to provide the employee with this leave, which may be paid or unpaid.

Non-Protected Leave

Leaves that are granted by Memorial policy are referred to as medical and personal leaves. Employees on these leaves have no job protection or reinstatement rights. If you need to fill an employee's position while he or she is on leave, you may do so.

Medical and Personal Leaves

Medical and personal leaves are not required by law and are offered and administered based on Memorial policy. An employee must have worked for Memorial for 90 days before becoming eligible for this type of leave. Since the leave is not legally mandated, it is subject to your approval and is based on the operational staffing needs of your department or unit.

This leave is granted only in continuous blocks of time, and has a maximum combined length of 12 weeks in a rolling 12-month period. Because this leave is not protected, the employee's position may be filled while he or she is on leave.

Who Administers What

Memorial's leave administrator, *FMLASource*, administers FMLA, ADA, military, and medical and personal leaves of absence, while Memorial administers bereavement, jury duty and administrative leave.

To maintain legal compliance, *FMLASource* will determine the employee's eligibility for job-protected leaves first, evaluating an employee's eligibility for leave in this order:

- 1ST:** FMLA
- 2ND:** ADA
- 3RD:** LOA

For example: an employee who hasn't worked for Memorial long enough to qualify for FMLA may be approved for ADA leave. An employee who doesn't qualify for either FMLA or ADA leave may be approved for LOA by his or her department leader.

NOTE: *FMLASource* does not manage payment during leave (i.e., use of paid leave and disability leave). It's your responsibility to ensure that your employees are paid appropriately during their leaves, by entering paid leave and disability information in TASS, Memorial's timekeeping and scheduling system.

How the Process Works

If you have an employee who needs to request job-protected leave, he or she should notify you – and also contact *FMLASource*, either by calling 844-242-6747 or visiting fmlasource.com. *FMLASource* has a team that is dedicated to Memorial, and which is available from 8:30 a.m. to 10:30 p.m., Monday through Friday. However, employees can call 24 hours a day, with off-hour coverage handled by a service center.

FMLASource will send the employee forms to complete and will review them to determine if the employee meets the criteria for the leave. *FMLASource* will either: 1) approve, 2) request more information, 3) deny or 4) confer with you and/or Human Resources.

FMLASource approves requests for FMLA and ADA leaves according to federal regulations, approving leaves for employees who meet the criteria. Employees who do not meet the criteria for job-protected leaves may be granted a non-protected leave subject to your approval.

Personal Health Information

FMLASource will provide you and Human Resources information on the frequency, duration and reason

for the employee's leave (e.g., the employee's own health condition or a family member's need for care).

Your employee should notify you that his or her absence is FMLA-related – and while you can confirm that the leave is FMLA leave, you may not inquire about a medical condition, and neither HR nor *FMLASource* are able to discuss it with you. It is up to the employee whether to share that information.

Intermittent FMLA

Employees on intermittent FMLA must contact *FMLASource* and follow their department's established call-in procedures. Intermittent leave must be reported to *FMLASource* within 24 hours in order to be covered as FMLA absences.

FMLASource can provide you with the dates of approved FMLA absences. Absences that are approved may not be used for attendance disciplinary purposes.

Exhausting FMLA Leave

If an employee exhausts all of his or her FMLA time and still needs leave, *FMLASource* will first evaluate the leave request for ADA eligibility, based on the medical certification. If the employee's need for leave meets the criteria,

they will be approved for ADA leave. If they do not meet the ADA criteria, FMLASource will contact you for your approval of a non-protected leave.

ADA Leave

HR manages workplace accommodations and the interactive process, and Memorial's obligation is to begin that interactive process when we become aware of the potential need for accommodation. Therefore, if an employee contacts you and notifies you of a medical condition that affects his or her ability to perform on the job, you must notify HR right away.

In cases in which a leave is necessary, FMLASource will evaluate the employee's medical documentation to determine if ADA leave is appropriate, and to administer it in accordance with federal law.

If an employee requires ADA accommodation but doesn't need to take a leave, HR must make a determination about ADA applicability and provide the employee with an ADA request form and ADA Certification Form.

HR may contact the employee's healthcare provider (or request that Employee Health contact the provider) if additional information or clarification is necessary. As the manager, you should not contact the healthcare provider.

How the Process Works for Non-Protected Leave

As department leader, you are responsible for approving non-protected leave.

FMLASource will contact you via email with the dates and duration of your employee's requested leave. You must evaluate your ability to approve the leave based on the operational staffing needs of your department. Notify FMLASource of your decision to either approve or deny, and FMLASource will then notify the employee.

If the employee requests a longer time than you are able to accommodate (e.g., three months' leave when you can only approve one month), notify FMLASource and they will then notify the employee.

If the employee's job is filled while he or she is on leave, you must notify HR, so that they can advise the employee to seek another position when they are ready to return.

Communication and Notification

Managers and HR are notified via email when an employee requests leave. FMLASource uses

data from Talent Management to determine the appropriate contacts. The direct supervisor (as listed in TM) is notified when an employee requests leave or is able to return. The department leader is contacted for approval of non-protected leaves.

Managers and HR will receive email notification of leave applications, leave extensions, approvals and denials of leave, exhaustion of leave, and Return to Work (RTW). The process is the same for FMLA and non-FMLA leaves.

As a manager, you can also log in to the FMLASource website to see a list of your employees who have applied for leave, have approved leave, have used leave time, and are approaching the end date for their leave. (See "Your Access to Information and Reports.")

Return to Work (RTW)

FMLASource coordinates an employee's Return to Work (RTW), consulting with you and with HR if the employee is returning with restrictions. Employees who are cleared to return to work immediately without restrictions may return on the next shift, if you are able to put them on the schedule.

In cases in which employees are returning with restrictions,

FMLASource will communicate the restrictions. You and HR will advise whether you can accommodate them or if the employee must remain on leave. In general, if an employee is unable to perform the essential functions of the job (as defined in the job description), Memorial may elect to keep him or her on leave.

For all types of medical leave, the RTW medical clearance should be sent to FMLASource. Employees may also provide the RTW form to Employee Health or HR if their RTW indicates they are cleared to work immediately without restrictions. HR or Employee Health may also send the RTW form to FMLASource as a courtesy. However, the employee is responsible for ensuring that FMLASource receives all required forms.

Your Access to Information and Reports

Employee leave information from September 1, 2018 forward is available on the FMLASource website. To log in, visit [FMLASource.com](https://fmlasource.com) and click on "Register." You must use your mhs.net email address and the home zip code that is on file for you with Talent Management.

You will have access to leave information for employees who are listed in Talent Management

as reporting directly to you. You will also have access to your own leave information, should you need to apply for leave or have a leave approved. (The login is the same for employee access and manager access.)

NOTE: If you forget your password, use the “Forgot Password” link on the FMLASource login page to reset it. HR is unable to help with passwords.

Email Access

Employees on a continuous leave of absence should not check emails during their leave. It is your responsibility as the leader to ensure your employee’s email inbox is properly managed during their leave. Please contact your HR department when you have an employee going on a continuous leave of absence. They can help you determine what steps, if any, you need to take to ensure the employee’s inbox is properly managed while they are on leave.

Dos and Do Nots

Do

1. Assume your employee is coming from a genuine place when requesting leave
2. Wish the employee the best
3. Respect their privacy
4. Encourage your employee to reach out to HR if they have questions
5. Reach out to HR if the employee’s time on LOA is different than what was communicated to you
6. Ask the employee to let you know if they need anything

Do Not

1. Tell other employees why someone is on leave
2. Ask the employee to work while they are on leave
3. Encourage the employee to check their email when on leave
4. Contact the employee’s healthcare provider
5. Ask the employee about their medical condition

FMLASource fmlasource.com (844) 242-6747

Monday through Friday 8:30 a.m. to 10:30 p.m.

Download the FMLASource Now app

