

# 2018 Administrative Leadership Conference

The Bermuda Triangle of Leaves:  
Family and Medical Leave



# Presented by...

Melanie Trimm

Employment Services Manager

One University Plaza, HRB 30

Springfield, IL 62703

Phone: (217)206-7148

Fax: (217)206-7145

[msmit2@uis.edu](mailto:msmit2@uis.edu)



# Please...

- Turn off cell phones.
- Sign the attendance roster.
- Complete the evaluation at the end of the workshop.



# Workshop Introductions

**Melanie Trimm**  
Employment Services Manager

**Introductions**  
Name  
Unit and Position  
What Do You Hope to Gain from This Session?



## Let's Watch

# How Sick Is Too Sick To Go To Work?

<https://www.youtube.com/watch?v=191m0cpsXxM>



# Points to be Covered

- What Is A Leave of Absence?
- What Is NOT A Leave of Absence?
- What Might A Leave of Absence Impact?
- How Might Different Types of Leave Overlap?
- Employee and Employer Responsibilities



# What Is a Leave of Absence

Any period of time that would otherwise be worked, but is not possible due to some medical or personal event. Leave of absence may be paid or unpaid. Eligibility must be considered when allowing an employee leave. Eligibility and length of leave can vary by leave type.



# What Counts As A LOA?

- FMLA/VESSA
- Worker's Compensation
- SURS Disability
- Sabbatical
- Personal Leave
- Shared Benefits
- Parental Leave
- Military Leave
- Voting Leave
- Jury Duty
- Bereavement
- Disaster Volunteer
- School Conference





# FMLA



- Eligibility
- When to Apply
- What is Required
- Length of Benefits



# Family Medical Leave Act of 1993

- Should be invoked if absent from work for more than 3 days by Employee or Supervisor
- Entitles eligible employees up to 12 weeks unpaid, job-protected leave for specified family and medical
- Leave can be a block of time or intermittent
- Accrued leave may be used to remain in paid status during FML
- An employee who has been absent for FML shall be restored to their original position or an equivalent position

# FMLA Eligibility

- University employee for at least 12 months
- Performed at least 1,250 hours of service during the previous 12-month period





# Family Medical Leave Act of 1993

## Covered Events

- Birth or placement of a son or daughter for adoption or foster care
- Serious health condition of an employee
- Serious health condition of a spouse, son, daughter or parent
- Qualifying exigency of a son, daughter, spouse, parent or next of kin
- Care of a covered servicemember with a serious injury or illness (up to 26 weeks)

# When Does FMLA Begin?

- On the first day that the supervisor is made aware that the employee is absent due to a qualifying event
- Only the amount of time actually taken can be counted against the 12-week entitlement





# Family Medical Leave Act of 1993

## Leave Usage Reporting for FML

- Requires Supervisor Approval
- Record as Family Leave Sick , Family Leave Vacation, etc.
- Refer to Earn Codes handout

## Recording Leave Time

- Non-Exempt: Report leave in 1/10<sup>th</sup> hour increments
- Exempt 37.5 hours/week: Report leave in half or full day increments (3.75 or 7.5 hours)
- Exempt 40 hours/week: Report leave in half or full day increments (4 or 8 hours)



# FMLA FAQ

Can an employee take this time unpaid, when they have sick and/or vacation benefits that could be applied to the absence?

- Yes, employees can choose to take the time away as unpaid or they choose to use sick and/or vacation benefits to remain in pay status

# FMLA FAQ

My employee has submitted a request for FMLA. Do I have to approve it?

- Has a physician signed?
- Does employee meet eligibility?
- Yes, the request must be approved.







# Victims Economic Security and Safety Leave (VESSA)

## What is VESSA?

- Enacted in 2003, and amended in 2009
- Designed to promote the State's interest in reducing domestic violence, dating violence, sexual assault and stalking
- Enables victims to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences of domestic or sexual violence to employees



# Victims Economic Security and Safety Leave (VESSA)

## What is VESSA?

- Employee is entitled to 12 weeks unpaid leave for each consecutive 12-month period for which eligibility criteria have been met
- Accrued leave may be used to remain in pay status
- This Act does not create a right for the employee to take a leave that exceeds the leave time allowed under, or in addition to, the leave time permitted by the Family and Medical Leave Act (FMLA).
- An employee who may have exhausted all available leave under FMLA, for a purpose other than that which is available under VESSA, remains eligible for leave under VESSA.
- For more information visit:  
[https://nessie.uihr.uillinois.edu/cf/index.cfm?Item\\_id=2594&rlink=1194](https://nessie.uihr.uillinois.edu/cf/index.cfm?Item_id=2594&rlink=1194) -

# Parental Leave

- Up to two weeks of paid time off work for the birth of a child or an adoption. This leave status does not reduce sick or vacation leave balances.
- FMLA application is the only documentation required. Medical certification is not required.





# SURS/Disability

- Eligibility
- When to Apply
- What is Required
- Length of Benefits



# Shared Benefits

- Sick Leave Pool that can provide up to 45 days of paid leave when an employee experiences a catastrophic event.





# Personal Leave

- Special leaves may be granted for the purpose of continuing employment for individuals whose performance warrants it and who request such leave for sufficient cause.



# What is Overlap?

- Circumstances may change a person's LOA status as things progress
  - Ex. An employee may request **FMLA** for a scheduled surgery. Because recuperation is anticipated to take 6 months, the employee applies for **disability**. When the employee can return to work, they may need an **accommodation**.

# What is Overlap?

- Another example:
  - A **Workers' Compensation** injury that requires hospitalization or incapacitates an employee for more than three days and requires continuing treatment by a healthcare provider generally qualifies as a serious health condition under the **FMLA**. If the injury causes a permanent mental or physical impairment that substantially limits a major life activity, that same employee could be entitled to additional leave as a reasonable accommodation under the **ADA**.







# So What is ADA?

Title I of the Americans with Disabilities Act (ADA) prohibits employment discrimination against qualified individuals with disabilities.

**“Disability”** under ADA is defined in three ways:

- A physical or mental impairment that substantially limits one or more of the major life activities of an individual
- A record of such an impairment
- Being regarded as having such an impairment



# ADA

- Reasonable accommodations can be requested for qualifying disabilities
- Medical certification is required and may be similar to the medical certification required for FMLA

**ADA**  
Americans with  
Disabilities Act



# How Does ADA Overlap with LOA?

- An employee with a **SURS disability** can be considered disabled under **ADA** if they qualify to be protected under ADA
- Think “substantial limitation” – does the employee’s condition meet the definition of disability?

# Overlap

- If an employee qualifies for FMLA, do they also qualify for ADA?
- If an employee qualifies for ADA, do they also qualify for FMLA?





# What Might a LOA Impact?

- Employee Pay
- Leave balances/Vacation & Sick Balances
- Benefits/Insurance Premium Payment
- Departmental Operations (short term or long term)



# Employee Responsibilities

- Communicate with my supervisor
- Comply with requests for updated information
- Meet all appointments in a timely manner
- Provide a physician's statement when deemed able to return to work
- Provide as much notice as possible, when returning (30 days)

# Supervisor Responsibilities

- Submit leave of absence documentation to HR asap
- Sign LOA forms
- Ensure privacy of sensitive information
- Apply policies consistently
- Track leave usage
- Backfill as needed





# HR Responsibilities

- HR must provide the following notices:
  - Eligibility Notice
  - Rights and Responsibilities Notice
  - Acknowledgment/Designation Notice
  - Advise Benefits Office when Employee is On Leave
    - Who is really responsible for this?





# What If I Only Need to Miss Work Periodically?

- FMLA Intermittent Leave
- Medical certification required
- Must work with supervisor
- Provide a description of how leave will be used and planned adjusted work schedule
- How is this different than a Reduced Schedule Intermittent Leave?



# How Do I Keep Track of Leave Usage?

- Timesheet/Earn Codes
- PEAFMLA
- PZAELOA
- LOA Tracking Sheets for Department Use



# Recording Leave Time

## Non-Exempt

- Report absences in 1/10<sup>th</sup> of an hour increments.

## Exempt (37.5 hours)

- Half day= 3.75 hours
- Full day = 7.5 hours

## Exempt (40 hours)

- Half day= 4 hours
- Full day= 8 hours

# Return To Work

- Give employer ample notice when able to return to work, at least 30 days.
- Provide physician's statement allowing return to work
- If intermittent leave, new certification not required with each absence, but updated medical can be requested.
- Employee has a right to return to same or equivalent position.





# Scenarios

Marie works for the university. She is one of 3 office assistants who provide administrative support to a college. Marie has been working for 18 months. Her first 8 months she was part time, working approximately 25 hours per week, and her last 10 months she has been working on a full-time basis. Marie has just announced to the university that she is 3 months pregnant.



## Scenarios – More on Marie

Everyone is absolutely thrilled for Marie. Around month 4, Marie develops gestational diabetes, but her doctor doesn't think it is necessary for her to go on leave so long as she doesn't work a lot of extra hours and controls her diet. Around 7½ months Marie develops preeclampsia (toxemia). Because of these two conditions, Marie's doctor has decided that she needs to be put on bed-rest for the remainder of her pregnancy. She goes on bed-rest following her visit with the doctor.

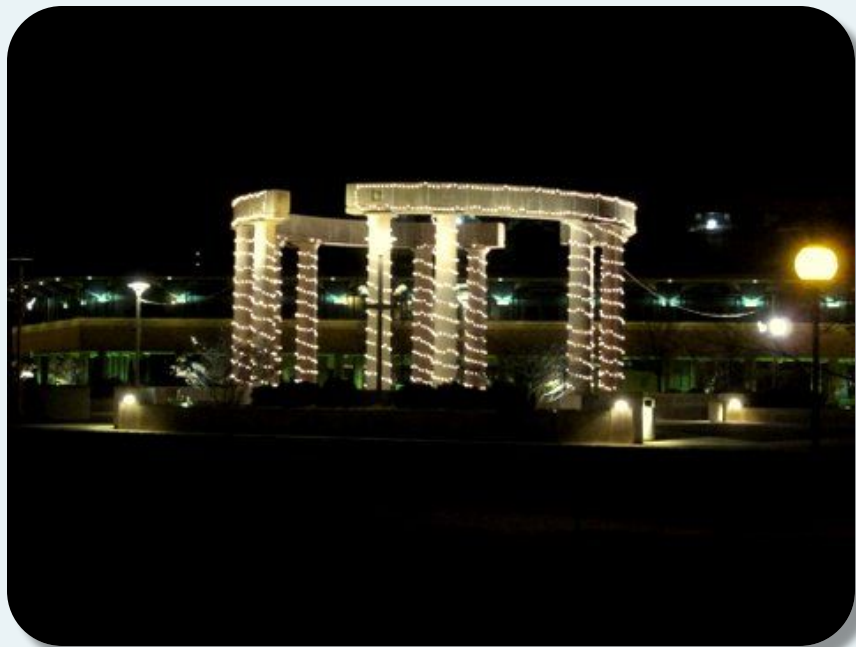
# Scenarios



- Employee Bob has called into work sick for a total of twenty-eight days in the last three months. This last time, he indicated that he "just could not shake this pneumonia" and he regrets that he did not stay in the hospital longer when he was first diagnosed. He states that he is going back to the doctor and will call tomorrow and let you know when he can return to work.
- Bob's frequent absences are causing a strain on the department. He will exhaust his sick and vacation leave in two days. You want to replace Employee Bob. Can you do so and when?



# Questions?







# Questions & Final Thoughts...

Always feel free to contact our office with any questions you may have.

**Tony Lozzi**

**217-206-7237**

**[alozz2@uis.edu](mailto:alozz2@uis.edu)**

Thank you for your time!