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FMLA Family First Designation Letter - Training Narrative (OVCA3103)

Purpose: Use to designate leave as Family First FMLA after receiving a certification indicating the need for leave qualifies as Family First FMLA.

After you have downloaded the form from our webpage, save it to your computer.

We suggest grouping the letters/forms by 'leave type,' and then have separate folders for the letters and forms. You may want to organize it like our Table of Contents so you can easily cross-reference our list with your folders to easily determine what letters you have or do not have.

Once the document is saved, open it so you can create your company template by updating all the **blue highlights** within the document.

The **yellow highlights** are employee specific details and will be changed with individual situations.

To update the blue highlights, begin by executing a "Find and Replace" for the word "Company." Replace "Company" with your organization's business name.

If you are an employer with over 50 employees, you will then need to choose the way your organization calculates FMLA eligibility. This will either be roll forward, rollback or annual/calendar year. *Please note: If your policy does not speak to this and your notification letters do not tell the employee which way you calculate, the employee will get to choose which calculation benefits them the most.*

If your policy manual does not specify, you will want to work with whomever in your company can help you make this decision and get it integrated into the letters first and then into your policy manual as soon as possible. (We suggest Roll-Forward. Call us to schedule a consultation to discuss why we believe this is the better choice or how to make the switch to roll forward!)

If the leave requested on the Leave of Absence request form indicates a reason the may meet the criteria of FMLA/CFRA you will want to use decide if you feel you need

If you have under 50 employees, the Family First FMLA leave period is from April 1, 2020 through December 31, 2020.

Continue with the form to:



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- Determine whether your policy manual says the employees “must” or “may” use accrued PTO/Vacation/Sick leave prior to taking an unpaid leave of absence. Please note, with FMLA, you cannot require an employee to use accrued leave to supplement a paid leave that is being paid with funds from an external source such as Workers’ Compensation, SDI, PFL, STD or LTD, PERS or other paid leave benefit, including Family First Sick Leave.
- For the medical benefits payment, confirm who handles these payments and where the payments should be mailed. Feel free to add any further instructions necessary to get the payment to the right person and process properly. In the event the employee would like to set up a payment plan, we suggest you require them to sign a promissory note – including the confirmation they are allowing you to remove the funds from any final pay check. Even with the signed document, please be sure you are confident the DOL will not challenge your choice to deduct the funds from a final check.
- Next, indicate whom the employee is to contact in the event that they cannot return to work.
- Enter your name, title and contact information.

You have successfully completed your generic template! Save it so it can be used when customizing the yellow highlights.

The first few yellow highlights include the current date and the name and address of the employee. Date the letter the day it will be mailed to the employee.

Enter the date on the certificate that it was received; we suggest the date that the document was signed not the date received. Then indicate the date that the certificate states FMLA begun.

Next chose the type of leave – continuous, intermittent or reduced work schedule. This should also be indicated on the certificate or otherwise be very clear from the instructions on the certificate.

The next set of highlights has to do with how many weeks of FMLA the employee has available.



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- The set of yellow highlights in the next paragraph addresses how many weeks of FMLA is available to the employee.
- The first yellow highlight is the total number of weeks available to the employee at the time of the letter. If you have under 50 employees the full 12 weeks of leave is available from April 1, 2020 through December 31, 2020. If you have over 50 employees, the employee could have already used some FMLA. So, this could be 12 weeks if the employee has not used FMLA before or less if FMLA has been used. **EXAMPLE:** If 3 weeks were previously used according the method you use to calculate usage (roll forward, rollback or annual), 9 weeks would be entered as the number of weeks available.
- In the second yellow highlight enter the number of weeks/days/hours that have been used as of the date of the letter or the date of notification. In this example you would enter 3 weeks as previously used.
- In the third yellow highlight, enter the number of weeks/days that are still available to the employee. If you know the leave will be for an additional 4 weeks, enter the number of weeks and days that remain after the leave is over. **EXAMPLE:** $3+4 = 7$ weeks used, and $12-7 = 5$ weeks of leave remaining.

Enter the dollar amount and the due date of the employee's share of cost of benefits
Next you enter the dollar amount and due date for the employee's medical benefits payment.

Under the enclosures section:

1. Family First FMLA and FMLA Rights Notice
2. Family and Medical Leave Act (FMLA) Family First Certification Form
3. Family and Medical Leave Act (FMLA) Sick Leave Certification Form
4. State Disability/Paid Family Leave Pamphlet
5. Certification of Health Care Provider for Employee to Return to Work (OVGE1003)

Once the letter has been completed, we suggest reading through it or having someone else proofread it to be sure that it makes sense and sections were not missed. We also suggest sending the letter via regular and certified or return receipt mail so that there



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are not any doubts that the employee has received the letter. Maintain a copy of the letter sent in the employee medical file, and, if you are utilizing our Medical Leave Management (MLM) timeline (GE1007), update the timeline with the title of the letter and the date sent along with any other important dates such as a medical certificate expiration date, due dates, benefit expiration, etc.

You will want to be sure to follow up with the employee at least 2 weeks before their FMLA leave ends and/or the certificate expires to be sure of their intentions to return to work and/or to remind them if they are not coming back, that they must provide you with an updated certificate.

It's important to document ALL conversations with the employee as well as maintaining a record of all documents sent to and received from the employee on the MLM timeline.

If the employee returns to work, there are no further steps.

If the employee does not return to work, please start the process over again with *FMLA Conditional Designation Letter (OVC3101)* to request another FMLA certificate to confirm the need for more leave.

If the employee's FMLA leave will expire prior to the end date of the leave and the leave was for the employees' own serious health condition, see the ADA Conditional Designation forms