

Diocese of Owensboro

Employee Request for Leave

Under the Family and Medical Leave Act (FMLA)

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| Family Medical Leave Act (FMLA) |
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The following forms must be completed by you and returned to the parish/bookkeeper/business manager or employer, to serve as your request for job protected time off under the Family Medical Leave Act (FMLA).

In addition, depending on the type of leave you are requesting you must complete the appropriate Department of Labor Forms - Certification for FMLA.

The Family Medical Leave Act (FMLA) entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave for certain specific reasons. An employee must request the FMLA qualifying leave in writing by completing the “*Diocese of Owensboro Employee Request for Leave – FMLA*” and must document the reason for the leave. The pastor and the employer will determine if the days requested qualify as FMLA.

To be eligible:

- An employee must have worked at least 12 months for the Diocese.
- An employee must have worked at least 1,250 hours in the preceding twelve months, prior to the start of the FMLA leave.

When the leave is foreseeable, the employee should give their pastor or employer a 30-day notice and complete applicable FMLA paperwork.

Eligible employees may take FMLA leave for the following reasons:

- An employee’s birth of a child or in order to care for your child, or placement of a child for adoption or foster care - up to 12 weeks;
- An employee’s own serious health condition which renders an employee unable to perform the functions of their job - up to 12 weeks;
- An employee’s need to care for an immediate family member, which includes an employee’s spouse, child, or parent with a “serious health condition” - up to 12 weeks;
- An employee’s military active duty status, notification of an impending call, or order to active duty status - up to 26 weeks;
- An eligible employee is caring for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next-of-kin of the service member – up to 26 weeks.

Any leave taken under one or more of these circumstances will be counted against the employee's total entitlement to FMLA leave for the leave year.

Employees who have a break in employment due to their military obligations shall be taken into consideration when determining whether an employee has been employed for 12 months or has the required 1,250 hours of service to qualify for FMLA.

Employees on FMLA will continue to receive the Diocese's employee benefits provided they meet the specific requirements of such benefit programs. The employee portion of the expense of these benefits will be the responsibility of the employee during their FMLA and self-pay payments should be submitted timely.

Sick Leave, paid or unpaid, may be designated as an FMLA leave by the employee and Sick Leave time off as FMLA leave shall run concurrently with the sick time off and is counted as FMLA leave.

Under FMLA, if sick time is available, it will be paid first, and once it is exhausted, the employee has the option to use available vacation time. After sick time (and elected vacation time) are used, the employee will then go into unpaid leave status.

A leave beyond 12 weeks (or 26 weeks if applicable) will not be granted except for extreme circumstances. Regular employees not eligible for FMLA may request from their pastor or employer an unpaid family emergency or medical leave.

The Diocese measures the 12-month period in which the leave is taken by the rolling 12 month period, measured backward from the date of any and all FMLA leave with one exception. For leave to care for a covered service member, or for the spouse, son, daughter, or parent of a covered service member, the 12-month period begins on the first day the employee takes FMLA leave to care for a covered service member and ends 12 months after that date. For leave to care for an eligible employee, the 12-month period begins on the first day the employee takes FMLA leave and ends 12 months after that date. FMLA for the birth or adoption of a child or foster care must be concluded within 12 months of the birth or placement.

If an employee requests FMLA leave due to a serious illness of their own, the employee may be required to furnish medical Certification that they are fit to resume work. Employees failing to provide the Return to Work Certification, when required, may not be permitted to resume work until it is provided.

Failure to return to work on the determined return to work day without prior approval of the pastor or employer will be considered a voluntary resignation by the employee.

Serious Health Condition means an illness, injury, impairment or physical or mental condition which involves:

Inpatient Care, meaning an overnight stay in a hospital, hospice or residential medical-care facility, including any period of incapacity (inability to work or perform regular daily activities) or any subsequent treatment in connection with such inpatient care; or

Continuing treatment by a health care provider, this includes:

- (1) A period of incapacity lasting more than three consecutive, full calendar days and any subsequent treatment of period of incapacity relating to the same condition, that also includes treatment two or more times by or under the supervision of a health care provider (in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or one treatment by a health care provider (an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (Prescription medication, physical therapy); or
- (2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
- (3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice per year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
- (4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- (5) Any absence to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

If you have any questions or concerns, feel free to contact your parish or employer.

Diocese of Owensboro
Employee Request for Leave
Family Medical Leave Act (FMLA)

Date:-----

Parish or Employer Name_____

This serves as my request for leave under the Family and Medical Leave Act. I am requesting leave for the following reason:

_____ The birth of a child, placement of a child with me for adoption or foster care.

_____ A serious health condition of my own

_____ A serious health condition of my spouse/child/parent that requires my care.

_____ I am the spouse/son/daughter of a covered military member in active duty status, or has been notified of an impending call or order to active status

_____ I am the spouse/son/daughter/parent or next of kin of a covered service member with a serious injury or illness.

_____ I am the spouse/son/daughter/parent or next of kin of a covered service member under a call or in active duty and I must handle certain qualifying exigencies.

I understand that I must provide additional information if requested of me by my employer to support my reason for leave.

I would like for my FMLA leave to begin on_____, and I am requesting_____ days of leave or_____ weeks of leave or_____.

Employee printed name Employee Signature

EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within 1 year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

*Special "hours of service" requirements apply to airline flight crew employees.

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

BENEFITS & PROTECTIONS

ELIGIBILITY REQUIREMENTS

REQUESTING LEAVE

EMPLOYER RESPONSIBILITIES

ENFORCEMENT

For additional information or to file a complaint:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division



**Notice of Eligibility & Rights and Responsibilities
under the Family and Medical Leave Act**

**U.S. Department of Labor
Wage and Hour Division**



**DO NOT SEND TO THE DEPARTMENT OF LABOR.
PROVIDE TO EMPLOYEE.**

OMB Control Number: 1235-0003
Expires: 6/30/2023

In general, to be eligible to take leave under the Family and Medical Leave Act (FMLA), an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form is optional, a fully completed Form WH-381 provides employees with the information required by 29 C.F.R. §§ 825.300(b), (c) which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Information about the FMLA may be found [on the WHD website at www.dol.gov/agencies/whd/fmla](http://www.dol.gov/agencies/whd/fmla).

Date: _____ (mm/dd/yyyy)

From: _____ (Employer) To: _____ (Employee)

On _____ (mm/dd/yyyy), we learned that you need leave (beginning on) _____ (mm/dd/yyyy) for one of the following reasons: (Select as appropriate)

- The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly-placed child
- Your own serious health condition
- You are needed to care for your family member due to a serious health condition. Your family member is your:
 - Spouse
 - Parent
 - Child under age 18
 - Child 18 years or older and incapable of self-care because of a mental or physical disability
- A qualifying exigency arising out of the fact that your family member is on covered active duty or has been notified of an impending call or order to covered active duty status. Your family member on covered active duty is your:
 - Spouse
 - Parent
 - Child of any age
- You are needed to care for your family member who is a covered servicemember with a serious injury or illness. You are the servicemember's:
 - Spouse
 - Parent
 - Child
 - Next of kin

Spouse means a husband or wife as defined or recognized in the state where the individual was married, including in a common law marriage or same-sex marriage. The terms "child" and "parent" include *in loco parentis* relationships in which a person assumes the obligations of a parent to a child. An employee may take FMLA leave to care for an individual who assumed the obligations of a parent to the employee when the employee was a child. An employee may also take FMLA leave to care for a child for whom the employee has assumed the obligations of a parent. No legal or biological relationship is necessary.

SECTION I – NOTICE OF ELIGIBILITY

This Notice is to inform you that you are:

- Eligible** for FMLA leave. (See Section II for any Additional Information Needed and Section III for information on your Rights and Responsibilities.)
- Not eligible** for FMLA leave because: (Only one reason need be checked)
 - You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately: _____ towards this requirement.
(months)
 - You have not met the FMLA's 1,250 hours of service requirement. As of the first date of requested leave, you will have worked approximately: _____ towards this requirement.
(hours of service)

Employee Name: _____

- You are an airline flight crew employee and you have not met the special hours of service eligibility requirements for airline flight crew employees as of the first date of requested leave (i.e., worked or been paid for at least 60% of your applicable monthly guarantee, and worked or been paid for at least 504 duty hours.)
- You do not work at and/or report to a site with 50 or more employees within 75-miles as of the date of your request.

If you have any questions, please contact: _____ (Name of employer representative)
at _____ (Contact information).

SECTION II – ADDITIONAL INFORMATION NEEDED

As explained in Section I, you meet the eligibility requirements for taking FMLA leave. Please review the information below to determine if additional information is needed in order for us to determine whether your absence qualifies as FMLA leave. Once we obtain any additional information specified below we will inform you, **within 5 business days**, whether your leave will be designated as FMLA leave and count towards the FMLA leave you have available. **If complete and sufficient information is not provided in a timely manner, your leave may be denied.**

(Select as appropriate)

- No additional information requested. If no additional information requested, go to Section III.
- We request that the leave be supported by a certification, as identified below.
 - Health Care Provider for the Employee
 - Health Care Provider for the Employee's Family Member
 - Qualifying Exigency
 - Serious Illness or Injury (Military Caregiver Leave)

Selected certification form is attached / not attached.

If requested, medical certification must be returned by _____ (mm/dd/yyyy) (Must allow at least 15 calendar days from the date the employer requested the employee to provide certification, unless it is not feasible despite the employee's diligent, good faith efforts.)

- We request that you provide reasonable documentation or a statement to establish the relationship between you and your family member, including *in loco parentis* relationships (as explained on page one). The information requested must be returned to us by _____ (mm/dd/yyyy). You may choose to provide a simple statement of the relationship or provide documentation such as a child's birth certificate, a court document, or documents regarding foster care or adoption-related activities. Official documents submitted for this purpose will be returned to you after examination.

- Other information needed (e.g. documentation for military family leave): _____
The information requested must be returned to us by _____ (mm/dd/yyyy).

If you have any questions, please contact: _____ (Name of employer representative)
at _____ (Contact information).

SECTION III – NOTICE OF RIGHTS AND RESPONSIBILITIES

Part A: FMLA Leave Entitlement

You have a right under the FMLA to take unpaid, job-protected FMLA leave in a 12-month period for certain family and medical reasons, including up to **12 weeks** of unpaid leave in a 12-month period for the birth of a child or placement of a child for adoption or foster care, for leave related to your own or a family member's serious health condition, or for certain qualifying exigencies related to the deployment of a military member to covered active duty. You also have a right

Employee Name: _____

under the FMLA to take up to **26 weeks** of unpaid, job-protected FMLA leave in a single 12-month period to care for a covered servicemember with a serious injury or illness (*Military Caregiver Leave*).

The 12-month period for FMLA leave is calculated as: (*Select as appropriate*)

- The calendar year (January 1st - December 31st)
- A fixed leave year based on _____
(*e.g., a fiscal year beginning on July 1 and ending on June 30*)
- The 12-month period measured forward from the date of your first FMLA leave usage.
- A “rolling” 12-month period measured backward from the date of any FMLA leave usage. (*Each time an employee takes FMLA leave, the remaining leave is the balance of the 12 weeks not used during the 12 months immediately before the FMLA leave is to start.*)

If applicable, the single 12-month period for *Military Caregiver Leave* started on _____ (*mm/dd/yyyy*).

You (*are* / *are not*) **considered a key employee** as defined under the FMLA. Your FMLA leave cannot be denied for this reason; however, we may not restore you to employment following FMLA leave if such restoration will cause substantial and grievous economic injury to us.

We (*have* / *have not*) determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. Additional information will be provided separately concerning your status as key employee and restoration.

Part B: Substitution of Paid Leave – When Paid Leave is Used at the Same Time as FMLA Leave

You have a right under the FMLA to request that your accrued paid leave be substituted for your FMLA leave. This means that you can request that your accrued paid leave run concurrently with some or all of your unpaid FMLA leave, provided you meet any applicable requirements of our leave policy. Concurrent leave use means the absence will count against both the designated paid leave and unpaid FMLA leave at the same time. If you do not meet the requirements for taking paid leave, you remain entitled to take available unpaid FMLA leave in the applicable 12-month period. Even if you do not request it, the FMLA allows us to require you to use your available sick, vacation, or other paid leave during your FMLA absence.

(*Check all that apply*)

- Some or all of your FMLA leave will not be paid.** Any unpaid FMLA leave taken will be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- You have requested to use some or all of your available paid leave** (*e.g., sick, vacation, PTO*) during your FMLA leave. Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- We are requiring you to use some or all of your available paid leave** (*e.g., sick, vacation, PTO*) during your FMLA leave. Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- Other:** (*e.g., short- or long-term disability, workers' compensation, state medical leave law, etc.*) _____
Any time taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.

The applicable conditions for use of paid leave include: _____.

For more information about conditions applicable to sick/vacation/other paid leave usage please refer to _____
Diocese of Owensboro handbook _____ available at: _____
Diocese of Owensboro website _____.

Employee Name: _____

Part C: Maintain Health Benefits

Your health benefits must be maintained during any period of FMLA leave under the same conditions as if you continued to work. During any paid portion of FMLA leave, your share of any premiums will be paid by the method normally used during any paid leave. During any unpaid portion of FMLA leave, you must continue to make any normal contributions to the cost of the health insurance premiums. To make arrangements to continue to make your share of the premium payments on your health insurance while you are on any unpaid FMLA leave, contact _____ at _____.

You have a minimum grace period of (30-days or _____ *indicate longer period, if applicable*) in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

You may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave if you do not return to work following **unpaid** FMLA leave for a reason other than: the continuation, recurrence, or onset of your or your family member's serious health condition which would entitle you to FMLA leave; or the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or other circumstances beyond your control.

Part D: Other Employee Benefits

Upon your return from FMLA leave, your other employee benefits, such as pensions or life insurance, must be resumed in the same manner and at the same levels as provided when your FMLA leave began. To make arrangements to continue your employee benefits while you are on FMLA leave, contact _____ at _____.

Part E: Return-to-Work Requirements

You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. An equivalent position is one that is virtually identical to your former position in terms of pay, benefits, and working conditions. At the end of your FMLA leave, all benefits must also be resumed in the same manner and at the same level provided when the leave began. You do not have return-to-work rights under the FMLA if you need leave beyond the amount of FMLA leave you have available to use.

Part F: Other Requirements While on FMLA Leave

While on leave you (will be / will not be) required to furnish us with periodic reports of your status and intent to return to work every _____.

(Indicate interval of periodic reports, as appropriate for the FMLA leave situation).

If the circumstances of your leave change and you are able to return to work earlier than expected, you will be required to notify us at least two workdays prior to the date you intend to report for work.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND THE COMPLETED FORM TO THE DEPARTMENT OF LABOR. EMPLOYEE INFORMATION.

**Designation Notice
under the Family and Medical Leave Act**

**U.S. Department of Labor
Wage and Hour Division**



**DO NOT SEND TO THE DEPARTMENT OF LABOR.
PROVIDE TO EMPLOYEE.**

OMB Control Number: 1235-0003
Expires: 6/30/2023

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form is optional, a fully completed Form WH-382 provides employees with the information required by 29 C.F.R. §§ 825.300(d), 825.301, and 825.305(c), which must be provided within five business days of the employer having enough information to determine whether the leave is for an FMLA-qualifying reason. Information about the FMLA may be found [on the WHD website at www.dol.gov/agencies/whd/fmla](http://www.dol.gov/agencies/whd/fmla).

SECTION I - EMPLOYER

The employer is responsible in **all** circumstances for designating leave as FMLA-qualifying and giving notice to the employee. Once an eligible employee communicates a need to take leave for an FMLA-qualifying reason, an employer may not delay designating such leave as FMLA leave, and neither the employee nor the employer may decline FMLA protection for that leave.

Date: _____ (mm/dd/yyyy)

From: _____ (Employer) To: _____ (Employee)

On _____ (mm/dd/yyyy) we received your most recent information to support your need for leave due to:
(Select as appropriate)

- The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly-placed child
- Your own serious health condition
- The serious health condition of your spouse, child, or parent
- A qualifying exigency arising out of the fact that your spouse, child, or parent is on covered active duty or has been notified of an impending call or order to covered active duty with the Armed Forces
- A serious injury or illness of a covered servicemember where you are the servicemember's spouse, child, parent, or next of kin (Military Caregiver Leave)

We have reviewed information related to your need for leave under the FMLA along with any supporting documentation provided and decided that your FMLA leave request is: (Select as appropriate)

- Approved.** All leave taken for this reason will be designated as FMLA leave. Go to Section III for more information.
- Not Approved:** (Select as appropriate)
 - The FMLA does not apply to your leave request.
 - As of the date the leave is to start, you do not have any FMLA leave available to use.
 - Other _____
- Additional information** is needed to determine if your leave request qualifies as FMLA leave. (Go to Section II for the specific information needed. If your FMLA leave request is approved and no additional information is needed, go to Section III.)

SECTION II – ADDITIONAL INFORMATION NEEDED

We need additional information to determine whether your leave request qualifies under the FMLA. Once we obtain the additional information requested, we will inform you **within 5 business days** if your leave will or will not be designated as FMLA leave and count towards the amount of FMLA leave you have available. **Failure to provide the additional information as requested may result in a denial of your FMLA leave request.**

If you have any questions, please contact: _____ at _____
(Name of employer FMLA representative) (Contact information)

Incomplete or Insufficient Certification

The certification you have provided is incomplete and/or insufficient to determine whether the FMLA applies to your leave request.
(Select as applicable)

- The certification provided is incomplete and we are unable to determine whether the FMLA applies to your leave request. "Incomplete" means one or more of the applicable entries on the certification have not been completed.

Employee Name: _____

- The certification provided is insufficient to determine whether the FMLA applies to your leave request. "Insufficient" means the information provided is vague, unclear, ambiguous or non-responsive.

Specify the information needed to make the certification complete and/or sufficient: _____

You must provide the requested information no later than (provide at least 7 calendar days) _____ (mm/dd/yyyy), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.

Second and Third Opinions

- We request that you obtain a (second / third opinion) medical certification at our expense, and we will provide further details at a later time. Note: The employee or the employee's family member may be requested to authorize the health care provider to release information pertaining only to the serious health condition at issue.

SECTION III – FMLA LEAVE APPROVED

As explained in Section I, your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave and will count against the amount of FMLA leave you have available to use in the applicable 12-month period. The FMLA requires that you notify us as soon as practicable if the dates of scheduled leave change, are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against the total **amount of FMLA leave** you have available to use in the applicable 12-month period: (Select as appropriate)

- Provided there is no change from your **anticipated FMLA leave schedule**, the following number of hours, days, or weeks will be counted against your leave entitlement: _____.
- Because the leave you will need will be **unscheduled**, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised: (check all that apply)

- Some or all of your FMLA leave will not be paid.** Any unpaid FMLA leave taken will be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- Based on your request, some or all of your available paid leave** (e.g., sick, vacation, PTO) **will be used during your FMLA leave.** Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- We are requiring you to use some or all of your available paid leave** (e.g., sick, vacation, PTO) **during your FMLA leave.** Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- Other:** _____
(e.g., Short- or long-term disability, workers' compensation, state medical leave law, etc.) Any time taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.

Return-to-work requirements. To be restored to work after taking FMLA leave, you (will be / will not be) required to provide a certification from your health care provider (fitness-for-duty certification) that you are able to resume work. This request for a fitness-for-duty certification is *only* with regard to the particular serious health condition that caused your need for FMLA leave. **If such certification is not timely received, your return to work may be delayed until the certification is provided.**

A list of the essential functions of your position (is / is not) attached. If attached, the fitness-for-duty certification must address your ability to perform the essential job functions.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND THE COMPLETED FORM TO THE DEPARTMENT OF LABOR. EMPLOYEE INFORMATION.

Process of Approving or Denying a Request for FMLA

Under the Family Medical Leave Act (FMLA), locations must provide eligible employees with specific notices of their FMLA rights and responsibilities and designate the leave as FMLA when appropriate.

Posting:

Under the FMLA, covered employers are required to post a general notice of the FMLA provisions for employees and applicants. In addition, if there are eligible employees, covered employers are required to distribute the general notice to employees. This notification is included in Diocese Employee FMLA packets. The poster should also be posted at every location; posters can be accessed at the following link: <https://owensborodiocese.org/wp-content/uploads/KY-POSTING-NOTICE-2022-23.pdf>

Request by the employee:

A location may learn of a request for FMLA leave when the employee submits a request for time off or when the employer acquires knowledge that an employee needs leave that may be for an FMLA-qualifying reason. According to FMLA regulations, *"An employee giving notice of the need for FMLA leave does not need to expressly assert rights under the Act or even mention the FMLA to meet his or her obligation to provide notice."* Locations are required to respond to the employee within five business days of receiving a request or of becoming aware of the need for FMLA leave. The easiest way to comply with this response requirement is to use the FMLA DOL Form "Notice of Eligibility and Rights & Responsibilities (WH-381). "

Eligibility for FMLA:

An employee is eligible for FMLA leave only if the employee meets both of the following eligibility requirements: **(1) Has been employed by the employer for at least 12 months, and (2) has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.** The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "[FMLA Special Rules for Returning Reservists](#)". If the employee does not meet these criteria, the employer's responsibility is to notify the employee of ineligibility for FMLA leave by specifying at least one criterion the employee does not meet on the Form WH-381.

Employers typically respond to FMLA leave requests by providing the employee with the Notice of Eligibility and Rights & Responsibilities (Form WH-381) and a medical certification form. There is no requirement for an employer to request medical certification if an employer has enough information to know that an employee's absence is FMLA qualifying. If employers have enough information on the initial request to approve or deny the FMLA leave, they may supply the Designation Notice (Form WH-382) at the same time as the Notice of Eligibility and Rights & Responsibilities (Form WH-381). Employers should be consistent, though, in the policy and practice of requiring medical certifications from employees requesting FMLA leave. Employers are not permitted to request a medical certification for leave to bond with a healthy newborn child or a child placed for adoption or foster care.

When it is medically necessary, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

The Department of Labor (DOL) has published four different model certification forms. The forms are to help employers in the administration of FMLA leave. When requiring a medical certification, employers should select the appropriate form to include with the Notice of Eligibility and Rights & Responsibilities (Form WH-381). Employees must be allowed up to 15 calendar days to complete and return their certification form. Employers usually hand deliver FMLA forms to employees. If that is not possible, FMLA forms may be mailed to the employee's address of record.

Incomplete Information:

On occasion, certification forms are returned to the employer incomplete or with insufficient information. A certification is considered incomplete if the employer receives a certification, but one or more of the applicable entries have not been completed. A certification is considered insufficient if the employer receives a complete certification, but the information provided is vague, ambiguous or nonresponsive. The employer must provide the employee seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent good-faith efforts) to correct any such deficiency, and the employer must inform the employee of the consequences for failure to provide a complete and sufficient certification. If the employee fails to provide the certification, the employer (i.e., a health care provider, human resource professional, leave administrator or management official) may contact the employee's health care provider directly for purposes of clarification and authentication.

According to the U.S. Department of Labor's *FMLA Guide for Employers*, "Authentication means providing the health care provider with a copy of the certification and confirming that the information contained on the certification form was completed and/or authorized by the health care provider who

signed the document. Clarification means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of a response. An employer may not ask health care providers for additional information beyond that in the certification form."

Designating the leave as FMLA:

The DOL provides a model Designation Notice (Form WH-382) that can be used to notify the employee whether his or her FMLA request has been approved or denied. If employers have enough information on the initial request to approve or deny the FMLA leave, they may supply the Designation Notice (Form WH-382) at the same time as the Notice of Eligibility and Rights & Responsibilities (Form WH-381). If employers are requesting a medical certification form, they must allow 15 calendar days for the return of this document prior to designating the time off as FMLA leave. Even though employers may not formally designate the leave as approved under the FMLA until several weeks after it starts, in some circumstances, they still track FMLA leave from the start of the leave. After an employee returns the medical certification form, an employer has five business days to approve or deny FMLA leave. If the employee has not returned medical certification within 15 calendar days as stated on the Notice of Eligibility and Rights & Responsibilities (WH-381), and the employer is not aware of extenuating circumstances, the employer should notify the employee in writing that the FMLA request has been denied, using the Designation Notice (Form WH-382) or a similar communication.

Examples:

Scenario 1:

Susan, who meets all FMLA eligibility criteria, turns in a doctor's note stating that she will be under her doctor's care all of next week for surgery and follow-up treatment.

The employer should send Susan the Notice of Eligibility and Rights & Responsibilities (Form WH-381) and the Designation Notice (Form WH-382) approving leave within five business days. There is no need to ask for a medical certification because the doctor's note provided sufficient information, unless it is the employer's practice to request a specific medical certification form.

Scenario 2:

Jessica has worked for the employer for six months. She notifies her manager that she is pregnant and due in two months. In addition to the FMLA leave policy, the organization has a policy that provides up to six weeks of personal leave for employees who have worked at least 90 days.

The employer should provide Jessica with the Notice of Eligibility and Rights & Responsibilities (Form WH-381). Here is how to complete Section 1 based on this scenario:

[X] Are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):

[X] You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately 8 months toward this requirement.

The employer should also include a letter stating that although Jessica is not eligible to use FMLA leave, she may be (or is) eligible for a personal leave of absence for up to six weeks per the company's policies. The letter should describe any application or approval process for the personal leave of absence.

FMLA Forms

- Diocese request for FMLA and policy
- DOL Form WH-381 Notice of Eligibility and Rights and Responsibilities
- DOL Form WH-380E – Certification of Health Care Provider for Employee's Serious Health Condition
- DOL Form WH-380F – Certification of Health Care Provider for Family Member's Serious Health Condition
- DOL Form WH-382 – Designation Notice
- Diocese of Owensboro FMLA Time Tracking Tool

Summary of Steps

- **Step One** – Employee Notice Requirement – Location gives employee the “Diocese of Owensboro Request for FMLA Form,” a copy of the policy and the FMLA poster.
- **Step Two (A)** – Once the location receives the completed request form, the location gives the Eligibility Notice to Employee – Form WH-381. Complete Form WH-381 within 5 days of receiving the request form.
- **Step Two (B)** - Location then gives the Certification Form WH-380 to employee. Form WH-380 must be completed by the Employees’ MD. The employee has 15 days to complete Form WH-380 but they can be given an extension up to 7 days. **(Give the employee Form WH-381 and Form WH-380 at the same time.)** *There is no requirement for an employer to request medical certification if an employer has enough information to know that an employee's absence is FMLA qualifying. Many times a note from the doctor of the leave duration will work.*
- **Step Three** – Location gives the Designation Notice Form WH- 382 to the employee. Must complete Form WH- 382 within 5 days of receiving Form WH-380 from the employee. Location must track FMLA days.
- **Step Four** – Employee gives a “Return to Work Form” signed by MD to the location. Must be cleared to work.

FREQUENTLY ASKED QUESTIONS & ANSWERS REGARDING FMLA

Q: How much leave am I entitled to under the FMLA?

If you are an “eligible” employee, you are entitled to 12 weeks of leave for certain family and medical reasons during a 12-month period.

Q: Who is an “eligible” employee under the FMLA policy?

Employees are eligible to take FMLA leave if they have worked for the Diocesan Administration for at least 12 months and have worked at least 1,250 hours over the previous 12 months.

Q: Do the 12 months of service with the Diocesan Administration have to be continuous or consecutive?

No. All time worked for the Diocesan Administration is counted.

Q: Do the 1,250 hours include paid leave time or other absences from work?

No. The 1,250 hours include only those hours actually worked for the Diocesan Administration. Paid leave and unpaid leave, including FMLA, are not counted.

Q: How do I determine if I have worked 1,250 hours in a 12-month period?

Your individual record of hours worked would be used to determine whether 1,250 hours had been worked in the 12 months prior to the commencement of FMLA. As a rule of thumb, the following may be helpful for estimating whether this test for eligibility has been met:

- 24 hours worked in each of the 52 weeks of the year; or
- over 104 hours worked in each of the 12 months of the year; or
- 40 hours worked per week for more than 31 weeks (over seven months) of the year.

Q: How is the 12-month period calculated under FMLA?

The Diocesan Administration utilizes a “rolling” 12-month period measured backward from the date an employee uses FMLA.

Q: Is FMLA leave paid time off?

No. The FMLA provides unpaid leave. However, when the leave would otherwise be unpaid, the Diocesan Administration requires employees to use accrued paid leave, such as vacation, sick, and personal days, for the FMLA period. When paid leave is substituted for unpaid leave, it is counted against the 12-week FMLA entitlement.

Q: Does workers compensation leave count against an employee's FMLA entitlement?

Yes. FMLA and workers compensation leave run concurrently, provided the reason for the absence is due to a qualifying serious injury or illness.

Q: Does the Diocesan Administration count leave taken due to pregnancy complications against the 12 weeks of FMLA for the birth and care of my child?

Yes. Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA for a serious health condition and counted in the 12 weeks of leave.

Q: Who is considered an immediate "family member" for purposes of taking FMLA?

An employee's spouse, children (son or daughter) and parents are immediate family members for purposes of FMLA. The term "parent" does not include an "in law." The terms son or daughter do not include individuals age 18 or older unless they are "incapable of self-care" because of mental or physical disability that limits one or more of the "major life activities" as under the Americans with Disabilities Act (ADA).

Q: May I take FMLA for visits to a physical therapist, if my doctor prescribes the therapy?

Yes. FMLA permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for therapy treatments such as those ordered by a doctor for physical therapy after a hospital stay or for treatment of severe arthritis. **However, the Diocesan Administration may ask that you schedule these appointments at times that will be least disruptive to the Diocesan Administration.**

Q: Do I have to give the Diocesan Administration my medical records for leave due to a serious health condition?

No. You do not have to provide medical records. The Diocesan Administration will, however, request that for leave taken due to a serious health condition you provide a medical certification confirming that a serious health condition exists.

Q: May the Diocesan Administration require me to return-to-work before I exhaust all my leave time?

Subject to certain limitations, the Diocesan Administration may deny the continuation of FMLA leave due to a serious health condition if you fail to fulfill any obligations to provide supporting medical certification.

Q: Are there any circumstances in FMLA or reinstatement to my job may be denied?

Yes. For example, you would not be entitled to FMLA or reinstatement if you would have been laid off or otherwise been terminated had you continued to work during the FMLA period. Moreover, if you give unequivocal notice that you do not intend to return-to-work, you lose their entitlement to FMLA. Also—if you fail to provide any required certification or verification, your request may be denied or reinstatement delayed.