

Lawful Interaction with Employees Regarding Medical Issues

Medical issues vary in severity. Depending on the situation, federal regulations and appropriate coordination with Human Resources (HR) may guide how and when issues are addressed in the workplace.



Manager Role

Recognize - Managers are often the first to become aware of medical issues. They should know when an issue could fall under FMLA, ADA, Workers' Compensation, and other medical related policies. Managers should not solicit information on possible medical issues.

Notify – Managers need to partner with Human Resources when they become aware of a medical issue. Managers should also allow Human Resources to manage the medical information because of legal protections.

Protect – Medical information **should not** be reviewed by the manager. Information about the medical condition is often provided by the employee. Managers can manage a medical issue without knowing the specific details and should not pry. Medical information should not be shared with anyone other than Human Resources.

Manage – An employee's performance should be managed so the work is completed effectively and in a timely manner, regardless of the medical or physical limitations. A manager should also handle absenteeism in a lawful manner. Avoid discrimination based on disability or pregnancy. **Never assume** an employee is disabled. If the employee notifies you that they are regarded as disabled, he or she may have protections under ADA.

Not knowing an employee's specific medical condition protects the manager from possible discrimination lawsuits and assures compliance with federal regulations (HIPAA, etc.).



Human Resources Role

An HR representative will reach out for information* from the employee in the following situations:

Illnesses exceeding three consecutive workdays – HR may request medical statements that give details of the illness and its duration from the care provider.

An absence (due to illness or accident) or a return to work with limitations - HR may ask for a doctor's release that verifies the employee is able to perform the essential functions of the job.

A return to work from FMLA, workers' compensation leave, or long-term disability – A return-to-work letter should be received **at least three days before** an employee returns to work. HR will review the notes to determine whether the employee can return. Employees must provide documentation prior to returning to work to allow time for processing.

*All medical documentation received by managers must be sent to HR **unread**.

Avoiding Pregnancy Discrimination

The Pregnancy Discrimination Act (PDA) is a federal law protecting all women who are of childbearing age. Pregnancy discrimination is the mistreatment of employees who may become pregnant, are expecting, or have just given birth. Mistreatment could include firing, refusing to hire, or refusing to promote a woman on the basis of her potential to become pregnant.



Manager Role

Managers should follow the following safeguards to protect themselves and the University from discrimination charges:

- Never pressure pregnant women to leave the workplace or to come back to work.
- Do not disqualify a woman from promotions or other job assignments based on her pregnancy or the possibility of pregnancy.
- Ensure that all employees are treated equally regardless of the reason for their illness or injury. Pregnancy is considered a temporary disability.
- Do not make assumptions or change job assignments purely based on the pregnancy or possible pregnancy of an employee.

Complying with the Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act (FMLA) allows eligible employees to take unpaid leave to address serious health conditions (for themselves or an immediate family member). The leave can be taken in more than one block (multiple days or weeks) or intermittently (hourly). Employees maintain health insurance benefits during the leave. At the conclusion of the FMLA leave, employees are placed into either the same or an equivalent position, pay, and job status.



Manager Role

When managers recognize possible signs that employees may be dealing with a serious health condition of their own or of an immediate family member, they should contact HR. Managers should not review or ask for an employee's medical information. If information is disclosed by the employee, the manager should send it to HR for storage. This information **should not** be shared with anyone outside HR.



Employee Role

The employee must explain reasons for the leave to HR allowing the employer to determine whether the leave qualifies. Simply calling in sick **does not** initiate FMLA. To become eligible, the employee must specifically reference the qualifying condition. FMLA may be denied if the employee fails to adequately explain the absence. Notice should be given **30 days in advance** if the leave is foreseeable. Employees should provide notice as soon as possible after an unexpected medical incident.

Complying with the Americans with Disabilities Act (ADA)

ADA protects individuals with impairments that substantially limit a major life activity. It also helps employees with those impairments perform the essential job functions. It does not take care of disabled family members of the employee or cover illnesses or injuries that temporarily keep an individual from performing normal daily activities. It also does not remove essential functions of the job or provide job protection due to absences. ADA is a federal compliance issue. Failure to comply with ADA can bring penalties against the organization and manager. If the University does not engage in an interactive process with the employee, a component of ADA, it may be held liable.



Manager Role

The process begins when an employee requests an accommodation. Managers cannot ask the employee if he or she has a disability. The manager should inform HR if personal health information was shared and describe what information was shared. The manager should not share any information with any individual except as authorized by HR. Doing so could increase the manager's personal liability.

Discussions should take place between the employee and manager to determine how the employee can perform his or her essential job duties.



Employee Role

Accommodations under ADA must first be requested by the employee. The employee is then responsible for communicating with their manager to assure all their needs are met, enabling them to complete the tasks essential to their position.

Managing Absenteeism

The University's leave policy gives eligible employees time off to take care of themselves or family members when they are sick or unable to come to work. If absences become routine or habitual, closer managerial attention may be needed. Absences can indicate a medical issue where FMLA and ADA may apply.

By actively managing absenteeism, you add the following benefits to the University and your team:

- Honesty in the workplace
- Improved morale in the workforce
- Improved employee health and well-being
- Improved performance and efficiency
- Reduced costs

Most employees do not abuse sick leave or other leave policies. If you suspect an employee is abusing sick leave, contact HR to discuss the situation and the best way to approach it.