



## Hylant Employee Benefits

# HR GUIDE TO LEAVE AND ACCOMMODATION COMPLIANCE

*Managing employee leave and accommodation requests requires strict adherence to regulations to avoid compliance violations and potential litigation. Employers may struggle to integrate their policies with evolving state and federal leave requirements. Here are some key areas to be mindful of when administering leave and accommodation requests:*



### Documentation

Compliance starts with the initial leave request and continues through the employee's return or separation. Accurate time tracking is essential for all employee types, including part-time and exempt. For example, under the Family Medical Leave Act (FMLA) guidelines, eligibility requires 12 months of service within the past 7 years and 1,250 hours worked in the preceding 12 months. Therefore, maintaining historical records is critical for proper documentation and compliance.



### Eligibility Determinations

HR teams must maintain the necessary access to employee demographic data and leave entitlement to accurately determine eligibility. Employers should implement clear procedures for confirming eligibility, including collecting the required documentation, making timely decisions, and establishing the return-to-work and leave extension criteria for each leave type.



### Medical Information

If an employee requesting leave has a serious medical condition, the leave may be protected by FMLA. The FMLA regulations expressly state that an employer may require an employee's healthcare provider to provide a statement or description of appropriate medical facts regarding the employee's health condition in connection with evaluating the applicability of the FMLA. However, the request process must follow the confidentiality and privacy obligations under HIPAA.



### Required Communications

HR should be notified when an employee requests time off for a medical condition. Employees with serious medical conditions may qualify for statutory leave with required employee notices. Timely notification is key for compliance. Under FMLA guidelines, employers may provide employees with "constructive notice" that their leave may qualify for FMLA leave—the employee does not have to specifically request to use it.



### Manager Training

Managers should be aware of the employer's obligations under the FMLA and Americans with Disabilities Act (ADA), such as their duty to provide the necessary resources and notices to employees out of work due to a personal or family medical condition. Employees do not have to specifically state that they need "FMLA" time off. They only need to provide enough information for the manager to notify HR of a potential need for FMLA.



### Other Compliance Obligations

Employers should be aware that after an employee exhausts their FMLA leave for a personal medical condition, the employer must engage in the interactive process and may be obligated to provide an extension of leave as a reasonable accommodation under the ADA.