

The Interaction Between the ADA and the FMLA

Employee leave for medical reasons often involves one or more of the following:

- The Americans with Disabilities Act (ADA)
- The Family Medical Leave Act (FMLA)

	ADA – Title I Employment	FMLA
Protected Employees	<p>An individual with a disability who is qualified for the job.</p> <p>A disability is defined as a person who: “(1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such an impairment; OR (3) is regarded as having such an impairment.”</p>	<p>An individual who has worked for 12 nonconsecutive months within 7 years, and 1250 hours for an employer with more than 50 employees.</p> <p>If employee has a break in employment due to National Guard or Reserve obligations, then the 12 nonconsecutive months may be over a period of more than 12 months.</p>
Covered Employers	<p>Employers with 15+ employees</p> <p>All state and local governments</p> <p>Local or state law may cover small employers – check laws in your local jurisdiction.</p>	<p>Employers with 50+ employees during 20 or more workweeks.</p>
Rights of Employees	<p>Do not have to disclose a disability unless a reasonable accommodation is sought.</p> <p>To be given reasonable accommodations at the owner’s expense.</p> <p>To be involved in the interactive process to determine an effective accommodation.</p> <p>To have non-essential job functions reassigned if necessary.</p> <p>Confidentiality of medical conditions.</p> <p>Be free from discrimination and harassment.</p>	<p>12 weeks of leave (usually unpaid) for birth or adoption of a child, to care for themselves or a family member with a serious health condition, or for qualifying circumstances arising from a family member’s change to active duty status from the National Guard or Reserves.</p> <p>An eligible employee must also be granted up to 26 workweeks of leave if a military family member suffers from a serious injury or illness.</p> <p>Retention of medical and other benefits.</p> <p>Job protection when returning to work.</p> <p>Note: the 12 weeks of leave may be extended as a reasonable accommodation under the ADA.</p>

The Interaction Between the ADA and the FMLA (continued)

<p>Rights of Employers</p>	<p>To receive medical documentation of the disability and need for the accommodation.</p> <p>To select an effective accommodation.</p> <p>To require the employee to meet production standards.</p> <p>To refuse accommodations that create an undue hardship involving significant difficulty or expense.</p> <p>To refuse to hire or accommodate a person who is a direct threat to the health and safety of themselves or others.</p> <p>To have employees be qualified to perform the essential job functions with or without a reasonable accommodation.</p> <p>Employers are not specifically required to provide medical or disability-related leave.</p>	<p>To obtain medical certification to document a serious health condition.</p> <p>When the need for intermittent leave is foreseeable, to transfer the employee to a position during the leave that facilitates the intermittent leave.</p> <p>May require second and third medical opinions (at employer's expense), and periodic recertification.</p> <p>To refuse reinstatement to key employees after their leave. This is defined as salaried employees who are among the highest 10% paid employees.</p>
<p>Duties of Employee</p>	<p>When a reasonable accommodation is requested, the employee must provide medical documentation of the disability and need for the accommodation.</p>	<p>Submit 30-day advance notice when foreseeable and practicable, or when practicable under the circumstances.</p> <p>To provide medical documentation of the need for FMLA leave.</p>
<p>Duties of Employer</p>	<p>To engage in the interactive process when a reasonable accommodation is requested.</p> <p>To provide an effective reasonable accommodation.</p>	<p>To grant leave to qualified employees.</p> <p>To maintain benefits and an open position during FMLA leave.</p> <p>To inform employees of rights under FMLA.</p>
<p>Where to file a Complaint</p>	<p>In Iowa, ADA claims must be filed with the Civil Rights Commission within 300 days of the incident. This claim can be cross-filed with the Equal Employment Opportunity Commission.</p>	<p>Department of Labor or federal court.</p>



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This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood as legal advice. For specific legal advice, an attorney should be consulted.