

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>A qualified individual with a physical or mental impairment that substantially limits one or more major life activities.</p> <p>An individual who is regarded as having a disability or with a record of a disability.</p>	An individual who has worked for 12 months and 1250 hours for an employer with more than 50 employees.
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>	Employers with 50+ employees
Rights of Employees	<p>Does not have to disclose a disability unless a reasonable accommodation is sought.</p> <p>To be given reasonable accommodations at the employer'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 or to care for themselves or a family member with a serious health condition.</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>
Rights of Employers	<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 are an undue hardship involving significant difficulty or expense</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 leave that facilitates the intermittent leave.</p>

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<p>Rights of Employers (continued)</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>To refuse reinstatement to key employees after their leave. This is defined as salaried who are among the highest paid 10% of 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>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>Where to File a Complaint</p>	<p>In Iowa, ADA claims must be filed with the Iowa Civil Rights Commission within 180 days of incident. This claim can be cross-filed with the Equal Employment Opportunity Commission.</p>	<p>Department of Labor or in 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 to be legal advice. For specific legal advice, an attorney should be consulted.

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