

ADA vs. FMLA Fact Sheet

Question	ADA	FMLA
General purpose of law?	Prohibits discrimination against individuals with disabilities	Provides leave to employees
Who is eligible?	Individuals with a qualifying disability	Employees who have worked for at least 12 months and at least 1250 hours during the previous 12 months at a location within a 75-mile radius of where at least 50 employees work
What conditions are covered?	“Disability” that substantially limits one or more major life activities (or a history or record of having such a disability).	“Serious health condition” of employee or certain family members of employee. Birth, adoption and foster care placement of employee’s child. Certain types of military-related leave.
How is pregnancy covered?	Pregnancy-related leave can be covered by the ADA when an employee develops pregnancy-related impairments (such as anemia, cervical insufficiency or gestational diabetes), that can be considered disabilities under the ADA.	The FMLA covers work-leave related to pregnancy and the birth of a child.
Can medical information be requested?	Yes. Information should be limited to what is needed to confirm that the employee has a disability, determine how much leave is needed, or consider general accommodation options.	An employer may (but does not have to) require the worker to certify the need for work-leave from a medical professional. The U.S. Department of Labor provides a form for this purpose.
What about light duty?	Employers are not required to remove essential job functions as an accommodation, but if an employer reserves light duty jobs for workers’ compensation purposes, it may have to offer such jobs to individuals with disabilities.	An employer can’t require FMLA-qualifying employees to work light duty.

How much leave is required?	There is no set amount. As with all accommodations, the amount of leave granted depends on the job and the disability and must be determined on an individual basis. Employers must grant leave as a form of reasonable accommodation unless doing so would cause them undue hardship.	Up to 12 weeks/year for serious health condition related leave. Up to 26 weeks/year for certain military-related leave. Leave may be intermittent and is unpaid but the employer can require or the employee can choose to use accrued paid benefits.
What about benefits?	No specifics under the law, other than the prohibition of discrimination based on disability.	Benefits typically don't accrue during leave, but seniority, service and vesting continue. May require use of certain paid leaves depending on type of FMLA leave.
What about reinstatement?	If leave is required as a reasonable accommodation, the employer generally must keep the employee's position open during the leave.	Generally, employees must be reinstated to the same or a substantially equivalent position.
When could both laws apply?	Employees can have rights under both laws if they meet the definition of "disability" (ADA) and "serious health condition" (FMLA). Employees who have used up FMLA leave can still have rights under the ADA if they meet the ADA definition of a person with a disability. Additional leave (beyond the worker's FMLA leave) could be an accommodation that must be provided under the ADA.	
What about indefinite leave?	Employers are not required to grant indefinite leave and can require workers to provide an approximate return-to-work date. However, the employer must be flexible in situations where the return-to-work date must be changed for medical reasons, unless providing additional leave would cause undue hardship.	
When to consider leave as an accommodation?	Use leave as the last accommodation option. Employers should work with the employee to determine how the impairment impacts the essential functions of the job and what accommodations can be considered. Before resorting to leave as an accommodation, consider the full range of accommodations that could be effective given the impairment, the job and the situation.	

Sources:

ADA vs. FMLA Cheat Sheet, [http://www.kansastag.gov/AdvHTML_Upload/files/ADA-versus-FMLA-Cheat-Sheet-5_10\[1\].pdf](http://www.kansastag.gov/AdvHTML_Upload/files/ADA-versus-FMLA-Cheat-Sheet-5_10[1].pdf)
 Work-Leave, the ADA, and the FMLA, ADA National Network, https://adata.org/sites/adata.org/files/files/Work-Leave_final2017.pdf