



County Technical Assistance Service

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Reports of Status and Intent to Return to Work

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Reports of Status and Intent to Return to Work

Reference Number: CTAS-1041

An employer may require an employee who is on FMLA leave to report periodically on the employee's status and intent to return to work. If an employee gives unequivocal notice that he or she does not intend to return to work, the employer's obligations to maintain health benefits (subject to COBRA requirements) and to restore the employee cease. The intention must be expressed unequivocally; if the employee states that he or she may not be able to return to work but expresses a desire to do so, the employer's obligations continue.

If the employee's status changes during leave (i.e., the employee needs more or less leave than originally anticipated), the employer may require reasonable notice of the changed circumstances where foreseeable. Two business days is considered reasonable for this purpose. The employer may receive this information through the requested periodic status reports.

Fitness for Duty Certification.^[1] As a condition of being restored to employment, an employer may require an employee who has been on FMLA leave for the employee's own serious health condition to provide a fitness for duty certification from a health care provider stating that the employee is able to resume work. The employer's policy must be applied uniformly and require all similarly-situated employees to present the certification. The certification only applies to the condition for which leave was taken. The employer may require that the certificate specifically address the employee's ability to resume the essential functions of the employee's job. The employee must be advised in the [Designation Notice](#) whether the employer requires a fitness for duty certification and whether it must address the essential functions of the employee's position. The employer may delay restoration to employment until the employee submits the required fitness for duty certification. No second or third opinions on a fitness-for-duty certification may be required.

[Sample Fitness for Duty Certification](#)

[1] 29 C.F.R. § 825.312.

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