

## Waterman, Robert - WHD

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**From:** Tom Hoffacker <[thoffacker@usmd.edu](mailto:thoffacker@usmd.edu)>  
**Sent:** Friday, October 04, 2019 4:59 PM  
**To:** WHDPRAComments  
**Cc:** Carolyn Skolnik  
**Subject:** Control Number 1235-0003 FMLA Forms Comments  
**Attachments:** Univ Sys of Maryland US DOL comments on FMLA Forms Signed 10-3-2019.pdf

Dear FMLA Forms Comments Reviewer,

Attached are comments from institutions in the University System of Maryland on the proposed revisions to the optional-use forms for the Family and Medical Leave Act.

Sincerely,  
**Tom Hoffacker**

Human Resources Officer for the USM  
University System of Maryland  
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**OFFICE OF HUMAN RESOURCES**

October 3, 2019

Regulations, Legislation, and Interpretation  
Wage and Hour Division  
U.S. Department of Labor, Room S-3502  
200 Constitution Avenue NW  
Washington, DC 20210

*Sent via email to WHDPRAComments@dol.gov*

Re: Control Number 1235-0003

Dear FMLA Forms Comments Reviewer,

On behalf of the 12 institutions in the University System of Maryland, the following pages contain our comments regarding proposed revisions to the optional-use forms for the Family and Medical Leave Act.

We appreciate the opportunity to comment on this important topic.

Sincerely,



Tom Hoffacker  
Human Resources Officer for the University System of Maryland

On behalf of HR staff at the following University System of Maryland institutions:

Bowie State University  
Coppin State University  
Frostburg State University  
Salisbury University  
Towson University  
University of Baltimore

University of Maryland, Baltimore  
University of Maryland, Baltimore County  
University of Maryland Center for Environmental Science  
University of Maryland, College Park  
University of Maryland Eastern Shore  
University of Maryland Global Campus

## Proposed Revisions to the Wage & Hour Division's Optional-use FMLA forms

### Overall

Please provide an option to complete the forms online in a fillable form.

Please move the instruction sections to the START of each section to be completed. The proposed forms currently have the instructions at the END of the section that was just completed.

Please remove the phrases, "Your response is voluntary" and "While use of this form is optional" on instruction pages.

### Certification of Health Care Provider for Employee's Serious Health Condition

#### Page 1 of 6

- Section I, (5b) - Add a check box for "unavailable"
  - This will account for those employees who do not have a job description e.g. faculty.

#### Page 4 of 6

- Section II Part B (1) – remove the continuous line and replace with "From \_\_\_\_\_ To \_\_\_\_\_"
  - This format is consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.
- Section II Part B (4), second section - bold, capitalize, and underline the word "and" to the following statement: Provide your **best estimate** of how long (the duration) **AND** how often (the frequency) the intermittent leave episode(s) will likely last (*e.g., 2 hours each episode, 1 time per week*).
  - We have found that it is not uncommon for the individual completing the form to only specify how long (duration) and not confirm how often (frequency) and vice versa.
- Section II Part B (5) – insert **AND** between "Hour(s) per day \_\_\_\_\_ Day(s) per week \_\_\_\_\_"
  - We have found that it is not uncommon for the individual completing the form to only specify the hours per day and not specify the number of days per week and vice versa.

**Employees should be required to sign all of the forms, regardless of the FMLA reason. It does not appear on this form.**

### Certification of Health Care Provider for Serious Health Condition of the Family Member

#### Page 2 of 6

- Section II (4) – insert **AND** between "Hour(s) per day \_\_\_\_\_ Day(s) per week \_\_\_\_\_"
  - We have found that it is not uncommon for the individual completing the form to only specify the hours per day and not specify the number of days per week and vice versa.

Page 4 of 6

- Section III Part B (1) – remove the continuous line and replace with “From \_\_\_\_\_ To \_\_\_\_\_”
  - This format is consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.

Page 5 of 6

- Section II Part B (4), second section - bold, capitalize, and underline the word “and” to the following statement: Provide your **best estimate** of how long (the duration) **AND** how often (the frequency) the intermittent leave episode(s) will likely last (e.g., *2 hours each episode, 1 time per week*).
  - We have found that it is not uncommon for the individual completing the form to only specify how long (duration) and not confirm how often (frequency) and vice versa.

Notice of Eligibility and Rights & Responsibilities

Page 2 of 6

- Section I, first section confirming the employee is **eligible** for FMLA leave – after “Are **eligible** for FMLA leave.” add “and have \_\_\_\_\_ hours of FMLA leave available for use as of the date of this request.”
  - It may be confusing/difficult for some employees to track their FML leave usage/eligibility when the 12-month leave period is not based on the calendar year.
- Section I, second section confirming the employee is **not eligible** for FMLA leave – add a checkbox titled “Other”.
  - This is consistent with the applicable section on the designation form (page 1 of 4) and will allow us to include reasons other than those noted in the first four checkboxes e.g. the FMLA does not apply to your request, you exhausted your FMLA leave on (date) etc.

Designation Notice

Page 1 of 4

- Section I, 7<sup>th</sup> checkbox down from the top – add the following language to the 2<sup>nd</sup> checkbox “You will not become eligible for additional FMLA leave until \_\_\_\_\_. (insert date)”
  - It may be confusing/difficult for some employees to track their FML leave usage/eligibility when the 12-month leave period is not based on the calendar year.

Certification of Qualifying Exigency for Military Family Leave

Page 3 of 6

- Section II Part C (3) – remove the continuous line and replace with “From \_\_\_\_\_ To \_\_\_\_\_”
  - This format is consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.

**Page 4 of 6**

- Section II Part C (4) - bold, capitalize, and underline the word "and" to the following statement: Provide your **best estimate** of how long (the duration) **AND** how often (the frequency) the intermittent leave episode(s) will likely last (*e.g., 2 hours each episode, 1 time per week*).
  - We have found that it is not uncommon for the individual completing the form to only specify how long (duration) and not confirm how often (frequency) and vice versa.

**Certification for Serious Injury or Illness of a Current Servicemember for Military Family Leave**

**Page 2 of 6**

- Section II Part B (1), behind "The servicemember is" add another checkbox and include the language "is not"
  - This format is consistent with a number of questions on the other certification forms.

**Page 3 of 6**

- Section II Part C (2) – remove the continuous line and replace with "From \_\_\_\_\_ To \_\_\_\_\_"
  - This format is consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.
- Section II Part C (3) – insert **AND** between "Hour(s) between "Hour(s) per day \_\_\_\_\_ Day(s) per week \_\_\_\_\_"
  - We have found that it is not uncommon for the individual completing the form to only specify the hours per day and not specify the number of days per week and vice versa.

**Page 4 of 6**

- Section III Part B (4), first question behind "Was" add another checkbox and include the language "was not"
- Section III Part B (4), second question behind "Existed" add another checkbox and include the language "did not exist"
  - This format is consistent with a number of questions on the other certification forms.

**Page 5 of 6**

- Section III Part C (1) – remove the continuous line and replace with "From \_\_\_\_\_ To \_\_\_\_\_"
  - This format consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.
- Section III Part C (3), second section - bold, capitalize, and underline the word "and" to the following statement: Provide your **best estimate** of how long (the duration) **AND** how often (the frequency) the intermittent leave episode(s) will likely last (*e.g., 2 hours each episode, 1 time per week*).
  - We have found that it is not uncommon for the individual completing the form to only specify how long (duration) and not confirm how often (frequency) and vice versa.

## Certification for Serious Injury or Illness of a Veteran for Military Family Leave

### Page 3 of 6

- Section II Part C (2) – remove the continuous line and replace with “From \_\_\_\_\_ To \_\_\_\_\_”
  - This format is consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.
- Section II Part C (3) – insert **AND** between “Hour(s) per day \_\_\_\_\_ Day(s) per week \_\_\_\_\_”
  - We have found that it is not uncommon for the individual completing the form to only specify the hours per day and not specify the number of days per week and vice versa.

### Page 4 of 6

- Section III Part B (4), first question behind “Was” add another checkbox and include the language “was not”
- Section III Part B (4), second question behind “Existed” add another checkbox and include the language “did not exist”
  - This format is consistent with a number of questions on the other certifications.

### Page 5 of 6

- Section III Part C (1) – remove the continuous line and replace with “From \_\_\_\_\_ To \_\_\_\_\_”
  - This format is consistent with other sections on the certification forms that ask the individual completing the form to specify a particular period of time.
- Section III Part C (3), second section - bold, capitalize, and underline the word “and” to the following statement: Provide your **best estimate** of how long (the duration) **AND** how often (the frequency) the intermittent leave episode(s) will likely last (*e.g., 2 hours each episode, 1 time per week*).
  - We have found that it is not uncommon for the individual completing the form to only specify how long (duration) and not confirm how often (frequency) and vice versa.