Your Rights Under the Family and Medical Leave Act of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have been employed by a covered employer for at least 12 months; have at least 1,250 hours of service during the previous 12 months; and there are at least 50 employees within 75 miles. On January 28, 2008, H.R. 4986, the National Defense Authorization Act, was signed into law expanding the qualifying reasons for which an employee may obtain leave and created an entirely new form of leave — "Service Member Family Leave." Service Member Family Leave may be taken for up to 26 weeks during a single 12-month period.

REASONS FOR TAKING LEAVE: Employees can request or use FMLA leave, or Human Resources may place the employee on FMLA leave for the following purposes:

- To care for the employee's child after birth or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the employee's job;
- Because of a "qualifying exigency" arising from the fact that the employee's spouse, child or parent is on covered active duty or called to covered active duty in the Armed Forces (including National Guard and Reserves), and which result in a call to active duty and deployment to a foreign country;
- Service Member Family Leave is available to employees who are the spouse, parent, child or "next of kin of a "covered service member" in need of care. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves who has a serious injury or illness incurred on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. The military caregiver leave may be used to care for veterans undergoing treatment, recuperation or therapy for an injury, as long as the veteran was a member of the Armed Forces, National Guard or Reserves who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to requiring care. Employees may use it to care for a covered service member’s serious injury or illness incurred because service on active duty aggravated an existing or pre-existing injury.

ADVANCE NOTICE AND MEDICAL CERTIFICATION:

The employee may be required to provide leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness-for-duty report to return to work.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information," as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.
JOB BENEFITS AND PROTECTION:
• For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
• Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
• The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS: FMLA makes it unlawful for any employer to:
• Interfere with, restrain, or deny the exercise of any right provided under the FMLA.
• Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT:
• The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
• An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

* Next of Kin: Next of kin of a covered service member means the nearest blood relative other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered Service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member’s only next of kin.

FOR ADDITIONAL INFORMATION: Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.
U.S. Department of Labor, Employment Standards Administration
Wage and Hour Division, Washington, D.C. 20210
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