

## FACTS YOU SHOULD KNOW

1. Employees, in most circumstances, are required to exhaust appropriate paid leave before taking unpaid leave. Such paid leave will be counted against their annual FMLA leave entitlements.
2. Employees must provide acceptable certification by a physician or other health care provider of their own serious health condition or the serious health condition of a covered family member within 15 calendar days of the request for leave, where practicable. Leave may be denied if such documentation is not provided. Certification of fitness to return to work may be required. Employees requesting intermittent leave or leave on a reduced leave schedule which is medically necessary must advise their responsibility center or school, upon request, of the reasons the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and the responsibility center or school must attempt to work out a schedule which meets the employee's needs without unduly disrupting the operations of the organization.
3. Employees requesting child care leave must provide proof of date of birth, placement for adoption, or placement for foster care of the child within 15 calendar days of the request for leave, where practicable. Leave may be denied if such documentation is not provided.
4. Employees are entitled to restoration to the same or an equivalent position upon return from FMLA leave.
5. Employees' group health insurance coverage will be maintained for the duration of approved FMLA leave; however, employees must pay the premiums for any optional riders. Health plan premiums paid by the City during the period of unpaid leave may be recovered if the employee fails to return to work. Form EB-1054, Health Benefits Report/Inquiry, must be filed by the responsibility center/school with the Bureau of Health and Welfare, 65 Court Street, Room 301, Brooklyn, NY 11201. Documentation indicating that the leave has been approved must be attached.
6. Please consult Personnel Memorandum No. 54, 1995-1996 for further details covering the types of leave covered by the Family Medical Leave Act for various categories of administrative and instructional staff.

# 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 worked for a covered

employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

## Reasons For Taking Leave:

Unpaid leave must be granted for any of the following reasons:

- 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; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

## Advance Notice and Medical Certification:

The employee may be required to provide advance 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.

## Job Benefits and Protection:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."



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Employment Standards Administration  
Wage and Hour Division  
Washington, D.C. 20210

- 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 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.

## 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.

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