

The Federal Family and Medical Leave Act (FMLA)

The federal Family and Medical Leave Act (FMLA), located at [29 U.S.C. § 2601 et seq.](#), allows employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers and minimizes the potential for employment discrimination on the basis of gender while promoting equal employment opportunity for men and women.

The FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. In determining the 12-month period, employers may elect to use the calendar year, a fixed 12-month leave or fiscal year, or a 12-month period prior to or after the commencement of leave.

The act contains provisions on the following:

- Employer coverage.
- Employee eligibility for the law's benefits.
- Entitlement to leave, maintenance of health benefits during leave, and job restoration after leave.
- Notice and certification of the need for FMLA leave.
- Protection for employees who request or take FMLA leave.

The act also requires employers to keep certain records.

Covered Employers

A **covered employer** under the FMLA is any person engaged in commerce or any industry or activity affecting commerce that employs 50 or more employees for each working day during each of 20 or more workweeks in the current or preceding calendar year. Employers also covered by the FMLA include:

- Any person acting, directly or indirectly, in the interest of a covered employer to any of the employees of the employer.
- Any successor in interest of a covered employer.
- Public agencies. Public agencies are covered employers without regard to the number of employees employed. Public and private elementary and secondary schools are also covered employers without regard to the number of employees employed.

Employers who employ 50 or more employees for each working day in 20 or more calendar weeks of the current or preceding calendar year are deemed to be engaged in commerce or in an industry or activity affecting commerce and are therefore covered employers.

Normally, the legal entity that employs the employee is the **employer** under the FMLA. Applying this principle, a corporation is a **single employer** rather than its

separate establishments or divisions. Where one corporation has an ownership interest in another corporation, it is a separate employer unless it meets the joint employment test or the integrated employer test discussed later in this chapter.

FMLA is complex and we encourage you to seek out legal advice from a qualified Benefit Attorney if you have particular questions or concerns.

Feel free to click on any topic below germane to FMLA if you would like a more in-depth understanding of this critical law.

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