

EMPLOYEE LEAVES

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EXCELSIOR COLLEGE

SHRM WEBINAR OCTOBER 18, 2017

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AGENDA

Welcome and Goals for Discussion

Overview of 1993 FMLA

Overview of 2008 Changes

Changes in Legislation

New York State

From Law to Real Workplaces

Additional Leaves

What's Needed for Employees

General Discussion



THANK YOU

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THANK YOU

- **Dean Lifang Shih**
- **Associate Dean Scott Dolan**
- **Associate Dean Michael Johnson**
- **Human Resources Department**
- **Instructional Faculty in Human Resources and Leadership**
- **Student Chapter President, Kerry McCormick**
- **Student Chapter Vice President, Meghan Rosebeck**
- **Student Chapter Immediate Past President, Paul Balmforth**

FMLA

ACCORDING TO THE DEPARTMENT OF LABOR:

“FMLA CODIFIED THE PRINCIPLE: WORKERS SHOULD NOT HAVE TO CHOOSE BETWEEN THE JOB THEY NEED AND THE FAMILY MEMBERS THEY LOVE AND WHO NEED THEIR CARE.”

FMLA EXPLAINED

In the United States, FMLA provides employees with up to 12 weeks of unpaid leave for the following reasons:

- **Employees' Own Serious Health Condition/Disability**
- **Care of a Family Member with a Serious Health Condition**
- **Care of a Child due to Birth, Adoption, or Foster Care Placement**
- **Qualifying Exigency when a Qualifying Family Member is Called to Active Military Duty**

Up to 26 weeks in a 12-month period for...

- **Serious illness or injury of a qualifying family member or next of kin who is a military service member**

FMLA DEFINED

Employers are subject to FMLA if they have 50 or more employees within a 75-mile radius or are a public agency

To qualify for FMLA leave, an employee must:

- **Work for the employer for 12 months**
- **Work 1,250 hours in a 12-month period prior to eligible FMLA**



FMLA EXPLAINED

FMLA Calculation Method:

- **Employer determines measurement method as per federal law**

Job Protection Under the FMLA:

- **If employees return to work on or before the expiration of their FMLA leave, they will be reinstated to their same or equivalent job. Employees will earn equivalent pay, benefits, and other terms and conditions of employment.**

FMLA LEAVE TIME

INTERMITTENT LEAVE
LEAVE TAKEN PERIODICALLY

REDUCED SCHEDULE LEAVE
**SCHEDULE OF LEAVE THAT REDUCES NUMBER OF HOURS AN
EMPLOYEE WORKS (DAILY OR WEEKLY)**

FULL/CONTINUOUS LEAVE
FULL TIME CONTINUOUS LEAVE



INTERMITTENT LEAVE

Examples of intermittent leave:

Periodic treatment and medical appointments

Prenatal exam, morning sickness, and other pregnancy related conditions

Time off to recover from a serious illness

Time off for flare-ups of a chronic condition



NOT COVERED BY FMLA

Common Cold

Stomach Viruses

Ear Aches

Headaches (other than migraines)

Dental Checkups



EXAMPLES OF SERIOUS CONDITIONS

- **Pneumonia**
- **Surgery**
- **Broken bones**
- **Asthma**
- **Diabetes**
- **Epilepsy**
- **Alzheimer's**
- **Stroke**
- **Severe arthritis**



FMLA: EMPLOYEE RESPONSIBILITIES

- **Provide sufficient and timely notice of the need for leave**
- **If requested by the employer:**
 - **Provide certification to support the need for leave**
 - **Provide periodic status reports**
 - **Provide fitness-for-duty certification**



FMLA COVERAGE

FMLA DOES NOT APPLY TO:

GRANDPARENTS

COUSINS

IN-LAWS

AUNTS, UNCLES

SIBLINGS



New York State Paid Family Leave

Governor Cuomo signed into law in 2016 a comprehensive Paid Family Leave policy.

Starting on January 1, 2018, this leave will provide New York State employees job-protected, paid leave to bond with a new child, care for a family member with a serious health condition or to assist their family when a family member is called to active military service.

New York's Paid Family Leave is entirely employee-funded. Employers collect the cost of Paid Family Leave through payroll deductions. The maximum employee contribution in 2018 will be 0.126% of the employee's weekly wage up to the annualized NYState Average Weekly Wage.

New York State Paid Family Leave

Who is Eligible?

Virtually every full-time or part-time private employee in New York State.

Participation in the program is not optional for employees.

If you are a public employee, your employer may opt into the program.

Public employees who are represented by a union may be covered if Paid Family Leave is collectively bargained.

Employees with a regular schedule of 20 or more hours per week are eligible after 26 weeks of employment.

Employees with a regular schedule of less than 20 hours per week are eligible after 175 days employed.

Employees do not have to take all of their sick leave and/or vacation before using paid family leave.

An employer may permit you to use sick or vacation leave for full pay, but may not require you to use this leave.



New York State Paid Family Leave

Parental Leave

In 2018, employees may be eligible for up to 8 weeks of employee-funded Paid Family Leave.

Paid Family Leave begins after birth; it is not available for prenatal conditions.

A parent may take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child.



New York State Paid Family Leave

Who is a “Close Relative?”

NYState defines it as:

Spouse

Domestic Partner

Child

Parent

Parent-in-Law

Grandparent

Grandchild



EMPLOYER RESPONSIBILITIES

**IMPLEMENT AN EFFECTIVE AND
ENFORCED POLICY**

PROHIBIT RETALIATION

**UNDERSTAND RELATIONSHIP
BETWEEN FMLA AND ADA**



EMPLOYER RESPONSIBILITIES

- **INFORM EMPLOYEES WHETHER THEY ARE ELIGIBLE UNDER FMLA.**
- **MAINTAIN EMPLOYEES' HEALTH COVERAGE UNDER ANY GROUP HEALTH PLAN ON SAME TERMS AS IF EMPLOYEES CONTINUED TO WORK.**



LET'S TALK CONCERNS

EXPENSE OF HIRING A TEMPORARY EMPLOYEE TO COVER DUTIES DURING AN FMLA LEAVE.

ORGANIZATIONS MUST ACT QUICKLY TO ENSURE BUSINESS FUNCTIONS RUN SMOOTHLY BECAUSE OF AN FMLA LEAVE.



IMPACT OF FMLA

2012 FEDERAL STUDY ON THE IMPACT OF FMLA

- **2,800 EMPLOYEES NATIONWIDE**
- **OVERWHELMINGLY POSITIVE EXPERIENCE WITH FMLA**
- **WOMEN MADE UP 56% OF EMPLOYEES WHO TOOK LEAVE**
- **INCREASE IN MEN WHO TAKE FMLA IN LAST 20 YEARS**
- **MOST EMPLOYEES TOOK LEAVE FOR THEIR OWN ILLNESS**
- **EXCEPT FOR CARING FOR A NEW CHILD, MOST LEAVES WERE SHORT, i.e., 10 DAYS OR LESS**
- **APPROXIMATELY HALF OF EMPLOYEES WHO NEEDED LEAVE DID NOT TAKE IT BECAUSE THEY COULD NOT AFFORD TO DO SO**



ADDITIONAL LEAVES

- **Voting**
- **Jury Duty**
- **Blood Donation**
- **Crime Victims**
- **Organ Donation**
- **Bereavement**



FOR EXCELSIOR COLLEGE EMPLOYEES

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LET'S TALK!!!

QUESTIONS?

COMMENTS?

BEST PRACTICES??



THANK YOU

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Sample policies, procedures, training programs available.



RESOURCES

United States Department of Labor:

<https://www.dol.gov/whd/fmla/>

NOLO

[http://www.nolo.com/legal-](http://www.nolo.com/legal-encyclopedia/new-york-family-medical-leave.html)

**encyclopedia/new-york-family- medical-
leave.html**

Survey Research

<https://www.dol.gov/whd/fmla/survey/>

