

FMLA

Questions & Answers

# What is Family and Medical Leave Act (FMLA)? :

---

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" **or**
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

## Guarantees – The Employer must:

- Provide continuation of benefit coverage at the same premium rate during FMLA leave
- Return the employee to the same job, or one that is nearly identical (equivalent).



## **Who is eligible?**

To be eligible, an employee must have worked for the District for a total of 12 months and have **worked** at least 1,250 hours within a 12-month period before the leave begins.

## **Do I need a Doctor's note?**

You are required to produce medical certification to support a request for leave due to a serious health condition. This must be received by the Human Resources Department within 15 days of the start of such leave.

## **Do I have to request FMLA?**

You should always ask if you're eligible. However it is the District's responsibility in all circumstances for designating leave as FMLA-qualifying event.

The employee shall notify the District of his/her request for leave, if foreseeable, at least 30 days prior to the date when the leave is to begin. If such leave is not foreseeable then the employee shall give such notice as is practical.

### **How is FMLA calculated?**

The District utilizes a “rolling” 12 month period. A rolling 12 month period is measured backward from the date an employee uses any FMLA leave.

### **Is my employer required to pay me when I take FMLA leave?**

The FMLA only requires unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid vacation leave, paid sick or family leave for some or all of the FMLA leave period. An employee must follow the employer’s normal leave rules in order to substitute paid leave. When paid leave is used for an FMLA-covered reason, the leave is FMLA-protected.

### **Can I get paid while on FMLA?**

The District will pay any accrued sick and/or personal time until your physician states that you are no longer considered disabled/unable to work. Accrued time runs concurrently with FMLA. When the physician states you are no longer considered disabled/unable to work, the duration of FMLA will be non-paid.

### **Does my employer have to give me my same job when I return?**

Upon return from FMLA you will resume your original position, or have an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.



## **How many times can I take FMLA?**

The maximum amount of time you may take is 12 weeks in a 12 month period. The 12 month period shall be a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave.

## **Do I have to use all 12 weeks of FMLA leave?**

No, When an employee takes FMLA leave, the leave year is measured backward from the employee's first day off. Each time the employee takes leave, any part of the 12-week entitlement that wasn't used in the past 12 months is available to the employee. If you haven't used any FMLA leave before, you would be entitled to 12 weeks off. But if, for example, you had already used six weeks of FMLA leave six months ago, you would only have six weeks to use.

## **Do holiday/snow days count against my 12 weeks of FMLA?**

When a holiday/snow day falls during a week in which an employee is taking the full week of FMLA leave, the entire week is counted against the employee's 12 weeks of FMLA leave. However, if the employee worked any part of the week, then only the days the employee would actually have been expected to report to work would be counted as FMLA.

## **Does school breaks count against my 12 weeks of FMLA?**

If a teacher is not expected to report for work for one or more weeks (e.g. Christmas/New Year holiday, winter/spring break or summer), the days do not count against the teacher's FMLA leave entitlement. However, these weeks would be counted as an FMLA leave for employees who are required to work some or all of the periods of summer, winter, and spring breaks (i.e. maintenance employees, security, some clerical employees and administrative employees).



## **What happens if I don't return after FMLA?**

Every effort will be made to determine the employee's status, however, when no contact or notification is made, disciplinary action will be taken. Employees who do not return to work upon expiration of a leave without notice or acknowledgement by their supervisor will be in jeopardy of losing their employment.

## **What happens if I extend my leave beyond FMLA?**

- The employee may request an extended leave with their supervisor. You must provide a medical documentation extending your leave for your own serious health condition, if you want to continue using accrued time.
- If no accrued time is available, you will be in an unpaid status (off payroll) with the District, you will be given the opportunity to continue health benefits by paying the entire premium due. *You cannot work at another job while on extended unpaid sick leave from the District.*

## What if my spouse works at the same employer?

Married couples share a combined 12 weeks of FMLA leave in two circumstances:

- To bond with their new child; or
- To care for their own parent with a serious health condition

Example: Mary and Juan are married, FMLA-eligible employees, who work for the same employer. After Mary gives birth to their daughter, she uses six workweeks of FMLA for her own serious health condition and **two** workweeks of FMLA leave for **bonding** with her newborn baby, Anna. In the same 12-month period, Juan also wishes to use leave to bond with his infant daughter.

### How many workweeks of FMLA leave may Juan take?

Birth and bonding with a child is a combined leave category for spouses who work for the same employer. Juan and Mary are limited to a combined total of 12 workweeks in a 12-month period for the birth of their daughter and for bonding with their child, and Mary has used **two** of the 12 workweeks of leave available to the couple for this leave reason.

***Juan may take up to 10 workweeks of FMLA leave for the birth of his daughter and to bond with his child.***

If Juan uses ten workweeks of FMLA leave available to bond with Anna, he may use up to two workweeks of leave for non-combined FMLA-qualifying leave reasons, such as caring for Mary if she has a serious health condition.



## What if my spouse works at the same employer?

<b>MARIA - SPOUSE( 1)</b>	<b>Weeks</b>		<b>Weeks</b>	<b>JUAN - SPOUSE (2)</b>
FMLA Coverage	12		12	FMLA Coverage
FMLA Coverage for herself	-6			
FMLA Coverage for bonding (childcare)	-2		-10	FMLA Coverage for bonding (childcare)
Remaining of FMLA Coverage	4		2	Remaining of FMLA Coverage
<div>Combined 12 weeks of FMLA Childcare Leave</div>				
<b>MARIA - SPOUSE( 1)</b>	<b>Weeks</b>		<b>Weeks</b>	<b>JUAN - SPOUSE (2)</b>
FMLA Coverage	12		12	FMLA Coverage
FMLA Coverage for herself	-4			
FMLA Coverage for bonding (childcare)	-8		-4	FMLA Coverage for bonding (childcare)
Remaining of FMLA Coverage	0		8	Remaining of FMLA Coverage
<div>Combined 12 weeks of FMLA Childcare Leave</div>				

## **What is Intermittent or Reduce FMLA leave?**

**Intermittent Leave:** FMLA leave taken in separate blocks of time due to a single qualifying reason. During an intermittent leave, time away from work is interspersed with time at work.

**Reduced Schedule Leave:** Leave that reduces the usual number of working hours per day or week.

**Does an employee have to take leave all at once or can it be taken periodically or to reduce the employee's schedule?**

- When it is medically necessary, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.
- Leave to care for or bond with a newborn child or for a newly placed adopted or foster child may only be taken intermittently with the employer's approval and must conclude within 12 months after the birth or placement.



If you'd like to schedule an appointment to discuss further, please feel free to contact me, Isha Morgenstern at [imorgens@portjeffschools.org](mailto:imorgens@portjeffschools.org)

For further information on FMLA visit the US Department of Labor website at:

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