

Family and Medical Leave Act Frequently Asked Questions

Q: How much leave am I entitled to under FMLA?

If you are an "eligible" employee, you are entitled to up to 12 weeks of leave for certain family and medical reasons during a 12-month period.

Q: Does the law guarantee paid time off?

No. 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 or, subject to certain restrictions, sick or family leave, for some or all of the FMLA leave period. When paid leave is substituted for unpaid FMLA leave, it may be counted against the 12-week FMLA leave entitlement.

Q: Can the employer count leave taken due to pregnancy complications against the 12 weeks of FMLA leave for the birth and care of my child?

Yes. An eligible employee is entitled to a total of 12 weeks of FMLA leave in a 12-month period. If the employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of the 12-week FMLA leave entitlement.

Q: Can the employer count time on maternity leave or pregnancy disability as FMLA leave?

Yes. Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA leave for a serious health condition and may be counted in the 12 weeks of leave.

Q: Who is considered an immediate "family member" for purposes of taking FMLA leave?

An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term

"parent" does not include a parent "in-law". The terms son or daughter do not include individuals age 18 or over unless they are "incapable of self-care" because of mental or physical disability that limits one or more of the "major life activities" as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the [Americans With Disabilities Act \(ADA\)](#).

Q: Which employees are eligible to take FMLA leave?

Employees are eligible to take FMLA leave if they have worked for their employer for at least 12 months, and have worked for at least 1,250 hours over the previous 12 months, and work at a location where at least 50 employees are employed by the employer within 75 miles.

Q: Do the 1,250 hours include paid leave time or other absences from work?

No. The 1,250 hours include only those hours actually **worked** for the employer. Paid leave and unpaid leave, including FMLA leave, are not included.