

What every member should know about...

FAMILY MEDICAL LEAVE ACT (FMLA)

1. **Who** is eligible?
 - a. Work for a covered employer: at least 50 employees within 75 mile radius
 - b. For 12 months
 - c. 1250 hours worked in prior 12 months
2. **What** does it provide? 12 work weeks of unpaid leave
3. Intermittent leave: leave may be taken in blocks of less than a day if
 - a. For birth or adoption, employer consent required;
 - b. For medical necessity, self or family (spouse, child (natural or adopted), parent), without regard to employer consent
4. **When** can it be used?
 - a. Birth and care of newborn
 - b. Adoption or foster care of new child
 - c. Care for immediate family member (spouse, child, parent)
 - d. With a serious health condition
 - i) Inpatient care in hospital or medical facility
 - ii) Continuing treatment by health care provider which includes a period of incapacity if
 - (1) Treatment 2 or more times by health care provider
 - (2) One treatment by health care provider with continuing regimen
 - (3) Pregnancy
 - (4) Chronic health condition
 - (5) Permanent health condition
5. And
 - a. Health benefits maintained
 - b. Job restored: returned to same job or equivalent
 - c. No loss of existing benefits

6. School employees
 - a. Full time FLSA exempt employees (teachers, administrators, intellectual employees) presumed to meet 1250 hour requirement
 - b. Probationary teachers:
FMLA may be treated as break in service for computing probation period unless collective bargaining agreement or statute applies anniversary date. Otherwise probation period may be extended by amount of leave
7. School employee leave time
 - a. Teachers: if the leave was foreseeable and the duration of leave is greater than 20% of the school year, employer may require leave to be a particular duration but not longer than the length of leave; or
 - b. Require the employee to transfer to alternative position with identical benefits
8. Leave requests near end of year
 - a. Leave with more than 5 weeks left of term: employer may require employee to continue leave to end of term if leave is at least 3 weeks duration and the return will be within 3 weeks before end of term
 - b. Leave with less than 5 weeks left: employer may require employee to take leave to end of term if leave is greater than 2 weeks and return would occur during 2 weeks prior to end of term
9. Restoration to work, School Employees: may apply collective bargaining agreement or policy