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The following sample policy is provided for illustrative and informational purposes only. It is not intended to provide specific legal advice. Employers should have any policies and/or procedures reviewed by legal counsel prior to implementation. When using this sample policy as a guide, employers should ensure that it includes specific company rules; and, as with all policies or procedures, has been reviewed by legal counsel.

Family and Medical Leave Act Policy

The purpose of this policy is to provide employees with a general explanation of their FMLA rights. If you have any questions regarding your FMLA rights or this policy, please contact _____.

Note. The following states have their own family and medical leave provisions: California, Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, Washington, Wisconsin and the District of Columbia. Nothing in the FMLA supersedes a provision of state law that is more beneficial to the employee, and employers must comply with the more beneficial provisions. Employers in these states should take their state laws in consideration when developing their FMLA policy.

General Provisions

The federal Family and Medical Leave Act (FMLA) provides eligible employees the opportunity to take unpaid, job-protected leave for certain specified reasons. The maximum amount of leave an employee may use is either 12 (standard FMLA) or 26 weeks (military FMLA) within a 12-month period depending on the reasons for the leave.

Eligibility

Employees are eligible for FMLA leave if they:

- Have worked at least 12 months (52 weeks) for the Company.** The 12 months (52 weeks) does not have to be consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. All periods of absence from work due to or necessitated by service in the uniformed services will be counted in determining FMLA eligibility. An employee will be considered to have been employed for an entire week if they were on the Company's payroll for any part of the workweek.
- Have worked at least 1,250 hours for the Company over the preceding 12 months.** The FMLA uses the same method for determining compensable as the federal Fair Labor Standards Act (FLSA).
- Are employed at a work site that has at least 50 employees within a 75 mile radius.** This distance is measured using the shortest means of surface transportation.

Note. There are special eligibility requirements for airline flight crewmembers and flight attendants.

Basic FMLA Leave Entitlement

Eligible employees may take up to 12 weeks of unpaid leave during any 12-month period for the following reasons:



Fmla adoption rules. Fmla adoption form. Fmla adoption documentation. Fmla adoption paperwork.

Are you expecting a child? Do you care for an ailing parent? What if you need time to recover from surgery? You may be entitled to time off of work to help you deal with these life events. The Family and Medical Leave Act of 1993 (FMLA) is a federal law designed to help parents and other caregivers balance their jobs and their family care responsibilities. However, the law does not cover all workers, or all caregiving situations, so you need to understand your rights. What does the FMLA provide? The FMLA provides up to 12 weeks of unpaid time off (in a 12-month period) to[1]: Care for a parent, child, or spouse with a serious health condition,Care for and bond with a newborn, adopted, or foster child recently placed with you,Recover from your own serious health condition (including pregnancy), orTo deal with certain obligations arising from a spouse, parent or child being on, or called to, active duty abroad in the military. The FMLA also provides up to 26 weeks of unpaid leave per year for workers whose spouse, child, parent or next of kin is a member of the armed services with a covered service-connected illness or injury. Am I eligible for leave? If you are a government employee or you work for an employer who has 50 or more employees (within a 75-mile radius of each other) you may be eligible if: You have worked for your employer for at least one year, andYou worked at least 1250 hours in the past 12 months. How do I apply for leave? If you know in advance that you will need FMLA leave (e.g. you are having a baby), you must tell your employer at least 30 days before you expect to take it. If you have a family emergency, tell your employer as soon as possible and be sure to follow their rules for providing notice. Can my employer deny me leave? As long as you are eligible and have not used up your guaranteed 12 weeks of leave within the past 12 months, your employer must allow you to take leave and is prohibited from interfering with your leave. Your employer may not punish you in any way for taking or asking for leave. Do I have to take my leave all at once, or can I break it up into smaller chunks of time? The FMLA allows you to take "intermittent leave" when medically necessary, which means you can take your 12 weeks of leave in smaller amounts of time to schedule treatment of your or your family member's serious illness. If you take FMLA leave to care for and bond with a new child, you must take that leave in one block of time, unless your employer gives you permission to break it up. In that case, you might be able to take 6 weeks of leave up front and then return to work part-time for another 12 weeks. Although you would be using leave time for part of 18 weeks, your total time off work would be within the legal limits. What if I can't afford to take leave unpaid? If you work in certain states, you may be eligible for wage replacement benefits while on FMLA leave. California, New Jersey, Rhode Island, New York, Washington, D.C., Washington State, and Massachusetts all provide paid leave for your own health, bonding with a new child, or caring for a seriously ill relative. Starting in 2022, 2023, and 2024 respectively, Connecticut, Oregon, and Colorado will begin providing paid leave for your own health, bonding with a new child, or caring for a seriously ill relative.[2] Hawaii and Puerto Rico provide temporary disability insurance benefits, which you may be able to use if you take FMLA leave for your own serious health condition, including pregnancy-related disability or recovery from childbirth. Can I be required to use my paid vacation days during my FMLA leave? Yes. Your employer may require you to take any paid vacation, personal or other leave you have accrued during any part of your FMLA leave. Will I be able to get my job back when I return from leave? Generally yes. After you return from FMLA leave, you must be restored to your original job or a position equivalent in pay, benefits, and other terms. Your employer is not required, however, to give you your job back if you would have been laid off during the period when you were on leave. For example, if there is a general downsizing and you would have been laid off even had you not taken leave, your employer does not have to give you your job back. An additional exception may apply in very rare cases if you are in the highest paid 10% of employees in your workplace. Do I have any other protections under state law? Yes. Several states have their own family and medical leave laws whose requirements vary from the federal law and may be more inclusive. To learn more, check out our state-by-state resources at our Workplace Rights Hub (. If you have a problem or want more information, call A Better Balance's free and confidential legal helpline at 1-833-NEED-ABB (1-833-633-3222) or visit us here. Alternatively: Call the U.S. Department of Labor's Wage and Hour Division, toll free, at 1-866-487-9243. You can file a complaint with the agency, which investigates claims.You may also bring a private claim in court against your employer for violating the FMLA, and you need not file first with the Wage and Hour Division. The National Employment Lawyers Association (www.nela.org) can help you locate an employment attorney. This fact sheet is designed to assist you in understanding your basic rights under the FMLA. It does not cover all aspects of the law and does not constitute legal advice. It is possible that other laws or additional FMLA provisions or rules not described here may apply to your specific circumstances. [1] For specific information about the FMLA and LGBT families, check out our guide at: [2] To learn more about state paid leave laws, check out our chart comparing the state programs at: . Download a PDF of this resource here. The adoption process can be long and challenging. It takes close to a year for most families, and during that time there's a lot to do. Choosing an adoption agency, creating an adoption profile, meeting home study requirements, financing adoption fees — and that's all before a prospective birth mother selects the family for an adoption opportunity. At the end of this process, most families feel they need a break. This leads to the question: can you get maternity leave for adoption? What about adoption paternity leave? Are there FMLA adoption protections like there are in the case of biological births? There's good news for anyone asking these questions. Here's what you need to know about adoption, FMLA, your rights and how to advocate for them. While we hope the following article provides some helpful information about FMLA and adoption, keep in mind that the law can be complicated, and nothing here should be taken as legal advice. If you have specific questions about parental leave for adoption, talk to your employer or consult an attorney. It's also important that a prospective birth mother reading this understand FMLA. When giving up your baby for adoption, you can get protected leave from work, and we offer a complete guide for FMLA and adoption here. We also encourage you to complete our contact form to connect to a professional today. We are ready to give you helpful information on FMLA and what to know about giving a baby up for adoption and maternity leave. Do You Get Maternity Leave if You Adopt? In short, yes — as long as you work for a covered employer and are eligible to take leave, you can take paternity or maternity leave for adoption (more on eligibility below). While there is no specific adoption leave act, adoptive families are protected under the Family and Medical Leave Act (FMLA). There's even a chance your employer will provide adoption leave pay during this time. There is also a chance, on the other hand, that your employer won't be as supportive in this situation. That's why it's important to understand your adoption leave rights, and this guide will help you do that. What Is Adoption Leave? It is important for all new parents, by biology, adoption or other means, to have time away from work and other obligations to bond with their children. That's why adoption leave exists; maternity and paternity leave for adoption allow these new parents time to adjust to their new family dynamic and give their children the care they need. Parental leave for adoption works similarly to traditional maternity leave in most cases. Your employer's child adoption leave rules will determine whether or not this leave is paid and how long it lasts. However, both maternity leave for biological children and maternity leave for adoptive parents are protected by the FMLA. What is the Family and Medical Leave Act (FMLA)? This federal protection was first passed in 1993. According to the Department of Labor, "The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons." There are a couple qualifiers to unpack in this adoption leave definition. Eligible Employees: You are an eligible employee for FMLA adoption leave if you work for a covered employer (more on that in the next point), have worked 1,250 hours in the previous calendar year (that comes out to about 26 hours per week), work for a company or agency with 50 or more employees and have worked for your employer for at least 12 months. Covered Employers: Most, but not all, employers are required to meet FMLA standards for employees. Covered employers include public agencies and local education agencies, as well as private sector employers of 50 or more people. This means that if you work for a smaller private company, the company may not be federally required to provide unpaid maternity leave for adoption. Specified Family and Medical Reasons: An eligible employee is protected under the FMLA after the birth of a new baby, a placement with a child through private adoption or foster care, to care for a family member with a serious medical condition or if the employee has a serious medical condition. The important part for anyone considering adoption is that adoption leave rights are guaranteed for those who meet the qualifications to be covered by the FMLA. The Department of Labor provides more answers to frequently asked questions on its website. While the child adoption leave provided by the FMLA is a good federal protection to have, many have advocated for a more inclusive version of the FMLA. The qualifications for employees and employers can leave many people outside of the protection, and there is a significant push in the U.S. for guaranteed paid maternity leave. These things, however, have yet to manifest. FMLA Adoption Leave Maternity leave for adoption and paternity leave for adoption can be very important to hopeful adoptive families for several reasons. First, because they may need to plan to stay in the state where their child is born for an average of 7 to 10 business days to comply with the Interstate Compact on the Placement of Children (ICPC). And second, because new adoptive parents understandably desire additional time to form a connection with their child when they get to bring him or her home. FMLA adoption leave can provide the time needed to complete a placement and begin the lifelong process of bonding with the baby. Knowing Your Adoption Leave Rights It's important to understand your adoption leave rights. If you are an eligible employee working for a covered employer, you can take protected child adoption leave. Many employers are supportive of parents during this time, especially employers who go above and beyond federal requirements to offer adoption leave pay. The best way to approach adoption leave is to speak with your director or HR representative early on in the adoption process. Ask about your company's adoption leave policy and if it does include something like adoption leave pay. The FMLA does protect your right to adoption maternity leave, but does not guarantee both adoption leave and pay. Working with your employer early on can help clear this up and make the whole situation better for both sides. However, there will be employers who are not as generous or supportive. Pregnancy discrimination is awful, but it is real. The same type of thing can happen to adoptive parents whose employer is disgruntled about losing productivity due to adoption maternity leave or paternity leave for adoptive fathers. If you feel your employer is not honoring your adoption leave entitlement, you should speak to an attorney immediately. Understanding the FMLA and adoption will help you protect your adoption leave rights and receive the time off needed for an adoption. You can learn more about the FMLA from the Department of Labor. You can also request free information at any time if you would like to speak to an adoption specialist. If you're a birth mother, remember to fill out this form to connect with a professional to learn more about your rights under FMLA. DisclaimerInformation available through these links is the sole property of the companies and organizations listed therein. 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