

Your Rights Under the Family and Medical Leave Act (FMLA)



A comprehensive guide to understanding your rights under the Family and Medical Leave Act (FMLA) and identifying violations.

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The Family and Medical Leave Act (FMLA) is a critical piece of legislation designed to protect employees who need to take leave for specific family and medical reasons. Ensuring that employees do not have to choose between their job security and their health or family obligations, the FMLA provides eligible workers with the right to take unpaid, job-protected leave. The purpose of this article is to explore the importance of FMLA, its impact across different demographics, signs of FMLA violations, civil mediation for FMLA cases, and measures employees can take to safeguard their rights.

The FMLA, enacted in 1993, allows eligible employees of covered employers to take up to 12 weeks (about 3 months) of unpaid leave during a 12-month period for specified family and medical reasons. These reasons include the birth of a child, adoption or foster care placement of a child, caring for a spouse, child, or parent with a serious health condition, and the employee's

own serious health condition that makes them unable to perform the essential functions of their job. Additionally, the FMLA provides up to 26 weeks (about 6 months) of leave to care for a covered service member with a serious injury or illness called military caregiver leave(i).

The FMLA has been crucial for maintaining the balance between work and personal life, ensuring that employees can attend to significant family and health issues without the fear of losing their job. By providing job protection and continuation of group health insurance coverage, the FMLA alleviates the economic and emotional stress associated with taking necessary leave.

FMLA usage spans various demographics, but data shows that women are more likely to utilize FMLA leave, often due to maternity leave and caregiving responsibilities. According to the U.S. Department of Labor, women constitute approximately 58% of FMLA leave-takers. Although men use FMLA less frequently,



there has been a gradual increase in paternity leave and caregiving responsibilities among men, reflecting changing societal norms.

Additionally, workers of different racial backgrounds use FMLA at different rates. African American and Hispanic employees report higher usage rates, reflecting broader health disparities and familial caregiving needs within these communities. However, African American and Hispanic workers often have less access to FMLA due to lower representation in jobs that meet the eligibility requirements. Yet, when eligible, these groups do utilize FMLA, particularly for family care responsibilities. Whereas white workers tend to have higher usage rates of FMLA, correlating with higher employment in positions that meet eligibility requirements, including larger companies that provide FMLA leave.

For more information about FMLA facts, please visit the DOL WHD fact sheet page: [WHD Fact Sheets | U.S. Department of Labor \(dol.gov\)](#).

FMLA discrimination occurs when an employer unlawfully interferes with, restrains, or denies the exercise of, or the attempt to exercise, any right provided under the FMLA. Warning signs of FMLA violations include:

Retaliation, this could transpire as negative changes in employment status, such as demotion or termination, following the request or use of FMLA leave.

Interference is the unwarranted discouragement from using FMLA leave, imposing unnecessary hurdles to qualify for leave, or misinforming employees about their FMLA rights.

Failure to reinstate, by not reinstating an employee to the same or an equivalent position upon return from FMLA leave.

Denial of leave for eligible employees being wrongly refused from FMLA leave without valid reason.

Employees can take several steps to protect themselves from FMLA violations. Understand your rights by familiarizing yourself with FMLA regulations and your company's specific policies. Company policy should be easily accessible through your employee portal, or you may send a request to HR via email. You should also document everything. Keep detailed records of all communications with your employer regarding FMLA leave.

Report any suspected violations to the HR department in writing as soon as they happen. Seek legal advice to consult with an employment attorney if you believe your FMLA rights have been violated.





Civil Mediation for FMLA Violation Cases

Civil mediation offers a structured yet informal process for resolving FMLA disputes outside of court. During mediation, a neutral third-party mediator facilitates discussions between the employee and employer to reach a mutually agreeable solution. Alternative Dispute Resolution (ADR) can be a quicker, less adversarial, and more cost-effective means of resolving FMLA disputes compared to litigation. By utilizing mediation, parties can maintain professional relationships while expressing their grievances. However, if mediation fails, the employee may still pursue litigation.

FMLA is a vital protection for employees, ensuring they can address important life events and health issues without fearing job loss. Understanding FMLA rights, recognizing signs of violations, and knowing how to protect oneself are crucial steps for employees. Mediation offers a viable path for resolving disputes, helping both employees and employers find amicable solutions. As societal norms evolve, the effective implementation and understanding of FMLA will continue to be essential for employees and employers alike to promote fair and supportive workplaces moving forward.



**For more information about Civil Mediation please visit
www.MyMediator.JeannieSantiago.com**

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(i) [Family and Medical Leave Act / U.S. Department of Labor \(dol.gov\)](#).

(ii) [WHD Fact Sheets / U.S. Department of Labor \(dol.gov\)](#).