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5 Things to Know About FMLA Before You Need It

The Family and Medical Leave Act of 1993 (commonly referred to as FMLA) is a federal law that requires employers to provide their employees with 12 weeks of job-protected, unpaid, annual leave for qualified medical and family reasons. So, if an employee, or the employee's spouse, child or parent, is dealing with a serious health condition, or if they need to provide care for a newborn or adopted baby, the employee may apply for FMLA leave. This enables employees to take leave from work to focus on their health and/or their family when necessary without worrying about having a job to return to at the end of their time off. Most employees are aware of the basic concept but don't know many details until they suddenly find themselves in need of the protected leave FMLA provides.

5 Things You Need to Know About FMLA Before You Need It:

1. **Is Your Employer "Covered?"** In the context of FMLA, covered means any private company with 50 or more employees within 75 miles of the office. (Employees of the local, state, or federal government or public/private elementary and secondary schools are covered regardless of other requirements).
2. **Are You Eligible?** You are eligible for FMLA if you have been an employee of the company for 1 year prior to requesting FMLA leave. The year does not need to be consecutive but must all fall within the last seven years. You also need to have worked 1,250 hours during that year of employment.
3. **Is Paid Leave Available?** FMLA does not provide paid leave, so before accessing leave, research company policy to find out if your employer may have leave policies in place that provide some pay or short-term disability benefits you could get. You may also be able to use paid time off (PTO) hours provided by the company during your unpaid FMLA leave. And, while the U.S. does not guarantee paid parental leave (like almost every other developed nation in the world), more and more companies are improving their paid maternity leave policies, so it could be well worth your while to check into whether or not your employer offers any type of paid leave that would apply to your situation.
4. **How Do Employees Access FMLA Leave?** Employees with a foreseeable event (like a surgery) must provide their employer with at least 30 days' notice prior to taking FMLA leave. When FMLA leave is needed on an emergency status, advise your employer as soon as you become aware that you will need time off from work. FMLA provides 12 weeks of leave each year, but it does not need to be taken consecutively. If the time is not taken consecutively, you will need to keep detailed notes of how the time off was used, and you will also need to abide by your employer's call-in policy and be very clear about when you're taking FMLA and when you'll be returning to the job. FMLA leave to care for a newborn or adopted child must be taken within one year of the birth or arrival and must be taken in one continuous block of time.
5. **Do You Share the Same Workplace with Your Spouse?** Spouses who work in the same workplace as their spouse may have to share their FMLA leave. You can either take all 12 weeks yourself and your spouse takes none, or you can apportion the 12 weeks between the two of you.

Do you have more questions about FMLA leave? You now have the basics, but don't stop there. Learn more about how your company's time-off policies would affect you if you needed to take leave. And if you need help obtaining FMLA leave from your covered employer, please get in touch with one of the experienced FMLA attorneys at Barrett & Farahany LLP.

Get To Know Our Team

Amanda A. Farahany

Managing Partner at Barrett & Farahany, LLP

Amanda Farahany is a skilled Atlanta employment attorney and litigator who represents individual employees with claims related to sexual harassment, FMLA, discrimination, libel,



and overtime. Through her practice, Amanda is dedicated to pursuing civil justice for employees, as well as providing consultation and support to management employees and executives. She is also an adjunct professor of law at Emory Law School, teaching third-year students Advanced Trial Advocacy. Prior to beginning her practice, Amanda clerked for the Honorable John H. Ruffin, Jr. at the Georgia Court of Appeals.

Known as an attorney who only takes serious and important cases, Amanda has proven this by achieving the **highest verdict in a Family and Medical Leave Act (FMLA)** case in the nation for her client and the largest libel verdict for a single plaintiff in Georgia... [Read more.](#)

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