Absences from the Workplace



Key Takeaways:

– Understanding employee rights to request both jury duty leave and pay for jury duty leave, in addition to the differences between jury duty leave and witness leave.
– Knowing employee benefits and the general exceptions of the Uniformed Services Employment and Reemployment Rights Act, (USERRA), the employer’s requirements, rights, responsibilities, and the general exceptions.
– Being capable of explaining the employee benefits provided under the Family and Medical Leave Act, the employee and employer’s requirements, rights, responsibilities, and the general exceptions.

Course Description

Let’s say you are sick or want to take a vacation. It’s normal, and you shouldn’t lose your job because of these circumstances. Now what if you or your partner has just had a child, or you need to attend the funeral of a loved one, unexpectedly? There are laws to guarantee that workers receive some grace in each of these scenarios, through either paid or unpaid leave. The purpose of this course is to teach you what are your rights related to absence from the workplace.

The Family and Medical Leave Act (FMLA), requires employers to allow up to 12 weeks of unpaid, job-protected leave for employees with certain family medical reasons. An employer is subjected to the FMLA standards if the business has at least 50 workers on the job everyday for 20 straight weeks, in the current calendar year or the last.

Along with the 50 or more employee threshold, those employees must work within a 75 mile radius. Consider an employer who has 25 employees working at headquarters and 40 more employees working at another site 100 miles away, they are not considered a “covered employer.” FMLA applies to public agencies regardless of the number of employees, although. All schools, private or public, are considered public agencies.

As stated before, the FMLA allows eligible employees to be guaranteed at most 12 weeks of unpaid leave, which must be taken within a year. An “eligible” employee

is someone who has been employed by a “covered employer” for at least 1,250 hours during the previous 12-month period before the start of the leave. The 1,250 hours do not need to be consecutive months. In the case that claims are contested by employees, the employer must show, through recordkeeping, that the employee has not worked the required 1,250 hours. If the employer cannot show a record of work hours, the employee is eligible for FMLA benefits.

Regardless of being the mother or father, you can request FMLA leave to care for your child after birth or after placement of an adopted child or foster care. As well, you can request FMLA leave to care for your spouse, son, daughter, or parent, who has a serious health condition. Finally, you can request FMLA leave to care for your own serious health condition if you are prevented from performing your job.

If you and your partner are employed with the same company, you are entitled to a only combined total of 12 weeks for the birth of a child, when adopting a child, or when caring for a parent with a serious health condition. Some state laws provide for leave that is in addition to federal FMLA. Understand your state regulations for special conditions that go beyond the FMLA.

FMLA states that “A serious health condition under the FMLA is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care requiring an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with the inpatient care or continuing care by a health care provider.”

You must provide 30 days of notice for foreseeable events that require FMLA leave.

Your employer is allowed to:
– Delay the start of FMLA without a 30-day notice
– Ask for documentation showing the need for the leave
– Delay the FMLA until the documentation has been received
– Ask questions about what why you need to take leave

Your employer is not allowed to:
– Ask intrusive questions relating to your condition
– Take negative employment action based on information asked

Your employer must do the following:
– Give you written notice, within two business days, if you are not eligible for FMLA leave
– Give you information about medical certification and other requirements that will apply to the specific leave
– Not terminate your FMLA leave if the company falls below 50 employees during your leave
– Pay During FMLA

FMLA leave is unpaid leave

Certain kinds of paid leave may be substituted for unpaid leave:
– Vacation leave
– Sick leave
– Personal leave

FMLA leave can be taken on an intermittent basis

Employment Benefits During FMLA
– Your benefits accrued before the start of leave will not be lost.
– You are entitled to have your health benefits maintained during your leave.
– You will be responsible for paying your portion of any premiums the same as if you were not on leave.
– You do not accrue benefits such as vacation during FMLA leave.
– You must be provided with the same benefits at the same levels when you return from leave.
– You are entitled to the same or an equivalent job with equivalent pay, benefits, and responsibilities, upon return from FMLA covered leave events.

It is important you understand the Family and Medical Leave Act because it offers protections against unfair employment practices that take advantage of personal tragedy or penalize you for tending to life events more important than any paycheck.

If you have questions about the FMLA, ask your employer.