

FMLA Basics

2016

The **Family and Medical Leave Act** (“FMLA”) provides eligible employees with up to 12 weeks of unpaid, job-protected leave in a 12 month period, and requires group health benefits to be maintained during the leave as if the employee continued to work instead of taking leave. Accrued paid leave is used together with qualifying FMLA.

Which Employees are Eligible for FMLA Leave?

- Employees who work for HFM BOCES
- Employees who work for at least 12 months (or 52 weeks) during the past seven years (note: need not be consecutive weeks or months)
- Employees who have worked at least 1,250 hours in the 12 months immediately preceding the date leave is to begin

Qualifying Reasons for FMLA Leave

- Birth of a son or daughter and to care for the newborn
- Placement of a son or daughter for adoption or foster care
- To bond with a child (leave must be taken within 1 year of the child’s birth or placement)
- Care for the employee’s spouse, son, daughter or parent with a qualifying serious health condition
- Qualifying serious health condition that makes the employee unable to perform the functions of the employee’s job
- Certain factors relating to the foreign deployment of a military member who is the employee’s spouse, child or parent.
- An eligible employee who is a covered service member’s spouse, child, parent or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the service member with a serious injury or illness.

How is “Parent” Defined for FMLA Purposes?

- For FMLA leave purposes, “parent” is defined broadly as a biological, adoptive, step or foster parent, or an individual who stood in loco parentis to an employee when the employee was a child.
- An employee’s parents-in-law are not included in the definition of “parent” for purposes of FMLA leave.

In loco parentis, Latin for “in the place of a parent” refers to a teacher or other adult responsible for children) in the place of a parent.

Examples of in loco parentis for Parents

- An employee may take leave to care for his/her biological mother or father.
- An employee may take leave to care for his/her grandparent with a serious health condition if the grandparent assumed responsibility for raising the employee after the death of his/her parents when the employee was a child.
- An employee who was raised by same-sex parents, only one of whom has a biological or legal connection with the employee, may take leave to care for the non-adoptive or non-biological parent on the basis of an in loco parentis relationship.

See reverse side for more information →



This information sheet is intended to give you a brief overview about FMLA. For the HFM BOCES full FMLA policy please go to:

<http://web2.moboces.org/districtpolicies/?public=hfmboces>.

How is “Son or Daughter” Defined for FMLA Purposes?

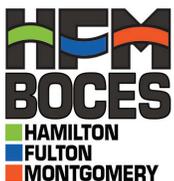
- The FMLA defines a “son or daughter” as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.
- Under the FMLA, an employee who actually has day-to-day responsibility for caring for a child may be entitled to leave even if the employee does not have a biological or legal relationship to the child.
- The definition of “son or daughter” is limited to children under the age of 18, or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Birth of a Son or Daughter

- The mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child.
- Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave before the birth of the child for prenatal care or if her condition makes her unable to work.
- The father is entitled to FMLA leave if needed to care for the pregnant mother who is incapacitated or if needed to care for her during her prenatal care, or if needed to care for the mother following the birth of a child if the mother has a serious health condition.

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If you are going to be absent from work more than three days for a personal or medical issue or one related to a family member, contact your supervisor and Christine Eaton. Your job and benefits MAY be protected under the Family and Medical Leave Act.



For FMLA paperwork or questions please contact Christine Eaton at ceaton@hfmboces.org or call 518-736-4681 x4696.

You may find the complete U.S. Department of Labor FMLA poster containing Employee Rights under the Family and Medical Leave act at:

<https://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>.