Fact Sheet: Family and Medical Leave Act (FMLA)

What is the FMLA?
The Family and Medical Leave Act (FMLA) was passed by Congress and signed into law by President Bill Clinton in 1993. It remains one of the only federal laws on the books relative to the rights of employees to take leave from their jobs for medical or family reasons.

Who is Eligible for FMLA?
Employees who work for private sector companies with 50 or more employees, as well as all public sector employees, are eligible for FMLA if they have worked for the employer for at least 12 months and at least 1,250 hours in the past 12 months.

What is the Benefit?
Employees who qualify may take up to 12 weeks of unpaid leave:
- For the birth and care of a newborn child of an employee;
- For placement with the employee of a child for adoption or foster care;
- To care for a spouse, child, or parent with a serious health condition;
- To take medical leave when the employee is unable to work because of a serious health condition; or
- For reasons related to a family member's service in the military, such as qualifying exigency leave or military caregiver leave.

The 12 weeks of unpaid leave may be continuous or intermittent. Employees have the right to take FMLA leave all at once, or, when medically necessary, in separate blocks of time or by reducing the time they work each day or week. Employees may use FMLA leave intermittently or on a reduced leave schedule for bonding with a newborn or newly placed child only if their employer agrees.

Upon return from FMLA leave, the employee must be placed back into the same job or an equivalent job that has the same pay, benefits, and other terms and conditions of employment. Employers cannot retaliate against you in any way if you request or use FMLA. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave.

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How does FMLA Interact with my Collective Bargaining Agreement (CBA)?
Your CBA may provide leave benefits (such as paid vacation, sick time, personal time, etc.) that exceed the benefits provided by FMLA. That is perfectly fine. However, if your CBA provides lesser benefits than those provided by FMLA, the FMLA law supersedes the CBA. Neither your CBA nor your employer can reduce the benefits provided by FMLA, provided you are eligible.

FMLA is job-protected, unpaid leave. If your CBA includes provisions for paid leave (such as paid vacation, sick time, personal time, etc.), or if your employer provides this leave outside of the provisions of your CBA, you may use this paid leave at the same time that you take FMLA leave if the reason you are using FMLA leave is covered by the employer's paid leave policy. An employer may also require you to use your paid leave during FMLA leave. In either case, this allows you to have at least a portion of your FMLA leave paid through your otherwise existing leave benefits. This can make the FMLA more feasible for people to use.

How does FMLA Interact with my state's paid leave benefit?
As of this writing, both Massachusetts and Vermont provide paid family/medical benefit programs to certain employees. Nothing in the FMLA prevents employees from accessing those benefits. Employees have the right to benefit from all laws that apply.

Additional Information
- For more information about the FMLA, visit the US Department of Labor webpage.
- The DOL also publishes an employee guide on the FMLA.
- There are special provisions of the FMLA that apply to service members and caregivers of service members. See DOL Fact Sheets 28M, 28M(a), 28M(b) and 28M(c) for more information on these provisions.
- There are certain special provisions of the FMLA for employees of public schools. Refer to the DOL Fact Sheet 28S for more information.

If you need help accessing FMLA leave, reach out to your Local President or AFSCME Staff Representative.