



February 22, 1995

FMLA-54

Dear **Name**\*,

I regret any difficulty that your constituent, **Name**\*, may have had in contacting our offices in Sandusky and Columbus and confusion with respect to applicable sections of the Family and Medical Leave Act of 1993 (FMLA).

With respect to **Name**\* specific question, any period of leave will be treated as continued service (i.e., no break in service) for purposes of vesting and eligibility to participate in pension and other retirement plans. If, for example, the plan requires an employee to be working on a specific date in order to be credited with a year of service for vesting or participation purposes, an employee on FMLA leave who subsequently returns to work shall be deemed to have been working on that date. (See 29 CFR 825.215(d)(4) ). This provision applies only to questions of vesting or eligibility. An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. (See 29 CFR 825.215(d)(2)). Thus, **Name**\* was not necessarily entitled to pension plan credit for the time she was on FMLA leave. There may be other facts not mentioned in her letter, however, that would yield a different answer. For example, was the leave unpaid and what is the employer's policy with respect to employee's on other types of unpaid leave?

I am asking someone from our Chicago Regional office that has administrative authority over the Columbus and Sandusky offices, to review this situation and contact your office directly. If the above does not fully address your concerns or those of your constituent, you may have someone from your office contact me directly.

Sincerely,

Daniel F. Sweeney  
Deputy Assistant Administrator

Enclosure

cc: Washington, D.C., Office  
Chicago Regional Office

\* *Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).*