



November 15, 1993

FMLA-18

Dear *Name**,

This is in response to your letter requesting clarification of certain provisions of the Family and Medical Leave Act of 1993 (FMLA). You specifically question the provision in the regulations that requires the employee to work at least 1,250 hours during the 12-month period immediately preceding the date leave commences in order to be eligible for leave. You consider compensable hours (including time spent on some form of paid leave) to be the same as time actually worked.

In developing the FMLA, Congress specifically addressed the issue of the 1,250 hours work time in the legislative history to the statute. The Congress discussed this provision and relied upon the language contained in 29 CFR Part 785 as a basis for making this determination. 29 CFR Part 785 is a publication entitled "Hours Worked" and relates to The Fair Labor Standards Act (FLSA) (copy enclosed). This publication is also referenced in the FMLA regulations. The purpose of the definitions in Part 785 is to enable an employer to determine the number of hours worked by an employee (as opposed to non work time) for which the employer must meet the monetary requirements of FLSA. Part 785 does not include time spent on paid or unpaid leave as hours worked, consequently these hours are not counted in determining the 1,250 hour eligibility test for an employee under FMLA.

Hopefully this has been responsive to your inquiry. Should you need further assistance, please contact *Name** of my staff at telephone (202) 219-8412.

Sincerely,

Maria Echaveste
Administrator

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