



The Family and Medical Leave Act, as applied by the Congressional Accountability Act

Section 202 of the Congressional Accountability Act “CAA” extends certain rights and protections of the Family and Medical Leave Act “FMLA” to covered employees who satisfy specified eligibility requirements.

In general, the FMLA provides eligible employees the right to take unpaid leave for specified family and medical reasons, and for specified circumstances relating to a family member’s military service. In addition, the FMLA requires covered employers to preserve the employment benefits of employees who take FMLA leave, and to restore employees to their original job, or an equivalent job, upon conclusion of the leave.

The FMLA also prohibits employers from interfering with or denying the exercise of FMLA rights, and from discriminating against any person who either opposes a practice made unlawful by the Act or participates in a proceeding relating to the FMLA.



WHO IS COVERED

“Eligible Employees” who are employed by:

- House of Representatives
- Senate
- Office of Congressional Accessibility Services
- Capitol Police
- Congressional Budget Office
- Office of the Architect of the Capitol
- Office of the Attending Physician
- Office of Compliance

WHO IS AN “ELIGIBLE EMPLOYEE”

A “covered employee” who has been employed by any of the above employing offices:

- for 12 months, and
- for at least 1250 hours during the previous 12 months

BASIC LEAVE ENTITLEMENT

Employing offices must provide eligible employees with up to 12 weeks of unpaid leave for the following reasons:

- For the birth of a child and subsequent care for the child
- For the placement of a child with the employee for adoption or foster care
- To care for the employee’s spouse, son or daughter, or parent who has a serious health condition
- For a serious health condition that makes the employee unable to perform his or her job

MILITARY FAMILY LEAVE ENTITLEMENTS

- Eligible employees who have a spouse, son or daughter, or parent who is on active duty or call to active duty status in the National Guard or Reserves (or has been called from retirement in the Armed Services or Reserves) in support of a contingency operation are entitled to up to 12 weeks of unpaid leave for certain “qualifying exigencies.”
 - “Qualifying exigencies” may include attending certain military events, making alternative childcare arrangements, making certain legal and financial arrangements, attending certain counseling sessions, spending time with the military family member who returns for a short-term period during his or her deployment, and participating in certain post-deployment activities.
- Eligible employees are entitled to take up to 26 weeks of unpaid leave to care for a “covered servicemember” during a single 12-month period.
 - A “covered servicemember” is a member of the Armed Forces, including the National Guard and Reserves, who is (1) undergoing medical treatment, recuperation, or therapy, (2) is in outpatient status, or (3) is on the temporary disability retired list, for an injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties.



EMPLOYMENT AND BENEFITS PROTECTION

Job Restoration: Upon return from FMLA leave, an employee is entitled to be restored to his or her original job, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

Health Insurance Benefits: An employing office is required to maintain group health insurance coverage for an employee on FMLA leave at the level and under the same conditions that coverage would have been provided if the employee had continued working.

Other Benefits:

- Benefits that an employee accrued *prior* to taking FMLA leave must be available to the employee upon return from leave (except to the extent that paid vacation, sick, or personal leave is substituted for FMLA leave).
- An employee may be entitled to accrue other benefits *during* FMLA leave; employees on FMLA leave are entitled to other benefits to the same extent as such benefits are provided to employees on other forms of leave, pursuant to the employing office’s established policy.
- Upon the conclusion of an employee’s FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have occurred during the FMLA leave that affected the entire workforce.

ENFORCEMENT

Eligible employees may pursue claims for denial of or interference with FMLA rights, or for retaliation under the FMLA, pursuant to the CAA, through the Office of Compliance.