

Understanding The NEW Family and Medical Leave Act of 1993

by

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&

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17 SESSION CLASS SCHEDULE

60 page handout

SESSION 1: WHO IS COVERED? = 11 MINUTES

- I. PURPOSE
- II. WHICH EMPLOYERS ARE COVERED?
- III. WHICH EMPLOYEES ARE COVERED?
- IV. MILITARY SERVICE COUNTS TOWARDS FMLA ELIGIBILITY

SESSION 2: GETTING FMLA LEAVE = 11 MINUTES

- V. WHEN CAN A COVERED EMPLOYEE GET TIME OFF FROM WORK?
- VI. FMLA LEAVE FOR EMPLOYEES IN THE MILITARY & THEIR FAMILIES

SESSION 3: CALCULATING FMLA LEAVE = 20 MINUTES

- VII. CALCULATING FMLA LEAVE HOURS
 - A. How Many Hours of FMLA Leave Is An Employee Eligible To Receive?
 - B. Mandatory Overtime Hours And FMLA Hours of Eligible Leave
- VIII. CALCULATING THE FMLA LEAVE YEAR
 - A. Establishing The 12-Month Period Of Time Used For Calculating FMLA Leave

1. Calendar year.
2. Any fixed 12-month "leave year," such as a fiscal year.
3. The 12-month period starting when an employee first begins taking FMLA leave. The employee would then be eligible to take 12 weeks of FMLA leave within the next 12-month period.
4. A "rolling" 12-month period that includes any FMLA leave taken by an employee within any previous 12-month period regardless of when the employee first took such leave.

IX. LEAVE NEED NOT BE PAID; EMPLOYEES MAY BE REQUIRED TO USE ACCRUED TIME OFF

X. EMPLOYERS MAY REQUIRE FMLA LEAVE AND OTHER LEAVES TO RUN CONCURRENTLY

XI. HOLIDAYS

SESSION 4: WHO IS A CHILD AND A PARENT? = 22 MINUTES

XII. WHO IS A CHILD?

XIII. DOL ISSUES NEW ADMINISTRATOR'S INTERPRETATION OF FMLA LEAVE TO CARE FOR A DISABLED ADULT CHILD

XIV. WHO IS A "PARENT" AND "IN LOCO PARENTIS"?

XV. SAME SEX MARRIAGE AND THE FMLA

SESSION 5: WHAT IS A SERIOUS HEALTH CONDITION? = 26 MINUTES

XVI. WHAT IS A "SERIOUS HEALTH CONDITION"?

XVII. WHAT IS NOT A SERIOUS HEALTH CONDITION?

XVIII. WHEN IS AN EMPLOYEE NEEDED TO CARE FOR A COVERED FAMILY MEMBER?

XIX. FMLA COVERS TIME OFF FOR "PSYCHOLOGICAL COMFORT"

XX. TRIP TO LAS VEGAS COVERED BY FMLA

XXI. SELF-INFLICTED WOUNDS ARE COVERED BY THE FMLA

SESSION 6: WHEN IS AN EMPLOYER ON NOTICE? = 17 MINUTES

XXII. WHEN IS AN EMPLOYER ON NOTICE OF AN FMLA CONDITION?

- A. Employer Is On Notice Of Serious Health Condition Once Employer Is “Reasonably Aware” Of An FMLA Qualifying Event
- B. Prolonged Absence May Constitute Notice To Employer
- C. What If An Employer Could *Not* Have Reasonably Been Aware Of the Employee’s Serious Health Condition?
- D. Waiting For Medical Certification

SESSION 7: MEDICAL CERTIFICATIONS: 22 MINUTES

XXIII. MEDICAL EXAMINATIONS

- A. Medical Certifications
- B. Recertifying A Medical Condition
- C. Contact With Medical Professional

SESSION 8: FIT FOR DUTY CERTIFICATES: 4 MINUTES

XXIV. FIT FOR DUTY CERTIFICATES

SESSION 9: EMPLOYER NOTICE REQUIREMENTS: 1 HOUR 7 MINUTES

XXV. EMPLOYER NOTICE REQUIREMENTS

- A. Time Frames
- B. FMLA Notices

XXVI. REQUESTING FMLA DOCUMENTATION LATE FOUND PERMISSIBLE

XXVII. MISTAKENLY ASSIGNING FMLA ELIGIBILITY CAN CREATE FMLA COVERAGE

XXVIII. EMPLOYERS MUST INFORM EMPLOYEES OF THE CONSEQUENCES OF NOT RETURNING MEDICAL CERTIFICATION

SESSION 10: EMPLOYEE NOTICE REQUIREMENTS: 10 MINUTES

XXIX. NOTICE REQUIREMENTS PLACED UPON EMPLOYEES

- A. 30 Day Notice Is Required When Leave Is Foreseeable
- B. Employee Must Identify Leave As FMLA
- C. Employer’s Usual and Customary Procedures

SESSION 11: EMPLOYEE JOB PROTECTION AND BENEFITS: 29 MINUTES

XXX. EMPLOYEE JOB PROTECTION

- A. Same Or Equivalent Position**
- B. Job Restoration Must Be IMMEDIATE**
- C. Essential Job Functions: Number Of Hours Required**

XXXI. EMPLOYEE BENEFITS

- A. Health Insurance Coverage**
 - 1. Health coverage and premium payments must continue as if the employee was still at work.**
 - 2. Notification responsibilities of the employer.**
 - 3. Employee has 30-day grace period.**
 - 4. Failure to return to work and recouping medical subsidy.**
 - 5. When is an employee deemed to have returned to work after FMLA leave?**
 - 6. Upon employee's return, health insurance must be reinstated if requested.**
- B. Retention of Accrued Benefits**
- C. Attendance Bonus**

SESSION 12: TYPES OF EMPLOYEE LEAVE: 11 MINUTES

XXXII. INTERMITTENT AND REDUCED SCHEDULE LEAVES

- A. Intermittent Leave**
- B. Reduced Schedule Leave**
- C. Intermittent Leave Schedule and Reduced Schedule Leave Must Be Medically Required**
- D. FMLA Time Off Must Be Tracked In The Smallest Increments The Employer's Policies Allow**
- E. Temporary Transfer Is Allowed**

F. Employee's Treatments Must Be After Hours, If Possible

SESSION 13: LIGHT DUTY AND OTHER EMPLOYEE RIGHTS: 7 MINUTES

XXXIII. LIGHT DUTY ASSIGNMENTS

XXXIV. FMLA REGULATIONS: NO GREATER RIGHTS AFFORDED

XXXV. OTHER EMPLOYEE RIGHTS

A. Discipline For Absenteeism and FMLA Leave

- 1. Employees on FMLA leave may not be penalized.**
- 2. FMLA absences and performance reviews.**

SESSION 14: RETALIATION: 8 MINUTES

XXXVI. RETALIATION

A. Burlington Northern's Definition Of "Materially Adverse Employment Action" Applies To FMLA Retaliation Cases

SESSION 15: DOL RELEASES FMLA JOINT EMPLOYER FACT SHEET: 8 MINUTES

XXXVII. DOL RELEASES FMLA JOINT EMPLOYER FACT SHEET

SESSION 16: WAIVER OF RIGHTS AND LIABILITY: 10 MINUTES

XXXVIII. WAIVER OF RIGHTS

XXXIX. LIABILITIES AND DAMAGES

- A. Managers Can Be Held Personally Liable**
- B. Enforcement and Remedies**

SESSION 17: COMPLYING WITH THE FMLA SUMMARY: 16 MINUTES

XL. COMPLYING WITH THE FMLA

A. FMLA Employer Checklist

TOTAL RUNNING TIME: 5 HOURS

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In this program, you will learn:

- When is an employer “**ON NOTICE**” of an FMLA condition?
- What is a “**SERIOUS HEALTH CONDITION**” under the FMLA?
- How do you count **MILITARY SERVICE** towards FMLA eligibility?
- How do you count the amount of FMLA time off an employee gets for leave ... including mandatory overtime?
- How should employers coordinate FMLA leave with other leaves, such as sick time, vacation time, holidays and so on?
- Who qualifies as a “**CHILD**”?
- How has the Department of Labor changed the definition of “**PARENT**”?
- How should employers count **HOLIDAY** time off under the FMLA?
- How are “**SAME SEX MARRIAGES**” viewed under the FMLA?
- What does it mean to “**CARE FOR A COVERED FAMILY MEMBER**”?
- What does it mean to provide “**PSYCHOLOGICAL COMFORT**” for a covered family member?
- When can employers ask employees for a **MEDICAL CERTIFICATION** or a **RETURN TO WORK SLIP** ... and when **CAN THEY NOT**?
- What FMLA Notice requirements are placed upon **EMPLOYEES** ... and which are placed on **EMPLOYERS**?
- What is the difference between a “**General Notice**,” an “**Eligibility Notice**,” a “**Rights and Responsibilities Notice**” and a “**Designation Notice**” ... and when do you use each one?

... and MUCH, MUCH more ...

Join one of Ohio's most popular speakers as he reviews how the FMLA has **COMPLETELY CHANGED** under the new regulations. Learn how the ADA has changed and why it is now one of the most dangerous laws out there for employers. Scott will show you how to use this information **IMMEDIATELY** with his own "rubber hits the road" approach as a 30 year human resource professional and employment attorney.

Notice: Legal Advice Disclaimer

The purpose of these materials is not to act as legal advice but is intended to provide human resource professionals and their managers with a general overview of some of the more important employment and labor laws affecting their departments. The facts of each instance vary to the point that such a brief overview could not possibly be used in place of the advice of legal counsel.

Also, every situation tends to be factually different depending on the circumstances involved, which requires a specific application of the law.

Additionally, employment and labor laws are in a constant state of change by way of either court decisions or the legislature. Therefore, whenever such issues arise, the advice of an attorney should be sought.



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Business First's 20 People To Know In HR

CEO Magazine's 2008 Human Resources "Superstar"

Nationally Certified Emotional Intelligence Instructor

2012, 2008, 2007, 2006 and 2003 SHRM National Diversity Conference Presenter

Scott Warrick combines the areas of law and human resources to assist organizations in **"Solving Employee Problems BEFORE They Happen."** Scott uses his unique background of **LAW** and **HUMAN RESOURCES** to help organizations get where they want to go, which includes coaching and training managers and employees in his own unique, practical, entertaining and humorous style.

[Scott Trains Managers and Employees ON-SITE in over 50 topics](#)

Scott's book,

["The Human Resource Professional's Complete Guide To Federal Employment And Labor Law,"](#)

is a favorite among HR professionals and students.

Scott's academic background and awards include:

Capital University College of Law (Class Valedictorian (1st out of 233))

Master of Labor & Human Resources and B.A. in Organizational Communication:
The Ohio State University

The Human Resource Association of Central Ohio's Linda Kerns Award for Outstanding Creativity in the Field of Human Resource Management and the Ohio State Human Resource Council's David Prize for Creativity in Human Resource Management

For more information on Scott, just go to www.scottwarrick.com