

Understanding The NEW Family and Medical Leave Act of 1993

5 HOUR FMLA MASTER PROGRAM

by

Scott Warrick, JD, MLHR, CEQC, SHRM-SCP

Scott Warrick Human Resource Consulting & Employment Law Services

(614) 738-8317 ♣ scott@scottwarrick.com

WWW.SCOTTWARRICK.COM

Link Up With Scott On [LinkedIn](#)

FMLA MASTER PROGRAM OUTLINE:

5 HOUR RUNNING TIME

17 INDIVIDUAL TRAINING SESSIONS

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

Scott Warrick, JD, MLHR, CEQC, SHRM-SCP

Scott Warrick HR Consulting & Employment Law Services

(614) 738-8317 ♣ scott@scottwarrick.com

WWW.SCOTTWARRICK.COM

Link Up With Scott On [LinkedIn](#)

Scott Warrick, JD, MLHR, CEQC, SHRM-SCP (www.scottwarrick.com) is a two-time best-selling author, a national professional speaker, a practicing Employment Law Attorney and a Human Resource Professional with 40 years of hands-on experience. Scott uses his unique background to help organizations get where they want to go, which includes coaching and training managers and employees in his own unique, practical and entertaining style.

[Scott Trains Managers & Employees ON-SITE in over 50 topics](#), all of which can be customized **FOR YOU!** Scott travels the country presenting seminars on such topics as Employment Law, Conflict Resolution, Leadership and Tolerance, to mention a few.

LET SCOTT DESIGN A PROGRAM FOR YOU!

Scott combines the areas of law and human resources to help organizations in “Solving Employee Problems **BEFORE** They Start.” Scott’s goal is **NOT** to win lawsuits. Instead, Scott’s goal is to **PREVENT THEM** while improving **EMPLOYEE MORALE**.

Scott’s first book, **[Solve Employee Problems Before They Start: Resolving Conflict in the Real World](#)**, is a #1 Best Seller for Business and Conflict Resolution on Amazon. It was also named by EGLOBALIS as one of the best global Customer and Employee books for 2020-2021. Scott’s most recent book, **[Living The Five Skills of Tolerance: A User’s Manual For Today’s World](#)**, is also a #1 Best Seller in 13 categories on Amazon, including Business Leadership, Minority Studies, Organizational Change, Management, Religious Intolerance, Race Relations and Workplace Culture, to mention a few.

Scott’s **[MASTER HR TOOL KIT SUBSCRIPTION](#)** is a favorite for anyone wanting to learn Employment Law and run an HR Department.

Scott has been named one of Business First’s 20 People To Know In HR, CEO Magazine’s 2008 Human Resources “Superstar,” a Nationally Certified Emotional Quotient Counsellor (CEQC) and a SHRM National Diversity Conference Presenter in 2003, 2006, 2007, 2008, 2010 and 2012. Scott has also received the Human Resource Association of Central Ohio’s Linda Kerns Award for Outstanding Creativity in the Field of HR Management and the Ohio State Human Resource Council’s David Prize for Creativity in HR Management.

Scott’s academic background and awards include Capital University College of Law (Class Valedictorian (1st out of 233) and Summa Cum Laude), Master of Labor & Human Resources and B.A. in Organizational Communication from The Ohio State University.

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

