

THE FMLA OVERVIEW



CONNIE CORNELL

1607 West Avenue

Austin, Texas 78701

ccornell@cornellsmith.com

(512)328-1540



Coverage

- Covers employers with 50+ employees (an employer can be a covered employer that does not have eligible employees and must follow the posting requirements)
- Employee eligibility:
 - Employed at least 12 months,
 - Worked at least 1,250 hours during 12 months before leave request (24 hours per week), and
 - 50 employees within 75 miles of employer's work site (need to consider remote workers when determining)



Coverage: Integrated Enterprise

The employees of separate entities will be counted for purposes of FMLA if they meet the integrated employer test, reviewing entire relationship in its totality. Factors considered in determining whether two or more entities are an integrated employer include:

- (i) Common management;
- (ii) Interrelation between operations;
- (iii) Centralized control of labor relations; and
- (iv) Degree of common ownership/financial control.

29 CFR 825.104(c)(2).



Coverage: Joint Employer

The employees of separate entities will be counted for purposes of FMLA if they meet the joint employer test, reviewing entire relationship in its totality. Factors include:

- (1) Where there is an arrangement between employers to share an employee's services or to interchange employees;
- (2) Where one employer acts directly or indirectly in the interest of the other employer in relation to the employee; or,
- (3) Where the employers are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employer controls, is controlled by, or is under common control with the other employer.

See 29 CFR 825.106.



Family / Medical Leave

- Covered employers must provide eligible employees with up to 12 weeks of unpaid leave each year ...
 - to care for a newborn child or newly placed adopted or foster child;
 - to care for a spouse, child or parent with a serious health condition; or
 - because of the employee's own serious health condition.

Military Family Leave – Active Duty

- What it Does
 - Gives employees that are parents/spouses/children of current member of armed forces, veterans, reservists, National Guards, and retirees/call-ups up to 26 weeks of leave during a single 12-month period to care for covered service member with serious injury or illness.
- How it Works
 - If there is a “qualifying exigency” the employee gets to take up to 12 weeks off of work each year
 - https://www.dol.gov/whd/fmla/2013rule/FMLA_Military_Guide_ENGLISH.pdf

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Family Medical Leave Act (FMLA): The Other Major Entitlement Act

First appeared as part of the conference materials for the
2022 Essential Employment Law: A Practical Course in the Basics session
"Family Medical Leave Act (FMLA): The Other Major Entitlement Act"