**FMLA, NJFL, FLI**

It all sounds like alphabet soup, doesn’t it? I am going to give a brief overview about the differences, the requirements, and what these laws cover and what the don’t cover. And then I will stick around for any questions.

**What’s FMLA?**

The federal Family Medical Leave Act was passed back in 1993, and it’s been updated a few times since. In general, FMLA allows workers to take up to 12 weeks per year of protected leave for their own medical issues or to take care of a qualifying family member, including a newborn or newly adopted child.

These twelve weeks can be taken continuously or intermittently as needed.

**Who is a qualifying family member?**

The employee’s spouse, son, daughter or parent as defined in the FMLA regulations.

**Requirements for taking an FMLA**

First, an employer has to have 50 or more employees for those employees to be eligible for FMLA.

You, as the employee, have to have worked for an employer for at least twelve months *AND* have worked 1250 hours for that employer over those twelve months prior to taking the leave.

Your doctor would typically have to fill out an FMLA form, which can be found on the district’s Admin Services website.

**Is FMLA paid leave?**

No. FMLA is unpaid leave, but employees can use their sick and personal leave receive pay during that time. Under the law, employers have the right to require staff to use their paid time off time (sick, personal days, vacation days) during this leave.

**What’s the point of FMLA?**

Under the law, your job is protected during these twelve weeks. And your employer must continue to provide your benefits during these twelve weeks as if you were still working.

Your time taking under FMLA can never be used against you for evaluation or AIP purposes.

**Do I have to provide my administrator with a diagnosis?**

NO! Under HIIPA, all of your paperwork goes to the district’s health office. The doctor is not specifically required to give a diagnosis, though your employer could ask them for more specific information in order to verify that you qualify.

**Can my employer deny my FMLA?**

In general, as long as you meet the time requirements (having worked for a year and have your 1250 hours) for an FMLA, the answer is no. Exceptions could include asking for FMLA for a non-qualifying individual, or your medical condition doesn’t meet the criteria (short term conditions).

**What is meant by 1250 hours worked?**

In general, this means time that an employee actually worked. Sick time, personal days, FMLA, even workers comp time do not typically count towards the 1250 hours.

The law does give some allowance for the unpaid time school staff work after school, like doing lesson plans, grading papers, etc.

**Can the district set limits on intermittent FMLA?**

The law gives the employer some discretion on how much time staff can take for FMLA, especially for conditions without clear requirements. For example, I have to take my mom to cancer treatments every Friday, or I have physical therapy every Wednesday. Those are specific and clear, and typically not an issue.

In other cases, the medical condition might be a stress condition, and the doctor may be asking for a certain number of days maximum per year, and the district may try to limit them. It is important for the staff member to work with their doctor on setting very clear requirements and needs!

**Can I take FMLA days whenever I want?**

Contractually, the day before or after any holiday requires a staff member to use a Personal Day for the staff member to get paid for the holiday. You can always use a sick day when you have documentation saying you were too sick to work or contagious. You can also take a sick day if it’s part of the FMLA, BUT, it needs to be part of the FMLA.

If you normally take your mom to the doctor on Wednesday, you can’t just say “The Friday before Memorial Day, I am taking an FMLA Day.” The district would have the right to ask for a medical certification in those situations.

When taking intermittent FMLA days, it is important to clearly designate which days belong to the FMLA and which days are regular sick days. Sick time taken outside of the FMLA can still count against you on evaluations and AIP.

**When do I have to put in for my FMLA?**

Typically, it takes some time to process, so when possible get it in as soon as possible. The law says 30 days if the absence is foreseeable (pregnancy, upcoming surgeries, etc). FMLA days CAN be applied retroactively, so again it’s important for the doctor to be clear in their documentation. If someone has been out several times in the last few weeks because of headaches, the treating doctor can include those days back dated from when the paperwork is submitted.

**Can I have multiple FMLA’s at the same time or in the same year?**

Yes! You are eligible for up to 12 weeks of FMLA time in a calendar year, so if you have a few different intermittent conditions that require multiple FMLA’s, you can apply for them. If a continuous FMLA does not use up the full 12 weeks, you can still apply for other FMLA’s later on as well.

Just remember that if you use your full 12 weeks on FMLA, you need to accumulate another 1250 hours before you are eligible for another FMLA.

**What’s NJFLA?**

New Jersey was one of four states to pass separate legislation to expand on FMLA. The New Jersey Family Leave Act ONLY applies to a qualifying family member’s illness, child care, or adoption/placement, and can’t be used for your own illness.

NJFLA also covers parent in law, which FMLA does not.

**Why would someone use NJFLA?**

The majority of the cases we see NJFLA used is for maternity leave. FMLA would cover staff members for their own pregnancy and recovery, where NJFLA can be used for the child care needs.

**Temporary Disability**

**IMPORANT!** NJ school employees are not eligible for Temporary Disability through the state. There are vendors like AFLAC, Colonial Life, Prudential and UNUM that offer these services, but you would have to pay for them. You can find more information on the district’s website (see Resource page). These programs typically do require you to enroll well in advance of coming down with a condition, and different policies have different rules and requirements.

**NJFLI**

New Jersey does offer Family Leave Insurance, which is a standard payroll deduction. If you are out on FMLA/NJFLA to take care of a family member, you might be eligible for NJFLI. The rate is calculated at 85% of your salary up to a maximum weekly benefit for $1,025.

On a continuous family leave, you would be eligible for up to 12 weeks of FLI in a 12 month period.

**For an intermittent family leave, you may receive up to 56 individual days over the course of a 12 month period.**

**FMLA And Pregnancy**

Just some quick notes:

* Our contract does allow for up to a year for maternity/paternity leave. BUT, once you are outside of the FMLA/NJFLA period, if you run out of sick time, you would be considered on an inactive leave.
* Inactive leave means your benefits would end. You can purchase benefits through COBRA, but that is VERY expensive.
* Currently you pay a portion of your benefits, with the district paying the rest. Under COBRA, you pay the FULL COST of your benefits yourself plus a substantial “administrative fee” on top of that.

**Resources:**

FMLA

<https://www.dol.gov/agencies/whd/fmla>



NJFLI

<https://nj.gov/labor/myleavebenefits/worker/fli/>

NJFLA

<https://nj.gov/labor/myleavebenefits/worker/resources/jobprotection.shtml>

**Resources:**

Pregnancy and FMLA Fact Sheet

<https://www.dol.gov/agencies/whd/fact-sheets/28q-taking-leave-for-birth-placement-child>

Newark Board of Education Admin Services (Forms and Contact Info)

<https://www.nps.k12.nj.us/departments/human-resources/administrative-operation-services/>



Temporary Disability Vendors

<https://nboehrs.com/voluntary-benefits/>