

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with job-protected leave for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees. Eligible employees can take up to 12 workweeks of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you, or
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military service member.

An eligible employee who is the spouse, child, parent or next of kin of a covered service member with a serious injury or illness may take up to 26 workweeks of FMLA leave in a single 12-month period to care for the service member.

You have the right to use FMLA leave in one block of time. When it is medically necessary or otherwise permitted, you may take FMLA leave intermittently in separate blocks of time, or on a reduced schedule by working less hours each day or week. Read Fact Sheet #28(L)(c) for more information.

FMLA leave is not paid leave, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?

You are an eligible employee if all of the following apply:

- You work for a covered employer.
- You have worked for your employer at least 12 months.
- You have at least 1,250 hours of your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your location.

The FMLA does not affect any federal or state law prohibiting discrimination or regarding any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

Ref: 29 CFR 825.300

What does my employer need to do?

If you are eligible for FMLA leave, your employer must:

- Allow you to take job-protected time off work for a qualifying reason.
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your employer cannot interfere with your FMLA rights or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your employer must confirm whether you are eligible or not eligible for FMLA leave. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your employer must confirm whether you are eligible or not eligible for FMLA leave. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

You do not have to share a medical diagnosis but must provide enough information to your employer so you can determine whether the leave qualifies for FMLA protection. You must also inform your employer if FMLA leave was previously taken or approved for the same reason when requesting additional leave.

Your employer may request certification from a health care provider to verify medical leave and may request certification of a qualifying exigency.

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STATE OF NEW HAMPSHIRE DEPARTMENT OF LABOR

THE WHISTLEBLOWERS' PROTECTION ACT - RSA 275-E

An employer shall not discharge, threaten, or discriminate against any public or private employee

- If the employee, in good faith, reports or causes to be reported an alleged violation of any law or rule adopted under the laws of this state, a political subdivision of this state, or the United States;
- OR, the employee objects to or refuses to participate in any activity that the employee, in good faith, believes is a violation of the law or rule;
- OR, the employee refuses to execute a directive which the employee, in good faith, believes violates the law or rule adopted under the laws of this state, a political subdivision of this state, or the United States;
- OR, the employee participates in an investigation, hearing, or inquiry conducted by any governmental entity or any court action in which concerns allegations that the employer has violated any law or rule adopted under the laws of this state, a political subdivision of this state, or the United States.

RIGHTS AND REMEDIES - RSA 275-E.4

After the employer has made a reasonable effort to maintain or restore his/her rights through any grievance procedure or similar process available to the employer

He/she may request a hearing with the New Hampshire Department of Labor, which can result in a judgment or order reinstatement, payment of fringe benefits, seniority rights, and injunctive relief.

ADDITIONAL RIGHTS AND REMEDIES FOR PUBLIC EMPLOYEES ONLY - RSA 275-E.5 and 9

Public employees can issue complaints to the New Hampshire Department of Labor, who has the authority to investigate complaints or information concerning the possible existence of any activity constituting fraud, waste, or abuse in the expenditure of any public funds, whether state, local, or relating to programs and operations involving the procurement of any supplies, services, or construction by governmental entities within the state.

No governmental entity shall take any retaliatory action against a public employee who, in good faith, files a complaint under this section and the public employee shall be afforded all protections under RSA 275-E.2.

No governmental entity shall threaten, discipline, demote, fire, transfer, reassign or discriminate against a public employee who files a complaint with the Department of Labor under RSA 275-E.2 or otherwise discloses or threatens to disclose activities or information that the employee reasonably believes violates RSA 275-E.2, represents a gross management or waste of public funds, property, or resources, or evidences an abuse of authority or a danger to the public health and safety.

Inspection Division
95 Pleasant St.
Concord, NH 03301
(603) 271-1492 & 271-3176

Danielle N. Albert
Deputy Commissioner

Ken Merrifield
Commissioner

Ref: 06-01-18

EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE

\$7.25 PER HOUR

BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

OVERTIME PAY

At least 1 1/2 times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR

An employer must be at least 16 years old to work in most non-man jobs and at least 18 to work in non-man jobs defined hazardous by the Secretary of Labor. You're 16 or 18 years old and you work outside school hours in various non-manufacturing, non-mining, non-harvesting jobs with certain work hour restrictions. Different rules apply to agricultural employment.

TIP CREDIT

Employers of "food employees" who meet certain conditions may claim a partial wage credit based on tips received by their employees. Employees must sign a written agreement for it. An employer's tip credit cannot exceed the minimum wage obligation for the employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not exceed the minimum hourly wage. The employer must make up the difference.

PUMP AT WORK

The FLSA requires employers to provide reasonable break time for a nursing employee to express breast milk for her nursing child for one year after the child's birth each time the employee needs to express breast milk. Employers must provide a space, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

ENFORCEMENT

The Department has authority to receive complaints and an equal amount in liquidated damages in instances of minimum wage, overtime, back wages, and the Department may litigate and/or seek injunctive relief. Employees may be assessed civil money penalties for willful or repeated violation of the minimum wage of overtime pay provisions of the law. Civil money penalties may also be assessed for violations of the FLSA's child labor provisions. Heightened

ADDITIONAL INFORMATION

- Certain occupations and establishments are exempt from the minimum wage, and/or overtime provisions. Certain narrow exemptions also apply to the jump at work requirements.
- Special provisions apply to workers in American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.
- Some state laws provide greater employee protections, employers must comply with both.
- Some employers incorrectly classify workers as "independent contractors" when they are actually employees under the FLSA. It is important to know the difference between the two because employees (unless exempt) are entitled to the FLSA's minimum wage and overtime pay protections and correctly classified independent contractors are not.
- Certain full-time students, student teachers, apprentices, and workers with disabilities may be paid less than the minimum wage under special certification issued by the Department of Labor.

WAGE AND HOUR DIVISION
U.S. DEPARTMENT OF LABOR

1-800-487-0447
www.dol.gov/whd

Ref: 06-02-18

EMPLOYEE RIGHTS EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

EXEMPTIONS

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain individuals engaged in national security-related activities.

The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armed carrier, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

EXAMINEE RIGHTS

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

ENFORCEMENT

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties against violators. Employers or job applicants may also bring their own court actions.

LEGAL SERVICES

The law requires employers to display this poster WHERE EMPLOYERS AND JOB APPLICANTS CAN READILY SEE IT.

WAGE AND HOUR DIVISION
U.S. DEPARTMENT OF LABOR

1-800-487-0447
www.dol.gov/whd

Ref: 06-02-18

EMPLOYMENT DISCRIMINATION IS AGAINST THE LAW IN NEW HAMPSHIRE

Based on:

- Race
- Color
- Age
- National Origin
- Sex
- Gender Identity
- Sexual Orientation
- Marital Status
- Religion