January 2022 5:185-AP

# General Personnel

## Administrative Procedure - Resource Guide for Family and Medical Leave

School Code

105 ILCS 5/24-6.4, added by P.A. 102-335 (mandates a lower 1,000 hour threshold for FMLA eligibility rather than 1,250 hours).

Web Resources

Compilation of resources from the U.S. Dept. of Labor (DOL), Wage & Hour Division

[www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla)

Revised FMLA Poster

[www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf](http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf)

Certification of Health Care Provider for Employee’s Serious Health Condition

[www.dol.gov/whd/forms/WH-380-E.pdf](http://www.dol.gov/whd/forms/WH-380-E.pdf)

**Note**: Consult the Board Attorney to ensure that: (1) the District is using the most recent version of the DOL’s FMLA notification and certification forms, (2) Genetic Information Nondiscrimination Act (GINA) safe harbor protections are adequately customized into these forms (the DOL did not include in its forms the specific instructions included in GINA’s sample safe harbor provision), and (3) both federal and State law requirements are met.

Certification of Health Care Provider for Family Member’s Serious Health Condition

[www.dol.gov/whd/forms/WH-380-F.pdf](http://www.dol.gov/whd/forms/WH-380-F.pdf)

See **Note**, above.

Notice of Eligibility and Rights & Responsibilities

[www.dol.gov/whd/forms/WH-381.pdf](http://www.dol.gov/whd/forms/WH-381.pdf)

Designation Notice

[www.dol.gov/whd/forms/WH-382.pdf](http://www.dol.gov/whd/forms/WH-382.pdf)

Certification of Qualifying Exigency For Military Family Leave (PDF)

[www.dol.gov/whd/forms/WH-384.pdf](http://www.dol.gov/whd/forms/WH-384.pdf)

Certification for Serious Injury or Illness of Covered Servicemember -- for Military Family Leave

[www.dol.gov/whd/forms/WH-385.pdf](http://www.dol.gov/whd/forms/WH-385.pdf)

Fact Sheet #28 (Non-Military) (PDF)

[www.dol.gov/whd/regs/compliance/whdfs28.htm](http://www.dol.gov/whd/regs/compliance/whdfs28.htm)

Fact Sheet #28A (Military) (PDF)

[www.dol.gov/whd/regs/compliance/whdfs28a.htm](http://www.dol.gov/whd/regs/compliance/whdfs28a.htm)

Department of Labor Rules

29 C.F.R. Part 825,

<http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title29/29cfr825_main_02.tpl>

Subpart A - Coverage Under the Family and Medical Leave Act §825.100

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| §825.100 | The Family and Medical Leave Act |
| §825.101 | Purpose of the Act |
| §825.102 | Definitions |
| §825.103 | [Reserved] |
| §825.104 | Covered employer |
| §825.105 | Counting employees for determining coverage |
| §825.106 | Joint employer coverage |
| §825.107 | Successor in interest coverage |
| §825.108 | Public agency coverage |
| §825.109 | Federal agency coverage |
| §825.110 | Eligible employees |
| §825.111 | Determining whether 50 employees are employed within 75 miles |
| §825.112 | Qualifying reasons for leave, general rule |
| §825.113 | Serious health condition |
| §825.114 | Inpatient care |
| §825.115 | Continuing treatment |
| §§825.116-118 | [Reserved] |
| §825.119 | Leave for treatment of substance abuse |
| §825.120 | Leave for pregnancy or birth |
| §825.121 | Leave for adoption or foster care |
| §825.122 | Definitions of covered servicemember, spouse, parent, son or daughter, next of kin of a covered servicemember, adoption, foster care, son or daughter on active duty or call to covered active duty status, son or daughter of a covered servicemember, and parent of a covered servicemember |
| §825.123 | Unable to perform the functions of the position |
| §825.124 | Needed to care for a family member or covered servicemember |
| §825.125 | Definition of health care provider |
| §825.126 | Leave because of a qualifying exigency |
| §825.127 | Leave to care for a covered servicemember with a serious injury or illness (military caregiver leave) |

Subpart B - Employee Leave Entitlements Under the Family and Medical Leave Act

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| §825.200 | Amount of leave |
| §825.201 | Leave to care for a parent |
| §825.202 | Intermittent leave or reduced leave schedule |
| §825.203 | Scheduling of intermittent or reduced schedule leave |
| §825.204 | Transfer of an employee to an alternative position during intermittent leave or reduced schedule leave |
| §825.205 | Increments of FMLA leave for intermittent or reduced schedule leave |
| §825.206 | Interaction with the FLSA |
| §825.207 | Substitution of paid leave |
| §825.208 | [Reserved] |
| §825.209 | Maintenance of employee benefits |
| §825.210 | Employee payment of group health benefit premiums |
| §825.211 | Maintenance of benefits under multi-employer health plans |
| §825.212 | Employee failure to pay health plan premium payments |
| §825.213 | Employer recovery of benefit costs |
| §825.214 | Employee right to reinstatement |
| §825.215 | Equivalent position |
| §825.216 | Limitations on an employee’s right to reinstatement |
| §825.217 | Key employee, general rule |
| §825.218 | Substantial and grievous economic injury |
| §825.219 | Rights of a key employee |
| §825.220 | Protection for employees who request leave or otherwise assert FMLA rights |

Subpart C - Employee and Employer Rights and Obligations Under the Act

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| §825.300 | Employer notice requirements |
| §825.301 | Designation of FMLA leave |
| §825.302 | Employee notice requirements for foreseeable FMLA leave |
| §825.303 | Employee notice requirements for unforeseeable FMLA leave |
| §825.304 | Employee failure to provide notice |
| §825.305 | Certification, general rule |
| §825.306 | Content of medical certification for leave taken because of an employee’s own serious health condition or the serious health condition of a family member |
| §825.307 | Authentication and clarification of medical certification for leave taken because of an employee’s own serious health condition or the serious health condition of a family member; second and third opinions |
| §825.308 | Recertifications for leave taken because of an employee’s own serious health condition or the serious health condition of a family member |
| §825.309 | Certification for leave taken because of a qualifying exigency |
| §825.310 | Certification for leave taken to care for a covered servicemember (military caregiver leave) |
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Subpart D - Enforcement Mechanisms

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| §825.401 | Filing a complaint with the Federal Government |
| §825.402 | Violations of the posting requirement |
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Subpart E - Recordkeeping Requirements

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| §825.500 | Recordkeeping requirements |

Subpart F - Special Rules Applicable to Employees of Schools

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| §825.601 | Special rules for school employees, limitations on intermittent leave |
| §825.602 | Special rules for school employees, limitations on leave near the end of an academic term |
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| §825.604 | Special rules for school employees, restoration to an equivalent position |

Subpart G - Effect of Other Laws, Employer Practices, and Collective Bargaining Agreements on Employee Rights Under FMLA

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| §825.700 | Interaction with employer’s policies |
| §825.701 | Interaction with State laws |
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