

CAREGIVER RIGHTS

Navigating your rights in
the Workplace.

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OVERVIEW OF RELEVANT LAWS

- Federal Family and Medical Leave Act
- Federal Americans with Disability Act
- State Civil Rights Act (Iowa Chapter 216)



NOT ALL WORKERS ARE PROTECTED

1. Size of employer
2. Key employee
3. Teachers, flight attendants: limited protection under FMLA.



HIPAA IS IRRELEVANT

MYTH: My employer may not ask me about my health or the health of my family members under the Health Information Portability and Accountability Act (HIPAA).

FACT: There is no private right or action under HIPAA and, it is a totally irrelevant law to your situation as a caregiver of someone with a medical condition.



MEDICAL PRIVACY IS IMPORTANT

- Follow company policy when asking for benefits under any law that protects your leave status.
 - You are not required to provide medical information to anyone who is not in the decision making chain of approving your leave.
 - You are protecting your employer by not letting your direct supervisor know about your family medical issues.



AMERICANS WITH DISABILITIES ACT

This act prohibits discrimination on the basis of disability or affiliation with a person with a disability.

The EEOC has provided examples of how affiliation with a person with a disability may rise to the level of discrimination



Stereotyping based on association with an individual with a disability:

Refusing to hire a worker who is a single parent of a child with a disability based on the assumption that caregiving responsibilities will make the worker unreliable.



CREATING A HOSTILE WORK ENVIRONMENT

- Subjecting a worker to severe or pervasive harassment because the worker's spouse or child has a disability.



ARE YOU COVERED BY THE ADA?

15 or more employees

Not employed by a private club, religious organization, U.S. Department of Transportation.



EMPLOYERS COVERED BY THE FMLA

- Private-sector employers who employ 50 or more employees in 20 or more workweeks in either the current calendar year or previous calendar year,
- Public agencies (including Federal, State, and local government employers, regardless of the number of employees), and
- Local educational agencies (including public school boards, public elementary and secondary schools, and private elementary and secondary schools, regardless of the number of employees).



EMPLOYEES COVERED BY THE FMLA

Employees are eligible if they work for a covered employer for at least 12 months, have at least 1,250 hours of service with the employer during the 12 months before their FMLA leave starts, and work at a location where the employer has at least 50 employees within 75 miles.



QUALIFYING CONDITIONS

- The care for a child, spouse, or parent who has a serious health condition,
- Reasons related to a family member's service in the military, including
 - Military caregiver leave – leave when a family member is a current servicemember or recent veteran with a serious injury or illness.
- Up to 12 workweeks of leave in a 12-month period for any FMLA leave reason except military caregiver leave, and
- Up to 26 workweeks of military caregiver leave during a single 12-month period.



RETURNING TO WORK

After FMLA leave, employee has the right to return to work in the same job, or one that is nearly the same

- Same duties, responsibilities, status
- Same level of skill, effort, responsibility and authority
- Identical pay, including premium pay, overtime and bonus opportunities
- Identical benefits, such as life insurance, disability insurance, sick leave, vacation, educational benefits, pensions, etc.



REQUESTING LEAVE

- Provide 30 days notice or as much as practical
- Comply with request for medical certification and/or proof of family relationship (significant other does not count as a spouse.)
- Employer may require paid leave be taken at the same time.
- Employer may designate your leave as FMLA qualifying even if you do not ask.



KEY EMPLOYEE

Key employee means among highest paid 10% of all employees within 75 miles of the worksite

Employer must provide key employee notice.

May be denied leave or refused reinstatement.



FMLA RESOURCES

Visit www.dol.gov/agencies/whd/fmla for links to:

Title I of the FMLA, as amended (29 U.S.C. 2601—2654)

Regulations (29 C.F.R. Part 825)

The Employer's Guide to the FMLA

The Employee's Guide to the FMLA

The Employee's Guide to Military Family Leave under the FMLA

FMLA Forms and Forms Frequently Asked Questions

FMLA Fact Sheets

FMLA Posters (WH-1420)

FMLA Frequently Asked Questions

FMLA elaws Advisor



IOWA CIVIL RIGHTS ACT DOES NOT APPLY

- Less than 4 employees who are not family members of the owner.
- In home caregivers employed by the person or family.
- Any bona fide religious institution or its educational facility, association, corporation, or society with respect to any qualifications for employment based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose.



MAKE A CLAIM WITH THE IOWA CIVIL RIGHTS COMMISSION

- They will investigate and either try to settle the dispute or provide you with a letter that allows you to sue your employer.



RETALIATION

- All laws prohibit retaliation based on a request for protected leave and/or a complaint that your request was denied.
- For example, you cannot be denied future opportunities or raises, be subjected to snide comments about having lost time from work, or be reassigned to a less desirable job or working conditions.



THANK YOU

QUESTIONS??

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