



Time Off from Work: Birth, Adoption, School Events

COVID-19: There are new rules about leave due to the pandemic.
Go to <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

You may have a right to take unpaid leave (time off) from work for pregnancy, birth, maternity or paternity leave, to adopt a child, or for other child related reasons.

Family and Medical Leave Act (FMLA)

If you are eligible (see below), a federal law called the FMLA gives you the right to take up to 12 weeks of unpaid family or medical leave in a 12-month period. FMLA leave is job-protected leave. This means your employer must give you back your same job or a nearly identical job at the end of your FMLA leave.

If you have sick or vacation time at your job, you can use this time during your FMLA leave. Your employer may say you have to use it. During your leave, you get to keep the same health insurance coverage that you had while you were at work. You have to pay your part of the premiums.



Am I eligible for FMLA leave?

To be eligible to take FMLA leave, you must:

- 1) work for a covered employer (50 or more employees for 20 work weeks)
- 2) work 1,250 hours during the 12 months right before the leave starts
- 3) work at a location where 50 or more employees work or within 75 miles of it, and
- 4) have been employed at that place for at least 12 months.

For what reasons can I use FMLA leave?

All employees can use their 12 weeks of FMLA leave for any combination of the following:

- a serious physical or mental health condition that needs medical attention
- to care for a parent, spouse, or child with a serious health condition
- a surgery, or healing after surgery

A female employee can use her 12 weeks of FMLA leave for any combination of the following:

- prenatal care
- incapacity because of the pregnancy (for example, morning sickness)

- pregnancy disability following the child’s birth. This is the time after giving birth. It falls into short-term disability definition.
- baby bonding after the pregnancy disability period has ended
- reasons related to adoption or foster care placement of a child

A male employee can use his 12 weeks of FMLA leave for any combination of the following:

- To care for a spouse with a serious health condition, including a pregnancy-related condition
- baby bonding following his child’s birth
- reasons related to his adoption or foster care placement of a child

Can my FMLA leave be split up?

Yes. FMLA lets you take time off work on a continuous or intermittent basis. The leave can be taken in small blocks of time. For example, if you have a doctor’s appointment once a week at 3pm, and you usually work until 5pm, you can take intermittent leave once a week for a couple of hours to get your medical care.

Note: Baby/child bonding leave must be taken in one continuous block of time, unless your employer agrees otherwise.

What do I need to do to take FMLA leave?

You must give your employer 30 days’ notice, if you can. If you can’t, give notice as soon as possible. You have to tell your employer your reason that qualifies you for FMLA. This is so your employer knows that you are asking for FMLA leave. Just calling in sick is not good enough.

Your employer can ask for proof of your situation, like certification from your doctor. An employer may contact the doctor to check if the information you gave is true.

Minnesota Pregnancy and Parenting Leave Law

This law gives up to 12 weeks of unpaid leave to:

- a biological or adoptive parent in connection with the birth or adoption of a child, or
- a female employee for prenatal care, or incapacity due to pregnancy, childbirth or related health conditions.

In most cases, leave because of birth or adoption has to start within 12 months of the birth or adoption.

You have a right to continue any health insurance you have through your job during your leave, but you may have to pay the cost of it.

If your Minnesota Pregnancy and Parenting Leave also qualifies as FMLA leave, your employer may count it under both laws at the same time to avoid double leave. Your employer may also



count time off if you are getting disability benefits or using vacation or sick leave towards your Pregnancy and Parenting Leave.

Your employer must give you back your job or a job just like it when you go back to work.

Am I eligible for Minnesota Pregnancy and Parenting Leave?

You can get this leave if:

- 1) You work for a company that has at least 21 workers,
- 2) You worked there for at least 12 months before the leave, and
- 3) You worked on average at least half-time (as defined by your employer's policies) in the 12 months before the leave.

Adoptive Parent Leave

If you are adopting a child but you are not eligible for FMLA leave or Minnesota Parenting Leave, you may be eligible for adoption leave. If your employer allows paternity or maternity leave, they should allow adoptive parent leave.



An employer who lets a biological father or mother take paternity or maternity time off should also give the same amount of time off to an adoptive father or mother. The time off must start before, or at the time of, the child being placed in your home. The time off must be for working out the placement of the child or caring for the child after placement.

Pregnancy Accommodations

Most employers have to make reasonable accommodations (changes) for pregnant employees who ask for it. But, employers don't have to make an accommodation if it would be an undue hardship on the company. If you are not eligible for leave under the FMLA or the Minnesota Pregnancy and Parenting Law, you may be able to take leave as a reasonable accommodation for your pregnancy.

Nursing Mothers

If you are a nursing mother, employers have to let you take a reasonable break time each day if you need to pump breast milk for your child. It might be unpaid time. If possible, the break time must be at the same time as the breaks you already get.

Your employer has to give you a place to pump milk that:

- is not a bathroom or toilet stall
- is shielded from view
- is free from interruption from coworkers and the public, and
- if possible, is close to your work area, and has access to an electrical outlet

School Conferences and Activities Leave Act

You can take up to 16 hours of leave in a 12-month period to go to your child's or foster child's school conferences or school-related activities. Your employer does not have to pay you for the time but you have the right to use other paid leave like vacation time for school conferences and activities.



Am I eligible for School Conferences and Activities Leave

You can use this leave if:

- 1) You work at least half-time
- 2) Your child or foster child is under 18 years old, or under age 20 but still in secondary school
- 3) The school conference or activity can't be scheduled outside of work hours, and
- 4) You give your employer reasonable notice of when you will take the time

Questions?

Minnesota Department of Labor and Industry

www.doli.state.mn.us

(651) 284-5005 or

1-800-DIAL-DLI (1-800-342-5354)

U.S. Department of Labor

www.dol.gov/whd

1-(866) 4-USWAGE (1-(866) 487-9243)

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

© 2021 Minnesota Legal Services Coalition. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.