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## FMLA OVERVIEW & ADMIN: STEP BY STEP

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# HOW FLUENT ARE YOU IN THE FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA)?

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**FOR AN EMPLOYER OR HR PROFESSIONAL, THE “FMLA” CAN BE CHALLENGING TO UNDERSTAND AND ADMINISTER. IT IS FULL OF POTENTIAL PITFALLS THAT CAN LEAVE YOUR ORGANIZATION LIABLE WHEN APPROPRIATE ACTION IS NOT TAKEN AT EACH STEP.**

**Would it surprise you to learn that even substance abuse may qualify an employee for FMLA leave?**

Under certain circumstances, substance abuse does, in fact, qualify an employee for FMLA leave. It is important you understand those circumstances, along with the many other rules that govern FMLA compliance.

The complete MEA Members Guide uses straightforward language and examples to act as your road map for navigating common issues that arise under the FMLA. Among other concepts, your at-a-glance reference will cover:

- Communication to Employee in Response to Request for Accommodation
- Authorization for Release of Medical Information for ADA
- Accommodation Medical Certification - Letter to Physician

As an MEA Member, should you still have questions about how to proceed after reading our complete guide, we would encourage you to call our [Employers' Hotline](#). This exclusive service—available at no additional charge—is staffed by HR experts and backed by our in-house attorneys.

We have prepared this free resource to demonstrate the depth and quality to which we publish our Member Guides. Its primary purpose, however, is to help you decide whether MEA Membership—and assets like our complete guides—will add value to your organization's HR efforts.

**Please read on to learn what topics we cover in the complete MEA Member Guide.**

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Disclaimer: We offer this abridged MEA Guide as a free resource for those interested in learning about the benefits of MEA Membership. It is neither a substitute for the full MEA Member's Guide nor thorough knowledge and understanding of the applicable law and its application to the particular facts and circumstances of each case, including application of relevant case law which may apply. Every effort has been made to ensure that the information provided is complete, accurate and up-to-date as of the time of publication, and any revisions thereof. This resource is offered for informational purposes only, does not constitute legal advice and should not be relied upon as a substitute for legal advice.

# A GUIDE TO QUALIFYING REASONS FOR FMLA LEAVE

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## 1. LEAVE FOR BIRTH (CARE OR BONDING TIME)

Learn up to how long employees may be eligible for leave and during what timeframes. What happens when a husband and wife work for the same employer? Find out in the complete guide, along with the rarer circumstances that may factor into length of leave.

## 2. LEAVE FOR ADOPTION OF FOSTER CARE (CARE OR BONDING TIME)

“Adoption” and “foster care” are defined under FMLA. Understanding those definitions ensures you are implementing FMLA leave properly.

## 3. LEAVE FOR PREGNANCY

FMLA leave may be available to expectant mothers and father before childbirth. Do you know under what circumstances?

## 4. LEAVE “TO CARE FOR” FAMILY MEMBER WITH A “SERIOUS HEALTH CONDITION”

If you are wondering why “to Care for” and “Serious Health Condition” are in quotes, it is because each phrase has specific definitions under the FMLA. The following excerpt is taken from the complete guide.

**“To care for” defined.** The phrase “to care for” includes both physical and psychological care. It includes situations in which:

- The individual cannot attend to personal basic needs, such as: (i) medical; (ii) hygienic; (iii) nutritional; (iv) safety; and (v) transportation to a doctor’s office.
- The employee’s assistance is required to substitute for others who normally care for the individual.
- The need for leave is intermittent even if the underlying medical condition does not occur on an intermittent basis.

In this section of the complete guide, you will also find FMLA definitions for “Son” and “Daughter,” “Parent” and “Serious Health Condition.”

The three additional qualifying reasons for FMLA leave are covered in depth in the complete guide. As an MEA Member, you will understand how to respond to everything from leave for an employee’s own serious health conditions (including a list of defined special considerations and rules) to leave for military-qualifying exigency.

### QUICK TIP

**There are seven primary qualifying reasons for FMLA leave. While knowing what they are is important, becoming familiar with the subtle distinctions of each is essential. Above we have listed the first four primary reasons an employee may qualify for FMLA leave. In the complete guide, you will find all seven, each expanded upon with detailed explanations, definitions and examples.**

# ADMINISTERING FMLA LEAVE: STEP-BY-STEP

## 1. PRELIMINARY CONSIDERATIONS: EMPLOYER'S NOTICE POSTER OBLIGATIONS

Avoid common compliance pitfalls with a thorough understanding of what constitutes proper notice concerning FMLA provisions and complaint-filing procedures. Learn:

- The requirements for posting notice.
- If and how you can satisfy your requirement through electronic means.
- To whom, when and how you must distribute additional forms of general notice.
- Whether you must make adjustments when a significant portion of your workforce is composed of non-English speakers.

## 2. PRELIMINARY CONSIDERATIONS: UNDERSTAND EMPLOYEE'S NOTICE REQUIREMENTS

Along with employers, the FMLA also imposes notice requirements on employees. In many cases, employees must give 30 days of advance notice for foreseeable leave. While employees may face consequences for providing insufficient notice, there are some exceptions. Become familiar with those exceptions, minimum employee requirements, efforts employees should make to avoid disrupting employer operations and more.

## 3. STEP ONE: PROVIDE NOTICE OF ELIGIBILITY AND RIGHTS AND RESPONSIBILITIES (AND ACCOMPANYING CERTIFICATION OF SERIOUS MEDICAL CONDITION)

How soon must employers act after an employee requests FMLA leave, and what notice should be provided to the employee? Are there circumstances in which an employer may learn of FMLA-qualifying leave outside of an employee's request, and can the employer respond differently? Along with the answers to these and other questions, this section of the guide includes links to download the following essential documents.

- Notice Eligibility and Rights and Responsibilities
- Medical Certification of Serious Medical Condition – Employee
- Medical Certification of Serious Medical Condition – Family Member
- Designation Notice

## 4. STEP TWO: REVIEW AND ASSESS INFORMATION PROVIDED BY EMPLOYEE

Learn how to review a health care provider's certification for an employee's or covered family member's leave. Know what constitutes an insufficient medical certification and how to respond appropriately. When clarification is required, ensure only agents as specified under the FMLA attempt to contact an employee's health care provider. "STEP TWO" of the complete MEA Member's guide gives you the crucial information you need to review, clarify and authenticate medical certifications properly.



### QUICK TIP

**At this point in the complete guide, we present MEA Members with a progression of clear steps for administering FMLA Leave, along with the variables that may influence their administration. The following text in this free resource includes a sampling of those steps and variables. The complete guide also includes thorough overviews, definitions and compliance recommendations.**

## WHAT ELSE WILL YOU LEARN IN THE COMPLETE MEMBER GUIDE?

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In addition to four additional steps to administering FMLA leave, the complete guide includes sections dedicated to **Intermittent or Reduced Scheduled Leave**, **Employer's Record-Keeping Requirements** and more.

Without a clear resource at your disposal, many facets of the FMLA can be challenging to understand and implement. This is precisely why we publish guides like our "FMLA Overview and FMLA Administration Step-by-Step." They not only educate quickly, but they also act as at-a-glance references for employers, managers and HR professionals alike. We encourage our members to read the guides we publish, review them from time to time and always keep them close at hand.



## ONE OF MANY BENEFITS AVAILABLE TO MEA MEMBERS

The complete "FMLA Overview and FMLA Administration Step-by-Step" guide is just one of several practical reference materials available to MEA Members. Moreover, the guides we publish make up only a small portion of the full suite of services we bring our members. From talent acquisition and behavioral assessments to legal services, management training workshops and more, the benefits of MEA Membership are numerous and profound.

[To learn more about MEA Membership and schedule a free consultation, please contact us today.](#)