

THE FMLA AND MORE



CONNIE CORNELL

1607 West Avenue
Austin, Texas 78701
ccornell@cornellsmith.com
(512)328-1540



Coverage

- Covers employers with 50+ employees
- Employee eligibility:
 - Employed at least 12 months,
 - Worked at least 1,250 hours during 12 months before leave request (24 hours per week), and
 - 50 employees within 75 miles of employer's work site



Coverage: Integrated Enterprise

- The employees of separate entities will be counted for purposes of FMLA if they meet the integrated employer test, reviewing entire relationship in its totality. Factors considered in determining whether two or more entities are an integrated employer include:
 - (i) Common management;
 - (ii) Interrelation between operations;
 - (iii) Centralized control of labor relations; and
 - (iv) Degree of common ownership/financial control.

29 CFR 825.104(c)(2).

Coverage: Joint Employer

- The employees of separate entities will be counted for purposes of FMLA if they meet the joint employer test, reviewing entire relationship in its totality. Factors include:
 - (1) Where there is an arrangement between [employers](#) to share an [employee's](#) services or to interchange employees;
 - (2) Where one [employer](#) acts directly or indirectly in the interest of the other [employer](#) in relation to the [employee](#); or,
 - (3) Where the [employers](#) are not completely disassociated with respect to the [employee's](#) employment and may be deemed to share control of the [employee](#), directly or indirectly, because one [employer](#) controls, is controlled by, or is under common control with the other [employer](#).

See 29 CFR 825.106.

Family / Medical Leave

- Covered employers must provide eligible employees with up to 12 weeks of unpaid leave each year ...
 - to care for a newborn child or newly placed adopted or foster child;
 - to care for a spouse, child or parent with a serious health condition; or
 - because of the employee's own serious health condition.

Military Family Leave – Active Duty

- What it Does
 - Gives employees that are parents/spouses/children of Reservists, National Guards, and Retirees/call-ups another basis to take leave
- How it Works
 - If there is a “qualifying exigency” the employee gets to take up to 12 weeks off of work each year
 - https://www.dol.gov/whd/fmla/2013rule/FMLA_Military_Guide_ENGLISH.pdf

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: The FMLA and More

Also available as part of the eCourse

[2018 Essential Employment Law eConference](#)

First appeared as part of the conference materials for the
2018 Essential Employment Law session

"Family Medical Leave Act (FMLA): The Other Major Entitlement Act"