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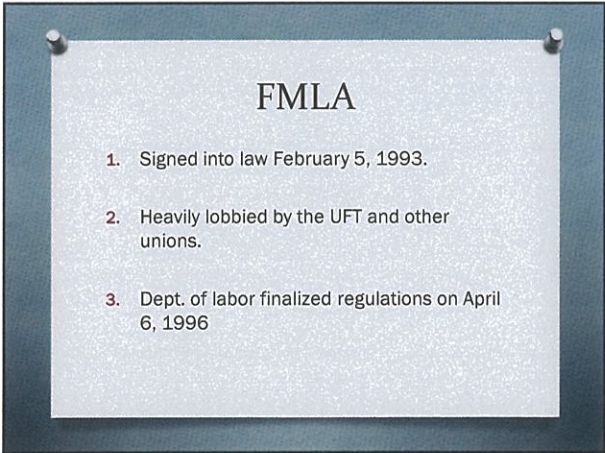
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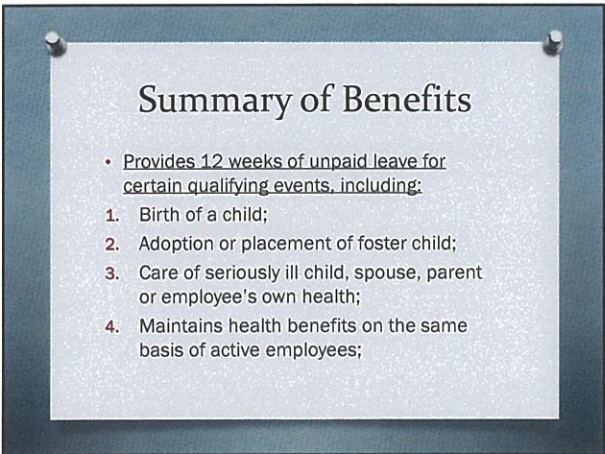
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**Summary of Benefits Cont.**

- 5. Restoration to same or equivalent position upon return to work;
- 6. Full vacation weeks do not count against the twelve (12) week allotment. (i.e., Summer, Christmas, Winter, and Spring breaks do not count against the employee's FMLA leave entitlement if the employer is closed for the entire week).

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**Summary of Benefits Cont.**

- 7. Guaranteed twelve (12) weeks of FMLA leave every 12 months. Every 12 months is defined as:
  - a. Calendar year: January 1<sup>st</sup> – December 31<sup>st</sup>.
  - b. Fiscal/contractual year: July 1<sup>st</sup> – June 30<sup>th</sup>.
  - c. "Rolling year" (Most Popular): 365 days from the last occurrence.

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**Who Qualifies?**

- 1. Employees of employers that employ at least 50 employees;
- 2. Employee must have been employed by employer for 12 months;
- 3. Employee must have worked a minimum of 1,250 hours during that 12 month period (Teachers are exempt from the 1,250 hours and are deemed qualified);
- 4. Special leave rules apply to teachers and other instructional employees in elementary and secondary schools.

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**Key Definitions**

1. Son or Daughter – Must be under the age of 18, unless he or she is incapable of self-support due to a mental or physical disability. Definition is broadly defined. It may be:
  - a. Biological;
  - b. Adopted;
  - c. Foster care;
  - d. Stepchild;
  - e. Or a child of a person standing “in loco parentis”

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**Key Definitions – Cont.**

2. Parent – defined as the biological parent of any employee or an individual who stood “in loco parentis” of an employee when the employee was a child.
  - The definition of parent does not include parents-in-law.

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**Key Definitions – Cont.**

3. Spouse – Means a husband or wife as defined or recognized under state law for purpose of marriage.
  - Includes common law marriage
  - Does not include unmarried domestic partner, unless the laws in the state require such leave.

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**Key Definitions – Cont.**

4. **Serious Medical Condition** – a period of incapacity of more than three calendar days and involves continuing treatment by a health care provider.

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**Key Definitions – Cont.**

5. **Health Care Provider** –

- any person that a group's health plan will accept certification of the existence of a serious health condition.
- Definition is very broad, and includes, but not limited to, doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, etc.

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**Applying for Leave**

1. **Foreseeable requests** – at least 30 days notice. As a practical matter, request must be in written form.

2. **Unforeseeable requests** – Such notice “as soon as practicable” under the facts and circumstances of specific case.

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**Intermittent Leave**

1. Permissible for "serious health conditions" or treatment.
2. Employer has the right to transfer an employee to an alternate position, but cannot reduce pay or benefits.
3. Must reinstate employee to former position once the need for the leave no longer exists.
4. Only the amount of leave taken is counted against the FMLA (i.e., time is prorated)

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**Medical Certification and Re-certification**

1. Employer may require medical certification to include:
  - a. Diagnosis of medical condition;
  - b. The date the condition began and health care provider's judgment as to the probable duration of the condition;
  - c. Prescribed treatment protocol;
  - d. Whether inpatient hospitalization is required.

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**Medical Certification and Re-certification Cont.**

2. Employee pays for initial certification;
3. Employer may send employee for medical/psychological examination;
4. Employer may request "re-certification" at any reasonable period of time, but not more often than every thirty (30) days.

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### Rules for Spouses Employed by Same Employer

1. Twelve (12) weeks CUMMULATIVE for childbirth, adoption, or to care for a sick parent.
2. Twelve (12) weeks EACH for "serious health conditions" of self, spouse, or child.

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### Benefit Entitlements

1. Maintains health insurance coverage;
2. Secures job restoration at end of leave;
3. Permits employees to substitute accrued paid leave for unpaid leave;
4. However, the employer retains the right to require the substitution of unpaid leave for paid leave (i.e., using sick, personal, or vacation days. This generally prohibits the "pyramiding" of benefits).

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### Other Benefits While on Leave

1. Life insurance, disability insurance, pension accumulation may be suspended by the employer when on an unpaid leave;
2. Employee entitled to full restoration of all benefits without requalification or waiting period upon return from leave;
3. Unpaid leave does not constitute service credit - paid leave does.

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### Return to Work Rights

1. Return to "equivalent position" (virtually identical and not necessarily in same work location/building);
2. Employee may return to work before the end of the FMLA leave. The employee is required to provide at least two (2) business days advance notice.

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### Special Leave Rules for Educational Employees

- Exempt educational employees, including teachers, guidance counselors, school psychologist, and school registered nurses, are presumed to meet 1,250 hour threshold.
- The burden is on the employer to show the person does not meet the threshold.

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### Return-to-Work Rules for Instructional Employees

1. Certain instructional employees can be forced to delay their return until the start of a new semester. These include those who start their leave:
  - a. **Rule #1** - More than five weeks before the end of a semester;
  - b. **Rule #2** - Less than five weeks before the end of a semester;
  - c. **Rule #3** - Less than three weeks before the end of a semester.

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**Rule #1**

- If an instructional employee begins a leave period more than five weeks before the end of a semester, and the leave will last at least three weeks, and the employee would return to work during the last three weeks of the semester, the employer may require the employee to continue taking leave until the end of the semester. (However, this additional time does not count against the employee's FMLA entitlement).

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**Rule #2**

- If an instructional employee starts a leave period for other than his or her own serious health condition within five weeks of the end of a school term, and the leave will last more than two weeks, and the employee would return to work within two weeks before the end of the academic term, the employer may require the employee to continue taking leave until the end of the term.

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**Rule #3**

- If an employee commences leave for other than his or her own serious health condition within three weeks before the end of the school semester, and the leave will last more than five working days, the employer may require the employee to continue taking leave until the end of the semester.

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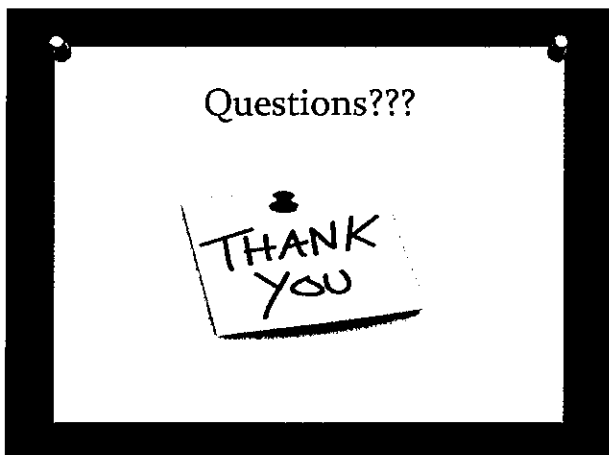
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