



COMPLIANCE BULLETIN

HIGHLIGHTS

- The FMLA allows eligible employees to take leave to care for a child with a serious health condition.
- According to the DOL, this may include attending certain school meetings, such as IEP meetings, for children with serious health conditions.
- Employers should update their leave policies and practices for this new clarification.

RESOURCES

- [The Employer's Guide to the FMLA](#), a DOL publication
- The DOL's [webpage](#) on FMLA compliance, including links to model forms
- DOL [opinion letter](#) (FMLA2019-2-A) on school meetings as FMLA-covered leave

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Parent Attendance at School IEP Meetings May Qualify as FMLA Leave

OVERVIEW

The Department of Labor (DOL) recently issued an [opinion letter](#) clarifying that an employee's need to attend school meetings addressing the educational and special needs of her children is a qualifying reason for taking FMLA leave.

Employers that are covered by the FMLA must allow eligible employees to take unpaid, job-protected leave to care for a family member with a serious health condition. This includes physical and psychological care and making arrangements for changes in care. According to the DOL, an employee's need to attend a school meeting to discuss the Individualized Education Program (IEP) of her children (who have serious health conditions as certified by a health care provider) is a qualifying reason for taking intermittent FMLA leave.

ACTION STEPS

Employers should consider whether employees' requests for time off to attend IEP (or similar) meetings for their children may qualify as FMLA leave. Although DOL opinion letters are specific to the facts presented, employers can look to them for guidance on the DOL's interpretation of the law.

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FMLA Leave

Under the FMLA, covered employers must allow eligible employees to take up to 12 weeks of job-protected, unpaid leave each year to care for a spouse, child or parent with a serious health condition. Caring for a family member includes both physical and psychological care and making arrangements for changes in care. The FMLA defines a “serious health condition” as an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

An employee may use FMLA leave intermittently or on a reduced leave schedule when medically necessary because of a family member’s serious health condition. Employers may require employees to provide a medical certification (completed by a health care provider) that supports the employee’s request for intermittent or reduced schedule leave.

An employee’s absence to attend a school IEP meeting for his or her child may qualify as FMLA leave, if the child has a serious health condition. Employers may ask employees to provide a health care provider’s certification to support the need for intermittent FMLA leave.

Opinion Letter Facts

The situation addressed in the DOL’s opinion letter involved an employee with two children who have serious health conditions under the FMLA, as supported by a health care provider’s certification. The employer approved the employee’s intermittent use of FMLA leave to take the children to medical appointments. However, the employer did not approve the employee’s request to take FMLA leave intermittently to attend a school meeting to discuss the IEP of the children.

Four times during the year, the children’s school holds IEP meetings to review their educational and medical needs, well-being and progress. These meetings include participation by therapists, a school psychologist, teachers and school administrators. During the meetings, participants provide updates on the children’s progress and areas of concern, review recommendations made by the children’s doctors, review any new test results, and make recommendations for additional therapy.

DOL’s Opinion

According to the DOL, the employee’s need to attend IEP meetings addressing the educational and special needs of her children (who have serious health conditions as certified by a health care provider) is a qualifying reason for taking FMLA leave. Because caring for a family member with a serious health condition includes making arrangements for care, the DOL concluded that attendance at the IEP meetings is covered by the FMLA. The DOL also noted that the employee’s attendance at these meetings is essential to her ability to provide appropriate physical or psychological care to the children. Finally, the DOL stated that the children’s doctor need not be present at IEP meetings in order for the employee’s absence to qualify for intermittent FMLA leave.