



Webinar 7 – July 2026

FMLA and NY PFL – Managing Leave Laws

WEBINAR OUTLINE

INTRO/SETTING THE STAGE

- What are Common Issues Related to Leave Laws?

AN OVERVIEW OF THE FMLA

AN OVERVIEW OF NEW YORK STATE PAID FAMILY LEAVE

WHEN LEAVE LAWS OVERLAP

BEST PRACTICES FOR LEAVE MANAGEMENT

HYPOTHETICAL SCENARIOS

HRtelligence TIPS

INTRO/SETTING THE STAGE

What are Common Issues Related to Leave Laws?

- Understanding the legal requirements
- Knowing what leave employees qualify for
- When employees are eligible for intermittent leave
- Recordkeeping and documentation

AN OVERVIEW OF THE FAMILY MEDICAL LEAVE ACT ("FMLA")

Employer Coverage:

The FMLA applies to covered employers, which include:

- Private-sector employers who employ 50 or more employees in 20 or more workweeks in either the current calendar year or the previous calendar year,
- Public agencies (including federal, state, and local government employers), regardless of the number of employees, and
- Local educational agencies (including public school boards, public elementary and secondary schools, and private elementary and secondary schools), regardless of the number of employees.

Employee Eligibility:

Employees are eligible if they:

- Work for a covered employer for at least 12 months,
- Have at least 1,250 hours of service with the employer during the 12 months before their FMLA leave starts, and
- Work at a location where the employer has at least 50 employees within 75 miles.

When can an eligible employee use FMLA leave?

For eligible employees, up to **12 workweeks of leave** in a 12-month period for any of the following qualifying reasons:

- The birth of a child and to care for the newborn child within one year of birth,
- The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement,
- To care for the employee's spouse, child, or parent who has a serious health condition,
- A serious health condition that makes the employee unable to perform the functions of his or her job, and

- Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty or call to covered active duty status.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness may take up to **26 workweeks of leave** during a single 12-month period to care for the servicemember.

Common Questions:

- **Is FMLA leave paid?**
No, FMLA is legally unpaid. However, employers can require – or employees can choose – to substitute accrued paid leave (like vacation or sick leave) to cover some or all of the FMLA period.
- **Can leave be taken in smaller amounts?**
Yes. Employees can take FMLA leave in a single block, or intermittently (e.g., taking a few hours off for chemotherapy treatments) or on a reduced leave schedule, if medically necessary.
- **Does the employee have to be reinstated to their exact position?**
Upon returning from FMLA leave, employers must restore the employee to their original job or to an "equivalent" job with equivalent pay, benefits, and other terms of employment.

AN OVERVIEW OF NEW YORK STATE PAID FAMILY LEAVE

New York Paid Family Leave (NY PFL)

Eligible workers can get up to 12 weeks of paid time off to care for family.

Workers can take Paid Family Leave to:

- bond with a child within 12 months of birth, adoption, or foster placement.
- care for a family member with a serious health condition.
- assist loved ones when a family member is deployed abroad.
- care for yourself, a child, or a family member during a COVID-19 order of quarantine or isolation.
- Leave doesn't have to be taken all at once, but has to be taken for full days, not half days.
- You can get paid up to 67% of your average weekly wage.
- Paid Family Leave also provides:
 - job protection
 - continued health insurance
 - protection from discrimination or retaliation

- Immigration status doesn't affect eligibility.

Eligibility

- Full-time employees (20+ hours a week) are eligible after 26 consecutive weeks of employment, beginning with the employee's start date.
- Part-time employees (<20 hours per week) are eligible after working 175 days, beginning with the employee's start date. The 175 workdays do not have to be consecutive.

WHEN LEAVE LAWS OVERLAP

FMLA and NY PFL

The FMLA and NY Paid Family Leave (PFL) overlap when the reason for the leave qualifies under both laws, such as bonding with a new child or caring for a family member with a serious health condition.

In these situations, the leaves run concurrently, meaning they occur at the same time and count against both entitlements, so PFL cannot be used to extend total leave beyond the standard 12 weeks provided by FMLA.

New York Disability Benefits Law (DBL)

A state-mandated program that provides temporary cash benefits for employees who are unable to work due to an off-the-job injury or illness.

- **How it overlaps:**
 - **DBL and FMLA:** In some cases, DBL and FMLA can run concurrently for a qualifying event.
 - **DBL and PFL:** As noted above, an employee cannot receive DBL and PFL benefits concurrently, but can take up to 26 weeks of combined leave in a 52-week period.

Key Points about Concurrent Leave:

- **Concurrent designation:** If an employee's leave qualifies for both FMLA and PFL, the employer must tell them that it is being designated as such.
- **No extension of leave:** PFL cannot be used to add time to FMLA leave; it simply pays for a portion of the time the employee is already entitled to take under the FMLA.

- **Job protection:** Regardless of whether you take leave under FMLA, PFL, or both, employees are entitled to the same job protection and will return to your original or an equivalent position.
- **Employer notification is crucial:** Failure by the employer to provide proper notice can result in the possibility of an employee stacking leaves.

When they don't overlap:

- **Different qualifying events:** If an employee has a qualifying FMLA event (like caring for an employee's own serious health condition) and a different qualifying PFL event (like bonding with a new child), they may be able to take these leaves at different times.
- **NY Paid Family Leave (PFL) vs. Short-Term Disability (DBL):** Employees cannot receive benefits for both PFL and DBL simultaneously within the same 52-week period. The FMLA, on the other hand, is unpaid leave that allows employers to require the use of paid leave, including DBL, to run concurrently

BEST PRACTICES FOR LEAVE MANAGEMENT

To effectively manage employee leave in New York, employers should create a clear, written leave policy, train managers to apply it consistently, and use a system for tracking leave balances, eligibility, and usage to ensure compliance.

Additionally, employers must maintain secure records, conduct regular reviews of policies and laws, engage in the ADA interactive process for accommodations, and develop plans for work coverage to avoid operational disruption and legal pitfalls.

Develop a Comprehensive and Clear Leave Policy

- Document your leave regulations, including accrual rates, how to request leave, notice requirements, and return-to-work protocols.
- **Define Eligibility:** Clearly state eligibility requirements and how employees can determine their leave balances.

Track Leave Accurately

- **Implement a System:** Use a system to track employee leave balances, approvals, and absences to ensure compliance and prevent employees from exceeding their entitlement.
- **Maintain Detailed Records:** Keep accurate records of leave start and end dates, the type of leave, and relevant medical certifications for FMLA requests.

- **Store Records Securely:** Store medical records related to leave securely and separately from general personnel files to maintain confidentiality.

Train Managers and Staff

- Train managers and supervisors to handle leave requests consistently, which helps prevent discrimination claims and ensures equitable treatment.
- Train managers on the ADA's interactive process for handling accommodation requests, which involves ongoing communication with employees and HR.

Stay Informed About Legal Requirements

- **Regularly Review Laws and Policies:** Periodically review New York state laws, federal regulations, and company policies to ensure ongoing compliance, as laws can change.

Manage Work Coverage and Operations

- **Plan for Absences:** Develop a plan for covering an employee's workload during their leave, which could include temporary staff, redistributing work, or offering stretch assignments to other employees.
- **Integrate into Operations:** Make your leave management process a part of your standard operating procedures to ensure it is consistently applied and managed.

Communicate Clearly with Employees

- **Provide Written Guidance:** Inform employees about their leave benefits and how to file requests, including providing sample language for handbooks and written guidance.
- **Provide Timely Notices:** Promptly provide written notices detailing an employee's rights and obligations when they request leave

HYPOTHETICAL SCENARIOS:

The Family Care Scenario

- **Employee:** John is a full-time office worker who has worked for his employer for five years.
- **Event:** John's parent is diagnosed with a serious health condition requiring intensive care and assistance. John requests leave starting **June 24, 2026**, to provide care.
- **Employer Policy:** The company requires all qualifying family leaves to run concurrently.

The Timeline:

- **Weeks 1–12 (Concurrent Leave):** John takes 12 weeks of continuous leave to care for his parent. Because this event qualifies under both federal law (caring for a parent with a serious health condition) and state law, both leaves start at the same time.
- **Week 13 (Return to Work):** John returns to his regular position on September 16, 2026.

The Result:

- **Job Protection:** John receives job protection from both FMLA and NY PFL simultaneously for the first 12 weeks.
- **Compensation:** John receives state-mandated paid benefits through NY PFL for all 12 weeks. FMLA provides no pay.
- **Leave Banks:** John completely exhausts his 12-week FMLA allotment and his 12-week NY PFL allotment for the year.

The Maternity / Bonding Scenario

- **Employee:** Jane is a full-time employee in Huntington, NY, who has been with her company for 3 years (making her eligible for both FMLA and NY PFL).
- **Event:** Jane gives birth to a child on June 24, 2026.
- **Employer Policy:** The employer requires both leaves to run concurrently and provides no extra top-up pay.

The Timeline:

- **Weeks 1–6 (Recovery):** Jane is completely incapacitated due to childbirth recovery. She is on NY Short-Term Disability (DBL) to cover her salary and on FMLA to protect her job. NY PFL cannot be used for the birth parent's medical recovery.
- **Weeks 7–18 (Bonding):** Jane switches to NY PFL for child bonding. Because the leave qualifies under both FMLA and NY PFL, her remaining FMLA entitlement runs concurrently with her 12 weeks of NY PFL.

The Result:

- Jane is out for a total of 18 weeks (6 weeks for recovery + 12 weeks for bonding).
- She is paid a percentage of her salary (capped at state maximums) through DBL and NY PFL.
- Jane's 12-week FMLA entitlement is completely exhausted by week 18



- Employers would be well-advised to take note of their differing requirements under the many leave laws that apply in New York and under federal law.
- As a best practice, ensure policies are updated and that you are familiar with all of them.
- It is also imperative that leave entitlement is communicated clearly to employees. In addition, ensure managers and HR representatives are adequately trained in all applicable leave laws.
- Ensure proper recordkeeping
- Use Leave Management Software
- Keep Everyone Updated to Changes in Policy