

	<b>Title I</b>	<b>Title II</b>
<b>Who is Covered</b>	USPS; DC Govt; temporary employees (1 Year or less); Non Appropriated Fund (NAF) employees of DOD, Coast Guard; Title 38 employees (VA)	Almost all other Federal employees who have worked at least 12 months
<b>Eligibility</b>	<p>must work for a covered employer for 12 months; have worked at least 1,250 hours in those 12 months; and work where there are at least 50 employees within 75 miles. <a href="#">29 USC 2611</a> (2)(A), <a href="#">29 CFR 825.110</a> , <a href="#">29 CFR 825.111</a>.</p> <p>Because the entire federal government is defined as a single employer, <a href="#">29 USC 2611</a> (4)(B), time in federal service is portable.</p> <p>The 12 months do not have to be consecutive, but employment prior to a continuous break in service of seven years or more need not be counted toward the time-in-service requirement. <a href="#">29 CFR 825.110</a> (b)(1).</p> <p>Exceptions exist if the break in service was due to military service obligations, or if there is a written agreement regarding the agency's intention to rehire the employee after the break in service. <a href="#">29 CFR 825.110</a> (b)(2).</p>	<p>must have worked as a civil servant for 12 months. <a href="#">5 USC 6381</a> (1)(B), <a href="#">5 CFR 630.1201</a> (b)(1).</p> <p>Time served outside the civil service or as an intermittent employee doesn't count toward this 12-month requirement. <a href="#">5 CFR 630.1201</a> (b)(2).</p>
<b>Notice</b>	<p>When leave is foreseeable based on birth, adoption, or planned medical care, employees must give 30 days notice. <a href="#">29 USC 2612</a> (e), <a href="#">29 CFR 825.302</a> (a).</p> <p>If the leave isn't foreseeable, employees should give notice as soon as practicable. <a href="#">29 USC 2612</a> (e), <a href="#">29 CFR 825.303</a>.</p> <p>Employees need not expressly mention the FMLA. <a href="#">29 CFR 825.301</a> (b). They must merely give information sufficient to make the employer aware that the employee needs FMLA-qualifying leave. <a href="#">29 CFR 825.302</a> (c), <a href="#">29 CFR 825.303</a> (b).</p>	<p>When leave is foreseeable, based on birth, adoption, or planned medical care, employees must give 30 days notice. <a href="#">5 USC 6382</a> (e)(1), <a href="#">5 CFR 630.1207</a> (b).</p> <p>When the need for qualifying exigency leave is foreseeable, the employee must provide notice as soon as practicable, regardless of how far in advance the leave is being requested. <a href="#">5 CFR 630.1207</a> (c).</p> <p>If the leave isn't foreseeable and the employee cannot provide 30 days notice, the employee must provide notice within a time frame reasonable for the circumstances. <a href="#">5 CFR 630.1207</a> (d).</p> <p>Employees must invoke the FMLA in requesting leave. <a href="#">5 CFR 630.1203</a> (b).</p>
<b>Remedies</b>	Right to sue for civil monetary damages for lost benefits or compensation. <a href="#">29 USC 2617</a> (a)(2), <a href="#">29 CFR 825.400</a> . Damages may be doubled for willful violations.	No right to sue to enforce FMLA rights under Title II. <i>May be able to file agency or negotiated grievance.</i>
<b>Certification</b>	<p>Agencies may require a leave request to be supported by a medical certification, which the employee must provide in a timely manner. <a href="#">29 USC 2613</a> (a).</p> <p>Agencies must generally give the employee 15 calendar days to respond. <a href="#">29 CFR 825.305</a> (b). An untimely certification will suffice when it is</p>	If the agency requests medical certification, an employee must provide it, signed by the health care provider, within 15 calendar days of the request. <a href="#">5 USC 6383</a> , <a href="#">5 CFR 630.1208</a> . If it is not practical to provide the medical certification within this time, despite the employee's good-faith efforts, the employee has up to 30 calendar days after the request to submit medical certification. <a href="#">5 CFR 630.1208</a> .

	<p>impracticable to return it by the deadline, "despite the employee's diligent, good-faith efforts." <a href="#">29 CFR 825.305</a> (b).</p> <p>If an employee submits insufficient certification from a medical provider, then specific parties -- a health care provider, HR professional, leave administrator, or management official other than the employee's supervisor -- can contact the employee's health care provider for purposes of clarification and authentication. The employee's direct supervisor may not make the contact. <a href="#">29 CFR 825.307</a> (a).</p> <p>If the employee fails to provide complete and sufficient certification, or necessary authorization for the health care provider to release certification directly to the agency, the agency may deny FMLA leave. <a href="#">29 CFR 825.305</a> (d).</p>	<p>If the agency has questions regarding the information submitted by the employee from the employee's health care provider, it may not contact the health care provider directly. A health care provider representing the agency may contact the employee's provider, with the employee's authorization, to request clarification. <a href="#">5 CFR 630.1208</a>(h).</p> <p>If the employee fails to provide the requested medical certification after the leave has commenced, the agency may charge the employee as absent without leave, or allow the employee to request that the provisional leave be charged as leave without pay or charged to the employee's annual or sick leave account. <a href="#">5 CFR 630.1208</a> (j).</p>
<b>Leave designation</b>	<p>It is the agency's responsibility to designate leave as FMLA-qualifying, and to give notice of the designation to the employee. <a href="#">29 CFR 825.300</a> (d)(1).</p> <p>The agency may require that paid leave taken under an existing leave plan be counted as FMLA leave. <a href="#">29 CFR 825.300</a> (d)(1).</p> <p>The agency must make this decision within five business days of when the employee gives notice of the need for leave. <a href="#">29 CFR 825.300</a> (d)(5).</p>	<p>Agencies may not require an employee to substitute paid leave for unpaid FMLA leave. <a href="#">5 CFR 630.1206</a> (d).</p> <p>Agencies may not deduct FMLA leave from an employee's 12-week entitlement unless the agency obtains the employee's permission. <a href="#">5 CFR 630.1203</a> (h).</p> <p>Thus, a Title II employee may elect to separately (consecutively) use paid leave before using unpaid FMLA leave.</p>
<b>Military - Active Duty Related Leave</b>	<p>An employee who is the spouse, child, parent, or next of kin of a covered servicemember may take 12 workweeks of leave during a 12-month period for exigencies related to active duty. <a href="#">29 CFR 825.126</a> (a).</p> <p>The Department of Labor has defined "any qualifying exigency" as follows: A short-notice deployment, military events and related activities, child care and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, parental care activities, and additional activities where agency and employee agree to the leave. <a href="#">29 CFR 825.126</a> (a)(1)-(9).</p>	<p>An employee who is the spouse, child, parent, or next of kin of a covered servicemember may take 12 workweeks of leave during a 12-month period for exigencies related to active duty. <a href="#">5 USC 6382</a> (a)(1)(E),(3).</p> <p>OPM regulations implementing the "qualifying exigency" provisions of FMLA Title II are found at <a href="#">5 CFR 630.1204</a>.</p> <p>Under <a href="#">5 CFR 630.1204</a> , a "qualifying exigency" includes: 1) short-notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post-deployment activities; 8) additional activities.</p>
<b>Military - Servicemember caregiver leave</b>	<p>employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who suffers a serious injury or illness on active military duty is entitled to 26 workweeks of leave during a single 12-month period to care for the servicemember. <a href="#">29 CFR 825.127</a> ; See <a href="#">29 USC 2612</a> (a)(3)-(4).</p> <p>When an eligible employee takes FMLA leave to care for a servicemember, the "single 12-</p>	<p>eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who suffers a serious injury or illness on active military duty is entitled to 26 workweeks of leave during a single 12-month period to care for the servicemember. <a href="#">5 USC 6382</a> (a)(3).</p> <p>In 2009, OPM proposed regulations to bring <a href="#">5 CFR 630.1205</a> in line with <a href="#">29 CFR 825.127</a>. Under these propose rules, the "single 12-month" period described</p>

month" period begins on the first day the eligible employee takes leave to care for a servicemember and ends 12 months after that date. [29 CFR 825.127](#) (e)(1).

Thus, an employee could take 26 weeks for servicemember-related leave after taking 12 weeks under general FMLA provisions. However, once the employee invokes the servicemember-related provisions, she is limited to 26 weeks of total FMLA leave until the end of the "single 12-month" period.

The FMLA Title I servicemember provisions provide for leave to care for a veteran for up to five years after the veteran leaves military service. [29 USC 2611](#) (15)(B).

in [5 USC 6382](#) would begin on the first day the employee takes leave to care for a covered servicemember and would end 12 months after that date. [73 Fed. Reg. 43.077](#) (08/26/09).

Thus, as with Title I, an employee would be able take 26 weeks for servicemember-related leave after taking 12 weeks under general FMLA provisions. However, once the employee invokes the servicemember-related provisions, she would be limited to 26 weeks of total FMLA leave until the end of the "single 12-month" period.

The FMLA Title II servicemember provisions provide for leave to care for a veteran for up to five years after the veteran leaves military service. [5 USC 6381](#) (8)(B).