

# CLIENT NEWS BRIEF

## Department Of Labor Opinion Says Family Medical Leave Allowed For Parental Attendance At IEP Meetings At School

On August 8, 2019, the U.S. Department of Labor issued an opinion letter (Opinion Letter) stating that the Family Medical Leave Act (FMLA) covers intermittent leave to attend a child's Individual Education Program (IEP) meeting, so long as the child suffers from a qualifying "serious health condition" under the FMLA. Special education IEP meetings are convened to develop, review, and revise the written document created and implemented to meet the educational needs of a child with a disability.

Under the FMLA, an eligible employee of a covered employer is allowed to take up to twelve weeks of job-protected, unpaid leave each year to "care for a family member with a serious health condition." "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment and care for a family member. Leave may be intermittent, and can be used to cover both psychical and psychological care, as well as making arrangements for changes in that case. The Opinion Letter informs employers that parental attendance at a qualifying child's IEP meeting may constitute "care of a family member with a serious health condition" under the FMLA.

The Opinion Letter notes that attendance at an IEP meeting is "essential to [the parent's] ability to provide appropriate physical or psychological care" for a child. According to the Department of Labor, parents help participants make medical decisions, discuss their child's well-being and progress with the providers of services, and "ensure the school environment is suitable to their medical, social, and academic needs." Such contributions constitute "arrangements for changes in care" within the scope of intermittent leave under the FMLA. Notably, a change in care for a family member does not have to involve a facility that provides medical treatment. (*Wegelin v. Reading Hosp. & Med. Ctr.*, 909 F. Supp. 2d 421, 429-30 (E.D. Pa. 2012).)

While a child's physician does not need to be present at an IEP meeting in order for a parent's leave to qualify as intermittent FMLA leave, employers can continue to require employees to timely provide a copy of a certification issued by their child's health care provider that meets the criteria to support the request for leave. It is possible that not every student with an IEP will have a serious medical condition under the FMLA. Therefore, it is important to verify that the FMLA eligibility requirements are met when a request for such leave is made.

Public agency employers should take steps to ensure that supervisors and human resource professionals are informed of this permissible use of intermittent FMLA leave and associated verification parameters. Public agencies should review employee handbooks, policies, and collective bargaining agreements regarding qualifying leave under the FMLA to determine whether any updates are necessary.

If you would like to discuss the Opinion Letter, how to handle requests for FMLA leave, whether your policies need updating, or if you have any other questions as to what constitutes "care for a family member with a serious

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health condition” under the FMLA, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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