

## Employment Law Q&A: Using intermittent FMLA leave for child care



Ryan Neumeyer | Wednesday, October 2, 2019

**Q. Can an employee take leave to attend a parent teacher conference for a child with an individualized education plan (IEP)?**

A. The Family Medical Leave Act (FMLA) permits an eligible employee to take up to 12 weeks of unpaid, job-protected leave per year to care for an immediate family member of the employee who has a serious health condition. Care for a family member includes physical and psychological care as well as making arrangements for that care. 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. However, an employer may require an employee to timely provide a copy of a certification—issued by a health care provider and meeting certain criteria—supporting his or her request to take such leave.

In a recent [Opinion Letter](#), the Department of Labor addressed whether intermittent FMLA leave can be used for non-medical care related to a family member's serious condition. In this situation, a parent with a child who had two FMLA qualifying serious health conditions, wrote to the DOL explaining that the child had pediatrician prescribed speech and physical therapy from the school and the parent had to attend periodic meetings with teachers regarding such care. The parent inquired about whether intermittent FMLA time could be used to attend the IEP meetings at the child's school.

The DOL concluded that the parent could use intermittent FMLA leave to attend IEP meetings. The DOL stated that the FMLA definition of "care" includes making arrangements for care, and thus an employee's attendance at an IEP meeting constitutes making arrangements for the child's care and is a qualifying

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reason to take intermittent FMLA leave.

If your employee has sought FMLA leave for their child's serious health condition and it is had been certified as such, the employee may take leave to attend the IEP meetings if such meetings are related to the serious health condition. According the DOL, an employer must offer FMLA when an employee requests FMLA leave or when the employer acquires knowledge that leave may be for a FMLA purpose. The employer must notify the employee of his or her eligibility to take leave, and inform the employee of his or her rights and responsibilities under FMLA.

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