

Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) is a federal law that entitles eligible postal employees to take unpaid, job-protected leave for qualifying family and medical reasons and requires continuation of their group health benefits under the same terms and conditions as if the employee had not taken leave.

Eligible employees are entitled to use up to 12 workweeks of FMLA-protected leave in a 12-month period for qualifying conditions. Under the law, the Postal Service is prohibited from interfering with, restraining or denying the exercise of any rights provided by FMLA. Nor can the Postal Service retaliate against an employee for exercising or attempting to exercise FMLA rights. Employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or any disciplinary actions. Employees cannot waive, nor may employers induce employees to waive their prospective rights under FMLA.

FMLA is not a separate category of leave; time off protected by the FMLA is charged to annual leave, sick leave or leave without pay (LWOP) in accordance with current Postal Service leave policies. Also, FMLA does not provide letter carriers with any additional paid leave beyond what they already receive under NALC's *National Agreement* with the Postal Service and any related postal handbooks and manuals.

Letter carriers are eligible for FMLA-protected leave if they have:

1) Worked for the Postal Service for at least 12 months.

CCA breaks in service do not cancel out accrued time of service for FMLA purposes since the 12 months do not have to be consecutive.

And you must have:
2) Accrued at least 1,250 work hours during the 12-month period immediately preceding the leave.

Only actual hours worked, not time spent on paid leave, are used to determine if an employee has met the 1,250-work hour requirement.

Every eligible postal employee is guaranteed FMLA-protected leave for any of the following 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 their job.
- 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.

Requesting FMLA-protected leave

If you know ahead of time you are going to need leave (e.g., pregnancy),

NALC Form 6 - Family and Medical Leave Act

Employee: Return the completed form to the appropriate FMLA administrator (HRSC address or fax per attached sheet) and keep a copy for your own records.

Employee's Notification of New Child in the Family

To take FMLA leave for a new child in the family, an employee must notify management within 30 days (unless practicable) of the anticipated date of the birth, placement in foster care or adoption. This form may be used for that purpose. When the leave begins, complete and submit a PS Form 3971, Request for or Notification of Absence, for each pay period in which leave will be taken.

Employee's Name: _____

EIN: _____ FMLA Case # (if known): _____

To Postal Supervisor:

This serves as notification under the Family and Medical Leave Act of 1993 that I expect to become the parent of a new child, by (check one)

☐ Birth

☐ Adoption

☐ Placement in foster care

on (approximate date) _____

Following that date I plan to take time off work to care for my new child. I plan to return to work on (approximate date) _____

Employee Signature: _____ Date: _____

Family and Medical Leave Act Rules: New Child in the Family

The Family and Medical Leave Act guarantees each letter carrier 12 weeks of time off per postal leave year for a new child in the family—by birth, by placement of a foster child or by adoption. The age of a child accepted or placed in foster care does not affect eligibility for leave (except that the child must be under 18, or older but incapable of self-care). When both parents work for the Postal Service, each parent may take up to 12 weeks of FMLA leave for this purpose.

Before the child arrives. In the case of a birth, the pregnant employee is entitled to FMLA leave before the actual date of birth, for prenatal care or if her condition makes her unable to work. Accrued paid sick leave may be used for these purposes; the employee also may use annual leave or LWOP in accordance with existing rules.

Caring for the child during the first year. Whether the child arrives by birth or by placement, a mother or father is entitled to FMLA leave to attend counseling sessions, appear in court, consult with his or her attorney or doctors representing the birth parent, or submit to a physical examination. A father or mother is entitled to take FMLA leave for these reasons, and may use annual leave or LWOP in accordance with existing rules.

Care for the child during the first year. When the child arrives by birth or by placement, a mother or father is entitled to FMLA leave to care for the child during the first year. No medical justification is needed—the FMLA leave is guaranteed simply to care for the new child. This particular right to FMLA leave terminates on the first anniversary of the child's birth or placement.

LWOP rules. An employee has the right to choose LWOP when taking FMLA leave; he or she need not exhaust sick or annual leave first. Although management generally has discretion in the granting of LWOP (see Section 514 of the USPO's Employee and Labor Relations Manual), when it comes to FMLA leave management must grant an employee's request to use LWOP rather than sick or annual leave.

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notify management of the need for leave and provide appropriate supporting documentation at least 30 days before the absence is to begin. If 30 days' notice is not practicable, you must give notice as soon as possible (i.e., the same day you learn about your need for leave or the next business day).

If you have an unexpected absence that qualifies for FMLA protection, the law states that you must comply with the employer's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. Letter carriers should notify management as soon as practicable in writing via PS Form 3971, Request for or Notification of Absence, by telephone using the Interactive Voice Response

system, or by submitting a request via the Enterprise Leave Request Application accessible through LiteBlue using a computer, smartphone or other mobile device. You should submit accompanying medical certification for FMLA-covered absences within 15 days, and you should correct insufficient certification within seven days (unless you can't despite good-faith efforts in the circumstances).

The certification may be in any format, including the NALC FMLA forms, if it provides the information required for certification by the FMLA regulations. Members can find

these forms at nalc.org/workplace-issues/contract-administration-unit/fmla.

You may ask, "Can management require supporting documentation for an absence of three days or less in order for an employee's absence to be protected under the FMLA?" In response to that question, the national parties have agreed that:

The Postal Service may require an employee's leave to be supported by an FMLA medical certification, unless waived by management, in order for the absence to be protected. When an employee uses leave due to a condition already supported by an FMLA

certification, the employee is not required to provide another certification in order for the absence to be FMLA protected.

For the implementing regulations, specific family member definitions, or more information on the FMLA, visit dol.gov/agencies/whd/fmla. If you have any additional questions or concerns about USPS and the FMLA, you should consult with your shop steward or NALC branch officer.

When you have the need to take leave for one of the qualifying conditions, be sure to exercise your rights and protect yourself with FMLA. **PR**

Former vice president Ron Brown dies

Ronald Brown, age 84, died on Oct. 16. During his 62-year postal career, Brown served as a Region 6 national business agent (NBA), national vice president and national director of retired members.

Joining the Postal Service in 1964 after three years in the Army, the Royal Oak, MI Branch 3126 member became safety officer in 1970 and shop steward the following year. After serving his branch as secretary from 1973 to 1975 and vice president the next two years, and as state training officer in 1977, Brown was named regional administrative assistant for Region 6 that year, where he excelled in grievance handling and arbitration.

Brown spent 10 years as NBA for Region 6 before being appointed as vice president in September 2000 and served until 2002, when he was appointed director of retired members.



He served in that position until the end of the year.

Affectionately known as "The Godfather," Brown was a respected leader, mentor and friend who continued to be

involved with NALC projects and trainings after his retirement.

"I grew up in a union family, so I've always been aware of how the union helps working people," Brown told *The Postal Record* in 2000.

He is survived by his beloved wife of 64 years, Marie Brown; his children, Ronnie Brown and Donna Brown; his grandchildren, Cory Bowman, Parker Bowman and Sarah Carlson; and his brother, Jerry Brown. He was preceded in death by his parents, Thelmer and Pauline Brown.

"NALC mourns the loss of Brother Brown," NALC President Brian L. Renfroe said. "He dedicated more than six decades to fighting for the rights of letter carriers, never refusing to help a union brother or sister in need, and setting a standard of service that will not be forgotten. On behalf of the NALC, I extend our deepest sympathies to his family and friends. He will be greatly missed." **PR**