



19 April 2017

TO: RAILS Board Policy Committee

FROM: Dee Brennan

SUBJECT: Administration of FMLA

Currently, RAILS policy is to require employees to use their paid leave **concurrent** with their Family and Medical Leave Act leave. This is not a requirement of FMLA or any other labor law. See below for information from the Department of Labor website.

The Family and Medical Leave Act

[The Family and Medical Leave Act](#) ("FMLA") provides certain employees with up to 12 workweeks of unpaid, job-protected leave a year, and requires group health benefits to be maintained during the leave as if employees continued to work instead of taking leave. This **Compliance Guide** summarizes the FMLA provisions and regulations¹, and provides answers to the most frequently asked questions. More detail on the FMLA may be found in the regulations ([29 CFR Part 825](#)).

Summary

The FMLA became effective **August 5, 1993**, for most employers and employees. (For those covered by a collective bargaining agreement (CBA) in effect on that date, the FMLA became effective on the expiration of the CBA or February 5, 1994, whichever was earlier.)

This law covers only certain employers; affects only those employees eligible for the protections of the law; involves entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; sets requirements for notice and certification of the need for FMLA leave; and protects employees who request or take FMLA leave. The law also includes [certain employer recordkeeping requirements](#).

Substitution of Paid Leave

Employees may choose to use, **or** employers may require the employee to use, accrued **paid** leave to cover some or all of the FMLA leave taken. Employees may choose, or employers may require, the substitution of accrued **paid** vacation or personal leave for any of the situations covered by FMLA. The substitution of accrued sick or family leave is limited by the employer's policies governing the use of such leave.

I am recommending that we change this policy so that FMLA leave and paid leave may run **consecutively** if employees choose to handle their situations in this manner.

I am recommending this change to give employees more options when they have medical or other issues that necessitate absence from work. We have discussed this issue at Executive Team meetings, and we all concur that this change would be a good thing for RAILS staff. We recognize that it may result in longer absences for employees, and some individuals might abuse it. But, we would rather deal with individual performance issues that arise, and allow employees options when they are dealing with difficult personal issues.

At the Policy Committee meeting, we can provide more information and specific scenarios. I am not providing any revised policies at this time; I want us to discuss the concept and if the committee and board are in agreement we will revise the policies accordingly.