



FMLA Eligibility

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

FMLA Eligibility	3
------------------------	---

FMLA Eligibility

Reference Number: MTAS-512

On February 23, 2015, the US Department of Labor's Wage and Hour Division announced a final rule to revise the definition of 'spouse' under the Family Medical Leave Act of 1993. The final rule amends the definition of spouse so that eligible employees in legal same-sex marriages will be able to take leave under protection of the FMLA to care for their spouse or family member, regardless of state of residence, effective March 27, 2015.

With the addition of the change to include same sex marriages as covered spouses, Family Medical Leave (FML) eligibility continues to entail:

- Employees must be employed by or with a covered employer for a total of 12 months. These months do not have to be consecutive. Time the employee is employed by a temporary agency does count toward this 12-month period.
- Employees are required to have actively worked at least 1,250 hours over the previous 12 months before becoming eligible for FML and;
- Employees must work for a covered employer where at least 50 employees are employed by the employer (within a 75-mile radius). However, notification requirements apply to all governmental agencies regardless of size.

Break-in-Service

Under the law, if an employee has a break in employment that lasts seven years or less, the employee's service prior to the service must be counted when determining if the employee has been employed for at least 12 months.

Breaks in service of more than seven years need not be counted unless the break in service was caused by:

- The fulfillment of National Guard or Reserve military duties
- A written agreement including collective bargaining agreement
- The employer's agreement to re-hire the employee after the break

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

Source URL (retrieved on 05/25/2020 - 2:14pm): <https://www.mtas.tennessee.edu/reference/fmla-eligibility>



Municipal Technical Advisory Service
INSTITUTE for PUBLIC SERVICE