
29 C.F.R. § 825.702

Interaction with Federal and State anti-discrimination laws.

- (a) Nothing in FMLA modifies or affects any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act). FMLA's legislative history explains that FMLA is “not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990 [as amended] or the regulations issued under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employers covered under the [ADA], employers who receive Federal financial assistance, employers who contract with the Federal government, or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employers within its coverage, and not to limit already existing rights and protection.” S. Rep. No. 103-3, at 38 (1993). An employer must therefore provide leave under whichever statutory provision provides the greater rights to employees. When an employer violates both FMLA and a discrimination law, an employee may be able to recover under either or both statutes (double relief may not be awarded for the same loss; when remedies coincide a claimant may be allowed to utilize whichever avenue of relief is desired. *Laffey v. Northwest Airlines, Inc.*, 567 F.2d 429, 445 (D.C. Cir. 1976), *cert. denied*, 434 U.S. 1086 (1978).
- (b) If an employee is a qualified individual with a disability within the meaning of the ADA, the employer must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employer must afford an employee his or her FMLA rights. ADA's “disability” and FMLA's “serious health condition” are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period due to their own serious health condition, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employers to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)