

COMPUTING FMLA LEAVE TIME: AN EXCEL EXERCISE

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ABSTRACT

There are four methods allowed to compute the leave year for the Family and Medical Leave Act. Though they sound similar, they have very different implications for both employer and employee. One important consideration is the risk to the employer of overlapping employee requests. The purpose of this Excel-based exercise is to allow individual students to experiment with the four options and discover for themselves the implications of each method. Because the exercise is Excel-based and designed for individual use, it can be effective for either traditional classroom or asynchronous online learning. Though the exercise requires no previous exposure to the law, it is assumed that the level of application and detail would be most appropriate for graduate students.

INTRODUCTION

The Family and Medical Leave Act of 1993, under its basic leave entitlement provisions, “grants an eligible employee up to 12 workweeks of unpaid leave during any 12-month period” for specified family medical issues. Leave may be taken for serious medical attention needed by a parent or child, or the employee; and may be taken by either sex. Leave may be taken intermittently and in intervals smaller than a day (29 C.F.R. ¶ 825.200(b)). The employer may count part or all of the time as vacation or other accrued leave and authorize pay accordingly (29 C.F.R. 825.207).

As with any work-related law, the intention is to balance privileges between the employee and employer. However, such privileges can be abused. The employee may seek to maximize availability to family without fear of losing his or her job or company status and pay. The employer may seek to minimize disruption of productivity. Disruption for the employer is greatly affected by two variables: (1) how many consecutive days a given employee is away from the job, and (2) how many employees are gone at the same time. To address these two issues, employers (HR) have some discretion, but only if they understand their options.

METHODS FOR COMPUTING LEAVE PERIOD

The Act allows the employer to choose from among four methods for computing the “12-month period.” They are calendar fixed year, individualized fixed 12-month period, 12-month period counted forward, and rolling 12-month period. In no case is leave carried over to the next 12-month period (Guerin & England, 2009, p. 100). Employers are free to choose any one of these four methods, as long as the choice is applied consistently and uniformly to all employees. Once a company picks one, it cannot change to another without first giving all employees at least 60 days notice, and only if the change does not cause any employees to lose any leave time. If an employer fails to do so, a court will apply the option that provides the most beneficial outcome for the employee.

Even though the four methods are federally authorized (29 C.F.R. ¶ 825.200(b)), and every employer of over 50 employees must make the decision (Martocchio, 2006, p. 174), most textbooks do not explain the options. Possibly this is because without opportunity to experience them, they are difficult to grasp. The four methods are briefly described below.

Calendar fixed year

The organization may pick any day of the year as the beginning date for all employee Family and Medical Leave—January 1, company fiscal year, or a state may require a certain date. This method is simple for employers to administer and for employees to understand. Imagine the problem for the employer, however, if many employees choose the same dates to leave, e.g., a bad flu season. Also, is it possible that need for care might coincidentally coincide with vacation seasons?

Individualized fixed 12-month period

The organization may opt to assign the beginning of the leave count differently for each employee. The basis could be the employee's birthday, anniversary of joining the organization, or any date that is not just arbitrary. This would eliminate the bunching of employee claims that occur with fixed calendar years, but other employer risk remains: “An employee could take 24 weeks of consecutive leave in a row, if the leave spans the end of one year and the beginning of the next” (Guerin & England, 2009, p. 100).

A 12-month period counted forward

The organization may choose not to have a fixed date at all, and begin the 12-month count from the first claim when no count is in progress. From that date on, the employee may take up to a maximum of 12 weeks before that same date the next year, after which no count is in progress until another claim. Only slightly more complicated, this method reduces the employer's risk of consecutive claims exceeding 12 weeks substantially, but not completely. Individual claims could still bunch at the end of one year and begin again immediately in the next.

A “rolling” 12-month period

The organization may look at each claim in terms of how many claims have been made in the previous 12 months. Each time leave is requested, the employer counts up qualified leave taken in the 12 months prior to the request. As used leave drops off the oldest months, new leave becomes available in the future. Records must be maintained and accessible for each employee who makes a claim, just as with the counted forward method, but this is the only method for which an employee cannot claim more than 12 consecutive weeks in any given 12-month period (Guerin & English, 2009, p. 102). The following table summarizes the advantages and disadvantages of each of the four methods.

| Method of Computing FMLA Leave | Advantages | Disadvantages |
|--|--|--|
| Calendar fixed year | Easiest to implement and monitor | Allows maximum consecutive days and maximum overlap of employee leave requests with those of other employees |
| Individual fixed 12-month period | Reduces potential overlap of leave with that of other employees | Allows maximum consecutive days |
| 12-month period counted forward | Reduces potential leave overlap with other employees | Most difficult to monitor |
| Rolling 12-month period (12-month period counted backward) | Minimum potential for consecutive days or overlap with other employee requests | Calculated at the time of each leave request |

EXCEL EXERCISE IN FMLA LEAVE OPTIONS

A student can be told these facts, and can even memorize the methods and right answer without ever really understanding why it is the “right” answer. This deficiency can be remedied by offering students the opportunity to make leave requests within the four methods and allowing them to discover the implications of the various methods themselves.

The [accompanying Excel program](#) and instructions therein are designed to allow the student to assume the roles of two deviant employees, each seeking to cause the greatest leave hardship for their employer. The four methods are structured into four tables. By choosing days for leave, a student can experiment to find the worst case scenario for the employer for each method, and then compare the results across methods. Since the math for each method is automatic, the student can immediately experience the impact of each correct entry, and will know immediately if he or she is requesting something illegal (too many days in a leave year) or irrational (more days than a given month contains).

The left columns of each table continually inform the student of how many days in each of the two leave years the student has left to assign, how many consecutive days each employee has requested, and the total number of consecutive days that the two employees have requested to be absent at the same time. In trying to maximize numbers, the student will inevitably better understand how each method works.

Suggested Student Arrangements

For traditional classroom settings the instructor may project the spreadsheet on a screen and ask students to suggest blanks to fill in each table until they are complete. If students have terminals at their desks, they may solve the problem individually or in small teams.

Because two employees are necessary to cause maximum hardship on the employer, the spreadsheet lends itself naturally to two students working together, each responsible for a separate row in the table. This may increase speed of learning, since they will learn from each other as they fill in the tables.

The software is self-explanatory. Therefore, the assignment can also be given as a homework assignment. A hard copy can be printed and turned in. If given as homework, students may be asked to type an additional page explaining their conclusions.

Online, the exercise seems to lend itself best to being individually assigned. As a group assignment one student may not wish to wait for teammate replies to complete the tables. Students could also manipulate individual copies while participating with an instructor through WIMBA or other synchronous medium. [I have not tried this. If you do, please let me know your experience.]

The exercise is simple enough for use in classes with students who have no previous HR background; thus, it could be presented in an undergraduate class. However, because the exercise is at the practice level of detail, instructors may find it most applicable for graduate students or practitioners.

Technical Comments

The spreadsheet is laid out for printing as two pages. The first page contains general instructions. The second will contain student work and has a line for student name(s).

The spreadsheet is “protected,” so that students may only type in colored cells. It also means that imbedded formulas cannot be changed, and that some cells are inaccessible for view. To better understand the sheet or modify it for your own use, click Tools > Protection > Unprotect. Press Enter when a password is requested; there is no password. Hidden rows are detectable along the left margin by gaps in the numbering.

SUMMARY

The Family Medical Leave Act of 1993 protects privileges for both the employer and employee, but employers must understand the implications of their own choices. The method chosen for computing the 12-month limits on leave will have long-range implications for productivity. Using the Excel program described, a student can quickly discern the advantages and disadvantages of each of the four methods that are permitted by law for computing the 12-month leave period and come to an understanding of which method would best serve the needs of the employer.

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