



Mineral



Question of the Week

December 31, 2025

Question

Can we terminate someone for taking FMLA leave during a major project they committed to helping with?

ANSWER

No. When a leave of absence is “job protected,” like the Family and Medical Leave Act (FMLA), it means you can’t terminate or demote the employee or take away any benefit they earned or were entitled to because they took that time off. Upon their return, you generally need to restore them to their original job or an equivalent position with the same pay, benefits, and other terms and conditions of employment. These protections enable employees to take time off without having to worry about losing their job or facing other adverse employment action.

Job-protected leave does not, however, provide safeguards against layoffs or job changes that would have occurred even if the employee hadn’t taken leave—it’s not intended to give employees on leave more benefits or protections than employees not on leave. It also doesn’t prohibit you from disciplining or terminating an employee after their leave for reasons unrelated to their absence. That said, if you need to take adverse action while they’re on leave or shortly afterwards, it’s especially important to document the legitimate business reasons for the action in case the employee claims your motives are retaliatory.

You can learn more about protected leaves on the [platform](#).

This Q&A does not constitute legal advice and does not address state or local law.