DMEC
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CONFERENCE

Beyond Compliance: Strengthening Job Protection in Employer Leave Programs

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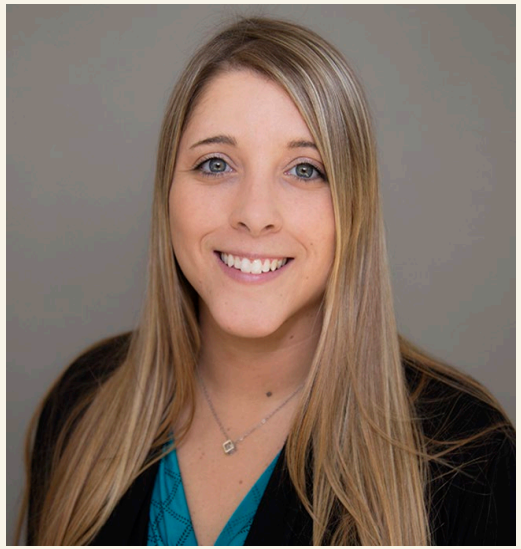
TheStandard®

Presenters



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Legal Disclaimer

The information presented is not legal advice and should not be relied upon or construed as legal advice. The information presented is based on rules, regulations and guidance issued as of August 3, 2026.

The information in this presentation is for general informational purposes only and does not purport to be complete or to cover every situation. You should consult with your own legal advisors to determine how these laws will affect you.



Polling Questions

Before we step up to the plate, how many of you:

- Have an employee workforce spread out in multiple states?
- Have employees in states with paid family or medical leave programs, such as California, New York, Washington, Massachusetts or others?
- Offer internal paid leave benefits, such as parental leave, caregiver leave, salary continuation or company medical leave?
- Have an established process for handling ADA accommodations?



Agenda

- Identify job protection risks when leave types overlap (FMLA, ADA, PFML, company leave), especially in multi-state environments
- Evaluate employer actions to spot gaps in eligibility, entitlements, notice and job protection
- Apply coordination strategies to align leave programs and improve the employee experience



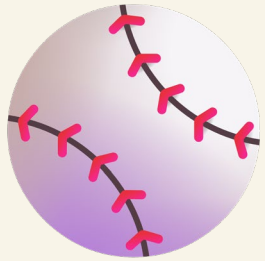
Managing the At-Bat



- Using example scenarios, we'll review the employer's approach and decide whether it reflects a "safe play" or a potential risk.

Making the Call

How to identify a “ball” or a “strike”.



Ball

“Aligned and Coordinated”

The employer is taking a thoughtful, coordinated and compliant approach.



Strike

“Risks and Gaps”

The employer may be missing or assuming something or moving too quickly.

Meet Alex



- Full-time employee
- 11 years with their employer
- Multi-state employer
- Experiencing multiple life events

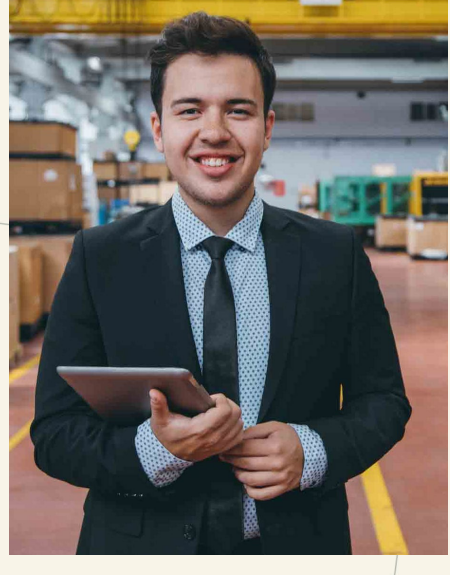
Scenario One

First Pitch: Fastball Fury



First Pitch: Fast Ball Fury

Alex's leave needs arise unexpectedly, requiring immediate time off.



Leave Reason
- Care for a family member

Leave Entitlements
- FMLA
- PFML

Alex's Life Event

- Alex's parent suddenly suffers a heart attack requiring hospitalization and surgery.
- Alex follows their employer's internal policies and procedures to file a leave.
- Alex requests a 'care of family member' leave to care for their parent through recovery, as soon as practicable.

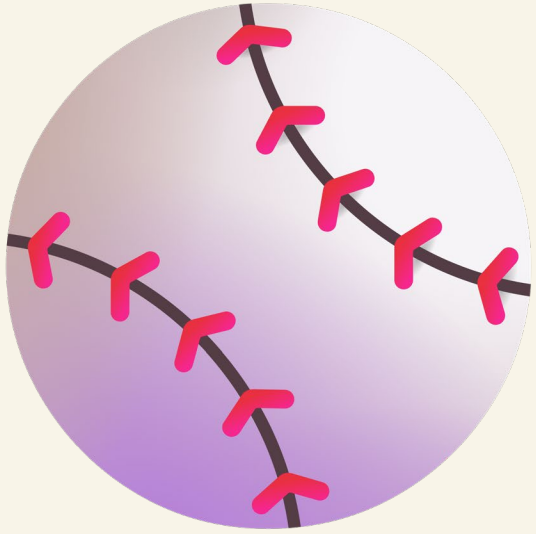
First Pitch (2 of 4)

Employer Actions

- Approves both programs
- Tracks FMLA and PFML separately
- Missed sending notice requirements
- Does not clearly explain whether job protection is coming from one law, both laws, or how the timelines align



First Pitch (3 of 4)



OR



First Pitch (4 of 4)

Strike

Risks and Gaps

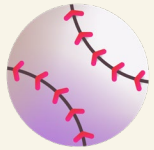
- Leave managed in silos
- Job protection not clearly defined
- No clear coordination plan



Ball

Aligned and Coordinated

- Coordinate leave programs early
- Define eligibility and job protection
- Communicate a clear plan



Rulebook Review



Family Medical Leave Act

12 workweeks of leave in a defined 12-month period for most leave reasons.

A 12-month period can be one of the following:

- calendar year
- fixed 12-month period
- rolling forward
- rolling backward

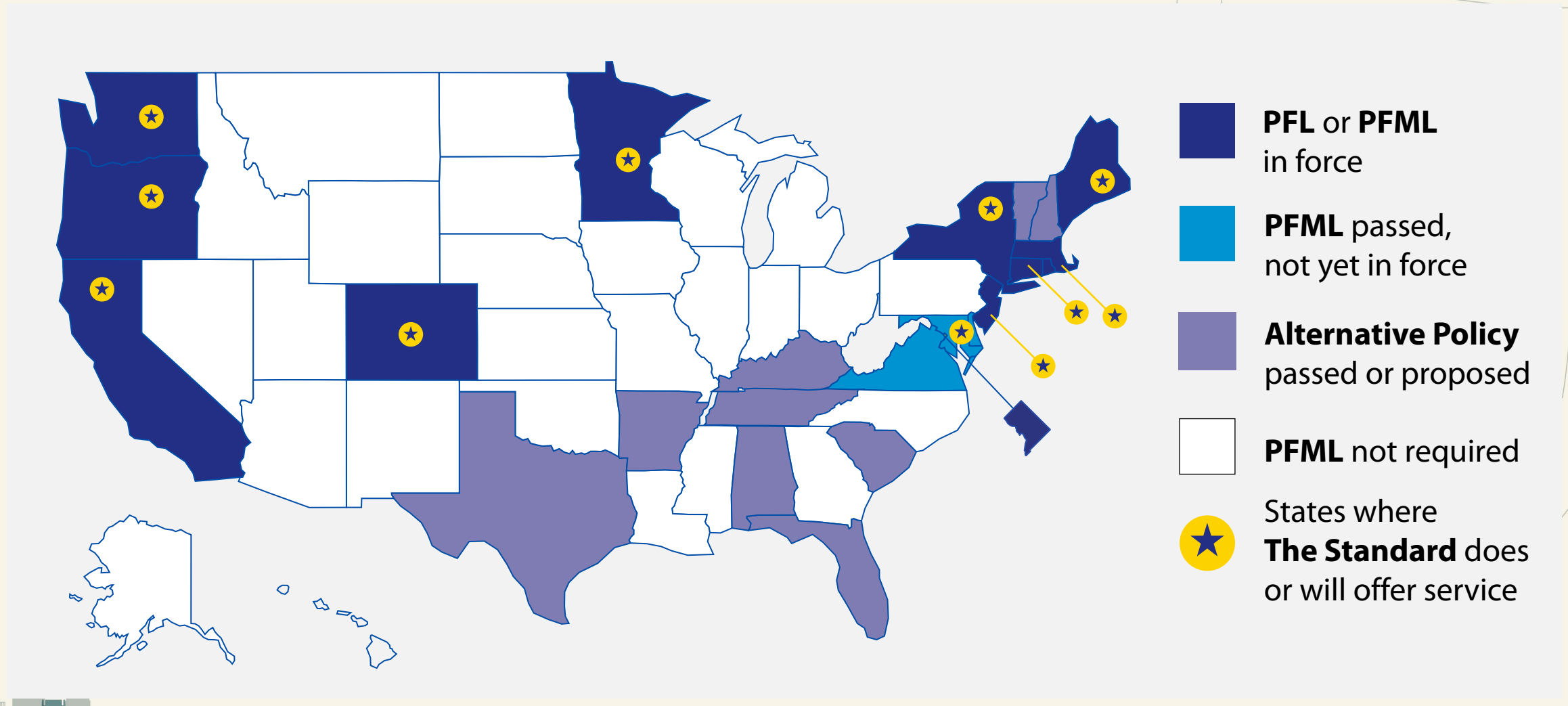
Covered Employers: 50 or more employees for 20 or more calendar workweeks during the preceding calendar year.

Covered Employees

- Employed for at least 12 months by a covered employer.
- Worked for at least 1,250 hours during the previous 12-month period before leave.
- Employed at a worksite with 50 or more employees, within 75 miles.



PFML Today: The Big Picture



Learn more by visiting our interactive PFML map.

State-Mandated Programs

What are the differences?

These state-mandated coverages require employers to provide certain paid leave benefits to employees working in the state.

Statutory Disability

Provides pay for an employee's own medical leave.

Paid Family Leave*

Provides employee paid leave to care for others.

Paid Family and Medical Leave

Provides employee paid leave for own medical and to care for others.

*Passed in states with existing statutory disability but each state has slight variations to the name.

What's Covered?

Leave Reason	FMLA	PFML
Employee's own serious health condition	✅ Covered	✅ Covered (Medical Leave)
Bonding with a new child	✅ Birth, adoption, foster (within 12 months)	✅ Covered (Family Leave – same general timeframe)
Care for family member with serious health condition	✅ Covered (limited definition of family)	✅ Covered (often broader definition of family)
Pregnancy / Prenatal care	✅ Covered (as part of serious health condition)	✅ Covered (under medical leave)
Military – qualifying exigency	✅ Covered	✅ Covered (often under "Active Duty" leave, varies by state)
Military – caregiver leave	✅ Covered (up to 26 weeks)	✅ Covered (may be included in family or military leave depending on state)
Safe leave (domestic violence, harassment, stalking, etc.)	❌ Not covered	✅ Covered in some states (varies)
Expanded family definitions	❌ Limited (spouse, child, parent)	✅ Often broader (may include siblings, grandparents, chosen family depending on state)

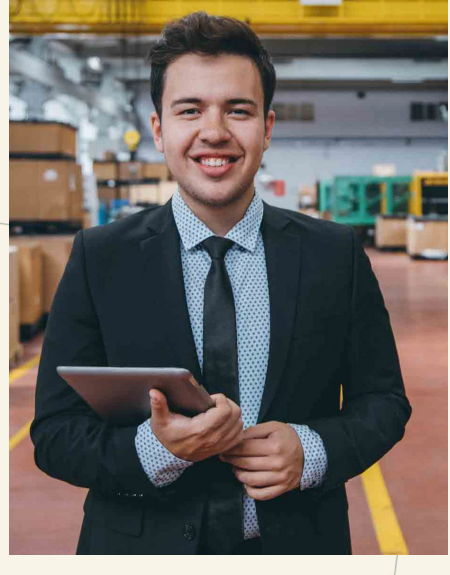
Scenario Two

Second Pitch: Curveball Confusion



Second Pitch: Curveball Confusion

Alex's work state changes.



Leave Reason
- Bonding

Leave Entitlements
- FMLA
- Unpaid state leave
- Local leave laws
- Employer-sponsored leave

Alex's Life Event

- Alex accepts a promotion and relocates to a new state with the same employer.
- One month later, they adopt a child and request bonding leave.

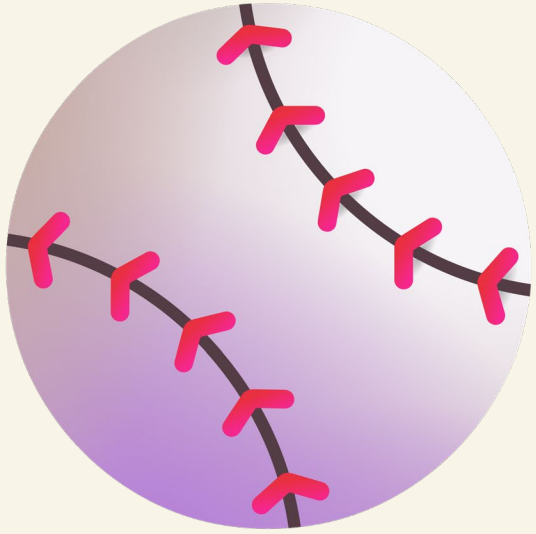
Second Pitch (2 of 4)

Employer Actions

- Assumes state, local and employer leave coverage align without verification.
- Approves bonding leave without confirming new state eligibility.
- Does not evaluate how prior leave usage impacts job protection.



Second Pitch (3 of 4)



OR



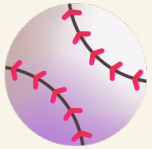
Second Pitch (4 of 4)

Strike

- Leave applied without verification
- Gaps in:
  - Eligibility confirmation
  - Multi-state and timing assessment
  - Communication to Alex

Ball

- Confirm governing state law and applicable requirements
- Align company leave with other entitlements
- Clearly communicate leave availability to the employee



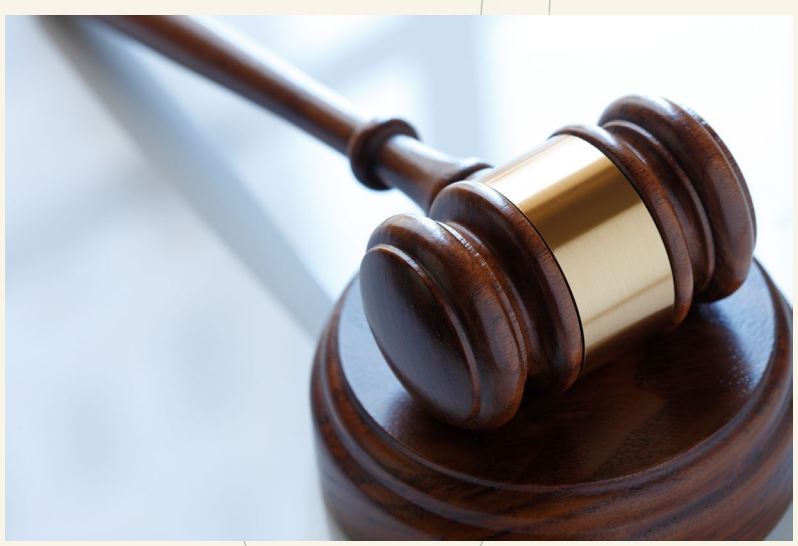
Rulebook Review



State Leaves

Unpaid, sick leaves and any applicable local and municipal leave laws should also be taken into consideration. These may include:

- Family leave laws
- Medical leave laws
- Pregnancy leave laws
- Workers' compensation laws
- Disability discrimination laws
- Domestic/sexual violence laws
- Adoption leave
- Parental leave
- Military leave
- Small necessities leave



State and Local Sick Leave Laws

State and local sick leave laws add complexity but when managed effectively through integrated leave programs, they strengthen compliance and job protection.

Accrued Paid Sick Leave

- Employees earn paid time off based on hours worked
- Often used for personal illness, preventive care or caregiving

Local/County-Specific Sick Leave Requirements

- May apply based on work location (city, county or state)
- Can differ in accrual rates, usage rules and carryover limits

Paid vs. Unpaid Leave Interaction

- Some laws provide paid time off (wage replacement)
- Others provide job protection only (unpaid leave)
- Employer programs may supplement or run concurrently



State and Local Sick Leave Laws (cont.)

Covered Reasons for Leave

- Employee's own health condition
- Care for family members
- Public health or safety-related absences

Notice and Documentation Requirements

- Employee notice expectations (when foreseeable/unforeseeable)
- Limits on when documentation can be requested



Employer-Sponsored Leave

Employer-sponsored leave programs provide flexibility but require clear coordination with other leave types. Common types of employer-sponsored leave include:

Parental Leave

- Time off to bond with a new child (birth, adoption, placement)
- Can be paid, unpaid or a combination
- Often runs alongside FMLA or state PFML

Personal/Non-Medical Leave of Absence

- Time off for reasons not tied to a medical condition
- Examples: relocation, education, non-medical family needs, extended time off
- Typically, unpaid and may not include statutory protections



Employer-Sponsored Leave (cont.)

Key design considerations include:

Paid vs. Unpaid

- May provide wage continuation or unpaid time off
- Can supplement or run concurrently with other benefits

Job Protection

- Not always guaranteed
- May depend on alignment with: FMLA, state PFML, company policy design

Eligibility

- May vary by tenure, hours worked, employee classification
- May or may not mirror statutory requirements

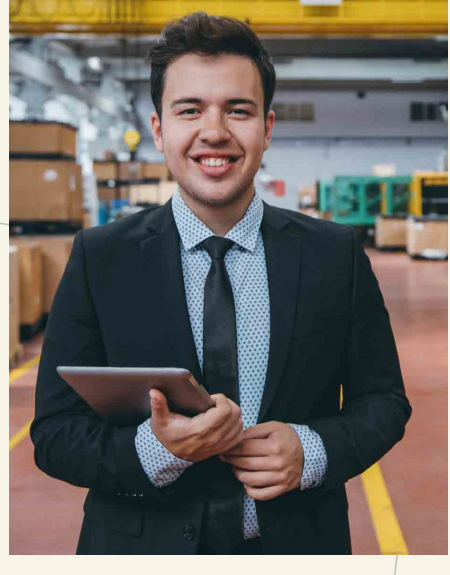


Scenario Three

Final Pitch: Full Count Decision



Final Pitch: Full Count Decision



Alex experiences a relapse, requiring limitations and restrictions.

Leave Reason
- Own serious health condition

Leave Entitlements
- FMLA
- PFML
- State leave
- ADA

Alex's Life Event

- Alex suffers an illness and is approved for any remaining leave available for their own serious health condition.
- They return to work, then experience a relapse and need to go out on leave again.
- Limitations and restrictions are required.
- All of Alex's leave is exhausted.

Final Pitch (cont.)

Employer Actions

- Reviews the exhausted leave banks
- Decides job protection has ended
- Denies additional leave
- Does not start an ADA interactive process



Let's Call a Timeout

Before we review the call, what should the employer be thinking about?

What's changed in this situation?	We've shifted from tracking leave to making a final decision about job protection.
What may still apply beyond leave exhaustion?	There may be additional obligations or next steps that still need to be considered.
What step are we about to make too quickly?	The decision may be moving too quickly without fully reassessing the situation.
What should happen before a final decision is made?	This is the point to pause, gather the right information and initiate the appropriate next step.




What's the
call?

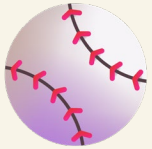
Final Pitch (cont.)

Strike

- Stopped at leave exhaustion
- ADA not considered
- No interactive process

Ball

- Review leave balances
- Reassess ADA applicability
- Engage in the interactive process
- Evaluate and document the decision



Rulebook Review



The Americans with Disabilities Act

What is leave as a reasonable accommodation?

Ultimately designed to provide an employee additional time to return to work, employees may need leave for reasons related to a disability, including:

- Obtaining medical treatment (ex. surgery, psychotherapy)
- Physical or occupational therapy
- Recuperating from an illness or an episodic manifestation of the disability
- Obtaining repairs on a wheelchair, accessible van or prosthetic device
- Avoiding temporary adverse conditions in the work environment
- Receiving necessary training

Title I of the ADA requires employers to provide reasonable accommodations for applications and employees with disabilities and prohibits discrimination based on disability in all aspects of employment.



The Americans with Disabilities Act (cont.)

Determining reasonable leave

What to Consider

- Each situation must be reviewed individually
- Engage in the interactive process
- Evaluate:
  - Duration of leave
  - Frequency (including intermittent leave)
  - Prior accommodations

Important Limitations

- Indefinite leave is generally not reasonable
- Employers may consider undue hardship
- Alternative options may include:
  - Reassignment to an equivalent role
  - Modified return-to-work approach



Leave Accommodation

How much leave is considered reasonable?

- It depends.
- Leave for an undefined period is generally not reasonable.*
- Review the facts and circumstances of each leave individually and always use the interactive process.

***Note: It's important to consider:**

- Is there a limit on the number of times leave as an accommodation can be granted?
- What about intermittent leave?



Leave Accommodation (cont.)

Do employers need to hold open the employee's job when on leave?

- Yes!
- Employees who are granted leave are entitled to return to their same position, unless the employer demonstrates that holding the position open is an undue hardship.
- Employers may also have to consider whether there is a vacant, equivalent position for which the employee is qualified and to which the employee can be reassigned to continue leave for additional time and then returned to this new position.



Wrapping Up

Alex's Overall Experience



During the At-Bat: What We Saw

First Pitch – Fastball Fury (Care for parent):

- FMLA and PFML were not clearly coordinated
- Job protection unclear from the start

Second Pitch – Curveball Confusion (Relocation + bonding leave):

- New state introduced different state requirements
- Local leave laws and employer-sponsored leaves were not fully coordinated
- Eligibility and coordination were assumed rather than verified

During the At-Bat (cont.)

Final Pitch – Full Count Decision (Own serious health condition + relapse):

- Decision made quickly at leave exhaustion
- ADA interactive process missed at a critical moment



Identifying the Gaps



Identifying the Gaps

Recognizing risk = knowing what is or isn't outside of the strike zone.

These gaps are easy to miss but they can have a real impact on both compliance and the employee experience.

- Treating each leave event as separate instead of connected
- Not confirming which law or state governs at each stage
- Failing to reassess as the situation evolves over time
- Stopping the analysis at "leave exhausted"
- Missing the ADA transition point at the end

Job protection risk isn't one moment; it's the cumulative effect of decisions over time.



The Winning Playbook



The Winning Playbook

Strong process = making the right swing at the right time.

Having consistent guidance helps ensure every decision, from the first pitch to the full count, is handled the right way.

- Coordinate all leave types from the start
- Map eligibility, timelines and job protection across programs
- Reassess at every transition (new reason, new state, return to work)
- Confirm the right governing law before making decisions
- Pause at critical moments — especially before final decisions
- Initiate ADA interactive process when appropriate



Leave management isn't about winning one pitch; it's about managing the entire at-bat.

Formal Leave and Accommodations Programs Boost the Workplace Experience



85%
Increased employee retention



52%
Increased employee productivity



47%
Lower employee absenteeism



30%
Increased overall company safety

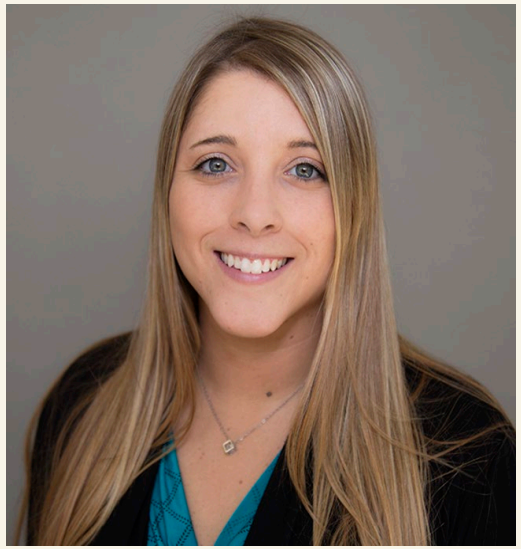


29%
Increased overall company morale



Source: Cost and Benefits of Accommodations: Low Cost, High Impact Report, Job Accommodation Network, 2025.

Thank You!



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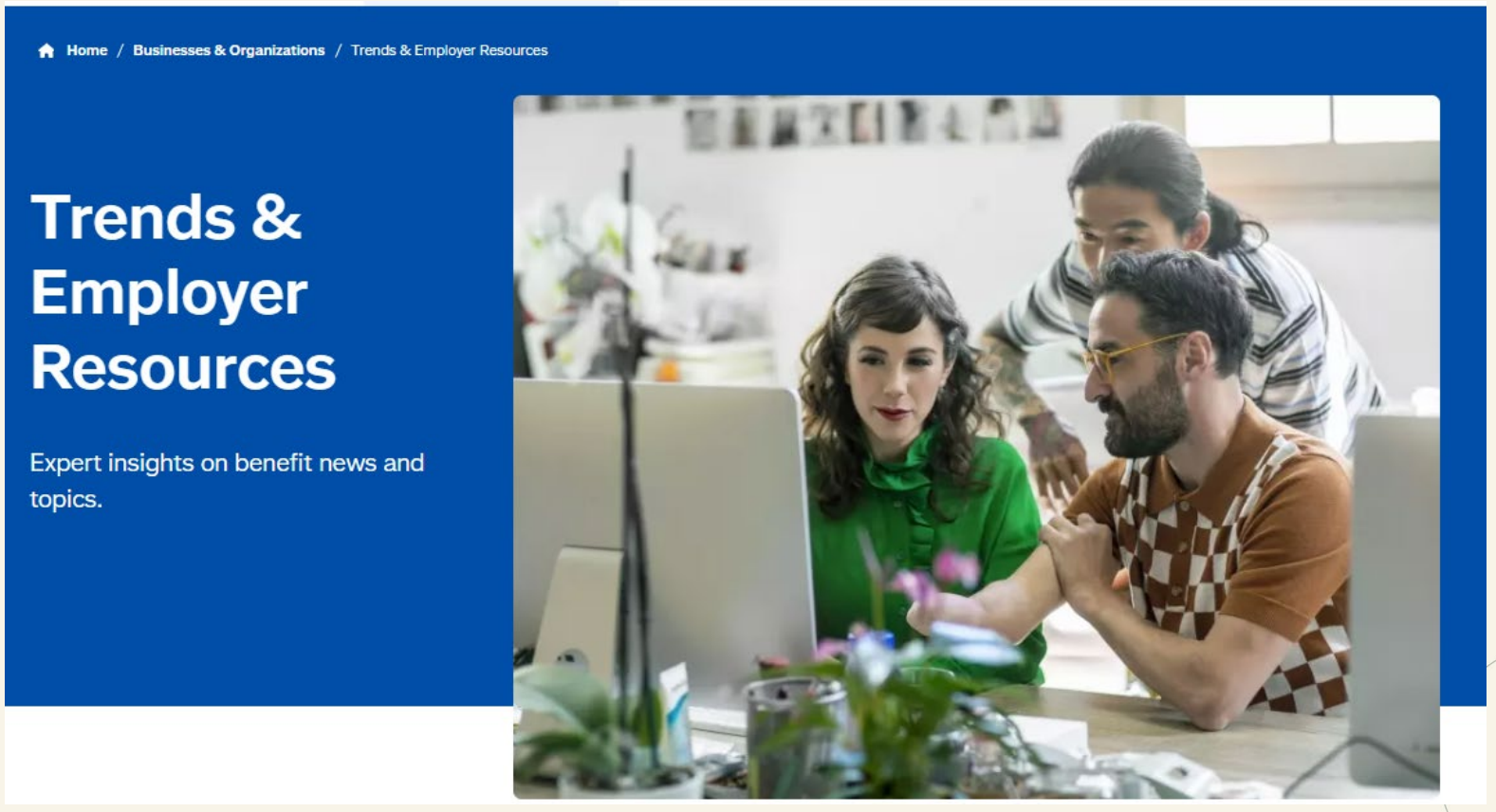
Questions?





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