Is the employee eligible for FMLA and/or PLA leave?

- Has the employee worked for 12 months and worked 1,250 hours in the preceding 12 months [FMLA]? -OR- Has the eligible employee worked for at least 12 consecutive weeks [PLA]?

If NO - Stop

If YES - Continue

Will the requested leave involve:

- The birth of child or care for a newborn child? -OR-
- Placement of a child for adoption or foster care? -OR-
- Care for the employee’s spouse, child, dependent [PLA] or parent with a serious health condition? -OR-
- The employee’s own serious health condition? -OR-
- A qualifying exigency due to the active military duty of the employee’s spouse, son, daughter or parent [FMLA only]? -OR-
- Care for a military member who has incurred an injury or illness in the line of duty while on covered active duty in the Regular Armed Forces, Reserves, and Natural Guard.

If NO - “Stop

If YES - Continue

If the leave involves a spouse’s condition, are they legally married?

- If No - Stop

- If Yes - Continue

If the leave involves a parent, is that person a biological parent or a person standing in loco parentis (other than In-laws)?

- If No - Stop

- If Yes - Continue

If the leave involves a child, is that person a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis?

- If No - Stop

- If Yes - Continue

If the leave involves a child, is that person under age 18, or 18 or older and incapable of self-care because of a physical or mental disability -OR-

- Is the person living with or dependent upon the income of the employee whether related by blood or not [PLA]?

- If No - Stop

- If Yes - Continue

If the requested military leave involves care of next of kin, is the employee the nearest blood relative of that person or designated as next of kin? -OR- Does the request for military exigency leave meet one of the defined event categories?

- If No - Stop

- If Yes - Continue

* The employee is not eligible for PLA and/or FMLA but may qualify for medical and/or personal leave of absence without pay as provided in the Division of Personnel’s Administrative Rule, workers compensation, and/or disability discrimination laws.

Revised January 2014
FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA) & WEST VIRGINIA PARENTAL LEAVE ACT (PLA) DECISION MAKING FLOWCHART

If the leave is for a "serious health condition", does the condition meet the requirements specified under FMLA and/or PLA?

If Yes — Continue

If Yes — Continue

If the leave is due to the serious injury or illness of a military member, is the person a "covered" military member as defined under FMLA?

If No * Stop

Does the employee have remaining leave available under FMLA and/or PLA?

If Yes — Continue

Has the employee exhausted 12 weeks of basic FMLA or the 26 weeks of Military Caregiver Leave for the time period in question?

If Yes — Continue

Has the employee exhausted 12 weeks of leave under PLA?

Has the employer:
- Notified the employee of rights and responsibilities?
- Properly designated the leave and notified the employee?
- Notified the employee of "key employee" status, if applicable?
- Communicated with payroll?
- Maintained applicable benefits?
- Monitored leave availability and employee payment of applicable benefit premiums?
- Notified the employee of "return to work" certification and/or fitness for duty requirements?

If No, POTENTIAL VIOLATION

Has the employee:
- Sought return to work in compliance with the employer's policy?
- Complied with the employer's "return to work" certification and/or fitness for duty requirements?

If No, Reinstatement may be delayed or denied

Has the employer returned the employee to the appropriate position and status in compliance with FMLA and/or PLA requirements?

Has the employee provided adequate certification after being provided the required notification of rights and responsibilities?

If Yes — Continue

If NO — *Stop

* The employee is not eligible for PLA and/or FMLA but may qualify for medical and/or personal leave of absence without pay as provided in the Division of Personnel's Administrative Rule, workers compensation, and/or disability discrimination laws.