



December 7, 1993

FMLA-20

Dear **Name ***,

This is in response to your inquiry and our telephone conversation regarding certain provisions of the Family and Medical Leave Act of 1993 (FMLA).

Name * currently has an employee on FMLA leave. During the leave the Thanksgiving, Christmas and New Year holidays will occur. The employee is substituting paid sick and vacation leave for the unpaid FMLA leave. It is the **Name *** policy not to grant holiday pay for any employee who takes a personal leave or educational leave. You ask if the employee is entitled to holiday pay for the three holidays while on FMLA leave.

During our telephone conversation you stated that the personal leave and educational leave you referenced in your letter are forms of unpaid leave. You were not sure what the **Name *** policy is regarding holiday pay during periods of paid leave such as vacation.

If the employee is entitled to receive holiday pay while on paid leave (e.g., vacation leave) the employee is entitled to holiday pay when the paid leave is being substituted for unpaid FMLA leave. In accordance with the **Name *** policy, the employee would not be entitled to holiday pay when the employee is taking unpaid FMLA leave. As we discussed, if the employee is entitled to holiday pay while substituting paid leave for unpaid leave, the fact the employee received pay for one or more days in the form of holiday pay would not extend the employee's leave entitlement. For example, if the employee is paid holiday pay for one day, the employee does not then receive 12 weeks and one day of FMLA leave. The entitlement is still 12 weeks.

Hopefully this has been responsive to your inquiry. If I may be of further assistance you may reach me at (202) 219-8412.

Sincerely,

J. DEAN SPEER
Director, Division of Policy and Analysis

** Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).*