

# PFML is Coming – Are Your Policies Ready?

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## **PFML is Coming – Are Your Policies Ready?**

*As the zero hour for Massachusetts Paid Family and Medical Leave (PFML) approaches, employers need to dust off their leave policies and prepare to coordinate them with PFML in 2021.*

The Department of Family and Medical Leave released regulations this summer that provided some insight into the administrative challenges that lie ahead for employers. We now know that:

- Employees have a right to appeal directly to the DFML if their request for leave is denied by the Company.
- Actions taken under a preexisting employment rule or policy will be clear and convincing evidence of non-retaliation for using PFML.
- PFML time runs concurrently with other types of leave, but an employee may not receive PFML benefits at the same time as other “accrued paid leave” offered by the employer, including sick leave, annual leave, vacation leave, personal leave, compensatory leave, or PTO.

The DFML will release additional guidance, model forms and model notices as the season wears on. In the meantime, we encourage employers to take inventory of their policies now, so they are ready to adapt when that guidance is released.

- Do your policies already comply with other types of state-mandated leave (like paid sick leave or parental leave)?
- How will you cover an employee’s “serious health condition” if it does not rise to a disability under your disability policy?
- PFML provides opportunities for leave that are not currently covered by other laws (for example, leave for a grandparent’s serious health condition). Are your staffing and scheduling plans ready to accommodate increased absences?
- Do you have written performance management policies in place to protect the company from a retaliation claim?
- Are your administrative processes fine-tuned to coordinate the various types of leave required and offered by your company?
- If you offer a self-insured plan exempt from PFML, do you have administrative processes to respond to claims appeals?

There is no one-size-fits-all approach to this issue. We encourage you to contact any member of the [Goulston & Storrs employment group](#) or your usual Goulston & Storrs point of contact to discuss.