

# Just requesting FMLA leave forms isn't protected activity

Employees who request FMLA leave can't be punished for doing so. That would be retaliation and interference with the right to leave.

But merely asking about FMLA leave or requesting paperwork isn't enough to form the basis of an FMLA claim.

**Recent case:** Jack Fischer worked as a teacher and has multiple sclerosis. While considering treatment options, Fischer asked an administrative assistant for FMLA forms. He never said he might need time off, and he never actually filled out the forms.

Then Fischer claimed the school district started disciplining him—and he said that was retaliation for asking for FMLA forms.

But the court dismissed his lawsuit, reasoning that merely asking for the forms isn't a protected activity. (*Fischer v. NYC Department of Education*, No. 06-CV-3964, ED NY, 2009)