Serious Medical Condition? Protect Yourself
— Your Rights under the Family Medical Leave Act

WASHINGTON – FMLA is a federal law that addresses the rights of workers to:
1. medical leave for themselves
2. medical leave for the care of a seriously ill child, spouse or parent (family leave)
3. childbirth and newborn care leave, and
4. adoption and foster placement leave

In this issue we address our rights under FMLA concerning medical leave. FMLA allows us to be absent up to 12 weeks in a 12 month period if we cannot work because of a serious medical condition. AFSCME members on campus can take FMLA leave in large blocks of time, in broken up blocks, or in the form of a reduced workweek. Time off does not have to be planned. When you are on FMLA UMass has to continue your group health insurance. You cannot be warned, suspended, fired, or denied a promotion because of FMLA absences. Also, your FMLA days off can not be counted under any attendance control policy or otherwise used against you.

What kind of medical conditions are not covered by FMLA? Typically the common cold, the flu, strep throat, and bronchitis are not covered. Other conditions that usually are not covered include: teeth extractions, ear aches, ear infections, headaches (other than migraine), hay fever, gum disease, minor ulcers, poison ivy, upset stomachs, and food poisoning.

Is alcoholism or a drug addiction covered by FMLA? Alcoholism and drug addiction can qualify as serious medical conditions. Absence for treatment qualifies for FMLA leave (assuming the employee gives proper notice of treatment). FMLA leave does not cover time when an employee is absent on account of their use of alcohol or illegal drugs.

What is a Serious Medical Condition?
WASHINGTON – Under FMLA a serious medical condition is an illness or injury or condition that involves one or more of the following...
- a hospital stay of at least one night
- incapacity for more than 3 consecutive calendar days (with on-going treatment by a medical person)
- incapacity due to a serious chronic disorder
- incapacity due to pregnancy
- long-term or permanent disability

You fall under protection of FMLA if you experience any of the serious chronic conditions...
- severe arthritis
- asthma
- back injuries requiring long-term care
- cancer
- colitis
- depression or related disorders
- diabetes
- epilepsy
- heart disease
- lupus
President’s Report  
by Francis Martin, Jr.

In this issue of Spirit of 1776 I want to highlight several bills that are in front of the Legislature that concern us.

The first is a Parking Bill sponsored by Representative Ellen Story of Amherst. Story’s bill would eliminate employee parking fees on campus.

A second bill would permit AFSCME workers on campus who are on 35 week contracts and seasonal layoff to collect unemployment during their layoffs. It used to be that 35 week workers could collect. Then the Reagan administration cut back that benefit for workers across the country. It’s now up to each state to decide individually on this issue of seasonal layoff. This is a critical issue for our Local because we have so many Dining Service, Parking and other workers who face seasonal layoff each year. Adding insult to injury, these workers are the lowest paid in our unit. Says Representative Story, “Both of these bills I’ve filed for several sessions. Don’t know if I’ll have better luck this term. But I am an active supporter of both of these bills. In a basic way it does not make sense to pay to park at your place of employment. If we had a better public transportation system it’d be different... but we don’t.”

A third bill would put electricians into a new retirement category because of the hazardous nature of their work. If an electrician had enough time on the books to qualify they could retire at age 55 if this bill passes. We will be petitioning that this bill cover others, including plumbers, because of hazardous duty.

How Do I file for FMLA?

Need FMLA medical leave time (many days in a row or intermittent)? Take the following steps...

1. Discuss FMLA with your supervisor.
2. Put your request in writing. Indicate the dates you’re requesting off (as best you can). Describe your medical disability. Note the intended date of your return to work (when you will be medically able to perform essential functions of job).
3. Attach the FMLA form signed by health care professional.
4. Your department then responds to you in writing. Please note that if you have not officially asked for FMLA time off but your supervisor suspects that your time off may be protected leave under the FMLA, it is your supervisor's responsibility to begin the FMLA process with you.
5. Your department then writes you to verify whether or not your FMLA leave is approved. The letter indicates your FMLA protections, the dates of those protections, your responsibility during the leave (eg, dates/times when you must be in touch confirming intention & expected medical ability to return from leave) and finally verification that you must provide a medical release before returning to the job (but, e.g, if the leave is to care for a newly adopted child requiring a medical release would clearly be silly.)
6. Any hitches along the way, please call the Union at 5-2831.
7. Need support at any point, from start to finish, just call us at 5-2831.

Thanks to Kelly Pleasant from Human Resources for helping us describe this process.

FMLA, UMass must reduce your work schedule to two days as medically needed until you exhaust your 12 month FMLA allotment of leave time. As Robert Schwartz notes in The FMLA Handbook, “A request for a reduced schedule, certified as necessary by a health care provider, cannot be refused even if your employer has an historic policy against part-time work or even if part-time work is inefficient.”

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Cathy, you stopped by the office to talk about your experience after seeing the Sally Davis interview in our last newsletter? What did you think of Sally’s experience?

I was driving on campus and suddenly I saw Sally, who I recognized from the photo in the newsletter. I had never met Sally before. But I stopped to introduce myself and talk. It turns out that Sally and I were both in Mississippi last October doing this work. I had no idea anyone else from UMass was there. We had a great conversation.

How was your experience different from Sally’s? Sally was working on a Habitat Project, doing new construction. We are getting people back into their own houses. Our three bywords are safe, sanitary, and sound.

When you first saw the devastation wreaked by Katrina, what was your reaction? I was shocked. I thought in a year’s time more would have been done. I went back this past January. I’m planning to go again in May. We are working with a faith based organization called Samaritans Purse. It’s an organization run by Franklin Graham, son of Billy Graham. They do disaster-relief worldwide.

Sally seemed pretty angry at the Bush Administration for their response to this crisis. Do you have that same anger? I am disappointed with how these people are being treated. But it's more of a frustration rather than an anger. The progress is so slow. And the remedy for some, not all, seems like just a band-aid. You have to realize that Mississippi is the poorest state; the county we’ve been working in, Hancock, is the poorest. There is a 70% disability rate in Hancock county. This is where the storm hit the coast and tore right through.

Do you see any connection between your Katrina clean-up work in Mississippi and your union work here on campus? I believe God has opened doors in my career. He has provided me with knowledge and skills, through the apprenticeship program and on the job training. These skills are essential to the physical reconstruction we are doing in Mississippi. I first heard about this opportunity in Mississippi, at College Church in Northampton, where I attend. A presentation was given and people talked about some volunteer relief work they had done in Texas. As I was listening, it was as if a light went on. I realized that this would be a way for me to give back some of what I’ve been given. I think the connection is clear, it's a natural progression.

It seems like many of the Katrina’s victims are dirt-poor. And many are regular workers like us. How are people holding up in Mississippi? What sustains them? They’re living in their FEMA trailers, travel trailers intended for camping for a couple weeks, not for living in. Most of the people living there that I came across are very discouraged. I think they feel let down by the Government. I heard over and over that FEMA is the new four-letter word down there. After all most of the recovery work has been done by volunteers. Every Friday night at the church we have a dinner with the home owners of the houses that we've been working on. At one of these dinners a woman got up and said, ”What you people have done by coming down from here from wherever you come from... you've given us hope.” When I think of her words I still get shivers.

What kind of work did you do? In October we built a 52-foot long handicap ramp (houses have to be built up high in the Gulf region; we had to observe 100 year waterline marks)—for a Vietnam Vet and his wife. Wheelchair-bound, he couldn't get out of his trailer. I met him. But soon after we started work he was shipped to a VA Hospital in Texas for surgery to address some of his health problem. So mostly I got to know his wife.

What was the affect of this work on you? For one thing I can’t get enough of this work. It’s very satisfying to actually do something. You don’t have to be a trades person or a carpenter to do this work. There’s many different jobs that need to be done at the work sites. You could help with clean-up. There are people who can show you what to do. For example after carpenters lay down the structural materials like floor joists and rafters, they can show you how to work applying drywall, and how to screw plywood down, things like that.

If anyone is interested in helping how would they make contact? People could email me. If you really want to go, if you have the desire to do this, you can find a way to go! There are many volunteer opportunities available. People can email me at katrinawave4u@aol.com, or go to www.samaritanspurse.org for more info.

Katrinawave! It's weird but I chose that name before Katrina ever struck. Life is strange like that.
No one in western Massachusetts has better claim to the mantle, Workingclass Hero, than Jonathan Tuttle. First elected President of Local 1776 in 1978 and last in 1984, Jonathan left UMass in 1986 to serve as a business agent for AFSCME Council 93. In March he retired from that position. For the last twenty years, as President of the Hampshire/Franklin Labor Council, Jonathan has been a leading and tireless voice for working families in our region. Jonathan is also an ordained minister as well as an afficionado of unadulterated ale and real rock and roll. His roots extend deep... Jonathan’s father worked as a bobbin boy in a textile factory before becoming a University professor. One of Jonathan’s ancestors is Mary Farey, killed at the Deerfield Massacre of 1704; hers is the only house that survived the burning.

Jonathan, tell me about your first beer festival. Some foolish commercial thing in Boston before I refined my tastes. But it led me to real ale, which is traditionally brewed and preferably dispensed in a nice traditional environment. Real ale is top-fermented ale made from traditional ingredients, using old fashioned methods. It’s dispensed with gravity or with a hand pump — with the addition of no gas from the outside.

Is it good? Well, obviously I must think so.

And where did you enjoy the best pint of ale ever? Was probably in the UK where ale is far more available... far more available there than here. But I’ve had what I considered to be the perfect pint in a number of places, including The Commonwealth in Boston (when it was open), O’Neills in Brattleboro, and some of the other local breweries make a decent pint... Smutty Nose in New Hampshire, for example, has made prize-winning ale.

When are you going to UK next? Possibly this summer, end of July or beginning of August in time for the great British Beer Festival in London... to celebrate my favorite rock and roll band’s 40th birthday. Fairport Convention... who, by the way, will be coming (or some number of them will be coming) to the Iron Horse in Northampton, near you, at the end of May.

Speaking of May and May Days and Worker Memorial Days, how did you and the labor movement first cross paths? I got my first union card in 1964. But earlier, in the late 1950’s, I had tried to organize around union issues in college here at UMass. I walked various picket lines, sort of a precursor to Jobs With Justice. Then in ‘62 I left here to go to Chicago. My first union card was with the Industrial Workers of the World, the IWW, out in Chicago. Speaking of Worker Memorial Day, the day to both remember workers who died on the job and a day to rededicate our energies to worker health and safety, Worker Memorial Day will be celebrated in our area on Thursday April 26. It starts at noon, at Northampton City Hall, we will be walking down to the Hampshire County Hall of Records.

Why were you out in Chicago? After graduating from UMass, I went to seminary school there for four years. Graduated, then did a year of graduate work in Chicago. In ‘63, I started taking part in the Civil Rights struggle. The
summer before was the March on Washington. It was the heyday of the Civil Rights Movement. I also joined the movement to end the war. In ‘63, back in Amherst, I remember protesting at the Armed Services Day parade with signs like, “War on Poverty, Not Vietnam.” People here were polite but not enthused; they hadn’t figured out what to do... they weren’t used of that stuff. And we didn’t know what to expect either (the half a dozen of us protesting).

How did your seminary work inform your involvement in the Civil Rights, Labor, and Anti-war movements? They’re all connected. It’s my faith that drives me, guides me, into this kind of activism. I can’t separate my politics from an expression of my faith and my relationship to God and Christ.

Are you a good Christian? I think so, but there are probably many who would find otherwise. I’ve never seen as part of my responsibility to bring comfort to the comfortable.

Looking back, who fired your union activism? Elizabeth Gurley Flynn and Anne Burlak Timpson — The Red Flame from Hell. Both were outstanding union organizers and political activists. Elizabeth was a youngster at the time of the Lawrence Strike in 1912, but quite active there. The Red Flame was active in the organizing efforts of the 1930's, mostly in New England textiles. I was also inspired by my father. His father (a union officer) and older brother were blacklisted in the 1920's for union activity for reading and writing in English while most co-workers could only read in French. My father’s life of service started off as a bobbin boy in a textile factory on Rhode Island near Winsocket. One of my father’s favorite memories was casting his first presidential ballot for Eugene Debs. Two more who fired my spirit: John Fenton, who helped organize Local 1776. And, of course, R. J. Messier!

Who is today’s Eugene Debs? I don’t think there is one.

Why? ‘Cause we’re too centrist.

I’ve never seen as part of my responsibility to bring comfort to the comfortable.

What’s changed over last 100 years? The labor movement has been sufficiently successful to blur class lines; because of the labor movement workers could reasonably expect to become middle-class. That’s all gone to smash because we’re gone rightward and because we’ve lost union density and we’ve failed in our responsibility to organize the unorganized.

In your forty plus years in the Labor Movement what has frustrated you the most? I’m not sure I can answer that. Why? Because it’s a gradual process. When I got over the notion that the revolution was just a leaflet away, that it was incremental struggle, you try to do today what will make it easier tomorrow.

In those same forty years, what inspirational moment comes to mind? I think of the union local, a small union local of food service workers, all women, willing to take a pay cut rather than force the layoffs of a couple of their sisters. They set an example par excellence. I think they actually gave back a pay raise. They sacrificed for the good of the whole.

What made your day as a business agent? I love it when you make a proposal and management accepts it the first time rather than being forced to go to your fallback position. Here I’m thinking of the city of Northampton.

Jonathan, what have you learned from a lifetime of labor experiences? I came to recognize that in collective bargaining that you should be bargaining a couple contracts ahead. Also, it’s a matter of making sure that our problem becomes their problem... if management sees it as their problem they will help fix it. Otherwise why would they help — worker morale is not high on the employer’s list of priorities.

Ideal candidate? The candidate that knows all the right answers on labor’s questionnaire, the person who scores a 100% labor record... if they have a record.

Who are you inclined to support for president? Labor in Massachusetts has it right. Tearing ourselves apart on the Democratic primary is not the right way to go... because whoever the Democratic candidate ends up being, that person would be so superior to the Republican. But don’t know if we can pull off that practice at the national level. The advantage of Democrats? They talk to the people that talk to the people that we talk to.

Favorite novel? I read a lot. I read fast. Yesterday I read six chapters of Sandburg’s Lincoln: The War Years. This weekend I went through a book on the Georgian Navy. My sister and I are taking care of my older brother who is a short-timer in this life and while doing that I have time to read.


How do feel about the current state of labor movement? I’m optimistic. In think we’re headed in the right direction and we’ll find a way to get there. We will stumble back into an organizing mind-set. A long run of conservative presidents (and Massachusetts governors) has stripped the labor boards of being at all effective for workers. The Boards don’t render fair decisions. And they take far too long. If we could use the process as designed we might not need card check legislation.

Proudest accomplishment? Getting UMass janitors a raise when the state wouldn’t allow it back in 1986. At the same time we got upgrades the institutional domestic aides and workers, stuck in grades 3 and 4, up to a grade 9.

Fondest memory of Local 1776? Couple memories. It’s a 1970's bargaining session... Management grimaces while me and Whitely, dead-pan, spit tobacco juice, while Jeff Silva in the corner contently knits, and with her head down on the table an exhausted late shift union rep snoozes away. It’s the 1970's... I’m with John Daley who is signing me up to be a union steward; Fred Bailey pulls me aside and confides, “You know, everybody here is either nuts or a drunk.” It’s 1981, at our grad tower union office, you walk through the door and ask for a job — you embarrass me, I’ll embarrass you!

Anything last thought, Jonathan? Thanks to officers and members of the Local, past and present, for their support and patient training of the subject of this interview.

How about two or three word size-ups for the following famous and infamous...?

Rosenberg?

Anne Burlak Timpson never backed down from a fight for a good cause. Labeled “The Red Flame” for her passionate mill-gate speeches during New England’s massive textile strikes of the 1930s, Anne was fearless in defense of working people. The nickname, widely used by the press, was meant as an insult, but Anne took it as a badge of honor and thousands of mill workers called her “The Red Flame” with affection. Anne always identified herself as a weaver and an organizer, and remained loyal to her working class origins. A life-long advocate for the most vulnerable members of society, she was a tireless fighter against racism, sexism and classism. She dedicated her life to solidarity with working people and the struggle for peace and justice world wide. She was fearless in the face of injustice and real physical danger. When, in an atmosphere of brutal union-busting, beatings and the murders of organizers, the National Textile Workers Union voted to organize where the need and the danger were greatest, in the southern textile mills, Anne Burlak volunteered to go South to do the work. She was only 19 years old in 1930 when she was arrested with five others, including two African-Americans, for daring to speak to an inter-racial audience at a public meeting. All six were charged with sedition against the state of Georgia under a 19th-century law originally passed to prevent slaves from rebelling and one that carried the death penalty.

— from the CommChurch website

How much notice do I need to give for FMLA? If your leave is foreseeable, you must provide 30 days notice. If your leave is sudden, two days notice is required.

Let’s say you suffer anxiety because your supervisor stresses you at work. Does FMLA apply? Yes, if you are unable to work because of the disorder. The anxiety qualifies as a serious medical condition.

What are some violations of FMLA? It’s a FMLA violation if your department does any of the following:

• refuses to allow you time off for FMLA purposes
• fails to pay for health insurance during the FMLA leave
• orders you to report to light duty during the FMLA leave
• fails to restore you to your former position
• uses coercion, threats, or intimidation to discourage you from taking FMLA leave
• discharges, disciplines, or demotes you because of FMLA absences
• gives you a poor evaluation or denies you a promotion because of FMLA absences

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Grievance News

Grievance Officer
At any one time the Local has dozens of grievances and reallocations going. Since a number of these are class-action (more than one unit member involved) a lot of us have a direct stake in these actions. In addition, many of us are affected by grievances filed by other members. What follows are some recent grievance/reallocation developments.

Grievance Resolution
HOUSING – Michael Michalski, Paul Santos, and Thomas Vollinger each received a monetary compensation as settlement of their union grievance concerning two hours of overtime not received.

Grievances Filed
CAMPUS – Here’s a snapshot of grievances filed since January 1 and up until the end of April...
- at least forty-three grievances filed on behalf of union members by Local 1776
- ten grievances concerned overtime, comp time, or holiday pay
- two concerned overwork
- five concerned use of vacation or sick time
- nine had to do with discipline issues, including one termination
- ten were related to bypasses, work schedules, transfers, or favoritism
- two concerned out of title work issues
- one had to do with violations of Weingarten Rights
- one concerned harassment on the job
- one involved disability discrimination

Evacuation Day
HAMPSHIRE HOUSE – In March the Union filed a class action (ACE) grievance on behalf of all union members who worked the Saturday, March 19 snow storm, Evacuation Day, and found to their dismay that the University failed to compensate them properly for that work. The decision on how much to pay appears to have originated in Whitmore, not with your department. The decision flies in the face of past practice and contract language. Understandably we have a lot of upset members, wondering what’s going on in Whitmore. Stay tuned.
Is everyone who works at UMass covered under FMLA? You must have worked here at UMass for 12 months. During this 12 month period you must have worked a minimum of 1,250 hours (that’s an average of 24 hours week for 52 weekers, and an average of 26 hours a week for 35 weekers).

FMLA Resources

Union Office (5-2831). If you have a FMLA question, you can start with us. We’ll be glad to help.

The FMLA Handbook. We have copies at the Union Office. This book by Robert Schwartz is an invaluable resource for any worker seeking to understanding how FMLA works. Mr. Schwartz writes from a pro-union, pro-worker perspective. The Handbook offers a wealth of useful tips. Much of the information for this article was culled from Robert Schwartz’s book: The FMLA Handbook. Highly recommended reading.

Kelly Pleasant (5-1478). Kelly works out of Whitmore. She is very helpful and very knowledgeable about FMLA issues.

In Memory of Fred Bailey, Part 1

By John Daly (excerpted from UpFront Worker Radio)
I came on campus in 1970 and my first assignment was on the Grounds Dept. I was supposed to be going to the coal yard. Our boss at the time, head of the moving crew, came in and said to Ken Billings, the director, “I need some people right away!” So Ken says to me, “Well, if you can go with Art, you’ll only be there a day.” So I got paired up with Freddy… and I was there 16 years! And what a good time. And one of the moments I remember best… we used to work up at the receiving room. Every Wednesday we’d take whatever we had and bring it on campus. We would pick stuff up on Wednesday and take it wherever.

This one time we went to Morrill Science where his wife, Maureen, worked. At that time they weren’t married yet. So we got to the loading dock there and Fred went to get it signed upstairs. Then we kept going back every Wednesday and it kept longer and longer for him to come downstairs. Then one day he came down and he had that sparkle in his eyes and a big smile. He said, “Maureen, I asked her if she wanted to go out on a date and she said, ‘Yes!’” That was the happiest moment, one of the happiest, I would say, of Fred’s life. And then they went out. Then when I came to work one morning, Freddy says, “Would you like to be in our wedding party?” I said, “Sure.” So I did that, with a few others here on campus. [Stan Laboo and] I went to the wedding. And Maureen and Fred have been happy ever since. They do a lot together…

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The Spirit of 1776 is a publication of AFSCME Local 1776. We aim to be a voice of the membership. More, our goal is to advocate for the membership. We believe that communication between members is a means to that end. To be effective, we need your participation.

How can you participate? Send us ideas for stories. Angry? Write us. Someone deserves congratulations? Write us. Read something of interest to members in a magazine or newspaper? Clip it, and send it in. Original articles, editorials, news items, cartoons, criticism, and praise are always welcome. All materials should be forwarded to the Union office. We strive to publish four times per year. If you are interested in writing, reporting, cartooning, editing, typing, or layout, please contact us. Empower yourself. Empower us.