



Reinstatement under the Family and Medical Leave Act

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The FMLA guarantees most employees on FMLA leave that when they return to work they will be placed in the same or an equivalent position. It is easy to understand what the "same position" means, but what is an "equivalent position?" In a recent decision, the U.S. Court of Appeals for the 4th Circuit has provided some useful guidance.

According to the Court, whether another position is equivalent depends upon whether the "concrete and measurable aspects," such as title, salary, benefits, and work schedule and location, of the positions at issue are the same. Obviously, the perceived status or visibility of a job can be important to employees. But the court recognized that such factors are intangible and refused to be dragged into such subjective considerations.

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