

Family and Medical Leave Act of 1993

Expanded Leave for Military Families

Qualifying Exigency Definitions

The military family leave entitlements included in the FMLA were enacted as part of the National Defense Authorization Act, which provide additional job-protected leave rights to eligible employees of covered employers because of qualifying exigencies arising out of the fact that a covered military member is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation.

Qualifying exigency is defined by providing a specific and exclusive list of reasons for which an eligible employee can take leave because of a qualifying exigency.

These reasons are divided into eight general categories:

- (1) Short notice deployment
- (2) Military events and related activities
- (3) Childcare and school activities
- (4) Financial and legal arrangements
- (5) Counseling
- (6) Rest and recuperation
- (7) Post-deployment activities
- (8) Additional activities

1. **Short-notice deployment:** allows leave to address any issue that arises from the fact that a covered military member is notified of an impending call or order to active duty seven or less calendar days prior to the date of deployment. Leave taken for this purpose can be used for a period of seven calendar days beginning on the date the covered military member is notified of an impending call or order to active duty.
2. **Military events and related activities:** allows leave to attend any official ceremony, program, or event sponsored by the military and to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.
3. **Childcare and school activities:** allows leave to arrange childcare or attend certain school activities for a biological, adopted, or foster child, a stepchild, or a legal ward of the covered military member, or a child for whom the covered military member stands in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence. Qualifying exigency leave may be taken under this section (1) to arrange for alternative childcare when the active duty or call to active duty status of a covered military member necessitates a change in the existing childcare arrangement; (2) to provide childcare on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the need to provide such care arises from the active duty or call to active duty status

of a covered military member; (3) to enroll the child in or transfer the child to a new school or day care facility when enrollment or transfer is necessitated by the active duty or call to active duty status of a covered military member; and (4) to attend meetings with staff at a school or a day care facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, when such meetings are necessary due to circumstances arising from the active duty or call to active duty status of a covered military member.

4. **Financial and legal arrangements:** allows leave to make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status, such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System ("DEERS"), obtaining military identification cards, or preparing or updating a will or living trust. It also allows leave to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status and for a period of 90 days following the termination of the covered military member's active duty status.
5. **Counseling:** allows leave to attend counseling provided by someone other than a healthcare provider for oneself, for the covered military member, or for the biological, adopted, or foster child, a stepchild, or a legal ward of the covered military member, or a child for whom the covered military member stands in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member.
6. **Rest and recuperation:** allows leave to spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to five days of leave for each instance of rest and recuperation.
7. **Post-deployment activities:** allows leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty and to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.
8. **Additional Activities:** allows leave to address other events which arise out of the covered military member's active duty or call to active duty status provided that the employer and employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave