
“Qualifying Exigency” Under the Military Leave Provisions FMLA

The qualifying exigency regulations set out the activities for which a military service member, or a member of his or her family member, can request and receive leave under these provisions.

Aside from looking up the definition of “exigency” (something that is necessary in a particular situation); what else might a county want to know about when the military leave provisions apply?

First, the military family member either has to be on “covered active duty” during deployment in a foreign country or in the National Guard or reserves for “contingency operations” under 10 USC section 101(a) (13)(B).

The following activities are covered:

For taking care of business prior to a deployment order on Short notice (notice of 7 days or less).

1. To attend military events or activities, such as official ceremonies or programs, relative to that military member’s active duty or call to active duty.
2. To provide for, arrange, or take care of changes in arrangements, for childcare and school activities which arise out of a result of the service duties or call to active duty or other “immediate need”.
3. To arrange for alternative care of the parent of a military member who is incapable of self-care, for urgent immediate care needs for such parent, to admit or transfer the parent to a care facility, or for necessary staffing meetings related to the same activities.
4. To make legal or financial arrangements or rearrangements due to a military member’s absence while on duty or to act as that member’s

representative before a governmental agency in obtaining service benefits.

5. To attend counseling (by someone other than a healthcare provider, which is already covered) for the military member, or the member’s family member or children due to the duty call out.
6. Up to 15 days’ leave for spending time with a military family member who is on short-term leave from active duty for rest and recuperation, starting on the date of that military leave.
7. For post-deployment activities such as arrival ceremonies, reintegration activities and services and official events or programs sponsored by the military for a period of 890 days after the end of active duty status, to address issues arising from an active duty death (funerals, etc).
8. For other exigencies arising out of a need from active duty status or call to active duty provided that an exigency exists and the “timing and duration of leave are accurate”.
9. Care time (unpaid) up to 26 weeks a year to provide rehabilitation care for a covered service member. This leave may only be taken by the service member’s spouse, son, daughter, parent or next of kin (nearest blood relative) and The “service member” under this provision includes veterans, members or former members of the National Guard, as well as current service members. The service must have occurred within the five years preceding the time the veteran seeks treatment.

What This Means to Counties

The full text of these rules is available at 29 CFR Section 825 et seq.