



Weber County Human Resources Policy 4-100 Family and Medical Leave Act (FMLA)

I. Purpose

This policy explains the circumstances under which an employee may take time off from work for family care, medical care, covered service member care, or due to a qualifying event.

II. Policy

It is the policy of Weber County to provide employees with a general description of their rights under the [Family and Medical Leave Act](#). In the event of a conflict between this policy and the applicable law, employees will be afforded all rights required by law.

III. Procedures

A. General Provisions

1. Eligibility – To qualify for family or medical leave the employee must meet the following conditions:

- a. The employee must have worked for Weber County for 12 months or 52 weeks (2,080 hours). The 12 months or 52 weeks (2,080 hours) need not have been consecutive.
- b. Separate periods of employment will be counted if the employee's break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service.
- c. The employee must have worked at least 1,250 actual hours during the 12-month period immediately prior to the requested leave date.

2. Type of Leave Covered - The employee must be taking leave for one of the reasons listed below:

- a. For incapacity due to pregnancy, prenatal medical care, or child birth
- b. The placement of a child for adoption or foster care and to care for the newly placed child
- c. To care for the employee's spouse, adult designee, child, dependent child of an adult designee or parent with a serious health condition
- d. For the employee's own serious health condition

3. FMLA Leave and Other Leave Usage

- a. This policy is not intended to lengthen any other leaves available to employees. Any leave given to an employee under another policy for one of the reasons stated in this policy will be considered to be FMLA which will run concurrently with any other leave.

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- b. Weber County will grant up to 12 weeks (480 hours) of family and medical leave during any 12-month period after the requested leave date.
 - i. Each time an employee takes leave, Weber County will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave. The balance remaining is the remaining amount the employee is entitled to take.
 - ii. If a husband and wife both work for Weber County and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave.
- c. Weber County will grant a military caregiver, injured as a result of military service, leave for up to 26 weeks (1,040 hours) during any 12-month period after the requested leave date.

4. Serious Health Condition Defined

- a. A serious health condition is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.
- b. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, incapacity due to pregnancy, or incapacity due to a chronic condition.
- c. Other conditions may meet the definition of continuing treatment.
 - i. If an employee takes vacation leave for a condition that progresses into a serious health condition Weber County may designate all or some portion of related leave taken under this policy, to the extent that the earlier leave meets the necessary qualifications.

5. Procedure

- a. Whenever an employee requests leave under this policy that is based on a foreseeable medical event, the employee must provide the County at least 30 days notice before the date the leave is to begin. In situations where a medical emergency precludes 30 days notice, the employee must provide as much notice as is practical. This means in no event less than two days after the serious health condition arises.
- b. Supervisors must notify HR when an employee is incapacitated from work for three or more consecutive days or when they have been given advance notice of a serious health condition by the employee.
- c. Once HR has been notified of an employee's request for leave they will reach out to the employee with the required FMLA paperwork.
- d. When an employee requests leave under this policy for their own serious health condition or to care for a child, spouse, or parent with a serious health condition, military qualifying exigency or caregiver, the County will require that the employee support the leave request with a [Certification of Health Care Provider](#) form.

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- e. Employees will have 15 calendar days to obtain certification. Failure to provide medical certification within 15 days may delay the commencement of leave, suspend continuation of leave and/or lead to the application of the County's attendance policy including disciplinary action for unauthorized absenteeism. Any health care provider forms that are returned without all of the required information will not be accepted.
 - i. To determine whether the leave qualifies for FMLA, HR may require the employee to submit additional information to clarify the medical certification within 15 days of the HR's request.
 - ii. HR may require the employee to provide reasonable documentation or statements verifying family relationships within 15 days of the request.
 - iii. Employees may be required to submit periodic reports while on leave regarding their status and return to work.
- f. Employees may be required to obtain a second medical opinion, at the County's expense including reimbursement for reasonable out of pocket travel expenses in accordance with Internal Revenue Service medical mileage rate guidelines.
 - i. If the first and second medical opinions differ, the employee may request a third medical opinion at the County's expense.
 - ii. The third health care provider must be approved jointly by the County and the employee.
 - iii. If the employee does not act in good faith with reaching an agreement for the third opinion, the second medical opinion will be binding.
 - iv. If the County does not act in good faith in reaching an agreement for the third opinion, the first medical opinion will be binding.
- g. HR will provide written notice of an employee's eligibility for FMLA leave within five calendar days from receipt of an employee's request to take FMLA leave or upon determining the employee's leave may be for an FMLA-qualifying reason. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.
 - i. As part of the Eligibility Notice, HR will provide written notice to an employee qualifying for FMLA leave detailing the specific expectations and obligations of the employee and explaining the consequences of failure to meet these obligations.
 - ii. After HR receives documentation of the need for leave, they will notify the employee in writing within five calendar days whether the requested leave qualifies for FMLA and, if qualified, indicate the leave will be deducted from the employee's FMLA leave entitlement.
 - iii. Return to Work Certification – In cases where an employee's own serious health condition affects the ability to perform the duties of the position, HR may require as a condition of reinstatement, a certification that the employee is able to perform the essential functions of the job. The Designation Notice will include a list of the essential functions of the position.
 - iv. Retroactive Designation – If HR does not designate FMLA leave as required, they may retroactively designate leave as FMLA with notice to the employee provided the failure to timely designate leave does not harm or injure the employee. In cases where leave would qualify for FMLA, the department head and employee may agree to retroactively designate the FMLA leave.
 - v. FMLA leave will be documented as such in the payroll system.

6. Recertification of Medical Condition

- a. **Less than 30-Day Rule** – HR may request certification in less than 30 days if the employee requests an extension of leave, the circumstances described by the certification have changed significantly (e.g. the duration or frequency of the absence, the nature or severity of the illness) or HR receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.
- b. **More than 30-Day Rule** - If the medical certification indicates the minimum duration of the condition will be more than 30 days, recertification cannot be requested until the minimum duration expires. In all cases, recertification may be requested every six months in connection with an employee's absence.
- c. **Annual Medical Certification** - When the need for leave exceeds a single leave year, HR may require the employee to provide a new medical certification in each subsequent leave year.
- d. HR may provide the health care provider with a record of the employee's absence pattern and ask if the serious health condition and need for leave is consistent with such a pattern.
- e. An employee will provide the requested recertification within 15 calendar days from receipt of the request.
- f. No second or third opinion may be required on recertification.

7. Intermittent or Reduced Schedule Leave

- a. Intermittent leave or leave on a reduced schedule is available for the care of an immediate family member, as defined, with a serious health condition or for the employee's own serious health condition. The following conditions apply:
 - i. Only the actual amount of leave taken on an intermittent or reduced schedule may be counted towards an employee's FMLA leave entitlement.
 - ii. Intermittent leave or leave on a reduced work schedule is not available for the birth or placement of a child unless approved by HR.
 - iii. HR may temporarily reassign an employee who has requested leave on an intermittent or reduced work schedule when the leave is foreseeable and for planned medical treatment including recovery from a serious health condition or to care for a child after birth or placement for adoption or foster care. The employee will receive the pay and benefits of the regular position for the hours of work performed. The employee may be reassigned to a part-time position with the same rate of pay provided the employee is not required to take more leave than is medically necessary.

8. Insurance/Benefits while on FMLA

- a. An employee on unpaid family or medical care leave who wants to maintain health, dental, 125 pre-tax cafeteria deductions or life insurance will be required to pay the same premium or cafeteria payroll deduction normally paid.
- b. An employee who fails to submit the required premium payment will be notified in writing and given 15 calendar days after the notification before coverage is canceled.

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- c. If upon the expiration of family or medical leave, the employee chooses not to return to work, the employee will be required to reimburse the county for premiums paid by the county.
- d. If the employee does not return to work due to a medical circumstance that would entitle the employee to leave under FMLA the employee is not required to reimburse premiums paid by the county. Employees will be required to furnish medical certification to support their claim. Employees who fail to furnish the requested information within 30 days of the request will be required to reimburse the County for insurance premiums paid during the unpaid leave.
- e. An employee who returns to work for at least 30 calendar days is considered to have returned to work.
- f. An employee who transfers directly from taking FMLA leave to retirement or who retires during the first 30 days after returning to work is deemed to have returned to work.
- g. Premiums owed to the county may be deducted from any sums owed by the County to the employee.
- h. If an employee elects to discontinue insurance coverage while on leave without pay, upon return to work, the employee may reinstate the same insurance coverage.
- i. Employees who are on FMLA leave during open enrollment will be provided with the same options as active employees.
- j. While on FMLA leave an employee is not eligible for accumulation of paid time off or retirement benefits as provided by State law.

9. Reinstatement from Leave

- a. Upon return from FMLA under the provisions of this policy, the employee will return to the former position or an equivalent position in terms of pay, benefits and working conditions within the department or elected office from which the leave was granted. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.
- b. If the supervisor determines the employee will not be reinstated to the former position, but to an equivalent position, written notice will be provided to the employee.
- c. If, during the period of leave, the payroll unit where the employee worked undergoes a reduction-in-force and there is no vacant allocation to which the employee may be reinstated, normal reduction-in-force (RIF) procedures will be followed:
 - i. If the position the employee formerly encumbered was abolished during the period of leave for purposes of a RIF, the employee will be considered as having encumbered the position at the time the position was abolished.

10. Use of Paid Leave

- a. Employees are required to use sick leave concurrently with FMLA leave.
- b. At the discretion of the respective department head, employees may be required to use vacation leave concurrently with FMLA leave, once all sick leave has been utilized.
- c. If all leave has been utilized, or at the discretion of the department head, the employee may take leave without pay.

11. Military Family Leave

- a. Eligibility, procedures, certification, intermittent leave, and insurance benefits are consistent for Military Family Leave except for the following:
 - i. Qualifying event leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.
 - ii. An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:
 - 1. short-notice deployment;
 - 2. military events and activities;
 - 3. child care and school activities;
 - 4. financial and legal arrangements;
 - 5. counseling;
 - 6. rest and recuperation;
 - 7. post-deployment activities; or
 - 8. additional activities that arise out of active duty, provided that the department head and the employee agree, including agreement on timing and duration of the leave.
 - iii. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is the same as other types of FMLA leave except the son or daughter does not have to be a minor, see Immediate Family FMLA – Military Caregiver Leave). This type of leave is counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.
 - iv. Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member. This leave may extend to up to 26 weeks in a single 12-month period for an employee to care for a spouse, adult designee, child of any age, a dependent child of an adult designee, parent or next of kin covered service member with a serious illness or injury incurred or exacerbated within five (5) years of active duty in the Armed Forces. Next of kin is defined as the closest blood relative of the injured or recovering service member.
 - v. An eligible employee can take up to 26 weeks for a FMLA circumstance (military caregiver leave) during a single 12-month period. For this military caregiver leave, Weber County will measure the 12-month period as a rolling 12-month period measured forward from the date leave is taken. FMLA leave taken during the 12-month period for other FMLA circumstances will be deducted from the total of 26 weeks available.
 - vi. If a husband and wife both work for Weber County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.
- b. HR will require certification of the qualifying event for military family leave or serious injury or illness of the covered service member. The employee must respond to such

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a request within 15 calendar days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided on the [Qualifying Event for Military Family Leave Certification](#) form or the [Serious Injury or Illness of Covered Service Member Certification of Health Care Provider](#).