

Expansion of Military Leave under the FMLA

On October 28, 2009, President Obama signed the Fiscal Year 2010 National Defense Authorization Act (NDAA 2010) into law. The new amendments will only impact the qualifying exigency leave and military caregiver leave provisions, which were added to the FMLA in 2008. The new changes take effect immediately.

A general overview of the changes is provided below.

Exigency Leave

Under the previous law, employees were entitled to take up to 12 weeks of "exigency leave" in a 12-month period when a parent, child, or spouse in the National Guard or Reserves was on active duty or called to active duty in support of a contingency operation. Exigency leave allowed employees time off for reasons related to their family member's call to active duty. Now, exigency leave is also available to employees who have family members serving in the regular Armed Forces. Moreover, the deployment no longer has to be in support of a contingency operation. Any member of the Armed Forces (including the National Guard and Reserves) who is deployed or called to active duty by the military to a foreign country is covered.

Caregiver Leave

When Congress amended the FMLA in 2008, it added language permitting the parent, child, spouse, or next of kin of an injured military servicemember to take up to 26 weeks of leave in a single 12-month period to care for an injured military servicemember who is undergoing treatment for, or recuperating from, a serious injury or illness incurred in the line of duty while on active duty. The new law extends the ability of an employee to take this leave to care for a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. The veteran must have been a member of the Armed Forces (including the National Guard or Reserves) at any time within five (5) years preceding his or her treatment for the serious injury or illness. Under the new statute, an employee may also take this leave to care for an active servicemember or veteran who had a pre-existing injury that is aggravated while on active duty.

For questions regarding the above changes, please contact Human Resources at 468-3370