

IDAHO STATE TAX COMMISSION
ADMINISTRATIVE POLICY MEMORANDUM NO. 13-09
(Replaces Administrative Policy Memo No. 09-10, dated April 1, 2009)

DATE: March 6, 2013

SUBJECT: Family and Medical Leave Act

PURPOSE: The purpose of the Family and Medical Leave Act (FMLA) is to assist employees in balancing work life and family matters by providing leave for special health or family-related needs.

Idaho State Tax Commission (Tax Commission) supervisors, Human Resource staff, or other individuals in the managerial chain-of-command shall inform employees about the availability of FMLA leave whenever a situation arises that may indicate the employee may be eligible for and might benefit from FMLA leave. Such notice may be verbal but is normally given by providing the employee with the [Request for Family/Medical Leave or Donated Leave](#) form.

POLICY: The Tax Commission provides eligible employees within a 12-month period under qualifying circumstances:

1. Up to 12 work weeks (480 hours) of unpaid, job protected leave in a 12-month period for certain family and medical reasons; or,
2. Up to 26 workweeks of leave for eligible employees to care for a covered service member with a serious illness or injury.

Employee Eligibility

An employee must meet the following criteria to be eligible for FMLA leave:

1. Employment with the State of Idaho has been in effect for at least 12 months. The 12 months does not have to be continuous employment¹. Employees who were on the payroll for any part of a week (even just one day) will be credited with a full week toward their total. This includes part-time or temporary workers; and
2. Has worked at least 1,250 hours during the 12-month period immediately preceding the leave. This 1,250 hours means “actual time” spent working. It does not include paid vacation or sick time, or periods of unpaid leave during which other benefits continued to be provided, i.e., a group health plan or workers’ compensation.

To determine eligibility, the 12-month period is measured backwards from the date an employee’s leave is designated as FMLA. The FMLA leave year will begin on the first day that the employee takes FMLA leave.

Eligible employees may take leave for any of the following reasons:

1. Birth of an employee’s child (within the first 12 months of birth).
2. Placement of a child with the employee for adoption or foster care (within the first 12 months of the adoption or placement).

3. To care for the employee's own serious health condition, including health conditions relating to pregnancy, childbirth, and related medical conditions.
4. To care for the serious health condition of the employee's child (under age 18ⁱⁱ), spouse, or parent.
5. Attend to a Qualifying Exigency (QE) arising out of the fact that the employee's spouse, parent, or child is a service member who is "on active duty (or notified of an impending call or order to active duty) in support of a contingency operation."
6. To care for a qualifying family member who incurred a serious injury or illness in the line of duty while on active duty in the Armed Forces.

A serious health condition is an illness, injury, impairment or physical or mental condition that involves incapacity or treatment connected with:

1. Inpatient care in a hospital, hospice, or residential medical facility; or
2. Pregnancy or prenatal care; or
3. Continuing treatment by a health care provider.

Types of FMLA Leave

There are two types of FMLA leave: continuous and intermittent/reduced work schedule.

- Continuous FMLA Leave – An employee, who is off work entirely for a single qualifying reason, is on a block of continuous FMLA leave.
- Intermittent FMLA Leave – An employee takes leave in separate blocks of time, combined with periods of work, due to a single qualifying reason.

Employee's FMLA Rights

- While on FMLA leave, the employee's health and dental benefits will remain unchanged. Thus, the employee will still be responsible for his/her share of the monthly health and dental premiums. If the employee does not return to work after FMLA leave for reasons beyond his/her medical condition, the Tax Commission can require the employee to reimburse the state's share of the premiums paid during his/her absence.
- An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to **before** using FMLA leave.
- Use of FMLA leave cannot be counted against the employee for any disciplinary action regarding attendance.
- Upon return from FMLA leave, employees are entitled to be restored to the position they held prior to their FMLA leave, or to be restored to an equivalent position with substantially equivalent benefits, pay, or other terms and conditions of employment.

Use of Paid Leave

An employee may elect to use accrued vacation leave, sick leave, or compensatory time concurrently with FMLA leave. If the employee elects to use compensatory time such time taken shall be counted against the employee's FMLA entitlement. If the employee elects to use accrued paid leave concurrently with FMLA, the employee is required to comply with all procedural requirements, such as notice requirements of the Tax Commission's paid leave policies. A failure to do so may result in loss of entitlement to paid leave for the time period for which the employee failed to comply with such policies, although the employee remains entitled to take unpaid FMLA leave. A bona fide illness must exist to use sick leave concurrently with FMLA leave.

Employees on FMLA leave who are concurrently using available sick or vacation time shall accrue sick and vacation hours at the same rate as if they were not on FMLA. However, employees utilizing compensatory time or unpaid FMLA leave do not accrue sick or vacation leave credits.

This policy is not intended to be all-inclusive. The exceptions and unique situations regarding FMLA benefits are too numerous and complex to address in this policy alone. Consultation with the HR FMLA Coordinator is strongly advised.

- STANDARDS & PROCEDURES:** The Tax Commission has adopted and made part of this policy [Personnel Procedures Manual, Section 6 - Work Hours, Overtime, Attendance and Leave](#) and [Employee Rights and Responsibilities under the Family and Medical Leave Act](#).
- EFFECTIVE:** Immediately
- APPROVAL:** Adopted by the Tax Commissioners on March 6, 2013.
- DISTRIBUTION:** A copy of this policy will be published on the Tax Insider upon adoption by the Commissioners, distributed to all employees of the Tax Commission, and included in New Hire Orientation.
- EXPIRATION:** This policy expires on March 6, 2017.

ⁱ If an employee has had a break of service of more than 7 years, time worked prior to rehire/reinstatement following that break of service does not count towards the twelve month eligibility requirement.

ⁱⁱ The child must be under 18 unless he/she is incapable of self-care due to mental or physical disability.