

Leaves of Absence: Mandate Overview

The following information covers the types of leaves of absence commonly faced by many employers:

Type of Leave	Federal Laws	State Laws*	Internal Policy
Bereavement			X
Family / Medical	X	X	
Holiday			X
Jury Duty	X	X	
Long-Term Disability			X
Military	X	X	
Short-Term Disability		X	X
Sick			X
Vacation / PTO			X

* Mandated by only some states.

Bereavement: While not mandated by state or federal law, it is common practice to grant leave to employees who experience a death in their immediate family. Most company policies specify and define immediate family, and most offer paid leave for several days.

Family / Medical: The Family Medical Leave Act (FMLA) is governed by Federal law. Employers with 50 or more employees must grant up to 12 weeks of unpaid FMLA leave to their employees for certain qualifying events; health care benefits must be continued during FMLA leave; and the employee must be reinstated to his or her former position or an equivalent position at the end of the leave. Employees are eligible for FMLA leave if they have worked for the employer for the last year, have worked 1,250 hours or more in that year, and are at a work site where there are at least 50 employees within a 75 mile radius. Leave may be taken in increments as short as what the employer's payroll system will allow or as long as 12 weeks.

Holiday: Individual company policy governs which holidays are taken by employees for private companies. Most companies use federal holidays as a guideline and offer many of the same holidays to their employees. Customary holidays include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.

Jury Duty: Employers are required to grant leave to employees who are called to serve on juries in federal and state courts. Several states have also passed laws requiring employers to grant leave when an employee is subpoenaed to testify as a witness. Discharge, discrimination, and retaliation against employees called to jury duty are strictly prohibited. Some state laws govern payment of wages to employees on jury duty leave, but most leave this policy decision to the employer.

Long-Term Disability: Long-term disability benefits are most commonly provided through insured plans and are designed to pick up where short-term disability benefits end. Employees who receive long-term disability benefits are generally not expected to be able to return to work in the foreseeable future. Benefits usually range from 50 - 70% of the employee's salary (including any Social Security benefits, if applicable) and are customarily payable following a waiting period of 3-6 months.

Military: Employers must grant leave to employees who are drafted or voluntarily enlist in the U.S. Armed Forces, or who volunteer for the National Guard and Military Reserves. Employees returning from those duties are entitled to full reinstatement to their former jobs after discharge from the military, or to positions of like seniority, status, and pay. Reservists must be granted time off for fulfillment of their duties, plus travel time, in addition to any vacation leave they may have accrued. Federal law does not mandate that reservists be paid by their employer for their time away from work but does specify requirements for vesting in pension plans. Many companies pay full wages or the difference between their employees' reserve wages and regular pay for short periods such as the annual two week training that reservists must perform.

Short-Term Disability: Many employers provide full or partial income replacement to employees who are unable to work due to illnesses or injuries whose duration exceeds that of regular sick leave benefits. Employers commonly provide 50% or more in income replacement for periods of up to 26 weeks following a short waiting period (usually 1-2 weeks). Some employers include company policy provisions for benefit continuation and job security, and most employers self-fund their plans, rather than insure them.

Sick: The amount of paid sick leave an employee earns, if any, is governed by the policy of each employer. Many employers provide between five and twelve days per year as a standard, often allowing employees to accrue more as length of service increases. Most companies do not allow carry over of unused sick leave from year to year beyond a reasonable amount.

Vacation / PTO: Leave for vacation / "Paid Time Off" (PTO) time is granted by most employers, and is considered a benefit which accrues as the employee works. Many states consider accrued vacation / PTO leave a benefit payable upon employment termination.