

# Employee Leave Reference Guide

As a nonprofit employer, you need to understand your employee’s rights as a worker in Washington state. This includes the many laws related to taking time off (or leave). Some leave laws require the employer to pay the worker during their time off from work. Other leave laws let the employer decide whether the leave will be paid or unpaid.

The law indicates what the employer must minimally do, but employers are always allowed to provide more leave or more paid leave than required, with the exception of those benefits that are administered and paid through state-run programs. Some employers who are not subject to a leave law may choose to offer similar leave.

When developing employer leave policies, employers should not only abide by the law, they may want to consider how their policies align with their employer philosophy, organizational values and culture, and ability to retain good workers. Employers who choose to go beyond what the law requires should consider the impact on the mission, organizational sustainability (including financial and programmatic), and worker retention and work-life balance.



### Does the law apply?

Review the overview to see which laws apply to your situation.



### What are the details?

Go to the detail pages for more information about each law.



### Read more online.

Use the links in the detail pages to get information from the agency.



### Consult an expert.

Talk to your HR representative and/or attorney.

## Step 1. Does the law apply?

Law	Employers Covered	Eligible Employees	Benefit
WA Paid Family & Medical Leave (PFML) Details: Page 3	All employers.	Most employees who have worked 820 hours in approximately the last year.	State program offers workers partial % wage replacement for certain qualifying life events.  Most eligible employees can take up to 12 weeks of paid leave a year. Birthing baby may be eligible for 16 to 18 weeks paid leave.
WA Family Care Act (WFCA) Details: Page 3	Employers who provide a paid leave benefit.	Employees with available paid leave.	Employees can use their choice of earned paid leave such as sick leave, vacation, holiday, paid time off (PTO), and some short-term disability plans for family care purposes.
WA Paid Sick Leave Details: Page 3	All employers.	Employees subject to Minimum Wage Act with available paid sick leave (incl. part-time, temporary, and seasonal workers.)	Employees must be allowed to accrue at least one hour of paid sick leave for every 40 hours worked.
WA Domestic Violence Leave Details: Page 4	All employers.	No eligibility requirements.	Provides job protection for employees who are victims or whose family members are victims of domestic violence, sexual assault or stalking. May choose paid or unpaid leave, when available.

<b>Law</b>	<b>Employers Covered</b>	<b>Eligible Employees</b>	<b>Benefit</b>
WA Military Leave Details: Page 4	All employers.	For uniformed services including military, national guards (coast, army national, air national), reserves, Public Health Service corps; and any other category of persons designated by the president in time of war or emergency.	For deployment, training, or any other absence due to a military order
WA Family Military Leave Details: Page 4	All employers.	Employees who work average 20+ hrs/week	Provides job protection for spouses or registered domestic partners of military personnel (active duty, national guard, or reserves).
WA Emergency Services Personnel Leave Details: Page 5	20+ FTE in the previous year	Volunteer firefighters, reserve officers or civil air patrol members	Provides job protection to covered employees responding to, working at, or returning from a fire alarm or emergency call.
WA Law Against Discrimination (WLAD) Details: Page 5	8+ employees	Employees with a qualifying condition that substantially limits one or more major life activities.	Provides reasonable accommodation, including the use of leave in the case of disability or pregnancy disability.
Federal Family and Medical Leave Act (FMLA) Details: Page 5	50+ employees within 75-mile radius	Employed at least 12 months and worked 1,250+ hours in the past 12 months	Provides job protection, with few exceptions, for 12 weeks leave to care for self or family member with serious health condition. 12 workweeks during any 12-month period (rolling or calendar year).
Families First Coronavirus Response Act (FFCRA or Act) Details: Page 6	Employer policy. (extended tax credits through 9/30/2021).	Have COVID-19 symptoms, are seeking diagnosis, or are quarantined by govt. or health care provider. Child place of care (school, childcare) is unavailable due to COVID-19.	Eligible hours based on part-time and full-time status and reason for leave.
Pregnancy, Maternity, Childbirth and Parental Leave Details: Page 6	Federal: 15+ employees. WA: 8+ employees (for pregnancy disability) WA: 15+ employees (workplace pregnancy accommodations)	Employed at least 90+days.	Employers must grant a "leave of absence" for the period of time a woman is temporarily disabled because of pregnancy or childbirth.
Americans with Disability Act (ADA) Details: Page 6	15+ employees	Qualified persons with a disability	Unless hardship, reasonable accommodation including continuous or intermittent leave.

**Step 2. What are the details? AND Step 3. Where can I read more online?**

**WA Paid Family & Medical Leave (PFML)**

<https://paidleave.wa.gov/>



Eligible Uses	Birth or placement of a new child into a family, recovery from a serious illness or injury, treatment of a chronic health condition, inpatient treatment for substance abuse or mental health, taking care of a family member with a serious health condition, and certain military events
Family Defined	Spouse (as defined by state in which employee resides), parent, and/or child (son, daughter). Child (son or daughter) of a covered service member, child (son or daughter) on active duty or call to active duty, next of kin of a covered servicemember.
Obligations	Contributions from both workers and employers. Employee: Comply with employer’s requirements for requesting leave and provide enough information for employer to reasonably determine whether the FMLA may apply. Employer: With very few exceptions, will have a responsibility to report employee wages, hours worked, collect and remit premiums. Employers may have an approved voluntary plan.
Agency	Employment Security Department
Law	<a href="#">RCW 50.A</a>

**WA Family Care Act (WFCA)**

<https://www.Lni.wa.gov/agency/outreach/paid-leave-under-the-washington-family-care-act>



Eligible Uses	To care for a child < 18 with a health condition that requires treatment or supervision, including preventive care or for an adult child > 18 who cannot care for themselves because of disability. Includes short-term care of a spouse or registered domestic partner for disability related to pregnancy or childbirth.
Family Defined	Spouses, registered domestic partners, children, parents, parents-in-law, and grandparents with a serious health condition or an emergency condition
Obligations	Employee: Follow employer policies regarding the use of leave. Employer: Allow employees to use their choice of any available leave to care for qualifying family members. No retaliation.
Agency	Department of Labor & Industries
Law	RCW 49.12.270 (1), WAC 296-130-030

**WA Paid Sick Leave**

<https://Lni.wa.gov/forms-publications/F700-197-000.pdf>



Eligible Uses	To care for self; to care for an employee’s “family member”, when employee's workplace or their child's school or place of care closed by order of a public official for health reasons; absences that qualify for leave under the Domestic Violence Leave Act; and additional purposes allowed by the employer.
Family Defined	A child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status; a biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; a spouse; a registered domestic partner; a grandparent; a grandchild; or a sibling.

Obligations	Employee: Follow employer policies regarding use of sick leave. Employer: Provide monthly notifications showing leave balances and transactions. Permitted to limit hours employee can carry over each year to 40. Not obligated to pay for sick leave upon termination but are required to restore previously accrued sick leave if employee rehired within 12 months. No retaliation. Leave balance statement at least monthly.
Agency	Department of Labor & Industries
Law	(RCW 49.46; WAC 296-128)

**WA Domestic Violence Leave**

<https://Lni.wa.gov/workers-rights/leave/domestic-violence-leave>



Eligible Uses	May be taken for legal or law enforcement assistance, medical treatment, counseling, obtaining services from a shelter or a victim’s advocate program, or for safety planning or relocation.
Family Defined	A child, a spouse, a parent, a parent-in-law, a grandparent, or a person the employee is dating
Obligations	Employee: Give notice no later than the end of the first day of the leave to qualify, even in emergency circumstances. Employers: May not refuse to make reasonable safety accommodations. May not discriminate or retaliate because individual is a victim or perceived victim of domestic violence.
Agency	Department of Labor & Industries
Law	RCW 49.76

**WA Military Leave**

<https://www.atg.wa.gov/employment-protections-veterans-military-personnel>

Eligible Uses	For deployment, training, or any other absence due to a military order.
Obligations	Employee: Give employers advance verbal or written notice of their service. Employer: Not allowed to require employees to use earned vacation leave or similar leaves. With few exceptions, required to reemploy members following honorable completion of service obligation, notification of return, and return to work in a timely manner after service.
Agency	Office of the Attorney General
Law	RCW 73.16

**WA Family Military Leave**

<https://Lni.wa.gov/workers-rights/leave/leave-for-military-spouses-and-certain-emergency-personnel>

Eligible Uses	Up to 15 days unpaid leave to spend time together after receiving notice of an active duty call or order, during member’s leave from deployment during times of military conflict.
Family Defined	A husband or wife, as the case may be, or state registered domestic partner
Obligations	Employee: Employees must give notice of intent to take military family leave within five business days of receiving official notice of the deployment or the leave from deployment in order for the leave to qualify for job protection. Employer: Not required to be paid leave, but employer must allow the employee to substitute any available paid leave.
Agency	Department of Labor & Industries
Law	RCW 49.77

## WA Emergency Services Personnel Leave

<https://lni.wa.gov/workers-rights/leave/leave-for-military-spouses-and-certain-emergency-personnel>

Eligible Uses	Volunteer firefighters must be on the alarm or emergency call and ordered to remain at the scene by the commanding authority in order to be covered.
Obligations	Employee: Complaints must be filed within 90 days. Employer: Cannot discipline or discharge an employee for taking this leave.
Agency	Department of Labor & Industries
Law	RCW 49.12.460

## WA Law Against Discrimination (WLAD)

<https://www.hum.wa.gov/employment>

Eligible Uses	Reasonable accommodation may include, but is not limited to, extended or additional breaks, use of accrued paid time off, and alternative schedules.
Obligations	Employee: Address complaint through employer-provided channels before filing complaint with regulatory agency.  Employer: No retaliation. Employers must initiate attempts to accommodate the disability if it starts to interfere with an employee's job performance. If the employer fails to explore alternative means of accommodation and it's later sued for disability bias, it will have the burden of showing that each of the employee's suggestions for accommodation would have been unreasonable.
Agency	Human Rights Commission
Law	RCW 49.60

## Federal Family and Medical Leave Act (FMLA)

<https://www.dol.gov/general/topic/benefits-leave/fmla>



Eligible Uses	(1) Birth of a child (within 12 months of birth). (2) Placement of a child for adoption or foster care. (3) Serious health condition of employee's spouse, parent or child. (4) Serious health condition of employee that makes him/her unable to perform the functions of the position. (5) Qualifying exigency leave (6) Military caregiver leave
Family Defined	Spouse, son, daughter, or parent. See regulation.
Obligations	Employee: Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request.  Employer: Provide employees with information about FMLA: general notice, their eligibility status and rights and responsibilities, whether specific leave is FMLA designated, the amount of time against their FMLA leave entitlement.
Agency	U.S. Department of Labor
Law	29 CFR 825.100

**Families First Coronavirus Response Act (FFCRA or Act)**

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>



Eligible Uses	Includes receiving vaccine, recovering from condition related to COVID-19, seeking or awaiting the results of COVID-19 test or diagnosis because of exposure.
Family Defined	Same as FMLA.
Obligations	Employee: Advise employers. Employer: Must keep employee medical information confidential.
Agency	Department of Labor Wage and Hour Division
Law	Families First Coronavirus Response Act, The American Rescue Plan Act

**Pregnancy, Maternity, Childbirth and Parental Leave**

<https://Lni.wa.gov/workers-rights/leave/pregnancy-parental-leave>



Eligible Uses	May be used for qualifying family members for health related care. Disability leave for pregnancy is limited to what is medically necessary to address any disability due to pregnancy or childbirth. Amount of leave as recommended by health provider.
Obligations	Employee: May require certification. Employer: Employers are required to treat women affected by pregnancy and its related conditions (deliveries, miscarriages, abortions, etc.) in the same manner as they would any other employee with a temporary disability for insurance and other employee benefit purposes. Must provide reasonable accommodations, including leave. Employers may not discharge or refuse to hire a woman because she is pregnant or may become pregnant in the future.
Agency	Washington State Human Rights Commission
Law	RCW 43.10.005, RCW§ 49.60.010, WAC § 162-30-020

**Americans with Disability Act (ADA)**

<https://www.dol.gov/general/topic/disability/ada>



Eligible Uses	A physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment.
Obligations	Employee: Employer must have knowledge of employee's disability and need for leave. Provide medication certification. Employer: Must initiate attempts to accommodate the disability if it starts to interfere with an employee's job performance. If the employer fails to explore alternative means of accommodation and it's later sued for disability bias, it will have the burden of showing that each of the employee's suggestions for accommodation would have been unreasonable.
Agency	Equal Employment Opportunity Commission
Law	29 C.F.R. 1630.2(g)

**Step 4: Consult an expert.**

The Employee Leave Reference Guide is provided for educational purposes only and does not constitute legal or technical advice. If you are unsure about anything covered in this guide, please contact the appropriate agency, an employment attorney, or a human resources specialist.