

**Attachment E**  
**FMLA Qualifying Exigency Leave**

**This is an attachment to State HR Policy 60.000.15 Family and Medical Leave that specifically addresses FMLA Qualifying Exigency leave. The agency must follow the provisions of the main policy plus this attachment when administering FMLA Qualifying Exigency leave.**

- (1) Under FMLA only, eligible employees receive protected leave to attend to qualifying exigencies when the employee's spouse, parent, son, or daughter is on active duty or called into active duty in support of a contingency operation for the military. Includes service members of the National Guard and Reserves and the Regular Armed Forces.
- (2) **Qualifying Exigency:** The following circumstances are considered qualifying exigencies (additional detail is contained in 29 CFR 825.126):
  - (a) Short-notice deployment: Notice that a covered military member will be deployed within seven days or less. An employee may take a maximum of seven days of FMLA Qualifying Exigency leave to address any issue arising from an impending call to duty (deployment) received by a covered military member. The employee must begin the leave within seven days of the deployment notice received by the military member.
  - (b) Military events and activities related to deployment.
  - (c) Arranging for alternative childcare or schools or providing care on an urgent, immediate need basis because of the deployment. For example: The deployed military member normally provides the childcare so the employee uses FMLA Qualifying Exigency leave while arranging for new childcare. The deployed military member normally transports the child to school so the employee uses FMLA Qualifying Exigency leave while arranging for alternate transportation for the child. The deployed military member normally stays home with a sick child so instead the employee stays home with the sick child using FMLA Qualifying Exigency leave. (Note: the last example potentially qualifies under OFLA Sick Child leave.)
  - (d) To provide care for the military family member's parent.
  - (e) Attending meetings with the school or daycare staff when the meetings are necessary due to circumstances arising from the deployment. For example: The deployed military member normally attends parent-required school or daycare-related conferences and meetings so instead the employee attends using FMLA Qualifying Exigency leave.
  - (f) Financial and legal arrangements related to the military member's deployment.
  - (g) Counseling for the employee, or for the employee to attend with the military member or the child of the military member, as the need arises from the deployment.
  - (h) Up to 15 days to spend with a military member on rest and recuperation (R and R).
  - (i) Post-deployment activities sponsored by the military (limited to a period of 90 days following the termination of the military member's active duty status.)
  - (j) Leave needed to address issues related to the death of the military member.

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(k) An agency may agree to permit leave for other deployment-related activities not encompassed in the other categories.

**(3) Definitions:**

(a) Spouse: The employee's husband or wife as defined by Oregon state law.

(b) Parent: The biological or adoptive mother or father of an employee or an individual who stood in loco parentis (in place of a parent) when the employee was a child.

(c) Son or daughter: The biological, adopted, foster or stepchild, a legal ward, or a child of an employee standing in loco parentis. There is no age limit under the definition of a son or daughter for FMLA Qualifying Exigency leave.

(d) Active duty: A federal deployment under a call or order to active duty to a foreign country, including deployment under a provision of law referred to in Section 101(a)(13)(B) of Title 10, United States Code.

(4) An agency has the option to require an employee to provide a FMLA Qualifying Exigency Certification to verify the need for FMLA Qualifying Exigency leave. If requiring certification, the agency gives the employee the FMLA Qualifying Exigency Certification PD 615C when the agency responds to the employee's request for leave. The certification PD615C can be accessed electronically in the "Attachments" section on Page 1 of the policy.

(a) The employee must complete the FMLA Qualifying Exigency Certification, attach documents as required in the form, and return it to the agency within 15 calendar days. In some extenuating circumstances, the agency allows more than 15 days, when despite the employee's diligent efforts the employee is unable to provide the certification in 15 days.

(A) If an employee refuses to or does not provide the FMLA Qualifying Exigency Certification, an agency may deny the FMLA Qualifying Exigency leave. Denied FMLA Qualifying Exigency leave is not protected under FMLA.

(B) If the FMLA Qualifying Exigency Certification is incomplete or insufficient, the agency advises the employee in writing what additional information is needed to make the certification complete and sufficient. The agency allows the employee up to seven calendar days to obtain complete and sufficient certification.