

EMPLOYMENT LAW SUMMARY

North Dakota: Employee Leave Laws - Overview



Because You're Different

Employers may provide their employees with various types of paid or unpaid leave as part of their overall compensation packages, including vacation time, personal leave and sick leave. Employers have some flexibility when it comes to establishing or negotiating employee leave policies. However, federal laws such as the Family and Medical Leave Act (FMLA) require covered employers to provide employees with leave in certain situations.

In addition to federal leave laws, North Dakota has employee leave laws regarding:

- Jury duty and witness leave;
- Voting leave;
- Legislative service leave;
- Volunteer emergency responder leave; and
- Pregnancy disability leave.

This Employment Law Summary includes a chart that provides a high-level overview of North Dakota's employee leave laws and suggests compliance steps for employers.

OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury Duty and Witness Leave	Employers must allow employees time off from work for jury duty or to serve as witnesses. An employer may not discharge, lay off, penalize, threaten or otherwise coerce an employee because the employee responds to a summons or subpoena, serves as a juror or witness, or attends court for jury service or to give testimony pursuant to a subpoena.
Voting Leave	Employers are encouraged to allow employees time off from work to vote when an employee's work schedule conflicts with the time the polls are open.
Legislative Service Leave	An employer may grant unpaid leave to an employee who is a member of the legislative assembly to serve during any regular or special session, or to attend a meeting of the legislative management or any of its committees. An employer may reduce or eliminate the payment of any additional benefits the employee normally receives while the employee is performing legislative service.

TYPE OF LEAVE	REQUIREMENTS
Volunteer Emergency Responder Leave	<p>An employer may not terminate, demote or discriminate against an employee who is late or absent from work because he or she was responding to a disaster or emergency in his or her capacity as a volunteer emergency responder. Exceptions apply to employers who perform critical emergency services during a disaster or emergency or where the volunteer emergency responder is considered critical to the employer's operations.</p> <p>An employee responding to an emergency or disaster must make reasonable efforts to notify his or her employer if he or she will be late or absent from work. Any time missed by the employee is unpaid. Employers may request verification of the employee's volunteer emergency service.</p> <p>These protections do not apply to volunteer emergency responders who are late or absent from work for more than 20 working days in a calendar year (except for involuntarily activated National Guard members).</p>
Pregnancy Disability Leave	<p>The North Dakota Human Rights Act applies to all employers and prohibits employment discrimination on the basis of race, color, religion, sex, national origin, age, physical or mental disability, marital or public assistance status or participation in lawful off-duty conduct.</p> <p>The definition of "sex" includes pregnancy, childbirth and related disabilities. Pregnancy must be treated the same as other temporary disabilities, including with respect to the commencement and duration of leave, availability of extensions, the accrual of seniority and other benefits while on leave and job reinstatement.</p>

SPECIAL NOTE: Please note that the information in this chart focuses on statewide laws. Employers must be aware that numerous cities and counties across the country have enacted local ordinances that mandate employers to provide paid sick leave to employees. An employer located in a city with a local paid sick leave law must generally comply with the local ordinance and statewide law, if applicable.

COMPLIANCE STEPS

It is important for North Dakota employers to understand when their employees are entitled to take time off from work, and the legal protections associated with such leaves. Employers that violate state or federal leave law requirements may be subject to government investigations, fines, employee lawsuits and significant penalties, fees and damage awards.

To minimize these risks, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to correct. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

As part of the compliance review employers should confirm that:

- Employee handbooks and written policies and procedures have been updated to accurately describe employee leaves;
- Human resources personnel, as well as managers and supervisors, are educated on how to administer employee leaves and receive ongoing training;
- Employee leaves are administered on a consistent basis, and employees are educated on leave rights and requirements;
- Recordkeeping systems accurately track and document employee leaves; and
- Required notices and posters regarding leave laws are provided.

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