

EMPLOYMENT LAW SUMMARY

West Virginia: 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 flexibility when it comes to establishing or negotiating employee leave policies. However, West Virginia employers must provide their employees with leave mandated by state law. (Employers must also comply with federal leave laws not discussed here, such as the Family and Medical Leave Act.)

West Virginia has laws regarding:

- Jury duty leave;
- Voting leave;
- Legislature and public service leave;
- Military leave;
- Volunteer firefighter and emergency medical service leave; and
- Civil Air Patrol leave.

The chart below provides a high-level overview of West Virginia's employee leave laws.

OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury duty leave	Employers must allow employees unpaid leave to serve as jurors. An employer may not terminate, threaten to terminate or decrease an employee's regular wages due to jury duty leave. An employee must provide notice to his or her employer by the next workday after receiving a jury summons.
Voting leave	Employers must provide employees with up to three hours of paid leave to vote on election day, upon written request at least three days in advance. Employees with three or more hours of non-work time when the polls are open are not eligible for the leave (although an employer may provide the employee with unpaid time to vote). Certain employers whose operations are essential or require continuity may schedule employee voting leave to avoid disruption of business operations.
Legislature and public service leave	Employees who are members of the legislature must continue to receive pension coverage, benefits or insurance coverage while absent from work to attend regular or extraordinary sessions of the legislature, as long as they continue to pay any required contributions. Employers must grant unpaid leave to employees who are elected or appointed to a part-time public office, unless the employer employs fewer than six full-time workers during the time when the elected official is performing the duties of the office.
Military leave	West Virginia provides members of the organized militia called to active state duty the same leave and re-employment rights granted to members of the reserve components of the U.S. Armed Forces, including rights granted by the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

TYPE OF LEAVE	REQUIREMENTS
Volunteer firefighter and emergency medical service leave	An employer may not terminate or discipline an employee who is a volunteer fire department member or an emergency medical service attendant for being late or absent from work because he or she was responding to an emergency before they were due at work. Time missed from work may be charged against the employee's regular pay or the employee's accumulated leave, at the option of the employee. Employers are also prohibited from terminating employee members of an emergency medical service who miss work because they are responding to an emergency before work time. Time missed from work may be charged against the employee's regular pay. In both cases, employers may request documentation for the emergency leave.
Civil Air Patrol leave	Employers must provide up to 10 days per year of unpaid leave to employees for Civil Air Patrol training, and up to 30 days per year for Civil Air Patrol missions. Employees must provide 14 days' notice for training leave and as much time as possible for mission leaves. Employers may request verification. Employees may not be required to exhaust any other leave benefit before using Civil Air Patrol leave.

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