



Statement of Policy

It is the policy of NorthWestern Energy, consistent with the Family and Medical Leave Act (FMLA) and other applicable state and federal laws, to provide eligible employees up to twelve (12) weeks of unpaid, job-protected leave in a 12-month period for the following qualifying reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child;
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

Objective

The objectives of the policy are to:

- A. Provide employees with a general description of their FMLA rights.
- B. Establish the terms and conditions used to deliver FMLA benefits to an eligible employee.

Scope

This policy applies to each employee who meets the following eligibility criteria:

- Employed by NorthWestern Energy for at least twelve (12) months, and
- Worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

Definitions

- A. *12-month period*: A rolling 12-month period measured backward from the date leave is taken.
- B. *Equivalent Job*: As defined under the FMLA, an equivalent job that is virtually identical to an employee's original job in terms of pay, benefits, and other employment terms and conditions.
- C. *Intermittent Leave*: Intermittent Leave is defined under FMLA as leave taken periodically, in separate blocks of time, for a single qualifying reason.



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- D. *Leave Coordinator*: The NorthWestern Energy employee responsible for administering or coordinating certain leave benefits, including FMLA leave and Short Term Disability.
- E. *Military Caregiver Leave*: An eligible employee who is a covered service member's spouse, child, parent, or next of kin may take up to 26 weeks of FMLA leave in a single 12-month period to care for the service member with a serious injury or illness sustained in the line of active military duty. A covered service member means an individual who was:
- a. A member of the Armed Forces (including a member of the National Guard or Reserves);
 - b. Discharged or released under conditions other than dishonorable; and
 - c. Discharged within the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered service member.
- F. *Qualifying Exigency Leave*: Leave may be taken for any qualifying exigency arising out of the fact that a covered military member is on active duty, called to active duty status, or ordered to active duty in a contingency operation. The Department of Labor regulations include a broad list of activities that are considered qualifying exigencies and will permit an eligible employee who is the spouse, son, daughter, or parent of a covered military member on active duty to take FMLA leave to address the most common issues that arise when a covered military member is deployed, such as attending military-sponsored functions, making appropriate financial and legal arrangements, and arranging for alternative childcare. For a complete list of qualifying exigencies, access the following website: <https://www.dol.gov/whd/regs/compliance/whdfs28mc.htm>
- G. *Reduced Work Schedule Leave*: Leave that reduces the employee's usual weekly or daily work schedule.
- H. *Serious Health Condition*: As defined under the FMLA, a Serious Health Condition is an illness, injury, impairment, or physical or mental condition that involves:
- a. Inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
 - b. A condition that requires continuing care by a licensed health care provider; or
 - c. Illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within (30) days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.



Employees or supervisors with questions about what illnesses may be covered under this FMLA policy are encouraged to consult with the Leave Coordinator or contact the Third Party Administrator.

- I. *Third Party Administrator*: Also referred to as a TPA, the business organization that performs administrative services for certain NorthWestern Energy leave benefits.

Policy Provisions

A. LEAVE DURATION

1. An eligible employee may take up to twelve (12) weeks of FMLA leave during any 12-month period for the birth or adoption of a child, to care for an immediate family member with a Serious Health Condition, the employee's own Serious Health Condition, or a Qualifying Exigency Leave.
 - a. The rolling 12-month period will be measured backward from the date an employee uses any leave under this policy.
 - b. Each time an employee takes leave, the TPA will compute the amount of leave the employee has taken under this policy in the last twelve (12) months and subtract it from the twelve (12) weeks of available leave, and the employee will be entitled to take the balance of any leave remaining.
2. Military Caregiver Leave allows for a combined total of twenty six (26) weeks of leave during a single twelve (12) month period to provide care for a covered service member.
3. Eligible spouses who both work for NorthWestern Energy may only take a combined total of twelve (12) weeks of leave, unless the leave is to care for a covered injured or ill service member (if such spouse is a parent, spouse, child, or next of kin of the service member) in which case they may take up to twenty-six (26) weeks.
4. For the birth, adoption or foster care of a child, NorthWestern Energy and the employee must mutually agree to the schedule before the employee may take leave intermittently or work a reduced-hour schedule. Leave for birth, adoption or foster care must be taken within one (1) year of the birth/placement of the child.
5. An employee may be eligible to take FMLA leave continuously, or may use Intermittent Leave or Reduced Work Schedule Leave, subject to certification of need by a qualified medical professional.
6. NorthWestern Energy has the authority to review the facts and circumstances surrounding an employee's leave to determine eligibility and whether it qualifies as FMLA leave. The FMLA does not require the employee to designate the absence as FMLA leave. Absences that qualify under the FMLA may be designated as FMLA leave by NorthWestern Energy and counted against the FMLA leave entitlement, whether or not the employee provided the notification required by this policy.



B. USE OF PAID AND UNPAID LEAVE

Paid leave such as Short Term Disability, Parental Leave, Paid Time Off, or Workers Compensation, if available and eligible, must be substituted for unpaid FMLA leave and will run concurrently with FMLA leave unless otherwise prohibited by law or applicable collective bargaining agreement.

C. BENEFITS AND PROTECTIONS

1. While on FMLA leave, an employee's participation in NorthWestern Energy's benefit plans will continue, as provided under the provisions of the plans or as required by law.
2. Upon return from qualified FMLA leave, an employee will be restored to their original job or an Equivalent Job for which the employee is qualified, with limited exceptions.

D. RESPONSIBILITIES

1. An employee is responsible for:
 - a. Notifying the Third Party Administrator of the need for leave.
 - b. Providing at least thirty (30) days written notice of the proposed leave to the supervisor and the Leave Coordinator, when the need for leave is foreseeable. If advance notice is not possible due to circumstances beyond the employee's control, notice should be given as soon as possible. Failure to give advance notice where foreseeable may preclude or delay approval of the leave.
 - c. Providing requested documentation.
 - d. Proactively communicating with the supervisor to provide periodic status updates regarding anticipated return to work.
 - e. Not engaging in any form of self-employment or performing work for any other employer during the FMLA leave, except when:
 - i. the leave is for military or public service, or
 - ii. the employment has been approved consistent with the guidelines of outside or secondary employment set forth in the Code of Conduct and Ethics, and the employee's reason for leave does not preclude outside employment.
 - f. For Qualifying Exigency Leave, completing the U.S. Department of Labor Certification of Qualifying Exigency for Military Family Leave.
 - g. An employee who does not cooperate and comply with these responsibilities may forfeit their right to the benefit.
2. A supervisor is responsible for:



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- a. Notifying the Leave Coordinator of a potential need for FMLA leave.
 - b. Confirming with the employee whether absences are due to FMLA leave or for other unrelated reasons.
 - c. Requesting and obtaining a return to work certification when the leave is for the employee's own serious health condition, prior to allowing the employee to resume work.
 - d. Reviewing time entry to ensure time is recorded accurately.
3. The Leave Coordinator or Third Party Administrator is responsible for:
- a. Providing notice of eligibility to the employee and,
 - i. If eligible, providing a notice of rights and responsibilities under the FMLA.
 - ii. If not eligible, providing a reason for ineligibility.
 - b. Notifying the employee whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.

Corporate Policy Provisions

- A. Nothing in this policy is intended to limit an employee's rights under the National Labor Relations Act (NLRA).
- B. If any of the provisions of this policy conflict with federal or state law, the provisions of the federal or state law prevail.
- C. If any of the provisions of this policy conflict with those of a collective bargaining agreement (CBA) for covered employees, the provisions of the CBA will prevail.
- D. All employees are expected to comply with this policy. Failure to do so may result in disciplinary action up to and including termination of employment.
- E. The existence of this policy does not create a contract or vested right of employment implied or otherwise. NorthWestern Energy is an at will employer in South Dakota, Nebraska, and Wyoming.
- F. NorthWestern Energy reserves the right to amend, terminate, or otherwise modify this policy at any time. The effect of any amendment or modification, however, will be prospective, not retroactive.



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Additional Resources

- A. [NorthWestern Energy Code of Conduct and Ethics](#)
- B. [Paid Time Off policy](#)
- C. Parental Leave policy
- D. [Short Term Disability Income Benefit Plan](#)
- E. [How to File a Leave Request and/or Short Term Disability Claim](#)
- F. [Safety, Health and Environmental Handbook](#)
- G. [Employee Rights under the Family and Medical Leave Act](#)