



Mashantucket Pequot
Tribal Nation

MASHANTUCKET EMPLOYMENT RIGHTS OFFICE

Information about Military-Related Leaves Under the Mashantucket Pequot Family and Medical Leave Law (MFML Law)

Important: Individuals who wish to file a claim under the MFML Law must do so within 180 calendar days of the event believed to be a violation of the law.

This document addresses military-related MFML Law leave - qualifying exigency and military caregiver leave. An employee may also be eligible for leave under the provisions of the MFML Law that are not specifically military-related. For additional information about MFML Law-protected leave that is not military-related, please see MERO Form 51-6120, *Information about the MFML Law*, on the MERO website (<https://MERO.mptn-nsn.gov>).

1. What is the MFML Law?

The MFML Law provides unpaid leave and workplace protections to eligible employees of the Mashantucket Pequot Tribe (Tribe) who require time away from work to attend to family or medical issues.

Depending on the reason for the qualifying leave, an eligible employee of the Tribe may receive 12, 14, or 26 workweeks of unpaid leave during a 12-month period, specifically:

- a. 12 workweeks of leave for one or more of the following reasons:
 - (1) the birth or placement (adoption or foster care) of a child and care for the child within the first year after birth or placement,
 - (2) the needed care of a family member with a qualifying serious health condition,
 - (3) the employee's own qualifying serious health condition that makes them unable to perform their job,
 - (4) human organ or bone marrow donation;
 - (5) a qualifying exigency related to a family member's military deployment;
- b. An additional two (2) workweeks of continuous leave for the employee's own qualifying serious health condition; and
- c. 26 workweeks of leave for an eligible employee who is a family member or next of kin of a current or veteran covered servicemember with a serious injury or illness, to care for the covered servicemember.

The combined total leave under the MFML Law in a 12-month period may not exceed 26 weeks. Spouses employed by the Tribe who are otherwise eligible for leave under the MFML Law each receive their full leave entitlement regardless of the qualifying reason for taking leave.

2. Who is eligible for family and medical leave under the MFML Law?

Most employees of the Tribe who work on the reservation are eligible for leave if, as of the requested leave start date, they meet the time in service and hours of service eligibility criteria associated with the reason for the leave. To be eligible for qualifying exigency or military caregiver leave, the employee must have been employed by the Tribe for at least 12 months within the prior seven (7) years and at least 1,250 hours of service during the 12-month period (52 weeks) immediately prior to the start of the leave. Generally, the 1,250 hours includes only hours worked. Military service under USERRA (Uniformed Services Employment and Reemployment Act) is counted toward the time in service and hours of service requirements.

3. Who is a "family member" under the MFML Law for qualifying exigency and military caregiver leave?

For qualifying exigency leave, as well as for all other types of leave under the MFML Law other than military caregiver leave, family member is defined as the employee's spouse, child, grandchild, parent, grandparent or sibling. For military caregiver leave, family member is defined as the covered servicemember's spouse, child, grandchild, parent, grandparent or sibling.

- a. **Spouse** means a party to a marriage or a partner of a civil union where the marriage or civil union is legal in the jurisdiction in which it was performed.

- b. **Child (of any age)** means biological, adopted, or foster child, stepchild, Tribal Member Dependent Child*, legal ward, or in the alternative, a child to whom an individual stands *in loco parentis*** currently or stood *in loco parentis*** when the child was under age 18.
- c. **Grandchild** means a grandchild related by blood, marriage, adoption by a child of the grandparent, foster care by a child of the grandparent, or as a Tribal Member Dependent Child* of a child of the grandparent.
- d. **Parent, for qualifying exigency leave**, means the employee or their spouse’s biological parent, adoptive parent, stepparent, foster parent, parent-in-law, or legal guardian, or an individual standing *in loco parentis*** to the employee currently or when the employee was under age 18. **For military caregiver leave, parent** means the servicemember’s biological parent, adoptive parent, stepparent, foster parent, parent-in-law, or legal guardian, or an individual standing *in loco parentis*** to the servicemember currently or when the servicemember was under the age of 18.
- e. **Grandparent** means a grandparent related to an individual by blood, marriage, adoption of a minor child by a child of the grandparent, foster care by a child of the grandparent, or as a Tribal Member Dependent Child* of a child of the grandparent.
- f. **Sibling, for qualifying exigency leave**, means the employee’s or their spouse’s biological sibling, half-sibling, step-sibling, adopted sibling, foster sibling, sibling-in-law, or Tribal Member Dependent Child* sibling. **For military caregiver leave, sibling** means the servicemember’s biological sibling, half-sibling, step-sibling, adopted sibling, foster sibling, sibling-in-law, or Tribal Member Dependent Child* sibling.

***Tribal Member Dependent Child** means a person who is not a member of the Mashantucket Pequot Tribal Nation (MPTN) who was in the custody and care of a member of MPTN and resided in the household of the Tribal Member as a family member for at least seven (7) years on or before reaching the age of 18 as provided in Title 46, M.P.T.L.

****In loco parentis** includes, but is not limited to, persons with day-to-day responsibilities to care for or financially support a child or, in the case of an eligible employee or covered servicemember, who had such responsibility for the employee or servicemember, as applicable, when they were under age 18. A biological or legal relationship is not necessary.

4. Who is a covered servicemember’s “next of kin” for military caregiver leave under the MFML Law?

Next of kin means the covered servicemember’s nearest blood relative other than a “family member,” in the following order of priority: 1) The servicemember has specifically designated in writing (a) a blood relative as their nearest blood relative or (b) another individual whose close association with the servicemember is the equivalent of a family member for purposes of military caregiver leave; 2) Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions; 3) Aunts and uncles; and 4) First cousins.

5. May my employer ask that I demonstrate a “family member” or “next of kin” relationship?

Yes, the employer may ask you to provide a simple statement signed by you that verifies your relationship to the individual for whom you seek leave. If you prefer, you may use MERO Form 51-6350, *Verification of Relationship*, available on the MERO website.

6. Under what circumstances may I take leave under the MFML Law for a qualifying exigency?

You may take leave because of a qualifying exigency arising out of the fact that your family member is: (a) a member of the U.S. Armed Forces (Army, Navy, Marine Corps, Coast Guard and Air Force) on or notified of an impending covered active duty deployment to a foreign country; or (b) a member of the Reserve components of the U.S. Armed Forces (National Guard or Reserves) on or notified of an impending covered active duty deployment to a foreign country under a Federal call or order in support of a contingency operation.

Qualifying exigency leave may be taken to attend to issues that arise when a covered military member is deployed, including the following:

- a. **Short notice of deployment.** If the military member’s notification occurs less than seven (7) days prior to deployment, the employee may take leave during the seven (7) day period after the military member’s notification to address any issues arising from the short notice.

- b. **U.S. Military events and related activities.** When related to the military member's covered active duty deployment, leave may be taken to attend a ceremony, event or program sponsored by the U.S. military, or family support or assistance programs, or informational briefings by the U.S. military, military service organizations or the American Red Cross.
- c. **Childcare and school activities for the military member's child who is under age 18 or incapable of self-care.** When related to, and needed as a result of, the military member's covered active duty deployment, leave may be taken for activities such as arranging for alternative child care, providing childcare on an urgent, immediate need short-term basis, attending child-related childcare or school meetings, or enrolling in or transferring a child to another school or care facility.
- d. **Financial and legal arrangements.** Leave may be taken to make or update financial arrangements to account for the military member's absence or to act as a representative of the military member to obtain, arrange or appeal military service benefits.
- e. **Counseling.** Leave may be taken to attend counseling that is not conducted by a health care provider. The counseling must arise from the deployment and may be for the military member, the military member's minor child or child incapable of self-care, or the employee.
- f. **Rest and Recuperation.** Up to 15 calendar days of rest and recuperation leave may be taken each time a military member is on temporary leave during a deployment.
- g. **Post-deployment activities.** For up to 90 days after the end of the military member's covered active duty, leave may be taken to attend arrival ceremonies, reintegration briefings and other official ceremonies and programs or to address the death of the military member while on active duty, such as meeting the body, making funeral arrangements and attending the funeral.
- h. **Care for a military member's parent who is incapable of self-care.** When related to, and needed as a result of, the servicemember's covered active duty deployment, leave may be taken to arrange for alternative care, provide care on an urgent, immediate need short-term basis, attend care-related meetings or admit or transfer the parent to a care facility.
- i. **Additional activities as agreed by the employer.** If the employer and employee agree that leave would be for a qualifying exigency and agree on the timing and duration of leave, leave may also be taken for other events that arise as a result of a military member's deployment.

7. What type of notice for qualifying exigency leave must I provide to my employer under the MFML Law?

You must provide notice of the need for qualifying exigency leave as soon as practicable. Generally, notice should be provided the same day or the next business day. When the need for leave is unforeseeable, you must comply with the employer's normal notice procedures unless there are unusual circumstances. You must provide sufficient information to make the employer aware of your need for leave for a qualifying exigency.

8. Who is a "covered servicemember" for purposes of military caregiver leave under the MFML Law?

A covered servicemember may be a current servicemember or veteran servicemember as follows:

- a. **Current covered servicemember** is a current member of the U.S. Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status (the status of a servicemember assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the U.S. Armed Forces receiving medical care as outpatients), or is otherwise on the temporary disability retired list, for a serious injury or illness.
- b. **Veteran covered servicemember** is a veteran who is undergoing medical treatment, recuperation or therapy, for a serious injury or illness and who was discharged or released from the United States Armed Forces under conditions other than dishonorable at any time during the five (5) year period preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

9. What is a "serious injury or illness" for purposes of military caregiver leave under the MFML Law?

The definition of a serious injury or illness depends on whether the covered servicemember is a current or veteran servicemember.

- a. **Current covered servicemember.** A “serious injury or illness” in the case of a current covered member of the U.S. Armed Forces, including a member of the Reserve components of the U.S. Armed Forces, is an injury or illness that was incurred by the covered servicemember in the line of duty on active duty in the U.S. Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty in the U.S. Armed Forces and that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.
- b. **Covered veteran.** A “serious injury or illness” in the case of a covered veteran, is an injury or illness that was incurred by the member in the line of duty on active duty in the U.S. Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the U.S. Armed Forces) and manifested itself before or after the member became a veteran, and is:
- (1) A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the U.S. Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank, or rating; or
 - (2) A physical or mental condition for which the veteran has received a U.S. Department of Veteran’s Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
 - (3) A physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 - (4) An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the U.S. Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

10. What does “needed to care for” a servicemember with a serious injury or illness mean under the MFML Law?

Being needed to care for a servicemember encompasses both physical and psychological care. You do not need to be the only individual available to help the covered servicemember. Care includes helping with basic medical, hygienic, nutritional or safety needs, filling in for others who normally provide care, or arranging for changes in care. The need for intermittent leave to care for a servicemember includes not only a situation where the servicemember’s condition itself is intermittent, but also where the employee is only needed intermittently.

11. Under what circumstances would I need to provide a certification to my employer?

A certification supporting a request for leave under the MFML Law may be required by your employer.

- a. **Qualifying exigency leave.** You may be required to support your need for leave because of a qualifying exigency with military documents and information such as the reason for the leave, the dates of the leave, and substantiation for any intermittent or reduced schedule request.
- b. **Military caregiver leave.** You may be required to support your need for military caregiver leave with a certification requesting information such as the medical facts that substantiate the need for leave, as well as when the leave is anticipated to occur, the anticipated duration of the leave, and substantiation for any intermittent or reduced schedule requests, except:
- (1) An employee called to a servicemember’s bedside due to a catastrophic injury under an invitational travel order (ITO) or invitational travel authorization (ITA) need only supply the ITO or ITA for the duration of the order or authorization;
 - (2) Enrollment by a veteran in the U.S. Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers must be accepted by the employer as certification of the servicemember’s serious injury or illness.

Although employers are not required to use the certification forms made available by the MERO, the MERO’s certification forms available on the MERO website reflect only the information the employer is permitted to seek: please see MERO Form 51-6391, *Certification of Health Care Provider for Current Servicemember’s Serious Injury or*

Illness, MERO Form 51-6392, *Certification of Health Care Provider for Veteran's Serious Injury or Illness*, and MERO Form 51-6393, *Certification of Qualifying Exigency for Military Family Leave*.

Your employer should request the certification within five (5) business days after you give notice of the need for leave. Or, if the leave is unforeseen, the certification should be requested within five (5) business days of the start of the leave.

Your employer must allow you at least 15 calendar days from the date you receive the certification form to return the completed form to your employer. If 15 days is not practical despite your diligent, good faith efforts, and you have notified your employer that you will need more time, your employer must grant an extension.

Employers are not permitted to require any recertifications for qualifying exigency or military caregiver leave.

12. May my employer get a second or third medical opinion under the MFML Law?

An employer may require a second or third medical opinion (at the employer's expense) under the MFML Law if they have reason to doubt the validity of the initial medical certification that was submitted to support the serious injury or illness of a covered servicemember, except in the following circumstances:

- a. If a servicemember's initial medical certification is completed by any of the following: a U.S. DOD health care provider, a U.S. Department of Veterans Affairs health care provider, a U.S. DOD TRICARE network authorized private health care provider or a U.S. DOD non-network TRICARE authorized private health care provider.
- b. If a servicemember is enrolled in the U.S. Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

13. May I take qualifying exigency or military caregiver leave intermittently or by reducing my work schedule?

Yes, you may take leave intermittently (separate blocks of time) or by reducing your work schedule for a qualifying exigency, or for the care of a covered servicemember with a serious injury or illness if intermittent or reduced schedule leave is medically necessary.

14. May my employer change my job if I take leave on an intermittent or reduced work schedule basis?

Under the MFML Law, when leave is foreseeable based on planned medical treatment, including recovery therefrom, your employer may transfer you temporarily to an alternative or part-time job with equivalent pay and benefits that better accommodates the recurring periods of leave. The job does not have to have equivalent duties. You may not be required to take more leave than is medically necessary.

15. May I take MFML Law leave to care for more than one servicemember with a serious injury or illness, or take leave more than once for the same servicemember if they have a subsequent serious injury or illness?

Yes, the military caregiver leave entitlement is "per-servicemember, per-injury." An eligible employee may take 26 workweeks of leave to care for one covered servicemember in a "single 12-month period," and then take another 26 workweeks of leave in a different "single 12-month period" to care for a second servicemember or to care for the first servicemember if they have suffered another serious injury or illness. In any given "single 12-month period," if the employee does not use the entire 26 workweeks of military caregiver leave, the remainder is forfeited.

16. How does the leave entitlement work under the MFML Law if I require leave to care for a servicemember and for another unrelated qualifying reason?

An eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other MFML Law-qualifying reason in a single 12-month period; however, the employee may not take more than 12 or 14 workweeks of leave, as applicable, for other MFML Law-qualifying reasons during this period. For example, in a single 12-month period an employee could take 12 weeks of leave under the MFML Law to care for a newborn child and 14 weeks of military caregiver leave, but could not take 16 weeks of leave to care for a newborn child and 10 weeks of military caregiver leave.

17. What if the servicemember is a family member whose injuries would qualify as both a “serious injury or illness” and a “serious health condition?”

The employer must designate the leave as military caregiver leave first. The leave may not be counted twice; in other words, the employee’s military caregiver leave may not also be counted against the employee’s entitlement for care of a family member with a serious health condition.

18. Am I required to be paid when I take leave under the MFML Law?

Generally, the leave under the MFML Law is unpaid. However, your employer may require, or you may request, that your accrued, paid leave time be applied. The paid leave would cover the same dates as the leave under the MFML Law. Use of paid leave does not extend the unpaid leave period under the MFML Law. You may not be required to use all your accrued leave; you may choose to keep up to two (2) weeks of your accrued, paid leave time, if available.

19. Is my employer required to continue group health insurance benefits while I am on leave?

Yes, if you are enrolled in your employer’s group health insurance plan, coverage must be maintained during your leave under the MFML Law as if you were not on leave. You are responsible for continuing to pay your share of group health plan premiums during your leave.

20. Is my employer required to continue benefits other than group health insurance during my leave?

Generally, no, but if your employer extends any benefits to employees on other types of leaves, those benefits are required to be offered to employees on leave under the MFML Law on the same terms.

21. What are my reinstatement rights when I return from leave under the MFML Law?

In most cases, your employer must return you to the same job you had when leave began, even if you have been replaced or your position has been restructured to accommodate your absence. If the original position is not available, your employer must restore you to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, if such position is available.

22. What benefits do I receive when I return to work from a leave under the MFML Law?

Upon your return to work, benefits must be restored on the same terms and at the same levels as when you began your leave, subject to any benefit changes during your leave that affected the entire work unit.

23. How do the MFML Law requirements interact with other employer policies or programs?

The employer may not provide less rights, benefits or protections than provided in the MFML Law and must provide any greater rights afforded by any employment benefit program, plan or collective bargaining agreement.

24. Does the MFML Law include any protections if my employer does not follow the Law?

Yes, your employer is prohibited from interfering with or denying your rights under the Mashantucket Pequot Family and Medical Leave Law, or retaliating against you for exercising your rights or opposing an unlawful practice. For more information regarding claims under the MFML Law, refer to MERO Form 51-7100, *Information for Claimants*.

25. What if I believe my employer violated the MFML Law?

If you believe your rights under the MFML Law have been violated, you may file a claim with the MERO within 180 calendar days of the event believed to be a violation of the MFML Law. MERO Form 51-7200, *Claim of Family or Medical Leave Violation*, is available on the MERO website, or by contacting the MERO. If you are not certain if you have the basis for a claim, the MERO can assist you in determining if you have a claim under the MFML Law.

Need more information? A comprehensive *Frequently Asked Questions About the Mashantucket Pequot Family and Medical Leave Law*, including information about military-related leaves, as well as the law, regulations and forms, may be found on the MERO website, <https://MERO.mptn-nsn.gov>, or by contacting the MERO.

To be timely, a claim must be filed with the MERO within 180 calendar days of the alleged violation of the Law.

The information provided is intended to be accurate but general information. For additional information, please refer to the applicable laws, and any guidance issued by the MERO, available on the MERO website or by contacting the MERO. Nothing herein constitutes legal advice.