



County Technical Assistance Service

Published on e-Li (<https://eli.ctas.tennessee.edu>)

March 28, 2020

Intermittent Leave and Reduced Leave Schedules

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Intermittent Leave and Reduced Leave Schedules

Reference Number: CTAS-1025

Intermittent leave is FMLA leave taken in separate blocks of time for a single qualifying reason. A reduced leave schedule is a reduction in an employee's usual working hours. A reduced leave schedule is a change in the employee's work schedule for a period of time, usually from full time to part time.^[1]

Medical Necessity. For intermittent leave or a reduced leave schedule for the employee's own serious health condition, or to care for a covered family member with a serious health condition, or for military caregiver leave, there must be a medical need for the leave to be taken in this manner. The medical necessity can be addressed in the medical certification, if the employer requires one. When leave is taken after the birth or placement of a healthy child, the employee is not entitled to take intermittent leave or a reduced leave schedule unless the employer agrees. Leave for a qualifying exigency may be taken on an intermittent or reduced leave schedule without medical necessity.

Scheduling.^[2] Scheduling when there is medical necessity will usually be dependent on the medical necessity, but when an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to disrupt the employer's operations unduly. Intermittent or reduced leave may be taken whenever there is a qualifying exigency.

Transfer or Reassignment.^[3] When an employee is taking intermittent or reduced leave that is foreseeable based on planned medical treatment, or if the employer agrees to permit it for the birth or placement of a healthy child, the employer may transfer the employee to an available alternative position for which the employee is qualified and which better accommodates the recurring periods of leave. The position need not have equivalent duties, but the pay and benefits must be equivalent. The employer may proportionally reduce benefits such as vacation leave where the normal practice is to base the benefit on the number of hours worked. The employee cannot be required to take more leave than is medically necessary, and the employer cannot use the transfer to discourage the employee from taking leave or to otherwise work a hardship on the employee. When the employee is able to return to full-time work, the employee must be placed in the same or an equivalent job as the job he or she left when the intermittent or reduced leave commenced.

[1] 29 C.F.R. § 825.202.

[2] 29 C.F.R. §§825.203, 825.302(e).

[3] 29 C.F.R. § 825.204.

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