

Disclaimer: This document does not reflect or constitute legal advice. This is a sample made available as part of the Family Forward initiative and includes both required legal protections and optional additional benefits you can provide as an employer. You should not use any such materials without first reviewing applicable employment federal and state laws or seeking the advice of a lawyer specializing in employment law.

Parental Support and Leave Policy

Scope

This policy applies to:

- Biological parents (maternity and paternity leave)
- Adoptive and foster parents
- Intended parents through surrogacy
- Pregnant employees
- Employees with pregnancy or childbirth related conditions

It includes:

- Paid parental leave
- Unpaid leave and job protections
- Pregnancy-related medical leave
- Return-to-work support

Legal Compliance Statement

This policy is written to comply with the Family Medical Leave Act (FMLA) and the Montana Human Rights Act (MHRA). If an employer fits the criteria for FMLA and/or MHRA applicability, the employer must, at a minimum, provide the protections summarized below. For employers where FMLA does not apply, the FMLA job protections are optional but encouraged.

1. Federal Family and Medical Leave Act (FMLA)

If the Family and Medical Leave Act (“FMLA”) applies to an employer, eligible employees are legally entitled to up to twelve (12) weeks of unpaid, job protected leave for qualifying family and medical reasons. Among the qualifying reasons are the birth of a child, bonding with a newly placed adopted or foster child, and health conditions including pregnancy and childbirth-related conditions.

Employer Applicability:

The Family and Medical Leave Act (“FMLA”) applies to the following types of employers:

- All public agencies (local, state, and federal employers).
- All local educational agencies (public and private schools (elementary and secondary; school boards, regardless of the number of employees).
- All private employers who employ more than fifty (50) employees for at least twenty (20) workweeks in a year. This includes joint employers.

Employee Eligibility:

Employees of FMLA covered employers are eligible for FMLA leave if they:

- Have worked for the employer for at least twelve (12) months.
- Have worked at least 1,250 hours with the employer during those 12 months (approximately 24 hours/week).
- Work at a location where their employer has at least fifty (50) employees working within a 75-mile radius.

2. Montana Human Rights Act (“MHRA”)

The Montana Human Rights Act (“MHRA”) applies to all employers of one or more persons (or the employer’s agent). The MHRA does not apply to fraternal, charitable, or religious organizations if the organization:

- Is not for private profit; or
- Does not provide accommodations to nonmembers of the organization.

Under the MHRA, an employer cannot:

- Refuse to grant a reasonable leave of absence for pregnancy and childbirth-related conditions;
- Terminate employment due to pregnancy;
- Deny access to accrued leave or disability benefits; or
- Impose unreasonable mandatory leave durations.

Employees must also be reinstated to their original job or an equivalent position with equivalent pay and accumulated seniority, retirement, and benefits unless the (private) employer’s circumstances have changed in such a way that it would be impossible or unreasonable to do so.

Parental Leave Benefits

1. Paid Parental Leave

Eligible employees receive up to **[X weeks]** of paid parental leave per qualifying event.

Qualifying events include:

- Birth of a child
- Adoption
- Foster care placement

*Births/Adoptions/Foster care placements with multiple children at the same time are considered a single event for purposes of parental leave. Additionally, payments for parental leave would begin after short-term disability (STD) ends if STD benefits are offered.

Parental leave must:

- Be paid at **[X%]** of base pay
- Be taken in **[one continuous period or 2 weeks at a time within the 12 months]**
- Be used within **[X months]** following the event

2. Pregnancy-Related Medical Leave

Employees who are pregnant are entitled to:

- A reasonable leave of absence for pregnancy, childbirth, and related medical conditions
- Use of accrued sick leave, PTO, or disability benefits
- Additional unpaid leave where medically necessary

This leave:

- May extend beyond standard parental leave if medically necessary
- Must be treated the same as other medical leave

3. Short-Term Disability (STD) (if applicable)

- Applies to the medical recovery period following childbirth

Paid parental leave begins after STD ends

4. Unpaid Leave

- Employees may take unpaid leave under FMLA (up to 12 weeks total combined leave)

Additional unpaid leave may be granted as a reasonable accommodation under Federal or Montana law

5. Use of Accrued Paid Time

- After the expiration of STD (if applicable), and paid parental leave, Employees must use accrued and unused paid leave (PTO, vacation, or sick leave, as applicable) before taking unpaid leave, unless prohibited by law.

6. Benefits During Leave

During approved leave:

- Health benefits continue under the same terms
- Employees remain eligible for compensation adjustments and benefits participation
- Seniority and service credit will be maintained

Notice and Documentation

Employees must:

- Provide 30 days' notice when foreseeable
- Submit required HR documentation
- Provide medical certification if applicable

Non-Discrimination and Protections

In accordance with Montana law and federal protections:

- Employees will not be discriminated against due to pregnancy, childbirth, or related conditions
- Leave requests will be evaluated consistently with other medical leave requests
- Retaliation for requesting or taking leave is strictly prohibited

Return to Work

1. Job Protection

After approved paid and unpaid leave, Employees will be reinstated to:

- Their original position, or
- An equivalent position with the same pay, benefits, and working conditions

unless the employer's circumstances have changed in such a way that it would be impossible or unreasonable to do so.

2. Return-to-Work Support

Pursuant to the Americans with Disabilities Act (“ADA”) and the MHRA, the Company will engage in an interactive process with a returning employee to identify reasonable accommodations for any childbirth related disabilities.

3. Postpartum and Nursing Accommodations

In compliance with federal and state expectations:

- Reasonable break time and private space (non-bathroom) will be provided for nursing employees up to one year after the child’s birth.
- Additional reasonable accommodations may be provided as required

4. Policy Administration

- Where state or federal law provides greater protection, the law more protective of the employee prevails