



February 05, 2025

Military-related Certifications

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained 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 CTAS website material.

Sincerely,

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Military-related Certifications

Reference Number: CTAS-1040

Employers are entitled to obtain certification of the need for leave for qualifying exigencies and for military caregiver leave. The DOL has developed forms for these purposes: Form WH-384 for qualifying exigency, and Form WH-385 for military caregiver leave. These forms are optional, but highly recommended.

Certification of Leave for Qualifying Exigency.[1] The first time an employee requests leave for a qualifying exigency arising out of the active duty or call to active duty of a covered military member, the employer may require a copy of the military member's active duty orders or other military documentation showing the call to active duty or active duty status, and the dates of the active service. This need only be provided once.

When the employee asks for leave for a qualifying exigency, the employer may require a certification signed by the employee containing the information contained in DOL's Form WH-384. The use of this form is not required, but it is highly recommended. No information other than that set out in the DOL's form may be requested from the employee.

The employer may contact the appropriate unit of the Department of Defense to verify that a covered military member is on covered active duty or call to active duty status, but no further information may be requested. If the qualifying exigency involves meeting with a third party, the employer may contact the individual or entity to verify the meeting schedule and the nature of the meeting. The employee's permission is not necessary to make either of these contacts.

Certification for Military Caregiver Leave.[2] When leave is taken to care for a covered servicemember with a serious injury or illness, the employer may require the employee to provide certification by an authorized health care provider of the covered servicemember, which includes any of the following:

1. A U.S. Department of Defense ("DOD") health care provider,
2. A U.S. Department of Veterans Affairs ("VA") health care provider.
3. A DOD TRICARE network authorized private health care provider, or
4. A DOD non-network TRICARE authorized private health care provider.

The employer may request certification from the health care provider, and from the employee or covered servicemember, relative to the injury or illness and the need for leave. The information the employer is authorized to request is contained on the optional DOL Form WH-385. It is highly recommended that the employer use the DOL form in order to ensure that the appropriate information is obtained and no unauthorized information is requested. In lieu of this form, however, employers are required to accept "invitational travel orders" (ITOs) or "invitational travel authorizations" (ITAs) issued to any family member to join an injured or ill servicemember at his or her bedside. An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA, and authorizes leave either in a single block of time or on an intermittent basis; no further certification is necessary.

[1] 29 C.F.R. § 825.309.

[2] 29 C.F.R. § 825.310.

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