

FAMILY AND MEDICAL LEAVE

I. PURPOSE:

To comply with the Family and Medical Leave Act of 1993 (FMLA) and enable employees to receive time away from work without pay for limited periods to attend certain specified family needs with job protection and no loss of accumulated service. To accomplish these purposes, this guideline establishes the rights and obligations of the Town and its employees with respect to any leave of absence necessary for the medical care of employees and their families.

II. SCOPE:

This policy applies to all employees who have been employed by the Town for at least twelve (12) months and have been employed by the Town for at least one thousand two hundred fifty (1,250) hours during the twelve month period immediately preceding the commencement of the family and medical leave. Exempt employees are presumed to have met the 1,250 hours of service requirement for eligibility if they have worked for the Town for at least twelve (12) months.

Under the FMLA, eligible employees may take up to twelve (12) work weeks of unpaid leave within a twelve month period, under the conditions set forth below, to take care of certain family and medical matters. The FMLA also permits eligible employees to maintain health insurance coverage while on such leave and to return to the same or equivalent position at the end of the leave.

III. POLICY AND GUIDELINES:

Eligible employees may be granted up to twelve (12) weeks of unpaid leave within a twelve month period to take care of any of the following manners:

1. For the birth and care of a newborn child of the employee or for the placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, child or parent who has a serious health condition; and
3. For a serious health condition which prevents the employee from being able to perform the essential functions of his or her job.

Employees are required to use any accrued paid leave prior to taking an unpaid Family and Medical Leave. The reason the family and medical leave is being taken (family or medical) will determine what type of paid leave will be used.

Eligible employees of the Town taking a family and medical leave must pay the cost of his or her group health and welfare insurance coverage as well as that of his or her dependents at the same rate as if the employee were working. Upon the employee's return from such leave, the Town will make an effort to place the employee in his or her former position, if it is then available, or in an equivalent position then available at the same rate of pay; however, this does not guarantee that the employee will be employed upon return if his or her medical restrictions and/or injuries so restrict and hamper the employee that he or she cannot perform the essential functions of the former job or equivalent position then available, either with or without reasonable accommodation.

IV. DEFINITIONS:

- A. Child. A biological, adopted, or foster child, stepchild or legal ward of the person having day-to-day care for the child. It may also include a son or daughter who is eighteen (18) or more years of age if he or she is incapable of self-care due to a physical or mental disability.
- B. Parent. A biological parent or individual that is responsible for the day-to-day care of a child. Parent-in-laws are not included in this term.
- C. Spouse. A husband or wife as defined under state law; unmarried domestic partners do not qualify for family leave to care for their partners.

V. ADVANCE APPLICATION AND NOTICE REQUIREMENTS:

- A. A Leave of Absence Request form must be completed by the employee requesting a family and medical leave of absence and submitted to the employee's supervisor at least thirty (30) days prior to commencement of the leave if the leave is foreseeable. If the leave is not foreseeable (*i.e.*, is unexpected), the employee should notify the Town within one or two business days after learning of the need for the leave. The Notice of the need for the leave must specify the reason for the leave as well as the anticipated duration of the leave.

- B. It is not necessary for the employee to specifically request leave as FMLA qualifying, as long as the requisite qualifying conditions are met and the Town has sufficient information to designate the leave as a family and medical leave.
- C. When the Town designates a leave as a family and medical leave to be counted to the 12-week unpaid leave entitlement under the FMLA, it must notify the employee of such designation immediately.
- D. When the leave is to care for a sick child, parent or spouse, the requesting employee must submit a letter signed by a physician that states: (a) the date the illness or condition began; (b) the probable duration of the condition; (c) the estimated time the employee will need to care for the family member; and (d) a statement that the illness or condition requires the participation of a family member.
- E. When the leave is for planned medical treatment, the employee must attempt where possible to schedule the treatment so as not to disrupt Town operations.
- F. When the leave is for the employee, the employee must submit a letter signed by a physician that the employee is unable to perform the functions of his or her position. If the employee is requested to submit a Certification by Physician or Practitioner Statement, the form should be completed and returned to his or her supervisor within two (2) weeks. The detailed medical certification requirements for qualification under the FMLA are discussed in the medical certification/eligibility section set forth below.

VI. QUALIFYING CIRCUMSTANCES:

Under the guidelines of the FMLA, the Town is required to grant leave to eligible employees provided the qualifying circumstances are present and documented. Each of these circumstances or events has certain qualifying definitions, conditions and guidelines, which must be considered in order to determine eligibility under the FMLA. Employees will be required to use certain types of paid leave prior to unpaid family and medical leave depending on the reason leave is being taken, and the paid leave used will be deducted from the balance of the family and medical leave entitlement.

The qualifying circumstances for the various family and medical leave which may be taken are as follows:

A. For The Birth And Care Of a New Born Child, Or the Placement of a Child for Adoption or Foster Care.

The right to take a family and medical leave under the FMLA and the Town's policy applies equally to male and female employees; a father or mother may take a family leave for the birth and care of a new born child or the placement of a child for adoption or foster care. Absent unusual circumstances, the birth or placement of a child will initiate the commencement of the 12-week leave. Entitlement to take such leave expires at the end of the 12-month period following the birth or placement.

Male or female employees may use accrued sick leave for the birth or adoption or placement of a child for foster care. Accrued sick and vacation leave must be used before unpaid leave under the FMLA is used, and will be deducted from the 12-work week entitlement.

B. To Care for the Employee's Spouse, Child or Parent with a Serious Health Condition.

Employees taking such leaves will be required to use accrued sick leave and vacation leave prior to taking an unpaid leave under this subsection, and the paid leave used will be deducted from the balance of the 12-work week entitlement.

C. For A Serious Health Condition Which Prevents The Employee From Being Able To Perform The Essential Functions Of His Or Her Job.

Employees taking a medical leave under this subsection will be required to use accrued sick leave and paid vacation leave prior to the unpaid leave under the FMLA and this policy, and the paid leave taken will be deducted from the balance of the 12-work week entitlement.

VII. MEDICAL CERTIFICATION/ELIGIBILITY REQUIREMENTS:

An employee is considered unable to perform the essential functions of the job due to a serious health condition, and thus entitled to take a family and medical leave of absence, when a healthcare provider finds the employee to be unable to work at all or unable to perform the essential functions of his or her job within the meaning of the Americans with Disabilities Act (ADA) and its regulations. The Town may provide the healthcare provider with a statement of the essential functions of the employee's job for the provider to review during the certification process.

An employee is considered to be needed to care for a family member if a healthcare provider finds the employee to be needed by the family member to provide physical and/or psychological care due to the family member's inability to care for their own basic medical, hygienic, nutritional or safety needs, or is unable to transport themselves to the doctor.

The Town may require the employee to provide a completed Healthcare Provider's Certificate form. The certificate form, if required, should include the diagnosis of the serious health condition, the date the condition commenced, the probable duration of the condition, a brief statement outlining the course of care that will be followed, whether hospitalization will be required, and a statement as to whether the employee is unable to work or unable to perform the essential functions of his or her job or how or why the employee is needed to provide care to a family member.

In the event the Town has reason to doubt the validity of a medical certification under this policy, the Town may require the employee to obtain a second opinion at the Town's expense; the Town may designate the healthcare provider furnishing the second opinion or certification, but it may not be a provider regularly utilized by the Town.

VIII. RETURN TO WORK:

An employee who returns to work for at least 30 calendar days after a family and medical leave is considered to have returned to work. Should the employee fail to return to work after such a leave, the Town is entitled to recover any group health insurance or welfare benefit premiums paid by the Town during the leave period.

An employee may be required to provide medical certification from his or her healthcare provider attesting that they are able to resume work.

Upon the employee's return to work, the Town will attempt to reinstate the employee in his or her prior position if it is then available, or will transfer the employee to an available alternative position for which the employee is qualified with equivalent pay and benefits (but not necessarily equivalent duties). Employees are entitled to return to a similar job classification, with the same pay and benefits as that which they had when they went out on the family and medical leave.

Employees on leave must notify their supervisor at least two (2) weeks prior to end of leave to inform the Town of availability to return to work. Additionally, any employee's failure to return from such a leave, or failure to contact his or her immediate supervisor or Town Manager upon the scheduled date of return, will be considered a voluntary resignation by the employee.

