

FAMILY AND MEDICAL LEAVE POLICY:

(Federal Family and Medical Leave Act of 1993)

SECTION I : PURPOSE:

This policy implements requirements to provide leave time for family and medical reasons under the Family and Medical Leave Act of 1993.

The FMLA leave policy overlays and works in conjunction with the Town's other applicable leave policies. Employees requesting a leave of any variety are required to inform the Town of the reason for the leave. If the leave is requested for a "qualifying event" per the FMLA, the employee will be informed that the leave is being treated as an FMLA leave.

SECTION II : DEFINITIONS:

The definitions in this section are particular to FMLA policy.

- A) "Child" : Includes biological, adopted, foster, stepchild, or legal ward. Also includes child to whom a person is an acting parent when the child is under eighteen (18) years old or when the child is over eighteen (18) years old but is unable to care for themselves.
- B) "Continuing Treatment" : Two (2) or more visits to a health care provider; two (2) or more treatments by a health care practitioner on referral from a health care provider; or one (1) visit to a health care provider that results in a regimen of continuing treatment under the supervision of a health care provider.
- C) "Health Care Provider" : Includes doctors of medicine and osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to certain treatments), nurse practitioner and nurse midwife, and Christian Science Practitioner.
- D) "Serious Health Condition" : Any injury, illness, impairment or physical or mental condition that requires inpatient care at a hospital, hospice, or residential medical care facility, or requires continuing treatment by a health care provider and (i) absence from work for at least three (3) days; (ii) is an incurable condition; (iii) is a condition so serious that, if untreated, would likely result in three (3) or more days of incapacity, or for continuing prenatal care.

SECTION III : EMPLOYEES ELIGIBLE FOR FMLA LEAVE:

To be eligible to take an FMLA leave, an employee must:

- A) Have been employed by the Town for a minimum of twelve (12) months on the date an FMLA leave begins; and
- B) Have been employed by the Town for a minimum of 1,250 hours during the previous twelve (12) months immediately preceding the leave.

SECTION IV : ELIGIBLE REASONS FOR FMLA LEAVE:

Eligible employees may take FMLA leave to care for:

- A) The birth and first year care of a child;
- B) The placement of a child for adoption or foster care in the employee's home;
- C) The care of the employees spouse, child or parent with a serious health condition;
- D) The employee's serious health condition which renders him/her unable to perform the functions of the employee's position.

FMLA leave is not allowed for routine physical examinations or voluntary, or cosmetic treatments.

SECTION V : AMOUNT OF LEAVE ALLOWED:

- A) GENERAL: Employees are eligible to take up to twelve (12) weeks of FMLA leave within a twelve (12) month time period. A "week" is based on the employee's usual work schedule averaged over the twelve (12) weeks prior to the leave. The twelve (12) month time period is calculated on an individual rolling twelve (12) month period measured from the first time an employee uses FLMA leave.
- B) SPOUSES EMPLOYED BY TOWN: Married employees working for the Town are allowed twelve (12) weeks each to care for the spouse's illness, a seriously ill child, or his/her own serious illness. In addition, each is eligible for a total of twelve (12) weeks during the twelve (12) month period for the birth or placement of a child for adoption or foster care or to care for a seriously ill parent (but not parent-in-law).
- C) EXPIRATION OF ENTITLEMENT: FMLA leave for the birth/care of a child or for the placement of a child for adoption or foster care must be taken within the twelve (12) month period which starts on the date of such birth or placement. Regardless of when such leave begins, it will end no later than the end of the twelve (12) month period.
- D) INTERMITTENTLY OR REDUCED LEAVE: For FMLA leave taken for other than medical reasons, the leave must be taken for one continuous period of time. For FMLA leave taken for medical reasons, either for oneself or to care for a family member, employees may take leave intermittently or work a reduced work week, when medically necessary. Any reduction in the employee's normal work week must be approved by the department manager. If the employee's current position does not accommodate an intermittent leave, the Town may place the employee in another position with equivalent pay and benefits.

SECTION VI : CONTINUATION OF BENEFITS:

The taking of a FMLA leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced and shall not effect an employees seniority in the department. Benefit accruals for earned time will continue during the time the employee is on paid FMLA leave but accruals will not be made during unpaid FMLA leave. Benefits for Life and Disability insurance will continue for the duration of the FMLA leave.

During the FMLA leave, the Town will continue to pay its portion of prior contributions for health insurance benefits. If the employee is making contributions to their health insurance benefits, payment is due from the employee by the 25th day of each calendar month. Failure to make this payment within thirty (30) days after it is due will result in cancellation of employee's health insurance benefits, unless an exception to this rule is granted by the Board of Selectmen in extraordinary circumstances. Employees may choose not to retain their health insurance coverage during the FMLA leave and are entitled to reinstatement of those benefits upon returning to work.

The Town will recover its share of the health insurance premium payments made on behalf of the employee if the employee fails to return to work after the FMLA leave is exhausted; however, recovery will not be made if employee's failure to return is the result of certain circumstances such as employee's continuing serious health problem. Returning to work is defined as returning for at least thirty (30) days. Recovery of contributions is applicable for only the portion of the FMLA leave which is unpaid leave. Certification of inability to return to work as specified and allowed by the FMLA may be required.

After the employee returns to work, all benefits will resume in the same manner and at the same level as were provided when the leave began, subject to changes made to employee benefits during the time which the employee was on FMLA leave

SECTION VII: USE OF PAID LEAVE IN CONJUNCTION WITH FMLA LEAVE:

The FLMA requirement is for the leave to be unpaid; however, the employee may choose whether to use any available paid leave during the period of the FLMA leave. If the request is for paid leave, the employee must have sufficient available leave to cover the request. If they do not have ample leave or if their paid leave expires during the twelve (12) workweeks of FLMA leave, any remaining leave will be unpaid.

In no case will the combination of paid and unpaid leave used for an FMLA purpose exceed twelve (12) workweeks in any twelve (12) month period as defined herein.

The Town retains the right to designate qualifying leave as FMLA leave. This designation will be made at the time of the request for any leave for an FMLA qualifying event, or after an employee has begun a leave, when the Town learns that the leave is for an FMLA qualifying event.

SECTION VIII : PROCESS FOR REQUESTING FMLA LEAVE:

- A) EMPLOYEE REQUEST: Employees who wish to request FMLA leave must request it, in writing to their department head, thirty (30) days prior to the leave's effective date in the event of a birth, adoption, foster care or planned medical treatment, unless its not practicable, in which event, the leave must be requested as soon as practicable, which is generally within two (2) days. The request shall be submitted on the form entitled "**Employees Request for Family/Medical Leave**". If the employee is unable to request the leave, the spouse or other family member may do so. For leaves for planned medical treatment, the employee should consult with their supervisor in order to schedule the leave so as not to unduly disrupt Town operations.

- B) DEPARTMENT RESPONSE: The employee's department head will issue a written response to the employee stating either that the leave has been approved or denied and if denied specific reasons why. The department head shall use the form entitled "**Employer Response to Employee Request for Family or Medical Leave**". Such response shall be issued within five (5) days.
- C) CERTIFICATION/RECERTIFICATION: Employees who request FMLA leave to care for themselves or a seriously-ill family member (spouse, child or parent) must provide certification from a health care provider testifying to the necessity for medical leave within fifteen (15) days of requesting such leave. The form entitled "**Certification of Health Care Provider**" shall be used for this purpose. Further, the Town may require the employee to obtain a medical recertification when it deems necessary.

In any case where there is reason to doubt the validity of the health care provider's statement or certification for leaves taken under section 4c or 4d above, the Town may, at its expense, require second and third opinions, as specified by the FLMA, to resolve the issue.

While an employee is absent from work on an FMLA leave, the Town may require the employee to report periodically to his/her supervisor on his/her status and intent to return to work. If the employee notifies the Town of his/her intent not to return to work, the employee shall be immediately separated from employment with the Town.

The employee's failure to provide any of the required certifications will result in the denial of leave until the requirements are satisfied, denial of continuation of the leave, and/or denial of reinstatement. All documentation related to the medical condition of employee or family member will be maintained in medical records file separate from the employee's personnel file.

When the leave is taken as a result of the employee's medical condition, a fitness for duty certification is required before the employee will be reinstated. A statement from the employee's physician indicating that the employee is fit to return to assigned duties, with any restrictions noted, shall serve as proper certification under these policies. The cost to obtain this certificate is the responsibility of the employee.

SECTION IX : REINSTATEMENT:

An employee who takes an FMLA leave will be reinstated to his/her original position or equivalent position with equivalent pay, benefits, and other working conditions, but the employee has no right to return to the original position.

There are some limits of reinstatement. Employees returning from an FMLA leave have no greater rights to reinstatement or other benefits and conditions of employment than if they had not taken FMLA leave. For example, if their position was affected by a lay-off or reorganization or elimination, they may not be eligible for reinstatement. Temporary and casual employees have no reinstatement rights if the project for which they were hired has ended and the Town would not have continued to employ them in the absence of their taking an FMLA leave. An employee who fails to comply with the Town's requirements for reporting and fitness for duty certification may be denied reinstatement.

SECTION X : MISCELLANEOUS:

The provisions of this policy are intended to comply with the Family and Medical Leave Act of 1993. To the extent that this policy is ambiguous or contradicts the Act, DOL regulations or individual collective bargaining agreements, the language of the Act, regulations or Collective Bargaining Agreements (CBA's) will prevail.

SECTION XI : AMENDMENTS:

This policy may, from time to time, be amended by a majority vote of the Board of Selectmen at a regularly scheduled Selectmen's meeting.

Adopted by the Board of Selectmen - 1997.

**Ralph R. Williams
Douglass L. Barker
Charles E. McMahon
Carolyn B. Webber
Margaret M. Crisler**
Board of Selectmen

Re-codified and affirmed by the Board of Selectmen - May 11, 1998

**Charles E. McMahon
Douglass L. Barker
Carolyn B. Webber
Margaret M. Crisler
Galen A. Stearns**
Board of Selectmen

Amended by the Board of Selectmen - November 9, 1998

EMPLOYEE REQUEST FOR FAMILY/MEDICAL LEAVE

Name: _____

Date: _____

Job Title: _____

Dept: _____

Person for whom leave is requested:

Name: _____

Relationship: _____

Have you taken Family/Medical leave within the last 12 months: Yes _____ No _____

If yes, please provide dates and reasons: _____

Date leave will begin: _____ Estimated date of return: _____

Reason for leave request: _____

How will leave be taken (full days, intermittent, or reduced leave): _____

Will leave be paid, unpaid or both: _____

If leave is to be paid or a combination of paid and unpaid, list hours and dates to be applied to the following:

Earned Time: Dates: _____ Total Hours: _____

Pool Time: Dates: _____ Total Hours: _____

Unpaid: Dates: _____ Total Hours: _____

Please use the following space to provide any further information you wish to submit for consideration: _____

If you need assistance completing this form, please contact the Town Administrator's office. Attach any additional required forms to substantiate your request (see Procedures). Submit your request at the earliest possible date for expediency of the process. Submission of this request does not constitute approval to take family/medical leave. You will be notified in writing once your request is reviewed.

Employee Signature

Date

David Sullivan/Town Administrator

Date