
SUBJECT: FAMILY AND MEDICAL LEAVE ACT

OVERVIEW:

In general, the Act allows “eligible” employees of any public employer or a private employer with at least 50 employees to take job-protected leave for up to a total of 12 work weeks in a twelve-month period, while maintaining health insurance coverage. As a public employer, the Town of Greenwich is a “covered” employer under the Act and is subject to all rules and regulations of the Federal Family and Medical Leave Act (FMLA), but is exempt from the State of Connecticut FMLA statute and regulations.

POLICY:

It is the policy of the Town of Greenwich to grant up to 12 weeks of family and medical leave during any 12-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993. For employees with accumulated paid leave, such leave time is to be taken as paid time, utilizing accrued sick, if the qualifying reason for the leave is a serious health condition, either the employee’s personal illness or physical incapacity, or the illness of a member of the employee’s immediate family that requires the employee’s personal care and attention; and /or vacation and personal leave running concurrently with FMLA leave time until the leave is exhausted. FMLA leave may include unpaid time once accrued paid leave time is fully utilized, or for those qualified employees with no accrued leave time balances. The Town has the responsibility and right to designate unpaid, as well as paid leave, as FMLA qualifying.

PROVISIONS:**A. Eligibility:**

In order to qualify for family and medical leave under this policy, the employee must meet all of the following conditions:

- The employee must have worked for the Town (Town includes Board of Education) for 12 months, which need not be consecutive.
- The employee must have worked at least 1,250 hours during the 12 months prior to the start of the FMLA leave.

B. Qualifying Reasons:

The Town will grant an employee up to a total of 12 workweeks of paid and/or unpaid leave in a 12-month period (see below, "Length of Leave") for one or more of the following reasons:

- For the birth of a son or daughter, and to care for a newborn child;
- For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- To care for an immediate family member (spouse, child or parent – but not a parent "in-law") with a serious health condition;
- When the employee is unable to work due to a serious health condition; and
- Up to 26 weeks of unpaid FMLA leave in each 12-month period to care for family members who suffered a serious injury or illness while on military duty.
- Families of National Guard and Reserve personnel on active duty are allowed to take up to 12 weeks FMLA per year to manage their affairs. The FMLA leave of the employee (a spouse, son, daughter or parent of the military member) must be related to certain qualifying exigencies related to the military service. The qualifying situations involve (1) short-notice deployment (2) military events and related activities (3) child care and school activities (4) financial and legal arrangements (5) counseling (6) rest and recuperation (7) post deployment activities and (8) additional activities in which the employer and employee agree to the leave.

Limitations:

- FMLA leave to care for a newborn child or newly placed child must be taken as consecutive days and must conclude within 12 months of the birth or placement.
- Spouses employed by the same employer are limited to a *combined* total of 12 workweeks of family leave for all qualifying reasons except personal illness.

"Serious health condition"(Required for use of Accrued Sick Time): means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, to attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; **or**
- Continuing treatment by a health care provider, which includes:

(1) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that **also** includes:

- Treatment two or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); **or**
- One treatment by a health care provider (i.e., an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); **or**

(2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**

(3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**

(4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**

(5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

Intermittent/Reduced Schedule Leave:

Employees may take leave on an intermittent basis or work a reduced schedule when:

- Medically necessary to provide care for a seriously ill family member
- Medically necessary due to the employee's serious health condition
- To care for a newborn or newly placed adopted or foster care child, with approval by the Department Head and the Director of Human Resources

Limitations:

Such paid leave must be taken in one-half day increments, in accordance with the Town's leave-time standards

- Unpaid leave to be charged in one hour increments

- Employees must make a reasonable effort to schedule such leave in a way that does not disrupt the department or division operations
- Employees making such a request may be transferred temporarily to an alternative job with equivalent pay and benefits that accommodates recurring periods of leave better than the employee's regular job
- Applicable collective bargaining agreements must be complied with
- Certain limitations apply to school employees, which may require intermittent leave time to be taken in blocks of time (contact Human Resources for a determination).

Length of Leave

The 12-month entitlement period for family or medical leave is measured on the basis of a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

C. Use of paid and Unpaid Leave:

For all leave time taken under the Family and Medical Leave Act, employees are required to use paid leave time, in accordance with Town Policy and the Collective Bargaining Agreements before being eligible for unpaid leave. Paid leave is to be charged in the following order: Sick time, for a serious health condition, either the employee's personal illness or physical incapacity, or the illness of a member of the employee's immediate family that requires the employee's personal care and attention; vacation time; and personal leave time. On a case-by-case basis, the Director of Human Resources, may allow an employee to withhold up to three vacation days to be available for use for emergencies or special needs upon the employee's return.

D. Notification:

Employee Notice and Responsibility:

Eligible employees seeking to use FMLA leave must provide to his/her supervisor or Department Head:

- 30-day advance notice of the need to take FMLA leave when the need is foreseeable and for leave that is unforeseeable as soon as practicable;
- Sufficient information and documentation that the employee needs leave for FMLA qualifying reasons;
- Within fifteen (15) calendar days from the date of the request a medical certification regarding such leave, and if required by the Town, additional intermittent certifications and reports of status (Certification of Health Care Provider); and

- If, at the time of leave, the employer was not made aware that an employee was absent for FMLA reasons and the employee wants the leave counted as FMLA, notice and documentation that the leave was taken for an FMLA qualifying reason must be provided within 2 business days of the employee's return to work.
- The employee need not mention FMLA when requesting leave to meet the notification requirement, but need only explain why the leave is needed. In this circumstance, it is important that the employer notify the employee that this may qualify as family and medical leave and that the Town will prepare the proper leave form for notification.

Employer Notice and Responsibility:

It is the responsibility of the Town to post proper notice explaining the employees' rights and responsibilities under the FMLA, and to include information in employee handbooks or to provide guidance regarding FMLA leave whenever an employee requests leave. The Human Resources Department handles these issues.

Department and Division Heads must ensure that the following steps are taken to provide information to Human Resources and employees concerning FMLA leave:

- Whenever a supervisor has become aware that an employee is requesting leave or is out of work for five (5) or more consecutive working days due to a serious health condition, the advice of Human Resources should be sought to determine if the employee should be placed on an FMLA leave;
- Upon request by the employee, or upon determination by the employee's supervisor that an employee's absence is a qualifying absence, the employee or department head shall submit an application for FMLA Leave to Human Resources. The Department of Human Resources will provide the employee and department head with a written notice within five (5) business days designating the leave as FMLA leave, if qualifying, detailing specific expectations and obligations of an employee on such a leave.

The 12-month period against which the FMLA leave will be calculated is to begin on the first day of the recognized FMLA leave, or the actual leave date noted on the FMLA leave form. Regardless of when accumulated paid leave is depleted, an employee must be placed on such leave at the earliest possible date of understanding that the leave taken qualifies as FMLA. Leaves of absence, which may be covered by other laws (ADA, Worker's Compensation) or by collective bargaining agreements (notably, accrued sick days), must still be recognized as FMLA leave and the rules of notice apply.

A health care provider, human resources professional, a leave administrator (including third-party administrators) or a management official may directly contact an employee's health care provider to seek clarification about information on an employee's FMLA certification form. Employers cannot ask doctors for information beyond what is required by the certification form. An employee's direct supervisor is prohibited from making such inquiries.

E. Benefits:

While the employee is on unpaid FMLA leave the employee's health benefits will continue during the leave period at the same level and under the same conditions as if the employee had continued to work. Pursuant to applicable collective bargaining agreements and Town policy the employee pays a portion of the health insurance premium. While on paid FMLA leave, the Town will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid FMLA leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Department of Human Resources by the 15th day of each month for the following month's coverage. If the payment is more than 30 days late, the employee's health insurance coverage may be dropped for the duration of the leave. The Town will provide 15 days' notification prior to the employee's loss of coverage. If the employee has purchased supplemental life insurance through payroll deduction the Town will continue making such payroll deductions during paid FMLA leave. While the employee is on unpaid FMLA leave, the employee may request continuation of such supplemental life insurance and pay directly to the Town the monthly premium. If the employee does not continue these payments, the Town may discontinue coverage during the FMLA leave.

E. Job Restoration:

Upon completion of the FMLA leave of absence, whether or not the full 12-week period has been exhausted, the employee is required to complete and submit the "Employee Return from FMLA Leave Form". If the FMLA leave was due to a personal health condition, a fitness-for-duty certificate completed and signed by the treating physician must accompany the "Return from Leave Form".

It is the intent of the Town, in providing for family and medical leave, to allow the employee to return to his/her original position upon return from such leave. Wherever possible, the position will be filled on a temporary basis, or the essential duties of the position will be assumed by several employees for the duration of the FMLA leave.

If the employee's position must be filled during his/her absence, then that employee will be returned to an "equivalent" job - that is, a position which is

essentially identical to the original job in terms of pay, benefits and working conditions.

G. Employee Status Following Expiration of FMLA Leave

An employee who has exhausted FMLA leave and requires continued leave may make an application for a personal leave of absence pursuant to Personnel Policy 701.0. Approval of such a request will be made based on the criteria contained in Personnel Policy 701.0. An employee who fails to return to work following the expiration of the FMLA leave and is not granted continued leave pursuant to Personnel Policy 701.0 may as a result be terminated from employment.

Related Documents and Forms

Employee/ Dept. Head Application for FMLA Leave, January 2009