



# TOWN OF SUFFIELD POLICY

## FAMILY AND MEDICAL LEAVE

In accordance with the Federal Family and Medical Leave Act (hereinafter referred to collectively as "FMLA"), eligible employees may take a leave of absence for certain designated reasons. This policy presents a general overview of FMLA entitlements and requirements. If this policy conflicts with applicable law, applicable law controls.

### EMPLOYEE ELIGIBILITY:

- Employee must have worked for the Town for a minimum of twelve (12) months, and
- Employee must have worked at least 1,250 hours during the 12-month period prior to the start of the FMLA leave. Only hours actually worked – regular worked time plus overtime – count towards this requirement. Paid leave (such as vacation, sick leave, holidays) and unpaid leave, including FMLA leave, are not included.

Once it has been determined that an employee is eligible under the above criteria, unpaid family and/or medical leaves may be granted for the following reasons:

- **Serious Health Condition of Employee, Employee's Child, Parent or Spouse/Civil Union Partner**

Child may be a biological child, foster child, adopted child, stepchild, legal ward or child of person standing in loco parentis (in place of parent), who is under the age of 18, or over the age of 18 and unable to care for himself/herself because of a mental or physical disability.

Parent must be a biological parent, foster parent, adoptive parent, stepparent, legal guardian, or individual who stood in loco parentis to an eligible employee.

An eligible employee's spouse may be a husband or wife and, for purposes of the Connecticut Family and Medical Leave Act, civil union partners.

To be considered a serious health condition, the condition must be an illness, impairment or physical or mental condition that involves inpatient or outpatient care. Inpatient care generally involves treatment at a hospital, hospice, or residential medical care facility. Outpatient care generally requires continuing treatment by a health care provider.

- **Birth, Adoption or Foster Care Placement.**

A family leave of absence will be provided upon the birth, adoption, or foster care placement of a child by an eligible employee.

- **To Serve as an Organ or Bone Marrow Donor.**
- **Serious Injury or Illness of a Covered Service Member.**

An employee who is a spouse, son, daughter, parent or next of kin of a covered service member is eligible to take family leave to care for the serious injury or illness of such individual.

An eligible employee's spouse is either a husband or wife and, for purposes of the Connecticut Family and Medical Leave Act, civil union partners.

Son or daughter may be a biological child, foster child, adopted child, stepchild, legal ward or child of person standing in loco parentis (in place of parent), who is under the age of 18, or over the age of 18 and unable to care for himself/herself because of a mental or physical disability.

Parent must be a biological parent, foster parent, adoptive parent, stepparent, legal guardian, or individual who stood in loco parentis to an eligible employee or an eligible employee's spouse or civil union partner.

Next of kin means the nearest blood relative of the eligible employee as specifically designated in writing by the covered servicemember or as otherwise identified in the order of priority under applicable law.

To be considered a covered servicemember, the individual must be either: (1) a current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy; or is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the five year period before the date on which the veteran undergoes such medical treatment, recuperation or therapy.

To be considered a serious injury or illness of a current member, the injury or illness must be incurred in line of duty on active duty in the Armed Forces (or existing before the beginning of the member's active duty and aggravated by service in line of duty on active duty in the Armed Forces) that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.

To be considered a serious injury or illness of a veteran, the injury or illness must be incurred in line of duty on active duty in the Armed Forces (or existing before the beginning of the member's active duty and aggravated by service in line of duty on active duty in the Armed Forces) that manifested itself before or after the member became a veteran.

Covered active duty means duty during the deployment of the member with the Armed Forces to a foreign country (for a member of a regular component of the Armed Forces) and duty during the deployment of the member with the Armed Forces to a foreign

country under a call or order to active duty (for a member of a reserve component of the Armed Forces).

○ **Because of a Qualifying Exigency.**

An employee whose spouse/civil union partner, son, daughter or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces (including a member of the National Guard or Reserves) in support of a contingency operation is eligible to take family leave for the following qualifying exigencies: (1) short-notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; and (8) other activities which arise out of the covered military member's active duty or call to active duty status that the employer and employee agree qualify as an exigency and agree as to the timing and duration of such leave.

Covered active duty means duty during the deployment of the member with the Armed Forces to a foreign country (for a member of a regular component of the Armed Forces) and duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (for a member of a reserve component of the Armed Forces).

**EMPLOYEE OBLIGATIONS:**

- Employees are required to use their available paid vacation, sick and other time off during a family or medical leave of absence for any reason. That portion of the leave of absence that is used under these conditions will be with pay according to Town policies.
- While as stated above all accrued paid vacation, sick and other time off must be used in accordance with Town policy before an employee is eligible to utilize any unpaid family or medical leave, an employee will not be required to utilize any such paid leave during an FMLA leave if she/he is simultaneously receiving payments under the Town's Short Term Disability Plan or Workers' Compensation laws.
- The maximum amount of family and medical leave allowed, whether it includes paid and/or unpaid leave or whether it includes time off during which an employee is receiving payments under either the Town's Short Term Disability Plan or the Workers' Compensation laws, will not exceed the maximum leave entitlement as described below.
- Since the purpose of leave under this policy is to enable employees to maintain their ability to continue employment with the Town, an employee may not work elsewhere while on FMLA leave.
- When planning medical treatment or seeking intermittent leave, the employee must consult with the Human Resources Department and must make a reasonable effort to schedule the treatment or intermittent leave so as to avoid unduly disruptive effects on the Town's operations.
- Employees needing FMLA leave must, at a minimum, follow the Town's usual and

customary call-in procedures for reporting an absence, absent unusual circumstances.

- Whenever an eligible employee's medical or family leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment, or to care for others, the employee must provide at least thirty days advance written notice to the Human Resources Department. If such prior notice is impossible, as in the case of an unforeseen medical emergency or qualifying exigency, an eligible employee must provide notice as soon as practicable after s/he learns of the need for the leave (typically within one or two working days of learning of the need for leave). Failure to comply with these notice rules is grounds for, and may result in, deferral or denial of the requested leave.

All leaves due to a serious health condition of an eligible employee, or an eligible employee's son/daughter, parent or spouse/civil union partner, or due to a serious injury or illness of a covered servicemember, must be accompanied by a medical certification from the appropriate health care provider identifying, among other things, appropriate medical facts regarding the condition and its probable duration. Such medical certification must be provided before the leave begins, or if that is not possible, within 15 days after the leave begins. This deadline may be extended at the First Selectman's discretion if the employee can demonstrate that it is not practicable to provide the documentation despite the employee's good faith efforts. Failure to comply with these medical certification requirements is grounds for, and may result in, deferral or denial of the requested leave.

- Subsequent medical re-certification will be required as necessary, but no more than once every thirty days after receipt of the initial medical certification.
- All leaves due to a qualifying exigency must be accompanied by a certification as has been prescribed by the Secretary of Labor.
- In response to a request for leave necessitated by the serious health condition of the employee or others, the Town may require the employee to obtain a second opinion from a health care provider selected and paid for by the Town.
- While on leave, employees are, at a minimum, required to report on the 1<sup>st</sup> day of each month to the Human Resource Department regarding the status of the family or medical condition(s) and their intent to return to work.
- Under Town policy, employees are required to provide at least two weeks of advance notification of the date they intend to return to work from a leave of absence.

#### **MAXIMUM LEAVE ENTITLEMENT:**

- The maximum FMLA leave entitlement for employees eligible under this policy is 12 weeks in the one-year period measured on a "rolling" 12-month period measured backward from the date of any FMLA leave usage due to: (1) the serious health condition of the employee or the employee's child, parent or spouse/civil union partner; (2) birth, adoption or foster care placement; (3) service as an organ or bone marrow donor; or (4) a qualifying exigency.

- The maximum FMLA leave entitlement for employees eligible under this policy due to the serious injury or illness of a covered service member is 26 weeks in the one-year period measured from an employee's first day of FMLA leave taken.
- The maximum amounts of FMLA leave stated herein do not afford eligible employees the ability to take more leave if they have multiple qualifying reasons than they otherwise would be entitled to take for a single qualifying reason during the applicable time period.
- Any absences that qualify as FMLA leave runs concurrently with an absence under the Town's Short Term Disability Plan or Workers' Compensation laws.
- Any time spent performing "light duty" work does not count against an employee's FMLA leave entitlement, whether such "light duty" work has been required by the Town or requested by the employee. Therefore, any employee's right to restoration of his or her job is held in abeyance during the period of time (if any) the employee performs light duty (or until the end of the applicable FMLA leave period).
- When a husband and wife or civil union partners are both eligible employees of the Town, they are each individually eligible to receive the maximum leave time allowable for their own serious health condition or the serious health condition of a son/daughter or spouse/civil union partner. For purposes of leave due to a qualifying exigency, married employees and civil union partners are each individually eligible to receive the maximum leave time allowable for each. For purposes of family leave taken due to the birth, adoption or placement of a son/daughter, or for the serious health condition of a parent or due to the serious injury or illness of a covered servicemember (or for a combination of leave taken for this reason and any other qualifying reason), married persons and civil union partners are eligible for the maximum leave allowable to one individual eligible employee.
- An eligible employee may take intermittent leave or leave on a reduced schedule (up to the amount of the maximum leave entitlement) when medically necessary due to the employee's own serious health condition, or the serious health condition of the employee's son/daughter, parent or spouse/civil union partner, or due to the serious injury or illness of a covered servicemember. An eligible employee may further take intermittent leave or leave on a reduced schedule (up to the amount of the maximum leave entitlement) due to a qualifying exigency. Employees seeking to take intermittent leave or leave on a reduced schedule are subject to the same notice, medical certification and other employee obligations identified above. In addition, if such intermittent or reduced schedule leave is requested, the Town reserves the right to temporarily transfer the employee to an available alternative position with equivalent pay and benefits (but not necessarily equivalent duties) that better accommodates this type of leave.
- Intermittent or reduced schedule leave may not be taken upon the birth, adoption or foster care placement of an employee's son/daughter unless agreed to by the employee and the Town.
- There is no obligation under the FMLA to guarantee an employee's original job or an equivalent position beyond the maximum period specified above.

## **MAINTENANCE OF HEALTH BENEFITS:**

- An eligible employee's medical benefits will continue during a leave of absence up to the maximum amount of leave afforded under this policy. While on paid leave, the Town will continue to make payroll deductions to collect the employee's share of the medical insurance premiums. While on unpaid leave, the employee must continue to pay his/her share of the medical insurance premiums, either in person or by mail. The payment must be received as directed by the Town. Failure of the employee to pay the premium may result in loss of coverage.
- Employees have a 30-day grace period in which to make required premium payments. If payment is not timely made, health insurance coverage may be cancelled, if the employee has been notified in writing at least 15 days before the date that coverage would lapse. At the Town's option, the Town may pay the employee's share of the premiums during FMLA leave if the coverage were to lapse due to failure of the employee to make timely payments, and then recover such payments from the employee upon return to work.
- Should an employee's health insurance lapse due to non-payment while on FMLA leave, the Town will again provide health insurance benefits according to the applicable plans when the employee returns from the leave of absence.
- If an employee does not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition (or serious injury or illness in the case of a covered servicemember) which would otherwise render the employee eligible for FMLA leave; or (2) other circumstances beyond the employee's control, the Town reserves the right to seek reimbursement from the employee for its share of health insurance premiums paid on the employee's behalf during the employee's FMLA leave.

## **RIGHTS UPON RETURN FROM LEAVE:**

- If an employee is considered a "key employee" as defined in the FMLA, restoration to employment may be denied following FMLA leave if restoration will cause substantial and grievous economic injury to the Town.
- If an employee is not a "key employee" as defined in the FMLA, upon the conclusion of an FMLA leave (or the expiration of the maximum family or medical leave provided by law, whichever occurs first), s/he may return to work with all seniority, retirement or fringe benefits s/he had at the commencement of such leave. There will be no accruals of such benefits (including paid time off) during an FMLA leave.
- If an employee is not a "key employee" as defined in the FMLA, upon the conclusion of an FMLA leave (or the expiration of the maximum family or medical leave provided by law, whichever occurs first), s/he will be reinstated to the same position s/he held prior to such leave or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. If an employee is medically unable to perform his/her prior job, s/he will be offered work suitable to his or her physical condition, if such work is available, at the pay rate appropriate to that job.

- If an employee cannot return to work at the expiration of the maximum FMLA leave allowed, the Town has no obligation under the FMLA to restore an employee to any position. An employee on leave or returning from leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave period.

**FITNESS FOR DUTY CERTIFICATION:**

- In accordance with applicable law and Town policy governing returns to work after a medical absence, employees returning to work after a medical leave due to their own serious health condition (other than an employee taking intermittent leave or leave on a reduced schedule) must present a fitness-for-duty certification from their health care provider to the Human Resources Department prior to their return to employment.
- If there are any medical restrictions upon an employee's return to work, the health care provider should state these restrictions in the certificate provided. It is the employee's responsibility to notify the Human Resources Department prior to his/her return to work and make them aware of any restrictions.
- Employees will not be eligible to return to work after a medical leave without being medically cleared to do so. In addition, the Town reserves the right to have its own health care provider and/or the Human Resources Department contact the employee's health care provider for purposes of clarification of the employee's fitness to return to work certification. Under no circumstances will an employee's direct supervisor make contact with the employee's health care provider for purposes of determining fitness for duty (or any other medical certification issue pertaining to FMLA).