

**Town of Old Saybrook
Family and Medical Leave Act Policy
Adopted by Board of Selectmen: April 8, 2014**

It is the policy of the Town of Old Saybrook to comply with the Family and Medical Leave Act of 1993 in its employment practices. This policy is implemented through the following procedures.

I. PURPOSE

The purpose of these procedures is to establish guidelines for leaves taken by employees of The Town under the Federal Family and Medical Leave Act of 1993 (FMLA).

II. ELIGIBILITY

An employee is eligible for FMLA leave if he or she (a) has been employed by the Town for at least fifty-two (52) weeks; (b) has worked at least 1,250 actual work hours during the twelve (12) months immediately preceding the start of a leave; and (c) is employed at a worksite where 50 or more employees are employed by the Town within 75 miles of that worksite.

III. FMLA LEAVE ENTITLEMENTS

Leaves under the FMLA may be taken for any of the following reasons:

- For incapacity due to pregnancy, prenatal care, or child birth;
- To care for the employee's child after birth, or placement of a child with the employee by adoption or foster care (leave must be taken within 12 months after birth or placement);
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition;
- For the employee's own serious health condition that makes the employee unable to perform one or more essential functions of his or her current position.
- Because of a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) covered active duty in the Armed Forces (including a member of the National Guard or Reserves). Qualifying exigencies may include:
 - (a) Short-notice deployment activities (if a member receives seven or fewer calendar days' notice prior to the date of deployment);
 - (b) Military events and related activities;
 - (c) Childcare and school activities;
 - (d) Financial and legal arrangements;
 - (e) Counseling activities;

- (f) Rest and recuperation activities;
 - (g) Post-deployment activities; and/or
 - (h) Additional activities.
- To care for the employee's spouse, parent, son or daughter, or next of kin who is a covered servicemember with a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating. A covered servicemember includes (1) a member of the Armed Forces (including a member of the National Guard or Reserves) (a) who is undergoing medical treatment, recuperation, or therapy; (b) is in outpatient status; or (c) is on the temporary disability retired list for a serious injury or illness, and (2) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness who was a member of the Armed Forces at any time during the five years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy.

IV. LENGTH OF LEAVE

Except in the case of leave to care for a covered servicemember with a serious injury or illness, an eligible employee is entitled to take up to a maximum of twelve (12) workweeks of FMLA leave during any 12-month entitlement period. An eligible employee is entitled to up to 26 workweeks of leave to care for a covered servicemember with a serious injury or illness during a single 12-month period. The 12-month entitlement period for family or medical leave is measured forward from the date an employee begins leave that qualifies under the FMLA.

If leave is taken for more than one of the qualifying reasons listed above, the employee is entitled to a combined total of 12 workweeks of leave during any 12-month entitlement period unless one of the reasons is to care for a covered servicemember with a serious injury or illness. If one of the reasons is to care for a covered servicemember with a serious injury or illness, then the employee is entitled to a combined total of 26 workweeks of leave during the single 12-month period, but is still limited to a combined maximum of 12 workweeks for leave taken for any reason other than to care for a covered servicemember with a serious injury or illness.

V. TYPES OF LEAVE AND CONDITIONS FOR USE OF LEAVE

A. Block of Time, Intermittent and Reduced Schedule Leave

An employee may take FMLA leave in a block of time, on an intermittent basis, or on a reduced schedule basis, as explained below.

1. “Block” FMLA leave is leave for a continuous period of time. Such leave may be taken for any of the reasons permitted by the FMLA.
2. “Intermittent” leave means leave taken in separate periods of time rather than for one continuous period of time. Examples of intermittent leave include leave taken one day per week over a period of a few months or leave taken on an occasional/as needed basis for other than routine medical appointments. Non-exempt employees may take intermittent leave in increments of one hour.
3. “Reduced Schedule” leave is leave that reduces the employee's usual number of work hours per day for some period of time. For example, an employee may request to work part-time for a number of weeks so the employee can assist in the care of a parent with a serious health condition.

Intermittent or reduced schedule leave can only be taken when medically necessary for an employee's or covered family member's serious health condition, or because of a covered servicemember's serious illness or injury, and the medical need can best be accommodated through an intermittent or reduced schedule leave. Such leave may be taken:

1. When necessary for planned or unanticipated medical treatment, or for treatment that is required by a health care provider periodically (e.g., leave taken for chemotherapy or for prenatal examinations);
2. For recovery from a serious health condition or a covered servicemember's serious injury or illness,
3. To provide care or psychological comfort to a covered family member or a covered servicemember;
4. Where the employee or covered family member is incapacitated from performing the essential functions of the position because of a chronic serious health condition, or because of a serious injury or illness of a covered servicemember; or
5. Due to a qualifying exigency.

B. Scheduling Planned Medical Treatment

When planning medical treatment for foreseeable FMLA leave, an employee must consult with his or her supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly the Town's operations, subject to the approval of the health care provider. Ordinarily, the employee should consult with the supervisor prior to scheduling the treatment in order to work out treatment schedule which best suits the needs of the Town and the employee. The Town may, for justifiable cause, require an employee to attempt to reschedule treatment, subject to the approval of the health care provider as to any modification of the treatment schedule.

C. Temporary Transfer

If foreseeable intermittent or reduced schedule leave is medically required based upon planned medical treatment of the employee or a family member, including during a period of recovery from a serious health condition, or if the Town agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the Town may temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates the type of leave requested.

D. Both Spouses Working For The Town

If both spouses are employees of the Town and request leave for the birth, placement of a healthy child by adoption or for foster care, or to care for a parent with a serious health condition, they only will be entitled to a maximum combined total leave equal to twelve (12) weeks in any 12-month entitlement period. If either spouse (or both) uses a portion of the total 12-week entitlement for one such purpose, each is still entitled to the difference between the amount he or she has taken individually and the 12-week entitlement for FMLA leave for other FMLA purposes during any 12-month entitlement period.

E. Procedures for Requesting FMLA Leave

1. For Leave

An employee must inform his or her supervisor of the need for a family or medical leave at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable based upon an expected birth, placement for adoption for foster care, planned medical treatment for the employee's or family member's serious health condition, or the planned medical treatment for a serious injury or illness of a covered servicemember. If 30 days' notice is not practicable, then the employee must provide notice as soon as practicable under the circumstances, usually the same day or the next business day after the employee becomes aware of the need for FMLA leave. An employee must provide notice as soon as practicable if the foreseeable leave is for a qualifying exigency.

When the approximate timing of the need for leave is not foreseeable, an employee must inform his or her supervisor as soon as practicable under the circumstances.

2. Other Employee Notice Obligations

The employee should follow the Town's normal procedures for providing notice of the need for leave. The employee must provide sufficient information to make the supervisor aware that the employee needs FMLA-qualifying leave, and must inform the supervisor of the anticipated timing and duration of the leave. If the requested leave is for a reason for which leave was previously designated as FMLA leave by

the Town, the employee must specifically reference the reason for the leave or the need for “FMLA” leave. In addition, an employee must inform his or her supervisor as soon as practicable if date(s) of scheduled leave change or are extended, or if the date(s) were initially unknown.

The supervisor must promptly (the same day) notify the Town’s FMLA Administrator that an employee has requested leave that may qualify under FMLA. The Town’s FMLA Administrator will coordinate the processing of all FMLA leave paperwork.

F. Certifications Required

For leaves taken for any FMLA-qualifying reason, an employee may be required to submit a completed certification form supporting the need for leave. The appropriate form will be provided to the employee within five business days after the employee gives notice of the need for leave. The employee must submit the completed form within fifteen (15) calendar days of receiving the request for the completed certification. If it is not practicable for the employee to provide the completed form within 15 calendar days despite the employee’s diligent, good faith efforts, the employee must inform Human Resources/the FMLA Administrator of the reason for delay. FMLA-protected leave may be delayed or denied if the employee does not provide a complete and sufficient certification as required.

G. Substitution of Paid Leave

An employee must substitute any accrued paid sick leave for any unpaid portion of medical leave taken for employee's own serious health condition (including pregnancy/maternity leave). To substitute simply means that the unpaid FMLA leave and paid leave run concurrently. In addition, an employee must substitute accrued paid personal leave and vacation (in that order) for any unpaid portions of FMLA leave taken for any reason. Where the leave is for the employee's own serious health condition, accrued paid sick leave will be substituted for unpaid portions of FMLA leave prior to the substitution of accrued paid personal leave or vacation. The use of accrued paid leave will not apply if the employee is eligible workers’ compensation payments.

H. Medical Insurance and Other Benefits during FMLA Leave

During approved FMLA leaves of absence, an employee will be entitled to all job-related benefits during any portion of such leave for which the employee is utilizing available paid leave. During any paid portion of FMLA, any applicable health insurance premium payments will continue to be deducted from the employee’s paycheck as usual.

During any unpaid portion of FMLA leave, the Town will continue to pay its portion of medical insurance premiums for the period of unpaid FMLA leave. The

employee must continue to pay his/her share of the premium and failure to do so may result in the loss of coverage. The employee will be responsible for his or her share of the monthly premium beginning the first of the month after FMLA leave becomes unpaid/during any portion of unpaid FMLA leave.

If the employee does not return to work after the expiration of the FMLA leave, the employee will be required to reimburse the Town for payment of medical insurance premiums during unpaid FMLA leave, unless the employee does not return because of a serious health condition or other circumstances beyond the employee's control. Unused employment benefits, including seniority, accrued by the employee up to the day on which the leave begins will not be lost upon return to work.

VI Return to Work after FMLA Leave

An employee who returns to work following the expiration of a family or medical leave is entitled to return to the job held prior to the leave or to an equivalent position with equivalent pay and benefits. If an employee takes leave (except on an intermittent or reduced-schedule basis) for his or her own serious health condition, in order to return to work the employee may be required to provide a completed fitness-for-duty certification form, which certifies that the health condition which created the need for the leave no longer renders the employee unable to perform the essential functions of the job. If such certification is required but not received, the employee's return to work may be delayed until the certification is provided.

Questions regarding family or medical leave, including obtaining any necessary forms, may be directed to the First Selectman's Office.

Legal References:

- Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.
- Federal Regulations, 29 C.F.R. Part 825, as amended.