

Section 18. Family and Medical Leave

The Family Medical Leave Act (FMLA) policy is followed in accordance with federal regulations (29 U.S.C. § 2619). Employees who have at least 12 months of service and have worked at least 1,250 hours in the last consecutive 12 months are eligible. Employees who have questions concerning eligibility should contact the Human Resources Department.

FMLA provides for up to 12 weeks of unpaid leave under the following circumstances:

- a) For the birth of a child and to bond with the newborn child
- b) For the placement of a child with the employee for adoption or foster care, and to bond with that child
- c) To care for a parent, spouse or child with a serious health condition.
- d) The employee's own serious health condition makes the employee unable to perform the functions of his or her job
- e) For qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active duty or called to active duty status in the National Guard or Reserves during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, or Regular Armed Forces during deployment to a foreign country.

The FMLA also provides for up to 26 weeks of unpaid leave for eligible employees to care for a covered service member during a single 12-month period.

Employees who do not qualify for FMLA may still be eligible for the Town's Paid Parental Leave or Paid Caregiver Leave programs discussed in this Article.

Depending on circumstances, it may be permissible to use FMLA leave intermittently. The Town reserves the right to consider individual circumstances and needs in conjunction with business demands and federal/state requirements.

Certification and Eligibility Requirements:

- 1) Employees may request FMLA leave by submitting a FMLA Employee Request Form to their Supervisor or Human Resources. Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with the Town's normal call-in procedures.
- 2) The Town may require medical certification to assess FMLA eligibility, as well as updates at reasonable intervals for continued certification. If there is reason to doubt the validity of the medical certification, the Town may require the employee to get a second opinion. If the second opinion differs from the original certification provided, the Town may require the employee to

get a third opinion, at which time the doctor will be jointly selected by the employee and the Town. The third opinion will be final and binding on both parties. The burden of the cost of the second and third opinions will be at the expense of the Town.

- 3) If the Town requires medical certification for leave the employee must provide sufficient information to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Employees also must inform the Town if the requested leave is for a reason for which FMLA leave was previously taken or certified. Failure to provide adequate information within fifteen calendar days may result in delayed or denied FMLA leave/protection until proper certification can be obtained.
- 4) The Town reserves the right to waive certification and can place the employee on leave upon learning of the employee's circumstances, even if the employee has not yet requested FMLA leave or the request is pending the completion of the FMLA certification forms.
- 5) Generally, FMLA approved leave will begin on the first day of absence, when the leave is foreseeable. In the event of an unplanned leave, individual needs/circumstances, in accordance with federal regulations, will be reviewed to determine the appropriate start date of FMLA leave.
- 6) An eligible employee is entitled to up to twelve or twenty-six workweeks of leave, depending on circumstances – as identified above, on a rolling 12- month period measured backward from the date of any FMLA leave usage. If the employee returns to work before the twelve or twenty-six weeks is depleted and is able to physically perform his/her duties, the employee will be reinstated to the original, or equivalent position, with equivalent pay, benefits and other employment terms. If the twelve or twenty-six weeks of this leave are exhausted and the employee has not returned to work, the Town will determine if the employee will be reinstated.
- 7) Employees will be required to deplete their earned compensatory time and vacation leave during FMLA before being granted unpaid leave. If the approved FMLA is for circumstances for which sick leave usage is permissible per Town policy, then sick leave must also be depleted before being granted unpaid leave.
- 8) All benefits will continue to accrue during a period of paid leave.
- 9) When an employee is on leave under FMLA, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the Town will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.
- 10) Employees who are out of work under the provisions of FMLA are prohibited from engaging in any secondary employment during what would be their normal scheduled workday. Employees on leave as a result of their own serious health condition are NEVER approved for secondary employment. Employees who work secondary employment while on FMLA during what would have been normal work hours are considered to have voluntarily terminated their employment with the Town. Police employees may work extra-duty assignments while on FMLA with prior approval from the Chief of Police, in consultation with HR. Each request will be reviewed on a case by case basis.
- 11) Short-term disability, workers' compensation and approved medical leave of absence will run concurrently with FMLA leave.
- 12) An employee who is approved for FMLA for a personal illness or injury will not be allowed to

return to work without a completed Fit for Duty Form, unless the employee was out to care for a family member or for birth of a child (Police sworn personnel who have given birth to a child must still complete the Fit for Duty form). An employee who does not return to work within three working days after their FMLA expires will be considered to have voluntarily terminated their employment with the Town.

It is the responsibility of the immediate supervisor to begin the process of placing the employee on leave. If a supervisor observes that an employee is out sick more than three consecutive days, the supervisor is to notify the Human Resources Department. If a supervisor is told by an employee that the employee will need to be out for an extended period of time for reasons other than a normal vacation, the supervisor is to notify Human Resources and instruct the employee to do the same.