



**TOWN OF HOLLISTON
BOARD OF SELECTMEN**

**703 Washington Street
Holliston, MA 01746**

508-429-0608

FAMILY LEAVE POLICY

Family, Medical, and Small Necessities Leaves of Absence

- A. Purpose.** The Family and Medical Leave Act ("FMLA") of 1993 allows eligible employees twelve (12) weeks of unpaid leave (26 weeks for military caregiver leave) per year under the circumstances outlined below. Employees may take leave for the following reasons:
1. to care for the employee's child after birth, or placement of a child with the employee through adoption or foster care;
 2. incapacity due to pregnancy, prenatal medical care or childbirth;
 3. the employee is needed to care for his/her child, spouse, or parent who has a serious health condition;
 4. the employee is unable to perform the functions of his/her position because of a serious health condition;
 5. the employee is next of kin to, and needed to care for, a covered servicemember who incurred a serious injury or illness in the line of duty (up to 26 weeks of leave – this is an exception to the 12-week maximum referenced throughout this Policy).
 6. the employee needs leave due to a qualifying exigency arising out of his/her child, spouse, or parent, who is also a military member, being called to, or serving on, covered active duty.
- B. Use Paid Leave First.** Employees are required to use certain types of accrued or available paid leave first, as part of the FMLA leave, before commencing the unpaid portion of the leave. Employees who take leave because of the birth, or placement of a child or to care for an ill spouse, parent or child must first use all accrued vacation and personal time, in that order. Employees who take leave because of their own serious illness must use all accrued sick, personal and vacation time, in that order.

C. Eligibility.

1. **1250 hours in previous 12 months.** To be eligible for leave under this policy an employee must have been employed by the Employer for a total of at least 12 months, and must have worked at least 1250 hours during the 12-month period preceding the commencement of the leave. Certain exceptions may apply if an employee has had a break in service with the Employer totaling 7 or more years, unless the break was due to certain types of military leave.

D. Conditions.

1. **Twelve Weeks.** Employees may take no more than twelve weeks of leave in a twelve month period. The twelve month period is a rolling twelve months beginning twelve months prior to the proposed commencement of requested leave. If both spouses are employed by the Employer, they are together entitled to a total of twelve weeks of leave for the birth or placement of a child or care of a sick parent.
2. **Notice.** Employees wishing to take FMLA leave must give 30 days' notice for leave involving foreseeable events. If the event giving rise to the need for leave is not foreseeable, then the employee must give such notice as is practicable under the circumstances. Employees must schedule planned medical treatments with due regard for the Employer's operational needs.

E. Definitions.

Health Care Provider: A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary to be capable of providing health care services.

Parent: The biological parent of an employee or an individual who stood *in loco parentis* to an employee when the employee was a son or daughter.

Reduced Leave Schedule: A leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary: The Secretary of Labor.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

Child: A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is: under 18 years of age; or 18 years of age or older and

incapable of self-care because of a mental or physical disability.

Spouse: Spouse, as defined in the statute, means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

- (1) Was entered into in a State that recognizes such marriages; or
- (2) If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

Covered Active Duty: In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and in the case of a member of the reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

Covered Service Member: A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 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 period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Next of Kin: With respect to an individual, next of kin is the nearest blood relative of that individual.

Qualifying Exigency: May include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Serious Injury or Illness: In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during such a period, a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in

the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

F. Certification. Employees must provide sufficient information for the Employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Employees requesting FMLA Leave must provide medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, or parent. The medical certification must set forth: the date on which the serious health condition commenced; the probable duration of the condition; and, the appropriate medical facts within the knowledge of the health care provider regarding the condition. In its discretion, the Employer may require a second medical opinion and periodic re-certification at its own expense.

G. Employer Responsibilities. The Employer will inform employees requesting leave whether they are eligible under the FMLA. The Employer will also inform employees what, if any, additional information is needed to process their request. Employees will be notified of the approval or denial of the leave and the reason(s) therefore.

The Employer shall not interfere with, restrain, or deny the exercise of any right provided under the FMLA; and shall not take any adverse employment action against an employee for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under, or relating to, the FMLA.

H. Intermittent or Reduced Schedule Leave. If medically necessary for a serious health condition or qualifying exigency of the employee or his or her spouse, child or parent, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, the Employer may require the employee to transfer temporarily to a position, with equivalent compensation, which better accommodates recurring periods of absence or a part-time schedule.

I. Benefits.

1. **Health Coverage.** Employees on leave are entitled to the continuance of group health coverage under the same conditions they received coverage prior to the leave. Employees who contribute to their health insurance premiums via payroll deduction must arrange to pay the premium contributions during the period of unpaid absence, if they wish to retain coverage. In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence, the Employer may recover from the employee the cost of any payments made to maintain the employee's coverage, unless the failure to return to work was for reasons beyond the employee's control.
2. **Other Benefits.** Benefits based upon length of service will be calculated as of the last paid work day prior to the start of the FMLA leave of absence. Employees do not accrue sick, vacation or personal time while on leave in excess of 30 days.

Employees will not forfeit any employment benefits that accrued prior to the start of the FMLA leave of absence.

- J. Sick Leave, Workers Compensation Leave, or Other Absences.** Employees who are out of work for reasons that would qualify for leave under this policy, irrespective of whether leave has been requested under this policy, are required, upon request, to provide to the Employer the information and certifications required by this policy. The Employer shall designate all such qualifying leave as Family and Medical Leave, which shall run against the twelve weeks allowed under this policy.
- K. Return to Work.** Employees returning from FMLA Leave in accordance with this policy will be restored to their original positions, or to equivalent positions with equivalent pay and benefits. Employees should contact the personnel department and their supervisors at least two weeks before their return date to make arrangements. Employees may be required to provide a medical opinion from a physician certifying their fitness for duty. The Employer reserves the right to send an employee to the Employer's physician for a second opinion regarding the employee's fitness to return to work.
- L. Procedural Requirements.** Employees requesting an FMLA leave must submit the request in writing to their Department Head. Requests should be made 30 days in advance of the commencement of the leave, but in any event, as soon as practicable. The Employer will provide an employee with a *Certification of Health Care Provider* form. The Employee must return the completed form to the Employer within 15 days from receipt.
- M. Small Necessities Leave**
1. The Small Necessities Act, Massachusetts General Law Chapter 149, Section 52D, became effective on August 4, 1998.
 2. An employee shall be entitled to a total of 24 hours of unpaid leave during a 12 month period (the twelve month period is a rolling twelve months beginning twelve months prior to the proposed commencement of requested leave), in addition to leave available under the Family and Medical Leave Act of 1993, for the following purposes:
 - (a) to participate in school activities directly related to the educational advancement of a son or daughter;
 - (b) To accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and
 - (c) To accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care.
 3. Employees who have accumulated sick, personal, or vacation time must use such time as part of the 24 hours before becoming eligible for unpaid time. The

Employer will not provide paid leave in any situation where it would not normally provide such paid leave.

4. At least 7 days in advance, the employee shall submit to the Employer a written notice of his/her intent to take small necessities leave and the date and expected duration of the leave. If 7 days notice is not possible, the employee shall give notice as soon as practicable.



Kevin Conley
Chairman

Jay Marsden
Vice Chairman



Jay Leary
Clerk

Wednesday, April 26, 2017