

Town of Milford, MA
FAMILY MEDICAL LEAVE ACT (FMLA) POLICY

Issue Date: October 1, 2018

Effective Date: January 1, 2018

Policy Statement:

This Policy provides employees with general information regarding the Family Medical Leave Act ("FMLA"). Additional information can be found on the Town of Milford website. If you have questions about this Policy, please contact Human Resources at humanresources@townofmilford.com.

The Town of Milford's Family Medical Leave Act Policy applies to all Article 2 employees, employees-at-will, contractual and non-contractual employees, and to employees in a collective bargaining unit so long as consistent with the collective bargaining agreement. Nothing contained in this written policy contradicts or supersedes any contradictory provision of any Milford Collective Bargaining Agreement or any Milford employment contract. To the extent any contradictory terms exist, the contract terms shall apply.

Leave Entitlement:

The FMLA provides eligible employees up to twelve (12) weeks (or up to twenty-six (26) weeks of military caregiver leave) of unpaid, job-protected leave for specified family and medical reasons. The Town of Milford uses a rolling twelve (12) month period which is measured backward from the date of employee first uses any FMLA leave.

Eligibility Requirements

Employees are eligible for FMLA leave if they have worked for the Town for at least twelve (12) months. This duration of employment need not be consecutive. Eligible employees must have worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) months prior to the start of the requested leave. This requirement includes actual hours worked only. It does not include hours paid for vacation, personal or sick leave, etc.

Types of Leave Available:

Eligible employees may request FMLA leave for any of the following reasons:

- The birth of a child, or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within one year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;

- For any qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child or parent.
- To care for a covered service member with a serious injury or illness when the employee is the spouse, son, daughter, parent or next of kin of the service member.

Military Family Leave Entitlements

Qualifying Exigency Leave

Eligible employees with a spouse, son, daughter or parent on active duty or called to covered active duty status in the Armed Forces (including National Guard or Reserves) in support of a contingency operation may use their twelve (12) week leave entitlement to address certain qualifying exigencies. Qualifying exigencies 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.

Military Caregiver Leave

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a son, daughter, parent or next-of-kin who is a covered service member during a single twelve (12) month period. A covered service member is a current member of the Armed Forces (including the National Guard or Reserves) who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties, for which the service member is undergoing medical treatment, recuperation or therapy; or is in out-patient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, we will maintain your health insurance coverage on the same terms as if you continued to work, if you have indicated your intent to return to work at the end of your FMLA leave. Arrangements to pay the employee share of such benefits must be made by contacting the Benefits Coordinator. If you do not return to work upon the completion of your FMLA leave, the Town may recover the cost of any payments made to maintain your health insurance coverage, unless the failure to return to work was for reasons beyond your control. Use of FMLA leave will not result in the loss of any employment benefit available prior to the start of FMLA leave.

Employees who return to work on or before the expiration of their FMLA leave will be restored to their original or an equivalent position with equivalent pay, benefits and other employment terms. Employees on FMLA leave are, however, not entitled to any greater rights than they would otherwise have been entitled, had they continued as active employees

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations (intermittent leave is not, however, available to care for a child during the first twelve (12) months after the birth, adoption or placement in foster care). Leave due to qualifying exigencies may be taken on an intermittent basis.

If you use intermittent leave, you must comply with our regular call-out procedure for each day on which you are absent, including specifically referring to the FMLA-qualifying reason for the leave.

Substitution of Paid Leave for Unpaid Leave

Any family or medical leave which qualifies under both state and federal laws will be used concurrently to the extent permitted by those laws (i.e., Massachusetts Parental Leave, Workers' Compensation Law, etc.).

Employees eligible for FMLA must use any available paid leave concurrently with their FMLA leave until all such paid leave is exhausted. Employees must comply with the Town's normal paid leave policies.

Employees who use FMLA for his/her own serious health condition, or the serious health condition of a family member must use all sick, personal and vacation time. An employee on FMLA for any other reason must use accrued vacation and personal time, but is not required to use accrued sick time.

Holiday Pay

In order to be paid for holidays which occur during an employee's FMLA leave, the employee must use accrued time off. At a minimum, accrued time must be used the day before and the day after a holiday.

Accrual of Sick Leave while on FMLA

Employees will continue to accrue Sick Leave if using earned leave during FMLA. If employee is on MA Parental Leave, they will continue to accrue Sick Leave while on the Parental Leave. Once MPL is exhausted, they will follow FMLA guidelines.

Employee Responsibilities

Employees must provide thirty (30) days' advance notice of the need to take FMLA leave when the need is foreseeable. When thirty (30) days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures. Notice may be verbal and need not even mention FMLA, but must state the reason for the needed leave.

Within five (5) business days after the employee has submitted the appropriate certification form, Human Resources will complete and provide the employee with a written response to the employee's request for FMLA leave.

While on leave, employees are required to report periodically, at least once every four (4) weeks, the status of their medical condition and their intent to return to work. All information is to be submitted directly to Human Resources.

Employees may be required to provide a fitness-for-duty statement before they return to work after an FMLA leave for their own serious health condition to determine the employee's ability to perform the essential duties and responsibilities of the employee's position. If you are required to provide this statement, you will be notified at the time that your leave is approved.

Certification of the Serious Health Condition

The Town will ask for certification of the serious health condition of the employee or employee's family member for which the FMLA leave is requested. The employee must respond to such a request within fifteen days of the request or provide the Town a reasonable explanation for the delay. Failure to provide medical certification may result in denial of leave or denial of continuation of leave. Medical certification may be provided by submitting the DOL Certification of Health Care Provider for Employee's Serious Health Condition, which can be obtained from Human Resources.

Certification for Qualifying Exigency for Military Leave

The Town will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family, which can be obtained from Human Resources.

Certification for Serious Injury or Illness of Covered Service Member for Military Leave

The Town will require certification for the serious injury or illness of a covered service member. The employee must respond to such a request within fifteen (15) days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service Member, which can be obtained from Human Resources.

FMLA Questions and Concerns

If you have any questions about your FMLA rights or responsibilities or if you disagree with a decision, we make regarding FMLA leave entitlement, please contact Human Resources at humanresources@townofmilford.com to resolve your concerns as soon as possible.