



TOWN OF NORWOOD PERSONNEL BOARD

#P-301 – FAMILY MEDICAL LEAVE POLICY

1. Purpose and Scope

The purpose is to establish the eligibility, duration and procedural requirements relating to the administration of leave in accordance with the federal Family and Medical Leave Act of 1993.

2. Applicability

2.1 This policy applies to all full and part-time compensated positions, excluding elected officials and employees of the School Department. Positions covered by Civil Service Law or a collective bargaining agreement are subject only to those portions of the policy which are not separately regulated by Civil Service Law or by a collective bargaining agreement.

2.2 To the extent permitted by law, individual employment agreements (new, updated or extensions) entered into after the effective date of this policy, with employees whose positions are subject to this policy, must follow all of the provisions of this policy.

2.3 This policy is intended to be consistent with any and all applicable laws. If any part of this policy is inconsistent with the law, that part of the policy shall be considered invalid, and the remaining provisions of the policy shall be construed so as to be consistent with the law.

3. Definitions

3.1 Please consult the Personnel Definitions Document (#D-100) regarding terms utilized throughout this policy.

3.2 Intermittent Leave – Leave of absence taken in blocks of time of no less than two hours, or a reduction of the normal work schedule. Blocks of time will be arranged based on medical documentation or by approval of the Department Head.

3.3 Serious Health Condition

3.3.a A serious health condition means an illness, injury, impairment or physical or mental condition that involves:

3.3.a.i Inpatient care in a hospital, hospice or residential medical care facility or a subsequent treatment in connection with such inpatient care; or,

3.3.a.ii Continuing treatment by a health care provider.

3.3.b A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

3.3.b.i A period of incapacity (i.e., inability to work, attend school or perform regular daily activities) of more than three consecutive full calendar days and any subsequent treatment or incapacity relating to the same condition. This period of incapacity must also involve treatment two or more times by a health care provider within 30 days of the first day of incapacity;

or treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the provider's supervision. Treatment by a health care provider requires an in-person visit to the provider.

- 3.3.b.ii Any period of incapacity due to pregnancy or prenatal care;
 - 3.3.b.iii Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which requires periodic visits with a health care provider; continues over an extended period of time; and causes occasional rather than continuous periods of incapacity (e.g. asthma, diabetes, epilepsy, etc.)
 - 3.3.b.iv A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective, provided the employee is under the continuing supervision of a health care provider (e.g., Alzheimer's, stroke, terminal stage of a disease).
 - 3.3.b.v Any period of absence to receive multiple treatments (including a period of recovery there from) by a health care provider either for restorative surgery, or for a condition which, if untreated, would likely result in a period of incapacity for more than three consecutive days (e.g., chemotherapy, dialysis, physical therapy).
- 3.3.c A serious health condition does not include cosmetic treatments or cosmetic surgery unless hospitalization is required. Common colds, flu, headaches, earaches, routine dental treatments, and similar conditions are not serious health conditions for FMLA purposes. Treatments such as use of over-the-counter medications or bed rest, which can be initiated without visiting a physician, are generally not serious health conditions.

3.4 Key Employee – An employee who is within the top 10% of wage earners of the Town.

3.5 Family Member – defined in FMLA to include the employee's spouse, son, daughter or parent (but not a parent "in-law"). A "son" or "daughter" is any child under 18 who is the biological child of the employee, who is adopted by the employee, or whom the employee supervises on a day-to-day basis and for whom the employee is financially responsible or who is an eligible dependent under the Town's health benefits plan (e.g., a step child or foster child.) A "son" or "daughter" is also a child over 18 who is incapable of self-care because of a mental or physical disability. A "parent" is any biological parent, or any individual who assumed day to day and financial responsibility for the employee when the employee was a child.

3.6 Healthcare Provider - defined as any physician, podiatrist, dentist, clinical psychologist, optometrist, nurse or midwife who is authorized to provide health care and is acting within the scope of his or her duties. This also includes "any health care provider that is recognized by the employer or accepted by the employer's group health plan (or equivalent program)". Clinical social workers are also considered eligible health care providers.

- 3.7** Active Duty – means duty under a call or order to active duty of members of the uniformed services as described in section 101(a)(13)(B) of title 10, United States Code.
- 3.8** Contingency Operation - is an action or operation against an opposing military force as described in section 101(a)(13)(B) of title 10, United States Code.
- 3.9** Covered Service Member
- 3.9.a 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 incurred in the line of duty on active duty; or,
- 3.9.b A veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness incurred in the line of duty on active duty and,
- 3.9.c 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 the medical treatment, recuperation, or therapy.
- 3.10** 12-month Period – The period used to calculate an employee’s FMLA leave entitlement, except for Military Caregiver Leave under Section 5.2, eligibility will be calculated each time an employee requests FMLA leave by using a “rolling” 12-month period measured backward from the date the employee uses any FMLA leave. For Military Caregiver leave, the 12-month period is measured forward from the date the employee’s first FMLA Leave to care for the covered service member begins.
- 3.11** Next of Kin of Covered Servicemember - The nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative for purposes of military caregiver leave under FMLA.

4. Eligibility

Employees who have worked at least 1,250 hours (approximately 25 hours/week) for the previous 12 months are eligible to request a leave under this policy. In certain circumstances, a key employee may be denied reinstatement in accordance with the FMLA.

5. Policy

- 5.1** The Town of Norwood is an employer covered under the Family and Medical Leave Act of 1993, as amended. As such, eligible employees shall be granted family and medical leave under the following circumstances:
- 5.1.a The birth and care of the employee’s child.
- 5.1.b The placement of a son or daughter with the employee for adoption or foster care.
- 5.1.c To care for the spouse, or a son or daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

- 5.1.d Serious health condition that makes the employee unable to perform the functions of the position of such employee.
 - 5.1.e Any qualifying exigency arising out of the fact that the employee's spouse, parent, son, or daughter is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
- 5.2** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 weeks of leave during a 12-month period to care for service member with an illness or injury. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period described in this section, an eligible employee shall be entitled to a combined total of no more than 26 weeks of leave under Sections 5.1, 5.2, and 5.3. Service Member FMLA Leave runs concurrent with other leave entitlements provided under federal, state and local law. Employees taking leave under this section to care for a covered service member with a serious injury or illness may be required to provide upon request, a certification completed by an authorized health care provider of the covered service member.
- 5.3** Qualifying Exigency Leave – An eligible employee who is the spouse, son, daughter, or parent of a military member on active duty or call to active duty status is entitled to take FMLA leave for one or more of the following qualifying exigencies to:
- 5.3.a Address any issues arising from a deployment for which the military member received seven or less days notice;
 - 5.3.b Attend any official military-sponsored ceremony, program, or event, or any family support or assistance programs, and informational briefings sponsored or promoted by the military, military service organizations, or the American red Cross, where any such event is related to the active duty or call to active duty status of the military member;
 - 5.3.c Arrange for alternative childcare, to provide childcare on an urgent, immediate need basis (but not on a routine or regular basis), to enroll in or transfer to a new school or day care facility, or to attend meetings with staff at a school or daycare facility, where the need for any of the foregoing actions arises from the active duty or call to active duty status of the military member;
 - 5.3.d Make or update financial or legal arrangements to address the military member's absence while on active duty or call to active duty status, or to act as the military member's representative before a federal, state, or local agency for the purposes of obtaining, arranging, or appealing military service benefits while the military member is on active duty or call to active duty status, and for a period of 90 days following termination of such status;
 - 5.3.e Attend counseling provided by someone other than a health care provider for oneself, the military member, or the child of the military member, provided that the need for counseling arises from the active duty or call to active duty status of the military member.
 - 5.3.f Spend time with the military member while he or she is on a short-term, temporary, rest and recuperation leave during the period of deployment. Eligible employees may take up to five days of leave for each instance of rest and recuperation.

- 5.3.g Address issues that arise from the death of the military member while on active duty status; and,
- 5.3.h Attend arrival ceremonies, reintegration briefings and events, and any other ceremony or program sponsored by the military for a period of 90 days following the termination of the military member's active duty or call to active duty status;
- 5.3.i Address any other events which arise out of the military member's active duty or call to active duty status, subject to the approval of the HR Department.

All leave taken for a qualifying exigency under this section shall be considered part of the employee's 12-week FMLA entitlement under Section 5.1, and shall not be considered as an additional entitlement. In no circumstances shall the total of an employee's FMLA leave taken under this section and Section 5.1 exceed 12 weeks in any 12-month period.

- 5.4 The right to take leave under FMLA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption, or foster care of a child.
- 5.5 Unless eligible for other leave entitlements, FMLA is unpaid leave. All employees will be notified in writing about the provisions of FMLA upon adoption of the policy. New employees will be notified upon hire.
- 5.6 Department Heads are required to act consistent with this policy and ensure this policy is implemented consistently within their department.
- 5.7 In the event of an error or violation of this policy, either intentional or unintentional, Human Resources must be immediately informed. Human Resources will identify and make the proper correction(s). A violation of this policy, whether intentional or unintentional, will not change this policy, nor set a precedent in any future application of this policy.

6. Provisions

6.1 Amount of Leave

In any 12-month period, as defined in Section 3.10, eligible employees are entitled to up to a total of 12 weeks of FMLA leave pursuant to Section 5.1 and 5.3 combined. Eligible employees are entitled to up to 26 weeks of Military Caregiver Leave under Section 5.2; however, in any given 12-month period, the total amount of leave taken under Sections 5.1, 5.2, and 5.3 may not exceed 26 weeks, except where leave under Sections 5.1 and/or 5.3 is taken first. Then an employee may be eligible to take up to 26 weeks of Military Caregiver Leave.

Example: If an employee takes 17 weeks of Military Caregiver Leave under Section 5.2, that employee is only entitled to take nine weeks of FMLA Leave during the same 12-month period under Sections 5.1 or 5.3.

6.2 Spousal Coverage

In the event that both spouses are Town of Norwood employees, both spouses may use FMLA leave to a maximum of 12 weeks each. In the event of a service member family

leave, both spouses may use FMLA leave to a maximum of 26 weeks each during the single 12-month period.

6.3 Expiration of Entitlement

The entitlement to leave for the birth or placement of a son or daughter (sections 5.1.a and 5.1.b) shall expire at the end of the 12-month period beginning on the date of such birth or placement.

6.4 Intermittent Leave/Reduced Hours Schedule

Intermittent leave will be allowed when medically necessary. In the case of birth or adoption, intermittent leave or reduced hours schedules may be allowed on a case-by-case basis at the approval of the Department Head and Human Resources Director. Employees who have been approved for intermittent leave or reduced hours schedules must indicate on the appropriate attendance sheet the number of hours per week to be designated as FMLA leave. Intermittent leave is limited to the equivalent of 12 weeks' work time. The total number of hours of intermittent leave available to an employee is equal to 12 times the number of hours per week which the employee is normally scheduled to work, less any other FMLA leave taken in the same year.

6.5 Employee Requests

6.5.a Foreseeable Leaves: An employee wishing to use FMLA leave must submit a notice of request that includes a statement of intent to return to work. Generally, it is requested that such notice be in writing, however, when not possible, a verbal request may be submitted. When in writing, this request should be sent to both the employee's department head and the HR Director. The HR Director will then send the employee official notice of his/her rights under the FMLA and the Town policies and procedures. The employee must provide 30 days notice for foreseeable leave. However, if the employee is using paid leave, notice requirements, as set forth by Town policy or collective bargaining agreement will apply. In any case in which the necessity for service member leave (Section 5.1.e) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

6.5.b Leaves Not Foreseeable: If the need for family or medical leave is not foreseeable, notice must be given by the employee as soon as possible and practicable. Except in the case of extreme medical emergencies, employees are expected to advise their supervisor as soon as they know of the need for and expected duration of leave, and generally within two business days of the time they know of the need for leave.

6.6 Employer Designation – If an employee is absent from work for five (5) consecutive days, any information supplied by the employee to their supervisor, either verbally or in writing, as to the nature of their absence may cause the Human Resources Director to begin the process of designating the leave as FMLA. In that case, the employee will be sent official notice of rights under the FMLA and the Town Policies and procedures. If designated as FMLA, the start date will be no sooner than the first day of absence.

6.7 Medical Certification/Updates

- 6.7.a The Town of Norwood will require written medical certification in all instances of employee or family member illness. Medical certification should be provided with the request for leave or within five (5) business days thereafter, or, in the case of unforeseen leave, within five business days after the leave commences. Medical certification should be provided to the Town on the official Department of Labor Certification of Healthcare Provider form (Attachment A).
- 6.7.b An employee's failure to provide reasons sufficient to qualify for FMLA leave will result in the denial of the leave.
- 6.7.c When the employee is on leave status, the Town may require periodic updates. Requests made by the Town for updated medical certification must be submitted within fifteen (15) days of the request.
- 6.7.d The Town of Norwood may, on a case by case basis determined by the department head and the Human Resources Director, require an employee to provide a second opinion regarding the employee's own or family member's illness. If a second opinion is required, it will be at the Town's expense. If the opinions of the employee's and the Town's health care providers differ, then the Town can require a third opinion at the Town's expense which can be issued by a mutually agreed health care provider.
- 6.7.e The Town of Norwood will require an employee on leave for his/her own health condition to submit certification of fitness for duty from his/her medical provider prior to returning to work.
- 6.7.f If an employee fails to return to work after an FMLA leave as a result of medical necessity, the Town will require the employee to provide medical certification. If the employee fails to submit certification, the Town will assume that the failure to return is not due to a continuing medical condition and the Town may recoup any health insurance premiums paid on the employee's behalf.

6.8 Department Head Notification

The Human Resources Director is responsible for determining whether the absence will be designated as leave under FMLA. If an employee requests the use of sick leave for maternity purposes or their own illness, or vacation leave to care for a sick relative, it is the department head's responsibility to notify the Human Resources Director immediately so that leave may be appropriately designated.

6.9 Relation to Other Leaves

- 6.9.a ***Employee Illness:*** The employee must use all available sick leave and/or request sick leave bank in accordance with procedures outlined in collective bargaining agreements or Town policy. The employee may utilize any accrued vacation, personal or compensatory time (if applicable and at the approval of the Department head). In accordance with 29 CFR 825.207(a) the Town may also require that an employee use paid leave time during a designated FMLA Leave.
- 6.9.b ***Family Member Illness:*** The employee must use sick leave for family member illness, as outlined in the Town's policy or collective bargaining agreements. The employee may utilize any accrued vacation, personal or compensatory time (if applicable and at the approval of the Department head). In accordance with 29

CFR 825.207(a) the Town may also require that an employee use paid leave time during a designated FMLA Leave.

- 6.9.c **Mother/Birth:** The employee may use up to eight (8) weeks of accrued sick leave for the birth of a child, and may request the use of additional sick leave if medically necessary, as determined by the employee's treating physician. The employee may also use accrued vacation, personal or compensatory leave if applicable for the birth or adoption of a child, in accordance with the Maternity Leave provision of M.G.L chapter 149 and/or collective bargaining agreement. Eligibility for FMLA leave for the birth of a child expires within 12 months of birth. In accordance with 29 CFR 825.207(a) the Town may also require that an employee use paid leave time during a designated FMLA Leave.
- 6.9.d **Father/Birth:** The employee may use sick leave, as outlined in the Town's Sick Leave policy or relevant collective bargaining agreement. The employee may also use accrued vacation, personal or compensatory leave if applicable for the birth of a child. In accordance with 29 CFR 825.207(a) the Town may also require that an employee use paid leave time during a designated FMLA leave. If both the mother and the father are employed by the Town of Norwood, a total of only 12 weeks of combined leave is authorized under the FMLA.
- 6.9.e **Adoption:** The employee may use sick leave, as outlined in the Town's Sick Leave policy or relevant collective bargaining agreement. The employee may use accrued vacation or compensatory leave if applicable for the adoption of a child. In accordance with 29 CFR 825.207(a) the Town may also require that an employee use paid leave time during a designated FMLA leave.
- 6.9.f **Military Caregiver Leave:** The employee must use available sick leave to care for a covered service member with a serious injury or illness. The employee may utilize any accrued vacation, personal, or compensatory time (if applicable and with the approval of the Department Head). In accordance with 29 CFR 825.207(a), the Town may also require that an employee use paid leave time during a designated FMLA leave.
- 6.9.g **Qualifying Exigency Leave:** The employee may use sick leave, as outlined in the Town's Sick Leave Policy or relevant collective bargaining agreement. The employee may use accrued vacation, personal, or compensatory time (if applicable and with the approval of the Department Head). In accordance with 29 CFR 825.207(a), the Town may also require that an employee use paid leave time during a designated FMLA leave.

6.10 Payment of Health and Life Insurance Premiums

- 6.10.a Employees on paid status will have their employee share of health and life insurance premiums (if applicable) deducted from their paychecks.
- 6.10.b Employees on unpaid status for less than one calendar month must pay the appropriate premium directly to the Town during the week that the deduction would have been made had the employee been on the payroll.
- 6.10.c Employees on unpaid status for more than one calendar month must pay the Town directly, one month in advance of coverage.
- 6.10.d Failure to submit payment within thirty days will result in cancellation of benefits.

6.10.e Employees who fail to submit payment will be notified by certified mail that their health/life insurance coverage will be cancelled after 15 days of non-payment. Reinstatement to the Town's plan will involve paying all past premiums owed to the Town, and may require insurance company approval.

6.11 Benefit Status/Accumulation

6.11.a Employees on paid leave status will continue to accrue all leaves and benefits.

6.11.b Employees on unpaid leave status will have sick and vacation accruals and step and longevity dates adjusted.

6.12 Failure to Return to Work

If an employee fails to return to work after any FMLA leave, unless failure to return is through no fault of the employee, the Town will require reimbursement for health and life insurance premium payments. The Town will recoup these payments through all legal means necessary.

6.13 Confidentiality

The Town will keep confidential all information relating to requests for FMLA leave. This information will only be disclosed to those with a need to know, and will be used only to make decisions in regard to the provisions of this policy.

6.14 Continued Leave

If the employee finds that the 12 weeks FMLA entitlement is not sufficient, the employee may request an unpaid leave of absence in accordance with Town ***Unpaid Leave Policy [#P-311]*** or the relevant collective bargaining agreement. Any such request must be in writing to the employee's Department Head with a copy to Human Resources Director. The request is subject to the approval of the Department Head or Appointing Authority. Employees are reminded that he/she must use any and all available personal leave and vacation leave before requesting an unpaid leave.

7. Applicable Laws / Statutes

- Family and Medical Leave Act of 1993
- M.G.L. Chapter 149

The following documents associated with and attached to this policy may change to meet the needs of the Town or new requirements of law. The Human Resources Director may make the necessary document changes without changing the intent or content of this policy. Please consult the Human Resources Department for the most current version:

- #D-131 – Employee Acknowledgement of Receipt of Policy

PERSONNEL BOARD

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Willard Krasnow
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11 / 19 / 2014
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