

# **CITY OF MILFORD**

## **FAMILY AND MEDICAL LEAVE ACT POLICY**

### **OVERVIEW**

The City of Milford is a "covered" employer under the Federal Family and Medical Leave Act (FMLA or Act) and is subject to all rules and regulations under the Act. The Connecticut family and medical leave statutes and regulations do not apply to City employees.

In general, the FMLA allows eligible employees to take job-protected leave for the reasons specified in the law. Eligibility for leave, the reasons for leave, the allowable length of leave and the benefits and protections of the FMLA are specified in the Act and related regulations, and summarized in this Policy. This Policy is based on the Act and regulations, as amended to January 2009.

Questions concerning the FMLA and this Policy should be directed to the City's Human Resources Department.

### **POLICY**

It is the policy of the City of Milford to grant FMLA leave to the full extent of the law. For employees with accumulated paid leave, FMLA leave is first charged to the employee's accrued paid leave which is eligible for use based on the reason for the FMLA leave. Sick leave, if applicable, vacation and personal leave, including floating holidays, run concurrently with FMLA leave time until all paid leave is exhausted. Any contrary language found in the City Charter, City's Code of Ordinances and/or applicable Collective Bargaining Agreements will take precedent over this policy. When an employee has no accrued leave time or when accrued leave time is fully utilized, FMLA leave shall be unpaid. During the period of FMLA leave, whether paid or unpaid, an employee remains eligible for health insurance coverage paid by the City to the same extent as prior to the leave. Employees shall continue to be responsible for their portion of the insurance premium payment.

## **SPECIFIC PROVISIONS**

### **A. Eligibility**

In order to qualify for FMLA leave, the employee must meet all of the following conditions:

- The employee must have worked for the City for twelve (12) months, which need not be consecutive.
- The employee must have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of the FMLA leave.

### **B. Qualifying Reasons, Types of Leave and Length of Leave**

In general, an employee is eligible for up to twelve (12) workweeks of FMLA leave in a twelve (12) month period. When the leave is to care for an injured or ill service member \*, an employee is eligible for up to twenty six (26) weeks of leave during a single 12-month period. The 12-month period starts on the date of the employee's first day of FMLA leave. In most cases, leave is full-time, but intermittent leave is permitted in certain circumstances described below.

\*Means an active member of the United States Armed Forces (Army, Navy Air Force, Marine Corps and Coast Guard.

#### **In General - Leave for 12 Workweeks:**

The City may grant an eligible/qualifying employee up to twelve (12) workweeks of FMLA leave in a twelve (12) month period for one or more of the following reasons:

- The birth of a child, and to care for a newborn child within one (1) year of birth;
- The placement with the employee of a child for adoption or foster care, and to care for the newly placed child within one (1) year of the placement;
- To care for an immediate family member (spouse, child or parent - but not a parent "in-law") with a serious health condition;
- When the employee is unable to perform the essential functions of his or her position due to a serious health condition, including incapacity due to pregnancy, prenatal medical care or child birth; and
- A qualifying exigency arising out of a family member's military service, including one or more of the following:

- a. a short notice deployment;
- b. military events and related activities;
- c. childcare and school activities;
- d. financial and legal arrangements;
- e. counseling;
- f. rest and recuperation;
- g. post-deployment activities; or
- h. additional duties that arise out of the active duty or call to active duty of a covered military member, provided that the City and the employee agree to both the timing and the duration of such leave.

### **Leave to Care for an Injured or Ill Service Member - 26 workweeks:**

An eligible employee may take up to twenty six (26) workweeks of FMLA leave during a twelve (12) month period to care for a seriously injured or ill service member who is the employee's spouse, parent, child or next of kin, and who incurred the injury or illness in the line of duty while on active duty in the Armed Forces. The injury or illness must render the service member medically unable to perform the duties of his/her office, grade, rank or rating. This provision applies to service members who are undergoing medical treatment, recuperation, or therapy, are in outpatient status, or who are on the temporary disability retired list for a serious injury or illness.

When combined with any other type of FMLA qualifying leave, total leave time may not exceed twenty six (26) weeks in a single twelve (12) month period. Standard FMLA leave procedures described below apply to all requests for and designation of leave for this purpose. However, in the case of leave to care for an injured or ill service member, the twelve (12) month period begins on the day such leave actually commences.

### **Limitations on Certain Leave:**

FMLA leave to care for a newborn child or newly adopted child must normally be taken as consecutive days. An employee may request that such leave be taken on non-consecutive days. Approval for non-consecutive days is at the sole discretion of the Department Head and the Human Resources Director. All leave to care for a newborn or newly adopted child must conclude within twelve (12) months of the date of the birth or adoption.

If two City employees request leave for the birth of their child, placement of a child with them through adoption or foster care, or to care for a seriously ill parent, the two employees will be entitled to a maximum combined total leave equal to twelve (12) weeks in any twelve (12) month period. If either employee or both uses a portion of the twelve (12) week entitlement for one of these purposes, each is entitled to the difference between the amount he or she has taken individually and the twelve (12) weeks for FMLA leave for their own or their spouse's serious health condition in the twelve (12) month entitlement period.

### **Definition of Serious Health Condition:**

For purposes of the FMLA, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Any period of incapacity or treatment connected with in-patient care in a hospital, hospice or residential medical care facility.
- A period of incapacity requiring absence of more than three (3) consecutive full calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
  1. Treatment two or more times within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (for example, a physical therapist) under order of, or on referral by, a health care provider; or
  2. Treatment by a health care provider, on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. The requirement for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity. Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period shall be determined by the health care provider.
- Any period of incapacity due to pregnancy or for prenatal care.
- Any period of incapacity or continuing treatment related to a chronic serious health condition that is incurable or so serious that it would

most likely result in incapacity of more than three (3) consecutive days if left untreated.

- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (for example, Alzheimer's, terminal illness).

### **Intermittent/Reduced Schedule Leave:**

Employees may take leave on an intermittent basis or work a reduced schedule when:

- Medically necessary to care for a seriously ill family member;
- Medically necessary due to the employee's serious health condition; or
- To care for a newborn or newly placed adopted or foster care child, with approval by the Department Head and the Human Resources Director.

The following conditions apply to intermittent or reduced schedule leave:

- Employees must make a reasonable effort to schedule such leave in a way that does not disrupt the department's or division's operations;
- Employees making such a request may be transferred temporarily to an alternative job with equivalent pay and benefits, which accommodate recurring periods of leave better than the employee's regular job; and
- Applicable collective bargaining agreements must be complied with.

### **C. Use of Paid and Unpaid Leave:**

For all leave time taken under the FMLA, employees are required to use paid leave time, if such is available, prior to taking unpaid leave. Paid leave is to be charged in the following order: sick leave (if the reason for the leave qualifies as sick leave), vacation, comp time, floating holiday, personal business leave. In accordance with the City's Code of Ordinances, an employee is allowed to withhold up to five (5) vacation and five (5) sick days to be available for use for emergencies or special needs upon the employee's return from FMLA leave. All paid leave must be taken in accordance with the City's leave policies and any collective bargaining agreements covering the employee. Unpaid leave shall be charged in half hour increments. While an employee is on unpaid leave status said employee shall not

accrue sick and vacation time if he/she has worked less than fourteen (14) days in any given month.

An employee must be placed on FMLA leave as soon as there is information that the leave taken qualifies as FMLA. If there is reasonable information for the City to make a determination that the circumstances of the employee's absence are qualifying under FMLA leave, the City will designate the leave as FMLA leave and so notify the employee as soon as possible (notice should be within five (5) business days of the City learning of the need for leave). Leave which may be covered by other laws (such as Worker's Compensation) or by collective bargaining agreements (particularly accrued sick leave), is also designated as FMLA leave. The City will not wait until the employee exhausts paid leave before designation of FMLA leave.

#### **D. Notification:**

##### **Employees Notice and Responsibilities:**

An eligible employee requesting FMLA leave must provide to his/her Department Head:

- Thirty (30) days advanced notice of the need to take FMLA leave when the need is foreseeable. If the need is not known thirty (30) days in advance, the notice must be given as soon as practicable, either the same or the next work day after the employee knows of the need for a leave, and in compliance with any contractual or departmental rules for being absent from work; and
- Sufficient information and documentation that the employee needs leave for an FMLA qualifying reason.

An eligible employee requesting FMLA leave must provide to the Human Resources Department:

- If the leave is for a serious health condition of the employee or a family member, within fifteen (15) calendar days from the date of the request for leave or designation by the City of FMLA leave, a Certification of Health Care Provider;
- If the leave is a qualifying exigency for military family leave, a Certification of Qualifying Exigency; and
- If the leave is to care for an ill or injured service member, a Certification of Serious Injury or Illness of a Covered Servicemember.

Copies of all forms referenced herein are available from the Human Resources Department.

If, at the time of an employee's absence, the City was not aware that the absence was for an FMLA qualifying reason, notice and documentation that the leave was taken for an FMLA qualifying reason must be provided within two (2) business days of the employee's return to work.

The employee need not mention FMLA when requesting leave to meet the notification requirement, but need only explain why leave is needed, except, if the employee is seeking FMLA leave due to a FMLA-qualifying reason for which the City previously approved FMLA-protected leave. In this case, the employee must specifically reference either the qualifying reason for the leave or the need for FMLA leave. Otherwise, the City will notify the employee that the leave may qualify as FMLA leave and will provide the employee with any required forms.

### **Employer Notice and Responsibilities:**

The Human Resources Department will post notices of employees' rights and responsibilities under the FMLA, and will provide copies of this policy to all employees.

Department Heads will take the following steps to provide information to the Human Resources Department and employees concerning FMLA leave:

- Whenever a supervisor becomes aware that an employee is requesting leave or is out of work for five (5) or more consecutive working days due to a serious health condition, the supervisor will report this to the department head, who will consult with the Human Resources Department to determine if (1) the employee is eligible for FMLA leave, and (2) the employee's absence and the circumstances are qualifying to be designated as FMLA leave;
- Upon request by the employee or upon determination by the City that an employee's absence qualifies for FMLA leave, the employee or department head shall submit an application for FMLA Leave to the Human Resources Department. The Human Resources Department will provide the employee and department head with a written notice within five (5) business days designating the leave as FMLA leave and detailing the expectations and obligations of an employee on such a leave.
- The City reserves the right to request additional information and clarification from the employee and / or treating physician in order to make a determination if a serious health condition exists.

### **E. Health Benefits:**

While the employee is on paid or unpaid FMLA leave, the employee's health benefits will continue during the leave period at the same level and under the same conditions as if the employee had continued to work. In the event the terms of the plan change while an employee is on FMLA leave, he/she shall be subject to changes as if regularly employed. While an employee is on paid FMLA leave, the City will continue to make payroll deductions for the employee's cost share of the health insurance premium. While on unpaid FMLA leave, the employee must continue to make premium cost share payments, either in person or by mail. The payments must be received in the Human Resources Department by the 15<sup>th</sup> day of each month for the previous month's cost share. If the payment is more than thirty (30) days late, the employee's health insurance coverage may be terminated for the duration of the leave. The City will provide fifteen (15) days' notice prior to terminating an employee's coverage.

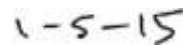
### **F. Reinstatement Following Leave:**

Upon completion of the FMLA leave and prior to returning to work, the employee is required to submit to the Department Head and Human Resources Department a fitness-for-duty certificate completed and signed by the treating physician. This certificate must note the employee's ability to resume work and to perform the essential functions of his or her position with or without restrictions.

In most cases, while an employee is on FMLA leave, the employee's position will not be filled, except on a temporary basis, and the employee will be returned to the same position held prior to leave. If the employee's position must be filled during his/her absence, the employee will be returned to an equivalent job - that is, one which is essentially identical to the original job in terms of pay, benefits and working conditions.



Mayor Benjamin G. Blake



Date