

TOWN OF SANDWICH
FAMILY MEDICAL LEAVE ACT POLICY
(FMLA)

(Policy Attachment #3)



OCTOBER 25, 2018

Amended:
June 25, 2015
July 26, 2012

TOWN OF SANDWICH

FAMILY AND MEDICAL LEAVE POLICY

Employees who have worked for the Town of Sandwich for at least twelve (12) months and for at least 1,250 hours during the immediately preceding twelve (12) months shall be deemed to be "Eligible Employees" for purposes of this Policy.

Eligible Employees are entitled to up to twelve (12) workweeks of leave per year, measured from the beginning of the leave, for one or more of the following reasons:

1. The birth of an employee's child;
2. The placement of a child with an employee for adoption or foster care;
3. The need to care for the employee's child, spouse, or parent who has a "serious health condition";
4. The employee's "serious health condition" which renders the employee unable to perform his or her job;
5. Because of any qualifying exigency (as determined by the federal Department of Labor regulations) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

Definition of Twelve (12) Month Period: The twelve (12) month period during which an Eligible Employee can take a leave under this policy is a "rolling period." This period is measured forward from the date an employee first uses FMLA leave. An Eligible Employee's leave entitlement consists of up to twelve (12) weeks of FMLA leave during this rolling twelve (12) month period.

Eligible Employees are also entitled to up to twenty-six (26) workweeks of leave during one twelve (12) month period, to care for a family member (defined as a spouse, son, daughter, parent, or next of kin) in the armed services 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. This leave is available only one time during one twelve month period.

In order to take such leave, the employee must provide a thirty (30)-day advance notice of the need to take the leave when the need is foreseeable. If such advance notice is not possible, the employee shall provide notice as soon as is reasonable and practicable. The employee must also provide medical certifications supporting the need for leave due to a serious health condition, when applicable.

During such leave, the Eligible Employee shall be provided with continued health insurance benefits as long as the employee continues to pay the same contribution rate as paid by the employee prior to leave. In the event the employee

fails to return to work at the end of the leave, the Town retains the right to recover health insurance premiums the Town paid to maintain the employee's health insurance during the leave, to the extent permitted by law.

During such leave, an employee will be required to use any paid sick leave, vacation, emergency, and personal leave benefits accrued as of the beginning of such leave. Once these benefits have been exhausted, the remainder of such leave shall be unpaid.

At the end of a leave as provided in this Policy, the employee shall provide a "fitness-for-duty" certification before returning to work, when such leave was used due to that employee's serious medical condition. When an Eligible Employee returns to work at the end of such leave, he or she will be restored to the same position or a similar position with equivalent pay and benefits, unless the returning employee is among the highest paid ten percent of the Town's employees, in which event, the Town may choose not to restore the employee to his or her former position in order to prevent substantial and grievous economic injury to the Town. To exercise this option not to restore an employee, the Town must notify the employee at the time he or she provides a notice of intent to take a leave under this Article that he or she is among the highest ten percent (10%) of the Town's employees. The Town must also notify the employee as soon as the Town decides to deny job restoration and explain the reasons for the decision. The Town must offer the employee a reasonable opportunity to return to work after giving this notice. If an employee on leave would have been laid off or otherwise had his or her position terminated during the leave period, then the Town will not be required to reinstate the employee at the end of the leave.

"Serious health conditions" may include heart attacks, strokes, cancer, severe respiratory conditions, back conditions requiring surgery or extensive therapy, severe arthritis, pneumonia, appendicitis, nervous disorders and complications or illnesses related to pregnancy. "Serious Health Condition" may also mean an illness, injury, impairment or physical or mental condition that involves:

- a. any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility;
- b. any period of incapacity requiring absence of more than three calendar days from work, school or other regular activities that also involves continuing treatment by or under the supervision of a health care provider; or
- c. continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

For purposes of the care of a service member who is suffering from a serious illness or injury, "serious illness or injury" is defined as "an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating."

The Town retains the right to require Eligible Employees requesting a leave under this Article to furnish a health care provider's certification verifying the serious health condition. "Health care providers" shall be those professionals itemized in the Family and Medical Leave Act. The Town also reserves the right to require second or third medical opinions and periodic recertification, at the Town's expense. The employee shall provide reports as to the employee's status and intent to return to work.

With the exception of the serious health condition of an individual employee, in the event both spouses are employed by the Town and are Eligible Employees, they are jointly entitled to a combined total of twelve (12) workweeks of family leave (or twenty-six (26) where applicable) during any applicable twelve month period.

A leave for birth, adoption or foster care placement must conclude within twelve (12) months of the birth or placement of the child.

Intermittent or Reduced Leave: When medically necessary, an employee eligible for FMLA leave may be permitted to take "intermittent" leave (two (2) or more separate leave periods) or "reduced" leave (where an employee continues to work, but for fewer hours per day or per week), where appropriate under the FMLA. In such cases, the total number of hours or days of leave taken by the employee is limited to the equivalent of twelve (12) workweeks (or twenty-six (26) where applicable) for that employee. Employees must make a reasonable effort to schedule the leave in a manner that will not unduly disrupt the Town's operations. The Town may transfer an employee to an available alternative position with equivalent pay and benefits for which the employee is qualified, if that position can accommodate recurring periods of leave better than the employee's regular job.