



City of Marlborough

Human Resources Department

FAMILY AND MEDICAL LEAVE POLICY

A. INTRODUCTION

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.

The FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave each year for specified family and medical reasons. In limited situations, employee may also be entitled to one time, unpaid, job protected Military Family Leave of up to 26 weeks to care for a spouse, child, parent, and next of kin; who is injured while on active military service.

This policy applies to all employees who meet the eligibility requirements of the law, excluding those employees under the supervision and control of the School Committee. Employees subject to Massachusetts Civil Service laws and/or collective bargaining agreements are subject only to those provisions in this policy, which are not specifically regulated by law or agreement.

B. EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits with the City of Marlborough (the "City"), an employee must:

1. Work for the City.
2. Have worked for the City for a total of at least twelve months.
3. Have worked at least 1,250 hours (approximately 24 hours a week) over the previous twelve months.

C. LEAVE ENTITLEMENT

The City will grant an eligible employee up to a total of twelve (12) work weeks of leave during a twelve-month period. The City uses a look back calculation for determining entitlement and therefore, the 12 months are measured backward from the date the employee uses or seeks to use any FMLA leave. The entitlement is for one or more of the following reasons:

1. For the birth/care of newborn or placement of a child for adoption or foster care;
2. To care for an immediate family member (spouse, child or parent) with a serious health condition; or
3. To take medical leave when the employee is unable to work because of his or her own serious health condition.
4. To care for a spouse, child, parent or next of kin who is a member of Armed service, who is undergoing medical treatment, recuperation or therapy, is an outpatient, or is on the temporary disability retired list for a serious illness or injury incurred in line of duty. Or, for a "qualifying exigency" when a spouse, child or parent on active military leave has been notified of a call or order to active military service for a contingency operation (Qualifying exigency "as defined in FLMA".)

Spouses employed by the City are jointly entitled to a combined total of twelve (12) work weeks of family leave.

Leave for birth or placement for adoption or foster care must conclude within twelve (12) months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently. Intermittent leave may be allowed when medically necessary. In the case of birth or adoption, intermittent leave or reduced hour schedules may be allowed on a case-by-case basis at the approval of the department head or manager. 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.

The City requires the use of accrued paid leave, such as personal, vacation or sick time, to cover some or all of the FMLA leave. Generally, sick leave will be restricted to a serious health condition.

D. MAINTENANCE OF HEALTH BENEFITS

The City will maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The employee will make arrangements with the City to pay his or her share of health insurance premiums while on leave. The City may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

E. JOB RESTORATION

Upon return from FMLA leave, an employee will be restored to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. In addition, an employee's use of FMLA leave will not result in the loss of an employment benefit that the employee earned or was entitled to before using FMLA leave.

F. PROCEDURES

Employees seeking to use FMLA are required to use the following procedure:

1. Employee Requests – An employee wishing to use FMLA leave must submit a notice of request that includes a statement of intent to return to work. This request must be sent to the Human Resources Director. The Human Resources Director will then send the employee an official notice of his/her rights under the FMLA, the appropriate paperwork that needs to be completed and the City's policy. The employee must provide 30 days' notice for foreseeable leave. If an employee has questions about leave, please contact the Human Resources Department at 508-460-3705.
2. Department Manager 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 manager's responsibility to notify the Human Resources Director immediately so that leave may be appropriately designated.
3. 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 must be communicated to the Human Resources Director. This may cause the Human Resources Director to begin the process of designating the leave as FMLA. In that case, the employee will be sent an official notice of rights under the FMLA and the City's policy. If designated as FMLA, the start date will be no sooner than the first day of absence or as discussed in any collective bargaining agreement.
4. Medical Certification/Updates
 - a. The City of Marlborough will require written medical certification in all instances of employee or family illness. Medical certification should be provided to the City on the official Department of Labor certification form and must be submitted to the City within 15 days of the original request for FMLA leave.
 - b. When the employee is on leave status, the City may require periodic updates.
 - c. The City of Marlborough may, on a case by base basis determined by the Human Resources Director in consultation with the Law Department, 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 City's expense.

- d. The City of Marlborough 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.
- e. If an employee fails to return to work after an FMLA leave as a result medical necessity, the City will require the employee to provide medical documentation. If the employee fails to submit documentation, the City will assume that the failure to return is not due to a continuing medical condition and the City may recoup any health insurance premiums paid on the employee's behalf.
- f. There are two different certifications for military exigency leave. Please indicate which is being requested if using FMLA for this reason:
 - 1. Call to active duty; and
 - 2. Nature/details of specific exigency, amount of time needed; and relationship to military member.
- g. When leave is needed under the category of care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the City's operation.
- h. Please note that the City may designate any period of leave that qualifies as FMLA leave even if the employee does not formally request FMLA leave.

G. BENEFITS STATUS/ACCUMULATION

Employees on FMLA leave will continue to accrue all leaves and benefits during the designated FMLA.

H. CONTINUED LEAVE

If an employee finds that the 12 weeks FMLA entitlement is not enough, the employee may request a leave of absence on the required City form. Any such request must be sent to the Human Resources Director with a copy to the Employee's Department Head/Manager. If the request is for a medical leave, medical documentation should only be submitted to the Human Resources Department. The request is subject to the approval of the Human Resources Director and the Department Head/Manager.

I. OTHER PROVISIONS

The FMLA does not affect any other federal or state law that prohibits discrimination, nor supersede any state or local law that provides greater family or medical leave protection. Nor does it affect the City's obligation to provide greater leave rights under a Collective Bargaining Agreement or employment benefit plan, where applicable.

J ADOPTION BY MAYOR

This policy was adopted by the Mayor on April 2020.