



TOWN OF WAREHAM FAMILY AND MEDICAL LEAVE (FMLA) POLICY

A. INTRODUCTION

The Federal Family and Medical Leave Act of 1993 ("FMLA") entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons, as explained below.

B. EMPLOYEE ELIGIBILITY

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

1. Work for the Town;
2. Have worked for the Town for a total of at least twelve months in the prior seven years; and
3. Have worked at least 1,250 hours over the previous twelve months (actual hours worked, not including paid time off).

C. LEAVE ENTITLEMENT

Section 1. The Town will grant an eligible employee up to a total of twelve (12) work weeks of unpaid leave during a rolling 12-month period¹ for one or more of the following reasons:

1. For the birth of a son or daughter and to care for the new born son or daughter;
2. For the placement with the employee of a son or daughter for adoption or foster care;
3. To care for an immediate family member (spouse, son or daughter, or parent) with a serious health condition;
4. When the employee is unable to work because of his/her own serious health condition that prevents him/her from performing the functions of his/her job; or

¹ For the purposes of calculating the 12-month period referred to above, the Town will measure the 12-month period backward from the first day of such FMLA qualifying leave. Each time an employee takes FMLA leave, the Town will determine the total amount of FMLA leave used by the employee during the preceding 12 months, and the remaining time available to the employee will be the balance of 12 weeks which has not been used.

5. For a “qualifying exigency” (as defined in 29 CFR § 825.126) when the employee’s spouse, son, daughter, or parent who is a member of the National Guard or Reserves has been notified of a call or order to active duty in support of a contingency operation. Such qualifying exigency leave does not extend to family members of military personnel in the Regular Armed Forces, state reserve unit, or a state guard unit.

Spouses employed by the Town are jointly entitled to a combined total of twelve workweeks of family leave, except when the leave is needed to care for a son, daughter or spouse with a serious health condition; under such circumstances, such employees may each be eligible for up to 12 weeks of family leave.

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

Section 2. The Town will grant an eligible employee up to a total of twenty-six weeks of unpaid FMLA leave for the following reason:

To care for a spouse, son, daughter, parent, or next of kin (i.e., nearest blood relative), who is a member of the Armed Forces (including a member of the National Guard or Reserves) and who is undergoing medical treatment, recuperation or therapy, is an outpatient, or is on the temporary disability retired list, for a serious injury or illness incurred in the line of duty while on active duty in the Armed Forces.

Such 26-week leave period shall only be available for a single 12-month period.² To the extent spouses work for the Town, the aggregate number of workweeks available to both spouses shall be limited to 26 weeks during the single 12-month period. In addition, any leave taken during that single 12-month period for one of the other qualifying reasons (as noted in this Policy) shall count against the 26 weeks available. (Only 12 of the 26 weeks total may be used for an FMLA-qualifying reason other than to care for a covered service member.)

Section 3.

1.
 - (a) Under some circumstances, employees may take FMLA leave intermittently.
 - (b) When intermittent leave is needed to care for an immediate family member, the employee’s own illness, or a covered service member, and is for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the Town’s operation.
2. The Town may temporarily transfer an employee taking intermittent or reduced schedule leave to an alternative job, with equivalent pay and benefits, that accommodates recurring periods of leave better than the

² Calculation of the single 12-month period in this Section shall be based off the 12-month period immediately following the first day of such FMLA-qualifying leave. Such 26-week period shall not be based on the rolling measurement noted in Section 1.

employee's regular job when such leave is foreseeable based on planned medical treatment.

3. Employees of the Town are required to use accrued and applicable paid leave, such as sick, vacation or personal leave, or compensatory time, during their FMLA leave. When paid leave is used, the employee must follow the Town's paid leave policies and procedures with respect to use of such leave.
4. Any leave taken by an eligible employee for any of the reasons covered by this policy will be considered FMLA leave and will be designated as such even if the employee does not specifically identify the time off as FMLA leave.

D. MAINTENANCE OF HEALTH BENEFITS

The Town 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 Town to pay his or her share of health insurance premiums while on leave. The Town 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. NOTICE, CERTIFICATION AND STATUS REPORTS

Employees seeking to use FMLA leave are required, as appropriate, to provide to the Town's Human Resources Director:

1. NOTICE: Thirty (30) days advanced notice of the need to take FMLA leave when the need is foreseeable, otherwise as soon as is practicable.
2. MEDICAL CERTIFICATION:
 - (a) Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member, or a covered service member with a serious injury or illness;
 - (b) Second or third medical opinions and periodic re-certifications (at the Town's expense) if requested by the Town; and

(c) Medical certification and/or fitness for duty certification supporting the employee's ability to return to work as requested by the Town, which the Town may request include a statement from a health care provider that the employee can perform all of the essential functions of the job.

3. QUALIFYING EXIGENCY: Certification supporting the need for leave due to a qualifying exigency.

4. STATUS REPORTS: Periodic reports during FMLA leave regarding the employee's status and intent to return to work as requested by the Town.

G. OTHER PROVISIONS

This Policy shall at all times be interpreted in a manner consistent with the Department of Labor's Regulations pertaining to the Family and Medical Leave Act of 1993. 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 Town's obligation to provide greater leave rights under a Collective Bargaining Agreement or employment benefit plan, where applicable.

H. DEPARTMENTAL PROCEDURES

The Town Administrator may establish procedures to implement this policy, consistent with the policy.

All requests for and/or questions regarding FMLA leave should be directed to the Town's Human Resources Director at extension 3119.

I. ADOPTION BY THE TOWN ADMINISTRATOR

This policy was adopted on February 13, 2023

Derek D. Sullivan
Town Administrator

Notice to Employees: FMLA Amendment

On October 28, 2009, President Obama signed the National Defense Authorization Act for Fiscal Year 2010 into law. The bill includes provisions amending the Family and Medical Leave Act (FMLA) military family leave entitlements, expanding qualifying exigency leave and caregiver leave eligibility.

Qualifying exigency leave will now cover family members of the regular Armed Forces, in addition to current coverage of family members of the Guard or Reserves. It will also cover family members of individuals deployed to a foreign country, removing the current requirement that National Guard or Reserve members be serving "in support of a contingency operation."

Military caregiver leave has also been expanded so it may be used by family members to care for veterans undergoing treatment, recuperation or therapy for an injury, as long as the veteran was a member of the Armed Forces, National Guard or Reserves within five years of requiring care. The bill also expands military caregiver leave so that employees may use it to care for a covered service member's serious injury or illness incurred because service on active duty aggravated an existing or preexisting injuries. Previously, the law only allowed caregiver leave for serious illnesses or injuries incurred on active duty.
