

Family and Medical Leave Policy

I. Policy Statement

The Town of Stowe ("Town") provides eligible employees with time off to take care of family and medical issues consistent with the federal Family and Medical Leave Act ("FMLA") and Vermont's Parental and Family Leave law ("VPFL").

II. Leave Entitlements

A. Family and Medical Leave

Subject to the definitions and requirements provided in the FMLA and VPFL, eligible employees may take up to 12 weeks of unpaid leave during the rolling 12 month period measured backward from the date the employee's leave begins. Leave may be taken for the following reasons:

For incapacity due to pregnancy, prenatal medical care or childbirth;
to care for the employee's child after birth, or placement for adoption or foster care;

to care for the employee's spouse, civil union partner, child, parent or parent of one's spouse or civil union partner with a serious health condition;

for a serious health condition rendering the employee unable to perform the functions of the employee's job.

B. Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

C. Military Family Leave

In addition to the four types of leave identified in Section II.A above, the

FMLA provides for two types of military family leave.

1. Qualifying Exigency Leave

Eligible employees with a spouse, son, daughter, or a parent on covered active duty or call to covered active duty may use their 12-week unpaid leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Covered active duty means: (a) For service members of a regular component of the Armed Forces, duty during deployment of the service member with the Armed Forces to a foreign country; or (b) for service members of the reserve components of the Armed Forces (U.S. National Guard or Reserves), duty during deployment of the service member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation.

2. Military Caregiver Leave

The FMLA also includes a special leave entitlement that permits eligible employees who are the spouse, son, daughter, parent, or next of kin of a "covered service member" to take up to 26 weeks of unpaid leave to care for a covered service member with a "serious injury or illness" during a single 12-month period.

A covered service member is: (a) A current member of the Armed Forces, including a member of the U.S. 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 and/or that existed before the beginning of the service member's active duty and was aggravated by service in line of duty on active duty, that renders the service member medically unfit to perform the duties of his/her office, grade, rank, or rating; or (b) a veteran, who was a member of the Armed Forces, including U.S. National Guard or Reserves at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, for a serious injury or illness, that was incurred by the member in the line of duty on active duty and/or that existed before the beginning of the service member's active duty and was

aggravated by service in the line of duty on active duty and that manifested itself before or after the service member became a veteran.

Military Caregiver leave, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. Spouses who are employed by the Town may be limited to a combined total of 26 workweeks of leave during the single 12-month period.

III. Eligibility Requirements

To be eligible for these benefits, an employee must have worked for the Town for:

At least 12 months; and
at least 1,250 hours during the 12-month period immediately preceding the beginning of the leave.

IV. Use of Leave

Under certain circumstances, leave may be taken intermittently by taking leave in separate blocks of time or by reducing the usual number of work hours per work week or work day. The employee requesting intermittent leave may be transferred temporarily to an alternative job (with equivalent pay and benefits) that better accommodates recurring periods of leave. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Town's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis. The use of intermittent leave for the birth or placement of adoptive children may be taken only with the prior approval of the Town.

V. Substitution of Paid Leave for Unpaid Leave

The four types of leave identified in Section II.A above are unpaid unless the employee chooses to substitute accrued vacation leave or other accrued paid leave under the Town's applicable policies. Use of any such paid leave in this way will run concurrently with unpaid FMLA leave and will not extend the leave period beyond 12 weeks.

When taking Qualifying Exigency leave or Military Caregiver leave, the Town may require the employee to use accrued vacation leave or other accrued paid leave under the Town's applicable policies, which shall run concurrently with

FMLA leave and will not extend the leave period.

VI. Work-Related Injuries

Time off for work-related injuries that meet the criteria for a serious health condition will be charged to time off allowed under this policy.

VII. Benefits and Protections

A. Benefits Continuation

During the 12-week FMLA and/or VPFL leave, the Town must continue employment benefits for the duration of the leave on the same terms as if the employee had continued to work. Employees are required to make arrangements to continue to pay their share of premiums while on leave. Failure to make such premium payments may result in cancellation of coverage.

In the event an employee elects not to return to work upon completion of FMLA and/or VPFL leave, he/she may be required to repay the cost of any payments made to maintain insurance coverage. This repayment obligation will not apply when the employee does not return to work because of the continuation, recurrence or onset of the employee's own serious health condition or other circumstances beyond the employee's control.

During Military Caregiver leave, the Town must maintain the employee's health coverage under a "group health plan" on the same terms as if the employee had continued to work. Employees are required to make arrangements to continue to pay their share of premiums while on leave. Failure to make such premium payments may result in cancellation of coverage.

B. Job Restoration

Upon return from FMLA and/or VPFL leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits and other terms and conditions of employment existing on the day leave began, as long as the Town still provides such benefits.

An employee will be required to provide a return-to-work certificate prior to being restored to employment following a leave taken for his/her own serious health condition. Restoration may be delayed if the employee fails to provide the required return-to-work information.

An employee on leave does not have greater job protection than if the employee had been continuously employed. For example, an employee will not be restored to his/her original or an equivalent job if the Town eliminated the position for reasons unrelated to the leave, or if the employee had been informed prior to requesting leave that employment would terminate.

Use of FMLA and/or VPFL leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

VIII. Employee Responsibilities

Employees must give reasonable notice of their intent to take leave to the Benefits Coordinator when the need for leave is foreseeable. The Town requests that notice be given in writing when practicable. When the need for leave is not foreseeable, the employee must provide notice as soon as practicable and generally must comply with the Town's normal paid leave procedures.

Notice should include sufficient information for the Town to determine whether the leave may qualify for FMLA and/or VPFL protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the Town if the requested leave is for a reason for which FMLA and/or VPFL leave was previously taken or certified. Employees also will be required to provide a certification supporting the need for leave.

IX. Town Responsibilities

The Town will inform employees requesting leave whether they are eligible under FMLA and/or VPFL. If the employee is eligible, the notice will specify any additional information required as well as the employee's rights and responsibilities. If the employee is not eligible, the Town will provide a reason for the ineligibility. The Town will also inform employees if leave will be designated as FMLA and/or VPFL-protected and the amount of leave counted against the employee's leave entitlement. If the Town determines that the leave is not FMLA and/or VPFL-protected, the Town will notify the employee.

X. Short-Term Leave

The Town also provides eligible employees with unpaid leave each year to participate in school activities and to attend medical appointments with certain

relatives consistent with the VPFL.

A. Eligibility for Short-Term Leave

To be eligible for this benefit, an employee must have continuously worked for the Town for:

- At least 12 months; and
- an average of at least 30 hours per week during the 12-month period immediately preceding the beginning of the leave.

B. Leave Entitlement

Employees may request and may take up to 24 hours of unpaid time off each year under the following circumstances:

- To participate in preschool or school activities directly related to the academic educational advancement of an employee's child, stepchild, foster child or ward who lives with the employee, such as a parent-teacher conference;
- to attend or to accompany the employee's child, stepchild, foster child or ward who lives with the employee, or the employee's spouse, civil union partner, parent or parent of one's spouse or civil union partner to routine medical or dental appointments;
- to accompany the employee's spouse, civil union partner, parent or parent of one's spouse or civil union partner to other appointments for professional services related to their care and well-being; or
- to respond to a medical emergency involving the employee's child, stepchild, foster child or ward who lives with the employee, or involving a spouse, civil union partner, parent, or parent of one's spouse or civil union partner.

Employees may take up to 24 hours of unpaid leave during the rolling 12-month period measured backward from the date the leave begins. Leave must be taken in a minimum of two-hour segments.

Employees shall make a reasonable attempt to schedule appointments for which this leave may be taken outside of regular work hours.

C. Unpaid or Paid Short-Term Leave

Leave is unpaid unless the employee chooses to use accrued vacation or other accrued paid leave available to him/her under Town policy.

- D. **Notice Requirements for Short-Term Leave**
Employees must provide the Benefits Coordinator with the earliest possible notice, but no later than seven days before the leave is to begin, except in the case of an emergency. In the case of an emergency, notice must be given as soon as practicable. An “emergency” means circumstances in which the required seven-day notice could have a significant adverse impact on the employee’s family member.

XI. **Notice of FMLA Requirements and Enforcement**

FMLA makes it unlawful for any employer to:

Interfere with, restrain, or deny the exercise of any right provided under FMLA;
and/or
discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.