

FAMILY MEDICAL LEAVE POLICY

SECTION 1: ELIGIBILITY AND REASONS

Employees, who have worked for the Town of Belleair for at least twelve (12) months, and for at least one thousand two hundred and fifty (1,250) hours during the preceding twelve (12) months, may:

- A. Take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the following reasons:
 - 1. The birth of the employee's child and to care for the newborn child;
 - 2. The placement of a child with the employee for adoption or foster care;
 - 3. In order to care for the employee's spouse, child or parent who has a serious health condition;
 - 4. Because of a serious health condition which renders the employee unable to perform the essential functions of the employee's position.
 - 5. Because of a qualifying exigency (as defined below) arising out of the fact that the employee's spouse, child (of any age) or parent is a retired or reservist member of the military on active duty or has been notified of an impending call or order to active duty in support of a contingency operation. Leave under this subsection is not available for an employee whose family member is on active duty as a member of the Regular Armed Forces.

- B. Take up to twenty-six (26) weeks of unpaid leave in a single twelve (12) month period in order to care for the employee's spouse, child (of any age), parent or next of kin who is a military service member who is undergoing medical treatment, recuperation, or therapy, or who is in outpatient status, or who is otherwise 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.

SECTION 2: DEFINITIONS

The following definitions apply for purposes of this Policy:

- A. **Serious Health Condition** -- A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either: (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., the inability to work, attend school or perform other regular daily activities), or any subsequent treatment in connection with the inpatient care; or (2) continuing treatment by health care provider, as defined by the FMLA and the pertinent regulations.

- B. ~~Serious injury or illness – A “serious injury or illness” means an injury or illness incurred by a military servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank or rating means, in the case of a member of the Armed Forces, an injury or illness incurred or aggravated in the line of duty on active duty that may render the member medically unfit to perform the duties of his or her office, grade, rank or rating. In the case of a veteran who was a member of the Armed Forces at any time during the five years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy, a “serious injury or illness” means an injury or illness incurred or aggravated in the line of duty on active duty in the Armed Forces and that manifested itself before or after the member became a veteran.~~
- C. Child – Except as otherwise noted in this policy, “child” means a biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis (in the place of a parent) and who is either under the age of eighteen (18) or, if older than the age of eighteen (18), is incapable of self care because of a mental or physical disability.
- D. Parent – Parent means a biological, adoptive, step or foster parent, or any other individual who stood in loco parentis (in the place of a parent) to the employee when the employee was a child. Parent does not include parents “in law.”
- E. Next of Kin – The “next of kin” of a military servicemember means the nearest blood relative other than the servicemember’s spouse, parent or child, in the following order of priority (unless the servicemember has specifically designated in writing another blood relative as his nearest blood relative for purposes of military caregiver): (1) blood relatives who have been granted legal custody of the servicemember, (2) brothers and sisters, (3) grandparents, (4) aunts and uncles and (5) first cousins.
- F. Qualifying exigency –A “qualifying exigency” includes leave taken for any of the following reasons : (1) to address any issue resulting from an impending call to active duty deployment on less than seven (7) days’ notice, (2) to attend military events and related activities (such as a military ceremony, briefing, family support program, etc.), (3) to make arrangements relating to childcare and school activities, (4) to make financial and legal arrangements, (5) to attend counseling, (6) to spend time with a covered military member who is on a short-term, temporary rest and recuperation leave during the period of deployment, (7) to attend post-deployment activities (such as a military ceremony, event, reintegration briefing, etc.), and (8) any other exigency agreed upon by the Town of Belleair and employee.

SECTION 3: MEASURING THE TWELVE MONTH PERIOD AND COUNTING FMLA LEAVE

- A. For leave taken for any of the reasons listed in Section 1(A), the twelve (12) month period in which eligible employees may take twelve (12) weeks of leave will be calculated using a “rolling” twelve (12) month period measured backward from the date an employee uses any FMLA leave. At any time when a need for FMLA leave arises, the amount of FMLA that an employee would be entitled to use is measured by counting how much FMLA leave the employee has used during the prior twelve (12) months. If during that prior twelve (12) month period the employee has already used twelve (12) weeks of FMLA leave, the leave is exhausted. If the employee has not used twelve (12) weeks of FMLA leave during the prior twelve (12) month period, he or she is entitled to the balance of the twelve (12) weeks that has not been used. For example, if an employee used four (4) weeks of FMLA leave beginning 2/1/94, four (4) weeks beginning 6/1/94, and four (4) weeks beginning 12/1/94, the employee would not be entitled to any additional leave until 2/1/95. However, beginning on 2/1/95, the employee would be entitled to four (4) weeks of leave, on 6/1/95 the employee would be entitled to an additional four (4) weeks of leave, etc.
- B. For leave taken for the reason listed in Section 1(B), the single twelve (12) month period for calculating leave needed to care for a military servicemember begins when the employee first starts taking leave for that reason and ends twelve (12) months after that date. Leave under Section 1(B) may not exceed twenty-six (26) weeks in any single twelve (12) month period when combined with other FMLA-qualifying leave under any section of this policy.
- C. For leave taken for the birth of a child or placement of a child for adoption or foster care, the entitlement to leave under this policy expires twelve (12) months from the date of the child’s birth or placement.
- D. If both spouses work for the Town of Belleair, the combined leave shall not exceed twelve (12) weeks in a twelve (12) month period if the leave is taken for the birth of the employee’s child, or to care for the child after birth, for the placement of a child with the employee for adoption or foster care, or to care for the employee’s parent with a serious health condition.
- E. If both spouses work for the Town of Belleair the combined leave shall not exceed twenty-six (26) weeks of leave during the single twelve (12) month period described in Section 3(B) above if the leave is taken for the birth of the employee’s child, or to care for the child after birth, for the placement of a child with the employee for adoption or foster care, to care for the employee’s parent with a serious health condition, or to care for a servicemember with a serious injury or illness.
- F. To the extent allowed by law, in the event an absence is for a reason covered by this policy, the Town of Belleair reserves the right to count it as FMLA leave whether the employee has requested FMLA leave or not. Leaves covered by

workers' compensation and/or a disability plan will also be counted as FMLA leave to the extent the leave qualifies under this policy.

SECTION 4: INTERMITTENT LEAVE OR LEAVE ON A REDUCED SCHEDULE BASIS

- A. In the case of leave based upon a serious health condition or a servicemember's serious injury or illness, leave may be taken intermittently or on a reduced schedule basis, but only if such leave is medically necessary and the medical need can be best accommodated by intermittent leave or a reduced schedule. If intermittent leave or leave on a reduced hours basis is required for planned medical treatment, the employee is required to make reasonable efforts to schedule the treatment so as not to unduly disrupt the Town of Belleair operations.
- B. In the case of leave for the birth or placement of a child in adoption or foster care, intermittent leave or working a reduced schedule is not permitted unless the Town of Belleair, in its sole discretion, elects to allow it.
- C. In the case of leave based upon a qualifying exigency, leave may be taken intermittently or on a reduced schedule basis.
- D. If intermittent leave or leave on a reduced hours leave is required or provided, the Town of Belleair may, in its sole discretion, temporarily transfer the employee to another position for which the employee is qualified with equivalent pay and benefits that better accommodates that type of leave.

SECTION 5: EMPLOYEE NOTICE AND CERTIFICATION REQUIREMENTS

- A. For leave that is foreseeable, the employee must provide the Town of Belleair with at least thirty (30) days' notice. If the need for leave is not foreseeable, the employee is required to provide the Town of Belleair with as much notice as is practicable once the need for leave becomes known. Requests for leave should be on approved forms which are available from the human resources department.
- B. After being notified of the employee's need for FMLA-qualifying leave or whenever the Town becomes aware that an employee's leave of absence may qualify under the FMLA, the Town will determine if the employee is an "eligible employee" under the terms of this policy and the FMLA and will also advise the employee of any rights and responsibilities. Though not required, the Town will endeavor to use the model Notice of Eligibility and Rights and Responsibilities form for such purposes (i.e., Form WH-381, available online at <https://www.dol.gov/whd/fmla/forms.htm>).
- C. The Town will require that leave based upon a serious health condition, or a servicemember's serious injury or illness, be supported by a medical certification from a health care provider. In accordance with applicable regulations, the Town may request, at the Town expense, a second opinion from a health care provider of the Town's choice (as well as a third opinion if the second opinion conflicts with

the first opinion). The Town will require that medical certification be submitted showing that a request for intermittent leave or leave on a reduced schedule basis is medically necessary. Generally, the employee will be afforded no less than 15 days to have the certification form completed and submitted. Though not required, the Town will endeavor to use the appropriate model medical certification form where appropriate (i.e., Form WH-380-E, WH-380-F, WH-385, WH-385-V, available online at <https://www.dol.gov/whd/fmla/forms.htm>).

- D. Once any required certifications forms are submitted or the Town otherwise obtains the necessary information to determine if the employee's need for leave qualifies as an FMLA-qualifying reason, the Town will designate the leave accordingly and advise the employee of the designation. Though not required, the Town will endeavor to use the appropriate model Designation Notice for this purpose (i.e., Form WH-382, available online at <https://www.dol.gov/whd/fmla/forms.htm>).
- E. The Town may require subsequent medical recertification of an ongoing condition from the employee's health care provider every six months in conjunction with an absence, or more often to the extent permitted by applicable law.
- F. The Town will require that leave based upon a qualifying exigency also be supported by a certification and supporting documentation, including a copy of the military member's active duty orders or other similar documentation. Though not required, the Town will endeavor to use the appropriate model qualifying exigency certification form where appropriate (i.e., Form WH-384, available online at <https://www.dol.gov/whd/fmla/forms.htm>).
- G. If an employee's certification or recertification is deemed by the Town to be incomplete, the Town will notify the employee of the deficiency and the employee will be provided seven days to cure the deficiency. A failure to complete the certification may result in the denial of leave for the period until the completed certification is submitted.
- H. During leaves under this policy, the employee must periodically report on his or her medical status and intent to return to work. Upon taking such leave, the employee will be advised of the reporting requirements.
- I. For leave taken because of the employee's own serious health condition, the employee is required to furnish a medical certification from his or her health care provider advising that the employee can safely resume performing the essential functions of his or her position before the employee will be allowed to return to work.
- ~~B. The Town of Belleair will require that leave based upon a serious health condition, or a servicemember's serious injury or illness, be supported by a medical certification from a health care provider. In accordance with applicable regulations, the Town of Belleair may request, at the town's expense, a second opinion from a~~

~~health care provider of the Town's choice (as well as a third opinion if the second opinion conflicts with the first opinion). The Town of Belleair will require that medical certification be submitted showing that a request for intermittent leave or leave on a reduced schedule basis is medically necessary.~~

- ~~C. The Town of Belleair may require subsequent medical recertification of an ongoing condition from the employee's health care provider every six (6) months in conjunction with an absence, or more often to the extent permitted by applicable law.~~
- ~~D. The Town of Belleair will require that leave based upon a qualifying exigency also be supported by a certification and supporting documentation, including a copy of the military member's active duty orders or other similar documentation.~~
- ~~E. Certification forms to be completed under this section are available from the human resources department. If an employee's certification or recertification is deemed by the Town of Belleair to be incomplete, the Town will notify the employee of the deficiency and the employee will be provided seven (7) days to cure the deficiency. A failure to complete the certification may result in the denial of leave for the period of time until the completed certification is submitted.~~
- ~~F. During leaves under this policy, the employee must periodically report on their medical status and intent to return to work. Upon taking such leave, the employee will be advised of the reporting requirements.~~
- ~~G. For leave taken because of the employee's own serious health condition, the employee is required to furnish a medical certification from his or her health care provider advising that the employee is able to safely resume performing the essential functions of his or her position before the employee will be allowed to return to work.~~

SECTION 6: HEALTH INSURANCE PREMIUMS

- A. During leaves of absence under this policy, the Town of Belleair will continue to pay its portion of the health insurance premiums and maintain the employee's coverage under the health plan in the same manner as if the employee had been continuously employed during the entire leave period, provided the employee continues to pay his or her share of the premiums.
- B. Should the employee fail to continue to pay his or her share of the premium, notices of proposed insurance cancellation and the opportunity to pay the premium as required by the FMLA will be provided before the cancellation.
- C. The employee will be advised in advance of any changes in premiums so that he or she will have ample opportunity to make arrangements to continue to pay his or her share of the premiums during the FMLA leave.

- D. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the Town of Belleair for the town's portion of health insurance premiums during the family leave as permitted by law, unless the employee does not return due to a serious health condition which prevents the employee from performing his job or circumstances beyond the control of the employee. To avoid required reimbursement, appropriate certification from a health care provider may be required if the employee does not return to work because of a serious health condition.

SECTION 7: ACCRUAL

During any period of leave under this policy, accrual of employment benefits, such as vacation pay, medical leave, seniority, etc., shall continue. Pension benefits will be determined in accordance with applicable regulations, but the employee will be required to make the pension contributions required, if any, under any Town of Belleair sponsored pension plan covering them. Employment benefits to which an employee may be entitled on the day on which the FMLA leave of absence begins will not be lost because of such leave, except for those paid leave days substituted for unpaid leave taken under this policy as described below. Upon return from FMLA leave, the employee is entitled to any changes in benefit plans not dependent upon seniority or accrual during the leave period.

Employee will not be disqualified from bonuses based upon attendance or safety for which they qualified prior to leave because of the taking of FMLA leave.

SECTION 8: SUBSTITUTION OF ACCRUED PAID LEAVE

- A. For unpaid leaves under this policy, the Town of Belleair will require employees to substitute any accrued paid leave (including vacation, sick, compensatory, or personal leave, etc.) that he or she may have. This means that the employee's FMLA leave under this policy will run concurrently with the use of any accrued paid leave. The employee will be notified of the designation when the leave begins.
- B. Where the leave is not unpaid but the employee is not receiving his or her full pay (such as when on workers' compensation leave or leave under a disability plan), accrued paid leave may be used to supplement the employee's pay to bring him or her up to their full salary, to the extent that both the Town of Belleair and the employee agree.

SECTION 9: JOB RESTORATION UPON RETURN FROM FMLA LEAVE

With the exception of certain key employees, employees who return to work from FMLA leave of absence within or on the business day following the expiration of the leave are entitled to return to their job or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Designation of key employee status and whether such status will affect the employee's right to reinstatement will be made at the

time the employee requests leave, or at the commencement of leave, whichever is earlier, or as soon as practicable thereafter if such determination cannot be made at that time.

SECTION 10: FAILURE TO COOPERATE

Employees who fail to provide information to, or otherwise cooperate with, the Town of Belleair in administering this policy, or who provide intentionally untruthful information as to the facts upon which the FMLA leave was granted, may have their leave delayed and/or be subject to discipline up to and including discharge as permitted by law.