



## DEPARTMENT OF ADMINISTRATIVE SERVICES

**TO: AGENCY HEADS AND HUMAN RESOURCES ADMINISTRATORS**  
**FROM: MELODY A. CURREY, COMMISSIONER** *Melody A. Curry*  
**DATE: MARCH 28, 2018**  
**RE: GENERAL LETTER 39 – STATE OF CONNECTICUT FAMILY AND MEDICAL LEAVE ENTITLEMENTS POLICY – REVISED**

### PURPOSE

This General Letter provides a statewide family and medical leave entitlements policy to ensure consistent application and implementation of the federal and state family and medical leave laws. Therefore, any and all individual agency policies on this topic are hereby deemed obsolete and agencies shall comply with the instructions specified herein.

Family and Medical Leave Entitlements for State of Connecticut employees consist of the following:

- Federal FMLA
- State FMLA
- SEBAC Supplemental Leave
- Pregnancy Disability Leave
- Organ Donor Leave
- Bone Marrow Donor Leave

This General Letter addresses the following topics:

- Sources of Family and Medical Leave Entitlements
- Designation of Leave Entitlements
- Leave Reasons
- Types of Leave Schedules
- Eligibility for Leave
- Amount of Leave
- How Leave is Taken
- Accrual Usage
- Notice Requirements
- Documentation Requirements
- Benefit Continuation
- Return to Work
- Unlawful Acts

**Appendix A** defines the terms that have specific meanings in connection with Family and Medical Leave Entitlements, including but not limited to the definitions of "child," "parent," "spouse," "next of kin," "covered servicemember," and "covered active duty."

**Appendix B** describes the procedures employees must follow when applying for and using Family and Medical Leave Entitlements.

**Appendix C** contains the forms used to administer Family and Medical Leave Entitlements.

## SOURCES OF FAMILY AND MEDICAL LEAVE ENTITLEMENTS

Legislation passed at both federal and state levels provides eligible employees with job-protected leave for certain family and medical reasons.

The federal Family and Medical Leave Act ("**federal FMLA**") provides medical leave and family leave, as well as additional leave rights to families of members of the Armed Forces.

The revised agreement between the State of Connecticut and the State Employees Bargaining Agency Coalition, ratified by the General Assembly in July 2017 ("the 2017 SEBAC Agreement") made two significant changes to the family and medical leave entitlements of unionized state employees:

- Connecticut's family/medical leave act, C.G.S. §31-51kk ("**state FMLA**") applies to state employees; and
- Permanent state employees are eligible to receive supplemental leave benefits ("**SEBAC Supplemental leave**").

Pursuant to Item No. 2495-E, these leave entitlements are extended to all Executives, Managers, and Confidential employees of the Executive Branch, and to Legislative and Judicial employees. This item also applies to unclassified employees of the boards of trustees of the constituent units of higher education.

Section 46a-60(b)(7) of the Connecticut General Statutes requires employers to grant its pregnant employees "a reasonable leave of absence for disability resulting from her pregnancy." This "**pregnancy disability leave**" includes absences associated with pregnancy complications, such as being put on bedrest, as well as the period of time required for the employee to physically recover from the birth of the child.

Finally, section 5-248k of the Connecticut General Statutes creates an additional leave entitlement for any state employee who donates an organ or bone marrow to a person for transplantation ("**organ donor leave**" and "**bone marrow donor leave**").

## DESIGNATION OF LEAVE ENTITLEMENTS

In all circumstances, it is the employer's right and obligation to designate leave as a Family and Medical Leave Entitlement.

- If the employee is eligible for one or more of the Family and Medical Leave Entitlements and the law or policy covers the reason for leave, the employer **must** designate the leave accordingly.
- If the employer learns that the employee is absent due to a covered reason and the employee is eligible for one or more of the leave entitlements, the employer **must** designate the leave even if the employee does not make an explicit request.
- The employee does **not** have the right to refuse the designation of leave.

- The federal FMLA gives the employer the option to identify individuals as "key employees" who do not receive job protection during their leave. The State of Connecticut does **not** utilize this option.

## LEAVE REASONS

Family and Medical Leave Entitlements can be used for the following leave reasons:

- Standard Family and Medical Leave, and/or
- Military Family Leave

### **Standard Family and Medical Leave:**

Federal FMLA, state FMLA, and the 2017 SEBAC Agreement allow eligible employees to take "**standard**" family and medical leave for the following reasons:

- **Personal Medical Leave** for the employee's own serious health condition:
  - The employee's own illness or injury;
  - The disability period related to the employee's pregnancy and childbirth;
  - The donation of an organ by the employee;
  - The donation of bone marrow by the employee.
- **Caregiver Leave** to care for the employee's child, spouse or parent in connection with:
  - Their disability period related to pregnancy and childbirth;
  - Their organ or bone marrow donation; or
  - Their other serious health condition.

NOTE: The state FMLA also allows an employee to take caregiver leave to care for the employee's parent-in-law.

- **Bonding Leave:**
  - Time off to bond with a newborn child;
  - Time off to process the adoption of a child or bond with a newly adopted child; or
  - Time off to process the placement of a foster child or bond with a newly placed foster child (*federal and state FMLA only; not available under SEBAC Supplemental leave.*)

### **Military Family Leave:**

Federal FMLA and state FMLA allow eligible employees to take **military family leave**. The 2017 SEBAC Agreement does **not** create a supplemental leave entitlement for military family reasons.

Military Family Leave may be taken for the following reasons:

- **Military Caregiver Leave for a current servicemember.** For a spouse, son, daughter, parent or next of kin to care for a covered servicemember who has a serious injury or illness while on covered active duty; or
- **Military Caregiver Leave for a veteran:** For a spouse, son, daughter, parent or next of kin to care for a covered veteran who incurred a serious injury or illness while on covered active duty (*federal FMLA only*);

- **Qualifying Exigency Leave:** Because of any qualifying exigency that arises out of or is directly related to the fact that a spouse, son, daughter or parent of the employee is on covered active duty:
  - Short notice deployment;
  - Military events and related activities;
  - Childcare (non-routine care for the child of the individual on covered active duty) and school activities;
  - Parental leave care (non-routine care for the parent of the individual on covered active duty);
  - Financial and legal arrangements;
  - Counseling;
  - Rest and recuperation;
  - Post-deployment activities; and/or
  - Additional activities related to the covered active duty as mutually agreed upon by the employer and employee.

## TYPES OF LEAVE SCHEDULES

There are three types of leave schedules available to a state employee for Family and Medical Leave Entitlements:

- **Block leave:** A continuous absence for a single qualifying reason (i.e., an absence of 3 weeks due to a broken ankle).
- **Reduced schedule leave:** A leave schedule that changes the employee's normal work schedule for a period of time by reducing the employee's usual number of working hours per workweek or hours per day.
- **Intermittent leave:** Leave taken in separate blocks of time due to a single qualifying reason.

When an employee takes intermittent or reduced schedule leave, the shortest amount of leave that can be taken is **15 minutes**.

For intermittent leave or reduced schedule leave associated with an employee's personal medical leave or caregiver leave, **the medical documentation must certify that an intermittent or reduced leave schedule can best accommodate the medical condition requiring the leave.**

Reduced schedule leave for bonding is available only with the employer's consent and only within the parameters established by the employer.

The type of leave schedule an employee may take depends upon the source of the leave entitlement, the reason for leave, and the medical documentation provided:

REASON	Federal FMLA	State FMLA	SEBAC Supplemental Leave
Personal Medical Leave (including pregnancy and organ/bone marrow donation)	Block leave	Block leave	Block leave only
	Reduced Schedule leave	Reduced Schedule leave	
	Intermittent leave	Intermittent leave	
Caregiver Leave	Block leave	Block leave	Block leave only
	Reduced Schedule leave	Reduced Schedule leave	
	Intermittent leave	Intermittent leave	



Bonding Leave	Block leave	Block leave	Block leave
	Reduced Schedule leave (with employer's consent)	Reduced Schedule leave (with employer's consent)	Reduced Schedule leave (with employer's consent)
Leave to process an adoption (pre-adoption)	Block leave	Block leave	N/A
	Reduced Schedule leave	Reduced Schedule leave	
	Intermittent leave	Intermittent leave	
Leave to process the placement of a foster child (pre-placement)	Block leave	Block leave	N/A
	Reduced Schedule leave	Reduced Schedule leave	
	Intermittent leave	Intermittent leave	
Military Caregiver Leave	Block leave	Block leave	N/A
	Reduced Schedule leave	Reduced Schedule leave	
	Intermittent leave	Intermittent leave	
Military Caregiver Leave – veteran	Block leave	N/A	N/A
	Reduced Schedule leave		
	Intermittent leave		
Military Qualifying Exigency	Block leave	Block leave	N/A
	Reduced Schedule leave	Reduced Schedule leave	
	Intermittent leave	Intermittent leave	

### ELIGIBILITY FOR LEAVE

A state employee may be eligible for one or more of the Family and Medical Leave Entitlements.

Each of the leave entitlements listed above has different criteria for determining eligibility:

To be eligible for **federal FMLA**, employees must have at least 12 months of total state service (in the aggregate) and have worked at least 1,250 hours in the 12 months immediately preceding the commencement of leave. ("Hours worked" does not include time spent on paid leave – sick, vacation, personal leave, administrative, etc. – or unpaid leave. However, overtime hours and military leave do count toward the 1,250-hour requirement.)

To be eligible for **state FMLA** under C.G.S. §31-51kk, employees must have at least 12 months of total state service (in the aggregate) and have worked at least 1,000 hours in the 12 months immediately preceding the commencement of leave. ("Hours worked" does not include time spent on paid leave – sick, vacation, personal leave, administrative, etc. – or unpaid leave. However, overtime hours and military leave do count toward the 1,000-hour requirement.)

To be eligible for **SEBAC Supplemental leave**, one must be a permanent employee with the state as defined in C.G.S. §5-196(19):

- A classified state employee is "permanent" if he or she has completed his or her initial working test period.
- A state employee holding a position in unclassified service is "permanent" once he or she holds such position for a period of more than six months.

For purposes of the **pregnancy disability leave** under C.G.S. §46a-60(b)(7), an “employee” means any person employed by the state, a political subdivision of the state or an entity that employs **three or more people**.

All state employees, whether the employee meets the definition of permanent employee or not, are eligible for **organ donor leave** and **bone marrow donor leave** under C.G.S. §5-248k.

## AMOUNT OF LEAVE

Each of the Family and Medical Leave Entitlements provides employees with a different amount of leave.

### Federal FMLA

- **Standard leave and/or qualifying exigency leave:**
  - \* An eligible employee is entitled to a **maximum of 12 weeks** of leave in a **twelve-month period**.
- **Military caregiver leave:**
  - \* An eligible employee is entitled to a **maximum of 26 weeks** of leave during a **single 12-month** period to care for a covered service member (including a covered veteran) who was injured while on active duty in the U.S. Armed Forces.
    - An employee can take this leave only one time per service member, per injury.
    - During any single 12-month period, the employee’s total leave entitlement is limited to a combined total of 26 weeks for all qualifying reasons under standard FMLA and military family leave.

### State FMLA

- **Standard leave and/or qualifying exigency leave:**
  - \* An eligible employee is entitled to a **maximum of sixteen (16) weeks** of leave **within a two-year period**.
- **Military caregiver leave:**
  - \* An eligible employee is entitled to a **maximum of 26 weeks** of leave in a **2-year period**.
    - An employee can take this leave only one time per service member, per injury.
    - During any single 24-month period, the employee’s total leave entitlement is limited to a combined total of 26 weeks for all qualifying reasons under standard state family/medical leave and military family leave.

### SEBAC Supplemental leave

- An eligible employee is entitled to a **maximum of twenty-four (24) weeks** of leave within a **2-year period**, up to four calendar months of which may be used for bonding purposes.

### Pregnancy Disability leave

- An employee may take a “reasonable” amount of leave for the disability associated with pregnancy and childbirth.
  - The amount of time that is considered “reasonable” is determined on a case-by-case basis, based upon the employee’s medical condition.
  - In general, if the employee has a routine pregnancy and childbirth, with no complications, it is reasonable for an employee to need six (6) weeks of leave following a vaginal delivery or eight (8) weeks of leave following a caesarian section.

### Organ Donor leave

- A state employee who donates an organ to a person for organ transplantation shall be entitled to up to **fifteen days of paid leave** (*i.e. salary continuation*) from state employment as a recovery period from such donation.
  - The “recovery period” consists of the surgery and the recovery from the surgery. It **does not** include pre-donation absences.
  - Organ Donor leave shall not result in a reduction in pay, the loss of any leave to which the employee is otherwise entitled or a loss of credit for time or service or affect the employee's rights with respect to any other employee benefits provided under federal or state law.

### Bone Marrow Donor leave

- A state employee who donates bone marrow to a person for transplantation shall be entitled to up to **seven days of paid leave** (*i.e. salary continuation*) from state employment as a recovery period from such donation.
  - The “recovery period” consists of the transplantation procedure and the recovery from the procedure. It **does not** include pre-donation absences.
  - Bone Marrow Donor leave shall not result in a reduction in pay, the loss of any leave to which the employee is otherwise entitled or a loss of credit for time or service or affect the employee's rights with respect to any other employee benefits provided under federal or state law.

## HOW LEAVE IS TAKEN

### ***How the Leave Period Is Determined***

The State of Connecticut uses the “**Measure Forward**” method to determine the leave period (*i.e.*, 12 months or 24 months) for Family and Medical Leave Entitlements. Under the “Measure Forward” method, the leave period begins on the *first day* the employee takes leave under that entitlement.

Each employee may have a different leave period for each of the entitlements, depending upon whether the leaves run concurrently (*i.e.*, at the same time).

### ***When the Leave Starts***

The Family and Medical Leave Entitlements may have different start dates even for the same illness or injury.

Federal FMLA leave, state FMLA leave, and pregnancy disability leave will start on the *first day* the employee is absent for a covered reason.

- If the employee is eligible for both federal FMLA and state FMLA and the reason for leave qualifies for both statutes, the leave will run concurrently.
- Federal FMLA leave and state FMLA leave each run concurrently with pregnancy disability leave under C.G.S. §46a-60(a)(7) and with leave provided under the state Workers' Compensation absences.
- There are special rules regarding when military caregiver leave runs concurrently with standard federal FMLA and/or state FMLA. Consult the agency Human Resources Office for more information.

SEBAC Supplemental leave is **in addition to** leave taken under federal FMLA, state FMLA, pregnancy disability leave and leave provided under the state Workers' Compensation statutes.

- An employee who is eligible for one or more of these statutory leaves must exhaust the statutory leaves **before** taking SEBAC Supplemental leave.
- If the leave is for the employee's own serious health condition, the SEBAC Supplemental leave **does not start until the employee exhausts his or her sick leave accruals.**

Organ donor leave and bone marrow donor leave are **in addition to** federal FMLA leave, state FMLA leave, and SEBAC Supplemental leave.

- Organ donor and bone marrow donor leave is used only for the surgery/transplantation procedure and recovery.
- This leave **does not** cover pre-donation appointments. An eligible state employee may use other Family and Medical Leave Entitlements to cover such absences.
- A state employee who donates an organ or bone marrow must **exhaust the organ donor or bone marrow donor leave during the surgery/transplantation procedure and recovery period before** taking leave under federal FMLA, state FMLA or SEBAC Supplemental leave.

### ***When the Leave Entitlement Is Shared***

Family and Medical Leave Entitlements are not shared except for the following circumstance:

If married employees **both** work for the State of Connecticut and are eligible for **federal FMLA and/or state FMLA**, they will be required to share the leave entitlement (of 12 or 16 weeks) if the reason for the leave is one of the following:

- To bond with a child, or
- To care for a parent or parent-in-law who has a serious health condition.

**SEBAC Supplemental Leave** does **not** require spouses to share their leave entitlement. Each eligible spouse retains the full 24 weeks of leave.

### ***When the Employee Can Take Bonding Leave***

Family and Medical Leave Entitlements for bonding leave are as follows:

- Federal FMLA and state FMLA permit an eligible employee to take leave to bond with a newborn child, an adopted child or a foster child.
- SEBAC Supplemental leave is available only to bond with a newborn child or adopted child. It **does not** cover bonding with a foster child.
- Bonding leave may be taken any time within the 12 month period beginning with the date of birth, the date the child was adopted, or (under federal FMLA or state FMLA) the date of the foster care placement.
- The bonding leave must be completed no later than the end of that 12-month period.



- **If the employee is eligible for federal FMLA and/or state FMLA and SEBAC Supplemental leave**, the start date of the SEBAC Supplemental leave depends upon the employee's role:
  - If the employee **gave birth to the child**, SEBAC Supplemental leave for bonding begins upon the exhaustion of her federal FMLA and/or state FMLA leave **and** the exhaustion of her pregnancy disability leave under C.G.S. § 46a-60(b)(7), whichever ends later.
  - If the employee is the **other parent of a newborn baby** or the **adoptive parent**, SEBAC Supplemental leave for bonding begins upon the exhaustion of federal FMLA and/or state FMLA leave.
  
- **If the employee is eligible for only SEBAC Supplemental leave**, the start date of the SEBAC Supplemental leave depends upon the employee's role:
  - If the employee **gave birth to the child**, SEBAC Supplemental leave for bonding begins any time after the exhaustion of her pregnancy disability leave under C.G.S. § 46a-60(b)(7), provided that the bonding leave **must** be completed no later than the end of the 12-month period beginning with the date of birth.
  - If the employee is the **other parent of a newborn baby** or the **adoptive parent**, SEBAC Supplemental leave for bonding may be taken any time within the 12-month period beginning with the date of birth or the date the child was adopted. The bonding leave **must** be completed no later than the end of that 12-month period.

### ACCRUAL USAGE

An employee's use of accruals for Family and Medical Leave Entitlements depends upon the following:

- The reason for leave,
- The employee's eligibility under the various Family and Medical Leave Entitlements,
- The requirements for use of the accruals, and
- The employee's accrual selection.

If the employee is eligible for federal FMLA, state FMLA leave and/or SEBAC Supplemental leave and the reason for leave is covered by these entitlements but the employee does not have any accruals or does not meet the requirements for the use of the accruals, the employee remains entitled to take **unpaid leave**.

### General Rules Regarding the Selection and Use of Accruals

- Employees must comply with applicable agency policies and/or collective bargaining agreements regarding the selection and use of accruals.
- Barring extenuating circumstances, the choice of accruals must be made **before** the employee begins the leave.
  - Any changes to accrual designation must be made through the agency Human Resources Office.
  - Accrual changes will be applied prospectively.
- Except as described above regarding use of sick leave accruals for personal medical leave and paid organ donation and bone marrow donation leave, if the employee does not select accruals to be used or chooses not to use all of his or her accruals, **the leave will be unpaid**.

- The employee may use vacation, personal leave, compensatory time and/or sick leave for caregiver or bonding leave (if eligible) in any order.
- The employee is **not** required to use all of their vacation, personal leave, compensatory leave and/or sick leave for caregiver or bonding leave (if eligible).
- Use of vacation, personal leave, compensatory leave, and/or sick leave for caregiver or bonding leave (if eligible) does **not** extend the length of the leave entitlement.
- Once the employee has made his or her election of accrual usage, all of the paid time that the employee has elected to use must be spent down completely **before** the employee goes into unpaid status.
  - If an employee chooses to use all earned accruals and earns additional accruals during the leave, the employee may use the newly earned accruals immediately, with one exception.
  - **EXCEPTION:** Because the SEBAC Supplemental leave for an employee's own serious health condition cannot start until the employee's sick leave is exhausted, any sick leave accrued **after** the start of SEBAC Supplemental leave for an employee's own serious health condition **cannot be used during the SEBAC Supplemental leave**. The newly accrued sick leave is available to be used by the employee **only after his or her return to work**.

## Specific Rules Regarding the Selection and Use of Accruals Based on the Reason for Leave

If the employee is taking **personal medical leave (including pregnancy and childbirth)**:

- The employee is **required to use all accrued sick leave** unless his or her labor contract states otherwise.
  - **EXCEPTION:** An employee cannot use sick leave accruals in order to recuperate from an illness or injury that is directly traceable to employment by an employer other than the State of Connecticut with the exception of state employees who receive workers' compensation benefits in connection with injuries incurred as a result of serving as a volunteer firefighter.
- After the sick leave accruals are exhausted, the employee may request to use accrued vacation, personal leave, and/or compensatory leave but is **not required** to do so.

If the employee is taking **caregiver** leave:

- The employee may request to use accrued vacation, personal leave, and/or compensatory leave but is **not required** to do so.
- If the employee is eligible for federal FMLA leave and/or state FMLA leave, the employee may request to use sick leave accruals during the federal FMLA, state FMLA and SEBAC Supplemental leave, but is **not required** to do so.
- If the employee is not eligible for federal FMLA leave or state FMLA leave, the employee may use his or her "sick family leave" entitlement but is **not allowed** to use any other sick leave accruals.

If the employee is taking **bonding** leave:

- The employee may request to use accrued vacation, personal leave, and/or compensatory leave but is **not required** to do so.
- If the employee is eligible for federal FMLA leave and/or state FMLA leave, the employee may request to use sick leave accruals during the federal FMLA, state FMLA and SEBAC Supplemental leave, but is **not required** to do so.
- If the employee is not eligible for federal FMLA leave or state FMLA leave, the employee may use his or her "parental leave" entitlement but is **not allowed** to use any other sick leave accruals.

If the employee is taking **organ donor** leave:

- Pursuant to C.G.S. 5-248k, the employee is entitled to 15 days of paid leave (i.e. salary continuation).
- If the employee has a medical need to be absent from work before or after the 15 days of organ donor leave, the employee **is required to** use his or her sick leave accruals.
- If additional absences are medically necessary after the sick leave accruals are exhausted, the employee may request to use accrued vacation, personal leave, and/or compensatory leave but is **not required** to do so.

If the employee is taking **bone marrow donor** leave:

- Pursuant to C.G.S. 5-248k, the employee is entitled to 7 days of paid leave (i.e. salary continuation).
- If the employee has a medical need to be absent from work before or after the 7 days of bone marrow donor leave, the employee **is required to** use his or her sick leave accruals.
- If additional absences are medically necessary after the sick leave accruals are exhausted, the employee may request to use accrued vacation, personal leave, and/or compensatory leave but is **not required** to do so.

If the employee is taking **military family (military caregiver or qualifying exigency)** leave under federal FMLA and/or state FMLA:

- The employee may request to use accrued vacation, personal leave, and/or compensatory leave but is **not required** to do so.
- If the employee is taking care of the employee's spouse, son, daughter or parent, the employee may use his or her "sick family leave" entitlement but is **not allowed** to use any other sick leave accruals.

Reminder: There is **no** SEBAC Supplemental leave for Military Family leave reasons.

## NOTICE REQUIREMENTS

Family and Medical Leave Entitlements have notice requirements.

Where the employee has advance notice of the need for leave (i.e., an anticipated birth, adoption or surgery), the request for leave and required documentation should be **submitted to the agency Human Resources Office at least 30 days in advance**, using approximate dates if definite ones are not yet available.

An employee who needs to take organ donor or bone marrow donor leave must provide **at least seven days' advance notice** when practicable.

Where there is no forewarning (i.e., major unexpected illness or injury), the request for leave and required documentation should be submitted to the agency Human Resources Office as soon as the employee becomes aware that he/she is to be absent for a family and medical leave-qualifying reason. Failure to provide the required documentation may result in a disapproval of the leave or a delay in its commencement.

Employees must sign a statement confirming their intent to return to work immediately following the leave. This signed statement must be returned to the agency Human Resources Office before the leave begins, absent extenuating circumstances. Failure to return to work at the end of the leave period may be treated as a resignation unless an extension of the employee's absence has been agreed to and approved in writing by the agency.

## DOCUMENTATION REQUIREMENTS

The specific documentation required for Family and Medical Leave Entitlements depends on the reason for the leave:

### Standard Family & Medical Leave

- \* **Form P-33A-Employee** – Medical certificate to be completed when the leave is for the employee's own illness, including the disability period related to the employee's pregnancy and childbirth and organ and bone marrow donation.
- \* **Form P-33B-Caregiver** – Medical certificate to be completed when the leave is to care for the employee's child, spouse, parent or (*state FMLA only*) parent-in-law with a serious health condition/serious illness.
- \* The employee may also be required to produce documentation demonstrating the required relationship between the employee and the employee's family member.
- \* In the case of the placement of a foster child, the employee must provide a letter from the state confirming the placement date (*federal and state FMLA only*).
- \* In the case of adoption, the employee must provide a letter from the adoption agency confirming the date of the adoption.

### Military Family Leave

- \* **DOL-WH384** - Certification of Qualifying Exigency for Military Family Leave (*federal and state FMLA*)
- \* **DOL-WH385** - Certification for Serious Injury or Illness of Current Service member for Military Family Leave (*federal and state FMLA*)
- \* **DOL-WH385-V** – Certification for Serious Injury or Illness of Veteran for Military Caregiver Leave (*federal FMLA only*)
- \* The employee may also be required to produce documentation demonstrating the required relationship between the employee and the service member.

## BENEFIT CONTINUATION

The use of Family and Medical Leave Entitlements will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

During periods of family and medical leave, the employee will continue to receive the same insurance benefits as if the employee is actually working, regardless of whether the leave is paid or unpaid.

The State of Connecticut will continue the employee's health insurance coverage while the employee is on leave. The State will continue to pay the same portion of the employee's individual and/or dependent insurance coverage as it did before the employee went on leave. The employee must continue to pay any share of the group health plan premiums that he/she had paid prior to taking leave.

If employee is on unpaid leave, the employee will be billed directly for the portion of the cost that was previously withheld from his or her paycheck for that purpose.

If the employee has state-sponsored group life insurance, the employee will be billed directly for the same amount he or she contributed prior to the leave.

If the employee has dependent health coverage but wishes to change to individual health coverage, the employee must contact his or her agency's Payroll Unit for forms to cancel dependent coverage as soon as possible.

If the employee does not return to work immediately following the leave for reasons other than a substantiated health condition or another good reason beyond his or her control, the agency may charge the employee retroactively for its portion of the cost of the health insurance during the unpaid leave.

In the case of any other deductions being made from the employee's paycheck (e.g. disability insurance, life insurance, deferred compensation, credit union loans), the employee must deal directly with the appropriate vendor to discuss payment options.

## **RETURN TO WORK**

At the conclusion of Family and Medical Leave Entitlement(s), employees (with limited exceptions) return to the same position or to an equivalent position with equivalent pay, benefits and working conditions. In the majority of cases, employees will be returned to the position they occupied prior to the leave. If this is not possible, the agency will notify them of their new position prior to their return from leave.

In cases involving the serious health condition of an employee, the agency will require the employee to provide a fitness-for-duty report from his or her medical provider certifying that the employee is able to return to work. This requirement protects the employee, co-workers and the public from the negative consequences that can result when an individual returns to work before being medically ready to do so. Therefore, employees who are notified of the need for a fitness-for-duty certification will not be allowed to return to work without it. Failure to submit the fitness-for-duty certification within the defined period of time set by the agency Human Resources Office may result in disciplinary action up to and including dismissal.

Upon the employee's return from the leave, the service time the employee accrued up to the beginning of the leave is restored for longevity and seniority purposes. Some bargaining unit contracts also provide for service credit for the time spent on leave.

Employees should consult their union contracts for further information about longevity and seniority.

Consult the Comptroller's Office for further information about retirement credit.

## **UNLAWFUL ACTS**

It is unlawful for any employer to:

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

The U.S. Department of Labor is authorized to investigate and resolve complaints of violations regarding the federal FMLA. The State of Connecticut Department of Labor is authorized to investigate and resolve complaints of violations regarding the state FMLA.



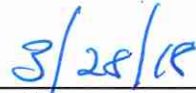
Complaints regarding Family and Medical Leave Entitlements may be directed to the Human Resources Director/designee in each state agency or to the employee's union.

**MORE INFORMATION**

Employees who have additional questions regarding Family and Medical Leave Entitlements may contact their Human Resources Office. Human Resources Professionals may contact the DAS Statewide Human Resources Consultant assigned to their agency.



Melody A. Currey, Commissioner  
Department of Administrative Services



Date

## APPENDIX A: FAMILY & MEDICAL LEAVE ENTITLEMENTS - TERMS

It is important to be aware that the definitions of certain words may differ from each other, depending on whether one is referring to state law or federal law, as well as whether the words are used in the context of standard leave or military family leave.

If state statutes or regulations do not specifically define a term, the State of Connecticut **adopts** the federal definition.

### Standard Leave

“**Child**” means:

- A biological, adopted or foster child, stepchild, child of a person standing in “loco parentis,” or a child of whom a person has legal guardianship or custody; AND
- Who is under age 18 years or is 18 or older and incapable of self-care because of a mental or physical disability.

“**Parent**” means a biological, adopted or foster parent, stepparent, person standing in “loco parentis” of a child or a person who has legal guardianship or custody of a child.

“**Parent-in-law**” means the parent of the employee’s spouse.

“**Spouse**” means the person to whom the employee is married, including same sex marriages.

“**Serious health condition**” means an illness, injury, impairment or physical or mental condition that involves one or more of the following:

- Inpatient care:
  - Overnight stay in a hospital, hospice, or residential medical care facility, and
  - Includes any period of incapacity or subsequent treatment in connection with or consequent to inpatient care.
- Incapacity and treatment;
  - A period of incapacity of **more than three** consecutive full calendar days, **and**
  - Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
    - Treatment two or more times **within 30 days** of the first day of incapacity, unless extenuating circumstances exist, **or**
    - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
  - The first (or only) in-person treatment visit must take place **within seven (7) days** of the first day of incapacity.
  - “Treatment” means an in-person visit to a health care provider.
- Incapacity due to pregnancy, including prenatal care;
- Incapacity due to chronic conditions requiring treatments (e.g., Asthma, diabetes, epilepsy);
- Incapacity due to permanent long-term conditions (e.g., Alzheimer’s, a severe stroke, terminal states of a disease); or
- Absence to receive multiple treatments for a condition that would likely result in incapacity of more than three days if left untreated (e.g., physical therapy, chemotherapy, dialysis, etc.).

➤ **Note:** Common cold, flu, earaches, upset stomach, routine dental work, and cosmetic treatments are generally not considered serious illnesses or serious health conditions.

## **Military Family Leave**

### **"Child"** means:

- A biological, adopted or foster child, stepchild, child of a person standing in "loco parentis," or a child of whom a person has legal guardianship or custody.
- *For purposes of caring for a son or daughter under state and/or federal military caregiver leave, there is no age restriction.*

### **"Covered active duty"** means:

- *In the case of a member of a regular component of the Armed Forces: Duty during the deployment of the member with the Armed Forces to a foreign country;*
- *In the case of a member of a reserve component of the Armed Forces: Duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.*

### **"Covered service member" (state military family leave)** means:

- A current member of the United States Army, Navy, Marine Corps, Coast Guard and Air Force or any reserve component thereof, including the Connecticut National Guard performing duty as provided in Title 32 of the United States Code.
- *State military family leave does not cover veterans.*

### **"Covered service member" (federal military family leave)** means:

- A current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; **or**
- A "covered veteran."

### **"Covered veteran" (federal military family leave only)** means:

- A veteran who is undergoing treatment, recuperation or therapy for a "serious injury or illness" as defined by the Department of Labor and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

### **"Next of kin"** means:

- The service member's nearest blood relative, other than the covered service member's spouse, parent, son or daughter, in the following order of priority:
  - A blood relative who the covered service member has specifically designated in writing as his or her nearest blood relative for purposes of military caregiver leave;
  - Blood relatives who have been granted legal custody of the service member by court decree or statutory provisions,
  - Brothers and sisters,
  - Grandparents,
  - Aunts and uncles, and
  - First cousins.

### **"Serious injury or illness" - current member of the Armed Forces** means:

- An injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.

**“Serious injury or illness” - veteran** (*federal military family leave only*) means:

- An injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and that manifested itself before or after the member became a veteran, **and**
- Is :
  - A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member’s office, grade, rank, or rating; or
  - A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or
  - A physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or
  - An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

## APPENDIX B: HOW TO APPLY FOR FAMILY AND MEDICAL LEAVE ENTITLEMENTS

### 1. What advance notice must I provide?

When the leave is foreseeable (such as an anticipated birth, adoption or surgery), you must notify your Human Resources Office at least **30 days in advance**, using approximate dates if definite ones are not yet available.

When there is no forewarning (such as a major unexpected illness), you must notify your Human Resources Office **as soon as you become aware** that you are to be absent for a family and medical leave-qualifying reason.

If you fail to provide the required notice, your agency may deny your request completely or may delay commencement of the family and medical leave.

### 2. How do I apply for family and medical leave?

You may request family and medical leave either verbally or in writing.

In order for your Human Resources Office to process your request, however, you must complete the **Form FMLA-HR1, "Employee Request for Leave of Absence."** This form is available from the agency Human Resources Office and from the state government website, [ct.gov](http://ct.gov). The completed form must be returned to your Human Resources Office.

After receiving your request, your Human Resources Office will provide you with **Form FMLA-HR2a, "Notice of Eligibility and Rights and Responsibilities"**.

**This form does not constitute an approval of your request;** it simply notifies you whether you meet the eligibility requirements under the state and federal laws. At that time, your Human Resources Office will also notify you what documentation you need to provide in order for it to make a determination regarding your leave request.

### 3. What documentation do I need to submit in support of my request for leave?

You must provide your Human Resources Office with enough information for it to determine whether federal law, state law, and/or state policy cover the leave requested. Failure to provide the needed documentation may result in a disapproval of the leave or a delay in its commencement. The specific documentation required depends on the reason for the leave:

#### Standard Family & Medical Leave

- **Form P-33A-Employee** – Medical certificate to be completed when the leave is for your own illness, including the disability portion of maternity leave, and organ or bone marrow donation.
- **Form P-33B-Caregiver** – Medical certificate to be completed when you request leave to care for a child, spouse, parent, or parent-in-law (*state FMLA only*) with a serious health condition/serious illness.
- You may also be required to produce documentation demonstrating the required relationship between you and your family member.
- In the case of the placement of a foster child, you must provide a letter from the state confirming the placement date (*federal and state FMLA only*).



- In the case of adoption, you must provide a letter from the adoption agency confirming the date of the adoption.

### **Military Family Leave**

- **DOL-WH384** - Certification of Qualifying Exigency for Military Family Leave (*federal and state FMLA*)
- **DOL-WH385** - Certification for Serious Injury or Illness of Current Service member for Military Family Leave (*federal and state FMLA*)
- **DOL-WH385-V** – Certification for Serious Injury or Illness of Veteran for Military Caregiver Leave (*federal FMLA only*)
- You may also be required to produce documentation demonstrating the required relationship between you and the service member.

#### **4. When do I need to submit this documentation?**

You must submit the completed **medical certificate or military family documentation** to your Human Resources Office no later than **fifteen calendar days** after receiving the "Notice of Eligibility and Rights and Responsibilities" (Form FMLA-HR2a) or demonstrate that you made diligent good faith efforts to do so.

You must submit the documentation regarding the **placement of a foster child or adoption** to your Human Resources Office **as soon as practicable** and, in all cases, before the leave commences.

#### **5. What happens if the medical certificate or military family documentation is incomplete or insufficient?**

If the medical certificate or military family documentation is incomplete or insufficient, your Human Resources Office will notify you in writing of the deficiencies and you will have **seven calendar days** to cure the deficiencies. If it is not possible for you to submit a complete and sufficient medical certificate or military family documentation within the seven calendar days, you must demonstrate that you made diligent good faith efforts to do so. **Failure to provide complete and sufficient documentation may lead to the denial of your leave request.**

After receiving your completed medical certificate, your Human Resources Office has the right to authenticate or receive clarification regarding the certificate. If the validity of the medical certification is in doubt, your agency can require a second opinion with a health care provider of its choice at its own expense. If the two opinions conflict, the agency may pay for a third opinion. The third opinion will be final and binding.

The rules for military caregiver leave are slightly different. Your Human Resources Office has the right to authenticate or receive clarification regarding the certificate but second and third opinions are not permitted if the medical provider is from the Department of Defense ("DOD"), the Department of Veterans' Affairs or a DOD Tricare authorized provider.

#### **6. How will I know if my agency has approved my leave request?**

Your Human Resources Office will send you a **Form FMLA-HR2b "Agency Response: Designation Notice,"** which serves as an official notice of how your leave has been designated.

## **7. What do I need to do after my leave has been approved?**

You must follow your agency's standard call-in policies even if you are approved to take family and medical leave.

When you notify your agency that you will be absent, you must specifically state that your absence is connected to your approved family and medical leave. **Calling in "sick" without providing more information is not sufficient notice to trigger the employer's obligation under the family/medical leave act.**

In particular, if you have been approved to take leave on an intermittent basis, **you must explicitly notify your agency each time** that you are absent for a family and medical leave reason.

If you are responsible for entering your own time and attendance coding, your Human Resources Office will provide you with the appropriate CORE-CT codes to use. **(Form FMLA-HR2c "CORE CT Coding").**

## **8. Do I need to notify my agency if I intend to return to work after my leave expires?**

**Yes.** Before you commence your leave, you are required to sign a statement confirming your intent to return to work immediately following the leave. **(Form FMLA-HR3 "Intent to Return to Work").** You must sign this form and return it to your Human Resources Office **before** you commence your leave.

During your leave, you may be required to furnish your agency with periodic reports of your status. Failure to return to work at the end of the leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by the agency. Regardless of the total length of your leave of absence, the portion of the leave that is covered by federal and/or state leave shall not exceed the benefit provided under federal or state law.

## **9. Will I be required to provide a fitness-for-duty report?**

If your case involves your own serious health condition, your agency may require you to produce a fitness-for-duty report on which the physician has certified that you are able to return to work. This requirement protects you, your co-workers and the public from the negative consequences that can result when an individual returns to work before being medically ready to do so.

If your agency requires you to provide a fitness-for-duty report, it will be indicated on the **Form FMLA-HR2b "Agency Response: Designation Notice."** **The fitness-for-duty certification must be provided to your Human Resources Office.** If you are notified of the need for a fitness-for-duty certification, you will not be allowed to return to work without it.

## **10. More Information**

If you have additional questions, please contact your Human Resource Office.

## APPENDIX C: FAMILY AND MEDICAL LEAVE ENTITLEMENTS - FORMS

The following forms are used in administering family and medical leave entitlements:

- **FMLA-HR1**: Employee Request for Leave
- **FMLA-HR2a**: Notice of Eligibility and Rights and Responsibilities
- **FMLA-HR2b**: Designation Notice
- **FMLA-HR2c**: Core-CT Coding Form
- **FMLA-HR3**: Statement of Intent to Return to Work
- **P-33A**: Employee Medical Certification Form
- **P-33B**: Caregiver Medical Certification Form
- **DOL-WH384**: Certification for Qualifying Exigency for Military Family Leave
- **DOL-WH385**: Certification for Serious Injury or Illness of a Current Servicemember for Military Family Leave
- **DOL-WH385-V**: Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (*Federal only*)

