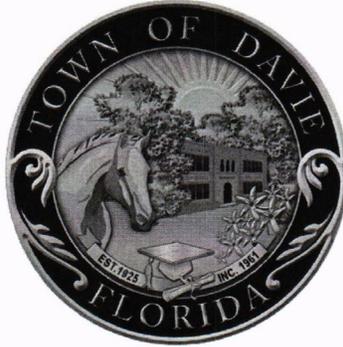


**TOWN OF DAVIE
HUMAN RESOURCES DEPARTMENT**



**FAMILY MEDICAL LEAVE ACT
SOP #23-004**

January 14, 2019

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure shall replace the Personnel Rules and Regulations and Policies enacted prior to the effective date of this Operating Procedure.

Revision	Date	Responsible Department	Description of Change
1	May 18, 2011	Human Resources	Initial Release
2	June 20, 2012	Human Resources	Revision
3	January 14, 2019	Human Resources	Revision

APPROVALS:



Human Resources Director



Date



Town Administrator



Date

1-1. POLICY.

It is the policy of the Town of Davie to establish procedures on family leave and medical leave, and to ensure that all eligible employees are treated fairly under the provisions of the Family Medical Leave Act (FMLA) of 1993.

An employee who has worked with the Town of Davie at least twelve (12) months and who has worked at least 1,250 hours in the last twelve (12) months prior to the beginning date of leave may be entitled to twelve (12) weeks of paid/unpaid leave in any rolling twelve (12) month period under the provisions of the FMLA of 1993.

1-2. SCOPE.

This operating procedure applies to all employees of the Town of Davie (Town) in the Regular Service, as well as all Executive, and Part-Time employees who have worked with the Town of Davie at least twelve (12) months and who have worked at least 1,250 hours in the last twelve (12) months prior to the beginning date of leave.

1-3. DEFINITIONS.

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.

Continuing Treatment. 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 based on one visit to a health care provider and a regimen of continuing treatment, or incapacity due to pregnancy or a chronic condition. Other conditions may meet the definition of continuing treatment.

Spouse. A spouse is a husband or wife, as defined or recognized in the state where the individual was married, and includes individuals in a same-sex marriage or common law marriage. A spouse also includes a husband or wife in a marriage that was validly entered into outside of the U.S., if the marriage could have been entered into in at least one state.

1-4. PROCEDURE.

a. Eligibility for FMLA

1. Regular employees who have worked for the Town of Davie at least twelve (12) months and worked at least 1,250 hours in the last twelve (12) months prior to the
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beginning date of leave may be entitled to twelve (12) weeks of paid/unpaid leave in any rolling twelve (12) month period.

2. FMLA may be granted for the following reasons:
 1. For incapacity due to pregnancy, prenatal medical care or child birth;
 2. To care for the employee's child after birth, or due to a placement for adoption or foster care;
 3. To care for the employee's spouse, child, or parent, who has a serious health condition; or
 4. For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job.
3. Military Family Leave. Eligible employees with a spouse, son or daughter, parent or next of kin on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) week leave entitlement for certain qualifying situations. Qualifying situations include attending certain military events, arranging for alternative childcare, handling certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve (12) month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness, incurred in the line of duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy or the service member is in outpatient status or is on the temporary disability retired list.

4. An employee who takes an extended leave for any FMLA qualifying reason may be deemed by the Town of Davie to be on FMLA for the purpose of calculating time using the rolling twelve (12) months. Failure to complete FMLA paperwork or to receive official notification of leave approval will not automatically disqualify an employee's leave from being considered FMLA. FMLA will also run concurrent to workers' compensation leave when an employee is out for a work related illness or injury
 5. The mother's spouse is entitled to FMLA leave to care for the mother during her prenatal care, when she is incapacitated during pregnancy or following the birth of the child.
- b. Request for FMLA
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1. Request for FMLA, paid or unpaid, shall be submitted in writing on the “Leave Request Form” to the employee’s supervisor and must be approved by the Department Director and Human Resources Director or designee. Documentation qualifying the FMLA leave must be submitted to the Human Resources Department so that approval may be granted.
 1. The request must state the reason(s) for the leave, the duration of the leave, and the starting and ending dates of the leave. Employees must provide thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable. When thirty (30) days notice is not possible, the employee must provide notice as soon as practicable and must comply with the Department’s normal call-in procedures. The Department may place an employee on FMLA when it is known that the employee meets the requirements for FMLA.
 2. Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA 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 Department if the requested leave is for a reason for which FMLA leave was previously taken or certified.
 3. A request for leave based on the serious health condition of the employee or the employee’s spouse, child or parent must be supported by medical certification completed by an approved health care provider. The certification must state the date on which the health condition began, the probable duration of the condition and an estimate of the length of time the employee will need to be away from the workplace. The certification must state that the employee cannot perform the essential functions of his or her job or that their presence is required to care for a family member.
 4. Employees also may be required to provide a certification and periodically a recertification supporting the need for leave. Also, employees may be required to provide a fitness-for-duty medical certification prior to returning to work
 2. Employees must use all of their sick leave, vacation leave and any other applicable Town of Davie leave during the course of the FMLA. When the duration of the leave is known, with approval of the Human Resources Director or designee, vacation, sick time, and other leave may be stretched out over the course of the entire leave in order to cover insurance benefit premiums during the twelve (12) weeks of FMLA. Use of the paid leave (i.e. sick, vacation, etc.) will apply toward the twelve (12) week entitlement and is not in addition to this entitlement.
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3. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to disrupt the Town's operations. Leave due to qualifying situations may also be taken on an intermittent basis.
 4. Leave may be requested on an intermittent basis or on a reduced work week schedule if medically necessary. The employee must provide medical certification within fifteen (15) days of the date requested. The employee must attempt to schedule their intermittent or reduced leave so as not to disrupt the organization's operations. The employee may be required to transfer temporarily to a position with equal pay and benefits that better accommodates recurring periods of leave or a reduced work schedule.
 5. Spouses employed by the Town of Davie are limited to a combined total of 12 workweeks for the birth or placement of a healthy child, care for a healthy child after birth or placement in foster care, or to care for a parent with a serious health condition. Where a spouse uses a portion of his or her leave for a purpose that is subject to the combined 12-week limit, that employee has the remainder of his or her 12 workweeks for any leave that is not subject to the combined limit. Spouses employed by the Town of Davie may also be limited to a combined total of 26 workweeks of leave for the care of a covered service member with a serious injury or illness.
- c. Benefits and Protections
1. Upon returning from FMLA the employee is entitled to return to the same position held when the leave began or to a similar position with equivalent benefits and pay, unless the position would have been eliminated had the employee not been on leave. In such circumstances, the employee may apply for any other vacant position for which they are qualified. Should the leave continue beyond the twelve (12) week period, reinstatement rights are at the discretion of the Town of Davie.
 2. An employee granted FMLA will continue to be covered under the Town's insurance plans under the same conditions and coverage as would have been provided if the employee had been actively employed during the leave period. An employee is not entitled to leave accruals during the period of unpaid leave. The employee will have the option of continuing health care coverage by paying for all or part of health insurance premiums for any period beyond the initial twelve (12) weeks if granted.
- d. Donation of Leave Time
- If any employee has exhausted all accrued leave time and any available rights to a leave bank for leave which meets the eligibility criteria of the Family and Medical Leave Act, a fellow employee may donate accrued leave time to said employee, provided the donating employee retains forty (40) hours of vacation and forty (40) hours of sick leave for his/her own personal use. The donated accrued leave will be converted, on a cash value
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basis, to sick or vacation leave, using the applicable conversion rate, for the employee to whom it is donated on a cash value basis. Donated leave will be used by the employee in the order in which it was donated. Any unused donated leave will be returned to those employees whose donated time was not used. The employee receiving donated leave shall be required to provide appropriate documentation supporting the purpose and duration of said leave. Donated leave will be counted against the employee's twelve (12) weeks of FMLA, if applicable. Because employees using donated leave would otherwise be in an unpaid status, employees using donated leave may not accrue additional paid leave. Employees using donated leave will be required to pay group health insurance premiums if donated leave extends for more than one month beyond paid family and medical leave. Donated annual leave may be used for any leave which meets the eligibility criteria of the FMLA. Donated sick leave may be used only for situations in which the employee could use his/her own sick leave.

For each instance of an employee's need for such leave, an employee may utilize donated leave for up to twelve (12) weeks. In exceptional cases involving an employee who has a very serious illness or injury, the Town Administrator or designee may, in his/her sole discretion, grant extensions for use of donated leave up to six months from the date the employee first began utilizing said donated leave. Additionally, with the approval of the Town Administrator or designee, an employee may use donated leave (subject to the six month year time limitation stated above) in the event an employee's spouse, child or parent suffers a catastrophic illness or injury that requires the employee to be absent from work to care for said spouse, child or parent.

If an employee is receiving employer-provided disability payments or applicable workers' compensation wage loss benefits, donated leave shall only be used as a supplement to provide the ill or injured employee with his/her regular pay. In addition, donated leave may not be used by an employee when light duty was offered by the Town of Davie and refused by the employee.

e. Failure to Return to Work

An employee who fails to return to work on the date specified on the leave request form without receiving an extension in advance is subject to disciplinary action up to and including dismissal.
