

WHITE LAKE TOWNSHIP
FAMILY AND MEDICAL LEAVE ACT POLICY

POLICY:

This addition to the leave of absence policy is incorporated into the existing leave of absence policy pursuant to the implementing regulations for the Family and Medical Leave Act of 1993 (FMLA) (29 C.F.R. 825.301).

This policy is not meant to be all-inclusive and merely highlights the provisions of the FMLA, which are subject to detailed and specific implementing regulations. This policy is not meant to conflict with either the FMLA or its implementing regulations, should there be any inconsistency between this policy, the FMLA or the implementing regulations, the statute and the regulations control.

ELIGIBILITY:

Employees are entitled to up to twelve (12) weeks' unpaid job protected leave for certain family and medical reasons if they have worked for at least one (1) year and for 1,250 hours over the previous twelve (12) months. This is based on a 40-hour work week and would be adjusted depending on the number of hours in the employees' work week.

INTERMITTENT OR REDUCED LEAVE:

An employee may take leave intermittently (sporadic utilization in daily or hourly increments) or on a reduced leave schedule. An employee utilizing FMLA in accordance with this provision may be required to transfer temporally to a position with equivalent pay and benefits that better accommodates recurring periods of leave. An employee may not take intermittent leave following the birth or placement of a child.

REASONS FOR TAKING FMLA LEAVE:

- To care for the employee's child after birth or placement for adoption for state supervised foster care.
- To care for the employee's spouse, son or daughter or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.
- Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty"; or has been notified of an impending call or order active duty in the Armed Forces.

ADVANCE NOTICE AND MEDICAL CERTIFICATION:

The employee is required to provide advance leave notice, and medical certification should FMLA leave be desired by the employee. An FMLA leave may be denied if the notice and certification requirements are not met.

- The employee must ordinarily provide thirty (30) days advance notice when the leave is “foreseeable”.
- If thirty (30) days’ notice is not practical, taking into account all the facts and circumstances in the individual case, then notice must be given within one (1) or two (2) business days of when the need for leave becomes known to the employee.
- Leave requests must be in writing and must set forth the reasons, anticipated duration, and anticipated start of the leave with medical certification attached.
- The Township may require an employee to obtain a second medical opinion at Township expense. If the opinion of the two health care providers differs, the Township may require a third opinion, at Township expense, from a health care provider mutually agreed upon by the employer and employee.
- Medical treatment must be scheduled so as to minimize loss of work time. Appointments scheduled during work hours must have written verification from the provider of the health care service that such provider does not offer appointment hours, which do not conflict with the employees’ shift hours and does not offer Saturday hours.

JOB BENEFITS:

- For the duration of FMLA leave, health insurance coverage will be maintained. Employee contributions will be required through payroll deduction or by direct payment to the Township.
- Because FMLA time is otherwise unpaid, an employee is NOT entitled to seniority or benefit accrual during periods for sick, personal, and vacation time during periods of unpaid leave but will not lose benefits already accrued prior to the start of the leave. Paid time off will only accrue while on FMLA for the first 30 days.
- Employees will be returned to their original or equivalent position upon return from FMLA leave.

- Employees paid time off such as sick days, personal days, and vacation time will be charged for FMLA leave pursuant to the statutory option granted to the employer. Employees will be allowed to reserve 1 week of vacation time while on FMLA. Unpaid FMLA will not be granted until all other paid time off is used except for the reserved 1 week of vacation.
- The reserved 1 week of vacation may be retained while on FMLA and short-term disability. However, if the leave will extend into the next year, the employee may elect to use the reserved vacation prior to being placed on leave, so they don't lose their vacation time. Per the Personnel Policies and Procedures manual, they may only roll over 22.5 hours of vacation, which must be used by March 31st of the new year.
- The FMLA does not require an employee to ask for FMLA leave in order that the employer be permitted to charge paid time off programs if the purpose for the leave is a purpose contemplated by the law.
- FMLA leave will be based on a rolling basis. Ex: 4 weeks used in current year would leave 8 weeks in the next year. FMLA would reset once the employee has exhausted the 12 weeks and once again meets the hours worked requirement in the eligibility section.

ATTENDANCE RULES:

- Absence permitted by the FMLA will not be counted under the attendance policy as absence incidents.

NOTICE OF EMPLOYER EXPECTATIONS AND OBLIGATIONS OF EMPLOYEE:

- Paid and unpaid leave pursuant to the FMLA will be counted against the employee's FMLA entitlement.
- An employee must furnish to the employer medical certification of necessity for the leave within fifteen (15) days of any request for FMLA leave. The forms required are the US Department of Labor Certification of Health Care Provider forms. If the medical certification is found to be incomplete the employee will be provided a reasonable opportunity to cure such deficiency. In the case of foreseeable leave, failure to provide medical certification will cause the leave to be denied until the required certification is provided. When the need for FMLA is not foreseeable, certification must be provided at least fifteen (15) days after the employee gives notice of the need for the leave or as soon as practical under the facts and circumstances requiring the leave. Employees are also required to complete a HIPPA authorization.

- Within five (5) days after the employee requests or the Township learns of the need for FMLA leave, the Township will provide a written notice stating whether the leave has been approved, and how much of the leave will be an FMLA leave. If the leave is not approved, the Township will provide written notice of the reason for denial.
- The Township may designate a leave as FMLA if the employee's leave qualifies as an FMLA Leave. The employee is required to complete the necessary medical certification.
- The employer requires exhaustion of all paid leave prior to taking unpaid leave with the exception of 1 week of vacation.
- If the employee has an obligation to pay part of that employee's health care premiums as of the time of the FMLA leave, the employee must make provisions with the personnel department to continue such payments during the leave.
- Upon return to work, the employee may be required to submit a fitness for duty certificate on the same basis as exists under current return from medical absences.
- If an employee is designated as a "key employee", the employee will be advised at the time an FMLA leave is requested. Upon determination by the employer that substantial and grievous economic injury to the operations of the employer will occur, reinstatement of such key employee may be denied. Adverse effects on health care entitlement may also occur.
- A non-key employee will be reinstated to the same or an equivalent job upon return from leave.
- Should an employee on FMLA leave decide not to return to work, the employer is entitled to recover its share of health plan premium paid by the employer during such a period of FMLA leave subject to certain exceptions.
- The Township will invoke FMLA concurrently with Workers' compensation.