



State of Connecticut  
Department of Developmental Services

**DDS**

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**FAMILY AND MEDICAL  
LEAVE POLICY**

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**Purpose**

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 (FMLA) was enacted by Congress in 1993. Connecticut's statute governing family and medical leaves for public sector employees (C.G.S. 5-248a) was enacted in 1988.

**Eligibility**

To be eligible for *federal* FMLA, employees must have at least 12 months of total 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, PL, administrative – nor unpaid leave. However, overtime hours and military leave do count toward the 1,250-hour requirement.)

To qualify for *state* family/medical leave, employees must have permanent status with the state as defined in C.G.S. 5-196(20).

A state employee may be eligible for:

- *Federal* FMLA only
- State family/medical leave only, or
- Both *federal* FMLA and state family/medical leave.

An employee who is eligible under only one law receives benefits in accordance with that law only. If the leave qualifies for both *federal* FMLA leave and state family/medical leave, the leave may count against an eligible employee's entitlement under both laws and run concurrently. *Federal* FMLA (though not state family/medical leave) may run concurrently with a Workers' Compensation absence.

**Reason for Leave**

The circumstances covered under either the state family/medical leave or *federal* FMLA, or a combination of the acts, are as follows:

- The birth of employee's child or adoption of a child by the employee (*both state and federal*);
- The placement of a foster child with the employee (*federal*);
- The "serious illness"(*state*) or "serious health condition" (*federal*) of a child\*, spouse\*\* or parent; or
- The "serious illness"(*state*) or "serious health condition"(*federal*) of the employee.
- For an employee to serve as an organ or bone marrow donor (*state only*–PA 04-95)

**Amount of Leave**

Under *federal* FMLA, eligible employees are entitled to 12 weeks of paid or unpaid leave in a 12-month period. Under state family/medical leave, employees are entitled to a maximum of twenty-four (24) weeks of unpaid leave within a 2-year period. Where possible, leave time granted under the state's family/medical leave law will run concurrently with *federal* FMLA entitlement.

**Advance Notice and Medical Documentation**

Employees are required to submit a medical certificate to substantiate leave taken for a serious health condition/serious illness. Employees must use the following forms:

- **Form P-33A-Employee** – when the leave is for the employee's own illness.
- **Form P-33B-Caregiver** – when the employee requests leave to care for a child, spouse, or parent with serious health condition/serious illness.

Where the employee has advance notice of the need for the leave (i.e., an anticipated birth, adoption, or surgery); the medical certificate form should be submitted at least 30-days in advance, using approximate dates if definite ones are not yet available. Where there is no forewarning (i.e., major unexpected illness); the medical form should be submitted as soon as the employee becomes aware that he/she is to be absent for an FMLA qualifying reason. Failure to provide the needed documentation may result in a disapproval of the leave or a delay in its commencement.

Employees who request leave under the State's C.G.S. §5-248a are required to sign a statement confirming their intent to return to work immediately following the leave. 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. In no event shall the period of FMLA exceed the benefit provided under federal or state law.

### **Benefit Continuation**

The state will continue the employee's health insurance coverage while the employee is 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. The use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

*\*Under State Family Medical Leave, the term "child" includes a biological, adopted or foster child, stepchild or child of a person standing in "loco parentis" (under age 18 years or 18 or older and incapable of self-care because of a mental or physical disability). It also includes a child of whom a person has legal guardianship or custody. (Effective 10/1/06, Public Act No. 06-102)*

*\*\*The term "spouse" includes civil unions under the State Family Medical Leave effective October 1, 2005 (Public Act 05-10).*

### **Return to work**

At the conclusion of family/medical leave, employees are entitled with limited exceptions to return to the same position or an equivalent position with equivalent pay, benefits and working conditions. In the vast 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 any employee, the agency will require the employee to produce a fitness-for-duty report on which the physician has certified 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.

### **Unlawful Acts**

FMLA makes it unlawful for any employer to:

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

The U.S. Department of Labor is authorized to investigate and resolve complaints of violations regarding the federal FMLA. Complaints regarding state family/medical leave may be directed to the employees Human Resources Director, or the employee's union.

### **More Information**

The document "Understanding Family Medical Leave - ", can be found on the DAS website in the Human Resources – Employees section under "Employee Benefits" or directly from the website address:

[www.das.state.ct.us/HR/FMLA\\_Booklet.pdf](http://www.das.state.ct.us/HR/FMLA_Booklet.pdf)

Employees who have additional questions may also contact their Human Resources office.