


STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

Memorandum

subject: Federal Family Medical Leave and
State Medical Leave Application,
Use and Documentation

date: April 6, 2018

to: All Employees

from: Vicki Arpin 
Agency Human Resources Administrator

PERSONNEL MEMORANDUM NO. 88-5 (REVISED from July 15, 2008)

This memorandum supersedes and replaces Personnel Memorandum 88-5 dated July 15, 2008 “Federal Family Medical Leave and State Medical Leave Application, Use and Documentation”.

DISCUSSION

Both the State and Federal Family and Medical Leave laws provide similar leave benefits to "eligible" employees for the birth or adoption of a child; to care for a child, spouse, and parent, parent-in-law with a serious illness/health condition; for the serious illness / health condition of the employee; for military family leave; or for organ/bone marrow donor leave. Department of Administrative Services [General Letter 39](#) provides detailed descriptions of the statewide application and implementation of FMLA and SEBAC Supplemental Leave.

ELIGIBILITY

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).

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, and personal leave, administrative, etc. – or unpaid leave. However, overtime hours and military leave do count toward the 1,000-hour requirement).

SEBAC Supplemental Leave: One must be a permanent employee with the state as defined in C.G.S. §196(19).

Pregnancy Disability Leave: Under C.G.S. §46a-60(a) (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.

Organ Donor and Bone Marrow Donor Leave: All state employees are eligible.

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.

Accordingly, a state employee may be eligible under more than one leave entitlement.

DOCUMENTATION REQUIREMENTS

- Birth of a child (non-disability leave to care for a newborn child): Birth certificate or other acceptable notice indicating the date of birth. Leave must be concluded within one year following the birth.

- Adoption (both state and federal) or foster care (federal only) of a child: Letter from the adoption/foster-care agency confirming the event and its effective date. Leave must be concluded within one year following the adoption or placement.
- Serious illness/health condition of child, spouse, or parent: Medical Certificate ([Form P-33B](#) Caregiver).
- Serious illness/health condition of employee (including incapacity due to pregnancy): Medical Certificate ([Form P-33A](#) Employee). Medical certificates documenting pregnancy disability leave must indicate the pre-delivery disability period (if applicable), delivery date and postpartum disability period.
- Serious illness/serious health condition of a covered service member. Certification issued by the health care provider of the service member.
- Active duty or call to active duty certification. Documentation that supports the request issued at such time and in such manner as the Secretary of Labor may, by regulation, prescribe.

APPLICATION PROCEDURE:

Notice: Employees who wish to apply for family/medical leave must complete Form [FMLA HR-1](#), “Employee Request for a Family/Medical Leave of Absence (FMLA)”, which is available from the DOT Human Resources Division or on the DOT Intranet under Human Resources Forms. The request should be submitted at least three (3) weeks prior to the need for leave (e.g. anticipated birth, adoption or surgery), allowing time for processing, using approximate dates if definite ones are not available. Where there is no forewarning (e.g. sudden major illness) the request should be submitted as soon as practicable.

The form may be submitted through the unit manager/supervisor or directly to the DOT Human Resources Division. The required medical documentation (see above “Documentation Requirements”) should be submitted directly to the Human Resources Department (for confidentially purposes). Failure to submit a timely request or the required documentation may result in denial of the requested leave or a delay in its commencement.

Upon receipt, the DOT Human Resources Division will review the request and complete the Agency Response/Designation of Leave Form. The response, along with a memo advising use of the appropriate CORE Time Reporting Codes, will be mailed back to the employee with a copy to the unit manager/supervisor. This request and notification procedure does not limit the Department’s ability to designate qualifying leaves as counting towards an employee’s Federal and/or State FMLA entitlements in the absence of a written request from the employee.

Employees who are requesting unpaid leave for other reasons (educational, military, personal, and non-FMLA medical) must continue to use form [PER 147](#), “Request for a Leave of Absence without Pay”, as explained in DOT Personnel Memorandum No. [82-4](#).

USE OF ACCRUED LEAVE

Serious Illness/Health Condition of the Employee (including pregnancy disability) - State and DOT policies require an employee to exhaust accrued sick leave prior to being placed in an unpaid leave status for their own serious illness. Use of accrued sick leave, donated sick time, or benefits received under a sick leave bank are also considered required substitutions for unpaid leave under Federal FMLA as noted above. An employee may also elect to use other accrued leaves (vacation, personal) after sick leave has been exhausted, before going off the payroll.

Sick leave may not be used after the employee has been certified by the attending physician as medically able to return to work. The employee may elect to use accrued vacation and personal leave in place of unpaid leave.

Serious Family Illness - An eligible employee is entitled to use sick leave for a family emergency (“illness in the immediate family” time reporting code SFAM), depending on the specific labor contract provision. After that, an employee may elect to use accrued vacation and/or personal leave in place of unpaid State or Federal FMLA for a qualifying family illness.

Birth, Adoption, or Placement (Federal FMLA only) of a Child - An eligible employee is entitled to use sick leave in connection with the birth or adoption of a child, depending on the specific labor contract provision. After that, an employee may elect to use vacation and personal leave accruals in place of an unpaid FMLA leave. The Federal entitlement period begins at the onset of the absence. The State entitlement period begins after the contractual 3/5/10 days of parental leave are exhausted.

Bonding Leave - an eligible employee is entitled to use vacation, personal and/or compensatory leave. 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.

SEBAC Supplemental – An employee must exhaust all statutory leaves before taking SEBAC Supplemental leave. Depending upon the type of leave, an employee may have also had to exhaust all accrued sick leave.

Organ Donation Leave – An employee who donates an organ to a person for organ transplantation shall be entitled up to fifteen days of paid leave as a recovery period. This leave will not result in reduction in pay, loss of any leave to which the employee is otherwise entitled to or a loss of credit for time or service.

Bone Marrow Donation Leave - An employee who donates bone marrow to a person for organ transplantation shall be entitled up to seven days of paid leave as a recovery period. This leave will not result in reduction in pay, loss of any leave to which the employee is otherwise entitled to or a loss of credit for time or service.

Caregiver Leave for a Service member (NDAA) - An eligible employee is entitled, under the National Defense Authorization Act (NDAA) amendment, to a one-time entitlement of up to 26 weeks in a single 12-month period of unpaid leave to care for a covered service member who is recovering from a serious illness or injury sustained in the line of duty while on active duty. State employees may choose to use their contractual: “illness in the immediate family” (if the service member meets the contractual definition of immediate family member) sick leave entitlement, vacation leave, personal leave, or unpaid leave as is current practice for FML leave under State policy.

Qualifying Exigency (NDAA) - An eligible employee is entitled to up to 12 weeks of unpaid leave resulting from any “qualifying exigency” (urgency) arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty, or has been notified of an impending call to duty in the Armed Forces in support of a “contingency operation.” State employees may choose to use their vacation leave, personal leave, or unpaid leave.

Notice to the Agency of the need for leave under the Qualifying Exigency provision of NDAA must be reasonable and practicable. This provision will become effective upon issuance of the Federal DOL regulations; however the State will act reasonable in affording such leave in the interim.

ATTENDANCE CODING – After Agency Response Approving FML has been issued.

Unpaid Leave: All unpaid State or Federal FML should be coded to one of the various unpaid FML Time Reporting Codes**. A Notice of Change in Payroll ([Form PER 5](#)) must be submitted to the DOT Human Resources Division when the unpaid leave exceeds five consecutive days.

Note: Only a holiday occurring when an employee is on paid sick leave counts as a holiday and is not charged as sick leave.

Paid Leave: All paid leaves substituted for unpaid Federal FML and or State Medical Leave (Sick Leave, Sick Leave Bank, Donated Leave, Advance and Extended Leave, Holiday, Vacation, Personal, Illness in Immediate Family, Parental) should be coded to the respective applicable [FML Time Reporting Code](#)**. It will be necessary to use more than one Time Reporting Code (TRC) for the same leave period if not all of the leave taken during the pay period was designated as FML, as in the case of back to back illnesses, one illness qualifying under FML the other not qualifying or when using multiple accrual types (as noted above).

Reminder: Due to confidentiality issues employees/supervisors should never disclose an employee's personal medical information in conversations or in the comments section on the time sheet. Timesheet comments should be general and note "FML self (medical condition A, B if applicable), or FML spouse, child, service member, etc."

The FMLA legislation and regulations are very complex and difficult to administer. We encourage employees and their supervisors to contact the DOT Human Resources Division in Newington or your District Principal Human Resources Specialist for guidance in making FMLA-related decisions.

**Supervisors (or their designated representatives) should contact the Newington Human Resources FML Representative to obtain the appropriate paid/unpaid FML code when in doubt.