

FMLA/VPFL Protections

The Federal Family and Medical Leave Act ("FMLA") and/or Vermont Parental and Family Leave Law ("VPFL") requires *covered* employers to provide up to 12 weeks of unpaid, job-protected leave in any rolling 12-month period to "eligible employees" for the following reasons:

- (1) for the birth of an employee's child and to care for the newborn (leave must conclude within 12 months of birth);
- (2) for placement of a child with an employee for adoption or foster care (leave must conclude within 12 months of placement);
- (3) to care for the employee's spouse or civil union partner, child, step child, ward who lives with the employee, foster child, parent or parent of the employee's spouse with a "serious health condition" (certification required); or
- (4) for an employee's "serious health condition" (certification required) which renders the employee unable to work.

The FMLA further provides eligible employees the following military family leave entitlements:

- (1) Qualifying Exigency Leave: provides up to 12 weeks of unpaid, job-protected leave in any rolling 12-month period for any "qualifying exigency" (certification required) arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent; or
- (2) Military Caregiver Leave: provides up to 26 weeks of unpaid, job-protected leave in a "single 12-month period" to care for a "covered servicemember" with a serious injury or illness (certification required).

In addition to the leaves outlined above, employees eligible for VPFL are entitled to short-term family leave of up to 4 hours in any 30 day period (but not more than 24 hours in any 12 month period) of unpaid leave. More than 4 hours may be permitted in any 30 day period provided such is consistent with the District's paid leave policies.

During the period of approved FMLA/VPFL, the employee's insurance benefits must be maintained under the same conditions as if s/he continued to work. Upon return from approved FMLA/VPFL, the employee must be reinstated to the same or an equivalent job with the same status, pay, benefits, and terms and conditions of employment, except in the following circumstance: The employee's job terminated or s/he would have been laid off for reasons unrelated to the leave.

Eligibility

An FMLA "eligible employee" is an employee of a *covered* employer who: (1) Has been employed by the district for at least 12 months, and (2) Has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. A VPFL "eligible employee" is an employee of a *covered* employer who: (1) Has been employed by the district for at least 12 months, and (2) Has worked at least 1,560 hours during the 12-month period immediately preceding the commencement of the leave.

Definitions

A "serious health condition" means an illness, injury, impairment or physical or mental condition that:

1. Poses imminent danger of death; or
2. Requires inpatient care in a hospital, hospice, or residential-medical care facility; or
3. Requires continuing in-home care under the direction of a physician; or
4. Requires continuing treatment by or under the supervision of a health care provider in one of the following five circumstances:
 - a. For a period of incapacity of more than 3 consecutive calendar days that also involves:
 - i. treatment two or more times by or under the supervision of a health care provider (the two visits must occur within 30 days of the period of initial incapacity except in extenuating circumstances); or
 - ii. treatment by a health care provider on at least one occasion resulting in a regimen of continuing treatment under the supervision of the health care provider (the first visit must occur within 7 days of the initial incapacity);
 - b. Any period of incapacity due to pregnancy or for prenatal care;

- c. Any period of incapacity or treatment due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits (at least two per year) for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; and
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy).
- d. A permanent or long-term period of incapacity for which treatment may not be effective (e.g. stroke, Alzheimer's);
- e. Any period of absence to receive multiple treatments (e.g. chemotherapy, physical therapy, kidney dialysis);

A "qualifying exigency" must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities and 8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

A "covered servicemember" 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 on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Notice Requirements

If the requested FMLA/VPFL leave is foreseeable in advance, the employee must provide written notice to Human Resources at least thirty (30) days before the leave is to begin (or within one business day of becoming aware of the need for leave if 30 days is not possible). An Employee Request for Family, Medical or Military Family Leave has been created for this purpose and can be found on our website at www.ccsuvt.org (under Forms/Policies). If the employee does not provide acceptable and timely notice for a foreseeable leave with no reasonable excuse, the District may delay the taking of leave up to thirty days after the time the employee gives notice. If the leave is not foreseeable in advance (e.g. emergency situations), notice must be given (i.e. verbally, electronically, or in writing) the same day or next business day of when the employee first becomes aware of the need for leave.

Once a request for FMLA/VPFL is received, Human Resources shall inform employees requesting leave whether they are eligible under FMLA/VPFL. If they are, the notice shall specify any additional information required as well as the employees' rights and responsibilities. If the employee is not eligible, the notice shall provide a reason for the ineligibility. Human Resources shall also inform employees if leave will be designated as FMLA/VPFL-protected and the amount of leave counted against the employee's leave entitlement. If it is determined that the leave is not FMLA/VPFL-protected, the employee shall be so notified.

Additional Information

For additional information, limitations, and requirements, please refer to the Family/Parental and Medical Leave Policy (File Code: GCBDB) which can be accessed on-line at www.ccsuvt.org, or visit our website at <http://www.ccsuvt.org/ccsu/hr/bc/leaves.php#FMLA>. If you have further questions, please contact Human Resources at 879-5584.