

## **Leave of Absence (Policy Number: B-120)**

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### **INTRODUCTION**

Employees may need time away from work for specified family and medical reasons. Therefore, the Company has established guidelines and procedures for an employee leave of absence in compliance with applicable federal, state, and local laws. The types of absences described in this Policy are collectively referred to as “Leave of Absence.”

### **POLICY**

#### ***A. FAMILY AND MEDICAL LEAVE ACT (FMLA)***

##### **Eligibility**

Employees are eligible for FMLA leave if they have worked for the Company for at least 12 months (not necessarily consecutive) within the prior seven (years) and have worked at least 1,250 hours in the 12-month period immediately preceding the leave.

##### **Reasons and Amount of FMLA Leave**

Employees may take 12 weeks of unpaid FMLA leave in a 12-month period for the following reasons:

- Birth of a child and to care for the newborn child within one year of birth;
- Placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one year of placement. Leave taken for this reason may not be taken intermittently and must be used as continuous leave;
- To care for the employee's spouse, parent or child with a serious health condition (a child must be under the age of 18 or incapable of self-care because of a mental or physical disability); and
- To care for the employee's own serious health condition that renders the employee unable to perform the essential function of his or her job.

**Serious Health Condition:** An illness, injury, impairment, or physical or mental condition that involves any of the following:

- Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any treatment in connection with such inpatient care;
- Any period of incapacity lasting more than three consecutive, full-calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves: (i) two or more treatments by a health-care provider within 30 days of the first

- day of incapacity, unless extenuating circumstances exist; or (ii) treatment by a health care provider on at least one occasion, which results in a regime of continuing treatment under the supervision of the health care provider;
- Any period of incapacity due to pregnancy or for prenatal care;
  - Any period of incapacity or treatment due to a chronic health condition that requires periodic visits (defined as at least twice per year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
  - Any period of incapacity for a condition that is permanent or long-term for which treatment may not be effective and the employee or family member is under the continuing supervision of (but need not be receiving active treatment by) a health care provider; and
  - Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on a referral by, a health care provider, for restorative surgery after an accident or other injury; or for a condition that would result in incapacity of more than three consecutive, full calendar days if left untreated.

FMLA for a Qualifying Exigency: A qualifying exigency may arise when the employee's spouse, son, daughter, or parent who is a member of any branch of the military (including the National Guard or Reserves) is on covered active duty or has been notified of an impending call or order to covered active duty. Covered active duty for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country. Covered active duty for members of the reserve components of the Armed Forces (U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country in a contingency operation. Qualifying exigencies may include, among other things, attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. Eligible employees may take up to 12 weeks of unpaid leave for a qualifying exigency.

FMLA Military Caregiver Leave: Eligible employees may also take FMLA leave for up to 26 weeks during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin.

### **Methods for Granting FMLA**

1. Intermittent or Reduced Leave: FMLA leave may be taken intermittently or on a set, reduced leave schedule, except when the reason for leave is for the birth, bonding, adoption, or placement of a child. Intermittent leave may be taken in increments of no less than one half hour.

When an employee takes leave on a reduced work schedule or intermittent basis that is foreseeable, the Company may temporarily transfer the employee to an available alternative position with equivalent pay and benefits if the alternative position better accommodates the recurring periods of medical leave.

When intermittent leave is needed for planned medical treatment or appointments, the employee must make a reasonable effort to schedule the treatment or appointment so as not to unduly disrupt the Company's business operations.

2. Continuous FMLA: Employees may take leave by being out of work for a continuous period.

Parents who are eligible for FMLA leave and are both employed by the Company are limited to a combined total of 12 weeks of leave during any 12 month period if the leave is taken for the birth, bonding, adoption, or placement of a child.

### **Calculating the Amount of FMLA Leave Available**

The Company will measure the amount of leave available, other than Military Caregiver Leave, using the twelve (12) month period measured forward from the date the employee's first date of FMLA leave was taken. The 26-week leave period for Military Caregiver Leave shall only be available during a single 12-month period, which shall be based on the 12 months measured forward from the date the employee's first date of FMLA leave was taken.

### **Compensation While on FMLA**

- FMLA leave is generally unpaid.
- Employees may elect, but are not required, to use available PTO while on an approved FMLA leave.
- Employees on FMLA leave for their own serious health condition may also seek benefits under the Company's Short Term Disability (STD) or Long Term Disability (LTD) programs.
- Depending upon work location, statutory disability insurance programs may be available to employees.
- During FMLA leave, employees may receive holiday pay while on a continuous Leave of Absence. This will apply in instances when an employee is not receiving any other type of compensation (includes, but is not limited to STD, LTD, Workers Compensation, or paid family leave benefits) during a Company designated holiday. Holiday pay will not be processed during a Leave of Absence that is not FMLA protected.

### **Continuance of Healthcare Benefits While on FMLA**

- During an FMLA leave, the Company will maintain the Healthcare benefits for the employee and covered dependents as if the employee had not been on leave. If FMLA leave runs concurrently with a paid leave, the Company will deduct the employee's portion of the health and welfare plan benefit premiums as a regular payroll deduction. If the leave is unpaid, an employee must arrange for the payment of the employee's share of the required premiums during FMLA leave.
- Employees have a minimum grace period of 30 days in which to make such payments. If payment is not made in a timely manner, the employee's Healthcare benefits may be cancelled upon 15 days' notice before the date on which coverage will lapse. At the Company's discretion, it may pay the employee's share of the premiums during FMLA

leave, and recover such payments from the employee upon the employee's return to work.

- PTO does not accrue during an approved FMLA leave.

### **Requesting FMLA Leave**

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the Company as soon as practicable. The Company uses a Leave Administrator to process requests for FMLA leave. Employees should contact Human Resources or the Leave Administrator to request FMLA leave. The Leave Administrator will request information from the employee necessary to determine if the employee's need qualifies for FMLA. The Leave Administrator will also provide:

- Additional information concerning the rights and responsibilities of the employee and the Company under FMLA;
- If the leave is qualified and designated as FMLA eligible; and
- The amount of time available to be designated as FMLA leave.

Employees are required to follow the Leave Administrator's processes and procedures for processing requests for and administration of FMLA leave.

### **Returning to Work**

Upon return from FMLA leave, employees are reinstated to the same position or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions, to the extent required by law. Employees have no greater rights to reinstatement or to other benefits and conditions of employment than if they had been continuously employed during the FMLA leave period.

If FMLA leave is the result of the employee's own serious health condition, the employee may be required to provide medical certification that the employee is fit to resume work.

### **Non-interference**

The Company will not interfere with an employee's FMLA rights or retaliate against an employee for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

This policy is applied and interpreted in a manner that is consistent with the FMLA and U.S. Department of Labor regulations pertaining to the FMLA. Employee's rights under this policy will in no case be less than those afforded under the FMLA. Employees seeking enforcement of FMLA rights may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may file a private civil action.

### ***B. MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE***

The Company provides paid family and medical leave benefits to eligible employees in accordance with the Massachusetts Paid Family and Medical Leave Act (PFML) through an approved fully insured private plan. Employees are eligible for PFML paid leave benefits if they

provide services in Massachusetts and otherwise meet the financial eligibility requirements, both as defined by the PFML.

### **Reasons for Paid Leave**

Beginning on January 1, 2021, employees are eligible for paid leave benefits for the following:

- Up to 12 weeks each benefit year to bond with a child within the first 12 months after birth or for adoption/foster care placement. Leave taken for this reason may not be taken intermittently and must be used as a continuous leave;
- Up to 12 weeks each benefit year because of a qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces;
- Up to 20 weeks each benefit year for medical leave for the employee's own serious health condition; and
- Up to 26 weeks each benefit year in order to care for a family member who is a covered service member with a serious injury or illness incurred or aggravated in the line of duty.

Beginning on July 1, 2021, eligible employees are able to take 12 weeks each benefit year of paid medical leave to care for a family member with a serious health condition.

The maximum aggregate amount of PFML leave an employee may take in a given year is 26 weeks.

### **Intermittent PFML Leave**

PFML leave may be taken on an intermittent rather than a continuous basis for certain qualifying reasons. Intermittent leave may be taken in increments of no less than one half hour. Employees taking leave on an intermittent basis must coordinate absences with the Company as to not unduly disrupt the Company's operations.

### **Calculating the Amount of PFML Leave Available**

For purposes of calculating the amount of PFML leave available to an eligible employee, the benefit year shall be defined as the 52 consecutive weeks beginning on the Sunday immediately preceding the first day PFML leave begins for the employee.

### **Weekly Pay Benefit Amount**

The amount of an employee's weekly paid benefit shall be determined based upon formulas required under M.G.L. c. 175M and 458 CMR 2.00. Generally, the amount is based on a percentage of the employee's average weekly wage, capped at 64% of the state's average weekly wage in the benefit year the employee seeks benefits.

There will be a seven calendar day waiting period before benefits are payable for an approved leave. Employees may elect to use available PTO during the seven day waiting period by submitting their request in writing to Human Resources, or their manager or supervisor. PTO shall not be used to supplement PFML benefits, other than during the waiting period.

Employees on PFML leave for their own serious health condition may also seek benefits under the Company's Short Term Disability (STD) or Long Term Disability (LTD) programs.

### **Requesting PFML Leave**

Generally, employees must give 30-days' advance notice of the need for PFML leave. If it is not possible to give 30-days' notice due to circumstances beyond the employee's control, an employee must notify the Company as soon as practicable. The Company uses a Leave Administrator to process requests for PFML leave and benefits. Employees should contact Human Resources or the Leave Administrator to request PFML leave.

The Leave Administrator will request information from the employee necessary to determine if the employee's need for leave qualifies for PFML leave and to determine the appropriate amount of benefits. Employees are required to follow the Leave Administrator's processes and procedures for processing requests for and administration of PFML leave.

The Company reserves the right in its sole discretion to modify or alter this policy to the extent allowed by law and to make all final decisions as to this policy's interpretation and application. This policy will be applied and interpreted in a manner that is consistent with the Massachusetts Paid Family and Medical Leave Act, M.G.L. c. 175M and 458 CMR 2.00. Employee's rights under this policy will in no case be less than those given under the Act.

### **Other Leave**

PFML leave shall run concurrently with leave taken under other applicable state and federal leave laws, such as FMLA leave and parental leave, when the leave is taken for the same qualifying reason under those laws.

### **Returning to Work**

Generally, upon return from PFML leave, employees are reinstated to their previous position or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions, to the extent required by law. Employees, however, have no greater rights to reinstatement or to other benefits and conditions of employment than if they had been continuously employed during the PFML leave period.

If PFML leave is as a result of the employee's own serious health condition, the employee may be required to provide medical certification that the employee is fit to resume work.

### **Non-interference**

The Company will not interfere with an employee's PFML rights or retaliate against an employee for using or trying to use PFML leave, opposing any practice made unlawful by the PFML, or being involved in any proceeding under or related to the PFML.

This policy will be applied and interpreted in a manner that is consistent the PFML and regulations issued by the Massachusetts Department of Family and Medical Leave. Employee's rights under this policy will in no case be less than those afforded under the PFML and applicable regulations.

### ***C. CALIFORNIA FAMILY RIGHTS ACT AND PREGNANCY DISABILITY LEAVE***

For employees working in California, under the California Family Rights Act, employees are eligible for leave under the Act ("CFRA Leave") if they have more than 12 months of service with

the Company and have worked at least 1,250 hours in the 12-month period before the date the employee wants to begin.

Eligible employees may take 12 weeks of unpaid CFRA leave in a 12-month period for the following reasons:

- The birth, adoption, or foster care placement of a child;
- The employee's own serious health condition; or
- The serious health condition of the employee's child, parent, spouse, domestic partner, sibling, grandparent, or grandchild.

The Company will measure the amount of leave available using the twelve (12) month period measured forward from the date the employee's first date of CFRA leave was taken.

Even if an employee is not eligible for CFRA leave, under California law employees disabled by pregnancy, childbirth, or a related medical condition, may take a pregnancy disability leave of up to four months depending on the employee's period(s) of actual disability.

Generally, employees must give 30-days' advance notice of the need for CFRA leave. If it is not possible to give 30-days' notice, an employee must notify the Company as soon as practicable. The Company uses a Leave Administrator to process requests for CFRA leave. Employees should contact Human Resources or the Leave Administrator to request CFRA leave.

CFRA leave shall run concurrently with leave taken under other applicable state and federal leave laws, such as FMLA leave, when the leave is taken for the same qualifying reason under those laws.

This policy is applied and interpreted in a manner that is consistent the requirements of applicable law. Employee's rights under this policy will in no case be less than those afforded under the law.

#### ***D. FAMILY AND MEDICAL LEAVE IN STATES OTHER THAN MASSACHUSETTS OR CALIFORNIA***

Where applicable state or local law requires family and medical leave, the Company will provide leave and benefits in accordance with applicable law.

#### ***E. PARENTAL LEAVE***

Depending upon work location, employees requesting leave for the birth or adoption of a child may have additional leave protections under relevant state law. Employees who are eligible for both FMLA and state-provided parental leave will take FMLA leave with the state-provided leave running concurrently, not in addition to, where permitted under applicable law. Please contact Human Resources for more information on any applicable state-specific parental leave requirements.

#### ***F. COMPANY-PROVIDED DISABILITY LEAVE OF ABSENCE***

Employees may be eligible for an unpaid medical leave of absence as a reasonable accommodation if they: (i) do not otherwise qualify for leave under FMLA, state, or local leave laws, or other company policies; and (ii) are not capable of performing the essential functions of their position as a result of a physical or mental impairment that substantially limits one or more major life activities.



Whether the leave is granted and the duration of such leave is determined on a case-by-case basis in accordance with the requirements of the Americans with Disabilities Act (ADA) and applicable state and local law. Employees should direct requests for such leave to Human Resources.

#### ***G. WORKERS' COMPENSATION***

If an employee suffers an injury or illness arising out of or in the course of employment, the employee may seek benefits by filing a Workers' Compensation claim. In all cases, the employee and immediate supervisor will be required to complete a Supervisor's Accident Report and submit it to Human Resources for processing.

Although employees may receive compensation and benefits through the Workers' Compensation system, in order to remain out of work, they must otherwise qualify for a leave of absence under company policies or applicable federal, state, or local law.

#### ***H. DOMESTIC VIOLENCE LEAVE***

If an employee or a family member is a victim of abusive behavior (defined as domestic violence, criminal stalking, sexual assault, or kidnapping), the Company provides job-protected leave from work to address such conduct ("Domestic Violence Leave").

An employee is eligible to request Domestic Violence Leave when the employee:

- (i) Is or has a family member who is a victim of abusive behavior
- (ii) Is using the leave from work for a qualifying purpose
- (iii) Is not the perpetrator of the abusive behavior against the employee's family member.

Employees are eligible for request up to 15 days of Domestic Violence Leave in any 12-month period when the leave is used to

- (a) seek or obtain medical attention, counseling, victim services, or legal assistance
- (b) Secure housing
- (c) Obtain a protective order from a court

(d) Appear in court or before a grand jury; (e) meet with a district attorney or other law enforcement official; (f) attend child custody proceedings; or (g) address other issues directly related to the abusive behavior against the employee or family member.

#### **Definitions**

"Abuse" means: (i) attempting to cause or causing physical harm; (ii) placing another in fear of imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations by force, threat or duress or engaging or threatening to engage in sexual activity with a dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; (v) depriving another of medical care, housing, food or other necessities of life; or (vi) restraining the liberty of another.

"Domestic Violence" means abuse against an employee or the employee's family member by: (a) a current or former spouse of the employee or the employee's family member; (b) a person with



whom the employee or the employee's family member shares a child in common; (c) a person who is cohabitating with or has cohabitated with the employee or the employee's family member; (d) a person who is related by blood or marriage to the employee; or (e) a person with whom the employee or employee's family member has or had a dating or engagement relationship.

"Family member" means (a) persons married to one another; (b) persons in a substantive dating or engagement relationship and who reside together; (c) persons having a child in common; (d) a parent, step-parent, child, step-child, sibling, grandparent or grandchild; or (e) persons in a guardianship relationship.

Compensation While on Leave: When an employee has PTO available, he or she must apply any available PTO for Domestic Violence Leave. When PTO is exhausted, the balance of time needed for Domestic Violence Leave (up to 15 days in a 12-month period) will be unpaid.

Upon returning from such leave, employees are entitled to return to their original job or to an equivalent position.

Employee Responsibilities: Except in cases of imminent danger to the employee's health or safety, employees seeking Domestic Violence Leave must provide 30 days' notice where foreseeable. In cases of imminent danger to employees or their family members, the employee must notify the employer within three workdays that Domestic Violence Leave was or is being taken.

Employees must provide documentation evidencing their need for domestic violence leave. Such documents may include a protective order issued by a court, a letter from the court or public agency addressing the abusive behavior, a police report or victim statement, medical documentation of treatment as a result of the abusive behavior, a sworn statement by a counselor, social worker, clergy, shelter worker, health care worker, or legal advocate who assisted the employee in addressing the abusive behavior, or a sworn statement by the employee that he or she or a family member has been a victim of abusive behavior.

Confidentiality of Documents: The Company keeps confidential all information related to the employee's Domestic Violence Leave. The information is not disclosed unless the employee provides written consent, the Company is required to disclose the information by operation of law, or disclosure is necessary to protect the safety of anyone in the workplace.

This policy is applied in a manner that is consistent with applicable federal, state, and local law.

### ***I. SICK LEAVE***

Certain states have enacted Sick Leave or Sick Time laws that allow an employee a specific amount of paid time off for sick leave. Generally, the Company provides sick leave through its Paid Time Off (PTO) policy. Where applicable federal, state or local law requires sick leave in addition to what is provided for under the Company's PTO policy, the Company will comply with applicable law.

### ***J. MASSACHUSETTS SMALL NECESSITIES LEAVE***

The Massachusetts Small Necessities Leave Act (SNLA) provides a total of 24 hours of unpaid leave during a twelve (12) month period for the following reasons:

- to participate in school activities directly related to the education advancement of the employee's son or daughter, such as parent-teacher conferences or interviewing for a new school;
- to accompany the employee's son or daughter to routine medical or dental appointments, such as checkups or vaccinations; and
- to accompany an elderly relative of the employee (i.e., at least 60 years old) to routine medical or dental appointments or appointments for professional services related to the elder's care, such as interviewing at nursing or group homes.

Employees are eligible for SNLA if they work or reside in Massachusetts and like FMLA, the employee has worked for the Company for at least 12 months and has worked at least 1,250 hours in the 12-month period immediately preceding the leave. The amount of SNLA available to an employee will be calculated in the same manner as availability for FMLA leave.

In order to request SNLA leave, employees should contact Human Resources or the Company's Leave Administrator. Employees must provide the Company with at least seven (7) days' notice prior to the beginning of the leave if the leave is foreseeable; notice must be provided as soon as possible if the leave is unforeseeable. Employees are required to use available PTO concurrently while taking SNLA leave.

#### ***K. MILITARY LEAVE***

Employees serving in the military may be eligible for leave in addition to leave provided for herein. Employees should refer to the Company's Military Duty Policy, for additional information on other leaves that are available due to military obligations.

#### ***L. PERSONAL LEAVE***

If an employee has a compelling reason to request an extended leave from the Company for personal reasons that are not covered by any federal, state, or local leave laws, the employee may apply for a personal leave of absence for up to 4 weeks. The employee's request must be made in writing to Human Resources for consideration. Human Resources will discuss the request with the employee's manager. Employees must use all available PTO while on an approved personal leave. The remainder of any such leave will be unpaid. An employee must arrange for the payment of the employee's share of the required premiums for health or other insurance during any unpaid leave.

The Company reserves the right in its sole discretion to modify or alter this policy to the extent permitted by law.