TOWN OF ISLIP OFFICE OF THE SUPERVISOR
Department of Personnel and Labor Relations

TOWN HALL • 655 MAIN STREET • ISLIP, NEW YORK 11751
Phone (631) 224-5520 • Fax (631) 224-5771

DATE: _____

I HAVE RECEIVED FROM THE PERSONNEL DEPARTMENT "FAMILY AND MEDICAL LEAVE" PAPERS ALONG WITH AN EXPLANATION OF BENEFITS.

SIGNED:_____

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THE TOWN OF ISLIP
FAMILY AND MEDICAL LEAVES OF ABSENCE POLICY

Scope:

This policy is applicable to all request for Family and Medical leaves of absences under the Family and Medical Leave Act of 1993 (FMLA). Family and medical leave includes any accrued paid or unpaid leave which Town of Islip requires an employee to use as part of a family leave or medical leave of absence. Any Town policies regarding paid or unpaid leave or contractual leave provisions, whether paid or unpaid, that meet FMLA eligibility definition will count towards and are not in addition to, FMLA leave.

Falsification of records and failure to correct records known to be false (even if true when given) are prohibited. Violation of this provision will result in discipline up to and including termination.

Eligibility:

To be eligible for FMLA benefits, an employee must have worked for the Town of Islip for at least a total of 12 months and at least 1,250 hours over a running 12 month period immediately preceding the commencement of the leave. Anyone out on workers compensation leave for 30 days or more, or out on maternity leave will automatically be placed on FMLA.

Leave Entitlement:

FMLA entitles eligible employees to take up to 12 weeks of paid (vacation, sick, personal and ½ days) or unpaid job-protected leave in a twelve (12) month period for one or more of the following reasons: the birth of a child; the placement of a child for adoption or foster care; the care of an immediate family member (spouse, child or parent) with a serious health condition; or a serious health condition that makes the employee unable to work.

For purposes of this policy, "serious health condition" is an illness, injury, impairment or physical or mental condition that involves:

a. any period of incapacity or treatment in connection with or consequent to inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility;

b. any period of incapacity requiring absence from work, school or other regular daily activities of more than three consecutive calendar days and any subsequent period of incapacity that involves continuing treatment by a health care provider; or

c. continuing treatment by a health care provider for a chronic or serious health condition that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for pregnancy or prenatal care.

For purposes of leave entitlement under this policy, the twelve (12) month period shall be calculated on a rolling basis, i.e. when an employee requests a leave under this policy the Town will determine if the employee has been granted FMLA leave in the period of one (1) year immediately prior to application and the employee may be granted up to the difference between the twelve (12) week maximum and the leave already granted during the prior twelve (12) months.

Procedure:

An employee requesting either a family or medical leave under the FMLA must submit the written leave request, "Request for Family and Medical Leave", to his or her immediate supervisor thirty (30) days before the date the leave is intended to begin. The Town recognizes that unexpected emergencies can arise where it is not possible to provide thirty (30) days' notice of the intended leave. In such situations, employees are expected to provide as much advance notice as is practicable. In some instances, advance notice might not be practicable or possible.

Medical Certification:

In cases where an employee is requesting a medical leave because of the employee's own serious health condition or that of a spouse, child or parent, the Town will require the employee to submit written medical certification, "Certification of Health Care Provider" form issued by the U.S. Department of Labor, verifying the need for the leave. The Town, at its own expense, may require the employee to receive a second opinion from a health care provider designated and approved by the Town. This will not be a health care provider regularly used by the Town. If this opinion conflicts with the first opinion, the Town, again at its own expense, may request a third opinion from a health care provider mutually agreed upon by the Town and the employee. The third opinion will be binding on both parties.

Substitution of Paid and Unpaid Leave:

An employee taking leave pursuant to FMLA will be required to use any paid vacation, personal and/or sick leave accrued prior to the medical leave or additional sick leave (including any half-pay leave) to which he/she is eligible under the terms of the Labor

contract for any of the 12 work weeks of medical leave set forth in this policy. The Town policy for the remainder of the FMLA leave will be unpaid if the employee exhausts his/her accrued paid leave.. The employee will be notified in writing that the vacation time, sick days or additional personal leave, sick leave for which he/she is eligible will be counted towards the twelve weeks of family leave. Paid leave shall be charged to an employee as follows:

1. Sick leave may only be substituted for leave taken for the employee's own serious health condition.

2. Family Leave for yourself - you must use all paid sick, vacation, half pay and personal leave in that order.

3. Family Leave for someone else - you must use your paid vacation and personal leave.

Once the applicable paid leave is exhausted, an employee will be carried in an unpaid status for the remainder of the 12 week paid leave. Such leave will be counted towards an employee's FMLA entitlement.

Intermittent and Reduced Schedule Leave:

FMLA leave time may be taken intermittently (or on a reduced schedule basis) whenever the leave is medically necessary to care for a seriously ill family member, or because the employee is seriously ill or unable to work. Intermittent leave will not be granted after the birth of a healthy child, or placement of a healthy child for adoption or foster care. If the need for intermittent leave is foreseeable, based on planned medical treatment, the employee is responsible for scheduling the treatment in a manner that does not unduly disrupt the Town's operations. Consequently, the employee must consult with the Commissioner or Department Head of his/her Department before scheduling such leave. The Town reserves the right to request that such leave be rescheduled.
When an employee requests intermittent leave or reduced schedule leave, the Town reserves the right to transfer the employee temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule. The position to which the employee is transferred will be equivalent in pay and benefits to the one that the employee held prior to the transfer.

Recertification:

Employees who are on medical leave because of their own serious health condition or to take care of a spouse, child or parent with a serious health condition are required to submit to Personnel every six months a written recertification of the need to remain on the leave. The Town may request recertification on a more frequent basis if:

a. the employee requests an extension of leave; or,
b. changed circumstances occur regarding the illness or injury; or
c. the town receives information that casts doubt upon the continuing validity of the most recent certification; or,
d. when an employee is unable to return to work after exhaustion of medical leave because of the continuation, recurrence or onset of a serious health condition thereby preventing the Town from seeking reimbursement for group health premiums paid on the employee's behalf during a period of unpaid medical leave.

Return to Work Certification:

All employees taking medical leave to care for their own serious health condition may be required to submit to the Town Personnel Department an original copy of a fitness-for-duty certification signed by their health care provider before returning to work, stating that the employee is able to perform the essential functions of his or her position. The Personnel Department will provide a copy of such certification to the employee's Department Head.

Status of Benefits While on Leave:

While an employee is on medical or family leave pursuant to this policy, he/she will continue to be covered under Town's group health, and other insurance plans in effect and so chosen by the employee, so long as the employee continues to pay the employee portion of the premium costs, if any. If paid leave is used for any portion of the family or medical leave, the employee's share of premiums, if any, will be deducted from the leave payments in accordance with the practice applicable to an employee not on leave.

At the time an employee begins unpaid family or medical leave he/she shall receive written instructions detailing the time and manner in which the employee premiums are to be paid. Failure to pay these premiums by the end of the grace period stated in the written instructions shall result in the loss of health, disability, life and other insurance coverage so chosen by the employee.

An employee who fails to return to work for at least 30 calendar days following the expiration of the unpaid family or medical leave shall be required to reimburse the Town for the portion of the health care premiums paid by the Town during the unpaid leave unless the employee can establish that the failure to return was due to the continuation, recurrence or onset of a serious health condition which meets the criteria for leave under this policy or was due to other circumstances beyond the employee's control.

Restoration of Benefits and Position at the Conclusion of Leave:

The employee on family or medical leave is not entitled to the accrual of any seniority or employment benefits during any period of leave except as expressly stated herein or as provided by law. At the conclusion of an employee's medical or family leave, the employee will be returned to the position that the employee held prior to taking the leave. If that position is not available, the employee will be placed in a position that is equivalent in pay, conditions and other terms of employment as the employee's prior position. When the employee returns to active work following the family or medical leave, any benefits which have lapsed during the leave shall be reinstated as if the employee had remained actively employed during the leave except that the employee shall not accrue any additional benefits or seniority during the time of the leave (e.g., no accrual of more vacation time or sick days while on leave of absence). The number of calendar days taken as unpaid leave will be added to the employment anniversary date for purposes of calculating seniority, pay increases and other employment policies of the Town.

Key Employees:

A key employee is a salaried, eligible employee who is among the highest paid ten percent of employees of the Town. Subject to limitation of contract and/or state law, Town of Islip may refuse to reinstate key employees after using FMLA leave if it determines that substantial and grievous economic injury would result from reinstatement. If this determination is made, the employee will be notified in writing and given an opportunity to end the leave and return to work. If the employee remains on leave, he or she will not have a right to be restored to employment. 1

Continuation of Leave:

An employee who wishes to take more leave than provided by this policy must take leave pursuant to another Town of Islip leave policy, if any. The reinstatement of an employee, and the employee's right to continue group health coverage by only paying the employee's portion of the premiums (and any other benefit rights listed in this policy) are, however, protected only for the 12 work weeks of family and medical leave, unless otherwise provided by contract, policy or state law.

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1 The Employer must decide on an individual basis which employees are considered key employees according to the criteria outlined above.