Understanding the Connecticut Paid Leave Program

December 4, 2020
12:00 p.m. – 1:00 p.m.

CT Bar Association
Webinar

CT Bar Institute, Inc.
CT: 1.0 CLE Credit (General)

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LAWYERS’ PRINCIPLES OF PROFESSIONALISM

As a lawyer, I have dedicated myself to making our system of justice work fairly and efficiently for all. I am an officer of this Court and recognize the obligation I have to advance the rule of law and preserve and foster the integrity of the legal system. To this end, I commit myself not only to observe the Connecticut Rules of Professional Conduct, but also conduct myself in accordance with the following Principles of Professionalism when dealing with my clients, opposing parties, fellow counsel, self-represented parties, the Courts, and the general public.

Civility:

Civility and courtesy are the hallmarks of professionalism. As such,

- I will be courteous, polite, respectful, and civil, both in oral and in written communications;
- I will refrain from using litigation or any other legal procedure to harass an opposing party;
- I will not impute improper motives to my adversary unless clearly justified by the facts and essential to resolution of the issue;
- I will treat the representation of a client as the client’s transaction or dispute and not as a dispute with my adversary;
- I will respond to all communications timely and respectfully and allow my adversary a reasonable time to respond;
- I will avoid making groundless objections in the discovery process and work cooperatively to resolve those that are asserted with merit;
- I will agree to reasonable requests for extensions of time and for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
- I will try to consult with my adversary before scheduling depositions, meetings, or hearings, and I will cooperate with her when schedule changes are requested;
- When scheduled meetings, hearings, or depositions have to be canceled, I will notify my adversary and, if appropriate, the Court (or other tribunal) as early as possible and enlist their involvement in rescheduling; and
- I will not serve motions and pleadings at such time or in such manner as will unfairly limit the other party’s opportunity to respond.

Honesty:

Honesty and truthfulness are critical to the integrity of the legal profession – they are core values that must be observed at all times and they go hand in hand with my fiduciary duty. As such,

- I will not knowingly make untrue statements of fact or of law to my client, adversary or the Court;
- I will honor my word;
- I will not maintain or assist in maintaining any cause of action or advancing any position that is false or unlawful;
I will withdraw voluntarily claims, defenses, or arguments when it becomes apparent that they do not have merit or are superfluous;
I will not file frivolous motions or advance frivolous positions;
When engaged in a transaction, I will make sure all involved are aware of changes I make to documents and not conceal changes.

**Competency:**

Having the necessary ability, knowledge, and skill to effectively advise and advocate for a client’s interests is critical to the lawyer’s function in their community. As such,

- I will keep myself current in the areas in which I practice, and, will associate with, or refer my client to, counsel knowledgeable in another field of practice when necessary;
- I will maintain proficiency in those technological advances that are necessary for me to competently represent my clients.
- I will seek mentoring and guidance throughout my career in order to ensure that I act with diligence and competency.

**Responsibility:**

I recognize that my client’s interests and the administration of justice in general are best served when I work responsibly, effectively, and cooperatively with those with whom I interact. As such,

- Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court (or other tribunal) and my adversary of any likely problem;
- I will make every effort to agree with my adversary, as early as possible, on a voluntary exchange of information and on a plan for discovery;
- I will attempt to resolve, by agreement, my objections to matters contained in my opponent’s pleadings and discovery requests;
- I will be punctual in attending Court hearings, conferences, meetings, and depositions;
- I will refrain from excessive and abusive discovery, and I will comply with all reasonable discovery requests;
- In civil matters, I will stipulate to facts as to which there is no genuine dispute;
- I will refrain from causing unreasonable delays;
- Where consistent with my client’s interests, I will communicate with my adversary in an effort to avoid needless controversial litigation and to resolve litigation that has actually commenced;
- While I must consider my client’s decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation.
Mentoring:
I owe a duty to the legal profession to counsel less experienced lawyers on the practice of the law and these Principles, and to seek mentoring myself. As such:

- I will exemplify through my behavior and teach through my words the importance of collegiality and ethical and civil behavior;
- I will emphasize the importance of providing clients with a high standard of representation through competency and the exercise of sound judgment;
- I will stress the role of our profession as a public service, to building and fostering the rule of law;
- I will welcome requests for guidance and advice.

Honor:
I recognize the honor of the legal profession and will always act in a manner consistent with the respect, courtesy, and weight that it deserves. As such,

- I will be guided by what is best for my client and the interests of justice, not what advances my own financial interests;
- I will be a vigorous and zealous advocate on behalf of my client, but I recognize that, as an officer of the Court, excessive zeal may be detrimental to the interests of a properly functioning system of justice;
- I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;
- I will, as a member of a self-regulating profession, report violations of the Rules of Professional Conduct as required by those rules;
- I will protect the image of the legal profession in my daily activities and in the ways I communicate with the public;
- I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance; and
- I will support and advocate for fair and equal treatment under the law for all persons, regardless of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, gender identity, gender expression or marital status, sexual orientation, or creed and will always conduct myself in such a way as to promote equality and justice for all.

Nothing in these Principles shall supersede, supplement, or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which a lawyer’s conduct might be judged, or become a basis for the imposition of any civil, criminal, or professional liability.
About Your Presenter

Prior to this appointment, served as president and CEO of HARC, Inc — a large not-for-profit provider of services for people with intellectual and related disabilities and families. Also served as the organization’s vice president of administration and in-house counsel.

Prior to joining Harc, Inc., served as the director of program operations at Lawyers for Children America, Inc., and in the insurance industry at Chubb.

Appointed positions:
• Immediate Past President of the Connecticut Bar Foundation
• Former Board chair of Village for Families and Children
• Former Board member of Connecticut Community Nonprofit Alliance
• Current Vice-Chair, Board of the YWCA, Hartford Region
• Board Member of Leadership Greater Hartford

Recognitions include:
• Hartford Business Journal’s ‘Forty Under Forty, and Five New Leaders to Watch’
• 100 Women of Color - Class of 2020

Education:
• Bachelor of Arts, English, Rutgers University
• Juris Doctor, New York Law School

Andrea Barton Reeves, Inaugural CEO of the Paid Family and Medical Leave Insurance Authority (PFMLIA)

The Authority’s Board of Directors consist of 15 members, including designees of the State Treasurer, State Comptroller, and several state agency commissioners, and appointees of legislative leaders and the Governor.
Prior to joining the Paid Leave Authority, worked at the Department of Administrative Services for 14 years, most recently directing the agency’s legislative and general legal functions.

Trusted advisor to seven Commissioners of the Department of Administrative Services

Over 20 years experience in handling discrimination claims before the Connecticut Commission on Human Rights and Opportunities (CHRO) and the state and federal courts as well as other employment-related causes of action, such as wrongful discharge, breach of non-solicitation agreements, and defamation.

Co-authored the Family and Medical Leave Entitlements Manual, an extensive and detailed guide to understanding and administering federal and state family and medical leave laws.

Frequent presenter of management training and sexual harassment prevention workshops.

Recognized expert in employment-related issues in State of Connecticut governmental agencies

College of the Holy Cross, B.A. in cursu honoris cum laude

Columbia Law School – Harlan Fiske Stone Scholar
About the CT Paid Leave Authority
The CT Paid Leave Authority serves a growing need in providing financial relief to Connecticut families, allowing individuals to care for a loved one or themselves without having to worry about lost income.

OUR MISSION

• To provide Connecticut's workforce pathways to accessible paid family leave benefits; and

• To empower employers, administrators and healthcare providers by offering helpful tools for understanding their vital roles and provide support to navigate our program.
Responsibilities of the CT Paid Leave Authority

Outreach & Engagement
- Develop the policies and procedures needed to run the CT Paid Leave Program
- Establish the contribution rate & receive contributions
- Approve and audit private plans
- Administer claims for paid leave benefits
ctpaidleave.org is launched; the website for the Paid Family and Medical Leave Authority

**Key Dates**

- **September 4, 2020**
  - Employer registration begins; Sole proprietors and self-employed may also register.

- **November 23, 2020**
  - Employers begin deducting contributions from employee wages (1/2 of one percent); Sole proprietors and self-employed may also make contributions.

- **January 1, 2021**
  - Employees, sole proprietors and self-employed individuals can submit applications; begin receiving benefits for qualifying life events.

- **January 1, 2022**
Eligibility & Qualifying Reasons for Leave
Qualifying Reasons for Leave

• Create or expand your family: the birth of a child, or placement of a child with your family for adoption or foster care

• Care for your own serious health condition

• Care for a family member with a serious health condition

• Serve as an organ or bone marrow donor

• Pregnancy, up to 14 weeks of leave due to incapacity during pregnancy

• Special leave to care for a family member in the military

• Qualifying Exigency leave for when a family member is called to overseas active duty

• Family violence leave
Connecticut Paid Leave Eligibility

**Who is covered?**

- Employers of one or more people
- Sole proprietors*
- Self-employed individuals*

**Who is not covered?**

- Federal government
- Employees of the State of Connecticut, except for "covered public employees" as defined by the statute
- Municipalities, unless they have “covered public employees”
- Local or regional boards of education, unless they have "covered public employees"
- Non-public elementary or secondary schools

*Sole proprietors and self-employed individuals must stay in the plan for a minimum of three years.*
## Eligibility and Duration of Paid Leave Benefits

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<thead>
<tr>
<th>Eligibility</th>
<th>Duration</th>
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<tbody>
<tr>
<td>Earned at least $2,325 in the highest earning quarter of the first 4 of the past 5 quarters (from one or more employers) AND</td>
<td>Up to 12 weeks in a 12-month period for all leave reasons including military caregiver leave except:</td>
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<tr>
<td>Currently employed and working in CT OR</td>
<td></td>
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<tr>
<td>Employed and working in CT during the past 12 weeks OR</td>
<td>Up to 12 days per calendar year for family violence leave</td>
</tr>
<tr>
<td>Self-employed or sole proprietor who opted to participate in the plan</td>
<td>An additional 2 weeks of leave for incapacity due to pregnancy</td>
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**Decision-Matrix When Employee Requests Leave**

*Every time* an employee asks for time off from work for a potentially FMLA-qualifying reason, the employer must conduct the following analysis:

- Is the employee eligible for job-protected leave under one or more statutes?
- Is the employee eligible for any income replacement while on leave?

**Both** questions must be addressed every time.
Eligibility for Job-Protected Leave

- An employee can be eligible for:
  - Federal FMLA only
  - State FMLA only
  - Both Federal and State FMLA (running concurrently)
  - Neither Federal nor State FMLA but job-protected leave as a reasonable accommodation
  - No job-protected leave at all
Eligibility for Job-Protected Leave Under State Leave Effective 1/1/2022

- The employer has 1+ employees
- The employee has worked for the employer for at least 3 months
- The reason for leave is covered by state FMLA
- The employee has not already used the entire leave entitlement (12 weeks in a 12-month period), with 2 additional weeks for pregnancy-related disability

- Also consider whether the employee eligible for other job-protected leave (ADA, CFEPA, PDA)
Consider other types of Job-Protected Leave

- Is the employee eligible for federal FMLA leave?
  - The employer has 50+ employees
  - The employee has worked for the employer for at least 1 year and for at least 1250 hours in the 12 months immediately preceding leave
  - The reason for leave is covered by federal FMLA
  - The employee has not already used the entire leave entitlement (12 weeks in a 12-month period)

- Is the employee eligible for other job-protected leave (ADA, CFEP, PDA)?
- Workers' Compensation (cannot be collected while receiving paid leave benefits in 2022)
Eligibility for Job-Protected Leave

Important things Employers need to know:

- The employer notifies the employee whether they qualify for leave and if they can use their accrued time to cover the leave.

- The employer notifies the employee whether he/she will be required to use some of their leave accruals. Remember – as of 1/1/2022, an employee is entitled to keep up to two weeks of their accrued vacation time.

- Informs the employee that he/she may wish to contact the Paid Leave Authority to apply for paid leave benefits.*

- An employee may be eligible to receive benefits from the Paid Leave Authority even if the employee is not eligible for job-protected leave.

*If the employer has a Paid Leave Authority-approved private plan, then the employer must determine if the employee is eligible for benefits under that plan.
• An employee can receive paid leave benefits from the CT Paid Leave Authority concurrently with employer-provided income replacement provided that the total amount does not exceed 100% of the employee’s regular wages.

• An employer can require an employee to utilize employer provided paid time off while taking federal or state FMLA leave; however, the employer must allow the employee to retain at least two weeks of vacation accruals (or equivalent PTO).

• Generally, short-term and long-term disability insurance policies dictate that state-provided paid leave benefits must be utilized before an employee can qualify for benefits under the STD or LTD policies.
Integrating CT Paid Leave Law with Current Benefits

• Employers can still offer short-term disability, long-term disability, current health care and other benefits.

• Employees may choose or the employer may require the employee to use accrued paid vacation leave, personal leave or family leave for any part of the 12 to 14 weeks of leave.
### Spouses who work for the same employer

| Under federal FMLA | The spouses are required to share their 12-week job-protected leave entitlement if the reason for leave is:  
|                   | • To bond with a newborn child/newly adopted child/newly placed foster child or  
|                   | • To care for a parent with a serious health condition |
| Under state FMLA  | The spouses are required to share their 12-week job-protected leave entitlement if the reason for leave is:  
|                   | • To bond with a newborn child/newly adopted child/newly placed foster child or  
|                   | • To care for a family member with a serious health condition |
| Under CTPL Law    | The spouses are **NOT** required to share their 12-week paid leave benefit entitlement for any reason |
The Private Plan Option...

- Must offer the same or better benefits as the public plan
- Cannot cost employees more than the public plan contribution -- must be limited to one-half of one percent
- Must demonstrate the ability to administer claims and benefits
- Must hold a vote to seek employee approval of the private plan option – must be a majority vote of all eligible employees who work in Connecticut
- The CT Paid Leave Authority must approve the plan
Private Plans offered through an Insurer

Attest
- Register with the CTPL and include your organization's intent to offer a private plan.
- When notified by email, return to the CTPL website to enter your plan and proof of voting; also affirm that your Plan complies with all CTPL requirements.
- The Employer must have sufficient resources to provide adequate benefits.

Obtain
- An approved Declaration Document from your insurer; AND
- Create a "plain language guide" for distribution to your employees, using the template provided by CTPL.

Provide
- For the vote, provide your employees a copy of the plain language guide and the Declaration Document.
- After the vote, provide the CTPL with three things: (1) proof of majority vote approval by total employees working in CT (50%+1); (2) a copy of the Declaration; and (3) a copy of the plain language guide.
## Self-Insured Plans

### Attest
- Through the CTPL registration portal, the employer notes its intent to offer a private plan through self-insured coverage
- Plan must comply with all CTPL requirements
- Employer must demonstrate that it has sufficient resources to pay benefits to eligible employees

### Prepare
- Self-Insurance Declaration Document from CTPL (found on the CT Paid Leave and the Department of Administrative Services sites)
- The "plain language guide" for employees

### Provide
- Upload to the CTPL website:
  - Surety Bond running to CTPL Trust Fund equal to yearly contributions
  - The final plain language guide offered to all employees
- Proof of majority vote approval by all employees working in Connecticut - **total** employees (50% + 1)
CTPaidLeave.org launched on September 4, 2020
Timeline

Registration: Begins on November 23, 2020

Payments: Due last day of month following end of the quarter

Applications for benefits start in Fall/Winter 2021

Benefits: Available starting 1/1/2022
Getting Started

Prep
Create an account with business.ct.gov

Setup
Register your business with CT Paid Leave
Step 1

Enter Your Contact Information
Step 2

Register Your Account
Step 3

Provide Additional Business Information
Step 4

Add Additional Users
You’re All Set!

Receive Your Confirmation and Registration Number
CT Paid Leave Information Resources

Employee Rights Poster – Color
Employee Rights Poster – B&W

Employee Rack Card – Color
Employee Rack card – B&W

Employer Toolkit

Employee Fact Sheet

Paycheck Mailer – Color
Paycheck Mailer – B&W
We’re Here For You!

• How to Reach Us
  • Contact Us portal
  • support@ctpaidleave.org

• Helpful Resources
  • Frequently Asked Questions
  • Helpful Videos
Thank you!