

	<b>Corporate Policy and Practice</b>		
	SUBJECT: Family Medical Leave Act (FMLA) Policy		APPROVAL:
NUMBER: C4.0	ISSUED:	LATEST REVISION: December 3, 2019	PAGE: 1 of 8

The Company will grant family and medical leave in accordance with the requirements of applicable federal and state law in effect at the time the leave is granted. Although the federal and state laws sometimes have different names, the Company refers to these types of leaves collectively as “FMLA Leave.” In any case, employees will be eligible for the most generous benefits available under applicable law.

### ***Employee Eligibility***

To be eligible for FMLA Leave benefits, employees must: (1) have worked for the Company for a total of at least 12 months; (2) have worked at least 1,250 hours over the previous 12 months as of the start of the leave; and (3) work at a location where at least 50 employees are employed by the Company within 75 miles, as of the date the leave is requested. Eligibility requirements may differ for employees who have been on a protected military leave of absence. If employees are unsure whether they qualify, they should contact Human Resources.

### ***Reasons for Leave***

Federal and state laws allow FMLA Leave for various reasons. Because employees’ legal rights and obligations may vary depending upon the reason for the FMLA Leave, it is important to identify the purpose or reason for the leave. FMLA Leave may be used for one of the following reasons, in addition to any reason covered by an applicable state family/medical leave law:

- The birth, adoption or foster care of an employee's child within 12 months following birth or placement of the child (Bonding Leave);
- To care for an immediate family member (spouse, child, or parent with a serious health condition (Family Care Leave);
- An employee’s inability to work because of a serious health condition (Serious Health Condition Leave);
- A “qualifying exigency,” as defined under the FMLA, arising from a spouse’s, child’s, or parent’s “covered active duty” (as defined below) as a member of the military reserves, National Guard or Armed Forces (Military Emergency Leave); or
- To care for a spouse, child, parent or next of kin (nearest blood relative) who is a “Covered Servicemember,” as defined below (Military Caregiver Leave).

### ***Definitions***

- “Child” for purposes of Bonding Leave and Family Care Leave, means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that Family and Medical Leave is to commence. “Child,” for purposes of Military Emergency Leave and Military Caregiver Leave, means a biological, adopted or foster child, stepchild, legal ward, or a child for whom the person stood in loco parentis, and who is of any age.

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- “Parent” for purposes of this policy, means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the person. This term does not include parents-in-law. For Military Emergency leave taken to provide care to a parent of a deployed military member, the parent must be incapable of self-care as defined by the FMLA.
- “Covered Active Duty” means (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as defined by applicable law.
- “Covered Servicemember” means (1) a member of the Armed Forces, including a member of a reserve component of the Armed Forces, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred or aggravated in the line of duty while on active duty that may render the individual medically unfit to perform his or her military duties, or (2) a person who, during the five (5) years prior to the treatment necessitating the leave, served in the active military, Naval, or Air Service, and who was discharged or released therefrom under conditions other than dishonorable (a “veteran” as defined by the Department of Veteran Affairs), and who has a qualifying injury or illness incurred or aggravated in the line of duty while on active duty that manifested itself before or after the member became a veteran. For purposes of determining the five-year period for covered veteran status, the period between October 28, 2009 and March 8, 2013 is excluded.
- “Spouse” means the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into, or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This includes common law marriage and same sex marriage in places where these marriages are recognized.
- “Key employee” means a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employer within 75 miles of the employee's worksite.

### ***Length of Leave***

The maximum amount of FMLA Leave will be 12 workweeks in any 12-month period when the leave is taken for: (1) Bonding Leave; (2) Family Care Leave; (3) Serious Health Condition Leave; and/or (4) Military Emergency Leave. However, if both spouses work for the Company and are eligible for leave under this policy, the spouses will be limited to a total of 12 workweeks off between the two of them when the leave is for Bonding Leave or to care for a parent using Family Care Leave. The applicable "12-month period" utilized by the Company is a rolling 12-month period measured backward from the date an employee uses his/her FMLA leave. Under

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this method the 12-month period is measured backward from the day the employee uses any FMLA leave.

The maximum amount of FMLA Leave for an employee wishing to take Military Caregiver Leave will be a combined leave total of 26 workweeks in a single 12-month period. A "single 12-month period" begins on the date of the employee's first use of such leave and ends 12 months after that date.

If both spouses work for the Company and are eligible for leave under this policy, the spouses will be limited to a total of 26 workweeks off between the two when the leave is for Military Caregiver Leave only or is for a combination of Military Caregiver Leave, Bonding Leave and/or Family Care Leave taken to care for a parent.

To the extent required by law, some extensions to leave beyond an employee's FMLA entitlement may be granted when the leave is necessitated by an employee's work-related injury or illness or by a "disability" as defined under the Americans with Disabilities Act and/or applicable state or local law. Certain restrictions on these benefits may apply.

#### **Intermittent or Reduced Schedule Leave**

Under some circumstances, employees may take FMLA Leave intermittently, which means taking leave in blocks of time, or by reducing the employee's normal weekly or daily work schedule. An employee may take leave intermittently whenever it is medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

Leave taken intermittently may be taken in increments of no less than one hour. Employees who take leave intermittently or on a reduced work schedule basis for a planned medical treatment must make a reasonable effort to schedule the leave so as not to unduly disrupt the Company's operations. Please contact Human Resources prior to scheduling planned medical treatment. If FMLA Leave is taken intermittently or on a reduced schedule basis due to foreseeable planned medical treatment, we may require employees to transfer temporarily to an available alternative position with an equivalent pay rate and benefits, including a part-time position, to better accommodate recurring periods of leave.

If an employee's request for intermittent leave is approved, the Company may later require employees to obtain recertification of their need for leave. For example, the Company may request recertification if it receives information that casts doubt on an employee's report that an absence qualifies for FMLA Leave.

To the extent required by law, some extensions to leave beyond an employee's FMLA entitlement may be granted when the leave is necessitated by an employee's work-related injury/illness or a "disability" as defined under the Americans with Disabilities Act and/or applicable state or local law. Certain restrictions on these benefits may apply.

#### ***Notice and Certification***

Bonding, Family Care, Serious Health Condition and Military Caregiver Leave Requirements

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Employees are required to provide:

- When the need for the leave is foreseeable, 30 days advance notice or such notice as is both possible and practical if the leave must begin in less than 30 days (normally this would be the same day the employee becomes aware of the need for leave or the next business day);
- When the need for leave is not foreseeable, notice within the time prescribed by the Company's normal absence reporting policy, unless unusual circumstances prevent compliance, in which case notice is required as soon as is otherwise possible and practical;
- When the leave relates to medical issues, a completed Certification of Health-Care Provider form within 15 calendar days (for Military Caregiver Leave, an invitational travel order or invitational travel authorization may be submitted in lieu of a Certification of Health-Care Provider form);
- Periodic recertification (if required by law); and
- Periodic reports during the leave.

Certification forms are available from Human Resources. At our expense, we may require a second or third medical opinion regarding the employee's own serious health condition or the serious health condition of the employee's family member. In some cases, we may require a second or third opinion regarding the injury or illness of a Covered Service Member. Employees are expected to cooperate with the Company in obtaining additional medical opinions that we may require.

When leave is for planned medical treatment, employees must try to schedule treatment so as not to unduly disrupt the Company's operation. Please contact Human Resources prior to scheduling planned medical treatment.

*Recertification After Grant of Leave*

In addition to the requirements listed above, if an employee's Family and Medical Leave is certified, the Company may later require medical recertification in connection with an absence that the employee reports as qualifying for Family and Medical Leave. For example, the Company may request recertification if (1) the employee requests an extension of leave; (2) the circumstances of the employee's condition as described by the previous certification change significantly (e.g., employee absences deviate from the duration or frequency set forth in the previous certification; employee's condition becomes more severe than indicated in the original certification; employee's encounter complications); or (3) the Company receives information that casts doubt upon the employee's stated reason for the absence. In addition, the Company may request recertification in connection with an absence after six months have passed since the employee's original certification, regardless of the estimated duration of the serious health condition necessitating the need for leave. Any recertification requested by the Company will be at the employee's expense.

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### Military Emergency Leave Requirements

Employees are required to provide:

- As much advance notice as is reasonable and practicable under the circumstances;
- A copy of the covered military member's active duty orders when the employee requests leave and/or documentation (such as Rest and Recuperation leave orders) issued by the military setting forth the dates of the military member's leave; and
- A completed Certification of Qualifying Exigency form within 15 calendar days, unless unusual circumstances exist to justify providing the form at a later date.

Certification forms are available from Human Resources.

### ***Failure to Provide Certification and to Return from Leave***

Absent unusual circumstances, failure to comply with these notice and certification requirements may result in a delay or denial of the leave. If an employee fails to return to work at leave's expiration and has not obtained an extension of the leave, the Company may presume that the employee does not plan to return to work and has voluntarily terminated their employment.

### ***Compensation During Leave***

Generally, FMLA Leave is unpaid. However, employees may be eligible to receive benefits through state-sponsored programs or the Company's sponsored wage-replacement benefit programs. Employees may also choose to use accrued PTO, to the extent permitted by law and the Company's policy. All payments of wage-replacement benefits and accrued paid leave will be integrated so that employees will receive no greater compensation than their regular compensation during this period. The Company may require employees to use accrued paid time off (PTO) to cover some or all of the FMLA Leave. The use of paid benefits will not extend the length of a FMLA Leave.

### ***Benefits During Leave***

The Company will continue making contributions to employee group health benefits during their leave on the same terms as if employees had continued to actively work. This means that if employees want their benefits coverage to continue during their leave, they must also continue to make the same premium payments that they are now required to make for themselves or their dependents. Employees taking Bonding Leave, Family Care Leave, Serious Health Condition Leave, and Military Emergency Leave will generally be provided with group health benefits for a 12 workweek period. Employees taking Military Caregiver Leave may be eligible to receive group health benefits coverage for up to a maximum of 26 workweeks. In some instances, the Company may recover premiums it paid on the employee's behalf to maintain health coverage if the employee fails to return to work following a FMLA Leave.

The employee's length of service as of the leave will remain intact, but accrued benefits, such as PTO, may not accrue while on an unpaid FMLA Leave.

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***Job Reinstatement***

Under most circumstances, employees will be reinstated to the same position they held at the time of the leave or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. However, employees have no greater right to reinstatement than if they had been continuously employed rather than on leave. For example, if an employee would have been laid off if he or she had not gone on leave or, if the employee's position was eliminated during the leave, then the employee will not be entitled to reinstatement.

Prior to being allowed to return to work, an employee wishing to return from a Serious Health Condition Leave must submit an acceptable release from a health care provider that certifies the employee can perform the essential functions of the job as those essential functions relate to the employee's serious health condition. For an employee on intermittent FMLA leave, such a release may be required if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based on the serious health condition for which the employee took the intermittent leave.

Key employees may be subject to reinstatement limitations in some circumstances. If employees are considered a "key employee," those employees will be notified of the possible limitations on reinstatement at the time the employee requests a leave of absence.

***Confidentiality***

Documents relating to medical certifications, recertifications or medical histories of employees or employees' family members will be maintained separately and treated by the Company as confidential medical records, except that in some legally recognized circumstances, the records (or information in them) may be disclosed to supervisors and managers, first aid and safety personnel or government officials.

***Fraudulent Use of FMLA Prohibited***

An employee who fraudulently obtains Family and Medical Leave from the Company is not protected by FMLA's job restoration or maintenance of health benefits provisions. In addition, the Company will take all available appropriate disciplinary action against such employee due to such fraud.

***Nondiscrimination***

The Company takes its FMLA obligations very seriously and will not interfere, restrain or deny the exercise of any rights provided by the FMLA. We will not terminate or discriminate against any individual for opposing any practice, or because of involvement in any proceeding related to the FMLA. If an employee believes that his or her FMLA rights have been violated in any way, he or she should immediately report the matter to Human Resources.

***Additional Information Regarding FMLA***

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A Notice to Employees of Rights Under FMLA (WHD Publication 1420) is attached to this policy.

Employees should contact Human Resources as to any FMLA questions they may have.

***State Law***

A number of states have family leave laws that provide leave benefits which exceed those available to employees under the FMLA. Employees should contact Human Resources for additional information.

**APPENDIX:**

**Family Medical Leave Act Federal Poster on following page.**

# EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

## LEAVE ENTITLEMENTS

Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within one year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone 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.

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave;\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

## BENEFITS & PROTECTIONS

## ELIGIBILITY REQUIREMENTS

## REQUESTING 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 employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

## EMPLOYER RESPONSIBILITIES

## ENFORCEMENT

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

# 1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

## www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division

