FAMILY AND MEDICAL LEAVE ACT

I. Family and Medical Leave

Per Board Policy D400, School Corporation ("Corporation") will allow eligible employees to take leave for the following qualifying events in accordance with the Family and Medical Leave Act ("FMLA") of 1993, as amended. 29 CFR §825.100(a):

1. Up to 12 workweeks of leave in a 12-month period for the following qualifying events:
    a. Birth of a child;
    b. Placement of a child for adoption or foster care;
    c. For the care of a spouse, child or parent who has a serious health condition;
    d. The serious health condition of the employee which prevents the employee from performing the essential job functions of his/her job;
    e. Because of a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is on covered active duty or called to covered active duty 29 CFR §825.200; or
2. Up to 26 workweeks in a single 12-month period for the care of a covered service member with a serious injury or illness. 29 CFR § 825.127

The Corporation is prohibited from interfering with exercise of rights under the FMLA and retaliating against individuals for the use of FMLA leave.

II. Limits on Leave

A. Generally

Under no circumstances can the amount of leave taken during a 12-month period exceed 12 workweeks, unless for leave is to care for a covered service member (see Section XI).

B. Parenting Leave for a Newborn, Adopted, or Foster Child

A husband and wife who are eligible for FMLA and are both employed by the Corporation are limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken to care for employees' newborn, adopted, or foster child. Parenting leave for a newborn, adopted, or foster child cannot be taken intermittently or on a reduced schedule without the approval of the Corporation. 29 CFR §825.202(c)

Eligible employees may take FMLA leave before the actual placement or adoption of a child if an absence from work is required for the placement or foster care to proceed. Permissible absences include, but are not limited to, the employee attending a required counseling session, appearing in court, consulting with his/her attorney or the doctor(s) representing the birth parent submitting to physical examinations, or traveling to another country to complete an adoption.

C. Travel While on FMLA Leave

An employee is required to remain in the immediate vicinity of his/her home while on leave pursuant to this Guideline, except to receive medical treatment or to attend ordinary and necessary activities directly related to personal or family needs. An employee who feels he or she has a need to leave the immediate vicinity of his or her home while on leave pursuant to this Policy must submit a request for review by Human Resources. Human Resources will review the request to determine whether travel is warranted and will be approved.

III. Definitions Applicable to All FMLA Leave

"1250 hours of work" means actual work hours and does not include holidays, time spent in paid or unpaid leave, vacation leave, sick leave, or personal leave, compensatory time off, time spent receiving benefits under the Long Term Disability Plan or time during the elimination period prior to receiving benefits under the Disability Plan. In determining whether a veteran meets this requirement, the hours that were actually worked for the Corporation should be combined with the hours that would have been worked during the twelve months prior to the start of FMLA leave but for the military service. The Corporation has the burden to demonstrate through documentation or other means, that a full time employee for whom the Corporation generally does not keep accurate records of hours has not worked the requisite 1250 hours to be eligible for FMLA leave. 29 CFR §825.110(c)(1) & (2)

"12 month period" means a "rolling" 12-month period. Thus, in determining the amount of FMLA leave available to a particular employee the Corporation will subtract the leave taken by the employee during the immediately preceding 12 months from the 12 weeks of FMLA qualified leave granted to the Eligible Employee.

"Child" (i.e., son or daughter) 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 eighteen (18), or age eighteen (18) or older and "incapable of self-care" because of a mental or physical disability, at the time the FMLA leave is to commence. 29 CFR 825.122(d)

"Eligible Employee" means an employee who has:

- Been employed by the Corporation for at least twelve (12) months;
    - The 12 months may be consecutive or non-consecutive employment with the Corporation as long as there is a combined total of twelve (12) months. 29 CFR §825.110(b)
- Worked at least 1250 hours in the twelve-month period immediately preceding the need for family-medical leave; and
- Not exhausted their allotment of the family-medical leave in the applicable time period.

29 CFR §825.110.

"Incapacity" means inability to work, attend corporation or perform other regular daily

activities due to the serious health condition, treatment thereof, or recovery therefrom. 29 CFR §825.113(b)

"Instructional Employees" are those Corporation employees whose principal function is to teach and instruct students in class, a small group, or an individual setting. The term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for hearing impaired. It does not include teacher assistants or aides, counselors, psychologist, or curriculum specialists. 29 CFR §825.600(c)

"Intermittent Leave" means FMLA leave taken in separate blocks of time due to a single qualifying reason. 29 CFR §825.202

"Health Care Provider" means one of the following persons who may complete a Certification for Health Care Provider form and certify a serious health condition:

- doctors of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices;
- podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice under State law;
- nurse practitioners, nurse-midwives, clinical social workers, and physician's assistants authorized to practice under State law and performing within the scope of their practice as defined under State law;
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
- any health care provider recognized by the Corporation or the Corporation's group health plan's benefit manager; and a health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

29 CFR §825.125

"Parent" means a biological, adoptive, or foster parent or an individual who had day-to-day responsibility for care and support of the employee when the employee was a child as defined above. In-laws do not qualify. 29 CFR §825.122

"Reduced Schedule" means a leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday for a period of time. 29 CFR §825.202

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1) Hospital Care 29 CFR §825.114

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

2) Incapacity Plus Continuing Treatment 29 CFR §825.115(a)

   A period of incapacity of more than three (3) consecutive calendar days that also involves in-person treatment by a health care provider on at least one occasion within seven (7) days of the beginning of the incapacity which results in a regimen of continuing treatment under the supervision of the health care provider involving either (a) additional visit(s) required by the health care provider within thirty (30) days of the beginning of the incapacity; or (b) the prescription of medications, therapy requiring special equipment, or other treatment that can only be initiated on orders of a health care provider.

3) Pregnancy 29 CFR §825.115(b)

   Any period of incapacity due to pregnancy or for prenatal care.

4) Chronic Conditions Requiring Treatments 29 CFR §825.115(c)

   A chronic condition which:

   a) Requires at least two (2) visits annually for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
   b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
   c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).

5) Permanent/Long-term Conditions Requiring Supervision 29 CFR §825.115(d)

   A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6) Multiple Treatments (Non-Chronic Conditions) 29 CFR §825.115(e)

   Any absences to receive multiple treatments for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive days if not treated, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), and kidney disease (dialysis).

Non-eligible medical conditions include (but are not limited to): taking over-the-counter medications, bed-rest, drinking plenty of fluids, or any similar activities that can be initiated without a visit to a health care provider unless something more serious is involved. The common cold, flu, ear aches, upset stomach, minor ulcers, headaches, routine dental problems, and periodontal diseases are conditions that do not qualify for family-medical leave. Cosmetic treatments and plastic surgery are not serious health conditions unless inpatient hospital care is required or complications develop. 29 CFR §825.113(c) & (d)

Treatment of substance abuse by a health care provider or by a provider of health care services on referral by a health care provider will be covered by family-medical leave. However, absence because of the employee's abuse of the substance, rather than for treatment, does not qualify for family-medical leave. Treatment for substance abuse does not preclude disciplinary action in instances where the employee has violated the employer's policy against substance abuse, even during a time period of treatment covered by family-medical leave. 29 CFR §825.119

Family-medical leave may not be used for short-term conditions for which treatment and recovery are brief, such as minor illnesses and out-patient surgical procedures with expected brief recuperating periods. It does not provide for the intermittent care of a child for such commonplace illnesses as colds and flu. Routine medical, dental or vision examinations do not qualify for FML. 29 CFR §825.113(c) & (d)

For intermittent leave or leave on a Reduced Schedule, there must be a medical necessity for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition must meet the requirement for certification of the medical necessity of intermittent leave or leave on a reduced schedule. Employees needing intermittent leave or a reduced schedule must attempt to schedule their leave so as not to disrupt the Corporation's operations. In addition, an employer may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent leave or reduced schedule due to planned medical treatment. 29 CFR §825.202

"Spouse" as defined in the statute, means a husband or wife. For purposes of this definition, husband or wife refers to 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 definition includes an individual in a same-sex or common law marriage that either:

(1) Was entered into in a State that recognizes such marriages; or

(2) If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State. 29 CFR §825.102.

An employee is **"unable to perform the functions of his/her position"** where the Health Care Provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position. Additionally, an employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. 29 CFR §825.123(a)

To the extent not listed herein, the Corporation adopts the definitions of words and phrases as defined in the FMLA and its corresponding regulations.

IV. Requests for Family Medical Leave

- If the need for leave is foreseeable, requests must be submitted at least thirty (30) days prior to taking the leave, or if this is not possible, on the same or next business day of learning of the need for leave. Documentation supporting the need for foreseeable leave must be submitted prior to the beginning of the leave, but in no circumstances later than fifteen (15) calendar days after notice of the need for leave. 29 CFR §825.302
- If the need for leave is not foreseeable, requests must be submitted in accordance with general leave request policies - barring extenuating circumstances which prevent notice by the employee, or employee's spokesperson, within that time frame. Documentation supporting the need for unforeseeable leave must be submitted no later than fifteen (15) calendar days after the beginning of the leave. 29 CFR §825.303
- Initial requests may be oral; however, employees must complete and submit to the Superintendent or designee a written request for FMLA leave.
- Employees requesting leave for which FMLA may apply are required to provide sufficient information to the Corporation for a determination to be made whether the absence qualifies for FMLA leave coverage. The Corporation is responsible for designating leave as FMLA if appropriate based on the information available without regard to an employee's request to have or not have the leave so designated. 29 CFR §825.301
- The following certifications are required to support requests for leave and must be provided, (see further explanation in Section V below):
    - Eligible employees who apply for FMLA leave to care for an immediate family member must submit DOL Form WH-380-F; "Certification of Health Care Provider for Family Member's Serious Health Condition."
    - Eligible employees who apply for FMLA leave for the employee's own serious health condition must submit DOL Form WH-380-E;"Certification of Health Care Provider for Employee's Serious Health Condition."
    - Eligible employees who apply for Military Caregiver Leave must submit DOL Form WH-385; "Certification for Serious Injury or Illness of Covered Service Member- for Military Family Leave". The form may be completed by a Department of Defense (DOD) health care provider, Veterans Affairs health care provider, a DOD TRICARE network authorized private health care provider, or a DOD non-network TRICARE authorized private health care provider. Additionally, with respect to Military Caregiver Leave, the Corporation will accept the submission of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA), in lieu of the DOL Form, for the time period specified in the ITO or ITA, if there is an immediate need for employee at the service member's bedside. The ITO or ITA submitted by the employee need not list the employee as the named recipient of the ITO/ITA, provided the employee is the spouse, parent, son, daughter or next of kin of the covered service member. If the covered service member's need for care extends beyond the expiration date specified in the ITO or ITA, the employee is responsible for submitting the DOL Form for the remainder of the employee's leave period.

- The following documentation may be required to support requests for leave, and must be provided if requested: 29 CFR §825.302(c)
    - documentation of the qualifying exigency includes a copy of the orders for active duty and, if the leave is to meet with a third party, contact information and the purpose of the meeting; 29 CFR §825.309
    - documentation of the birth, adoption, or foster care relationship for which parenting leave is requested;
    - documentation of family relationship(s) may be required. 29 CFR §825.122(k)
- Leave may be taken in increments of no less than one hour. 29 CFR §825.205(a)
- Leave requested for birth, adoption, or foster care placement must be taken within one (1) year of the birth or initial placement. 29 CFR §825.120(a)(2) and 29 CFR §825.121(a)(2)

V. Employee Certifications and HIPAA Release

For employee certifications, the Superintendent or designee shall attach a statement of the essential functions of the employee's position for the health care provider to review. In order for the Certification Form to be considered sufficient, the health care provider must specify what function of the employee's position the employee is unable to perform so that the Corporation can then determine whether the employee is unable to perform one (1) or more essential functions of the employee's position.

It is the employee's responsibility either to furnish a complete and sufficient certification or to furnish the health care provider providing the certification with any necessary authorization from the employee or the employee's family member in order for the health care provider to release a complete and sufficient certification to the Board to support the employee's FMLA request. 29 CFR §825.307

In all instances in which certification is requested, it is the employee's responsibility to provide the Corporation with complete and sufficient certification, and failure to do so may result in denial of FMLA leave. 29 CFR §825.307

Eligible employees who apply for FMLA to care for an immediate family member, for the employee's own serious health condition, or Military Caregiver Leave may be asked to execute and provide to his/her health care provider a HIPAA-compliant release form if the Corporation needs to clarify or authenticate the Certification. If the employee does not provide the necessary authorization and does not otherwise clarify the certification, then the Corporation may deny FMLA leave. 29 CFR §825.307

If the Superintendent or designee deems a medical certification to be incomplete or insufficient, the Superintendent shall notify the employee, in writing, what information is lacking, and the employee will have seven (7) calendar days to cure the deficiency. The Superintendent or designee (not the employee's direct supervisor) may contact the certifying health care provider for clarification concerning or to authenticate the content of a medical certification provided proper privacy releases have been made. The Corporation shall not ask the health care provider for additional information beyond that required by the certification form. 29 CFR §825.307

All of the certifications identified above must be submitted by the employee within fifteen (15) calendar days after the Corporation provides the employee with the applicable DOL Form, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

VI. Recertification

A. If the employee's need for FMLA leave lasts beyond a single FMLA leave year, the Corporation may require the employee to provide a new medical certification in each new FMLA leave year. 29 CFR §825.305

B. Notwithstanding C below, the Corporation may require employees to provide recertification of the medical necessity for intermittent leave every six (6) months in conjunction with an absence even if the certification is for a lifetime condition. 29 CFR §825.308(b)

C. Upon expiration of the minimum duration of a condition certified as lasting more than 30 days, the Corporation may request recertification no more than once every thirty (30) days in conjunction with an employee's absence unless:
   - the employee requests an extension of the leave;
   - circumstances described by the previous certification have changed significantly (e.g. the duration of the illness, the nature of the illness, complications); or
   - the Corporation receives information that casts doubt upon the continuing validity of the certification.

D. Re-certifications are at the employee's expense. No second or third opinion on recertification may be required other than the annual certification.

E. Re-certifications are not permitted for leave to care for a covered service member if the documentation is issued by Department of Defense, Veterans Administration, or TRICARE or because of a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is on active duty or call to active duty status for deployment to a foreign country.
   29 CFR §825.308

VII. Second Opinion

The Corporation may require a second medical opinion of an original certification by a Health Care Provider who does not regularly contract with the Corporation. The Corporation must reimburse an employee or the employee's spouse, parent, or child for any reasonable "out of pocket" travel expenses incurred to obtain the second opinion. If the opinion of the employee's and the Corporation's designated Health Care Providers differ, the Corporation shall require the employee to obtain certification from a third Health Care Provider, again at the Corporation's expense. This third opinion shall be final and binding. The third Health Care Provider must be

designated or approved by both employee and Corporation acting in good faith to attempt to reach an agreement. The Corporation shall provide the employee with a copy of the second and third medical opinions upon request. 29 CFR §825.307

VIII. Use of Paid Leave

- Any use of compensatory time or paid sick leave for an FMLA-qualifying absence will run concurrently with the FMLA designation.
- The Corporation shall designate paid or unpaid leave as FMLA within five (5) business days absent extenuating circumstances, if all the following apply:
    - The employer has compelling information based on information provided by the employee that leave was taken for an FMLA-qualifying event; and
    - The employee is properly notified of his/her FMLA rights.
- Employees shall be required to use any available sick leave simultaneously with FMLA after exhausting any available compensatory time as required above and prior to use of other accrued benefit leave (vacation or personal leave).
- Employees may request to use vacation and/or personal leave simultaneously with FMLA leave for an FMLA-qualifying absence.
- FMLA leave may run concurrently with Workers' Compensation if the absence qualifies for both programs.
- The employee shall not accrue any sick leave, vacation, or other benefits during a period of unpaid FMLA leave.
- Whether FMLA leave is paid, unpaid, or a combination, the limits in Section II apply.

IX. Intermittent Use of FMLA

- Employees are entitled to take intermittent leave for the employee's serious health condition or due to the serious health condition of a parent, spouse, or child, or to care for a covered service member or because of a qualifying exigency. 29 CFR §825.202
- To be entitled to intermittent leave, the employee must submit certification to establish the medical necessity of the leave (e.g. periodic testing and treatments) and work with the Corporation to determine a schedule of treatments that causes the least disruption to operations subject to the approval of the health care provider. The Corporation may consider a temporary transfer to an alternative, comparable position which better accommodates the intermittent leave or reduced schedule for planned medical treatment.
- The Corporation may grant employees intermittent leave or a reduced work schedule for the birth or placement of a child if operational needs allow such intermittent leave or a reduced work schedule. Such leaves/schedule must be discussed and agreed upon by the employee and the Corporation prior to the commencement of such leave/schedule.
- When planning medical treatment, the employee must consult with the Corporation and make a reasonable effort to schedule the leave so as not to disrupt unduly the Corporation’s operations, subject to the approval of the Health Care Provider. 29 CFR §825.302(e)

X. Provisions Specific to Instructional Employees

A. Leave for More than 20% of Working Days During Leave Period

If an Instructional Employee needs intermittent leave or leave on a reduced schedule to care for a family member with a serious health condition, to care for a covered service member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent (20%) of the total number of working days over the period the leave would extend, the Corporation may require the Instructional Employee to choose either to:

- Take leave for a period or period of a particular duration, not greater than the duration of the planned treatment; or
- Transfer temporarily to an available position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the Instructional Employee's regular position. 29 CFR §825.601

B. Leave with the Last Five (5) Weeks of an Academic Term

Any leave or return from leave by instructional employees during the last five (5) weeks of an academic term shall be reviewed individually by the Superintendent to minimize disruption to the students' program.

XI. Military Family Leave Entitlement

A. Military Caregiver Leave

Eligible employees may take up to twenty-six (26) weeks of unpaid FMLA leave, in a "single 12-month period," to care for a covered service member with a serious injury or Illness. The "single 12-month period" begins on the first day the eligible employee takes Military Caregiver Leave and ends twelve (12) months after that date. If the employee does not use his/her entire twenty-six (26) work weeks leave entitlement during the "single 12-month period" of leave, the remaining work weeks of leave are forfeited. 29 CFR § 825.127

For purposes of Military Caregiver Leave, the covered service member may be a member of either the Regular Armed Forces or the National Guard/Reserves. Former members, including retired members, of the Regular Armed Forces or the National Guard/Reserves, and those service members on the permanent disability retired list, are not covered service members. 29 CFR § 825.127(b)

The term "next of kin" means the service member's nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins; unless the covered service member has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of Military

Caregiver Leave under the FMLA, in which case the designated individual shall be deemed to be the covered service member's next of kin. All family members sharing the closest level of familial relationship to the covered service member are considered the covered service member's next of kin, unless the covered service member has specifically designated an individual as his/her next of kin for Military Caregiver Leave purposes. While an eligible employee may care for more than one (1) seriously injured or ill covered service member at the same time, the employee may not take more than twenty-six (26) work weeks of leave during each "single 12- month period." 29 CFR § 825.127(d)

Military Caregiver Leave is a "per-service member, per-injury" entitlement. Therefore, an eligible employee may take twenty-six (26) workweeks of leave to care for one (1) covered service member in a "single 12-month period," and then take another twenty-six (26) work weeks of leave in a different "single 12-month period" to care for another covered service member or to care for the same service member with a subsequent serious injury or illness (e.g., if the service member is returned to active duty and suffers another injury). Additionally, an eligible employee could take FMLA leave, after the end of the "single 12-month period" for Military Caregiver Leave, to care for a covered service member if the member is a qualifying family member under non-military FMLA and s/he has a serious health condition. 29 CFR § 825.127(e)

B. Qualifying Exigency Leave

Eligible employees may take up to twelve (12) weeks of unpaid FMLA leave for any of the following qualifying exigencies that are related to the fact that the employee's spouse, son, daughter or parent is on active duty, or has been notified of an impending call or order to active duty to support a contingency operation:

A. Issues arising from a covered military member's short-notice deployment (i.e., deployment on seven (7) or less calendar days of notice) for a period of seven (7) days from the date of notification.

B. Military events and related activities, such as official ceremonies, programs, or events sponsored by the military, or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.

C. Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new corporation or day care facility, and attending certain meetings at a corporation or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member (this does not include providing child care on a

routine, regular or everyday basis).

D. Making or updating financial and legal arrangements to address a covered military member's absence (e.g., preparing and executing financial and healthcare power of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System, obtaining military identification cards, or preparing or updating a will or living trust).

E. Attending counseling provided by someone other than a healthcare provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member.

F. Taking up to five (5) days of leave to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the deployment.

G. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of ninety (90) days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member.

H. Parental care, of a parent of the military member who is incapable of self-care, and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative care for a parent, to provide care on a non-routine, urgent, immediate need basis to a parent, admitting or transferring a parent in a new care facility, and attending certain meetings with staff at a care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member (this does not include providing parental care on a routine, regular or everyday basis).

I. Any other event that the employee and the Board agree is a qualifying exigency.

Eligible employees who apply for FMLA leave for Qualifying Exigency Leave must submit DOL Form WH-384; "Certification of Qualifying Exigency for Military Family Leave". Specifically, the first time the employee requests Qualifying Exigency Leave, the employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. Additionally, each time that the employee requests leave for one of the above-listed qualifying exigencies, the employee must certify the exigency necessitating leave. Such certification supporting leave for a qualifying exigency includes:

- appropriate facts supporting the need for leave, including any available written

documentation supporting the request;
- the date on which the qualifying exigency commenced or will commence and the end date;
- where leave will be needed on an Intermittent basis, the frequency and duration of the qualifying exigency; and
- appropriate contact information if the exigency involves meeting with a third party.

Employees are advised that if the qualifying exigency involves a meeting with a third party, the Superintendent or designee may verify the schedule and purpose of the meeting with the third party. Also, the Superintendent or designee may contact the appropriate unit of the Department of Defense to confirm that the covered military member is on active duty or call to act1ve duty status.

XII. Light Duty

Time spent performing "light duty" work does not count against an employee's FMLA leave entitlement.

XIII. Corporation Notices to Employees

A. Duty to Inquire

The Corporation must inquire further to determine whether an absence may be covered by FMLA, in circumstances where information provided by the employee, or the employee's spokesperson if the employee is unable to provide the information personally, indicates that FMLA may be appropriate but additional information is required for a definitive determination. 29 CFR §825.301.

B. Notices

If the information included in The Employee's Rights and Responsibilities Notice changes, the Superintendent or designee will inform the employee of such changes within five (5) business days of receipt of the employee's first notice of the need for FMLA leave subsequent to any change. The Director of Human Resources is charged with responsively answering questions from employees concerning their rights and responsibilities. 29 CFR §825.300.

The Corporation must provide the required forms and identify the fifteen (15) calendar day time limit for submission of completed forms and the consequences for failure to submit the documentation within the fifteen (15) calendar day time limit. 29 CFR §825.300.

If it is not possible to provide the number of hours, days or weeks that will be counted as FMLA leave (e.g., where the leave will be unscheduled), the Superintendent or designee will provide this information upon request by the employee, but no more often than every

thirty (30) days and only if leave was taken during the period. The notice of the amount of leave counted against the employee's FMLA entitlement may be oral or in writing. If such notice is oral, it shall be confirmed in writing, no later than the following payday that is at least one (1) week after the oral notice. Such notice may be in any form, including a notation on the employee's pay stub. 29 CFR §825.300.

XIV. FMLA Leave and Mandatory Overtime

Employees with proper medical certification may use FMLA leave in lieu of working required overtime hours. Thus, hours that an employee would have been required to work but for the taking of FMLA leave will be counted against the employee's FMLA entitlement.

XV. Calculating the Amount of FMLA Leave Used by an Employee

The actual workweek is the basis of leave entitlement. For example, if an employee who would otherwise work 40 hours a week takes off eight (8) hours, the employee would use one-fifth (1/5) of a week of FMLA leave.

For purposes of determining the amount of FMLA leave used by an employee, the fact that a holiday may occur within the work week taken as FMLA has no effect; the week is counted as a week of FMLA leave. If, however, the employee is using FMLA leave in increments of less than one (1) week, the holiday will not count against the employee's FMLA leave entitlement unless the employee was otherwise scheduled and expected to work during the holiday. Similarly, when an employee is not scheduled to work during winter, spring, or summer vacation (i.e., during a period when some or all employees are not expected to work for one (1) or more weeks), the days the employee is not scheduled to work shall not count against the employee's FMLA leave entitlement. 29 CFR 825.601

XVI. Maintenance of Employee Benefits

The same group health plan benefits provided to an employee prior to taking FMLA leave shall be maintained during the FMLA leave (e.g., if family member coverage is provided to an employee, family member coverage shall be maintained during the FMLA leave). Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., shall be maintained during leave if provided in the Corporation's group health plan, including a supplement to a group plan.

If an employee chooses not to retain group health plan coverage during FMLA leave, the employee will be reinstated, upon return from leave, on the same terms as prior to taking the leave, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc.

The Corporation is required to continue paying the employer’s portion of health insurance premiums during approved FMLA. Employees are required to continue paying the employee’s portion of health insurance premiums during FMLA. Employees shall be given a thirty-day grace

period from the due date of their health insurance premium. Employees who fail to pay their portion of the health insurance premium within this grace period may, with fifteen days' notice, be removed from their respective health insurance plan.

The Corporation may seek reimbursement for any health insurance premiums paid on behalf of the employee if the employee fails to return to work after FMLA, unless the reason for the employee failing to return to work is due to the continuation or recurrence of the serious health condition or is otherwise beyond the employee's control as defined in the FMLA.

XVII. Reinstatement

The employee is responsible for notifying the Corporation of his/her intent to return or not to return to work. Employees are entitled to reinstatement to the same or similar position upon return from FMLA.

If an employee who has exhausted his/her entitlement to FMLA remains on leave under provisions of workers' compensation, disability plan, or as a reasonable accommodation under the Americans with Disabilities Act (ADA), the Corporation is responsible for applying the reinstatement requirements under the applicable law or program rather than the reinstatement provisions under FML.

Employees, who take leave for the employee's own serious health condition, prior to returning to work, must submit to the Superintendent or designee a "Fitness-for-Duty Certification." 29 CFR 825.312

An employee who fraudulently obtains FMLA leave is not protected by the FMLA and is not protected by its job restoration or maintenance of health benefits provisions.

Revised [9/14/2021]