

## **PREAMBLE**

The Employer understands the importance of family issues to today's work force. The Employer also recognizes that more of its employees than ever before face conflicting demands of family obligations and work. Because employees may find it necessary to take leave from their jobs for a temporary period to address certain family responsibilities or their own serious health conditions, and in order to comply with the Family and Medical Leave Act of 1993 (FMLA), the Employer hereby establishes its parental leave and family and medical leave policy.

### **I. GENERAL**

#### **A. Covered Leave**

The Employer will grant an eligible employee unpaid leave for up to 12 work weeks during a 12-month period, if the procedures in this policy are followed and leave is requested for any of the following reasons:

1. The birth or adoption of a child, or the foster care placement of a child;
2. To care for a family member of the employee if that individual has a serious health condition; or
3. A serious health condition of the employee that renders the employee unable to perform his or her job functions.

Employees are limited to a maximum of 12 weeks unpaid leave for any of these purposes; an employee cannot take 12 weeks parental leave and 12 weeks sick leave during the same 12-month period. If the leave is for birth, adoption, or foster care placement, the leave must be completed within 12 months of the date of birth, adoption or placement.

#### **B. The 12-Month Period**

Available leave will be calculated by determining the amount of leave used by an employee for the 12 months prior to each day for which leave is requested and subtracting that number from the total of days equal to 12 workweeks. This is referred to as the rolling method of calculation. Employees will be advised when requesting leave of the amount of FMLA leave they have available.

### **C. Spousal Exception**

If a husband and wife both work for the Employer, and are eligible for leave, they are only entitled to a combined 12 work weeks of leave taken for birth, adoption, foster care, and to care for a parent. The 12 weeks will be calculated in the same manner as leave for an individual employee.

### **D. State Law**

Some employees are covered by state leave laws that are different than the federal FMLA. The Employer will comply with both laws. Leave under state law will run concurrently with leave under this policy.

### **E. Intermittent Leave**

An employee taking leave for personal illness or to care for a sick family member need not take such leave continuously and may take it on an intermittent basis, or by reducing the employee's scheduled work hours, if the employee provides certification from the health care provider caring for the employee and/or family member that leave must be taken in that manner. If leave is not taken continuously, it will be deducted from the employee's entitlement to leave, i.e., 12 weeks during a 12-month period, in increments of one hour.

### **F. Part-Time After Birth, Adoption, or Foster Care Placement**

Requests for intermittent or reduced schedule (part-time) leave after the birth, adoption, or foster care placement of a child

(Option 1: will not be considered.)

(Option 2: will be considered on a case-by-case basis. The request should be made to the Human Resources Department. As a general rule, part-time arrangements or intermittent leave will be granted:

- for a maximum of twelve months after birth, adoption or foster care;
- for leaves in increments of four hours or one day (such as five four-hour days or three eight-hour days);
- subject to the ability of the employee's supervisor to ensure that work is completed through scheduling changes or job-sharing; and

- subject to the employee's consent to alter schedules or work longer hours on an emergency basis, such as when other employees are out sick.

The Employer reserves the right to refuse leave, or to cancel any such arrangement on 30 days notice, if the Employer concludes that the needs of the business require the employee's presence on a full-time basis.)

## **II. DEFINITIONS**

### **A. Family Member**

Family members is defined in FMLA and this policy to include the employee's spouse, son, daughter or parent (but not a parent-in-law). A son or daughter is any child under 18 who is the biological child of the employee, who is adopted by the employee, or whom the employee supervises on a day-to-day basis and for whom the employee is financially responsible. A son or daughter is also a child over 18 who is incapable of self-care because of a mental or physical disability. A parent is any individual who assumed day-to-day and financial responsibility by standing In Loco Parentis for the employee when the employee was a child.

The Employer will not permit leave under this policy to care for individuals who are not family members, unless state law requires otherwise.

### **B. Serious Health Condition**

Serious health condition is defined as an illness, injury, impairment or physical or mental condition that involves a period of incapacity or treatment following inpatient care in a hospital, hospice, or residential medical care facility; a period of incapacity requiring more than three days absence from work and continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated would likely result in incapacity of more than three days; or continuing treatment by or under the supervision of a health care provider of a chronic or long-term condition or disability that is incurable; or pre-natal care.

### **C. Health Care Provider**

A health care provider is any doctor of medicine or osteopathy, podiatrist, optometrist, and nurse practitioner or nurse midwife performing within the scope of their practice as defined under state law. Christian Science practitioners and Chiropractors are health care providers to the extent defined under regulations issued by the U.S. Department of Labor.

### **III. ELIGIBILITY**

#### **A. Minimum Eligibility Requirements**

1. An employee is eligible if the employee has been employed for at least 12 months (or 52 weeks) by the Employer, and has worked at least 1,250 hours during the 12-month period prior to the time leave would begin under this policy. The Employer will make the determination at the time of the leave request.
2. Hours are calculated based upon actual hours that the employee worked, including overtime.

The Employer will use its records of hours worked for all hourly employees. In the case of exempt employees, the Employer will assume that any employee employed full-time for seven and one-half months meets the 1,250-hours requirement. Exempt employees who have 12 months prior service, but less than seven and one-months full-time continuous service at the time leave is requested, should include documentation of hours worked with their request.

#### **B. Work Site Rules**

(Option 1: Employees who work at any location which does not employ 50 employees, and where there are fewer than 50 employees within 75 miles, will not be eligible for family or medical leave, unless state law requires otherwise.)

#### **C. Leave For Serious Health Conditions**

(Option 1: Employees should recognize that this policy and FMLA are only intended to cover serious health conditions - generally those which involve four or more days incapacity from work or school, or chronic, long-term, incurable conditions. Employees who wish to take leave to care for family members with non-serious health conditions are not covered by this policy. Employees can use their vacation or personal leave for non-serious health conditions, subject to all

restrictions in those policies, including scheduling and increments of leave. The granting of unpaid leave for non-serious health conditions is within the exclusion direction of the employee's supervisor.)

(Option 2: This policy and FMLA only protect leaves for serious health conditions. The Employer recognizes that employees may need to take leave to care for family members, or because of personal illness, for conditions that do not meet the definition of serious health conditions.

Employees can take paid sick leave for their non-serious illnesses under Policy No. TBA . If paid sick leave and personal leave have been exhausted, The Employer will consider on a case-by-case basis requests for unpaid leave for non-serious personal illnesses, or to care for a family member for a non-serious illness. Employees should use the procedures in this policy. Leaves will be granted unless doing so would, in the Employer's opinion, adversely affect operations. Employees may be subject to discipline unless permission to take unpaid leave for non-serious conditions is obtained in advance.)

#### **IV. PROCEDURES FOR REQUESTING LEAVE**

##### **A. Requests For Leave**

###### 1. Procedure

Opinion 1: All requests for family or medical leave should ordinarily be initiated by contacting your immediate supervisor. This will assist the Employer in working out appropriate schedules. If for any reason you do not wish to inform your supervisor of the reason for the leave, or if you have any questions about your supervisor's response, please contact the Human Resources Department.)

Option 2: All requests for family or medical leave should be made to the Human Resources Department. That Department will provide additional notices and forms.) In all cases, employees will be asked to complete Form No.\_\_\_\_, Request for Family or Medical Leave.

###### 2. Foreseeable Leaves

If the need for family or medical leave is foreseeable, the employee must provide advance notice to the Employer of not less than 30 days. Leave will be denied unless there is a reasonable excuse for the delay. If leave is denied for lack of notice, the employee may designate leave to start 30 days after notice is given.

Failure to report to work when FMLA leave has been denied will be treated as an unexcused absence under the Employer's attendance policy. Employees will not be paid for any missed days or permitted to substitute paid leave, and will be subject to discipline.

###### 3. Scheduling

If the leave is for the planned medical treatment of the employee

or a family member, or requires intermittent or reduced schedule leave, employees may be required by their supervisor to arrange a particular schedule or to reschedule appointments or treatments, subject to the consent of the health care provider.

#### 4. Unforeseeable Leaves

If the need for family or medical leave is not foreseeable, notice must be given by the employee as soon as possible and practicable. Employees are expected to promptly notify their supervisor and/or the Human Resources Department as soon as they learn of the need for leave. If the employee's supervisor is unavailable, contact ( ) . (Except in the case of extreme medical emergencies, employees are expected to call to advise their supervisor as soon as they know of the need for and expected duration of leave.) In emergencies, the employee or a family member should contact the employer and give the same information by telephone ( ) , fax ( ) , or by leaving a message at ( ) , and a number where they can be reached. Requests for leave should then be submitted in writing as soon as practicable. (Absent good cause or medical emergencies, written requests for leave should be submitted within three (3) business days after oral request is made.)

(Except for medical emergencies, failure to call or notify a supervisor prior to a scheduled work day may, under Policy , be treated as an unexcused absence.)

#### 5. Additional Information

After receiving a request for leave, the Employer will provide additional information regarding the procedures for obtaining leave, including any additional documents that may be required.

### **B. Proof**

#### 1. Medical Certification

The Employer may require proof of necessity for family or medical leave by a health care provider on forms provided by the Employer. The information required shall include:

- (1) the date on which the serious health condition commenced;
- (2) the probable duration of the condition;

(3) appropriate sufficient medical facts within the knowledge of the health care provider that would entitle the employee to take family or medical leave;

(4) an estimate of the amount of time that the employee is needed to care for a family member, or a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in cases of medical leave, an explanation of the extent to which the employee is unable to perform the function of the employee's position.

The Employer will only accept certifications on its form.

Certifications must be submitted within 15 days of the date requested by the Employer.

## 2. Second opinions

The Employer has the option of requiring the employee to get a second opinion from an independent medical provider selected by the Employer. The Employer will pay for the second opinion. If the two opinions conflict, the conflict may be resolved by a third opinion by a provider agreed to by the Employer and the Employee which shall be considered final and binding. The Employer will pay for the third opinion.

### **C. Leave Is Contingent on Eligibility**

All employee requests for FMLA leave are contingent upon a determination by the employer that the employee is eligible for FMLA leave. This includes a determination of eligibility and provision of medical certifications. Leave is also contingent on any second or third opinions that may be required. Because these procedures may take time, it is possible that a final determination may not be made until after the employee is on leave or has returned to work.)

### **D. Transfer to Alternative Position**

In all cases of intermittent and reduced schedule leave, including part-time work after birth or adoption, the employer reserves the right to require the employee to transfer to another position that



better accommodates the employee's need for leave and/or the employer's operations. The decision is in the sole discretion of the employer. (The employer reserves the right to transfer an employee whenever an employee's use of leave for one or more qualifying reasons is so frequent and intermittent that it is impossible to predict and schedule coverage.)

## **V. SUBSTITUTION OF SICK LEAVE, COMPENSATORY TIME AND VACATION TIME**

### **A. Substitution Options**

(Option 1: Employees are required to substitute any accrued, earned vacation or personal leave for any part of leave taken under this policy. The period of paid leave will be deducted from the amount of unpaid leave time available under this policy.

If the purpose of the leave is an employee's illness, employees will be required to substitute any accrued, earned sick leave. This means that employees must exhaust all vacation, personal leave, sick leave, and disability leave (if available) before taking unpaid leave under this policy. Except in cases of an employee's illness, employees must exhaust personal leave before using accrued vacation time.)

(Option 2: Employees may elect to substitute accrued, earned vacation or personal leave for any leave under this policy, but are not required to do so. In the case of an employer's illness or serious health condition (including childbirth), the employee is required to exhaust sick and/or disability leave before using vacation or personal leave. Under Policy No. , the employee can also use up to days of sick leave per year to care for the serious health condition of family members.)

In determining whether leave has been accrued or earned, the employer will apply the provisions of the respective policies, including any restrictions.

### **B. Unpaid Leave**

Unless an employee substitutes leave, leave will be unpaid, except as provided in this section.

(Option 1: Exempt employees will have their pay docked on a pro-rata basis if they take FMLA-qualifying leave and the total number of hours worked is less than the average number of hours worked the prior 20 weeks.)

(Option 2: Exempt employee will only have their pay docked if they take leave in increments of one or more days, and if the total number of hours worked by the employee for that week is less than the average number of hours over the preceding 20 weeks. In order to maintain consistency, exempt employees will not have pay docked in less than one-day increments.)

## **VI. BENEFITS**

### **A. Health Benefits**

During the leave, the Employer will maintain the employee's coverage for health benefits as follows. The employee is required to continue to pay employee's portion of any health insurance premiums normally deducted from employee's paycheck and shall pay such amounts at the time contributions are normally deducted (i.e., bi-weekly) by tendering a check payable to the Human Resources Department.

(Option 1: If the employee fails to make the required payments for health coverage within 30 days of the date that such payments are due, health coverage will be discontinued.)

(Option 2: If the Employee fails to make the required payments, the Employer may decide in its sole discretion to continue coverage. If this is done, under most circumstances the Employer will have a right to recover these amounts. You will be notified whether coverage will be continued.)

All amounts due the Employer because of unreimbursed health benefits provided during leave will be deducted from the employee's pay upon return.

### **B. Other Benefits**

Other benefits normally provided to any employer shall be provided to the employee only if permitted by the plan documented governing the provision of benefits, in accordance with the provisions of the written document, and the employee makes any required co-payments.

In accordance with existing Employer policies on unpaid leave, Employees will not earn any vacation pay, sick leave, or personal leave while on unpaid FMLA leave. Employees on an intermittent or reduced-schedule leave will earn vacation and other leave at the same rate as part-time employees working similar schedules.

### **C. Seniority**

The employee shall not accrue any seniority during leave provided under this policy.

### **D. Reinstatement**

The Employer has the right, upon the employee's return from leave, to refuse to reinstate any benefit or condition of employment that has been discontinued for the Employer's employees.

## **VII. REINSTATEMENT**

### **A. General**

An employee taking leave under this policy will be returned to the employee's same position or to an equivalent position, at the election of the Employer, unless the employee would have been terminated in the absence of any leave (e.g., layoff, downsizing or termination of a temporary job.) Taking of leave will not result in any loss of benefits or conditions of employment accrued prior to the beginning of the leave period, (except that if the employee is unable to use vacation time because of policy restrictions (e.g., the employee returns after the end of the calendar year), and that leave was not substituted, the Employer has the option of providing pay in lieu of vacation or setting a new deadline for use of accrued vacation.)

### **B. Fitness-For-Duty Examinations**

The Employer will require a fitness-for-duty certification prior to restoration.

(Option 1: for all employees taking leave for a serious health condition)

(Option 2: for employees absent from work for more than days) and/or

(The Employer reserves the right to make additional medical inquiries and/or require follow-up examinations, at its expense, to ensure that employees can safely perform all the functions of the job. These medical inquiries will be conducted in accordance with the Employer's policy with regard to the Americans with Disabilities Act.)

### **C. Key Employee Exceptions**

If an employee has gross income that is within the top 10% of the Employer's employees within 75 miles of the Employee's work site during the calendar year in which leave is taken, the Employer reserves the right not to restore the employee to his or

her prior position with the Employer if the Employer will suffer substantial and grievous harm because of the restoration. At the time that leave is granted under this policy, the Employer will inform the employee that the employee is within the top 10% and also explain the possible consequence that restoration may be denied.

If the Employer determines during the employee's leave that the employee is not to be restored to employment, the employee will be notified immediately and given the opportunity to return from leave and be restored to his or her position. If the employee does not return from leave, the employee can petition for reinstatement at the end of the leave period and will be notified, by certified mail, whether the employee will not be restored because doing so would cause the Employer substantial and grievous harm.

**D. Periodic Reporting**

Employees on leave are required to report weekly on their status and intent to return. During leave, the Employer also may require that an employee recertify the medical condition that caused the employee to take leave when the Employer obtains information that casts doubt on the continuing validity of the employee's original certification, when the employee requests an extension of leave or when circumstances have changed.

**E. Cobra**

When an employee notifies the Employer that he or she is not returning from leave, the Employer shall terminate the employee's health benefits and he or she shall no longer have a right to restoration to the same or equivalent position. The employee shall be entitled to continuation of health benefits only in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBA) and the provisions of the health plan.

(Option: provided, however, that any period of continued health benefits shall commence from the day leave commenced.)

**F. Repayment of Premiums**

Employees who return to work will meet with the Human Resources Department to work out an appropriate repayment schedule for any employee premiums or co-payments made by the Employer during leave.

Upon receiving notice that the employee is not returning to employment with the Employer, or should the employee simply fail to return or return to employment with the Employer for less than 30 days after leave has ended, the employee shall owe the Employer the cost of any benefits provided during leave, including both the employer and any employee premiums and co-payments for health benefits. No such amount shall be owed if there is a recurrence or onset of a serious health condition, or (in the opinion of the Employer), there is a change of circumstances beyond the employee's control. The benefits of a key employee who is not restored shall not be terminated prior to the end of leave and the employee shall not be responsible to the Employer for such benefits other than the normal employee contribution.

If an employee does not return to work under circumstances where repayment can be required, (the employee must repay all premiums within 60 days after receiving notice from the Employer of the amount owed. After that time, the matter will be turned over to collections as debt, which could result in legal action).

**G. Failure to Return to Work**

Employees who fail to return to work after FMLA leave shall be treated as having voluntarily terminated their employment.

**VIII. GENERAL PROVISIONS**

**A. Administration**

The Employer is the sole administrator of this policy and, as such, is the exclusive interpreter of its terms. All provisions of this policy shall be interpreted consistent with the Family and Medical Leave Act of 1993.

**B. Changes**

The Employer reserves the right to modify or terminate this policy at any time.

**C. No Employment Rights**

This policy does not create any employment rights to any individual other than specifically stated in the policy.

**D. Limitations**

Except as otherwise stated, this policy is not intended to create any rights greater than that conferred on employees by the Family and Medical Leave Act of 1993.

**E. State Laws**

If employees are employed in a state with laws that are more generous than FMLA or this policy, the Employer will comply with those laws. As a result, employees in some states may be entitled to greater leave than is normally available under this policy.

**F. Rights And Obligations**

Employees and employers have various rights and obligations under FMLA. For further information, contact the Human Resource Department.