



Agenda Item: 7.

MEMORANDUM

TO: Personnel, Legislative and Public Affairs

SUBJECT: Family and Medical Leave and Family Military Leave Policy

DATE: January 5, 2012

FROM: Jean Tait, Administrative Coordinator

During the review of the District's Employee Handbook, it was recommended by Baird Holm's attorney Randy Stevenson, to include the Family and Medical Leave and Family Military Leave Policy to the District Policy Manual. The policy is attached and we will recommend incorporating it into the District Policy Manual as Appendix V. This policy will replace the Disability Leave Policy that is in the Employee Handbook.

The Family and Medical Leave Policy requires covered employers to provide up to 12 weeks of unpaid, job protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Employees are eligible if they have worked for the District for at least 12 months in the last seven years; worked at least 1,250 hours for the District during 12 months preceding the commencement of the leave. Available sick leave and annual leave must be used on while on FMLA Leave. An employee's cumulative total of all leaves of absence under this policy may not exceed 12 weeks in any 12 month period.

The Military Leave Policy allows eligible employee to take a leave of absence when a spouse, child or parent on active duty or in the National Guard or Reserves and has been

called to active duty status, 12 weeks of leave entitlement to address certain qualifying contingencies i.e. attending military events, arranging of alternative childcare, addressing certain financial and legal arrangements, counseling sessions and attending post-deployment reintegration briefings. Family Military Leave also includes a special leave entitlement of up to 26 weeks of leave to care for a covered service member who has sustained a serious injury or illness incurred in the line of duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

The District, may, at its sole discretion, grant Family Medical Leave and Family Military Leave or some variation of these leaves, to those employees who are not legally entitled to such leave due to ineligibility (i.e. less than 12 months employment or employment at a location more than 75 miles for the District's office).

It is recommended that the PLPA Subcommittee recommend to the Board that the Papio-Missouri River NRD Family and Medical Leave and Family Military Leave Policy be adopted and incorporated into the District's Policy Manual as Appendix V.

Appendix V

**Papio-Missouri River
NRD**

**Family and Medical
Leave
and
Family Military Leave
Policy**

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT FAMILY AND MEDICAL LEAVE AND FAMILY MILITARY LEAVE OF ABSENCE POLICY

FAMILY AND MEDICAL LEAVE OF ABSENCE

The Family and Medical Leave Act (the "Act"), requires covered employers to provide up to 12 weeks of unpaid, job protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job

Such a leave is referred to in this policy as "FMLA leave."

This policy defines the terms and conditions of FMLA leave. The Act and the regulations of the Department of Labor shall be referred to for any questions not addressed by this policy. The District shall determine in each case whether an absence qualifies as a FMLA leave. The District has chosen to require the use of available sick leave and annual leave off while taking FMLA leave.

Eligibility

Employees are eligible if they have worked for the District for at least twelve (12) months in the last seven (7) years; worked at least 1,250 hours for the District during the twelve (12) months preceding the commencement of the leave.

The District may, *at its sole discretion*, grant a family and medical leave of absence, or some variation of it, to those employees who are not legally entitled to such leave due to ineligibility (e.g., less than 12 months' employment or employment at a location more than 75 miles from the District's office).

Duration

An employee's cumulative total of all leaves of absence under this policy may not exceed twelve (12) weeks in any twelve (12) month period. The 12-month period will be measured on a rolling 12-month period measured backward from the date an employee uses any FMLA leave. A husband and wife who are eligible for FMLA leave and are employed by the District are limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's son or daughter or to care for the child after the birth, or for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement. FMLA leave for the birth of a child or placement of a child for foster care or adoption, must be completed within one (1) year after the birth or placement.

Intermittent/Reduced Schedule

An employee does not need to use this leave in one block. Leave may be taken on an intermittent or reduced schedule basis only when the leave is because of a serious health condition, and the intermittent leave or reduced schedule is shown to be medically necessary. Medical certification of this need will be required. Where the intermittent leave or reduced schedule is foreseeable, the employee must try to schedule the leave so as not to unduly disrupt District operations, and if the employee needs to be absent due to planned medical treatments, the employee may be temporarily transferred to an alternative position with equal pay and benefits for which the employee is qualified and which better accommodates the intermittent or reduced schedule leave.

Unable/Decline to Return

An employee who is unable or declines to fully return to work upon expiration of FMLA leave and has exhausted all other leave will be considered to have resigned, unless the inability to return is due to a disability under the Americans with Disabilities Act and the employee requests and can reasonably be granted some additional accommodation.

Notice of Leave

Employees must provide at least 30 days' advance notice of the need to take FMLA leave, when the need is foreseeable, to the appropriate District representative. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and must comply with the District's normal call-in procedures required for other absences. If less than thirty (30) days' notice is given, the employee must explain why providing timely notice was not practicable.

Notice must be provided either in writing (for foreseeable leave only), or by calling (for either foreseeable or unforeseeable leave). When requesting leave for the first time for a particular FMLA-qualifying reason, the employee must provide sufficient information for the District to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization, or continuing treatment by a health care provider. Calling in "sick" is not enough.

Employees must also inform the appropriate District representative if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

The District will inform employees requesting leave whether they are eligible under the FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities with regard to FMLA leave. If an employee is not eligible, the District will provide a reason for the ineligibility. The District will generally notify an employee within five (5) business days whether he/she is eligible for FMLA leave.

Medical Certification

An employee on leave due to a serious health condition of the employee or a family member must provide a written medical certification on a form adopted by the District. This requirement may be waived by the District's Administrative Coordinator in cases of pregnancy or other situations where both the medical need and the timing of the leave are obvious. The certification must be provided prior to commencement of the leave when the need for leave is foreseeable; in any case, it must be provided within fifteen (15) days after it is requested. Failure to return the medical certification, absent unusual circumstances, will cause the District to deny the FMLA leave. Where the leave is due to the employee's own serious health condition, the employee must provide a copy of his or her current job description to the health care provider

before obtaining the certification. A copy of the job description will be provided to the employee by the District. The District may require a second and third opinion at District expense, in accordance with the Act.

The District will notify the employee within five (5) days of receipt of a complete and sufficient medical certification whether the leave is FMLA-qualifying. If the District is unable to determine whether the leave is FMLA qualifying because (a) the medical certification is incomplete or insufficient, or (b) the District requires a second or third opinion, it will notify the employee. The District will notify the employee in writing if the medical certification is incomplete or insufficient, and state the information needed to cure the deficiency. The employee will have seven (7) calendar to cure the deficiencies, or FMLA leave will be denied.

Recertification

Medical recertification must be provided within fifteen (15) days after requested by the District during the leave. For intermittent leave for continuing, open ended conditions, recertification may be requested every six (6) months. In addition, recertification may be requested when (1) there is a significant change in condition, (2) an extension of the leave is requested, or (3) the District receives information which casts doubt on the continuing validity of the certification.

Failure to Provide Notice/Certification

Failure to provide required notices or certifications may result in a delay in the leave of absence, or loss of the protections provided by the Family and Medical Leave Act.

Salary/Wages

FMLA leave is unpaid, except as follows:

- a. If the employee has earned but unused sick leave or annual leave for which the employee is eligible, that time off must be applied concurrently (sick leave first, and then annual leave) until it is exhausted.
- b. If the absence is due to a job-related injury, the employee may be covered by workers' compensation. If workers' compensation benefits apply, the employee will not be required to apply any earned but unused paid time off, but may elect to do so to the extent that the workers' compensation is less than the employee's regular salary.

Except as provided above, FMLA leave shall be without pay.

Benefits

During any period of FMLA leave, the District will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work, provided the employee makes timely payment of the employee's share of the premiums.

Upon return to work, most employees will be restored to their original or equivalent positions with equivalent pay, benefits and other employment terms, unless the employment would have ended even if the employee had not been on leave (for example, if the job has been eliminated due to a staff reduction or reorganization). Use of FMLA leave cannot result in the loss of any employment benefits that accrued prior to the start of an employee's leave.

During any paid portion of the leave the employee's premiums will continue to be deducted from payroll; otherwise, payments must be delivered to the District. Failure to make premium payments may cause the employee (and covered dependents) to be uninsured during a portion of the leave. No benefits accrue during any unpaid portion of FMLA leave.

Regular Reporting

While on FMLA leave, employees must keep the District informed of their plans to return to work. As a general rule, the employee must contact the Administrative Coordinator at least once every two (2) weeks; other reporting schedules may be agreed on between the employee and the Administrative Coordinator based on the employee's individual circumstances. Reasonable notice (at least two business days, and more if possible) is required prior to returning to work on any date other than the originally scheduled return date.

Fitness for Duty

The District may require an employee to provide it with a sufficient fitness-for-duty certification at the time the employee returns to work or within fifteen (15) days after the employee would have returned to work. The certification must state that the employee may return to work and is able to perform all essential functions of the position. If the fitness-for-duty certification is insufficient or incomplete, the employee shall have seven (7) calendar days to cure the deficiencies. Failure to return a sufficient fitness-for-duty certification in the requisite time period may cause the FMLA leave to be denied, and employment terminated.

For intermittent leave, the District may require a fitness for duty certification as often as every 30 days if the health condition involves a contagious disease, or could reasonably affect the employee's, a co-worker's, or a third party's safety.

Failure to Return

If the employee fails to return to work for at least 30 days at the end of the approved leave, the employee will be obligated to repay to the District 100% of all health, life, and disability insurance premiums paid by the District during the unpaid portion of the leave. The only exception is where the non-return to work is due to a continued serious health condition (medical certification is required) or other circumstances beyond the employee's control.

Definitions

"Foster care" is defined as 24-hour care for children in substitution for, and away from, their parents or guardian, in accordance with a placement made by the State or in agreement with the State.

"Spouse" is defined as a husband or wife as recognized under state law.

"Parent" is defined as a biological parent, or an individual who stood in loco parentis (had day-to-day responsibilities to care for the employee) when the employee was a child. A parent "in-law" is not considered a "parent" for purposes of family and/or medical leave.

"Son" or "daughter" or "child" is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (has day-to-day responsibilities to care for and financially support the child). The "son" or "daughter" or "child" must be either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of

the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 full consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. Absent complications or inpatient care, "serious health condition" generally does not include the cosmetic treatments, minor conditions such as the common cold, earaches, headaches, the flu, and so forth, routine doctor's appointments, or treatment with over-the-counter medicines.

A "health care provider" for purposes of medical certification shall include doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, state-authorized nurse practitioners, nurse-midwives, clinical social workers, state-authorized physician assistants, and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

A certification that an employee is "needed to care for" a sick family member includes both physical and psychological care. It includes situations where the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, and where providing psychological comfort will be beneficial to a seriously ill family member.

Intermittent or reduced schedule leave is "medically necessary" when the medical need can be best accommodated through an intermittent or reduced leave schedule. The term "medically necessary" does not include voluntary treatments or procedures.

An "equivalent position" is defined as a position which has the same pay, benefits and working conditions; involves the same or substantially similar duties and responsibilities which entail equivalent skill, effort, responsibility and authority; is available at the same or a geographically proximate worksite where the employee had previously been employed; and is on the same or an equivalent work schedule.

Leave for the birth of a child may include necessary prenatal care, or may begin before the actual date of birth of a child if the expectant mother's condition makes her unable to work. Leave for placement of a child may begin before actual placement if an absence from work is required for the placement to proceed.

Interference

The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer for enforcement. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FAMILY MILITARY LEAVE OF ABSENCE

It is the District's policy to grant family military leave under the Family and Medical Leave Act ("FMLA") or under the Nebraska Family Military Leave Act ("NFMLA"), which entitle an eligible employee to take a leave of absence when (1) certain family members in the National Guard or Reserves are on (or have been called to active duty), or active duty service members who are on duty in a foreign country (or called to active duty) and there is a qualifying exigency, (2) when certain family members in the armed forces, National Guard, or Reserves, suffer a serious injury or illness in the line of duty and the employee wants to care for them, or (3) in Nebraska, when the employee's spouse or child has been called to military service scheduled to last 179 days or longer. Such leave is referred to for purposes of this policy as "Family Military Leave."

This policy defines the terms and conditions of Family Military Leave. The Act and the Department of Labor's regulations shall be referred to for any questions not addressed by this policy. The District shall determine in each case whether an absence qualifies as Family Military Leave.

All leave under this policy runs concurrently with any other leave provided for under federal, state or local law. Employees using Family Military Leave must concurrently use available sick leave when caring for an injured or ill family member, and then available annual leave. For all other types of family military leave, an employee must use available annual leave.. To the extent no applicable paid leave is available, Family Military Leave is unpaid.

Eligibility

To be eligible for Family Military Leave under this policy, an employee must have been employed by the District for at least twelve (12) months in the last seven (7) years, and must have worked at least 1,250 hours for the District during the twelve (12) months preceding the commencement of the leave.

The District may, at its sole discretion, grant Family Military Leave, or some variation of it, to those employees who are not legally entitled to such leave due to ineligibility (e.g., less than 12 months' employment or employment at a location more than 75 miles from the District's office).

Leave Entitlement

Family Military Leave under the FMLA provides an unpaid leave of absence for the following reasons:

1. Because of any "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of an eligible employee is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves in support of a "contingency operation" (as defined by federal law) or is an active duty member of the armed forces in a foreign country (or has been notified of an impending call or order to duty in a foreign country);
2. An eligible employee is the spouse, son, daughter, parent, or next of kin of a "covered servicemember" who has suffered a "serious injury or illness" and wants to care for the servicemember.

3. Under the NFMLA, when an eligible employee's spouse or child has been called to military service scheduled to last 179 days or longer.

Qualifying Exigency Leave

Employees who have a spouse, son, daughter, or parent called to active duty with the National Guard or Reserves or is an active duty member of the armed forces in a foreign country (or has been notified of an impending call or order to duty in a foreign country) may be entitled to up to 12 weeks of leave for a "qualifying exigency." The 12-month period will be measured on a rolling 12-month period measured backward from the date an employee uses any FMLA leave.

Qualifying exigency leave may be taken only for the following non-medical, non-routine activities:

1. Short-Notice Deployment Activities: If a military member receives seven (7) or less calendar days' notice prior to the date of deployment, the employee may take up to 7 calendar days of Family Military Leave to address any issue arising from the impending call or order to active duty. The 7 days begins on the date the military member receives the call or order to active duty.
2. Military Events and Related Activities: An employee may take Family Military Leave to attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of the military member. The employee may also use qualifying exigency leave to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or Red Cross that are related to the active duty or call to active duty status of the military member.
3. Childcare and School Activities: The employee may take Family Military Leave for any of the following activities necessitated by the military member's active duty or call to active duty status, or circumstances arising from it:
 - To make alternative childcare arrangements for a military member's child;
 - To provide childcare for a military member's child on an urgent, immediate need basis but not on a routine, regular, or everyday basis;
 - To enroll in or transfer a military member's child in a new school or day care facility; and/or
 - To attend meetings with staff at a school or daycare facility.
4. Financial and Legal Arrangements: The employee may take Family Military Leave to make or update financial or legal arrangements to address the military member's absence while on active duty or call to active duty status. Leave may also be granted for the employee to act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or

appealing military service benefits while the military member is on active duty or call to active duty status, up to a period of 90 days following the termination of the military member's active duty status.

5. Counseling Activities: An employee may take leave to attend non-medical counseling provided that (1) the need for counseling arises from the military member's active duty or call to active duty status; (2) such counseling is provided by someone other than a health care provider; and (3) the counseling is for the employee, the military member, and/or the military member's child. In the event medical counseling is needed, the employee may be able to take regular FMLA leave due to the "serious health condition" of the employee or of a military member who is the employee's spouse, parent, or son or daughter as defined in the FMLA.
6. Rest and Recuperation Activities: If a military member is granted short-term, temporary rest and recuperation leave during the period of deployment, an employee may take Family Military Leave of up to five (5) days to spend time with the military member.
7. Post-Deployment Activities: An employee may take Family Military Leave to attend arrival ceremonies, reintegration briefings and events, and other official ceremony or programs sponsored by the military for a period of 90 days following termination of the military member's active duty status. The employee may also take leave to address issues that arise from the death of a military member while on active duty status.
8. Additional Activities Approved by the District: An employee may only take Family Military Leave for other exigencies if the exigency arises out of the military member's active duty/call to active duty, and the employer agrees that as to the leave's qualification, timing, and duration.

If an employee uses up his or her 12 weeks of FMLA leave for reasons other than Family Military Leave, the employee may be eligible for additional leave under the NFMLA.

Military Caregiver Leave

A spouse, son, daughter, parent, or next of kin of a "covered servicemember" who has suffered a "serious injury or illness" and wants to care for the servicemember, is eligible for up to 26 weeks of Family Military Leave in a "single 12-month period." For purposes of military caregiver leave, the single 12-month period applies per servicemember, and per injury/illness. An eligible employee may *not* take military caregiver leave for an injury or illness that manifests itself *after* the military discharge, however, the employee may be eligible for leave under the traditional FMLA if the servicemember is a parent, spouse or child, and the ailment qualifies as a "serious health condition."

During a single, 12-month period, caregiver leave is combined with regular FMLA leave and the total cannot exceed 26 weeks. If leave qualifies as both military caregiver leave and FMLA medical leave to care for a family member with a serious health condition, it will be counted as caregiver leave first.

Intermittent/Reduced Schedule

Family Military Leave taken due to a qualifying exigency may be taken intermittently or on a reduced schedule basis. Family Military Leave taken to care for a covered servicemember with a serious injury or illness may be taken intermittently or on a reduced schedule basis only when medically necessary. Medical certification of this need will be required. Where the intermittent leave or reduced schedule is foreseeable, the employee must try to schedule the leave so as not to unduly disrupt the District's operations, and if the employee needs to be absent due to planned medical treatments, the employee may be temporarily transferred to an alternative position with equal pay and benefits for which the employee is qualified and which better accommodates the intermittent or reduced schedule leave.

Notice of Leave

An employee requesting a leave of absence must notify the Administrative Coordinator as far in advance as practicable, or within the same timeframe required for other absences. The employee should make reasonable efforts to schedule leave so as to not disrupt District operations. The employee must provide sufficient information as to the reason for the leave to enable the District to determine eligibility for Family Military Leave, and must provide information as to the expected duration of the leave. When requesting subsequent leave for the same particular exigency related to the same military member, or the same injury/illness for the covered servicemember, the employee must specifically reference the qualifying reason or state "FMLA leave or Family Military Leave."

The District will notify an employee within five (5) business days whether he or she is eligible for Family Military Leave. If eligible, the District will also notify the eligible employee of their rights and responsibilities with regard to Family Military Leave.

Regular Reporting

While on Family Military Leave, employees must keep the Administrative Coordinator informed of their plans to return to work. As a general rule, the employee must contact the Administrative Coordinator at least once every two (2) weeks; other reporting schedules may be agreed upon between the employee and the Administrative Coordinator based on the employee's individual circumstances. Reasonable notice (at least two business days, and more if possible) is required prior to returning to work on any date other than the originally scheduled return date.

Certification

An employee requesting any form of Family Military Leave must provide written proof of the military member's military status, and call to duty or deployment information, on a form adopted by the District to determine whether the leave is FMLA-qualifying. For qualifying exigency leave, the employee must also provide a signed statement and description of facts for each particular exigency. For military caregiver leave, the employee must provide certification of the covered servicemember's serious injury/illness. These requirements may be waived by the Administrative Coordinator in cases of emergency or where both the need and the timing of the leave are obvious. These certifications must be provided prior to commencement of the leave

when the need for leave is foreseeable; in any case, it must be provided within fifteen (15) days after it is requested. Failure to return the required certification, absent unusual circumstances, will cause the District to deny the Family Military Leave.

A certification of active duty will remain in effect for the dates of the military member's active duty status for the contingency operation. A certification of a particular exigency will remain in effect for the duration of that exigency.

The District will notify the employee within five (5) days of receipt of a complete and sufficient certification whether the leave is FMLA-qualifying. If the District is unable to determine whether the leave is FMLA qualifying because the certification is incomplete or insufficient, the District will notify the employee in writing, and state the information needed to cure the deficiency. The employee will have seven (7) calendar days to cure the deficiencies, or Family Military Leave may be denied.

Failure to Provide Notice/Certification

Failure to provide required notices or certifications may result in a delay in the leave of absence, or loss of the protections provided by the Family and Medical Leave Act or NFMLA.

Compensation During Family Military Leave

Family Military Leave is unpaid, except that employees must concurrently use available sick leave when caring for an injured or ill family member, and then available annual leave. For all other types of family military leave, an employee must use available annual leave.

Benefits

The employee's group health, life and other insurance (if participating) will remain in effect throughout the Family Military Leave period on the same basis as if the employee were not on leave. During any paid portion of the leave, the employee's premiums will continue to be deducted from payroll. To the extent that payroll does not cover the employee's share of premiums, payments must be delivered to the Administrative Coordinator. Failure to make premium payments may cause the employee (and covered dependents) to be uninsured during a portion of the leave period. No benefits accrue during any unpaid portion of Family Medical Leave.

Return to Work

Upon return to work, the employee will be restored to his or her prior job, or an equivalent position with equivalent pay, benefits and other terms and conditions, unless the employment would have ended even if the employee had not been on leave (for example, if the job has been eliminated due to a staff reduction or reorganization).

Unable/Decline to Return

An employee who is unable or declines to fully return to work upon expiration of Family Military Leave will be considered to have resigned.

Non-Discrimination

The District will not discharge, fine, suspend, expel, discipline, or in any other manner discriminate against any employee who exercises any right provided under the FMLA, NFMLA, or this policy.

Definitions

All definitions contained in the FMLA apply to Family Military Leave (excluding the definitions of "son" or "daughter"). Additionally, the following definitions apply to Family Military Leave under the FMLA:

Active Duty: The term "active duty" means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

Contingency Operation: The term "contingency operation" has the same meaning given such term in section 101(a)(13) of title 10, United States Code.

Covered Servicemember: The term "covered servicemember" for purposes of military caregiver leave means a member of the Armed Forces, including a member of the National Guard or Reserves, who is on the temporary disability retired list or a veteran who was in active duty in the previous five years, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy, or who is otherwise in outpatient status. A "veteran" is defined as a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

Outpatient Status: The term "outpatient status," with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to:

- a. a military medical treatment facility as an outpatient; or
- b. a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Serious Injury or Illness: The term "serious injury or illness," for purposes of military caregiver leave, means an injury or illness incurred by the member in the line of duty or on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty in the armed forces) that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. With regard to veterans, because they do not have a current "office, grade, rank, or rating," the serious injury or illness be one that manifested itself before or after the member became a veteran.

Son or Daughter of a Covered Servicemember: This term means the covered servicemember's biological, adopted, or foster child, step child, legal ward, or a child for whom the servicemember stood in loco parentis, and who is of any age.

Parent of a Covered Servicemember: A "parent of a covered servicemember" means the servicemember's biological, adopted, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents "in law."

Next of Kin of a Covered Servicemember: This term means the nearest blood relative, other than the servicemember's spouse, parent, son, or daughter in the following order: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative for purposes of military caregiver leave. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the servicemember's next of kin for these purposes.