

Attachment A

6.140 FAMILY AND MEDICAL LEAVE POLICY

The purpose of this policy is to grant employees a leave of absence under certain allowable conditions. It is the policy of the Board to grant up to twelve (12) weeks of family and medical leave during a twelve (12) month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA).

In accordance with the 2009 amendment to the Family and Medical Leave Act of 1993, an eligible employee can take up to 26 weeks for the FMLA circumstance of military caregiver leave during a single 12-month period. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available. The leave may be paid (through use of accrued annual or sick leave), unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

- a. ELIGIBILITY: In order to qualify to take family and medical leave under this policy, the employee must meet all of the following conditions:
 1. The employee must have worked for the Board at least twelve (12) months or fifty-two (52) weeks. The twelve (12) months or fifty-two (52) weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week, or if the employee is on leave during the week;
 2. The employee must have worked at least 1250 hours during the twelve (12) month period immediately before the date when the leave would begin;
 3. An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member. The term "covered service member" means a member of the United States Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness is entitled to up to 26 weeks of leave in a single 12 month period to care for the service member. The leave described shall only be available during a single 12-month period. If a husband and wife both work for the company, and each wishes to take leave for service member

family leave the husband and wife may only take a combined total of 26 weeks of leave.

4. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. This will be determined on a case by case basis.
 5. The employee must work in an office or worksite where fifty (50) or more employees are employed within seventy-five (75) miles of that office or worksite.
- b. TYPE OF LEAVE COVERED: In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below:
1. The birth of a child and in order to care for that child;
 2. The placement of a child for adoption or foster care;
 3. To care for a spouse, child, or parent with a serious health condition; or
 4. The serious health condition of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position. A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves any of the following:

- An overnight stay for inpatient treatment in a hospital, hospice, or residential medical care facility; or
- A period of incapacity requiring absence from work, school, or other regular daily activities of more than three (3) consecutive calendar days and that also involves continuing treatment by or under the supervision of a health care provider; or
- Continuing care by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that if not treated would result in a period of incapacity of more than three (3) consecutive calendar days; or
- A period of incapacity or treatment for incapacity due to a chronic serious health condition; or
- A period of incapacity due to pregnancy or for prenatal care.

Employees with questions about what illnesses are covered under this Policy or under the Board's sick leave policy should consult with the Human Resources Department.

The Human Resources Department may require an employee to provide a doctor's certification of the serious health condition. The certification process is outlined (g) below.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, all or some portion of related leave taken may be designated as leave under this policy, to the extent that the leave meets the necessary qualifications.

An eligible employee can take up to twelve (12) weeks of leave under this policy during a twelve (12) month period. The Board will measure the twelve (12) month period on a calendar year basis.

5. Qualifying exigency leave for family members of active duty service members and families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.

Formatted: Not Highlight

Formatted: Bullets and Numbering

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

Formatted: Not Highlight

- 1) short-notice deployment,
- 2) military events and activities,
- 3) child care and school activities,
- 4) financial and legal arrangements,
- 5) counseling,
- 6) rest and recuperation,
- 7) post-deployment activities and
- 8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

Deleted: <#>Qualifying exigency leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.¶
¶
An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: ¶

The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have

to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

6. Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member and veterans who are undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment.

Formatted: Not Highlight

Formatted: Bullets and Numbering

This leave may extend to up to 26 weeks in a single 12-month period for an employee to care for a spouse, son, daughter, parent or next of kin covered service member with a serious illness or injury incurred in the line of duty on active duty. Next of kin is defined as the closest blood relative of the injured or recovering service member.

Deleted: <#>Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member.¶

- c. **EMPLOYEE STATUS AND BENEFITS DURING LEAVE:** While an employee is on leave, the employee's health insurance benefits will continue during the leave period at the same level and under the same conditions as if the employee had continued work.

If the employee chooses not to return to work for reasons other than a continued serious health condition, the employee will be required to reimburse the Board the amount it paid for the employee's health insurance premium during the leave period.

While on unpaid leave, the employee must continue to make his dependent coverage premium payment either in person or by mail. The payment must be received in the Finance Department by the last day of each month for the next month's coverage. If the payment is more than thirty (30) days late, the employee's dependent health care coverage may be dropped for the duration of the leave.

If the employee contributes to a life insurance policy, the Board will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee must continue to make those payments. If the employee does not continue payments, the Board may discontinue coverage during the leave period. As an option, the employee may voluntarily prepay his plan premiums before the starting date of the family and medical leave. The employee should contact Risk Management to exercise the prepayment option.

- d. **EMPLOYEE STATUS AFTER LEAVE:** An employee who takes leave under this policy will be able to return to the same job, or a job with

equivalent status, pay, benefits, and other employment terms. The position will be the same or one, which entails substantially equivalent skill, effort, responsibility, and authority.

- e. **USE OF PAID AND UNPAID LEAVE:** Employees will be required to use accrued leave for FMLA leave. For leaves for the employee's own serious health condition, employees may also be eligible to receive benefits such as short-term disability. When an on-the-job injury meets the criteria for a serious health condition, Family Medical Leave will run concurrently with the Workers' Compensation absence.
- f. **INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE:** The employee may take FMLA leave in twelve (12) consecutive weeks; or, under certain circumstances may use the leave intermittently (take a day periodically when needed over the year); or on a reduced leave schedule. In all cases, the leave may not exceed a total of twelve (12) weeks over a twelve (12) month period.

An employee may be temporarily transferred to an available alternate position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

For the birth, adoption, or foster care of a child, the Division Director and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption, or foster care of a child must be taken within one (1) year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the Division Director before taking intermittent leave or working a reduced hour schedule. If this is not possible, the employee must prove that the use of the leave is medically necessary. A certification of the medical necessity may be required.

- g. **CERTIFICATION OF THE SERIOUS HEALTH CONDITION:** When certification of the serious health condition is required, the employee should try to respond within fifteen (15) days of the request or provide a reasonable explanation of the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification may be provided by using the Family/Medical Leave Request form.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the

employee is unable to perform one or more of the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance or that the employee's presence would be beneficial or desirable to the family member.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must include dates of the planned treatment, the duration of treatment, and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

The County Administrator or his designee has the right to ask for a second opinion following receipt of the certification. The Board will pay for the employee to get a certification from a second doctor, which will be selected by the County Administrator or his designee.

If necessary to resolve a conflict between the original certification and the second opinion, the County Administrator will require the opinion of a third doctor. The County Administrator and the employee will jointly select the third doctor, and the Board will pay for the opinion. This third opinion is considered final.

- h. **PROCEDURE FOR REQUESTING FAMILY/MEDICAL LEAVE:** Except where leave is not foreseeable, all employees requesting leave under this policy must provide verbal or written request with an explanation of the reason(s) for the needed leave to the Division Director, with a copy to Human Resources, on forms provided.

When an employee plans to take leave under this policy, the employee must give the Division Director thirty (30) days notice. If it is not possible to give thirty (30) days notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the department's operations.

If the employee fails to provide thirty (30) days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least thirty (30) days from the date the Division Director receives notice.

While on leave, employees are requested to report periodically to their Division Director regarding the status of the medical condition, and their intent to return to work. Department Heads are charged with the responsibility of monitoring FMLA leave.

- i. **OUTSIDE EMPLOYMENT DURING LEAVE:** Outside or supplemental employment is generally prohibited during paid and/or unpaid Family and Medical leave. Exceptions may be granted on a case-by-case basis but must be approved by the County Administrator.
- j. **OTHER REPORTS AND CERTIFICATIONS:** During a Family and Medical Leave, the employee is required to report periodically on his status and intent to return to work.

The employee or their healthcare provider may also be required to complete one or more additional medical certification forms at reasonable intervals during the family and medical leave, but not more often than every thirty (30) days unless one of the following occurs:

- The employee requests an extension of leave;
 - Circumstances described in the previous certification have changed significantly;
 - Information received casts doubt on the continuing validity of the employee's previous certification.
- k. **RETURN TO WORK:** When an employee has taken family and medical leave because of his own serious health condition and wants to return to work upon the expiration of the leave the employee must present a fitness-for-duty certification from the health care provider which states that he is able to resume work and perform the essential functions of the position. The fitness-for-duty certification relates only to the particular health condition that caused the need for Family and Medical Leave. The Department Head may deny a request for reinstatement until the submittal of the fitness-for-duty certification.
 - l. **OTHER INFORMATION:** Employees who fraudulently obtain family and medical leave from the Board are not entitled to job restoration or maintenance of employee benefits.