

## **XIV. APPENDIX A**

### **EMPLOYER FMLA LEAVE POLICY**

**AMOUNT OF LEAVE** – The Family and Medical Leave Act (hereinafter referred to as "FMLA") entitles certain employees to an unpaid 12-week leave of absence. **QUALIFICATIONS FOR LEAVE** -- In order to be entitled to FMLA leave, an employee must have been employed by the employer for 12 months, working at least 1,250 hours during the 12-month period immediately preceding FMLA leave.

**PURPOSES OF LEAVE** – FMLA leave can be taken (1) for the birth of a child; (2) for the placement of a child for adoption or foster care; (3) to care for a spouse, child, or parent (but not a parent-in-law) with a serious health condition; and (4) because of a serious health condition that causes you to be unable to perform the essential functions of your job.

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

1. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical-care facility;
2. any period of incapacity requiring an absence of more than three (3) calendar days from work, school or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
3. continuing treatment 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 likely result in a period of incapacity of more than three (3) calendar days, and for prenatal care.

**HUSBAND AND WIFE RULE** – A husband and wife who are eligible for FMLA leave are limited to a combined total of 12 weeks of leave if the leave is taken (1) for the birth of a child; (2) for the placement of a child for adoption or foster care; or (3) to care for a parent (but not a parent-in-law) with a serious health condition.

**PERIOD FOR TAKING LEAVE** – The 12-week FMLA leave may be taken during any twelve month period measured backward from the date you first take FMLA leave. FMLA leave may be taken intermittently or on a reduced leave (part-time) basis. However, if FMLA leave is taken on an intermittent or reduced leave basis, you may be transferred temporarily to an available alternative position that better accommodates recurring periods of leave. In addition, if FMLA leave is taken for the birth of a child or placement of a child for adoption or foster care, it must be taken at one time -- not intermittently or on a reduced leave basis -- and it must be concluded within one year of the birth or placement.

**EMPLOYEE NOTICE** – In order to take FMLA leave, an employee must give the employer at least 30 days advance notice if the need for the leave is foreseeable. If the 30 days notice cannot be given because of an unexpected change in circumstances, a medical emergency, or the like, notice must be given with as much lead time as possible, normally within one or two working days of when you become aware of the need for FMLA leave -- except in extraordinary circumstances. When taking leave from work for any reason, the employee must explain the reason for the needed leave in order to allow the employer to determine whether the leave qualifies as FMLA leave. If the employee fails to explain the reason, leave may be denied. When planning medical treatment for an employee or a family member, the employee should work with the employer to schedule this leave in a way that does not disrupt business operations to the extent that it is medically possible to do so. If FMLA leave will cause disruption, the employer may require the employee to reschedule the leave if it is medically possible to do so. If the required notice is not given, the employer will delay FMLA leave until the notice has been given and the appropriate amount of time has passed.

**MEDICAL CERTIFICATION** – If an employee wishes to take FMLA leave to care for a seriously ill spouse, child, or parent or because of an employee's own serious health condition, the employee must provide to Flake a medical certification from the treating healthcare provider. This certification must be provided within 15 calendar days of the employer's request for the medical certification. The employee can obtain a form for this medical certification from the Human Resources Department. If the employee does not provide this medical certification, the employee's request for FMLA leave will be denied. The employer also reserves the right to obtain a second or third medical certification at its expense as allowed by the FMLA. Additional medical certifications may also be requested by the employer in accordance with FMLA regulations.

**SUBSTITUTION OF PAID LEAVE** – FMLA leave is unpaid. However, either employer or the employee may choose to substitute any paid vacation time, sick leave, paid time off, personal leave, short term disability leave, etc., which the employee has earned or accrued in place of the unpaid FMLA leave until this earned or accrued leave has been fully used; the paid leave and the FMLA leave will run concurrently which means the paid leave will be counted against the employee's 12 week FMLA leave entitlement. Any remaining FMLA leave will be unpaid. If paid short term or long term disability leave disability leave qualifies as FMLA leave, the employee will not be required to substitute any other type of paid leave during your absence from work. However, the short term disability leave or long term disability leave and the FMLA leave will run concurrently. When a work-related injury qualifies for FMLA leave and the employee is receiving workers' compensation benefits, the employee will not be required to substitute any paid leave during the employee's absence from work. However, the leave taken for the work-related injury and the FMLA leave will run concurrently.

**GROUP HEALTH INSURANCE** – During the period of FMLA leave, group health insurance coverage will remain in effect for the employee. If paid leave is substituted as discussed above, the employee's portion of the premium will be paid by payroll deduction as it normally is. If all or part of the leave is unpaid, then the employee must pay the portion of the premium at the same time as it would be made if by payroll deduction. If the employee does not return to work after FMLA leave, the employer reserves the right to recover all group health insurance premiums paid by it for the employee's health insurance coverage, depending upon the reason for their failure to return to work.

**STATUS REPORT** – While the employee is on FMLA leave, he/she must report to the Human Resources Department every two weeks on the status, including whether the employee intends to return to work and the date on which he/she will return to work if known.

**MEDICAL CERTIFICATION BEFORE RETURN FROM LEAVE** – If the employee has been on FMLA leave because of the employee's own serious health condition, before he/she can return to work, he/she must provide a medical certification from their treating healthcare provider which states the employee is able to resume work. If the employee does not provide this medical certification, he/she will not be permitted to return to work.

**SECOND JOB** – While the employee is off work from the employer on FMLA leave, the employee prohibited from working for another employer.

**RETURN FROM LEAVE** – When the employee returns from FMLA leave, the employee will be given the same job he/she had when you left or an equivalent job. However, if he/she is a key employee as defined in the FMLA (among the highest paid 10 percent of all employees within 75 miles of your work site), the employee may be denied the right to return to the employer under certain circumstances. If the employee does not return to work within two (2) days after the end of the employee's FMLA leave, he/she will be terminated.