

General Personnel

Family and Medical Leave Policy of the Eisenhower Cooperative

It is the policy of the Executive Board of the Eisenhower Cooperative to comply with the provisions of the Federal Family and Medical Leave Act of 1993, as amended (the "FMLA") and the regulations promulgated thereunder. Employees are to be able to participate in early child rearing of their children, to care for family members with serious health conditions, to be absent from work due to their own serious illness, to care for an injured or ill covered servicemember or because of a qualifying exigency arising from a covered military member's active duty or order to active duty without being forced to choose between such family obligations and their job security. Accordingly, all eligible employees shall be entitled to a Family Medical Leave and/or Military Family Leave, on a gender neutral basis, provided the leave is taken in accordance with the following provisions.

1. **Eligible Employee:**

a. Generally

To be eligible for Family Medical Leave and/or Military Family Leave, an employee must:

- (1) have been employed by the Cooperative for at least twelve (12) months prior to the event giving rise to the need for leave (the 12 months need not be consecutive); and
- (2) have worked at least 1,250 hours during the twelve (12) month period immediately preceding the beginning of the leave. The Cooperative will presume that all full-time employees (that is, those employees who are scheduled to work no less than 6 hours a day for no less than 180 school-days in the twelve (12) month period preceding the beginning of the leave) meet this requirement.

b. Military Family Leave

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a Covered Servicemember may be eligible to take up to twenty-six (26) weeks of leave in a single 12-month period to care for a Covered Servicemember with a serious illness or injury (hereinafter, "Military Family Leave").

- (1) **Covered Servicemember:** A "Covered Servicemember" is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is otherwise on the temporary disability retired list, for a serious illness or injury incurred in the line of active duty.
- (3) **Next of Kin:** Unless another blood relative has been designated in writing by a Covered Servicemember, "next of kin" means the nearest blood relative other than the servicemember's spouse, parent, son or daughter, in the following order of priority: blood relatives who have been granted legal custody by court decree or statute; brothers and sisters; grandparents; aunts and uncles; and first cousins.

2. **Purpose Of Leave:** Eligible employees shall be allowed Family Medical Leave for one or more of the following:
 - a. because of the birth of a child of the employee and in order to care for such child;
 - b. because a child has been placed with the employee in connection with adoption or foster care of a child by the employee;
 - c. in order to care for a family member (spouse, son, daughter or parent) of the employee who has a serious health condition;
 - d. because of a serious health condition that makes the employee unable to perform the functions of his/her position;
 - e. because of any "qualifying exigency" arising out of the active duty or call to active duty in the Reserves or National Guard in support of a contingency plan of the employee's spouse, son, daughter or parent; and
 - f. to care for a Covered Servicemember provided that the Covered Servicemember's injury or illness renders him or her medically unfit to perform duties of the member's office, grade, rank or rating (hereinafter "Military Family Leave").

3. **Qualifying Exigency:** A "qualifying exigency," for purposes of this policy, includes one or more of the following exigencies:
 - a. short-notice deployment (for up to seven calendar days beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation);
 - b. attendance at military events and related activities;
 - c. leave for childcare and school activities as enumerated by the DOL Regulations (29 C.F.R. Section 825.126(a)(3));
 - d. to make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status or to act as the covered military member's representative before a federal, state or local agency to obtain, arrange, or appeal military benefits while the covered military member is on active duty or call to active duty status;
 - e. to attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or the covered military member's child or stepchild, provided that the need for counseling arises from the active duty or call to active duty status of the covered military member;
 - f. to spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment (for up to five days for each instance of rest and recuperation);

- g. to attend post-deployment activities and address issues arising from the death of a covered military member while on active duty status; and
- h. to address other events which arise out of the covered military member's active duty or call to active duty status provided that the Cooperative and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

4. **Term Of Leave:** For leave taken as set forth in Paragraphs 2(a)-(e), eligible employees shall be entitled to a total of twelve (12) workweeks of unpaid leave during the twelve (12) month period, beginning July 1 and ending June 30 each year. For leave taken as set forth in Paragraph 2(f), eligible employees shall be entitled to twenty-six (26) weeks in a single (12) month period, as set forth in Paragraph 1(b). The leave shall be unpaid unless paid leave is substituted per Section 6 below. Leave under this policy is subject to the following:

- a. the employee must state a qualifying reason and provide certification establishing a qualifying reason for the leave on the form provided by the Cooperative to allow the Cooperative to determine whether the purpose for the leave is one allowed under the Act. The Cooperative will generally notify the employee of whether the leave qualifies as FMLA or Military Family Leave within five (5) business days after it designates the leave as FMLA or Military Family Leave;
- b. the entitlement to leave because of the birth or placement of a child expires one (1) calendar year after the date of birth or placement;
- c. a husband and wife who are both employed by the Cooperative and are both eligible for leave, are only permitted to take a combined total twelve (12) weeks of leave during any twelve (12) month period if the leave is taken because of the birth or placement of a son or daughter, and are only permitted to take a combined total of twenty-six (26) weeks of Military Family Leave in a single 12-month period;
- d. leave may be taken on an intermittent basis (in separate blocks of time due to a single illness or injury) or reduced schedule (reducing the usual number of hours per week or per day) if:
 - medically necessary when the reason for the leave is a serious health condition as provided in Paragraph 2, Sections c. and d.,
 - because of "qualifying exigency" as provided in Paragraph 2, Section e., subject to the requirements and limitations set forth in the FMLA Regulations,
 - and for Military Family Leave, if medically necessary, as provided in Paragraph 2, Section f.

Leave may be taken on an intermittent basis or reduced schedule only with the Cooperative's approval when the purpose of the leave is the birth or placement of a child for adoption or foster care; and

- e. leave to care for a Covered Servicemember, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) weeks in a single twelve (12) month period.

5. **Notice Requirements:** When the leave is foreseeable, (i.e., based upon an expected birth or placement for adoption or foster care, planned medical treatment for the employee or the employee's seriously ill family member, Servicemember Family Leave or impending order to active duty), the employee is required to notify the Executive Director not less than thirty (30) days before the date the leave is to begin of the intention to take leave pursuant to this policy. If the circumstances (i.e., date of birth, planned treatment, or order to active duty) require the leave to begin in less than 30 days, the employee shall notify the Executive Director as soon as practicable. The employee shall make a reasonable effort to schedule any planned medical treatment so as not to unduly disrupt the Cooperative's operations, subject to the approval of the health care provider involved in administering the treatment. The Cooperative may deny an employee's leave request until at least 30 days after the date the employee provides notice of the intention to take leave for unreasonable failure to provide timely advance notice for foreseeable leaves.

6. **Substitution Of Paid Leave:** If the purpose for the leave is one for which sick leave may be used, any available paid vacation, personal or sick leave will be substituted for Family Medical Leave and Military Family Leave. Any substituted leave under this policy will count towards the employee's Family and Medical Leave and Military Family Leave entitlement. Employees will be paid for accrued leave only under the circumstances permitted by and in accordance with the requirements of the applicable paid leave use policy. Employees may use sick leave concurrently with FMLA leave only for that portion of the FMLA leave that the employee or member of the employee's immediate family our household is actually incapacitated. (*See* School Code 105 ILCS 5/24-6 regarding use of sick leave.)
 - a. If the employee requests or is required to use paid accrued leave and the Cooperative determines the purpose for the leave for a qualifying reason under this policy, the Cooperative will notify the employee that the paid leave must be utilized prior to any unpaid leave and will be counted against the employee's twelve (12) or twenty-six (26) weeks of leave granted under this policy. This notice shall be made before the leave begins or before a leave extension is granted, unless the Cooperative does not sufficient information to determine the reason for the leave until after the leave has begun.
 - b. Employees entitled to family leave who have less than twelve (12) workweeks (or twenty-six (26) workweeks when applicable) of accrued unused paid leave shall be entitled to the additional weeks of leave on an unpaid basis necessary to attain the total of twelve (12) or twenty-six (26) workweeks of leave granted under this policy.

7. **Medical Certification:** The Cooperative may require requests seeking leave to care for a seriously ill family member, because of the employee's own serious health condition or for Military Family Leave be supported by medical certification from the family member's, servicemember's, or the employee's health care provider on the Cooperative's form. For foreseeable leaves the certification shall be provided to the Executive Director within fifteen (15) calendar days from the date requested or as soon thereafter as practicable. For unforeseeable leaves, the employee is required to provide certification as soon as is practicable, under the particular circumstances, after the date the Cooperative requests such certification, and generally within five (5) business days of the request.

Where the Cooperative has reason to doubt the validity of a medical certification it may require the employee to obtain a second opinion, at the Cooperative's expense. The Cooperative shall select the health care provider to supply the second opinion. In cases where the medical opinions in the first and

second certifications conflict, the Cooperative may require the employee to obtain a third certification at the Cooperative's expense. The third health care provider shall be jointly selected by the Cooperative and the employee and their certification shall be final and binding upon both the Cooperative and the employee.

The Cooperative reserves the right to request certification at a later date in cases where it does not initially request medical certification to support the leave request but it later has reason to question the appropriateness or duration of the leave. The Cooperative may deny a leave request, for foreseeable leaves, or deny continuation of leave, for unforeseeable leaves, until the employee provides the required certification.

The Cooperative will require clarification or authentication of medical certification that is incomplete or insufficient, after identifying any deficiencies in writing and giving the employee seven (7) calendar days to cure any such deficiencies, in accordance with FMLA regulations.

8. **Medical Recertification:** The Cooperative may request recertification at reasonable intervals, but not more often than once every thirty (30) days and may request recertification, regardless of the length of time since the last request, for the following reasons:
- a. when the employee requests a leave extension;
 - b. when the circumstances described by the original certification change significantly (i.e., the nature or duration of the illness changes significantly); and
 - c. when the Cooperative receives information that casts doubt upon the continuing validity of the original certification.

Recertification is at the employee's expense and must be provided to the Cooperative within fifteen (15) calendar days after its request.

The Cooperative may request recertification every six (6) months in connection with any absence by an employee needing intermittent or reduced schedule leave for conditions with a duration in excess of six (6) months.

9. **Certification For Military Family Leave:** The Cooperative may require requests seeking leave due to a "qualifying exigency" be supported by certification issued at such time, including, but not limited to, a copy of the military orders necessitating the exigency leave. The Cooperative may also request documentation for purposes of establishing a family relationship for exigency leave and/or Military Family Leave.
10. **Maintenance Of Health Benefits:** The Cooperative shall maintain the employee's group health plan coverage for the duration of leave taken pursuant to this policy on the same basis, at the same level and under the same conditions coverage would have been provided had the employee not taken the leave. The Cooperative and the employee shall continue to pay their respective applicable shares of the health care premiums during the duration of the leave as if the leave had not been taken. The Cooperative may recover its share of premium payments for any periods of unpaid leave from the employee if the employee fails to return to work after his or her leave entitlement has been exhausted. The Cooperative also may recover any portion of the premium it paid which the employee was obligated to

pay. If the employee substitutes paid leave for unpaid leave under this policy, their share of the health care premiums shall be paid by the method the Cooperative normally utilizes during any employee's paid leave. If the leave is unpaid, the employee shall pay their share of the premium, by payroll deduction if feasible and if not possible then the employee shall pay the premium by or on the 20th day of each month.

- 11. Return To Employment:** At the end of the leave period taken pursuant to this policy, the employee shall be returned to the position held immediately prior to taking the leave, except for key employees under the circumstance set forth below. If that position is unavailable, the Cooperative shall return the employee to an available position the employee is qualified to hold with equivalent pay and benefits and other terms and conditions of employment. The right to reinstatement ceases and the employment relationship between the employee and the Cooperative will be deemed terminated if the employee unequivocally informs the Cooperative of their intent not to return to their employment at the end of the leave period.

For key employees (a salaried FMLA eligible employee who is among the highest paid 10% of all the employees [salaried and unsalaried; eligible and ineligible] the Cooperative may deny reinstatement under the following circumstances:

- a. the employee has been notified, in writing, either when leave is requested or when leave begins that they qualify as a key employee and as such the possibility exists that they will not be reinstated at the end of the leave;
- b. the Cooperative determines the denial is necessary to prevent substantial and grievous economic injury to the Cooperative's operations;
- c. the Cooperative notifies the key employee of its intent not to reinstate the employee on this basis; and
- d. in cases where the key employee begins the leave and elects not to return to employment after receiving notice from the Cooperative of its intent not to reinstate the employee.

The Cooperative may require an employee returning to work from his or her own serious health condition to submit a fitness for duty certification from his or her health care provider certifying that the employee is able to perform the essential functions of his or her job. The Cooperative will provide the employee a list of the essential job functions for purposes of the fitness for duty certification. The cost of the fitness for duty certification will be borne by the employee. The Cooperative may deny the employee's return to work until the certification is submitted.

- 12. Implementing Procedures:** The Cooperative may develop procedural guidelines to implement this policy consistent with the Family and Medical Leave Act.