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SUMMIT LAW GROUP

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Sample Leave Policies and Practice Pointers Reflecting State and Federal Leave Law Requirements

WAPELRA
January 2009

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I. INTRODUCTION

Over the past several years, the United States Congress and the Washington State Legislature have created new employee leave entitlements and modified existing entitlements. There are various new leave rights under Washington law, including but not limited to domestic violence leave, leave for spouses of military personnel and the right to use accrued leave to care for a wider range of family members. On the federal level, Congress added new military-related leave rights under the FMLA and the U.S. Department of Labor overhauled the Family and Medical Leave Act regulations, requiring substantive changes in the way FMLA is administered by employers. Given the various changes, employers should review and update their leave policies and practices to ensure compliance with the range of new legal requirements.

Section II of these materials provides practice pointers regarding the various types of leave and guidance on policy development and administration. Section III consists of sample policies that Washington employers may consider using when updating their leave policies. It is important to note that the sample leave policies contain optional language and explanatory footnotes. These items, which have generally been placed in bold and/or italicized text within the sample policies, should be removed or reformatted before using any of the policies below.

The sample policies in these materials should not automatically be used without considering each employer's unique circumstances. For example, does the employer have labor agreements in place that affect the content of its policies? If the employer has represented employees, does it need to engage in collective bargaining before modifying current policies? What paid leave and other benefits can the employer afford to offer? What paid leave and other benefits does the employer want to offer? And once an employer determines the substantive content of its policies, it must ensure that the policies are drafted in a tone consistent with other employee communications it has issued.

Finally, please be mindful that legal requirements are constantly evolving, as new laws become effective and/or courts issue new interpretations of existing laws. Employers should review all leave policies with legal counsel to ensure compliance with the most current legal requirements applicable to that employer and to evaluate any potential labor relations issues.

We sincerely hope that the sample policies in these materials provide a helpful starting point in the process of reviewing and revising existing leave policies and practices.

Disclaimer of Liability

This compilation of personnel policies and commentary is provided to members of WAPELRA for the purpose of providing information, suggestions and options for member employers to consider when developing their own personnel policies and procedures. These materials do not establish an attorney-client relationship between the provider and recipient, and these materials are not intended and should not be used as a substitute for specific legal advice or opinions regarding personnel policies and procedures. Neither Summit Law Group nor WAPELRA will be responsible for liability due to the use of language contained in these materials.

II. POLICY POINTERS FOR LEAVE POLICIES

VACATION

- Clearly state how vacation leave is accrued. Is vacation earned over time (accrued on an hourly or monthly basis) or is a block of time credited to the employee at the beginning of the year? If the latter, do you use a calendar year, a fiscal year or a year tied to the employee's anniversary date?
- Identify which employees are eligible to accrue vacation. For example, are part-time employees eligible? If so, must a part-time employee regularly work a certain number of hours per week (or month) to be eligible?
- Specify whether new/probationary employees are eligible to accrue and/or use vacation leave.
- Describe the system for vacation scheduling. Some employers have very formal systems that involve periodic vacation bidding. Others are much less formal, permitting employees to use vacation as needed with very limited notice. Even if the system chosen is informal, retain the right to approve vacation requests.
- Describe the rights an employee has to carry over unused vacation from one year to the next, or alternatively, establish a maximum accrual amount. These options will prevent huge accruals, which can become a large unfunded liability for an employer. In the event of a "use it or lose it" policy, consider including waiver language that permits the employer to waive forfeiture in the event the employer needs the employee to keep working at year end.
- Address whether employees will receive a cash-out of all or part of their accrued but unused vacation upon termination of their employment.
- Remember that under Washington's Family Care statute, employees are entitled to use their choice of accrued leave to care for ill family members (see family care policy).

SICK LEAVE

- Clearly state how sick leave is accrued. Is sick leave accrued based on hours worked, or credited to the employee annually?
- Indicate which employees are eligible to accrue sick leave. Are part-time employees eligible? If so, is there a minimum number of hours that must be regularly worked to be eligible?
- Avoid sick leave cash-out provisions.

- Address whether new employees accrue sick leave during their probationary period, and whether they may use such leave during their initial period of employment.
- Include any procedural requirements for use of sick leave, including the completion of forms, requirements to provide doctor's notes, etc.
- Describe any carryover rights from one year to the next, or specify whether there is a cap on accrual.
- Remember that an employee's right to a leave under the ADA or FMLA (if applicable) should be analyzed separately to his/her right to paid sick leave.

FAMILY AND MEDICAL LEAVE

- Few areas are as confusing as family and medical leave. The federal Family and Medical Leave Act (FMLA) applies to all public agencies regardless of size and to private employers with 50 or more employees. In order to be eligible for FMLA benefits, however, an employee must work for an employer (public or private) with 50 or more employees, and work at a location where there are at least 50 employees within 75 miles. Determine whether you are a covered employer and, if so, get familiar with what is required under the FMLA. Make sure you have up-to-date information about FMLA changes implemented in 2008 and 2009.
- The Washington Family Leave Act (FLA) largely mirrors the FMLA, but the FLA and Washington's pregnancy disability regulations provide for some additional leave benefits for women who are temporarily disabled by pregnancy or childbirth and then seek time off to bond with a new baby. The Washington Department of Labor & Industries has put out a helpful guidance document explaining the interaction of state and federal leave rights, which can be found at <http://www.lni.wa.gov/WorkplaceRights/files/FamilyLeaveFAQs.pdf>.
- Manage FMLA leaves proactively, so that leave is properly designated as FMLA and counted against an employee's 12-week leave entitlement.
- In the family and medical leave policy, indicate whether employees are required to use accrued leave during any FMLA leave. If this is not required, employees may "stack" paid leave on top of FMLA leave to increase the total amount of time off.
- Indicate what 12-month "leave year" you use to administer FMLA leave. Failure to designate a leave year means that the approach most generous to the affected employee will be applied.

OTHER UNPAID LEAVE

- Ensure that the employer is the sole judge of whether to approve leaves without pay.
- Leave without pay should be integrated with any rights under the FMLA.

ADMINISTRATIVE LEAVE

- This form of leave is generally used during an investigation, when it is in the employer's interest to remove an employee from the workplace pending completion of the investigation.
- Administrative leave should generally be with pay, as you do not want to punish the employee prior to having the facts. Exceptions to this approach may be appropriate on a case-by-case basis. For public employers, a Loudermill hearing would be required before depriving an employee with just cause protection of his/her regular pay; as a result, it is usually advisable to place the employee on paid administrative leave until you have the information needed to proceed with a discipline or discharge decision.

JURY AND WITNESS LEAVE

- The law does not require employers to compensate employees for time spent serving on a jury, although some employers do so. If you are inclined to continue an employee's regular pay during jury service, consider establishing a maximum on the duration of paid leave (such as two weeks).
- State law was recently modified to provide that jurors will receive daily "expense" payments (as opposed to compensation for services) from the court for their jury service. If an employer's existing practice has been to provide paid leave for jury service and to require employees to remit any payments received from the court, you should avoid seeking recovery of the "expense" payment as this is designed to cover parking and transportation costs a juror incurs as a result of jury service.

MILITARY LEAVE

- Federal law provides liberal time-off and reinstatement rights to military personnel. The requirements are detailed, and vary based on the amount of time an individual has been on leave for military service. Rather than attempting to summarize the detailed requirements in a personnel policy, our suggestion is to state in your policy that you will comply with all military leave entitlements provided under state and federal law.

- Under Washington law, public employers must provide paid leave for up to 21 working days per year for military service. Public or private employers may elect to provide additional paid leave for military service, but are not required to do so.

LEAVE FOR SPOUSES OF MILITARY PERSONNEL

- A relatively new Washington law requires employers to provide up to 15 days of unpaid leave to spouses of military personnel who are on leave from deployment or before deployment in a military conflict. An employee must work an average of 20 days per week to be eligible.

FAMILY CARE LEAVE

- Washington law provides that if an employee has accrued paid leave available, they must be permitted to use it to care for a sick child or for a spouse, parent, parent-in-law, or grandparent with a serious or emergency health condition. Domestic partners are not covered, but some employers elect to extend this leave to situations in which an employee needs to care for a domestic partner who is ill.
- Note that employees are entitled to use their choice of the forms of accrued leave available to them. Therefore, if the employee wants to use vacation, the employer cannot require the use of sick leave (or vice versa).

HOLIDAYS

- Employers have latitude to decide whether employees will be granted time off with pay on holidays and, if so, which holidays are recognized.
- Clearly indicate which employees are eligible for paid holidays (full-time only? part-time employees regularly scheduled to work a minimum number of hours?).
- If some employees work alternative schedules, address how holiday pay will apply. For example, if a non-exempt employee works four 10-hour days, do they receive 10 hours of pay if a holiday falls on a regular workday? Or do they receive eight hours of pay like most others, and must use two hours of vacation leave if they want to receive full pay for that day?
- Address whether holidays will be addressed on an alternative day if they fall on a Saturday or Sunday.

RELIGIOUS HOLIDAYS

- Employers have an obligation to make a good faith effort to accommodate an employee's religious beliefs. Requests for time off to observe a religious holiday is probably the most common form of requested accommodation.
- The duty to accommodate religious beliefs is less burdensome than what might be required for a disability. Generally, the employer is not required to incur more than minimal costs in making the accommodation or to grant an accommodation that would conflict with an established seniority system.

BEREAVEMENT LEAVE

- Employers are not required to grant time off for bereavement, but many do. If you do, a bereavement policy should specify which employees are eligible, how much paid time off will be given and the relationships encompassed by the policy.

DOMESTIC VIOLENCE/SEXUAL ASSAULT LEAVE

- A new Washington law requires employers to provide a reasonable amount of unpaid time off to employees who are victims of domestic violence, sexual assault, or stalking, or to employees with a family member (child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship) who is a victim of domestic violence, sexual assault, or stalking. This leave may be used for certain purposes listed in the sample policy relating to efforts to address domestic violence or sexual assault.

VOTING TIME OFF

- Washington law requires employers to grant employees up to two hours of time off to vote if the employee's work schedule prevents the employee from voting while polls are open and where the employee was unable to secure an absentee ballot prior to the election date.

III. SAMPLE LEAVE POLICIES

VACATION LEAVE¹

Full-time regular employees will accrue paid vacation time on a monthly basis. The rate of vacation accrual, which may be adjusted from time to time, is as follows:

<u>Years of Employment</u>	<u>Vacation Hours Earned</u>
[0-4] years	[6] hours/month
[5-9] years	[8] hours/month
[10-14] years	[10] hours/month
[15+] years	[12] hours/month

Regular part-time employees *[who are regularly scheduled to work more than 20 hours per week]* are eligible to accrued paid vacation on a pro rata basis based on their percentage of full-time employment. Temporary employees are not eligible for any vacation benefits. Employees do not accrue vacation benefits during a leave without pay. *[Optional: Employees accrue vacation but are not eligible to use the accrued vacation during their probationary period.]*

Employees may accrue no more than *[160]* hours of vacation.² Once an employee reaches the *[160]*-hour cap, no further hours will be permitted to accrue until the employee has used some of the accrued vacation hours. In cases where EMPLOYER operations have made it impractical for an employee to use vacation time, EMPLOYER *[or Department Head, etc.]* may make a limited exception to the cap on accrual.

All vacation leave shall be taken at a time mutually agreeable to the employee and his or her supervisor. EMPLOYER reserves the right to deny requested vacation leave when such leave would interfere with operations or create an adverse impact on the completion of work.

¹ *The provision of paid vacation leave is optional, and employers that elect to provide this benefit have wide latitude to establish vacation and sick leave policies (subject to any labor agreements). Some employers prefer to provide a consolidated accrual system of paid-time off (or “PTO”), which employees may use for sick leave or vacation. The sample vacation and sick leave policies in this document are merely one possible approach, and may be modified to suit an individual employer’s needs.*

² *As an alternative to the cap on accrual, consider limiting the amount of leave that can be carried over from one calendar year to the next. Sample language: “The maximum number of vacation hours that may be carried over from one calendar year to the next is [40] hours. In cases where EMPLOYER operations have made it impractical for an employee to use vacation time, EMPLOYER [or Department Head, etc.] may authorize additional carryover.”*

EMPLOYER urges employees to secure vacation approval well in advance of desired vacation days to allow for work coverage.

Accrued but unused vacation *[will/will not]* be paid out to an employee upon separation from employment.

SICK LEAVE

Regular full-time employees *[, except LEOFF I employees,]* accrue paid sick leave at the rate of *[eight (8) hours]* per calendar month of continuous employment. Regular part-time employees *[who are regularly scheduled to work more than 20 hours per week]* accrue paid sick leave on a pro rata basis. Temporary employees are not eligible for paid sick leave benefits. Employees do not accrue vacation benefits during a leave without pay. *[Optional: Employees accrue sick leave but are not eligible to use the accrued vacation during their probationary period.]*

Sick leave may be used for any of the following purposes:

- Personal illness or incapacity of the employee;
- Forced quarantine of the employee by a public health official;
- To care for the employee's dependant children under age 18 who are ill;
- To attend the birth of the employee's child;
- Use of a prescription drug that impairs job performance or safety;
- Medical or dental appointments of the employee or dependent children under the age of 18, when such appointments cannot reasonably be scheduled during off-duty time;
- For any purpose described in the Family Care policy set forth below.

Sick leave may be coordinated with certain other leaves (see, e.g., Family and Medical Leave policy below). Employees may be required to provide medical or other documentation to verify the appropriate use of sick leave. A doctor's note will typically be required when an employee is absent for three or more consecutive days, or in other situations as deemed appropriate by EMPLOYER (e.g., pattern absences on Fridays and/or Mondays). Excessive tardiness or absences (other than approved FMLA leave) may lead to disciplinary action up to and including termination.

[Optional: Accrued but unused sick leave will not be paid out upon separation from employment.]

[Optional: Specify call-in or other procedures that must be followed to use sick leave.]

FAMILY AND MEDICAL LEAVE³

Recognizing the importance of family and out of concern for the well being of its employees, EMPLOYER's family and medical leave program enables employees to take time off, under certain conditions, for health reasons or to care for family members. This policy will be administered in accordance with the federal Family and Medical Leave Act (FMLA) and the Washington Family Leave Act (FLA). A notice entitled "Employee Rights and Responsibilities Under the Family and Medical Leave Act" is posted [*specify whether posting is on EMPLOYER bulletin boards or electronically*] and is provided to employees [*specify whether notice is provided to all new employees upon hire or included in personnel manual*].⁴ Nothing in this policy affects or supersedes any federal or state law or collective bargaining agreement that may provide greater entitlements to medical or family leave than those set forth in this policy.

Eligibility. To be eligible for leave under this family and medical leave policy, an employee must have been employed by EMPLOYER for at least 12 months, must have worked at least 1,250 hours in the preceding 12 months, and must work at a location where at least 50 employees are employed by EMPLOYER within 75 miles.

Leave Entitlement. An eligible employee may request up to 12 workweeks of FMLA leave per "leave year" for one or more of the following reasons:

- To care for a the employee's child upon birth, or to care for a child upon the child's placement with the employee for adoption or foster care;
- To care for a spouse, son, daughter or parent who has a serious health condition;

³ *Providing family and medical leave is optional for employers with fewer than 50 employees. However, the Pregnancy Disability leave described in this FMLA policy must be provided by any employer with eight or more employees.*

⁴ *New FMLA regulations require that a notice of FMLA rights must be posted prominently in the employer's workplace; electronic satisfies this requirement if all employees have access. Additionally, the notice must be provided to each employee, either by including the notice in an employee handbook, or by distributing a copy to each new employee upon hire; distribution may also be accomplished electronically. A copy of a notice containing all the required information is available at <http://www.dol.gov/esa/whd/fmla/finalrule/FMLAPoster.pdf>. Employers need not use that specific notice, but any alternative must contain the same information as is included in the U.S. Department of Labor's sample notice. Inclusion of the sample FMLA policy in these materials would not satisfy the notice requirement because the sample policy does not include certain required information such as language describing "unlawful acts" by employers and explaining how employees can file complaints with the DOL. Most employers would prefer not to include such information in their personnel policies, in which case the notice requirement must be satisfied by alternative means (e.g., including the complete DOL notice in an appendix to the handbook or providing the notice to all new employees upon hire).*

- To care for self, if the employee has a serious health condition that makes the employee unable to perform the essential functions of the position (including incapacity due to pregnancy, prenatal medical care or childbirth); or
- For a “qualifying exigency” arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member who is on active duty, or has been notified of an impending call to active duty in support of a contingency operation. Covered military members are members of the National Guard or Reserves, and certain retired military service personnel, who have been called to active duty or notified of an impending call to active duty. Qualifying exigencies are generally activities related to the active duty or call to duty, including attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings.

EMPLOYER defines leave year as the rolling twelve-month period measured backward from the date an employee uses any FMLA leave.⁵ FMLA leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement. In addition, spouses employed by EMPLOYER are jointly entitled to a combined leave of 12 workweeks of family leave for the birth or placement of a child for adoption or foster care, or to care for a parent with a serious health condition. Each spouse is, however, eligible for the full 12 weeks of leave in the 12-month leave period to care for a child or spouse with a serious health condition, or for either employee’s own serious health condition.

An eligible employee may also take up to 26 weeks of leave during a single 12-month period to care for an injured servicemember who is the employee’s spouse, parent, child or next of kin. A covered servicemember is a current member of the Armed Forces, including National Guard or Reserves members, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation or therapy; or is in outpatient status; or is on the temporary disability retired list. For purposes of this kind of leave, the 12-month period begins with the first day the employee takes leave. The combined total of leave for all purposes described in this policy may not exceed 26 weeks in the applicable leave year.

Serious Health Condition. A serious health condition is an illness, injury, impairment or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility;
- A period of incapacity of more than three consecutive, full 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;

⁵ Note: Instead of using a rolling 12-month period, employers may designate the leave year as the calendar year, any fixed 12-month period such as a fiscal year, or the 12-month period measured forward from the date any employee’s first FMLA leave begins.

- A period of incapacity due to pregnancy or for prenatal care;
- A period of incapacity or treatment due to a chronic serious health condition, for a permanent or long-term condition for which treatment may not be effective, or to receive multiple treatments for restorative surgery after an accident or injury or for a condition that would likely result in an incapacity of more than three full, consecutive calendar days in the absence of medical treatment (e.g., chemotherapy for cancer or dialysis for kidney disease).

Intermittent or Reduced Work Schedule Leave. In certain circumstances, eligible employees may take FMLA intermittently (for example, in smaller blocks of time) or by reducing their work schedule. If the FMLA leave is because of the employee's own serious health condition or to care for a family member, the employee may take the leave intermittently or on a reduced work schedule if it is medically necessary. Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency arising from a family member's military service. If FMLA leave is to care for a child after the birth or placement for adoption or foster care, employees may take their FMLA leave intermittently or on a reduced work schedule only with EMPLOYER's permission. Where intermittent leave or reduced-schedule leave is needed for planned medical treatment, an employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly EMPLOYER's operations. Where an employee needs intermittent or reduced-schedule leave based on planned medical treatment, EMPLOYER may transfer the employee to an alternative position with equivalent pay and benefits that can better accommodate such recurring leave.

Notice and Certification. Employees who want to take FMLA ordinarily must provide EMPLOYER with at least 30 days' notice of the need for leave, if the need for leave is foreseeable. If 30 days' advance notice is not possible, notice must be provided as soon as practicable (which is generally the same day or next business day after the need for leave becomes known). Absent unusual circumstances, employees are required to follow EMPLOYER's regular procedural requirements when requesting FMLA leave.⁶ When requesting leave, employees must provide sufficient information for EMPLOYER to determine whether the leave may be FMLA-qualifying, and the anticipated timing and duration of requested leave. Employees must also inform EMPLOYER if the requested leave is for a reason for which FMLA leave was previously taken or certified.

When leave is requested in connection with planned medical treatment, the employee must make a reasonable effort to schedule treatment in order to prevent disruptions to EMPLOYER operations.

In addition, employees who need leave for their own or a family member's serious health condition must provide medical certification from a health care provider of the serious health condition. EMPLOYER may require a second or third opinion (at EMPLOYER expense), periodic recertifications of the serious health condition and, when the leave is for an employee's own serious health condition, a certification that the employee is fit to return to work.

⁶ *Note: Consider adding a cross-reference to your policy or policies regarding calling in unexpected absences and/ or completing written leave requests in advance of planned absences.*

Employees who need leave for a qualifying exigency arising from a family member's military leave must provide a certification confirming the need for leave.

EMPLOYER may delay leave to employees who do not provide proper advance notice of the foreseeable need for leave. EMPLOYER also may delay or deny approval of leave for lack of proper certification establishing the need for leave.

Please contact Human Resources to obtain further information and forms relating to FMLA leave requests.

Continuation of Pay and Benefits: FMLA leave is unpaid leave. However, employees are required to use any accrued paid leave available to them as part of their 12 weeks of FMLA leave.

During all leave under this family and medical leave policy, EMPLOYER will continue to pay the employer's portion of health insurance premiums, provided that the employee continues to pay his/her share of insurance premiums, if any. Failure of the employee to pay his/her portion of the premium may result in cancellation of health insurance. Under certain circumstances, if an employee fails to return to work at the end of the leave, the employee may be responsible to pay back EMPLOYER for the employer portion of the health insurance premiums. Leaves such as vacation and sick leave will continue to accrue during paid leave, but not during unpaid leave.

Job Restoration Upon Return From Leave. Upon return from family and medical leave, an employee will be entitled to return to the employee's former position or a position with equivalent pay, benefits and conditions of employment, unless unusual circumstances have arisen (e.g., the employee's position or shift was eliminated for reasons unrelated to the leave). If the employee chooses not to return to work for any reason, the employee should notify EMPLOYER as soon as possible.

Leave for Pregnancy Disability and to Care for Newborn. In addition to leave under the federal FMLA described above, state law provides certain additional leave rights in connection with pregnancy-related disability and to care for a newborn. Regardless of whether an employee is eligible for FMLA leave, she is entitled Pregnancy Disability leave for the period of time that she is temporarily disabled because of pregnancy or childbirth. Medical certification may be required to confirm the need for leave. If the employee is eligible for FMLA leave, the Pregnancy Disability leave will run concurrently with FMLA leave. Pregnancy Disability leave is unpaid and health benefits are not automatically continued (unless the employee is also eligible for FMLA leave); however, accrued leave may be used and the employee may continue insurance coverages at her expense.

The Washington Family Leave Act (FLA) provides certain additional leave benefits to care for a newborn. The FLA largely mirrors the FMLA, with the same eligibility standards and entitlement to 12 weeks of leave for family and medical reasons. In most situations, leave under the FLA runs concurrently with FMLA leave. However, the FLA leave does not run concurrently with any leave taken for Pregnancy Disability leave; this affords an employee time off to care for her newborn once she has recovered from the Pregnancy Disability. For example, an FMLA and FLA-eligible employee works up to her delivery date, and needs six weeks of Pregnancy Disability leave to recover from childbirth. This six-week period is also covered by

FMLA leave. At that point, where the employee is no longer disabled from childbirth, the employee also has up to 12 weeks of FLA leave available to care for the newborn. The remaining six weeks of FMLA leave would run concurrently with the FLA leave. Thus, the total leave entitlement in this case would be 18 weeks: six weeks of Pregnancy Disability leave (running concurrently with the first six weeks of FMLA leave) followed by 12 weeks of FLA leave (running concurrently with the remaining six weeks of FMLA leave).

For Guidance. For more information on any of these leave policies, or if you think you may need to take a Family and Medical Leave, please contact Human Resources. The leave laws, particularly those applicable to pregnancy and childbirth, can be confusing. Employees are encouraged to contact Human Resources with any questions about how the various laws are coordinated in a particular situation.

OTHER UNPAID LEAVE

Subject to operational and other considerations, EMPLOYER may grant a leave of absence without pay for an absence not covered by any other type of leave. Any available accrued leave must be exhausted before an unpaid leave will be approved. An example of an absence that may qualify is a prolonged illness or medical condition for which an employee needs reasonable accommodation.

ADMINISTRATIVE LEAVE

On a case-by-case basis, EMPLOYER may place an employee on administrative leave with or without pay for an indefinite period of time.⁷ Administrative leave may be used when it is in EMPLOYER'S best interests, such as during the pendency of an investigation.

BENEFITS DURING LEAVE

Employees who are on a paid leave of absence shall continue to receive benefits they were entitled to prior to the start of their leave, including the accrual of vacation, sick leave, holidays, retirement and health insurance benefits. Unless stated otherwise in these policies, an employee's benefits (including health insurance and leave accruals) will be suspended during any period of unpaid leave in excess of 30 consecutive days. In certain cases, self-payment of insurance premiums may apply (see COBRA information).

⁷ *Note: Public employers must observe Loudermill requirements before placing an employee with just cause protection on an involuntary, unpaid leave of absence. If it is in the public employer's best interests to put such an employee on administrative leave pending an investigation, it should generally be paid administrative leave.*

JURY OR WITNESS DUTY

Employees who are required by law to render jury service will be granted time off during the period of jury duty. Employees should notify their supervisor as soon as possible after receipt of a juror summons so that operational adjustments can be made as needed during the employee's absence. A copy of the juror summons must be provided upon request. If an employee is summoned for jury service during a critical work period, EMPLOYER may ask the employee to request a waiver from duty; in such cases, EMPLOYER will provide documentation to the relevant court supporting the waiver request. Employees should contact their supervisor for instruction if there is a break greater than four hours during jury duty where the employee is not required to report to the court; depending on the circumstances, an employee may be required to return to work during such a period.

An employee subpoenaed to testify in court will be granted time off for the period he/she serves as a witness. In general, and subject to pay requirements for exempt salaried employees, leave for witness duty is unpaid unless the employee has been called as a witness by EMPLOYER.

MILITARY LEAVE

Every employee who is a member of the Washington National Guard or of the U.S. Army, Navy, Air Force, Coast Guard or Marine Corps, or of any organized reserve of the United States, will be granted military leave in accordance with state and federal law. Employees who take military leave will have whatever rights to reinstatement, seniority, vacation, layoffs, and compensation as are provided by applicable law.

Paid Leave of 21 Days Per Year.⁸ Under Washington law, a public employee is entitled to a paid military leave of absence for a period not to exceed 21 working days during each year beginning October 1st and ending the following September 30th. According to guidance from the Attorney General's office, a day is calculated according to the number of days the employee would have worked, but for the military leave. Military leave beyond the 21 days of paid time off will be unpaid, provided that employees may elect to use accrued vacation, compensatory time or other available paid time off during the period of military leave.

Employees should notify their supervisor as soon as they receive notice of the need to report for military duty, and provide the supervisor with a copy of the military orders.

LEAVE FOR SPOUSES OF MILITARY PERSONNEL (Non-FMLA)

During a period of military conflict declared by the President or Congress, an employee who is the spouse of a member of the Armed Forces, National Guard or Reserves is entitled to up to 15 days of unpaid leave while his/her spouse is on leave from deployment, or before and up to deployment. (This reason for leave may also be covered under FMLA leave for a qualifying

⁸ *Note: This is required for public employers only.*

exigency, although an employee need not meet the more stringent FMLA eligibility requirements in order to take this spousal military leave.) The purpose of this leave is to support the families of military personnel serving in military conflicts by permitting them to spend time together before a family member is deployed or while the family member is on leave from a deployment. An employee must work an average of 20 hours per week to be eligible for this family military leave.

An employee who seeks to take family military leave must provide EMPLOYER with notice of his/her intent to take leave within five business days of receiving official notice that the employee's spouse will be on leave or of an impending call to active duty. The employee may substitute any available accrued leave for any part of this family military leave.

FAMILY CARE/USE OF ACCRUED LEAVE TO CARE FOR SICK FAMILY MEMBER

Consistent with the Washington Family Care Act, employees may use their choice of any accrued leave that they have available for their own use in order to care for their child, spouse, parent, parent-in-law, domestic partner, or grandparent as described below.

An employee may use available paid time off to care for his/her child where the child has a health condition requiring treatment or supervision, or where the child needs preventive care (such as medical, dental, optical or immunization services).

An employee may use available paid time off when a spouse, domestic partner, parent, parent-in-law, or grandparent has a "serious or emergency health condition", which are conditions:

- Requiring an overnight stay in a hospital or other medical-care facility;
- Resulting in a period of incapacity or treatment or recovery following inpatient care;
- Involving continuing treatment under the care of a health care services provider that includes any period of incapacity to work or attend to regular daily activities; or
- Involving an emergency (*i.e.*, demanding immediate action).

Where the need for family care leave is unexpected, EMPLOYER understands that advance approval of the use of leave (as is required for certain kinds of accrued leave) may not be possible. Employees are required, however, to notify their supervisor of the need to take time off to care for a family member as soon as the need for leave becomes known. EMPLOYER reserves the right to require verification or documentation confirming that a family member has or has had a "serious or emergency" health condition when available leave is used to care for that family member.

HOLIDAYS

EMPLOYER provides paid time off for **[10]** holidays per year for regular full-time employees and part-time employees **[regularly scheduled to work more than 20 hours per week]**. The holidays observed by EMPLOYER are:

New Year's Day	Labor Day
Martin Luther King, Jr.'s Birthday	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Fourth of July	Christmas Day

The dates of the above-listed holidays will be as designated by the State of Washington. Any holiday falling on a Saturday will be recognized on the preceding Friday. Any holiday falling on a Sunday will be recognized on the following Monday.

Full-time regular employees will receive eight hours of pay for the holiday. Part-time regular employees **[who are regularly scheduled to work more than 20 hours per week]** will receive holiday pay on a pro-rated basis.

RELIGIOUS HOLIDAYS

If an employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the employee may, with **[his/her Department Head]**'s approval, take the day off using vacation or leave without pay. Employees should seek approval for such absences well in advance to ensure work coverage.

BEREAVEMENT LEAVE

All regular full-time employees and part-time employees **[regularly scheduled to work more than 20 hours a week]** will be granted up to three days off with pay in the event of a death in the employee's immediate family. For purposes of this policy, immediate family includes the employee's spouse, domestic partner, parents, children, siblings, stepparents, stepchildren, grandparents, grandchildren, parents-in-law, sons-in-law, or daughters-in-law. This time off must be taken within 10 calendar days of the date of death, unless the service is delayed, and will be prorated for part-time employees. If an employee needs additional time off, he or she may use accrued leave or leave without pay subject to the approval of the employee's supervisor.

When requesting bereavement leave, employees should inform their immediate supervisor as to who died and the date of death. Proof of death and/or relationship may be required.

DOMESTIC VIOLENCE/SEXUAL ASSAULT LEAVE

This leave is available to employees who are victims of domestic violence, sexual assault, or stalking. It is also available to employees with a family member (child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship) who is a victim of domestic violence, sexual assault, or stalking. The leave may be taken in blocks, intermittently, or on a reduced leave schedule. The amount of leave that an employee may take is limited to a “reasonable” amount. Domestic violence/sexual assault leave is unpaid, although an employee may elect to use the employee’s accrued paid leave (e.g., vacation, sick leave, compensatory time) in connection with such leave.

Domestic Violence/Sexual Assault Leave may be taken for the following purposes:

- To seek law enforcement or legal assistance or to prepare for or participate in any legal proceeding related to domestic violence, sexual assault, or stalking;
- To seek health care treatment for physical or mental injuries from domestic violence, sexual assault, or stalking, or attend to such health care treatment for a family member;
- To obtain (or assist a family member in obtaining) services from a domestic violence shelter, rape crisis center, or other social services;
- To obtain (or assist a family member in obtaining) mental health counseling related to domestic violence, sexual assault, or stalking; or
- To participate in safety planning, to temporarily or permanently relocate, or to take other actions to increase the safety of the employee or family member relating to domestic violence, sexual assault, or stalking.

When possible, employees must give advance notice of the intention to take leave. If advance notice is not possible, employees (or their designees) must give notice of the need for this leave no later than the end of the first day the employee takes the leave. EMPLOYER may require verification to support the need for the leave. Depending on the situation, verification can take the form of police reports, court documents, or the employee's own written statement of the need for the leave. Except where disclosure is authorized or required by law, EMPLOYER will maintain confidentiality of all information provided by the employee in conjunction with Domestic Violence/Sexual Assault Leave.

TIME OFF TO VOTE

If an employee’s work schedule on the day of an election does not provide the employee two free hours during the time the polls are open, EMPLOYER will permit the employee to take a reasonable amount of time (up to two hours) to leave work for voting purposes. Employees are

encouraged to arrange for an absentee ballot if their work schedule will provide insufficient time to vote in person; time off to vote will only be approved where there was insufficient time to secure an absentee ballot during the period between the time an employee is informed of his/her work schedule and the date of the election.