

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 500</p> <p>ADMINISTRATIVE/HUMAN SERVICES</p>	<p>OPR: DIR SS</p>
	<p>DEPARTMENT ORDER: 519</p> <p><i>EMPLOYEE HEALTH – FMLA, ADA, INDUSTRIAL INJURY, FFD AND ALTERNATE ASSIGNMENT</i></p>	<p>SUPERSEDES: DO 519 (10/3/05)</p>
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PURPOSE

This Department Order establishes a programmed approach in the management of employee health conditions which affect the ability to work, and establishes procedural guidelines to assist in the management of employee absences. The Department shall make every effort to return the employee to his/her assigned duty when possible, by providing Temporary Work Assignments, Modified Duty, appropriate leave, or reasonable accommodation in accordance with applicable laws.

PROCEDURES

519.01 INDUSTRIAL INJURIES/ILLNESSES - Employees who sustain an injury, illness or disease arising out of and in the course of employment, may be eligible for workers' compensation benefits. Failure to follow reporting and industrial injury/illness time frames result in sanctions to the Department.

1.1 The Department of Administration, Risk Management Division, is the State's insurance carrier. The Department's policy number is WC-520. The Personnel Liaison, Occupational Health Nurse (OHN), and Occupational Safety Consultant at each work site are the designated resource team for workers' compensation issues.

1.2 Employees shall report industrial injuries and illnesses as they occur. The employee's report provides the basis for a claim.

1.2.1 A claim for benefits may be filed within one year after the date of injury.

1.2.2 Claims denied by Risk Management may be appealed through the Industrial Commission of Arizona, within the time frames designated on the notice of claim status.

1.3 Reporting/Management of Industrial Injuries and Illnesses:

1.3.1 Employees shall:

1.3.1.1 Report all incidents involving an injury/illness to their immediate supervisor, shift commander or the next available person in their chain-of-command, as applicable. The individual to whom the claim is reported is designated as the responsible supervisor.

1.3.1.1.1 COTA Class Sergeants are responsible for ensuring that claims are completed properly and reported timely when a COTA Cadet is injured.

1.3.1.2 Upon submitting an injury claim for Workers Compensation coverage relating to a slip, trip or fall in a known High Risk Area:

1.3.1.2.1 Provide their supervisor with documented evidence that their footwear met the Department's standards for slip resistant work shoes at the time of purchase and/or use. If there is evidence to the contrary or the employee fails to provide the documentation, he/she may be referred to the Deputy Warden/Warden for further assessment and may be subject to disciplinary action as outlined in Department Order #601, Administrative Investigations and Employee Discipline.

- 1.3.1.2.2 Be required to wear footwear that is slip resistant to reduce the likelihood of an industrial injury.
 - 1.3.1.3 Complete the Employee/Supervisor Report of Industrial Injury, Form 519-2, with their supervisor. If medical treatment is necessary, the employee shall present a copy of the form to the physician at the initial medical visit, which identifies the visit as industrial-related.
 - 1.3.1.4 By the end of the shift on the day in which an industrial incident occurs, whether or not medical treatment is required, report the incident by calling Risk Management's *Workers' Compensation Early Claims Notification 24-Hour Hotline* at 602-542-WORK (9675) or 1-800-837-8583.
 - 1.3.1.5 Notify the onsite Occupational Health Nurse (OHN) that an industrial injury has occurred; provide a description of the incident, whether or not medical attention has been or will be sought, and a telephone number where the employee may be contacted for follow-up, if necessary.
 - 1.3.1.6 If medical treatment is initially declined, but later determined to be necessary, notify his/her supervisor and the OHN.
 - 1.3.1.7 If injured, be referred to a Risk Management-approved occupational health care provider for the initial visit, where available and when practical, to determine the nature and extent of the employee's injury. After the initial visit, the employee may visit his/her personal physician or another health care provider.
 - 1.3.1.8 If medical care is sought, notify the health care provider that the visit is industrial related and complete the employee portion of the Worker's and Physician's Report of Injury, ICA Form 102, available at the health care provider's office.
 - 1.3.1.9 The employee who is restricted in the performance of their duties shall present a completed Health Status Report, Form 519-3, to the health care provider to be completed, signed and returned to the OHU.
 - 1.3.1.10 The employee shall report recuperation progress to their supervisor, and OHN, as directed.
 - 1.3.1.11 Submit a health care provider written recuperation progress report to the OHN as directed.
 - 1.3.1.12 If admitted to the hospital or in-patient care facility due to an industrial injury, notify or arrange for notification of their first line supervisor by telephone as soon as possible.
- 1.3.2 Supervisors shall:
- 1.3.2.1 Provide the employee with the prompt opportunity to obtain medical evaluation and treatment on the day of injury, if applicable. The reporting process shall not delay necessary medical attention. In the event the employee becomes incapacitated, the supervisor shall be responsible for completing all necessary documents.

- 1.3.2.2 Ensure that all actions above are completed within the mandated time frames as outlined in this Department Order and state law.
 - 1.3.2.3 Provide the employee a copy of the Employee/Supervisor Report of Industrial Injury, Form 519-2, which is to be presented to the physician during the initial visit, if medical treatment is sought.
 - 1.3.2.4 FAX the completed Employee/Supervisor Report of Industrial Injury form to the applicable OHN by the end of shift in which the claim is reported. If the employee is incapacitated and unable to provide details of the incident, the supervisor shall interview witnesses and complete the report as thoroughly as possible.
 - 1.3.2.5 Allow time for the employee to confer with the OHN, if determined necessary by the OHN and instruct the employee, when able, to call the OHN for follow up on their industrial injury.
 - 1.3.2.6 Notify the OHN of any industrial injury/illness that requires the employee to miss work, and provide the OHN with updated information regarding the employee's progress.
 - 1.3.2.7 Upon return to work, direct the employee to provide a written progress report from their provider to the OHN.
 - 1.3.2.8 If the absence meets the provisions of FMLA and the employee is eligible, notify the employee verbally and in writing, within five business days of notification of injury, that the leave is being designated as FMLA, using the Family and Medical Leave Request/Notification, Form 519-1. FMLA shall run concurrently with Industrial Leave.
- 1.3.3 Managers shall:
- 1.3.3.1 In consultation with the OHN and Occupational Safety Consultant at each work site, ensure that the Occupational Safety and Health Administration (OSHA) is notified within eight hours of a work-related death or a hospitalization of three or more employees.
 - 1.3.3.2 In consultation with the OHN, assign employees to Temporary Work Assignments (TWA) or Modified Duty that is consistent with medical needs, restrictions and work limitations specified by the physician.
- 1.3.4 The OHN shall:
- 1.3.4.1 Review the Employee/Supervisor Report of Industrial Injury form to determine if the employee has sought medical care and/or is unable to work.
 - 1.3.4.2 Input coding and entry of the Employee/Supervisor Report of Industrial Injury form, into the web-based Web envision system, which shall be a shared responsibility between OHU, Human Resources Operations and Risk Management personnel.
 - 1.3.4.3 Coordinate posting of the OSHA report during the month of February as required by Federal Regulation.

- 1.3.4.4 Maintain the OSHA log.
 - 1.3.4.5 Receive notices of claim status and other related documents from Risk Management, maintain Workers' Compensation files, and label it as such on the work status log.
 - 1.3.4.6 In consultation with management staff, ensure that TWAs are made and monitored in accordance with section 519.06.
 - 1.3.4.7 Place the report in the employee's confidential occupational medical record, which is maintained at the Institution's Occupational Health Unit.
 - 1.3.4.8 Notify appropriate management staff of an employee's claims status, and provide updates of the employee's condition and expected date of return to work.
 - 1.3.4.9 Coordinate case management efforts with a Risk Management Claims Adjuster within ADOA's Risk Management Division.
 - 1.3.4.10 Maintain contact with the employee to monitor their progress, determine their return-to-work-status and health limitations, and otherwise take action as outlined in this Department Order.
- 1.3.5 The Occupational Health Administrator shall provide to the Occupational Safety Administrator the Department's OSHA 300 form for each reporting location. This shall be posted each year between the dates of February 1st and April 30th.

1.4 Time Reporting

- 1.4.1 Workers' Compensation shall not be paid if the employee is absent from work for seven calendar days or less. The employee shall be charged sick leave during this period.
 - 1.4.1.1 After the seven-day period has elapsed, the employee shall continue to use sick leave until it is exhausted and any other forms of approved leave, at a rate necessary to receive total pay (a combination of Workers' Compensation payments and leave payments), that does not exceed the gross salary of the employee.
 - 1.4.1.2 After sick leave is exhausted and if the employee does not make a request to use other accrued leave, he/she shall be placed on Leave Without Pay. Employees are encouraged to submit a request for donated leave in accordance with Department Order #512, Employee Pay, Work Hours, Compensation and Leave.
- 1.4.2 Supervisors shall ensure the Positive Attendance Records (PARs) or Electronic Time Entry (ETE) for employees on industrial leave are completed according to Department Order #512, Employee Pay, Work Hours, Compensation and Leave, to include coding the absence as industrial leave.
- 1.4.3 Payroll shall:

- 1.4.3.1 Ensure that employees on industrial leave are charged for leave taken in accordance with applicable statutes, Personnel Rules, Department Order #512, Employee Pay, Work Hours, Compensation and Leave, and/or other applicable written instructions.
- 1.4.3.2 If the employee receives a retroactive Workers' Compensation payment for the initial period of sick leave, and if the employee has received a leave payment for that period, require the employee to reimburse the Department for the amount of used sick leave, and restore the equivalent value of leave to the employee's leave account.
- 1.4.4 Upon full medical release, an employee returning from industrial leave shall return to the position occupied at the start of the leave. If this position or a position in the same class is not available or no longer funded, the Department shall conduct a reduction in force.
- 1.4.5 For Correctional Officer Retirement Plan (CORP) members, Personnel Liaisons shall:
 - 1.4.5.1 Ensure that CORP members who are on Industrial Leave for two weeks or longer receive a Contributions During Period of Industrial Leave (CORP Form C19). (See Attachment F)
 - 1.4.5.1.1 The CORP member must elect to continue/discontinue contributions to CORP during the period of industrial leave. If the employee does not make an election, the time absent from work shall be considered as service but not credited service.
 - 1.4.5.1.2 It is the CORP member's responsibility to complete a Contributions During Period of Industrial Leave form and forward it to the CORP Local Board Office, Central Office, Department of Corrections.
 - 1.4.5.2 Notify the CORP Coordinator in the Human Services Bureau, by fax, email and/or phone, when a CORP member is unable to work for two weeks or longer due to an industrial injury/illness. The CORP Coordinator shall also be notified when the CORP member returns to work.
- 1.5 Contract medical providers may be available at some locales to provide initial services for industrial injury/illness. Contact the OHN, Personnel Liaison or Occupational Safety Consultant for specific locations.
 - 1.5.1 Risk Management shall cover initial visits to the contracted medical provider, regardless of the outcome of the claim.
 - 1.5.2 When initial care is provided by a personal health care provider and the claim is subsequently denied, the employee shall be liable for payment, except for treatment received prior to claim denial.
 - 1.5.3 The OHU shall distribute updates of contract medical providers, as changes occur, to the Personnel Liaisons and Occupational Safety Consultants, who shall ensure updated lists are distributed as appropriate.

- 1.6 Employee/Supervisor Report of Industrial Injury - The Warden or Bureau Administrator shall procure Employee/Supervisor Report of Industrial Injury forms from ACI. Personnel Liaisons, Occupational Safety Consultants and Occupational Health Nurses shall maintain a supply of these forms and, when needed, contact the Warden or Bureau Administrator to replenish supplies.

519.02 FAMILY MEDICAL LEAVE ACT (FMLA) - In accordance with the FMLA, the Department shall grant unpaid job-protected family and medical leave to eligible employees for up to 12-weeks per 12-month period, calculated from the effective date of the current request (See Attachment B). Prior to the leave being granted, the employee shall provide a completed Certification of Healthcare Provider form at the time the request is made, however, no later than 15 days from date of request. Failure to provide the Certification of Healthcare Provider form may result in a delay of the FMLA Leave or may result in denial.

- 1.1 Upon approved application or designation by management, FMLA shall be granted for any one or more of the following reasons:

1.1.1 The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care. Leave time taken as one block of time for this reason shall be taken within the 12-month period following the child's birth or placement with the employee.

1.1.1.1 Intermittent FMLA for birth of a child shall only be approved when it is medically necessary due to the child's qualifying health condition.

1.1.2 In order to care for a spouse, child or parent, if the family member has a serious health condition.

1.1.3 The employee's own serious health condition that makes the employee unable to perform the essential job functions of their position.

1.1.4 Active Duty Leave – an employee may take up to 12-weeks of unpaid FMLA leave during a 12-month period for any qualifying exigency arising while the employee's spouse, son, daughter or parent is a covered service member on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation (See Attachment C – Fact Sheet 28-A, page two). This leave may be taken continuously or intermittently or as a reduced schedule.

1.1.4.1 An employee whose family member is a member of the Regular Armed Forces is not eligible to take leave for a qualifying exigency.

1.1.4.2 A call to duty for purposes of leave taken due to a qualifying exigency refers only to Federal call to active duty. State calls to duty are not covered unless under the order of the President of the United States.

1.1.4.3 When leave is taken for a qualifying exigency, the employee shall provide a copy of the covered service member's active duty orders or other documentation issued by the military which indicates that the covered service member is on active duty or call to active duty status in support of a contingency operation and a completed "Certification of Qualifying Exigency for Military Family Leave" form (Form WH-384 – Attachment J) is submitted prior to the leave being granted.

- 1.1.5 Service Member Family Leave (Caregiver) – an employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the service member who is undergoing medical treatment, recuperation or therapy or is in outpatient status or on the temporary disability retired list for a serious injury or illness incurred in the line of duty while on active duty. An eligible employee may not take leave under this provision to care for former members of the Armed Forces, National Guard and Reserves or for members on the permanent disability retired list. This leave is available during a single 12-month period and may be taken continuously or intermittently or as a reduced schedule.
 - 1.1.5.1 When leave is taken due to a serious injury or illness of a covered service member, the employee must provide a completed “Certification for Serious Injury or Illness of Covered Service member for Military Family Leave” form (Form WH-385 – Attachment L) prior to the leave being granted.
 - 1.1.5.2 If the husband and wife are both employed by the State of Arizona and each wish to take leave for the care of a qualified service member, the husband and wife shall be entitled to a combined total of 26 workweeks of FMLA leave.
- 1.1.6 In most cases, the FMLA does not provide coverage for such commonplace illnesses, such as colds and flu. In such cases, if appropriate, the employee may apply for sick leave, sick family, annual, compensatory, holiday, or Leave Without Pay (LWOP), as approved by their supervisor.
- 1.2 If the husband and wife, both of whom are employed by the State of Arizona, the total period of FMLA leave in any 12-month period shall be limited to a combined total of up to 12-weeks provided the leave is taken for the following reasons:
 - 1.2.1 The birth of the employees’ son or daughter.
 - 1.2.2 The care of the child after birth.
 - 1.2.3 Placement of a son or daughter with the employees for adoption or foster care.
 - 1.2.4 The care of the child after adoption or foster care placement.
 - 1.2.5 The care of the employee’s parent(s) with a serious health condition.
 - 1.2.6 Service Member Leave.
- 1.3 Coverage and Eligibility Criteria
 - 1.3.1 For the purposes of the FMLA, an eligible employee is an individual who has met the following criteria:
 - 1.3.1.1 Is an employee of the State of Arizona;
 - 1.3.1.2 Has been employed by the State of Arizona for at least 12 months (need not be continuous; however employment prior to the break in service of seven years or more need not be counted); and

- 1.3.1.3 Has worked for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. Work time is actual hours worked and excludes any type of leave taken.
 - 1.3.2 If, at any time, it is determined that an employee on approved FMLA shall not be returning to work, the FMLA leave entitlement shall cease.
- 1.4 Intermittent or Reduced Leave – For intermittent leave or leave on a reduced schedule, there shall be a medical need for the leave and that such medical need can be best accommodated through an intermittent or reduced leave schedule. Prior to the leave being granted, the employee shall provide a completed Certification of Healthcare form at the time the request is made, however, no later than 15 days from the date of request. Failure to provide the Certification of Healthcare form may result in a delay of the FMLA Leave or may result in denial of the leave.
 - 1.4.1 To reduce or eliminate the adverse effects of intermittent leave on workplace staffing and operations, the employee may be temporarily transferred to an alternative position that better accommodates recurring periods of leave. Management shall consult with the Employee Relations Unit prior to any temporary reassignment to accommodate intermittent leave.
 - 1.4.2 When intermittent leave is needed to care for an immediate family member or the employee's own illness, and for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.
 - 1.4.3 During absences of intermittent leave under the FMLA, employees shall contact their direct supervisor and notify them of their absence and the reason for the leave. Call-in procedures shall be used to track an employee's qualifying FMLA entitlement. Failure to follow call-in procedures may result in disciplinary action.
 - 1.4.4 For non-covered and covered employees who are on approved FMLA status and are exempt from earning overtime, straight time, or compensatory time under the Fair Labor Standards Act (FLSA) for working in excess of 40 hours in a workweek, and have been determined by the State to be FLSA excluded, if FMLA is taken:
 - 1.4.4.1 On an intermittent basis and less than one day, the employee shall document the hours as a partial day absence on the employee's PAR using pay code 105, and designate the appropriate FMLA Attendance Code to track the employee's qualifying FMLA entitlement, however, leave time will not be charged or deducted from a paid leave category.
 - 1.4.4.2 On a reduced leave/work schedule which is expected to exceed one pay period, the hours will count against the employee's available FMLA and leave time will be charged and deducted from the appropriate paid leave category while the employee is on the reduced leave/work schedule.
- 1.5 FMLA Provisions - Health insurance remains in effect once all paid leave has been exhausted however, employees on leave without pay must remit the employee portion of the premium. Failure to make timely payments may result in cancellation of health insurance.
 - 1.5.1 Job Protection/Rights Upon Return to Work - The employee shall return to their former position, after an approved period of FMLA, or to an equivalent position with equivalent pay, benefits, status, RDOs, shift and authority.

- 1.5.2 Neither the Department nor any staff member shall:
 - 1.5.2.1 Interfere with, restrain, or deny the exercise of any rights provided under the FMLA.
 - 1.5.2.2 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.
- 1.5.3 Managers shall ensure a copy of, "Your Rights Under the Family and Medical Leave Act" (Attachment B), is posted on all employee bulletin boards.

1.6 Leave Requirements and Notification

- 1.6.1 An employee on FMLA shall be required to use appropriate accrued leave as outlined in ADOA Personnel Rules. Leave Without Pay and Medical Leave Without Pay (LWOP/MLWOP) status shall be approved only when all other applicable leave is exhausted with the exception of parental leave where an employee may choose to use LWOP in lieu of exhausting accrued leave.
- 1.6.2 The Department shall designate all leave taken for an FMLA-qualifying event as FMLA leave within five business days, whether or not an actual application has been made by the employee (For example, in cases of urgent hospitalizations). When leave is designated as FMLA, the employee shall be notified in writing via the FMLA Request form.
- 1.6.3 Leave may be designated as FMLA, after the employee returns to work only when:
 - 1.6.3.1 The employee was absent for a qualifying reason and the Department did not learn of the reason for the absence until the employee's return.
 - 1.6.3.2 The Department is aware of the reason for the leave and receipt of substantiating medical documentation is delayed.
- 1.6.4 If applicable, the FMLA leave shall apply on the first day the employee began his/her leave.

1.7 Employee Responsibility – The employee shall submit a completed FMLA request (Family and Medical Leave Request/Notification, Form 519-1) to the Personnel Liaison. In cases where the leave is foreseeable, the employee shall request the leave at least 30 days prior to the need for the leave. For unforeseeable leave, the leave shall be requested as soon as practicable. The FMLA request form shall include:

- 1.7.1 A beginning and ending date for the leave time requested. Absences categorized as indefinite or unknown shall be returned to the employee for clarification.
- 1.7.2 The supervisor's signature of acknowledgment.
- 1.7.3 The applicable Certification of Health Care Provide (Attachments H, I, J or K) completed by the employee's or family member's health care provider shall be provided to the Occupational Health Nurse (OHN) at the time the request is made, however, no later than 15 days from the date of request.

- 1.7.3.1 If needed, clarification of healthcare information/documentation shall be requested from the employee. The employee shall be given an additional seven days to provide clarification or rectify any deficiencies.
 - 1.7.3.2 When clarification regarding handwriting that cannot be interpreted or understanding of a provider's documentation is needed, the Occupational Health Nurse or other designated management officials, i.e., Human Resource Professional, Employee Relations Unit staff, Warden or Bureau Administrator may contact the employee's healthcare provider for clarification. At no time, shall the employee's direct supervisor contact the employee's health care provider.
- 1.8 Processing FMLA Requests - Management shall ensure that the FMLA process is completed within five business days as follows:
- 1.8.1 Personnel Liaisons shall:
 - 1.8.1.1 Verify that the employee has been employed with the State of Arizona for 12- months and has worked 1,250 hours within the past 12-months.
 - 1.8.1.2 Determine the amount of FMLA leave charged within the previous 12-months using the "rolling 12-month method," which is calculated backward from the effective date of the current request.
 - 1.8.1.3 Note on the FMLA request whether or not the employee meets the eligibility requirements.
 - 1.8.1.4 If the employee does not meet eligibility requirements, return the request to the employee and forward a copy to the OHN for inclusion in the employee's medical record.
 - 1.8.1.5 If the employee meets eligibility requirements, forward the FMLA request to the Occupational Health Nurse.
 - 1.8.1.6 Contact the OHN and/or the Employee Relations Unit if the Department has received information that casts doubt upon the validity of the reason for the FMLA Request or Certification or continuance of FMLA.
 - 1.8.2 The OHN shall:
 - 1.8.2.1 In the event the Certification of Healthcare Provider form is not attached to the FMLA request form, request the Certification and allow the employee 15 days to provide the Certification of Healthcare Provider form.
 - 1.8.2.2 Evaluate the medical certification for FMLA eligibility.
 - 1.8.2.3 For business related reasons only, obtain medical clarification and or re-certification from the employee's health care provider, when appropriate and allow an additional seven days if clarification is requested from the employee.
 - 1.8.2.4 Sign the form and forward the FMLA request to the Warden/Administrator for final approval.

- 1.8.2.5 Maintain an Employee Health Record, Form 519-7, for each employee and provide appropriate authorities with access to this information for business-related reasons only.
- 1.8.2.6 Monitor employees on leave.
- 1.8.2.7 Notify management 30 days prior to the expiration of an employee's approved leave.
- 1.8.3 The Warden/Administrator shall:
 - 1.8.3.1 Notify the employee and the employee's supervisors of the approval/denial of the employee's request for FMLA. The employee shall be notified via copy of the FMLA form.
- 1.8.4 Supervisors shall ensure approved FMLA leave time is properly coded on the PAR, utilizing established FMLA payroll codes.
- 1.8.5 Managers shall ensure that an employee who returns to work from FMLA leave:
 - 1.8.5.1 Is restored to the same or equivalent position.
 - 1.8.5.2 Does not lose any employment benefits and/or status, such as shift, RDO's, and/or specialty assignment.
- 1.8.6 Questions regarding FMLA shall be referred to the OHN and/or the Employee Relations Unit.
- 1.8.7 An employee whose request for FMLA leave has been disapproved may file a grievance in accordance with Department Order #517, Employee Grievances.
- 1.8.8 Upon approval for full time FMLA, the employee is not required to call in or otherwise provide periodic updates until the conclusion of their leave (excluding intermittent FMLA).
- 1.8.9 Any discrepancies that may exist between this Department Order, the FMLA and/or Arizona Revised Statutes, or any other applicable State policies and/or Rules, the FMLA and/or Arizona Revised Statutes or State policy and/or Rules will prevail.

519.03 RETURN-TO-WORK PROVISIONS - ABSENCES OVER 40 HOURS

- 1.1 Return to Work (Full Duty) - Prior to returning to work, an employee shall provide to management and/or the OHN a Health Status Report indicating return to full duty with no work restrictions.
- 1.2 Return to Work (Restrictions) - Prior to returning to work, an employee shall provide management and/or the OHN a Health Status Report indicating applicable restrictions. In consultation with the OHN, management shall determine an appropriate TWA assignment, if available, or modify their duty accordingly. An employee shall not return to work until this determination is made by management.

1.3 No Return to Work

1.3.1 In consultation with the Employee Relations Unit and OHN, management shall make contact with an employee who fails to return, or is incapable of returning, from medical leave.

1.3.2 An employee who fails to return to work upon expiration of approved leave shall be subject to appropriate administrative action. Such action shall be coordinated with the Employee Relations Unit.

1.4 In conjunction with a return-to-work provision, managers may schedule an employee for a Fitness-for-Duty Evaluation in consultation with the Employee Relations Unit, as outlined in section 519.05 of this Department Order.

1.5 An employee who has become disabled may be eligible for the provisions of the Americans with Disabilities Act (ADA) as outlined in section 519.04 of this Department Order.

519.04 REQUESTS FOR ACCOMMODATION UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

- Qualified employees under the ADA shall be considered for reasonable accommodation upon request. All accommodation requests shall be treated as a priority and processed expeditiously, ensuring confidentiality throughout the review process.

1.1 An employee may submit a request for reasonable accommodation to their immediate supervisor, when that employee:

1.1.1 Has a physical or mental impairment that substantially limits one or more major life activity.

1.1.2 Has a record of such an impairment,

1.1.3 Is prevented from enjoying equal employment opportunities due to their impairment.

1.2 If the employee meets the criteria for reasonable accommodation, the employee shall:

1.2.1 Complete a Request for Reasonable Accommodation, Form 519-5, and forward it, with supporting medical documentation, to their Warden or Administrator.

1.2.2 Identify the requested accommodation(s) and examples which may include, but not limited to; modification of duties, specialized equipment or furniture, restructuring the physical environment and reassignment.

1.3 Wardens/Administrators shall:

1.3.1 Begin the interactive process by meeting with the employee to discuss the accommodation request.

1.3.2 In consultation with the OHN and Employee Relations Unit, determine if the employee shall be placed in a TWA or on appropriate leave pending review of their accommodation request, if the impairment precludes the employee from performing any of the essential functions of their position.

1.3.3 Consult with the OHN and the Employee Relations Unit, review the essential functions of the position, evaluate the request, and determine the ability to accommodate.

- 1.3.4 Complete the Request for Reasonable Accommodation form indicating the recommendation and forward a copy to the Employee Relations Unit.
- 1.4 Employee Relations Unit shall:
 - 1.4.1 Process accommodation requests as a priority and as expeditiously as possible.
 - 1.4.2 Continue the interactive process with the employee.
 - 1.4.3 Evaluate requests and consult with management, the Staffing Unit, and the OHN, as necessary.
 - 1.4.4 Determine if additional health documentation or other professional consultation is needed.
 - 1.4.5 Submit an analysis and recommendation to the Employee Relations Administrator for final approval.
- 1.5 The Employee Relations Administrator shall:
 - 1.5.1 Request additional information from the Employee Relations Unit, if necessary.
 - 1.5.2 Determine if an employee is a qualified individual under the ADA.
 - 1.5.3 Approve, deny or modify the request in writing and return the documents to the Employee Relations Unit.
- 1.6 The Employee Relations Unit shall:
 - 1.6.1 Notify the employee and management of the decision.
 - 1.6.2 Assist in coordinating the accommodation.
 - 1.6.3 Ensure appropriate records are maintained.
- 1.7 Wardens/Administrators shall:
 - 1.7.1 Implement the approved accommodation.
 - 1.7.2 Ensure the accommodation continues as necessary.
- 1.8 Dispute Resolution - Employees may utilize the employee grievance procedure to address allegations of discrimination related to their disability or concerns with their ADA accommodation request, as outlined in Department Order #517, Employee Grievances.
- 1.9 Prohibited Accommodation - Informal accommodations requested outside of this process shall not be granted and if approved in error, shall not be binding or permanent.

519.05 FITNESS-FOR-DUTY EVALUATIONS

- 1.1 Wardens/Administrators, in consultation with the Employee Relations Unit, may approve or direct an employee to undergo a Fitness-for-Duty evaluation to determine whether an employee is able to perform the duties of their position. (See Attachment E)

- 1.2 Some evidence of problems related to job performance or safety that may have a health origin may trigger the need for the evaluation. Fitness-for Duty evaluations shall be:
 - 1.2.1 Conducted if the concerns are job-related and consistent with business necessity.
- 1.3 Confidentiality and Availability of Evaluations - The request for a Fitness-for-Duty evaluation and the results of any Department-ordered evaluation shall be held in strict confidence. Information shall be disclosed on a need-to-know basis only. Any requests for copies of the Fitness-for-Duty report shall be directed to the Employee Relations Administrator.
- 1.4 Following consultation with the Employee Relations Unit, the Warden/Administrator shall:
 - 1.4.1 Determine if the employee shall be placed in a TWA or be placed on appropriate leave, excluding paid administrative leave, pending the outcome of the evaluation.
 - 1.4.2 Schedule an appointment with an approved health care provider and notify the employee in writing of the scheduled appointment using Attachment E.
 - 1.4.3 Compile all related documentation and submit a comprehensive referral packet to the health care provider, containing the following:
 - 1.4.3.1 A letter to the contracted evaluator that includes a summary of the employee and their background, the events leading to the referral, management's concerns regarding the employee's health, and what the manager needs to know from the evaluation. (Attachment D)
 - 1.4.3.2 Copies of relevant documents, which may include but are not limited to information reports, investigative summaries, medical/psychological records, performance documents, job description, disciplinary notices, memoranda or other relevant written communications.
- 1.5 An employee who has been ordered to attend a Fitness-for-Duty evaluation shall:
 - 1.5.1 Attend the evaluation as ordered. The employee shall not change the appointment date and time.
 - 1.5.2 An employee who refuses to attend the appointment, or otherwise refuses to cooperate, may be subject to disciplinary action.
 - 1.5.3 Present their Department identification card at the time of the appointment.
 - 1.5.4 Sign a "Release of Information" form at the health care provider's office.
- 1.6 An employee shall be considered "on-duty" when traveling to/from and attending the evaluation. Use of a state vehicle is authorized, unless an employee's condition dictates otherwise. If the employee or management believes that he/she is unable to drive due to medication or other medical reasons, management shall arrange transportation to and from the health care provider's office. Travel expenses may be authorized and shall be reimbursed in accordance with State of Arizona travel policies. (Visit www.gao.az.gov/travel).
- 1.7 The Employee Relations Administrator or designee shall:
 - 1.7.1 Coordinate with contracted health care providers to obtain the Fitness-for-Duty report as soon as possible within contract limits.

- 1.7.2 Review Fitness-for-Duty reports and information.
- 1.7.3 Provide Wardens/Administrators, the OHN and others who have a business need to know the results of the Fitness-for-Duty evaluation.
- 1.7.4 Consult with Wardens/Administrators when the evaluation indicates restrictions or limitations to duty.
- 1.7.5 Coordinate with Wardens/Administrator to assist with follow up evaluations as indicated.

519.06 TEMPORARY WORK ASSIGNMENT OR MODIFIED DUTY

- 1.1 Employees who become temporarily unable to perform the duties of their job due to a health restriction, as certified by a health care provider, may request and may be assigned to Modified Duty or a TWA as appropriate, using the Health Status Report, Form 519-3.
 - 1.1.1 Temporary Work Assignment - Temporary reassignment to a different job, performing the duties of which are compatible with health limitations.
 - 1.1.2 Modified Duty – Temporary modification to an employee’s regular duties, based upon medical necessity, which allows them to remain in their normal assignment and work area.
 - 1.1.2.1 If an employee has a health condition restricting their ability to perform their job duties, management shall make every effort to place the employee in a TWA or temporarily modify their regular duties.
 - 1.1.2.2 Temporary Work Assignments shall exclude sole and/or direct control or supervision of inmates, Incident Command System (ICS) response, unit/yard control rooms, and housing unit control rooms.
 - 1.1.2.3 The approved Statewide Temporary Work Assignment list (see attachment G) shall be used to determine the appropriate temporary placement.
 - 1.1.2.3.1 In extreme circumstances, such as an increase in the inmate population, the Warden/Administrator, in consultation with the OHN and Regional Operations Director, may request a modification to an existing TWA or to create a new TWA. If deemed appropriate, the Warden/Administrator shall submit the request to the Occupational Health Administrator. The OHU Administrator shall make his/her recommendation and submit the request to the Employee Relations Administrator who shall consult with the applicable Division Director for final approval.
 - 1.1.2.3.2 Prior to disapproving a request for a TWA or Modified Duty involving an industrial injury due to exhaustion of approved TWA’s, consult with the Employee Relations Unit.
 - 1.1.2.3.3 If the Modified Duty TWA Assignment list is exhausted, employees shall be placed on a waiting list.
 - 1.1.2.4 Uniformed staff shall remain in uniform unless the health condition expressly requires an exception, as certified by a health care provider and approved by the Warden/Administrator or designee.

- 1.2 Assignment to Modified Duty or a Temporary Work Assignment – The decision to place employees on Modified Duty or TWA is reserved for Administrators. Such decisions shall be made in consultation with the Occupation Health Unit (OHU), or in unusual circumstances, consult with the Employee Relations Unit, and shall be consistent with temporary health limitations.
- 1.2.1 The employee shall provide management or the Occupational Health Nurse (OHN) with a Health Status Report, which shall include a statement as to the nature, severity and duration of the employee's health condition and shall include any limitations/restrictions.
- 1.2.2 Assignments shall be approved up to 30-days based on documented needs.
- 1.2.2.1 Pregnant employees shall remain on TWA/Modified Duty until the birth of their child.
- 1.2.2.2 Prior to the expiration of an approved TWA/Modified Duty period, in cases where an employee is unable to return to full duty, management shall consult with the Employee Relations Unit regarding the employee's work status and options.
- 1.2.3 Wardens/Administrator shall provide a copy of the employee's health care provider's report to the appropriate OHN for evaluation and identification of an available Modified Duty or TWA. The OHN shall advise on assignments that:
- 1.2.3.1 Minimize the risk of further injury to the employee.
- 1.2.3.2 Reduce the risk of jeopardizing the safety of co-workers.
- 1.2.3.3 Reduce the risk of negatively effecting security concerns.
- 1.2.4 Upon rendering a decision, Wardens/Administrators shall notify the employee in writing and forward all documentation and confidential medical records in their possession to the OHU. When a Modified Duty or TWA involves movement of an employee to a different work unit, management shall notify the Personnel Liaison.
- 1.2.5 When an employee is on Modified Duty or TWA, the OHN shall:
- 1.2.5.1 Document the beginning and ending dates of the Modified Duty or TWA in the Occupational Health and Safety database (OHAS).
- 1.2.5.2 Monitor time frames.
- 1.2.5.3 **SECTION DELETED**

1.2.6 The employee shall provide management or the OHN with an appropriate release or clearance to return to their normal duty assignment upon the conclusion of the authorized Modified Duty or TWA.

1.2.6.1 The OHN shall evaluate return to work releases and provide a recommendation to management. If approved, management shall notify the employee in writing of his/her return to full duty.

1.2.7 Extensions of Modified Duty/TWA shall not be considered. Once an employee has exhausted the 30 days, he/she will be required to utilize medical leave until cleared by the health care provider.

1.2.7.1 **SECTION DELETED**

1.2.7.1.1 **SECTION DELETED**

1.2.7.1.2 **SECTION DELETED**

1.2.8 Support Roles

1.2.8.1 OHNs shall maintain documentation of confidential medical records in the employee's confidential occupational medical record file, and shall provide relevant information to staff with a bona fide need to know.

1.2.8.2 The Employee Relations Unit shall be available to provide guidance and assistance to management, OHN's, and employees.

1.2.8.3 TWA supervisors shall:

1.2.8.3.1 With technical assistance from the OHU, ensure that daily assignments given to employees are consistent with the conditions and limitations of the approved TWA.

1.2.8.3.2 Supervise the employee's daily work related activities.

1.2.8.3.3 Provide performance documentation to the employee's regular supervisor at the end of the TWA.

1.2.8.3.4 **SECTION DELETED**

1.2.9 Employees on Modified Duty or TWA may not work overtime.

- 1.2.10 Employees may apply for more than one Modified Duty/TWA as long as the request is for a newly diagnosed qualifying medical condition.

519.07 EMPLOYEES UNABLE TO FIREARMS QUALIFY

- 1.1 When a Correctional Series employee fails to meet the firearms training and qualification standards due to a medical and/or physical reason, as outlined in Department Order #510, Firearms Qualification/Firearms Instructor Certification, management shall, depending on the available medical information, authorize a TWA or refer/recommend a Fitness-for-Duty evaluation, as outlined in section 519.05 or this Department Order.

519.08 PREGNANCY

- 1.1 An employee who is pregnant may submit a written request for a TWA at any time during her pregnancy, for the entire duration of her pregnancy and recovery.
- 1.2 Upon request, management shall coordinate placement of the employee in a TWA in accordance with section 519.06 of this Department Order.
- 1.3 Employees that are required to possess a valid weapons card and elect not to attend weapons qualification training shall be placed on Temporary Modified Duty and shall not be assigned to an armed post.

519.09 EMPLOYEES PERMANENTLY UNABLE TO RETURN TO THEIR JOB ASSIGNMENT

- 1.1 Upon receipt of information indicating an employee is permanently unable to return to their job assignment for medical or mental health reasons, management shall consult with the Employee Relations Unit who shall assist in the preparation of a letter advising the employee of their leave status and available employment options, and identify time frames for action.
- 1.2 Employees who are qualified as defined under the American's With Disabilities Act, and who are unable to perform the essential functions of their current position, may prepare and submit a Request for Reasonable Accommodation to their Warden/Administrator.
- 1.3 An employee may be separated without prejudice if an employee:
 - 1.3.1 Declines a job offer of permanent reassignment.

519.10 EMPLOYEE CONFIDENTIAL OCCUPATIONAL MEDICAL RECORD

- 1.1 All records and documents shall be retained in accordance with Department Order #103, Correspondence/Records Control, or applicable statute.
- 1.2 Health records are confidential, and shall not be placed in an employee's personnel file, institution file, or a supervisor's or personnel liaison's working file.
- 1.3 Health records shall be maintained in the Occupational Health Unit (OHU) at the employee's current work location. The Employee Relations Unit may also maintain confidential health records.
- 1.4 The OHU shall ensure that health records are released only to those who have a need to know based on business necessity.

- 1.5 Questions regarding medical records or information shall be directed to the OHN.
 - 1.5.1 The OHN shall inform supervisors and managers regarding necessary restrictions on the work or duties of their employees.
 - 1.5.2 Staff in the following areas are authorized to obtain clarification of an employee's healthcare documentation:
 - 1.5.2.1 Occupational Health Nurses.
 - 1.5.2.2 Employee Relations Unit staff.
 - 1.5.2.3 Warden or Bureau Administrator.
 - 1.5.2.4 Human Resource Professionals.
 - 1.5.3 Under no circumstances may the employee's supervisor contact the employee's health care provider.

519.11 LEAVE-RELATED INFORMATION

- 1.1 Medical Leave Without Pay - Shall be approved when a permanent status employee, excluding an employee on original probation, is unable to work due to a non-job related, seriously incapacitating and extended illness or injury when:
 - 1.1.1 A physician selected by the employee documents such illness or injury. At the Department's expense, this documentation shall be subject to confirmation by a Department selected physician, whose opinion shall be used to determine whether medical leave without pay should be granted.
 - 1.1.2 Medical Leave Without Pay begins when the employee exhausts all leave balances, inclusive of all leave donated to the employee. Medical Leave Without Pay terminates upon the employee's return to work or when the employee is absent for 180 days, whichever occurs first.
- 1.2 Parental Leave - Employees may request parental leave, which consists of a combination of annual leave, sick leave, compensatory leave, or leave without pay due to pregnancy, childbirth, miscarriage, abortion or adoption of children. Approval for requests for parental leave are subject to the following conditions.
 - 1.2.1 Sick leave may be taken only for periods of disability as certified by a physician.
 - 1.2.2 Parental leave following childbirth, miscarriage, abortion or adoption shall not exceed 12- weeks, unless the supervisor approves a request for a longer period.
 - 1.2.3 The employee shall specify the number of hours of annual leave, sick leave, compensatory leave and leave without pay to be used when requesting parental leave.
 - 1.2.4 The supervisor shall not require the employee to exhaust all annual, compensatory or sick leave before taking parental leave without pay.
 - 1.2.5 If leave under this section qualifies for FMLA leave, a supervisor shall designate it as FMLA leave and notify the employee in writing.

- 1.2.6 An employee returning to work from leave without pay taken as part of parental leave shall return to the position occupied at the start of the parental leave. If this position no longer exists, a reduction in force shall be conducted.
- 1.3 Donation of Annual Leave - An employee may donate annual leave to an individual who has no accumulated annual leave if the individual is:
 - 1.3.1 Another employee in the same agency as the donating employee.
 - 1.3.2 A family member of the donating employee who is employed in another agency.
 - 1.3.3 Eligible due to a qualifying extended illness or injury, or is required to care for an immediate family member who has a serious incapacitating illness or injury.
 - 1.3.3.1 To receive this benefit, employees are required to apply for donation of annual leave, as outlined in Department Order #512, Employee Pay, Work Hours, Compensation and Leave.
 - 1.3.3.2 For additional information regarding annual leave donations, contact the Personnel Liaison in Personnel Services.

DEFINITIONS

12-MONTH PERIOD (for the purposes of FMLA) – A rolling 12-month period measured backward from the date FMLA leave is taken.

ESSENTIAL JOB FUNCTION - A fundamental and material job action, distinguished from a non-critical or peripheral duty, required to perform the duties of the assignment.

EXIGENCY LEAVE – Qualifying exigency includes any one or more of the following non-medical, non-routine activities: (See Attachment “C” Fact Sheet 28-A, page two, for detailed information)

- Short notice deployment activities.
- Military events and related activities.
- Child care and school activities.
- Financial and legal arrangements.
- Counseling activities.
- Rest and recuperation leave.
- Post-deployment activities.
- Any other event that the employee and employer agree is a qualifying exigency.

EXTENDED ILLNESS OR INJURY - A period of at least three weeks to a maximum of six consecutive months for the purposes of annual leave donation. (R2-5-403)

FAMILY MEMBER -

- **ANNUAL LEAVE DONATION** - For the purposes of annual leave donation only, family member includes spouse, child (natural, adopted, foster, step, grand), parent (natural, adoptive, grand), brother, sister, in-law, (brother, sister, son, daughter, mother, father).
- **FAMILY MEDICAL LEAVE** - For the purpose of FMLA, family member includes son and daughter (biological, adopted, foster, step, legal ward, child of a person standing in loco parentis), parent (biological or someone who stood in loco parentis), and spouse.

FUNCTIONAL CAPACITY - The employee's physical ability to perform the essential job functions of their position.

HEALTH CONDITION - Any diagnosed illness, disease or injury, including those that are physical or psychological in nature. A health condition may be temporary or permanent.

HEALTH STATUS REPORT - A Department form used to describe a medical condition, duration and defines the extent of work limitations for an employee capable of working, or to indicate full duty status.

HEALTH CARE PROVIDER (PHYSICIAN, PRACTITIONER) - Includes the following providers if they are authorized to practice medicine or surgery, as appropriate, by the state or country in which the doctor practices and are certified to perform within the scope of their practice as defined under the state or country in which they practice:

- Doctors of medicine or osteopathy.
- Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist.)
- Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts. (Where an employee is receiving treatment from a Christian Science Practitioner, the employee may not object to any requirement from the Department that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science Practitioner.)
- Any health care provider recognized by the Department or the State's group health plan's benefits manager.

PREGNANCY RELATED CONDITION - A temporary secondary medical condition or concern precipitated by the pregnancy.

{Original Signature on File}

Charles L. Ryan
Director

ATTACHMENTS

- Attachment A - Health Care Provider Prognosis Request (Letter)
- Attachment B - FMLA Rights Notice
- Attachment C - FMLA Reference Material
- Attachment D - Fitness-for-Duty Notice to Evaluator (Letter)
- Attachment E - Fitness-for-Duty Notice to Employee (Letter)
- Attachment F - CORP Form C-19: Contributions During Period of Industrial Leave (elections form)
- Attachment G - Statewide Temporary Work Assignments
- Attachment H - Certified Health Care Provider - Employees' Serious Health Condition
- Attachment I - Certified Health Care Provider - Family Members' Serious Health Condition
- Attachment J - Certified Health Care Provider - Qualifying Exigency - Military Leave
- Attachment K - Certified Health Care Provider - Serious Illness/Injury of a Covered Service Member

FORMS LIST

519-1, Family and Medical Leave Request/Notification
519-2, Employee/Supervisor Report of Industrial Injury
519-3, Health Status Report
519-5, Request for Reasonable Accommodation
519-7, Employee Health Record

AUTHORITY

A.R.S. 23-901 et seq, Industrial Injury and Disease.
A.R.S. 38-741 et seq, Arizona State Retirement System.
A.R.S. 38-881 et seq, Correctional Officer Retirement Plan; Membership; Credited Service.
A.R.S. 41-1492 et seq, Public Accommodation and Services (Arizonans With Disabilities Act of 1992).
A.R.S. 41-1661 et seq, Correctional Officer Training Standards.
A.R.S. 41-1821 et seq, Peace Officer Standards and Training Board.
A.A.C. R2-5-101, Definitions.
A.A.C. R2-5-401, et seq, Benefit Administration.
A.A.C. R2-5-403, Annual Leave.
A.A.C. R2-5-404, Sick Leave.
A.A.C. R2-5-405, Industrial Disability.
A.A.C. R2-5-405.C., Light Duty.
A.A.C. R2-5-411, Parental Leave.
A.A.C. R2-5-413, Medical Leave Without Pay.
A.A.C. R2-5-414, Leave Without Pay.
A.A.C. R2-5-417, Life and Disability Income Insurance Plan.
A.A.C. R2-5-902, Reduction in Force.
Pregnancy Discrimination Act, 42 U.S.C. 2000e (k).
Americans With Disabilities Act of 1990, Titles I-V.
28 CFR Part 35.130 et seq, Nondiscrimination on Basis of Disability by State & Local Government Services.
Family and Medical Leave Act of 1993.
U.S. Civil Rights Act of 1964.
Rehabilitation Act of 1973.

**ATTACHMENT A
DEPARTMENT ORDER 519**

**Health Care Provider Prognosis Request
(Letter)**

(Date)

(Name
Address
City, State ZIP)

Dear Mr./Ms. (Name):

(Write chronology of incident(s) that have occurred.)

As your employer, the Department is requesting that you be evaluated to determine your health/safety as it relates to your assigned job duties. To assist your health care provider with the evaluation, I am enclosing a copy of the essential job functions for a [employee's job title]. (if you do not have an essential job function listing, provide a brief description of the employee's essential job responsibilities or a PDQ).

We would like your health care provider to provide the following information:

1. Describe any job limitations that are a result of the health condition.
2. Describe how long the job limitations, if any, will last or are expected to last.
3. (Any other questions asked must be approved by the Employee Relations Unit)

This information will help assess the work-related issues that have arisen, so it is important that the information pertain specifically to the nature of your health condition and its impact upon work activities as opposed to general statements about the condition or how it can affect other people.

Please report the results of the examination by (date) so that I can continue the review process. Thank you.

Sincerely,

(Authorized Signature)

Appendix C to Part 825—Notice to Employees Of Rights Under FMLA (WH Publication 1420)

**EMPLOYEE RIGHTS AND RESPONSIBILITIES
UNDER THE FAMILY AND MEDICAL LEAVE ACT**

Basic Leave Entitlement

FMLA 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.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, 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.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

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 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.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer 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, or circumstances supporting the need for military family leave. Employees also must inform the employer 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.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

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

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersedes any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

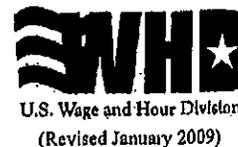
FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV



U.S. Department of Labor
Wage and Hour Division



Fact Sheet #28: The Family and Medical Leave Act of 1993

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the Family and Medical Leave Act (FMLA) for all private, state and local government employees, and some federal employees. Most federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the U.S. Office of Personnel Management or the Congress. See Fact Sheet 28A.

The FMLA became effective on August 5, 1993 for most employers and entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. Amendments to the FMLA by the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, expanded the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any "qualifying exigency" arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered servicemember with a serious injury or illness.

EMPLOYER COVERAGE

FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), and private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee must:

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles.

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service. See, special rules for returning reservists under USERRA.

LEAVE ENTITLEMENT

A covered employer must grant an eligible employee up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- for the birth and care of a newborn child of the employee;

- for placement with the employee of a son or daughter for adoption or foster care;
- to care for a spouse, son, daughter, or parent with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition; or
- for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

A covered employer also must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of **26 workweeks** of **unpaid** leave during a "single 12-month period" to care for the servicemember. See Fact Sheet 28A for specific information regarding military family leave.

Spouses employed by the same employer are limited in the **amount** of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered servicemember with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation. If FMLA leave is for birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

Under certain conditions, employees or employers may choose to "substitute" (run concurrently) accrued **paid** leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

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

- Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (*i.e.*, inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider, which includes:
 - (1) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:
 - treatment two or more times by or under the supervision of a health care provider (*i.e.*, in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
 - one treatment by a health care provider (*i.e.*, an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (*e.g.*, prescription medication, physical therapy); or
 - (2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or

(3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or

(4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or

(5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

MAINTENANCE OF HEALTH BENEFITS

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

JOB RESTORATION

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

NOTICE AND CERTIFICATION

Employee Notice

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable – generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for an employer reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subject to a fine of up to \$110 for each separate offense. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under FMLA. When the employer has enough information to determine that leave is being taken for a FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave.

Certification

Employers may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. An employer may require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious health condition. An employer may have a uniformly-applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, an employer may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

ENFORCEMENT

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

OTHER PROVISIONS

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent leave or when leave is required near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an "eligible" employee's use of leave required by FMLA.

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
Contact Us

Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements

The National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, amended the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any "qualifying exigency" arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered servicemember with a serious injury or illness. These two new types of FMLA leave are known as the military family leave entitlements.

EMPLOYER COVERAGE

FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), and private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee must:

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location where at least 50 employees are employed by the employer within 75 miles.

MILITARY FAMILY LEAVE ENTITLEMENTS

Military Caregiver Leave: A covered employer must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a "single 12-month period" to care for the 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 otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating. The "single 12-month period" for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the "single 12-month period." (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember.)

Qualifying Exigency Leave: A covered employer must grant an eligible employee up to a total of 12 workweeks of unpaid leave during the normal 12-month period established by the employer for FMLA leave

for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

- Issues arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the employee and employer agree is a qualifying exigency.

Spouses employed by the same employer are limited to a **combined** total of 26 workweeks in a "single 12-month period" if the leave is to care for a covered servicemember with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

FMLA leave may be taken intermittently whenever **medically necessary** to care for a covered servicemember with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

Under certain conditions, employees or employers may choose to "substitute" (run concurrently) accrued **paid** leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

NOTICE REQUIREMENTS

Employee Notice

Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FMLA leave for planned medical treatment for a serious injury or illness of a covered servicemember. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practicable – generally, either the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements.

An employee does not need to specifically assert his or her rights under FMLA, or even mention FMLA, when providing notice. The employee must provide "sufficient information" to make the employer aware of the need for FMLA leave and the anticipated timing and duration of the leave. Depending on the situation, such information may include, as applicable:

- that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;
- that the leave is for a qualifying family member who is a covered servicemember with a serious injury or illness and the anticipated duration of the leave.

When an employee seeks leave due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee **must** specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, including a reason for non-eligibility if the employee is determined not to be eligible. Such eligibility notice may be oral or written and should, generally, be given within five business days of the request for FMLA leave. Subsequent eligibility notice in the same 12-month leave period may be required when an employee's eligibility status changes. Employers also must inform employees of their rights and responsibilities under FMLA, including giving specific written information on what is required of the employee.

When the employer has enough information to determine that leave is being taken for an FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave. The employer must designate leave that qualifies as **both** leave to care for a covered servicemember with a serious injury or illness **and** leave to care for a qualifying family member with a serious health condition as leave to care for a covered servicemember in the first instance. The designation notice must be in writing and, generally, must be given within five business days of the determination. An employer also must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA entitlement.

CERTIFICATION REQUIREMENTS

Employers may require that an employee's request for military family leave be supported by an appropriate certification. An employer may require that:

- leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party;
- leave to care for a covered servicemember with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember's family.

Second and third opinions and recertification are not permitted for certification of a covered servicemember's serious injury or illness or of a qualifying exigency. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. Additionally, an employer may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

ENFORCEMENT

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
Contact Us

**ATTACHMENT D
DEPARTMENT ORDER 519**

**LETTER TO CONTRACTUAL HEALTH CARE PROVIDER
(Fitness-for-Duty Notice to Evaluator Letter)
(Appointment for Psychological or Medical Fitness-For-Duty Evaluation)**

(DATE)

(Health Care Provider's Name and Address)

Dear (Name):

On (DATE) at (TIME), (Employee's Name) is scheduled for a psychological or medical Fitness-For-Duty evaluation to determine whether he/she is capable of performing his/her assigned duties as a (Job Title) without restrictions or limitations.

This referral package has been prepared to supply you with background information to aid in your evaluation of this employee.

1. Employment Summary
2. Job Description
3. Known Medical/Psychological History
4. Recent Incidents of Concern
5. Specific Justification for this Referral

Additional forms, records and/or documents relative to evaluation of this employee had been enclosed for your review and consideration. My designee or I will be making personal contact with you before the scheduled appointment to further review and address any areas where you believe clarification would be helpful.

Please ensure the completed Fitness-For-Duty evaluation report is forwarded to the Arizona Department of Corrections, Employee Relations Officer, 1601 West Jefferson, Phoenix, 85007. If you have need for further interaction regarding this particular evaluation, please contact (Name) at (telephone number)

Sincerely,

(Designated Authority)

Enclosures

cc: Employee Medical File
Employee Relations Unit

**ATTACHMENT E
DEPARTMENT ORDER 519**

**ORDER FOR FITNESS-FOR-DUTY EVALUATION
(Fitness-for Duty Notice to Employee Letter)
(Appointment Made by the Department)**

(DATE)

(Name
Address
City, State, ZIP)

Dear _____ :

[INSERT PARAGRAPH REGARDING REASON FOR REQUEST AND JOB-RELATEDNESS.]

Because of these concerns, I am referring you for an evaluation. This evaluation will be at the expense of the agency with no charge to your sick or annual leave and reimbursement for mileage while traveling to and from the examination will be provided in accordance with **the Arizona Department of Administration Personnel Administration Rules** (Arizona Administrative Code [A.A.C.] R2-5-404.D).

An appointment has been scheduled for you with Dr. _____. Please call _____ and confirm your appointment. **IF YOU BELIEVE YOU ARE UNABLE TO DRIVE DUE TO MEDICATION OR OTHER REASONS, PLEASE CONTACT ME IMMEDIATELY TO ARRANGE TRANSPORTATION TO AND FROM THE DOCTOR'S OFFICE.*** You will need to present your Department Identification Card at the time of the appointment.

A fitness-for-duty report will be provided to this agency concerning your ability to perform your day-to-day duties as a (JOB TITLE). This report will only be shared with those who have a need to know.

Failure to comply with this direction may result in disciplinary action in accordance with Department Order 601, Administrative Investigations and Employee Discipline.

Please contact this office if any clarification is needed.

Sincerely,

(Designated Authority)

cc: Employee Medical File, Occupational Health Unit
Employee Relations Office
Dr (Physician)

*If necessary, you may restrict an employee from driving to/from the appointment. If so, substitute the following sentence or a similar sentence to fit the circumstances. Until a final determination is made, you are restricted from driving either a State vehicle or your own vehicle on State business. Transportation to and from the Doctor's Office will be arranged for you.

CORRECTIONS OFFICER RETIREMENT PLAN
3010 E. Camelback Rd., Suite 200, Phoenix, Arizona 85016
(602)255-5575 FAX (602)296-2388 www.psprs.com

FORM C19
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09/09

APPLICATION FOR OPTION TO CONTRIBUTE DURING INDUSTRIAL LEAVE

A.R.S. Section 38-891, subsection D provides in part:

D. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer and employee shall make contributions based on the compensation the employee would have received in the employee's job classification if the employee was in normal employment status.

NAME: _____ SOCIAL SECURITY NUMBER: _____

DURING MY PERIOD OF EMPLOYMENT WITH _____
I WILL RECEIVE COMPENSATION BENEFITS UNDER THE ARIZONA STATE WORKERS' COMPENSATION LAWS.
PURSUANT TO A.R.S. SECTION 38-891, SUBSECTION D,

PLEASE INITIAL ONE:

Beginning ____/____/____, I ELECT TO CONTINUE

I ELECT TO STOP

MAKING CONTRIBUTIONS TO THE CORRECTIONS OFFICER RETIREMENT PLAN DURING MY PERIOD OF INDUSTRIAL LEAVE.

IF I ELECT TO CONTINUE MAKING CONTRIBUTIONS TO THE CORRECTIONS OFFICER RETIREMENT PLAN DURING THE PERIOD I AM ON INDUSTRIAL LEAVE, MY EMPLOYEE AND EMPLOYER CONTRIBUTIONS WILL BE BASED ON THE COMPENSATION I WOULD HAVE RECEIVED IN MY JOB CLASSIFICATION AS IF I WAS IN NORMAL EMPLOYMENT STATUS.

IF I ELECT TO STOP MAKING CONTRIBUTIONS TO THE CORRECTIONS OFFICER RETIREMENT PLAN DURING THE PERIOD I AM ON INDUSTRIAL LEAVE, IN DETERMINING MY NORMAL RETIREMENT DATE, THIS PERIOD WILL BE CONSIDERED AS "SERVICE" BUT NOT "CREDITED SERVICE".

MEMBER:

_____/____/____ (____) _____
Date Telephone Number Member's Signature

E-MAIL ADDRESS: _____

EMPLOYER:

_____/____/____ (____) _____
Date Telephone Number Authorized Signature of Employer

E-MAIL ADDRESS: _____ TITLE: _____

**STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS**

Statewide Temporary Work Assignments (TWA)

1. Mail and Property Aide (2 per complex; days / Central Office - 1; days)
2. Complex Main Control Aide (1 per shift; days and swings)
3. Unit Control Aide (1 per shift; days and swings)
4. Lobby/Scanner Aide (1 per unit; days and swings)
5. Records Support Aide (1 per complex)
6. Central Office Lobby Aide (2; Monday through Friday)
7. Administrative/Support Aide (1 per complex)
8. Property Room Aide - ASPC- Eyman SMU I (2)
9. Property Room Aide - ASPC-Eyman Browning Unit (2)
10. Records Support Aide Central Office (2; Monday through Friday)
11. Overtime Hotline Aide – ASPC-Eyman Complex (2; Monday through Friday)
12. Administrative Support Aide – Central Office – Public Access Department (1; Monday through Friday)

**STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS
Temporary Work Assignment**

Job Title	Mail and Property Aide	TWA # 1
Location	Complex and Central Office	
Hours/Shifts	8-Hour Shift, Days	

Job Description:

Employee will assist regularly assigned staff in the Mail and Property area at Complex or at the mail room for Central Office. Duties include sorting mail, inspecting for contraband, logging incoming mail and property and updating inmate records. Tasks can be administrative in nature where regularly assigned staff will perform heavy lifting of property and mail bags.

Physical Demands

Standing: Can alternate with sitting as desired. Sorting can take place at a high counter.

Sitting: While inspecting mail for contraband and performing administrative duties.

Walking: Short distances within enclosed space. Walking limited to 1-25 feet.

Lift/Carry: 1-10 pounds frequently, mail, light weight property.

Push/Pull: Minimal requirement.

Bending: Non-repetitive at waist/knees, to and from seated position and while handling mail and property.

Twisting: Not required.

Climbing: Not required.

Arm/hand: Most tasks require use of both hands and arms, although task can be modified if assigned staff is able to perform administrative tabletop activities.

Comments: Self-paced activity. There is no inmate control or supervision requirement. Staff is restricted from responding to emergency situations while on temporary work assignment. This assignment may be used in combination with other administrative tasks.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Complex Main Control Aide	TWA # 2
Location	Complex	
Hours/Shifts	8-hour shift, days/swings	

Job Description:

Staff performs a variety of security reception duties, including greeting/logging visitors, checking identification, answering phone, taking messages, issuing radios and monitoring metal detectors (if needed). Task requires knowledge of Complex/Unit operations. Task can be used as extra assistance while training staff.

Physical Demands

Standing: Up to 50% of designated shift in combination with walking short distances in security reception area.

Sitting: Can sit at desk while recording information, take posture breaks as needed.

Walking: Short distances up to 25 feet in the administrative of complex/unit.

Lift/Carry: Minimal requirement, occasionally 1-10 lbs.; lightweight materials. Assistance can be provided with any heavier lifting.

Push/Pull: Minimal requirement.

Bending: Non repetitive at waist, to and from seated position only.

Twisting: Not required.

Climbing: Not required.

Arm/ hand: Task requires recording of data on logs. Assigned staff must be able to write legibly.

Comments: Self-paced activity. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on temporary work assignment. This task may be used in combination with other administrative assignments in Complex/Unit area.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Unit Control Aide	TWA # 3
Location	Prison Unit	
Hours/Shifts	8-hour shift, days/swings	

Job Description:

Staff performs a variety of security reception duties, including greeting/logging visitors, checking identification, answering phone, taking messages, issuing radios and monitoring metal detectors. Task requires knowledge of Complex/Unit operations. Task can be used as extra assistance while training staff.

Physical Demands

- Standing:** Up to 50% of designated shift in combination with walking short distances in Security Reception area.
- Sitting:** Can sit at desk while recording information, take posture breaks as needed.
- Walking:** Short distances up to 25 feet in the administrative area of Complex.
- Lift/Carry:** Minimal requirement, occasionally 1-10 lbs.; lightweight materials. Assistance can be provided with any heavier lifting.
- Push/pull:** Minimal requirement.
- Bending:** Non-repetitive at waist, to and from seated position only.
- Twisting:** Not required.
- Climbing:** Not required.
- Arm/hand:** Task requires recording of data on logs. Assigned staff must be able to write legibly.
- Comments:** Self-paced activity. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on transitional work assignment. This task may be used in combination with other administrative assignments in Complex area.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Lobby/Scanner Aide	TWA # 4
Location	Prison Unit	
Hours/Shifts	8-hour shift, days/swings	

Job Description:

Staff performs a variety of Security Reception duties, including greeting/logging visitors, checking identification, answering phone, taking messages, issuing radios, and monitoring metal detectors. Task requires knowledge of Complex operations. Task can be used as extra assistance while training staff.

Physical Demands

- Standing:** Up to 50% of designated shift in combination with walking short distances in Security reception area.
- Sitting:** Can sit at desk while recording information, take posture breaks as needed.
- Walking:** Short distances up to 25 feet in the administrative area of Complex.
- Lift/Carry:** Minimal requirement, occasionally 1-10 lbs.; lightweight materials, assistance can be provided with any heavier lifting.
- Push/Pull:** Minimal requirement.
- Bending:** Non-repetitive at waist, to and from seated position only.
- Twisting:** Not required.
- Climbing:** Not required.
- Arm/hand:** Task requires recording of data on logs. Assigned staff must be able to write legibly.
- Comments:** Self-paced activity. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on temporary work assignment. This task may be used in combination with other administrative assignments in Complex area.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Records Support Aide	TWA # 5
Location	Complex	
Hours/Shifts	8-hour shift, days	

Job Description:

Staff will assist regularly assigned Records staff in updating data, data entry in systems, answering phones, taking messages and performing other general administrative tasks. Task assignment can be varied based on availability of work, skills and ability of staff.

Physical Demands

- Standing:** Can alternate with sitting as desired.
- Sitting:** Can alternate with standing as desired.
- Walking:** Less than 20% of designated shift in office area
- Lift/Carry:** Minimal requirement, may lift 1-10 lbs. paperwork, manuals, supplies on occasion.
- Push/pull:** 5-10 lbs. force opening doors, drawers.
- Bending:** Non-repetitive at waist/knees to and from seated position and occasionally to reach lower drawers.
- Twisting:** Not required.
- Climbing:** Not required.
- Arm/hand:** Some tasks can be modified for one arm/hand usage. Tasks do not require repetitive gripping.
- Comments:** Self-paced activity. Tasks can range from simple to complex depending on abilities of assigned staff. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on temporary work assignment.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Central Office Lobby Aide	TWA # 6
Location	Central Office	
Hours/Shifts	8-hour shift, Monday through Friday	

Job Description:

Staff performs a variety of Security reception duties including greeting/logging visitors, checking identification, answering phone, taking messages, issuing radios and monitoring metal detectors. An officer on a TWA shall not be assigned to this post in the absence of the full duty Officer.

Physical Demands

Standing: Up to 50% of designated shift in combination with walking short distances in Security reception.

Sitting: Can sit at desk while recording information, take posture breaks as needed.

Walking: Short distances up to 25 feet in the administrative area.

Lift/Carry: Minimal requirement, occasionally 1-10 lbs., and lightweight materials. Assistance can be provided with any heavier lifting.

Push/pull: Minimal requirement.

Bending: Non-repetitive at waist, to and from seated position only.

Twisting: Not required.

Climbing: Not required.

Arm/hand: Task requires recording of data on logs. Assigned staff must be able to write legibly.

Comments: Self-paced activity. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on temporary work assignment. This task may be used in combination with other administrative assignments.

**STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS
Temporary Work Assignment**

Job Title	Administrative/Support Aide	TWA # 7
Location	Complex/Deputy Warden/Facility Health Administrator's office	
Hours/Shifts	8-hour shift, days	

Job Description:

Staff will perform a variety of administrative tasks in Complex Administration areas, DW's, FHA's and/or Business Office. Task can include answering phones, taking messages, updating rosters, manuals and other administrative tasks as available. [Please specify area when assignment is made].

Physical Demands

- Standing:** Can alternate with sitting as desired.
- Sitting:** Can alternate with standing as desired.
- Walking:** Less than 20% of designated shift in office area.
- Lift /Carry:** Minimal requirement, may lift 1-10lbs, paperwork, manuals, supplies on occasion.
- Push/pull:** 5-10 lbs. force, opening doors, and drawers.
- Bending:** Non-repetitive at waist/knees, to and from seated position and occasionally to reach lower drawers.
- Twisting:** Not required.
- Climbing:** Not required.
- Arm/hand:** Some tasks can be modified for one arm/hand usage. Task does not require repetitive gripping.
- Comments:** Self-paced activity. Numerous administrative and organization tasks exist throughout operations area. Tasks assigned based on skills and ability of staff and availability of the task. Task can range from simple to complex depending on abilities of staff. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on temporary work assignment. This task may be performed outside or inside the secured perimeter of a prison unit within the Administrative buildings. If performed inside the secured perimeter the employee must be escorted by another employee on full capacity through the yard to the Administration building.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Property Room Aide	TWA # 8
Location	ASPC- Eyman SMU I	
Hours/Shifts	8-hour shift, days	

Job Description:

Staff will assist regularly assigned Property Room staff with administrative support tasks in the clothing issue area. Tasks involve inventory, sorting of property and possibly some physical activity.

Physical Demands

Standing: Can alternate with sitting as desired.

Sitting: Can alternate with standing as needed for posture breaks at desk.

Walking: Short distances within assigned Clothing Issue area, occasionally from 10-25 feet.

Lift/Carry: Minimal requirement, 1-10 lbs paperwork

Push/Pull: Minimal requirement.

Bending: Occasional at waist/knees, to and from seated position only.

Twisting: Not required.

Climbing: Not required.

Arm/hand: Task can be modified for sedentary or minimal physical requirements.

Comments: Self-paced activity. There is no inmate control or supervision and no intervention requirement. Staff are restricted from responding to emergency situations while on temporary work assignment.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Property Room Aide	TWA # 9
Location	ASPC- Eyman Browning Unit	
Hours/Shifts	8-hour shift, days	

Job Description:

Staff will assist regularly assigned Property Room staff with administrative support tasks in the clothing issue area. Tasks involve inventory, sorting of property and possibly some physical activity.

Physical Demands

Standing: Can alternate with sitting as desired.

Sitting: Can alternate with standing as needed for posture breaks at desk.

Walking: Short distances within assigned Clothing Issue area, occasionally from 10-25 feet.

Lift/Carry: Minimal requirement, 1-10 lbs paperwork

Push/Pull: Minimal requirement.

Bending: Occasional at waist/knees, to and from seated position only.

Twisting: Not required.

Climbing: Not required.

Arm/hand: Task can be modified for sedentary or minimal physical requirements.

Comments: Self-paced activity. There is no inmate control or supervision and no intervention requirement. Staff are restricted from responding to emergency situations while on temporary work assignment.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment

Job Title	Records Support Aide Central Office	TWA # 10
Location	Central Office	
Hours/Shifts	8-hour shift, Monday through Friday	

Job Description:

Staff will perform a variety of administrative tasks under the direction of the Visitation Officer. Task includes updating files, processing inmate visitation forms, completing pre-investigation activities, and light data entry in AIMS system. Simple keyboarding required; employer will train. Task involves recording information and writing. Task can be modified for dominant arm injuries.

Physical Demands

- Standing:** Can alternate with sitting as desired.
- Sitting:** Can alternate with standing position as desired.
- Walking:** Less than 20% of designated shift in office area.
- Lift/Carry:** 1-5 lbs.; paperwork, records, supplies on occasion.
- Push/pull:** 5-10 lbs. force; opening doors, drawers.
- Bending:** Non repetitive at waist/knees, to and from seated position and occasionally to reach lower drawers.
- Twisting:** Not required.
- Climbing:** One step to work area.
- Arm/hand:** Some task can be modified for one arm/hand usage. Task does not require repetitive gripping.
- Comments:** Self-paced activity. There is no inmate control or supervision requirement. Staff are restricted from responding to emergency situations while on temporary work assignment. This is an ideal task where mobility is limited.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS
Temporary Work Assignment

Job Title	Overtime Hotline Support Aide	TWA # 11
Location	Complex Administrative Building - Eyman	
Hours/Shifts	8-hour shift, days - Monday through Friday	

Job Description:

The employee will perform a variety of administrative tasks related to staff overtime scheduling and office duties as assigned. The assignment is based on the employee's medical needs, skills and abilities. Tasks can range from simple to moderate complexity. Specific requirements for this assignment are basic knowledge of Microsoft Outlook email, data entry in Excel spreadsheets, keyboard typing, document copying and filing, phone etiquette, attention to detail and multi-tasking. Tasks may require direct or indirect supervision. The employee assigned to this TWA is required to read DO 102, Information Technology and understand and comply with the non-disclosure of sensitive information.

Physical Demands

- Standing:** 20% of designated shift. Can alternate with sitting as desired.
- Sitting:** 70% of designated shift while responding to telephonic requests.
- Walking:** 10% of designated shift within office area for documents copying and filing. Physician must specify medical restrictions.
- Lift/Carry:** Minimal requirement, may lift 1-10 lbs.; documents, manuals, supplies on occasion.
- Push/pull:** 5-10 lbs., force opening doors, drawers and file cabinets.
- Bending:** Non-repetitive below the waist /knees while filing in lower drawers. Is repetitive when filing above the waist and at shoulder level. Occasional filing below the waist. Physician must specify medical restrictions.
- Arm/hand:** Tasks cannot be modified for one arm/hand. Use of both arms/hands is repetitive. Physicians must specify medical restrictions.
- Twisting:** Not required.
- Climbing:** Not required.
- Driving:** Not required.
- Comments:** Self-paced activity. There must be no inmate control or supervision and cannot respond to ICS or any emergency situation. The presence of a full duty employee is required at all times while this staff is on TWA. This assignment is performed inside the secured perimeter of the prison.

STATE OF ARIZONA
DEPARTMENT OF CORRECTIONS

Temporary Work Assignment
For Correctional Officers

Job Title	Administrative Support Aide	TWA # 12
Location	Central Office – Public Access Department	
Hours/Shifts	8-hour shift, days, Monday through Friday	

Job Description:

The employee will perform a variety of clerical tasks and other office duties as assigned. The assignment is based on the employee's medical needs, skills and abilities. Tasks can range from simple to moderate complexity. Specific requirements for this assignment are basic knowledge of Microsoft Outlook email, AIMS, keyboard typing, document copying and filing, phone etiquette, attention to detail and multi-tasking. Tasks may require direct or indirect supervision.

The employee assigned to this TWA is required to read DO 102, Information Technology and understand and comply with the non-disclosure of sensitive information.

Physical Demands

- Standing:** 20% of designated shift. Can alternate with sitting as desired.
- Sitting:** 70% of designated shift while responding to telephonic requests and clerical duties.
- Walking:** 10% of designated shift within office area for documents copying and filing. Physician must specify medical restrictions.
- Lift/Carry:** Minimal requirement, may lift 1-5 lbs.; documents, files, supplies on occasion.
- Push/pull:** 1-5 lbs. force opening doors, drawers and file cabinets.
- Bending:** Non-repetitive below the waist/knees while filing in lower drawers. Physician must specify medical restrictions.
- Arm/hand:** Tasks cannot be modified for one arm/hand. Physicians must specify medical restrictions.
- Twisting:** Not required.
- Climbing:** Not required.
- Driving:** Not required.
- Comments:** Not self-paced activity. There must be no inmate control or supervision and cannot respond to ICS or any emergency situation. The presence of a full duty employee is required at all times while this staff is on TWA.

ATTACHMENT H
DEPARTMENT ORDER 519

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: () Fax: ()

[REDACTED]

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

No Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes.

Was medication, other than over-the-counter medication, prescribed? No Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: No Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

[REDACTED]

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? No Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? No Yes.

If so, are the treatments or the reduced number of hours of work medically necessary? No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? No Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups? No Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

[REDACTED]

Certification of Health Care Provider for
Family Member's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name: _____
First Middle Last

Name of family member for whom you will provide care: _____
First Middle Last

Relationship of family member to you: _____

If family member is your son or daughter, date of birth: _____

Describe care you will provide to your family member and estimate leave needed to provide care:

Employee Signature _____ Date _____

INSTRUCTIONS to the HEALTH CARE PROVIDER:

The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
 No Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? No Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
 No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

[REDACTED]

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? No Yes.

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? No Yes.

Explain the care needed by the patient and why such care is medically necessary:

5. Will the patient require follow-up treatments, including any time for recovery? No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? No Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? No Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Does the patient need care during these flare-ups? No Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____



Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

**Certification of Qualifying Exigency
For Military Family Leave
(Family and Medical Leave Act)**

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. Your response is voluntary, and while you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.309.

Employer name: _____

Contact Information: _____

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. 29 C.F.R. § 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. Your employer must give you at least 15 calendar days to return this form to your employer.

Your Name: _____
 First Middle Last

Name of covered military member on active duty or call to active duty status in support of a contingency operation:

 First Middle Last

Relationship of covered military member to you: _____

Period of covered military member's active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

[REDACTED]

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached. Yes No None Available

[REDACTED]

1. Approximate date exigency commenced: _____
Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency? No Yes.
If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? No Yes.
Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.



If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: (_____) _____ Fax: (_____) _____

Email: _____

Describe nature of meeting: _____



I certify that the information I provided above is true and correct.

Signature of Employee _____ Date _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYER.**

**Certification for Serious Injury or
Illness of Covered Servicemember --
for Military Family Leave (Family and
Medical Leave Act)**

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

INSTRUCTIONS to the EMPLOYEE or COVERED SERVICEMEMBER: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. §§ 2613, 2614(o)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 C.F.R. § 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the 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. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered servicemember's serious injury or illness includes written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

**Certification for Serious Injury or Illness
of Covered Servicemember -- for
Military Family Leave (Family and
Medical Leave Act)**

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



[REDACTED] (This section must be completed first before any of the below sections can be completed by a health care provider.)

[REDACTED]
Name and Address of Employer (this is the employer of the employee requesting leave to care for covered servicemember):

Name of Employee Requesting Leave to Care for Covered Servicemember:

First Middle Last

Name of Covered Servicemember (for whom employee is requesting leave to care):

First Middle Last

Relationship of Employee to Covered Servicemember Requesting Leave to Care:

Spouse Parent Son Daughter Next of Kin

[REDACTED]
(1) Is the Covered Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves? Yes No

If yes, please provide the covered servicemember's military branch, rank and unit currently assigned to:

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)? Yes No If yes, please provide the name of the medical treatment facility or unit:

(2) Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)? Yes No

[REDACTED]
Describe the Care to Be Provided to the Covered Servicemember and an Estimate of the Leave Needed to Provide the Care:

[REDACTED]

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). (Please ensure that Section I above has been completed before completing this section.) Please be sure to sign the form on the last page.

[REDACTED]

Health Care Provider's Name and Business Address:

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; or (4) a DOD non-network TRICARE authorized private health care provider: _____

Telephone: () _____ Fax: () _____ Email: _____

[REDACTED]

(1) Covered Servicemember's medical condition is classified as (Check One of the Appropriate Boxes):

(VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

(SI) Seriously Ill/Injured – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

OTHER Ill/Injured – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

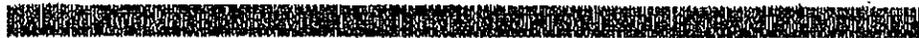
NONE OF THE ABOVE (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380 or an employer-provided form seeking the same information.)

(2) Was the condition for which the Covered Service member is being treated incurred in line of duty on active duty in the armed forces? Yes No

(3) Approximate date condition commenced: _____

(4) Probable duration of condition and/or need for care: _____

(5) Is the covered servicemember undergoing medical treatment, recuperation, or therapy? Yes No. If yes, please describe medical treatment, recuperation or therapy:



(1) Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for this period of time: _____

(2) Will the covered servicemember require periodic follow-up treatment appointments?

Yes No If yes, estimate the treatment schedule: _____

(3) Is there a medical necessity for the covered servicemember to have periodic care for these follow-up treatment appointments? Yes No

(4) Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? Yes No If yes, please estimate the frequency and duration of the periodic care:

Signature of Health Care Provider: _____ Date: _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE PATIENT.**