

# Personnel Policy Bulletin

Number: 2013-3

City of Lincoln

Date: June, 2013

Reference:	Title:
Family and Medical Leave Act of 1993 (FMLA), as amended, and 29 C.F.R. Part 825	<b>MILITARY FAMILY LEAVE UNDER THE FAMILY AND MEDICAL LEAVE ACT</b>

1. Purpose. The purpose of this policy is to define City of Lincoln's procedure with regard to Military Family Leave in accordance with the provisions of the Family and Medical Leave Act (FMLA) of 1993 and the federal regulations pertaining thereto.
2. Eligibility. Employees who have been employed for at least one year, and for at least 1,250 hours during the preceding 12-month period, may be eligible for either 12 weeks of call to duty leave per twelve month period, or 26 weeks of leave to care for injured service members during a single 12-month period. An employee returning from service covered by the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), 38 U.S.C. 4301 et. seq. shall be credited with the hours of service that would have been performed but for the period of absence from work due to or necessitated by USERRA-covered service in determining the employee's eligibility for FMLA-qualifying leave.
3. Leave Period. The period for taking Military Family Leave shall be measured forward from the first date an employee takes leave and shall expire twelve months thereafter.
4. Reasons for Leave.
  - A. Call to Duty Leave - An eligible employee is entitled to a total of 12 weeks because of any "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty, or has been notified of an impending call or order to covered active duty, in the Armed Forces in support of a contingency operation.
    1. "Qualifying exigency" includes the following categories:
      - a. Short-notice deployment (leave taken for this purpose can be used for a period of 7 calendar days beginning on the date a covered military member is notified of an impending call or order to active duty);
      - b. Military events and related activities (including family support or assistance programs and informal briefings);
      - c. Childcare and school activities (e.g., to arrange for alternative childcare, provide childcare on an urgent, immediate-need basis or to attend meetings at a school or daycare facility);

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- d. Financial or legal arrangements (e.g., to prepare and execute powers of attorney, enroll for military health care or to prepare a will or living trust);
    - e. Counseling (non-medical, for oneself, the military member, or a child);
    - f. Rest and recuperation (e.g., to spend time with a military member who is on short-term, temporary, rest and recuperation leave during the period of deployment; eligible employees may take up to 15 calendar days of leave for each instance of rest and recuperation); and
    - g. Post-deployment activities (e.g., to attend ceremonies and briefings for a period of 90 days or to address issues arising from the military member's death).
    - h. Parental Care Leave (leave taken to care for a military member's parent who is incapable of self-care when the care is necessitated by member's covered active duty.)
  2. This period of leave is available during any 12-month period.
  3. This period of leave also includes leave for other circumstances covered by the already existing 12 weeks of FMLA leave, as provided in Personnel Policy Bulletin 2009-1. For example, if an employee takes two weeks of call to duty leave, he or she would only have 10 weeks of FMLA leave remaining for all other purposes during that 12-month period.
- B. Care for Injured Service Member Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to a combined total of 26 weeks of leave during a single 12-month period to care for the service member.
  1. This period of leave shall only be available once during a single 12-month period. If an eligible employee does not utilize all of his or her 26 workweeks of leave entitlement to care for a covered service member during this "single 12-month period," the remaining part of his

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or her 26 workweeks of leave entitlement to care for the covered service member is forfeited.

2. The leave entitlement in this section is to be applied on a per-covered service member, per-injury basis such that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any "single 12-month period."
3. This period of leave also includes leave for other circumstances covered by the already existing 12 weeks of FMLA leave, as provided in Personnel Policy Bulletin 2009-1. For example, an employee might qualify for 12 weeks of non-military related FMLA leave for his or her own serious health condition, and an additional 14 weeks of FMLA leave to care for a covered service member. However, in no circumstances will an employee have leave protection for more than a combined total of 26 weeks during a 12-month period. Additionally, in no circumstances will an employee take more than 12 weeks of non-military related FMLA leave, even if the employee takes fewer than 14 weeks of FMLA leave to care for a covered service member.

## 5. Covered Active Duty Defined

Covered active duty or call to covered active duty status in the case of a member of the Regular Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country. Covered active duty or call to covered active duty status in the case of a member of the Reserve components of the Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to applicable federal law. The active duty orders of a member of the Regular components of the Armed Forces will generally specify if the member is deployed to a foreign country. The active duty orders of a member of the Reserve components will generally specify if the military member is serving in support of a contingency operation by citation to the relevant section of Title 10 of the United States Code

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and/or by reference to the specific name of the contingency operation and will specify that the deployment is to a foreign country.

6. Covered Service Member means:

- a. 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.
- b. A covered Veteran who is undergoing medical treatment, recuperation or therapy for serious injury or illness. Covered veteran is an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. An eligible employee must commence leave to care for a covered veteran within five years of the veteran's active duty service, but the single 12-month period during which an employee is entitled to 26 weeks may extend beyond the five-year period.

7. Outpatient Status. Outpatient status, with respect to a covered service member, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (See, 29 C.F.R. 825.127(b)(1)).

8. Parent of a Covered Service Member. A "parent of an injured service member" means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents "in law." (See, 29 C.F.R. 825.127(d)(2)).

9. Next of Kin. Next of kin of a covered service member means the nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member

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has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When this designation is made, that relative is deemed the only next of kin eligible to take military caregiver leave. (See, 29 C.F.R. 825.127(d)(3)).

10. Serious Injury or Illness.

- A. Serious injury or illness, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the covered service member in line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. (See, 29 C.F.R. 825.127(c)(1)).
- B. A serious injury or illness for a covered veteran means an injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran, and is:
1. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; OR
  2. A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; OR
  3. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
  4. An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. (See: 29 C.F.R. 825.125 (c)(2)).

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11. Son or Daughter. A “son or daughter on active duty or call to active duty status” and a “son or daughter of a covered service member” means the employee’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age. (See, 29 C.F.R. 825.126(b)(1), 825.127(d)(1)).

12. General Information and Affect on City Paid Leaves.  
Military Family Leave under the FMLA will be counted concurrently with other applicable paid leaves (family sick leave, personal holidays, and/or vacation). Therefore, the 12 or 26 weeks of leave will be paid to the extent the employee has other paid leaves available. After all applicable paid leaves are exhausted, any remaining Military Family Leave under the FMLA leave will be unpaid.

In those cases where a husband and wife are both employed by the City and both are eligible for Military Family Leave under the FMLA, they are limited to a combined total of 26 work weeks of leave during a single 12-month period if the leave is taken to care for an injured service member, as described in Paragraph 4(B) of this Bulletin. If one spouse is ineligible for Military FMLA leave, the other spouse would be entitled to a full 26 workweeks of leave to care for an injured service member.

13. Intermittent/Reduced Schedule Leave. Military Family Leave under the FMLA may be taken on an intermittent basis or on a reduced leave schedule when medically necessary to care for an injured service member. Employees needing intermittent/reduced schedule leave for planned medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer's operations. If an employee requests intermittent leave or leave on a reduced leave schedule, that is foreseeable based on planned medical treatment, the City may require such employee to transfer temporarily to an available alternate position that has equivalent pay and benefits, and better accommodates periods of leave than the regular employment position of the employee. The employee shall not be required to take more leave than necessary to address the circumstances that precipitated the need for leave, and that FMLA leave may only be counted against an employee’s FMLA entitlement for leave taken and not for the time that is worked for the employer.

Intermittent or reduced schedule leave may also be taken for a qualifying exigency (call to duty leave) only if the employee has given proper notice for the necessity of

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such leave, as provided in Paragraph 15 of this Bulletin, and has provided a certification pursuant to Paragraph 16 of this Bulletin.

14. Application for Leave. In all cases, an employee requesting leave must complete the attached “Application for Military Family Leave” and return it to the employee's department head for transmittal to the Personnel Director in the City/County Personnel Department. The completed application must state the reason for the leave and the starting and ending dates of the leave. The response to the request for Military Family Leave shall be provided to the employee within five business days after the employee gives notice of the need for leave.
15. Notice of Leave. An employee intending to take call to duty leave, as described in Paragraph 4(A) of this Bulletin, must submit an application for leave at least 30 days before the leave is to begin if the necessity for the leave is foreseeable. If the leave is to begin within 30 days, an employee must give notice to his or her department head and to the City/County Personnel Department as soon as the necessity for the leave arises.

An employee intending to take leave to care for an injured service member, as described in Paragraph 4(B) of this Bulletin, must submit an application for leave at least 30 days before the leave is to begin. If the leave is to begin within 30 days, an employee must give notice to his or her department head and to the City/County Personnel Department as soon as the necessity for the leave arises.

16. Certification for Leave Taken Because of a Qualifying Exigency. An employee requesting call to duty leave, for a qualifying exigency, as described in Paragraph 4(A) of this Bulletin, must provide a copy of the service member relative's active duty orders or other documentation issued by the military, showing the service member's active duty or call to active duty status in support of a contingency operation, and expected dates of active duty service. The employee must also provide certification for each qualifying exigency leave requested during the period of the relative's active duty service. The certification shall include a statement or description, signed by the employee, of the appropriate facts regarding the qualifying exigency for which Military FMLA leave is requested. The certification shall also include the approximate dates and purpose of the absence, and if for reduced or intermittent leave, an estimate of the frequency and duration of the qualifying exigency. Certification for qualifying Rest and Recuperation leave (paragraph 4(A)(1)(f)) of this Bulletin shall

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include a copy of the military member's Rest and Recuperation leave orders, or other documentation issued by the military setting forth the dates of the military member's leave.

The employee shall have 15 calendar days to provide the certification described in this section. Failure to provide the requested certification within 15 calendar days of the request for leave may result in denial of Military Family Leave.

17. Certification for Leave Taken to Care for an Injured Service Member. An employee requesting leave to care for an injured service member, as described in Paragraph 4(B) of this Bulletin, must have the health care provider of the employee's spouse, son, daughter, parent, or next of kin complete a "Medical Certification Statement for Military Caregiver Leave" form. For purposes of this section, any one of the following health care providers may complete such certification: (i) a United States Department of Defense ("DOD") health care provider; (ii) a United States Department of Veterans Affairs ("VA") health care provider; (iii) a DOD TRICARE network authorized private health care provider; or (iv) a DOD non-network TRICARE authorized private health care provider. Copies of the "Medical Certification Statement for Military Caregiver Leave" forms may be obtained through the Personnel Department. The list of health care providers who are authorized to complete a certification for military caregiver leave for a covered servicemember shall include health care providers as defined in 29 CFR § 825.125, who are not affiliated with DOD, VA or TRICARE.

The employee shall have 15 calendar days to provide the completed Medical Certification Form. Failure to provide the Medical Certification Form within 15 calendar days of the request for leave may result in denial of Military Family Leave. The City may require employees to provide subsequent recertifications of the employee's continued need for leave, but not more often than every 30 days.

18. Benefits Coverage During Leave. During a period of Military Family Leave under the FMLA, an employee will be retained on the City's health and dental care plans under the same conditions that applied before leave was commenced. To continue health and dental coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health or dental care monthly cost may result in loss of coverage.



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If the employee fails to return to work after expiration of leave, the employee will be required to reimburse City of Lincoln for payment of health/dental care monthly costs incurred during the period of Military Family Leave under the FMLA, unless the employee has taken leave to care for an injured service member and fails to return because the injured service member has a continuing or recurring serious injury or illness. (See, 29 C.F.R. 825.213(a)).

An employee is not entitled to any seniority or employee benefits that would have accrued if not for the taking of the leave. An employee who takes FMLA leave will not lose seniority or employment benefits that accrued before the date leave began. (See, 29 C.F.R. 825.215(d)(2)). However, an employee's seniority will be lost relative to other employees as their seniority accrues.

19. Restoration to Employment. Unless the employee is a “key employee”, as defined by the Act, at the end of any Military FMLA leave, an employee will be restored to his or her old position or to a position with equivalent pay, benefits, and other terms and conditions of employment as soon as possible. City of Lincoln cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an “equivalent position” will be made by City of Lincoln. (See, 29 C.F.R. 825.214 and 825.215). A “key employee” is a salaried FMLA-eligible employee who is among the highest paid ten percent of all the employees employed by City of Lincoln. (See, 29 C.F.R. 825.217).
20. Failure to Return from Leave. The failure of an employee to return to work upon the expiration of Military FMLA leave will be considered a resignation unless an extension is granted. An employee who has requested less than 12 weeks of qualifying exigency leave may request an extension of leave by submitting a written request to the employee's department head setting forth the reasons for the extension, along with a certification detailing the reason for additional qualifying exigency leave. An employee who has requested less than 26 weeks of military caregiver leave may request an extension of leave by submitting a written request to the employee's department head setting forth the reason for the extension, along with a “Medical Certification Statement for Military Caregiver Leave” form. These written requests should be made as soon as the employee realizes that he or she will not be able to return at the expiration of the leave. In no circumstances, will an extension beyond the 12-week period for qualifying exigency leave, or 26-week period for military caregiver leave, authorized pursuant to the FMLA be granted.

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21. Unlawful Acts. It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the 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 the FMLA.

  
Doug McDaniel, Personnel Director

7-2-2013  
Date

  
Chris Beutler, Mayor

7-2-13  
Date

**CITY OF LINCOLN  
APPLICATION FOR MILITARY FAMILY LEAVE**

Name of Employee: \_\_\_\_\_  
(Please Print Legibly)

Last 4 Digits of Social Security Number: \_\_\_\_ XXX - XX - \_\_\_\_

Department: \_\_\_\_\_

Home Address: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Start Date of Anticipated Leave: \_\_\_\_\_

Expected Date of Return to Work: \_\_\_\_\_

Reason for Leave (Mark One):

\_\_\_\_\_ For a qualifying exigency arising out of the fact that my \_\_\_\_\_ spouse, \_\_\_\_\_ child, or \_\_\_\_\_ parent is on active duty, or has been notified of an impending call or order to active duty

\_\_\_\_\_ To care for my \_\_\_\_\_ spouse, \_\_\_\_\_ child, \_\_\_\_\_, parent, or \_\_\_\_\_ next of kin, who is a covered service member and has sustained a serious injury or illness in the line of duty while on active duty in the Armed Forces; or

**Note:** A leave request for qualifying exigency leave must be accompanied by a copy of the service member relative's active duty orders or other documentation issued by the military, showing the service member's active duty or call to active duty status in support of a contingency operation, and expected dates of active duty service.

A leave request to care for an employee's spouse, child, parent, or next of kin, who is a covered service member and has sustained a serious injury or illness in the line of duty, must be accompanied by a verifying medical certification issued by the health care provider of the employee's spouse, child, parent, or next of kin.

I hereby authorize City of Lincoln to contact the Department of Defense to verify my military member's active duty or call to active duty status, and to contact my covered service member's health care provider to seek authentication or verification of the medical certification.

I understand that to maintain my health insurance benefits during this leave I must continue to pay my share of my health insurance as it comes due.

I understand that failure to return to work at the end of my leave period may be treated as a resignation unless an extension has been agreed upon and approved in writing by City of Lincoln.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved By:

\_\_\_\_\_  
Department Head or Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resources Director

\_\_\_\_\_  
Date

CITY OF LINCOLN/LANCASTER COUNTY  
Certification of Qualifying Exigency  
For Military Family Leave  
(Family and Medical Leave Act)

**SECTION I:**

Employer name: City of Lincoln/Lancaster County

Contact Information: Personnel Department c/o Karen Eurich (402)441-7886, 555 S. 10<sup>th</sup> St., Suite 302, Lincoln, NE 68508

**SECTION II: For Completion by the EMPLOYEE**

**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 CFR 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 military member on covered active duty or call to covered active duty status:

\_\_\_\_\_  
First Middle Last

Relationship of military member to you: \_\_\_\_\_

Period of military member's covered active duty: \_\_\_\_\_

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a military member's covered active duty or call to covered active duty status. Please check one of the following and attach the indicated document to support that the military member is on covered active duty or call to covered active duty status.

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

PART A: QUALIFYING REASON FOR LEAVE

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 the military member’s Rest and Recuperation leave; a document confirming an appointment with a third party, such as a counselor or school official, or staff at a care facility; 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 ☐

PART B: AMOUNT OF LEAVE NEEDED

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?

Yes☐      No☐

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?      Yes☐      No☐

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.

**PART C:**

If leave is requested to meet with a third party (such as to arrange for childcare or parental care, to attend counseling, to attend meetings with school, childcare or parental care providers, to make financial or legal arrangements, to act as the 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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART D:**

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

Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

# CITY OF LINCOLN/LANCASTER COUNTY

## Certification for Serious Injury or Illness of a Current Servicemember for Military Family Leave (Family and Medical Leave Act)

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee is Requesting Leave

**INSTRUCTIONS to the EMPLOYEE or CURRENT 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 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(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR § 825.125.

**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 current 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 in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces 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 current servicemember's serious injury or illness includes written documentation confirming that the servicemember's injury or illness was incurred in the line of duty on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current 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 servicemember's condition for which the employee is seeking leave.

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave:

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

Part A: EMPLOYEE INFORMATION

Name and Address of Employer (this is the employer of the employee requesting leave to care for the current servicemember):

Name of Employee Requesting Leave to Care for the Current Servicemember:

First	Middle	Last
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Name of Current Servicemember (for whom employee is requesting leave to care):

First	Middle	Last
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Relationship of Employee to the Current Servicemember:

Spouse ☐ Parent ☐ Son ☐ Daughter ☐ Next of Kin ☐

Part B: SERVICEMEMBER INFORMATION

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

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

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



Part C: CARE TO BE PROVIDED TO THE SERVICEMEMBER

Describe the Care to Be Provided to the Current Servicemember and an Estimate of the Leave Needed to Provide the Care:

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**SECTION II: For Completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125. 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.)

Part A: HEALTH CARE PROVIDER INFORMATION

Health Care Provider’s Name and Business Address:

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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; (4) a DOD non-network TRICARE authorized private health care provider, or (5) a health care provider as defined in 29 CFR 825.125:

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Telephone: (    ) \_\_\_\_\_ Fax: (    ) \_\_\_\_\_

Email: \_\_\_\_\_

PART B: MEDICAL STATUS

(1) The current 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-F or an employer-provided form seeking the same information.)

- (2) Is the current Servicemember being treated for a condition which was incurred or aggravated by service in the 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 servicemember undergoing medical treatment, recuperation, or therapy for this condition? Yes ☐ No ☐  
If yes, please describe medical treatment, recuperation or therapy:  
\_\_\_\_\_

**PART C: SERVICEMEMBER’S NEED FOR CARE BY FAMILY MEMBER**

- (1) Will the 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 servicemember require periodic follow-up treatment appointments? Yes ☐ No ☐  
If yes, estimate the treatment schedule: \_\_\_\_\_
- (3) Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointments? Yes ☐ No ☐
- (4) Is there a medical necessity for the 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:** \_\_\_\_\_

CITY OF LINCOLN/LANCASTER COUNTY

Certification for Serious Injury or Illness of a Veteran for  
Military Caregiver Leave (Family and Medical Leave Act)

SECTION I: For completion by the EMPLOYEE and/or the VETERAN for  
whom the employee is requesting leave

**INSTRUCTIONS to the EMPLOYEE and/or VETERAN:** 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 military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran. 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(c)(3). Failure to do so may result in a denial of an employee’s FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

(This section must be completed before Section II can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and address of employer (this is the employer of the employee requesting leave to care for a veteran):

Name of employee requesting leave to care for a veteran:

First	Middle	Last
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Name of veteran (for whom employee is requesting leave):

First	Middle	Last
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Relationship of employee to veteran:

Spouse ☐    Parent ☐    Son ☐    Daughter ☐    Next of Kin ☐ (please specify relationship):

Part B: VETERAN INFORMATION

- (1)

Date of the veteran’s discharge:
- (2)

Was the veteran **dishonorably** discharged or released from the Armed Forces (including the National Guard or Reserves)?    Yes ☐    No ☐
- (3)

Please provide the veteran’s military branch, rank and unit at the time of discharge:
- (4)

Is the veteran receiving medical treatment, recuperation, or therapy for an injury or illness?  
Yes ☐    No ☐

Part C: CARE TO BE PROVIDED TO THE VETERAN

Describe the care to be provided to the veteran and an estimate of the leave needed to provide the care:

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**SECTION II: For completion by: (1) a United States Department of Defense (“DOD”) health care provider; (2) a United States Department of Veterans Affairs (“VA”) health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider; or (5) a health care provider as defined in 29 CFR 825.125.**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** The employee named in Section I has requested leave under the military caregiver leave provision of the FMLA to care for a family member who is a veteran. For purposes of FMLA military caregiver leave, a serious injury or illness means an injury or illness incurred by the servicemember in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the servicemember’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the servicemember became a veteran, and is:

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans’ Affairs Program of Comprehensive Assistance for Family Caregivers.

A complete and sufficient certification to support a request for FMLA military caregiver leave due to a covered veteran’s serious injury or illness includes written documentation confirming that the veteran’s injury or illness was incurred in the line of duty on active duty or existed before the beginning of the veteran’s active duty and was aggravated by service in the line of duty on active duty, and that the veteran is undergoing treatment, recuperation, or therapy 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 military caregiver leave coverage. Limit your responses to the veteran’s condition for which the employee is seeking leave.

(Please ensure that Section I has been completed before completing this section. Please be sure to sign the form on the last page and return this form to the employee requesting leave (See Section I, Part A above).

**Part A: HEALTH CARE PROVIDER INFORMATION**

Health care provider's name and business address:

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Type of Practice/Medical Specialty: \_\_\_\_\_

Please indicate if you are:

- ☐ a DOD health care provider
- ☐ a VA health care provider
- ☐ a DOD TRICARE network authorized private health care provider
- ☐ a DOD non-network TRICARE authorized private health care provider
- ☐ other health care provider

**PART B: MEDICAL STATUS**

Note: If you are unable to make certain of the military-related determinations contained in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as, DOD Recovery Care Coordinator) or an authorized VA representative.

(1) The Veteran's medical condition is:

- ☐ A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating.
- ☐ A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50% or higher, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave.
- ☐ A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment.
- ☐ An injury, including a psychological injury, on the basis of which the covered veteran is enrolled in the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers.
- ☐ None of the above.

- (2) Is the veteran being treated for a condition which was incurred or aggravated by service in the 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 veteran undergoing medical treatment, recuperation, or therapy for this condition?  
Yes ☐ No ☐  
If yes, please describe medical treatment, recuperation or therapy: \_\_\_\_\_  
\_\_\_\_\_

**PART C: VETERAN’S NEED FOR CARE BY FAMILY MEMBER**

“Need for care” encompasses both physical and psychological care. It includes situations where, for example, due to his or her serious injury or illness, the veteran is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport him or herself to the doctor. It also includes providing psychological comfort and reassurance which would be beneficial to the veteran who is receiving inpatient or home care.

- (1) Will the veteran 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 veteran require periodic follow-up treatment appointments? Yes ☐ No ☐  
  
If yes, estimate the treatment schedule: \_\_\_\_\_
- (3) Is there a medical necessity for the veteran to have periodic care for these follow-up treatment appointments?  
Yes ☐ No ☐
- (4) Is there a medical necessity for the veteran 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:** \_\_\_\_\_