District 1199C Training and Upgrading Fund and HTTI

FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

(Effective 9/1/2010)

# I. FAMILY AND MEDICAL LEAVE ACT

District 1199C Training and Upgrading Fund (the “Fund”) and HTTI complies with all aspects of the Family and Medical Leave Act (FMLA) of 1993, and, in some instances, as outlined in this policy, offers more protection than is afforded by the FMLA. This policy sets forth employees’ rights and responsibilities under the FMLA, and all employees are expected to follow this policy.

FMLA 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. The 12-month period is a rolling 12-month period which will be calculated at the time when an employee commenced leave under the FMLA. In the event that the Fund and HTTI changes this method of calculation, it will provide employees with 60 days’ advance notice.

In 2008, the National Defense Authorization Act (NDAA) amended the FMLA to allow eligible employees to take up to 12 weeks of leave for any “qualifying exigency” arising out of the fact that a covered military members 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 provides for up to 26 weeks of leave to care for a servicemember with a serious injury or illness.

**II. EMPLOYEE ELIGIBILITY**

To be eligible for FMLA benefits, an employee **must**:

(1) have worked for the Fund for at least 12 months; **and**

(2) have worked at least 1,250 hours over the previous 12 months.

**III. LEAVE ENTITLEMENT**

Eligible employees shall be entitled to up to a total of 12 workweeks of **unpaid** leave during any rolling 12-month period for one or more of the following reasons:

1. for the birth and care of a newborn child of the employee;
2. for the placement with the employee of a son or daughter for adoption or foster care;
3. to care for a spouse, parent or child with a serious health condition;
4. to take medical leave when the employee is unable to work because of a serious health condition of his or her own; or
5. for qualifying exigencies arising out of the fact that the employee’s spouse, parent, son or daughter 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.

The Fund and HTTI will also grant an eligible employee who is a spouse, parent, son, daughter or next of kin of a current member of the Armed Forces, including the National Guard or Reserves, with a serious injury or illness up to 26 weeks of unpaid leave to care for that servicemember.

Spouses employed by the Fund or HTTI: In the event that an employee’s spouse also works for the Fund or HTTI, the spousal employees shall be jointly entitled to a combined total of 12 weeks leave for birth and care of newborn child, placement of child for adoption or foster care, for care for parent who has a serious health condition, or for leave for a qualifying exigency. Spousal employees shall be jointly entitled to a combined total of 26 weeks to care for an injured servicemember.

Intermittent Leave: Under some circumstances, employees may take FMLA leave intermittently – which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

(a) If FMLA leave is used for birth and care of newborn or placement for adoption or foster care, use of intermittent leave is subject to the Fund’s approval

(b) FMLA leave may be taken intermittently whenever **medically necessary** to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

(c) If an employee requests intermittent leave, or leave on a reduced leave schedule, that is foreseeable based on planned medical treatment, the Fund may require such employee to transfer temporarily to an available alternative position that has equivalent pay and benefits and that better accommodates recurring periods of leave than the regular position of the employee.

Use of Accrued Paid Leave: Employees shall be required to exhaust all paid leave (including sick, vacation and personal days) prior to using leave under FMLA. Paid time including sick, vacation and personal days used for leave that would otherwise qualify as leave under the FMLA will be counted toward the 12 weeks allotted for FMLA. Additionally, time during which employees are out for leave that would otherwise qualify as leave under the FMLA and during which time the employee receives payments from the Benefit Fund shall also be counted toward the 12 weeks allotted for FMLA.

Employees Receiving Disability Benefits from The Benefit Fund: For employees who are receiving disability benefits from the Benefit Fund for Hospital and Health Care Employees, leave will be approved for up to 27 weeks.

**IV. PROCEDURE**

**A. EMPLOYEE NOTICE TO THEIR EMPLOYER**

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 the Fund and HTTI’s normal call-in procedures.

When intermittent leave is needed to care for an immediate family member or the employee’s own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer’s operation.

Employees must provide sufficient information for the Fund or HTTI 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. At the time of the request, the Fund or HTTI may provide the employee with one of the following appropriate certification forms:

(a) Certification of Health Care Provider for Employee’s Serious Health Condition

(Attachment A)

(b) Certification of Health Care Provider for Family Member’s Serious Health Condition (Attachment B)

(c) Certification of Qualifying Exigency for Military Family Leave (Attachment C)

(d) Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave (Attachment D)

Upon receiving the above Certifications, the employee **must** have the document completed and returned within **15 days**. Delay in providing this completed document may result in the leave request being delayed or denied. For certifications related to intermittent leave, the Fund or HTTI may ask that any certifications be updated occasionally, but not more frequently than every 30 days.

All medical information submitted by employees will be treated as confidential and will be kept in separate files in a separate locked cabinet. Access will be limited to the Finance Director and the Executive Director.

All Employees who have applied for disability benefits from the Benefit Fund must also apply for FMLA leave from their employer, and submit a certification, in addition to their application to the Benefit Fund. Failure to do so may result in the denial of leave, and the employee may not be able to return to their prior job when they have recovered.

**B. EMPLOYER NOTICE TO EMPLOYEE**

The Fund or HTTI will notify the employee in writing whether the leave has been designated as a leave under the FMLA. In the event that the leave is approved, the Fund or HTTI will notify the employee of the total amount of leave that has been used by the employee in the previous 12-month period, and the total amount of paid leave the employee has remaining. If leave is denied, the employee may appeal by using the grievance procedure.

The Fund or HTTI shall maintain health insurance benefits for an employee on FLMA leave. Some arrangements will need to be made for employees to pay their share of health insurance premiums while on leave.

Upon return from FMLA leave, an employee will be restored to the employee’s original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

**V. SUMMARY**

In administering this policy, the Fund and HTTI encourages communication so that both the needs of the employees and the needs of the Fund and HTTI can be met.