Family and Medical Leave

The Family and Medical Leave Act (FMLA) provides eligible employees with unpaid leave for certain family and medical reasons during a 12-month period. During this leave, employees are entitled to continue group health plan coverage as if they had continued to work. At the conclusion of the leave, subject to some exceptions, employees generally have the right to return to the same or an equivalent position, equivalent pay, benefits and working conditions.

Employment Eligibility Criteria

An "eligible employee" is one who:

1. Has been employed by St. Mary's Charter School ("School") for at least 12 months (which need not be consecutive);
2. Has been employed by the School for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
3. Works at a School facility where at least 50 employees are employed within 75 miles.

Events Entitling Employees to FMLA Leave

An eligible employee shall be entitled to FMLA leave for one or more of the following:

1. For the birth of a son or daughter of the employee and to care for the newborn child.
2. For placement of a son or daughter with the employee for adoption or foster care.
3. To care for the employee's spouse, son or daughter, or parent with a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of his or her position.
5. Because of any Qualified Exigency (defined below) arising out of the fact that the employee's spouse, son or daughter, or parent is 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.

Service Member FMLA Leave

An eligible employee may be eligible for Service Member Family Leave to care for a spouse, child, parent or next of kin is on active duty or a member of the Armed Forces Temporary Disability Retired List and who is recovering from a serious injury or illness incurred in the line of duty.

Qualifying Exigency FMLA Leave

An employee may be entitled to Qualifying Exigency FMLA leave if the employee's spouse, child, or parent is in the National Guard, is a Reservist, or is retired military and is called to active duty, or has been notified of an impending call or order to active duty in support of a contingency operation as defined by federal law. The time spent in several specific activities, defined by law as "Qualifying Exigencies," may also be considered FMLA time. (Does not include an employee's spouse, child or parent who is on the Permanent Disabled Retired List or Active Duty Military).

An employee may also be granted Qualifying Exigency FMLA leave if the School and employee agree that the leave qualifies as an exigency and agree to the timing and duration of the leave.

Certification of Leave

The first time an employee requests Qualifying Exigency leave, the School will require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military that indicates that the covered military member is on active duty, or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

In addition, each time an employee first requests leave for one of the Qualifying Exigencies, the School may require certification of the exigency necessitating leave. Certification supporting leave for a Qualifying Exigency includes: appropriate facts supporting the need for leave, including any available written documentation supporting the request; the date on which the Qualifying Exigency commenced or will commence, and the end date; where leave will be needed on an intermittent basis, the frequency and duration of the Qualifying Exigency; and appropriate contact information if the exigency involves meeting with a third-party.

Post-Deployment Activities

An eligible employee may be entitled to take Qualifying Exigency leave for certain qualifying post-deployment exigencies, including reintegration activities, for a period of 90 days following the termination of the covered military member's active duty status.

State calls to active duty are not covered unless under order of the President of the United States.

With respect to both Qualified Exigency and Service Member Family leave, eligible employees may take the leave intermittently or on a reduced leave schedule. However, if an employee has accrued paid leave (vacation, sick, or personal leave), he or she must substitute any qualifying paid leave for unpaid leave first. "Qualifying paid leave" is leave that would otherwise be available to employees for the purpose for which FMLA leave is taken. The remainder of the 26 workweeks of leave, if any, will be unpaid leave. Any paid leave used for an FMLA-qualifying reason will be charged against an employee's entitlement to FLMA leave. This includes leave for disability or workers' compensation injury/illness, provided that the leave meets FMLA requirements. The substitution of paid leave for unpaid leave does not extend the 26 workweek leave period.

Maximum Amount of FMLA Leave Within a 12-Month Period

Except in the case of Service Member Family Leave, as described above, an eligible employee is entitled to up to 12 workweeks of leave during a 12-month period.

A husband and wife who are employed by the School and are both eligible for FMLA leave may be limited to a combined total of 12 workweeks of leave during any 12-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement, or to care for the employee's parent with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA-qualifying reasons, but not more than a total of 12 workweeks per person.

Determining the 12-Month Period

Except with respect to military caregiver leave, the School utilizes a rolling 12-month "leave year" beginning on the first day FMLA leave.

Summer Vacation and Other Extended Breaks

If the School's activity temporarily ceases and employees generally are not expected to report for work for one or more weeks – *e.g.*, a school closing for Spring Break or for the Christmas/New Year holiday – those days do not count against an employee's FMLA leave entitlement. Similarly, the time during summer vacation when the employee is not required to report to work does not count against the employee's FMLA leave entitlement.

Intermittent or Reduced Work Schedule Leave

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. "Intermittent leave" is FMLA leave taken in separate blocks of time due to a single qualifying reason. A "reduced leave schedule" is a leave

schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

For leave taken because of the employee's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave, and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a Qualifying Exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently, or on a reduced leave schedule, only if the School agrees.

Transfer to an Alternative Position
If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the School may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position.

Calculating Leave Use
When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. The School must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that the School uses to account for use of other forms of leave, provided the increment is not greater than one hour.

Special Rules for Instructional Employees
Special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

"Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

Failure to Provide Notice of Foreseeable Leave
If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, the School may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, the School may require the employee to delay the taking of leave until the notice provision is met.

Twenty Percent Rule
If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered service member, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, the School may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

"Periods of a particular duration" means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

Leave at the End of a Semester
As a rule, the School may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, the School may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may the

School have more than two academic terms or semesters each year for purposes of the FMLA.

If the School requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the School to the end of the semester is not counted as FMLA leave; however, the School shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

More than Five Weeks Before the End of the Semester
The School may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

During the Last Five Weeks of the Semester
The School may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

During Last Three Weeks of the Semester
The School may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

Substitution of Paid Leave Time
Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose

to substitute accrued paid leave, the School may require the employee to do so. The term "substitute" means that the paid leave provided by the School, and accrued pursuant to established policies of the School, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the School's normal leave policy.

FMLA and Workers' Compensation

A serious health condition may result from injury to the employee "on or off" the job. If the School designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor the School may require the substitution of paid leave. However, the School and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the School's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the School may require the use of accrued paid leave.

Maintenance of Health Benefits

During any FMLA leave, the School must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

Payment of Premiums

During FMLA leave, the employee must continue to pay his or her share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates.

Failure to Pay Premiums

Unless the School has an established policy providing a longer grace period, the School's obligations to maintain health insurance coverage cease if an employee's

premium payment is more than 30 days late. In order to terminate the employee's coverage, the School must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, the School must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

Recovery of Benefit Cost
If an employee fails to return to work after FMLA leave has been exhausted or expires, the School may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. The School may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave.

Right to Reinstatement
On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

Moonlighting During FMLA Leave
The Director of Human Resources and/or designee may develop a uniformly applied policy governing outside or supplemental employment during FMLA leave. Moonlighting during FMLA leave is allowed only if it does not reflect poorly on the school and the hours are not the regularly scheduled hours of the SMACS employee.

Reinstatement of School Employees

The Director of Human Resources and/or designee shall develop a policy governing the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave. Such a policy must be in writing, must be made known to the employee before the taking of FMLA leave, must clearly explain the employee's restoration rights upon return from leave, and must provide substantially the same protections as provided in the FMLA.

Pay Increases and Bonuses
An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with the School's policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment 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, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

Key Employees
The School may deny job restoration to a key employee, as that term is defined in law, if such denial is necessary to prevent substantial and grievous economic injury to the operations of the School.

Required Notices
The Director of Human Resources shall insure that a notice explaining the FMLA and containing information regarding the procedures for filing complaints with the Department of Labor's Wage and Hour Division is posted prominently at each campus where it is readily visible to employees and applicants for employment. The Director of Human Resources shall also insure that such notice is included in the School's Employee Handbook and distributed to each new employee upon hiring.

If a significant portion of the School's workforce is not literate in English, the Director of Human Resources shall provide the general notice in a language in which the employees are literate.

The Director of Human Resources may use Department of Labor form WHD 1420 or another form of notice, so long as the notice includes, at a minimum, all of the information contained in form WHD 1420.

Eligibility Notice
When an employee requests FMLA leave, or when the School learns that an employee's leave may be for an FMLA-qualifying reason, the employee's immediate supervisor shall notify the employee of his or her eligibility to take FMLA leave. For purposes of this policy, the immediate supervisor of a teacher and assistant principal shall be the Campus Principal. If the employee is not eligible for FMLA leave, the notice must explain why the employee is not eligible.

The employee's immediate supervisor shall provide the eligibility notice within five business days, absent extenuating circumstances. The School shall translate the notice in any situation in which it is required to translate the general notice.

Rights and Responsibilities Notice
The School shall provide a written notice of rights and responsibilities each time an eligibility notice is provided to an employee. This notice must include the information required by 29 CFR 825.300(c)(1). The notice may be distributed electronically if it meets the other requirements of this section. The School shall translate the notice in any situation in which it is required to translate the general notice.

Retroactive Designation
The School may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if the School's failure to timely designate leave does not cause harm or injury to the employee. The School and an employee may also agree that leave will retroactively be designated as FMLA leave.

Requests for FMLA Leave
An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, as described below. The employee need not expressly assert rights under the Act or even mention the FMLA.

Employees should request FMLA leave by notifying their Campus Principal or designee, and must complete the Department of Labor's form WH-380-E (or WH-380-F as appropriate) made available from the Department of Labor or Campus Principal. Completed forms should be returned to the Principal.

Foreseeable Leave

An employee must provide his or her immediate supervisor at least 30 days' advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered service member. If 30 days' notice is not practicable, the employee must give notice as soon as practicable, generally on the same day as or next business day after the reason for the leave is known. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with his or her immediate supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly the School's operations, subject to the approval of the health-care provider.

Unforeseeable Leave
When the approximate timing of leave is not foreseeable, an employee must provide notice to his or her immediate supervisor as soon as practicable under the facts and circumstances of the particular case.

Compliance with School Requirements
The School may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

Certification of Leave
The School may require that an employee's FMLA leave be supported by certification, as described below. The School shall give notice of a requirement for certification each time certification is required. At the time the School requests certification, the School must advise the employee of the consequences of failure to provide adequate certification.

Timing
In most cases, the employee's immediate supervisor will request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. The School may request certification at a later date if the School later has reason to question the appropriateness of the leave or its duration. The

employee must provide the requested certification to his or her immediate supervisor within 15 calendar days after the School's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

Incomplete or Insufficient Certification
The School shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The School must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is "incomplete" if one or more of the applicable entries have not been completed. A certification is "insufficient" if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to the School is not considered incomplete or insufficient, but constitutes a failure to provide certification.

Medical Certification of Serious Health Condition
When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, the School may require the employee to obtain medical certification from a health-care provider. The School may use DOL optional form WH-380-E when the employee needs leave due to the employee's own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. The School may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing the School with an authorization, release, or waiver allowing the School to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 CFR 825.125.

Genetic Information
When requesting medical certification, the School shall comply with all requirements for requesting medical information under the Genetic Information Nondiscrimination Act (GINA) as contained in 29 CFR 1635.8(b)(1)(i)(A).

Authentication and Clarification
If an employee submits a complete and sufficient certification signed by the health-care provider, the School may not request additional information from the health-care provider. However, the School may contact the health-care provider for purposes of clarification and authentication of the certification after the School has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, the School must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

"Authentication" means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

"Clarification" means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. The School may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with the School by a HIPAA-covered health-care provider.

Second and Third Opinions
If the School has reason to doubt the validity of a medical certification, the School may require the employee to obtain a second opinion at the School's expense. If the opinions of the employee's and the School's designated health-care providers differ, the School may require the employee to obtain certification from a third health-care provider, again at the School's expense.

Foreign Medical Certification
If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the School shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide the School with a written translation of the certification upon request.

Recertification

The School may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. The School must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, the School may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

Certification—Qualifying Exigency Leave
The first time an employee requests leave because of a qualifying exigency, the School may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

The School may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). The School may use DOL optional form WH-384, or another form containing the same basic information, for this certification. The School may not require information beyond that specified in the regulations.

Certification—Military Caregiver Leave
When an employee takes military caregiver leave, the School may require the employee to obtain a certification completed by an authorized health-care provider of the covered service member. In addition, the School may request that the employee and/or covered service member address in the certification the information at 29 CFR 825.310(c). The School may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill service member.

The School may use DOL optional form WH-385, or another form containing the same basic information, for this certification. The School may not require information beyond that specified in the regulations. The School must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("ITAs") issued to any family member to join an injured or ill service member at his or her bedside.

The School may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered service member.

Intent to Return to Work

The Director of Human Resources may develop a uniformly applied policy or practice that requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work. Such a policy may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

Fitness for Duty Certification

The Director of Human Resources may develop a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The Director of Human Resources may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job.

Failure to Provide Certification

If the employee fails to provide the School a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, the School may deny the taking of FMLA leave. This provision applies in any case where the School requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient.

Record Maintenance

The Director of Human Resources and/or designee shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. The School shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the Department of Labor upon request. Such records may be kept in computer form, so long as they are made available for transcription or copying.

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements, except as excepted by the FMLA.

Prohibition Against Discrimination and Retaliation

The School shall not interfere with an employee's rights under the FMLA, or with legal proceedings or inquiries relating to an employee's rights. Specifically, the School shall not:

1. Interfere with, restrain, or deny the exercise of (or attempts to exercise) any rights provided by the FMLA.
2. Discharge or in any other way discriminate against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the FMLA.
3. Discharge or in any other way discriminate against any person (whether or not an employee) because that person has:
    a. Filed any charge, or has instituted (or caused to be institute) any proceeding under or related to the FMLA;
    b. Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA; and/or
    c. Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA.