Sec. 31-51rr-1. Definitions (29 CFR § 825.800)

As used in sections 31-51rr-1 to 31-51rr-47, inclusive, of the Regulations of Connecticut State Agencies:

(1) "FMLA" means section 31-51rr of the Connecticut General Statutes.

(2) "Act" means the Family and Medical Leave Act of 1993, Public Law 103–3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq., as amended).

(3) "Active duty" or "call to active duty status" means duty under a call or order to active duty or notification of an impending call or order to active duty in support of a contingency operation pursuant to Section 688 of Title 10 of the United States Code, which authorizes ordering to active duty retired members of the Regular Armed Forces and members of the retired Reserve who retired after completing at least twenty (20) years of active service; Section 12301(a) of Title 10 of the United States Code, which authorizes ordering all reserve component members to active duty in the case of war or national emergency; Section 12302 of Title 10 of the United States Code, which authorizes ordering any unit or unassigned member of the Ready Reserve to active duty; Section 12304 of Title 10 of the United States Code, which authorizes ordering any unit or unassigned member of the Selected Reserve and certain members of the Individual Ready Reserve to active duty; Section 12305 of Title 10 of the United States Code, which authorizes the suspension of promotion, retirement or separation rules for certain Reserve components; Section 12406 of Title 10 of the United States Code, which authorizes calling the National Guard into federal service in certain circumstances; chapter 15 of Title 10 of the United States Code, which authorizes calling the National Guard and state military into federal service in the case of insurrections and national emergencies; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.

(4) "ADA" means the Americans With Disabilities Act (42 U.S.C. 12101 et seq., as amended from time to time).

(5) "CFEPA" means the Connecticut Fair Employment Practices Act, section 46a-51 of the Connecticut General Statutes.

(6) "COBRA" means the continuation coverage requirements of Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended (Pub. L. 99–272, title X, section 10002; 100 Stat. 227; 29 U.S.C. 1161–1168).

(7) "Contingency operation" means a military operation that:

(A) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10 of the United States Code, chapter 15 of Title 10 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

(8) "Covered military member" means the employee's spouse, son, daughter, or parent on active duty or call to active duty status.

(9) "Eligible employee" or "employee" means:

(A) A "paraprofessional," as defined in section 31-51rr-1(20) of the Regulations of Connecticut State Agencies, who has been employed for a total of at least twelve (12) months by the employer on the date on which any FMLA leave is to commence, except that an employer need not consider any period of previous employment that occurred more than seven (7) years before the date of the most recent hiring of the employee, unless:

(i) The break in service is occasioned by the fulfillment of the employee's National Guard or Reserve military service obligation or

(ii) A written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service, such as for purposes of the employee furthering his or her education or for childrearing purposes; and

(B) An individual who, on the date on which any FMLA leave is to commence, has been employed for at least nine hundred fifty (950) hours of service after the effective date of sections 31-51rr-1 et seq. of the Regulations of Connecticut State Agencies with such employer during the previous twelve (12)-month period, except that:

(i) An employee returning from fulfilling his or her National Guard or Reserve military obligation shall be credited with the hours-of-service that would have been performed but for the period of military service in determining whether the employee worked the nine hundred fifty (950) hours of service. Accordingly, a person reemployed following military service has the hours that would have been worked for the employer added to any hours actually worked during the previous twelve (12)-month period to meet the nine hundred fifty (950)-hour requirement.

(ii) To determine the hours that would have been worked during the period of military service, the employee's pre-service work schedule can generally be used for calculations.

(10) "Employ" means to suffer or permit to work.

(11) "Employer" means any political subdivision of the State of Connecticut. "Political subdivision" shall be construed and interpreted to include without limitation, any town, city, county, borough, district, school board, board of education, board of regents, social service or welfare agency, public and quasi-public corporation, housing authority, parking authority, redevelopment and urban renewal board or commission, or other authority or public agency established by law, and any water district, sewer district or similar authority established by special act or existing under the Connecticut General Statutes.

(12) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan" as defined in section 3(3) of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(3). The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage.

(13) "FLSA" means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

(14) "Group health plan" means any plan of, or contributed to by, an employer, including a self-insured plan, to provide health care, directly or otherwise, to the employer's employees, former employees, or the families of such employees or former employees. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from

insurers provided that:

(A) No contributions are made by the employer;

(B) Participation in the program is completely voluntary for employees;

(C) The sole functions of the employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(D) The employer receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and

(E) The premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(15) "Health care provider" means:

(A) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery, as appropriate, by the State in which the doctor practices; or

(B) Any other person determined by the Commissioner to be capable of providing health care services.

(i) Others "capable of providing health care services" include only:

(I) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors, limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, authorized to practice in the State and performing within the scope of their practice as defined under State law;

(II) Nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(III) Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination, though not treatment, to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement;

(IV) Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(V) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(ii) "Authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions.

(16) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning,

shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, or others.

(17) "Intermittent leave" means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six (6) months, such as for chemotherapy.

(18) "Next of kin of a covered servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember 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 no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

(19) "Outpatient status" means, with respect to a covered servicemember, 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.

(20) "Paraprofessional" means a school employee who performs duties that are instructional in nature or deliver either direct or indirect services to students and/or parents and serves in a position for which a teacher has ultimate responsibility for the design and implementation of educational programs and services.

(21) "Parent" means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined in subdivision (26) of this section. This term does not include parents "in law."

(22) "Parent of a covered servicemember" means a covered servicemember's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents "in law."

(23) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons, and includes a public agency for purposes of this part.

(24) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, as defined in 29 CFR 630.

(25) "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(26) "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under eighteen (18)

years of age or eighteen (18) years of age or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.

(27) "Son or daughter of a covered servicemember" means a covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.

(28) "Son or daughter on active duty or call to active duty status" 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.

(29) "Spouse" means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(Effective May 12, 2014)