

All Personnel

**FAMILY AND MEDICAL LEAVE**

Family and medical leave shall be granted in compliance with the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601, *et seq.*) (“FMLA”) and the California Family Rights Act (Government Code Section 12945.2) (“CFRA”).

**General Provisions:**

Pursuant to the FMLA and CFRA, any employee who has been employed by the District for at least twelve (12) months and has actually worked at least 1,250 hours during the twelve (12) months immediately prior to commencing the leave shall be eligible to take up to twelve (12) workweeks of unpaid family care and medical leave in a twelve (12) month period, counting backward from the first date such leave is taken. Full-time teachers shall be presumed to work 1,250 hours unless proven otherwise by the District. If the leave is to care for an injured, covered military service member, eligible unit members shall be entitled to twenty-six (26) work weeks of leave for each illness or injury, within twelve (12) months of the first date of leave for this reason.

**Qualifying Reasons:**

Family leave shall be available for any of the following reasons:

- A. Birth of a child and to care for the newborn, adopted or foster child within twelve (12) months after the birth or placement for adoption or foster care;
- B. To care for a parent, spouse, child or Registered Domestic Partner (CFRA leave only) with a serious health condition;
- C. Because of the employee’s own serious health condition that makes the employee unable to perform the functions of his or her own position;
- D. Because of any qualifying exigency arising out of the fact that an employee’s parent, spouse, or child is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation (FMLA leave only); or
- E. Because of a serious injury or illness incurred in the line of duty on active duty in the Armed Forces in support of a contingency operation affecting an employee’s spouse, child, parent, or next of kin, who is a service member of the Armed Forces, including the National Guard and Reserves, for whom the employee is needed to provide care (FMLA leave only). An employee taking leave under this section shall be entitled to twenty-six (26) workweeks of leave in a twelve (12) month period commencing on the first day leave is taken to care for the service member.

**Employee Notice Requirements:**

An employee must provide at least 30 days advance notice before 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.

When an employee becomes aware of a need for family and medical leave less than 30 days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next business day. In all cases, however, the determination of when an employee could practicably provide notice must take into account the individual facts and circumstances.

On or before the first day of an employee's family and medical leave, the employee shall notify the District of his/her anticipated date of return to work. The District may require periodic updates on the employee's intent to return to work. If because of changed circumstances an employee requires more or less leave than originally anticipated, the employee shall give the District at least two business days' notice of his or her intent to return to work.

**Health Benefits:**

The District will maintain coverage under the group health care plan for the duration of the family and medical leave, at the same level and under the same conditions as such coverage would have been provided had the employee not taken the leave. While on a family and medical leave, employees shall be responsible for paying any share of the health premiums for which they are responsible.

**Other Leave Rights:**

The right to take a family care and medical leave is separate and distinct from the right to take a pregnancy disability leave under state law for the employee's own pregnancy.

Leave taken for a birth, or placement for adoption or foster care, must be concluded within one year of the birth or placement. Where leave is taken to care for a new child within one year of birth or placement for adoption or foster care, the basic minimum duration of each leave period shall be two weeks. However, the employee may take leave of a shorter duration for this reason on two occasions.

**Use of Paid Leave:**

During a family and medical leave, the employee must concurrently use any available sick leave, extended illness leave, vacation leave, other accrued time off, or any other available paid leave. Such paid leave may only be used for reasons specified and under the terms and conditions of the applicable collective bargaining agreement, Board Policy, or administrative regulation, unless otherwise agreed to by the District and employee.

**Notice of Rights and Designation of Leave:**

The District shall provide written notice regarding FMLA and/or CFRA rights in compliance with law.

**Certification:**

The District may require the employee to provide verification of the qualifying reason for the leave and of the family relationship as provided by law.

Employees who take family and medical leave for their own serious health conditions shall present certification from their health care provider to the effect that they are able to resume work.

**Reinstatement Following Family and Medical Leave:**

An employee who takes a family and medical leave shall be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on return from FMLA and/or CFRA-protected leave. If the leave extends beyond the end of the employee's FMLA and/or CFRA entitlement, the employee does not have return rights under the FMLA and/or CFRA.

An employee who is considered a "key" or "highly compensated" employee as defined in the FMLA and/or CFRA may be denied reinstatement to employment following FMLA and/or CFRA leave on the grounds that such restoration will cause substantial and grievous economic injury to the District. An employee will be given notice of his or her designation as a "key employee" at the time he or she commences the family leave and will be given an opportunity to return to work immediately.

**Failure to Return from Family and Medical Leave:**

If an employee does not return to work following FMLA and/or CFRA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle the employee to FMLA and/or CFRA leave; 2) the continuation, recurrence, or onset of a covered service member's serious injury or illness which would entitle the employee to FMLA leave; or 3) other circumstances beyond the employee's control, he or she may be required to reimburse the District for its share of health insurance premiums paid on the employee's behalf during any unpaid portion of the FMLA and/or CFRA leave.

**Definitions:**

The following definitions shall apply only to the use of family and medical leave under the FMLA and/or CFRA.

Child:

For leave taken for by an employee for the birth of his/her child, or placement of a child with the employee for adoption or foster care, or to care for his/her child with a serious health condition, “child” means the employee’s biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or an adult dependent child 18 or older and incapable of self-care because of mental or physical disability [29 U.S.C. §2611(12)].

For leave taken to care for a service member with a serious health condition or because of a military member’s call to active duty, the employee’s child for whom he or she is taking leave need not be under 18 years of age, but must meet all of the other requirements specified above [29 C.F.R. §825.122(g), (h), and (i)].

Military Member and Service Member:

“Military member” and “service member” shall be as defined in the FMLA and its regulations [29 C.F.R. §825.800].

Next of Kin:

For purposes of leave taken to care for a covered service member injured during active duty, “next of kin” means the nearest blood relative of the covered service member who is not the service member’s parent, spouse, or child, as specified in the FMLA. If the service member has designated a “next of kin,” only that individual may take family and medical leave to care for him or her. If the service member has not designated a “next of kin,” the “next of kin” for purposes of FMLA leave to care for the service member shall be in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provision, siblings, grandparents, aunts and uncles, and first cousins. [29 C.F.R. §825.122(d)].

Parent:

“Parent” means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood *in loco parentis* to the employee when the employee was a child [29 U.S.C. §2611(7)].

Qualifying Exigency:

A “qualifying exigency” related to a family member who is a covered military member shall be as defined in the FMLA regulations.

Registered Domestic Partner:

“Registered domestic partner” shall be those persons registered with the California Secretary of State pursuant to the provisions of California Family Code Section 297.

Serious Health Condition:

“Serious health condition” shall be as defined in the FMLA and CFRA statutes and regulations.

Legal Reference:

FAMILY CODE

[297-297.5](#) Rights, protections and benefits under law; registered domestic partners

300 Validity of marriage

GOVERNMENT CODE

[12940](#) Unlawful employment practices

[12945](#) Pregnancy; childbirth or related medical condition; unlawful practice

[12945.1-12945.2](#) California Family Rights Act

CODE OF REGULATIONS, TITLE 2

[7291.2-7291.16](#) Sex discrimination: pregnancy and related medical conditions

[7297.0-7297.11](#) Family care leave

UNITED STATES CODE, TITLE 1

7 Definition of marriage, spouse

UNITED STATES CODE, TITLE 29

[2601-2654](#) Family and Medical Leave Act of 1993, as amended

CODE OF FEDERAL REGULATIONS, TITLE 29

[825.100-825.800](#) Family and Medical Leave Act of 1993

Management Resources:

FEDERAL REGISTER

Final Rule and Supplementary Information, November 17, 2008. Vol. 73, No. 222, pages 67934-68133

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Department of Labor, FMLA: <http://www.dol.gov/esa/whd/fmla>

Regulation

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CULVER CITY UNIFIED SCHOOL DISTRICT  
Culver City, California

