Personnel

Family Care and Medical Leave

The District shall not deny any eligible employee the right to family care, medical, or pregnancy disability leave ("PDL") pursuant to the Family and Medical Leave Act ("FMLA"), the California Family Rights Act ("CFRA"), or the Fair Employment and Housing Act ("FEHA") nor restrain or interfere with the employee's exercise of such right. In addition, the District shall not discharge an employee or discriminate or retaliate against them for taking such leave or for their opposition to or challenge of any unlawful District practice in relation to any of these laws or for them involvement in any related inquiry or proceeding. (Government Code §§ 12945, 12945.2; 2 CCR §11094; 29 USC § 2615)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified. -
"Child" means a biological, adopted, or foster child; a stepchild; a legal ward; or a person to whom the employee stands in loco parentis.–For purposes of CFRA leave, also includes a child of a registered domestic partner. (Government Code § 12945.2; 2 CCR § 11087; 29 USC § 2611)

"Eligible employee" for FMLA and CFRA purposes means an employee who has been employed with the District for at least 12 months and who has worked at least 1,250 hours with the District during the 12-months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code § 12945.2; 2 CCR § 11087; 29 USC § 2611; 29 CFR § 825.110)

"Eligible family member" means an eligible employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA only, eligible family member also includes an eligible employee's registered domestic partner, grandparent, grandchild, or sibling. (Government Code § 12945.2; 2 CCR § 11087; 29 USC § 2612)

"Disabled by pregnancy" means that, in the opinion of the employee's health care provider, the employee is: (2 CCR § 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of the essential functions of the job without undue risk to the employee, other persons, or the pregnancy's successful completion; or

2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition.

"Parent" means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. For purposes of leave pursuant to CFRA only, "Parent" includes a spouse's parents (i.e., parent-in-law). (Government Code § 12945.2; 2 CCR § 11087; 29 USC § 2611; 29 CFR § 825.122)

"Serious health condition" means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or that involves either of the following: (Government Code § 12945.2; 2 CCR §§ 11087, 11097; 29 USC § 2611; 29 CFR §§ 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity.

   A person is considered an inpatient when they are formally admitted to a health care facility with the expectation that they will remain overnight and occupy a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

   Incapacity means the person is not able to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

   a. A period of incapacity of more than three consecutive full days-;

   b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;

   c. Any period of incapacity due to pregnancy or for prenatal care under FMLA-;

   d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective-;

   e. Any period of absence to receive multiple treatments, including recovery, by a health care provider.

"Spouse" means a partner in marriage as defined in Family Code Section 300, including same sex partners in marriage. For purposes of CFRA leave, spouse also includes a registered domestic partner within the meaning of Family Code Sections 297-297.5. (Family Code §§ 297, 297.5, 300; 2 CCR § 11087; 29 CFR § 825.122)

Eligibility

Upon request, the District shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code §§ 12945.2, 12945.6; 29 USC § 2612; 29 CFR § 825.112)

1. The birth of a child of the employee or the placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave);
2. To care for an eligible family member with a serious health condition;
3. The employee's own serious health condition that makes the employee unable to perform one or more essential functions of their position;
4. Any qualifying exigency arising out of the fact that ~~an~~ eligible family member is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty);
5. To care for a covered servicemember with a serious injury or illness if the covered servicemember is the employee's spouse, child, parent, or next of kin, as defined.

In addition, the District shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code § 12945; 2 CCR § 11037)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. In circumstances where the leaves do not run concurrently under the law, the employee may take up to 12 weeks for both CFRA and FMLA for a total of 24 weeks. (Government Code § 12945.2; 29 USC § 2612)

This 12-month period shall be a rolling period measured backward from the date an employee uses any FMLA leave. (29 CFR § 825.200)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code § 12945; 2 CCR § 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code §§ 12945, 12945.2; 2 CCR §§ 11046, 11093)

PDL and FMLA/CFRA leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date that PDL begins or the date of the birth or placement of the child, as applicable. Such leave does not need to be taken in one continuous period of time. (2 CCR §§ 11044, 11090; 29 USC § 2612)

Use/Substitution of Paid Leave

During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued -vacation leave, or other accrued time off not including paid sick leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. Employees shall not use sick leave for leave taken in order to care for an eligible family member or the birth or placement of a child. (Government Code §§ 12945, 12945.2; 2 CCR §§ 11044, 11092; 29 USC § 2612)

The District and employee may come to an agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR § 11092)

Intermittent Leave/Reduced Work or Leave Schedule

PDL and FMLA/CFRA leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the District shall limit leave increments to the shortest period of time that the District's payroll system uses

to account for absences or use of leave provided it is not to be greater than one hour. (2 CCR §§v11042, 11090; 29 USC § 2612)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the District shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR § 11090)

The District may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR §§ 11041, 11090; 29 USC § 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or an eligible family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The District agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR §§ 11041, 11090; 29 USC § 2612)

Request for Leave

The District shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the District aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR §§ 11050, 11091)

For FMLA/CFRA leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR § 11091)

The District shall respond to requests for leave pursuant to the CFRA as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR § 11091)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the District is unable to determine whether the leave is CFRA qualifying. (2 CCR § 11091; 29 CFR § 825.300)

When an employee is able to foresee the need for PDL or FMLA/CFRA leave at least 30 days in advance of the leave, the employee shall provide the District with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR §§ 11050, 11091)

In all instances, the employee shall consult with the District and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code § 12945.2; 2 CCR §§ 11050, 11091)

Certification of Health Condition

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the District's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR § 11091; 29 CFR § 825.305)

The certification shall include the following: (Government Code § 12945.2; 2 CCR § 11087; 29 USC § 2613)

1. The date on which the serious health condition began;

2. The probable duration of the condition;

3. If the employee is requesting leave to care for an eligible family member -with a serious health condition, both of the following:

    a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the child, parent, or spouse during a period of the treatment or supervision;

    b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse;

4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, they are unable to work at all or is unable to perform one or more essential functions of their position;

5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave.

When an employee has provided sufficient medical certification to enable the District to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR § 11091; 29 CFR § 825.301)

If the Superintendent or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from a District-approved health care provider, at District expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the District, again at District expense. The opinion of the third health care provider shall be final and binding. (Government Code § 12945.2; 2 CCR § 11091; 29 USC § 2613)

Certification for PDL

When an employee requests to take PDL, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is

unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if they have reason to question the appropriateness of the leave or its duration. (2 CCR § 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR § 11050)
Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR § 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code § 12945.2; 2 CCR § 11050; 29 USC § 2613)

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011.

Release to Return to Work

Upon expiration of an employee's PDL or FMLA/CFRA leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider that the employee is able to resume work. The certification shall address the employee's ability to perform the essential functions of their position.

Rights to Reinstatement

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code § 12945.2; 2 CCR § 11043, 11089; 29 USC § 2614)

The District may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR § 11089; 29 CFR § 825.216)

The District may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR § 11043)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or FMLA/CFRA leave, the employee shall maintain employee status with the District and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code § 12945.2; 2 CCR §§ 11044, 11092; 29 USC § 2614)

For up to a maximum of four months for PDL and 12 work weeks for other FMLA leave, the District shall continue to provide an eligible employee the group health plan coverage that was in place before employee took the leave. The employee shall reimburse the District for premiums paid during the leave if employee fails to return to work at the District after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond their control. (Government Code § 12945.2; 2 CCR § 11044~~,~~ 29 USC § 2614; 29 CFR § 825.213)

In addition, during the period when an employee is on PDL or FMLA/CFRA leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for FMLA/CFRA leave, the District shall not make plan payments towards pension and retirement plans for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code § 12945.2; 2 CCR §§ 11044, 11092; 29 USC § 2614; 29 CFR § 825.209)

For CFRA or FMLA leave that is unpaid, the District may require an employee to pay their share of the health insurance premium after providing the employee with advance written notice of the terms and conditions under which premium payments must be made. The District's obligation to maintain health insurance coverage shall cease if the employee's premium payment is more than 30 days late unless an applicable collective bargaining agreement provides for a longer grace period. At least 15 days before coverage is to cease, the District shall provide written notice to an employee whose premium payment is late that the payment has not been received and that coverage is to cease if payment has not been received by the specified date. (2 CCR § 11092; 29 CFR § 825.212)

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA-leave, during each 12month period established by the District in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while his/her child, parent, or spouse or for purposes of CFRA Leave, registered domestic partner,- who is a military member is on covered active duty or on call to covered active duty status. (Government Code § 12945.2; 29 USC § 2612; 29 CFR § 825.126)

“Covered active duty” means, for members of the regular Armed Forces, duty during the deployment of a member to a foreign country and, for members of the reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC § 2611; 29 CFR § 825.126)

Qualifying exigencies include time needed to: (Government Code § 12945.2; Unemployment Insurance Code § 3302.2; 29 CFR § 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment;
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status;
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings;
4. Make or update financial and legal arrangements to address a military member's absence;
5. Attend counseling provided by someone other than a health care provider;
6. Spend time (up to 15 days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment;
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings;
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty;

9. Address any other event that the employee and District agree is a qualifying exigency.

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR § 825.302)

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in Title 29 of the Code of Federal Regulations at Section 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR § 825.302)

During the period of qualified exigency leave, the District's rule regarding an employee's use of their accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

The District shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC §§ 2611, 2612; 29 CFR § 825.127)

“Covered servicemember” means: (29 CFR § 825.127)

1. 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; or

2. A veteran 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.

"Child of a covered servicemember" means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR § 825.127)

"Parent of a covered servicemember" means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents "in law"). (29 CFR § 825.127)

"Next of kin" means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (29 USC § 2611; 29 CFR § 825.127)

"Outpatient status" means the status of a member of the Armed Forces assigned to 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. (29 USC § 2611; 29 CFR § 825.127)

"Serious injury or illness" means: (29 USC § 2611; 29 CFR § 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:

    a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the service member's unable to perform the duties of their office, grade, rank, or rating;

    b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs ("VA") Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition;

    c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related

to his/her military service or that would do so but for treatment received by the veteran; or

d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers.

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in Title 29 of the Code of Federal Regulations at Section 825.310.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the District and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC § 2612)

During the period of military caregiver leave, the District's rule regarding an employee's use of their accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL and FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the FEHA/PDL and FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR §§ 11049, 11095; 29 USC § 2619)

   The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR §§ 11050, 11091)

2. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of their eligibility to take such leave. (2 CCR §§ 11049, 11091; 29 CFR § 825.300)

3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR § 825.300)

   a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying;

   b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification;

   c. The employee's right to use paid leave, whether the District will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave;

   d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis;

   e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave;

   f. The employee's potential liability for health insurance premiums paid by the District during the employee's unpaid FMLA leave should the employee not return to service after the leave.

   Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR § 825.300)

4. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification

designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR § 11091; 29 CFR § 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR § 825.300)

If the District requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the District requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR §§ 11091, 11097; 29 CFR § 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR § 825.300)

Records

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (Government Code § 12946; 29 USC § 2616; 42 USC § 2000ff-1; 29 CFR § 825.500)

Cross References:

BP/AR 4030 - Nondiscrimination in Employment
AR 4032 - Reasonable Accommodation
BP 4033 - Lactation Accommodation

AR 4112.9/4212.9/4312.9 - Employee Notifications
BP/AR 4117.3 - Personnel Reduction
AR 4217.3 - Layoff/Rehire
BP 4141/4241 - Collective Bargaining Agreement
BP 4154/4254/4354 - Health and Welfare Benefits
BP 4160/4260/4360– Leaves, Vacations, and Holidays
AR 4161.1/4361.1 - Personal Illness/Injury Leave

AR 4261.1 - Personal Illness/Injury Leave

Legal References:

EDUCATION CODE
44965 Granting of leaves of absence for pregnancy and childbirth
FAMILY CODE
297-297.5 Rights, protections, and benefits under law; registered domestic partners
300 Validity of marriage
GOVERNMENT CODE
12926 Fair employment and housing act, definitions
12940 Unlawful employment practices
12945 Pregnancy; childbirth or related medical condition; unlawful practice
12945.1-12945.2 California Family Rights Act
12945.6 Parental leave
12946 Fair Employment and Housing Act: discrimination prohibited CODE OF REGULATIONS, TITLE 2

11035-11051 Sex discrimination: pregnancy, childbirth and related medical conditions
11087-11098 California Family Rights Act
UNITED STATES CODE, TITLE 1
7 Definition of marriage
UNITED STATES CODE, TITLE 29
2601-2654 Family and Medical Leave Act of 1993, as amended
UNITED STATES CODE, TITLE 42
2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008
CODE OF FEDERAL REGULATIONS, TITLE 29
825.100-825.702 Family and Medical Leave Act of 1993