



Human Resource Services Division

Family and Medical Leave Act / California Family Rights Act

The Family and Medical Leave Act and California Family Rights Act (“FMLA / CFRA”) provide eligible employees the opportunity to take an unpaid, job-protected leave, for certain specified reasons. The maximum amount of leave an employee may use is either 12 or 26 weeks within a 12-month period depending on the reasons for the leave.

Employee Eligibility

To be eligible for FMLA/CFRA leave, you must:

- have worked at least 12 months for the district in the preceding seven years (limited exceptions apply to the seven-year requirement);
- have worked at least 1,250 hours for the district over the 12 months preceding the date your leave would commence; and
- currently work at a location where there are at least 50 employees within 75 miles.

Conditions Triggering Leave

FMLA/CFRA leave may be taken for the following reasons:

- birth of a child, or to care or bond with a newly-born child ;
- placement of a child with the employee and/or the employee’s registered domestic partner for adoption or foster care or to care or bond with the child;
- to care for an immediate family member (employee’s spouse, registered domestic partner, child, registered domestic partner’s child, or parent) with a serious health condition;
- because of the employee’s serious health condition that makes the employee unable to perform the employee’s job;
- to care for a Covered Servicemember with a serious injury or illness related to certain types of military service (see Military-Related FMLA Leave for more details); or,
- to handle certain qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on duty under a call or order to active duty in the Armed Forces (e.g., National Guard or Reserves) in support of a contingency operation (see Military-Related FMLA Leave for more details).

The maximum amount of leave that may be taken in a 12-month period for all reasons combined is 12 weeks, with one exception. For leave to care for a Covered Servicemember, the maximum combined leave entitlement is 26 weeks, with leaves for all other reasons constituting no more than 12 of those 26 weeks. Also, in addition to leave available under the FMLA and CFRA, female employees may be eligible for leaves of absence during periods of disability associated with pregnancy or childbirth. Please see the Pregnancy Leave of Absence Policy for further information on this type of leave.

Definitions

A “Serious Health Condition” is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement includes an incapacity of more than three full calendar days and two visits to a health care provider or one visit to a health care provider and a continuing regimen of care; an incapacity caused by pregnancy or prenatal visits, a chronic condition, or permanent or long-term conditions; or absences due to multiple treatments. Other situations may meet the definition of continuing treatment.

A “Covered Servicemember” is a 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. The term “serious injury or illness” means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

“Qualifying exigencies” include activities such as short-notice deployment, military events, arranging alternative childcare, making financial and legal arrangements related to the deployment, rest and recuperation, counseling, and post-deployment debriefings.

Identifying the 12-Month Period

The district measures the 12-month period in which leave is taken by the “rolling” 12-month method, measured backward from the date of any FMLA/CFRA leave with one exception. For leave to care for a covered servicemember, the district calculates the 12-month period beginning on the first day the eligible employee takes FMLA leave to care for a covered servicemember and ends 12 months after that date. FMLA/CFRA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

Using Leave

Eligible employees may take FMLA/CFRA leave in a single block of time, intermittently (in separate blocks of time), or by reducing the normal work schedule when medically necessary for the serious health condition of the employee or immediate family member, or in the case of a covered servicemember, his or her injury or illness. Eligible employees may also take intermittent or reduced-scheduled leave for military qualifying exigencies. Intermittent leave is generally not permitted for birth of a child, to care for a newly-born child or for placement of a child for adoption or foster care, and must be taken in at least two week increments. Employees who require intermittent or reduced-schedule leave must try to schedule their leave so that it will not unduly disrupt the district's operations.

Use of Accrued Paid Leave

Depending on the purpose of your leave request, you may choose (or the district may require you) to use accrued paid leave (such as sick leave, vacation, or PTO), concurrently with some or all of your FMLA/CFRA leave. In order to substitute paid leave for FMLA/CFRA leave, an eligible employee must comply with the district’s normal

procedures for the applicable paid-leave policy (e.g., call-in procedures, advance notice, etc.).

Maintenance of Health Benefits

If you and/or your family participate in our group health plan, the district will maintain coverage during your FMLA/CFRA leave on the same terms as if you had continued to work. If applicable, you must make arrangements to pay your share of health plan premiums while on leave. In some instances, the district may recover premiums it paid to maintain health coverage or other benefits for you and your family. Use of FMLA/CFRA leave will not result in the loss of any employment benefit that accrued prior to the start of your leave.

Notice and Medical Certification

When seeking FMLA/CFRA leave, you are required to provide:

- 30 days advance notice of the need to take FMLA/CFRA leave, if the need for leave is foreseeable, or notice as soon as practicable in the case of unforeseeable leave and in compliance with the district's normal call-in procedures, absent unusual circumstances;
- medical certification supporting the need for leave due to a serious health condition affecting you or an immediate family member within 15 calendar days of the district's request to provide the certification (additional time may be permitted in some circumstances). If you fail to do so, we may delay the commencement of your leave, withdraw any designation of FMLA/CFRA leave or deny the leave, in which case your leave of absence would be treated in accordance with our standard leave of absence and attendance policies, subjecting you to discipline up to and including termination. Second or third medical opinions and periodic re-certifications may also be required;
- periodic reports as deemed appropriate during the leave regarding your status and intent to return to work; and
- medical certification of fitness for duty before returning to work, if the leave was due to your serious health condition. The district will require this certification to address whether you can perform the essential functions of your position.

Failure to comply with the foregoing requirements may result in delay or denial of leave, or disciplinary action, up to and including termination.

Employer Responsibilities

To the extent required by law, the district will inform employees whether they are eligible under the FMLA/CFRA. Should an employee be eligible for FMLA/CFRA leave, the district will provide them with a notice that specifies any additional information required as well as the employee's rights and responsibilities. If employees are not eligible, the district will provide a reason for the ineligibility. The district will also inform employees if leave will be designated as FMLA/CFRA-protected and, to the extent possible, note the amount of leave counted against the employee's leave entitlement. If the district determines that the leave is not FMLA/CFRA-protected, the district will notify the employee.

Job Restoration

Upon returning from FMLA/CFRA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

Failure to Return After FMLA/CFRA Leave

Any employee who fails to return to work as scheduled after FMLA/CFRA leave or exceeds the 12-week FMLA/CFRA entitlement (or in the case of military caregiver leave, the 26-week FMLA entitlement), will be subject to the district's standard leave of absence and attendance policies. This may result in termination if you have no other district-provided leave available to you that applies to your continued absence. Likewise, following the conclusion of your FMLA/CFRA leave, the district's obligation to maintain your group health plan benefits ends (subject to any applicable COBRA rights).

Other Employment

The district generally prohibits employees from holding other employment. This policy remains in force during all leaves of absence including FMLA/CFRA leave and may result in disciplinary action, up to and including immediate termination of employment.

Fraud

Providing false or misleading information or omitting material information in connection with an FMLA/CFRA leave will result in disciplinary action, up to and including immediate termination.

Employers' Compliance with FMLA/CFRA and Employee's Enforcement Rights

FMLA/CFRA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under FMLA/CFRA, or discharge or discriminate against any person for opposing any practice made unlawful by FMLA/CFRA or for involvement in any proceeding under or relating to FMLA/CFRA.

While the district encourages employees to bring any concerns or complaints about compliance with FMLA/CFRA to the attention of the Human Resources Department, FMLA/CFRA regulations require employers to advise employees that they may file a complaint with the U.S. Department of Labor or bring a private lawsuit against an employer.

Further, FMLA/CFRA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Limited Nature of This Policy

This Policy should not be construed to confer any express or implied contractual relationship or rights to any employee not expressly provided for by FMLA/CFRA. The district reserves the right to modify this or any other policy as necessary, in its sole discretion to the extent permitted by law. State or local leave laws may also apply.

MILITARY-RELATED FMLA LEAVE

FMLA leave may also be available to eligible employees in connection with certain service-related medical and non-medical needs of family members. There are two forms of such leave. The first is Military Caregiver Leave, and the second is Qualifying Exigency Leave. Each of these leaves is detailed below.

Military Caregiver Leave

Unpaid Military Caregiver Leave is designed to allow eligible employees to care for certain family members who have sustained serious injuries or illnesses in the line of duty while on active duty. The family member must be a “covered servicemember,” which means: (1) a current member of the Armed Forces, National Guard or Reserves, (2) who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list, (3) for a serious injury or illness that may render him or her medically unfit to perform the duties of the member’s office, grade, rank, or rating. Military Caregiver Leave is not available to care for *former* members of the Armed Forces or the National Guard or Reserves, or for servicemembers on the *permanent* disability retired list.

To be “eligible” for Military Caregiver Leave, the employee must be a spouse, son, daughter, parent, or next of kin of the covered servicemember. “Next of kin” means the nearest blood relative of the servicemember, other than the servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins; unless the servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of Military Caregiver Leave. The employee must also meet all other eligibility standards as set forth within the FMLA Leave policy.

An eligible employee may take up to 26 workweeks of Military Caregiver Leave to care for a covered servicemember in a “single 12-month period.” The “single 12-month period” begins on the first day leave is taken to care for a covered servicemember and ends 12 months thereafter, regardless of the method used to determine leave availability for other FMLA-qualifying reasons. If an employee does not exhaust his or her 26 workweeks of Military Caregiver Leave during this “single 12-month period,” the remainder is forfeited.

Military Caregiver Leave applies on a per-injury basis for each servicemember. Consequently, an eligible employee may take separate periods of caregiver leave for each and every covered servicemember, and/or for each and every serious injury or illness of the same covered servicemember. A total of no more than 26 workweeks of Military Caregiver Leave, however, may be taken within any “single 12-month period.”

Within the “single 12-month period” described above, an eligible employee may take a combined total of 26 weeks of FMLA leave including up to 12 weeks of leave for any other FMLA-qualifying reason (i.e., birth or adoption of a child, serious health condition of the employee or close family member, or a qualifying exigency). For example, during the “single 12-month period,” an eligible employee may take up to 16 weeks of FMLA leave to care for a covered servicemember when combined with up to 10 weeks of FMLA leave to care for a newborn child.

An employee seeking Military Caregiver Leave may be required to provide appropriate certification from the employee and/or covered servicemember and completed by an authorized health care provider within 15 days. Military Caregiver Leave is subject to the other provisions in our FMLA Leave Policy (requirements regarding employee eligibility, appropriate notice of the need for leave, use of accrued paid leave, etc.). Military Caregiver Leave will be governed by, and handled in accordance with, the FMLA and applicable regulations, and nothing within this policy should be construed to be inconsistent with those regulations.

Qualifying Exigency Leave

Effective January 16, 2009, eligible employees may take unpaid “Qualifying Exigency Leave” to tend to certain “exigencies” arising out of the duty under a call or order to active duty of a “covered military member” (i.e. the employee’s spouse, son, daughter, or parent). Up to 12 weeks of Qualifying Exigency Leave is available in any 12-month period, as measured by the same method that governs measurement of other forms of FMLA leave within the FMLA policy (with the exception of Military Caregiver Leave, which is subject to a maximum of 26 weeks of leave in a “single 12-month period”). Although Qualifying Exigency Leave may be combined with leave for other FMLA-qualifying reasons, under no circumstances may the combined total exceed 12 weeks in any 12-month period (with the exception of Military Caregiver Leave as set forth above). The employee must meet all other eligibility standards as set forth within the FMLA policy.

Persons who can be ordered to active duty include retired members of the Regular Armed Forces, certain members of the retired Reserve, and various other Reserve members including the Ready Reserve, the Selected Reserve, the Individual Ready Reserve, the National Guard, state military, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve.

Although Qualifying Exigency Leave is available to an eligible employee whose close family member is called up from status as a *retired* member of the Regular Armed Forces, it is not available for a close family member on active duty or on call to active as a *member* of the Regular Armed Forces. Also, a call to active duty refers to a *federal* call to active duty, and *state* calls to active duty are not covered unless under order of the President of the United States pursuant to certain laws.

Qualifying Exigency Leave is available under the following circumstances:

- **Short-notice deployment.** To address any issue that arises out of short notice (within seven days or less) of an impending call or order to active duty.
- **Military events and related activities.** To attend any official military ceremony, program, or event related to active duty or a call to active duty status or to attend certain family support or assistance programs and informational briefings.
- **Childcare and school activities.** To arrange for alternative childcare; to provide childcare on an urgent, immediate need basis; to enroll in or transfer to a new school or daycare facility; or to attend meetings with staff at a school or daycare facility.
- **Financial and legal arrangements.** To make or update various financial or legal arrangements; or to act as the covered military member’s representative before a federal, state, or local agency in connection with service benefits.
- **Counseling.** To attend counseling (by someone other than a health care provider)

for the employee, the covered military member, or for a child or dependent when necessary as a result of duty under a call or order to active duty.

- **Temporary rest and recuperation.** To spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to five of days of leave for each instance of rest and recuperation.
- **Post-deployment activities.** To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of up to 90 days following termination of the covered military member's active duty status. This also encompasses leave to address issues that arise from the death of a covered military member while on active duty status.
- **Mutually agreed leave.** Other events that arise from the close family member's duty under a call or order to active duty, provided that the district and the employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave.

An employee seeking Qualifying Exigency Leave may be required to submit appropriate supporting documentation in the form of a copy of the covered military member's active duty orders or other military documentation indicating the appropriate military status and the dates of active duty status, along with a statement setting forth the nature and details of the specific exigency, the amount of leave needed and the employee's relationship to the military member, within 15 days. Qualifying Exigency Leave will be governed by, and handled in accordance with, the FMLA and applicable regulations, and nothing within this policy should be construed to be inconsistent with those regulations.

Pregnancy Disability Leave Of Absence

Female employees may take a leave of absence up to four (4) months for disabilities relating to pregnancy, childbirth or related medical conditions. The exact duration of the leave will be determined by the amount of time the employee is actually disabled. Employees who are granted leaves for pregnancy will be returned to their same or similar position to the extent required by state law. Upon the advice of your health care provider, you may also be entitled to reasonable accommodation, to the extent required by law, for conditions related to pregnancy, childbirth or related medical conditions. You should promptly notify **Human Resources** of the need for a reasonable accommodation. For example, a transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties may be available pursuant to your request, if such a transfer is medically advisable. If you are affected by pregnancy or a related medical condition, please notify the district as soon as reasonably possible as the district cannot provide you with reasonable accommodations unless it knows of the need for such accommodation.

Prior to the start of the leave, the district will require a statement from your health care provider indicating that you are unable to perform your job and the anticipated date of your return. In the event your leave exceeds the anticipated date of return, it is your responsibility to provide further verification from your health care provider that you are unable to perform your job and the revised anticipated date of return. Depending on your eligibility, medical insurance may be continued during the leave in accordance with the applicable plan document, COBRA, or provisions of federal/state law relating to unpaid medical leave.