



## **Family and Medical Leave Guidelines**

California Family Rights Act (CFRA), Family Medical Leave Act (FMLA), Fair Employment and Housing Act (FEHA),  
Temporary Family Disability Insurance and Labor Code Section 233 - Sick Leave to Attend Family

### **1. Policy Statement**

In accordance with employee MOUs and the District's Employee Handbook Section 6.10, it is the policy of the Soquel Creek Water District to comply with the provisions of the California Family Rights Act (CFRA), the Federal Family and Medical Leave Act (FMLA,) as well as other provisions under the law governing leaves (including the Fair Employment and Housing Act (FEHA), Temporary Family Disability Insurance and Labor Code Section 233 – Sick Leave to Attend Family.) These acts require the District to grant Family and Medical Leave to employees who meet certain eligibility requirements. Employees may not be counseled or disciplined for using entitled and eligible leave under these provisions. Employers may not discourage, interfere with, or retaliate against employees covered under these provisions.

- A. The District will notify employees regarding their rights and benefits under these provisions upon receiving information that may indicate an employee is, or may be, absent for a qualifying reason.
- B. Upon request, an employee must supply the District with information regarding the purpose and nature of the leave. Upon review of this information, the District will confirm whether the leave qualifies as Family and Medical Leave and notify the employee regarding his or her rights and benefits within five (5) business days absent extenuating circumstances. If the leave is denied, the notice will include the reason for the denial.
- C. In certain circumstances the District may designate all known qualifying periods of leave as the employee's Family and Medical Leave.
- D. Depending on the circumstances, this designation may be made after the leave has begun, but with notice to the employee. The leave may be designated as Family and Medical Leave retroactive to the start of the leave if appropriate.
- E. These guidelines do not supersede any MOU/labor agreement(s) or the District's policy contained in the Employee Handbook.

### **2. Employee Eligibility**

- A. Employees are eligible for protections under the FMLA/CFRA under the following conditions:
  - 1. The employee has been employed with the District for any period(s) (including temporary work) totaling at least twelve (12) months within the last seven (7) years; and
  - 2. The employee has worked at least 1,250 hours during the previous twelve (12) month period.

### **3. Duration of Leave**

- A. Employees may take a maximum of twelve (12) weeks of Family and Medical Leave during any twelve (12) month period. The twelve (12) month period begins at the commencement of the initial leave period.
- B. Approved holidays count against the Family and Medical Leave.
- C. Intermittent Leave:
  - 1) If medically required, employees may take leave in blocks of time, or by reducing their normal weekly or daily work schedule.
  - 2) For child bonding leave, leave must be completed within the first twelve (12) months of birth or adoption.

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- 3) Employees needing intermittent leave must schedule their leave as much as possible at a time not to disrupt the department's business operation. Employees must make a reasonable effort to schedule appointments during lunch or before or after work to not unduly disrupt District operations.
  - 4) Employees must follow call-in procedures for intermittent leave.
- D. Spouses or registered domestic partners who are both employed by the District are entitled under CFRA to each qualify for twelve (12) weeks of paid and/or unpaid leave for the birth or placement for adoption or foster care of the employees' child.

### **4. Reasons for Which Leave May be Taken**

Employees may take a maximum of twelve (12) paid and/or unpaid workweeks of Family and Medical Leave during any twelve (12)-month period for one or more of the following reasons:

- A. The birth of a child of an employee, and to care for the newborn child subject to the provisions of Section 3 above (expires within twelve (12) months of the birth).
- B. The placement of a child with an employee for adoption or foster care subject to the provisions of Section 3 above (expires within twelve (12) months of placement).
- C. Care for the employee's spouse, registered domestic partner, child, parent or parent-in-law, grandparent, grandchild, or sibling with a serious health condition and/or inpatient care (Note: care for grandparent, grandchild or sibling is covered exclusively under CFRA and not federal law).
- D. Serious health condition and/or inpatient care that makes the employee unable to perform the functions of the employee's position.
- E. Military Exigency Leave (see Section 13 of this policy for specifics).
- F. Military Caregiver Leave (see Section 14 of this policy for specifics).

### **5. Coordination of FMLA, CFRA and Pregnancy Disability Leave (PDL)**

The right to Pregnancy Disability Leave under state law is separate and distinct from Family and Medical Leave under this policy. An employee is entitled to take up to four (4) months of Pregnancy Disability Leave under the California Fair Employment and Housing Act (FEHA). An employee who is physically and mentally capable of returning to work before the expiration of the four (4) months is not entitled to a full four (4) month leave of absence for pregnancy disability. There are no minimum employment qualifications for an employee to use Pregnancy Disability Leave but certification from a physician is required.

- A. Pregnancy Disability Leave will be designated as Family and Medical Leave under FMLA in accordance with Section 3 of this Policy.
- B. An employee is also entitled to Family and Medical Leave under CFRA to care for a newborn child once the Pregnancy Disability Leave ends. If Family and Medical Leave under FMLA is not exhausted, then it will run concurrently with CFRA until FMLA is exhausted.
- C. Family and Medical Leave under CFRA cannot begin until Pregnancy Disability Leave ends. Family and Medical Leave under FMLA, however, run concurrently with Pregnancy Disability Leave.
- D. An employee who takes Pregnancy Disability Leave that is also FMLA leave does not need to re-qualify when taking CFRA leave for the birth of the child.

### **6. Request and Advance Notice Requirements**

Employees must provide thirty (30) calendar days advance notice if the need for Family and Medical Leave is foreseeable. When thirty (30) days' notice is not possible, the employee must provide the requested certification to the District as soon as practicable or within fifteen (15) days after the qualifying event. The employee must make a reasonable effort to schedule the Family and Medical Leave to avoid disruption to the operations of the District.

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### **7. Health Care Provider Certification**

- A. For Family and Medical Leave due to the employee's or a family member's serious health conditions, the District may require an employee provide certification from a health care provider. The statement should **not** include a diagnosis or description of the medical condition, but **must** include the following:
  - 1) The employee has a serious medical condition that prevents the employee from working; and
  - 2) The date on which the serious health condition of the employee or family member commenced; and
  - 3) The probable duration of the condition; and
  - 4) The estimated time for care of the family member if applicable; and
  - 5) A statement that a qualifying family member (Section 4) has a serious health condition which warrants the participation of the employee to provide family care during a period of care and/or treatment.
- B. Requests for additional time beyond that originally estimated must be supported by a new certification from a health care provider.
- C. For intermittent or reduced leaves, new certification may be required unless the medical provider note gives a longer duration of treatment. If the serious health condition is on-going/lifetime, an annual recertification may be required.
- D. If certification is incomplete, unclear or insufficient, the District will request the employee seek clarification from the health care provider within 15 (fifteen) days of the notice of deficiency. If the employee is unable or unwilling to provide the requested information the Human Resources Manager may contact the employee's medical provider to seek clarification or to authenticate the medical certification submitted, after notifying the employee.

### **8. Leave Usage**

- A. In most cases, FMLA and CFRA leave run concurrently. There are exceptions, such as for Pregnancy Disability Leave (PDL).
- B. For the employee's medical leave the employee must exhaust paid leave, e.g. sick leave, compensatory time, personal leave, vacation, prior to any use of leave without pay unless a labor agreement or statute states otherwise.
- C. For all other Family and Medical Leaves, employees may exhaust qualifying sick leave, and must exhaust paid compensatory time, personal leave, vacation, prior to any use of leave without pay unless a labor agreement or statute states otherwise.

### **9. Benefits (Medical, Dental, Vision Care, Basic Life Insurance) Under Family and Medical Leave**

- A. Employees on leave during FMLA/CFRA Leave, will be provided health benefits at the same level as if the employee were continuously at work during the entire leave period to a maximum of twelve (12) paid/unpaid workweeks.
- B. The total entitlement for benefits under FMLA/CFRA Leave, whether paid or unpaid, will not exceed twelve (12) workweeks, subject to the provisions of appropriate labor agreements and except in case of pregnancy disability, some exceptions provided by CFRA or Military Leaves described in sections 13 & 14 below.
- C. In the case of pregnancy disability, some exceptions provided by CFRA or Military Leaves described in sections 13 & 14 below, employees may be entitled to additional time for benefits coverage.
- D. Employees responsible for the payment of premiums will be required to continue such payment while on leave.

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- E. Employees who resign, retire or are terminated without returning from FMLA/CFRA Leave, may be required to reimburse the District any premiums paid on their behalf by the District while on unpaid status.
- F. An employee who fraudulently obtains or uses CFRA leave is not protected by CFRA's job restoration or maintenance of health benefits provisions.
- G. The time that an employer maintains and pays its share of premium coverage for group health benefits during Pregnancy Disability Leave (PDL) does not count towards the obligation to pay its share of premium coverage for up to 12 weeks during CFRA leave, even where PDL qualifies for FMLA leave.

### **10. Job Restoration**

- A. Upon return from Family and Medical Leave during the protected leave period, an employee shall be restored to the position held by the employee when the Family and Medical Leave began, or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, unless employment would have ceased regardless of leave.
- B. An employee covered under the provisions of Family and Medical Leave is entitled to employment benefits that the employee earned or was entitled to before the leave.
- C. An employee who fraudulently seeks/uses FMLA and/or CFRA leave is not protected by job restoration or maintenance of health benefits provisions.

### **11. Temporary Disability Insurance (Partial Wage Replacement)**

- A. An employee may be eligible for a partial wage replacement benefit for unpaid Family and Medical Leave taken by the employee under State Disability Insurance (SDI), Paid Family Leave (PFL) or workers' compensation temporary disability pay.
- B. The District will provide information regarding the rights and benefits under SDI, PFL or workers' compensation to each employee taking leave under this policy, as appropriate.
- C. It is the employee's responsibility to submit claims for benefits under SDI or PFL directly to the California Employment Development Department (EDD). The EDD is responsible for determining whether ~~or not~~ the employee has provided the required, qualifying documentation for the claim.
- D. The District's workers' compensation provider will work directly with an injured worker for qualifying temporary disability payments.

### **12. Sick Leave to Attend Family**

- A. District MOU agreements set forth that employees may use their paid sick leave accruals for illness or preventive care of defined family members or treatment of an existing health condition for defined family members.
- B. Eligible family members defined in Section 4 above may differ from those identified in the District MOU's Sick Leave article.
- B. Sick Leave to attend to a family member as defined in a District MOU may qualify for leave protections under FMLA/CFRA.
- C. An employee must provide the name and relationship of the person for whom the leave is requested, whether FMLA/CFRA qualifying or not.

### **13. Military Exigency Leave**

- A. Family and Medical Leave requirements generally apply.
- B. An employee may take up to 12-weeks of paid or unpaid, job-protected leave during any 12-month period for a qualifying exigency that arise when the employee's spouse, domestic partner, child or parent who is a member of the Armed Forces for reasons related to deployment or military activities.

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- C. The District may require the employee to provide a copy of the family member's active-duty orders or other reasonable documentation. This information may only be required once per family member.
- D. An Exigency Leave is not a 12-week entitlement in addition to the standard 12-week Family and Medical Leave entitlement.
- E. An Exigency Leave may be taken on an intermittent basis.
- F. Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member's absence.
- G. Deployment Orders, International Travel Orders (ITO) and/or International Travel Authorizations (ITA) may be required as certification equal to medical certification.
- H. Other Family and Medical Leave requirements apply to military care giver leaves.

### 14. Military Caregiver Leave

- A. An eligible employee may take up to a total of 26 weeks of paid or unpaid, job-protected leave for a single 12-month period to care for a covered service member with a serious injury or illness.
- B. The first 12 weeks may run concurrently with CFRA-covered leave if the family member is covered under both CFRA and FMLA. To be covered for the full 26 weeks, the covered service member must be the employee's spouse, domestic partner, child, parent, or "next of kin" of the covered service member.
- C. The "next of kin" of a current service member is the nearest blood relative, other than the current service member's spouse, domestic partner, parent, son or daughter, in the following order of priority:
  - 1. a blood relative who has been designated in writing by the service member as the next of kin for FMLA purposes.
  - 2. blood relative who has been granted legal custody of the service member
  - 3. brothers and sisters
  - 4. grandparents
  - 5. aunts and uncles
  - 6. first cousins
- D. The District may require an employee to provide reasonable documentation of the family relationship.
- E. Medical certification for the injured/ill service member for Military Care Giver may be required as with family care CFRA/FMLA requirements.
- F. Employees may take this leave on an intermittent basis.
- G. This 26-week entitlement is a one-time entitlement with its own 12-month period as distinct from the 12-week civilian family care CFRA/FMLA entitlements with its own 12-month period addressed in Section No. 3 above. However, an employee is not entitled to 26 weeks of leave to care for a family member under the Military Caregiver Leave provision, plus an additional 12 weeks of leave for other FMLA qualifying reasons.
- H. "Covered service member" is either:
  - 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 in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or
  - a **veteran** of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for

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a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service member.

- I. For a current service member, a serious injury or illness is one that may render the service member medically unfit to perform his or her military duties. For a veteran, a serious injury or illness is one that rendered the veteran medically unfit to perform his or her military duties, or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran's ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

### **15. FMLA/CFRA Fraud is Prohibited**

An employee who fraudulently obtains Family and Medical Leave from the Soquel Creek Water District is not protected by the FMLA's or the CFRA's job restoration or maintenance of benefits provisions. In addition, the District will take appropriate disciplinary action against an employee due to fraud.

*For additional details, please refer to the California Family Rights Act (CFRA), the federal Family and Medical Leave Act (FMLA), U.S. Department of Labor (Wage and Hour Division), the California Fair Employment and Housing Act (FEHA), State Disability Insurance (SDI), Paid Family Leave (PFL), or Labor Code Section 233 – Sick Leave to Attend Family.*