BP 7340 Family Medical Leave

Reference:
Federal Family and Medical Leave Act; California Family Rights Act

1.0 **Family Medical Leave (FMLA/CFRA)**: Eligible employees shall be entitled to family and medical care leave ("leave") in accordance with state and federal law and any applicable provisions pursuant to a collective bargaining agreement between the District and an exclusive representative. The following provisions set forth certain of the rights and obligations of employees, and of the District, with respect to such leave. Rights and obligations not specifically set forth herein or otherwise specifically provided by the terms of an applicable collective bargaining agreement are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 (FMLA) and the regulations of the California Family Rights Act (CFRA).

2.0 **Eligibility and Reasons for Leave**: An employee who has been employed by the District for at least twelve (12) months and has been employed for at least 1,250 hours during the 12-month period immediately before the leave would begin shall be granted an unpaid leave of absence for the following reasons:

2.1. the birth of a child or to care for a newborn child of the employee.

2.2. the placement of a child with the employee in connection with the adoption or foster care of a child.

2.3 to care for a child, parent, or spouse who has a serious health condition.

2.4 because of the employee's own serious health condition that makes the employee unable to perform the essential functions of the employee's position.

3.0 **Amount of Leave**: An eligible employee shall be granted up to twelve (12) workweeks of family and medical care leave within any 12-month period. The 12-month period used to measure the maximum permissible leave shall be a rolling 12-month period measured backward from the date the leave is taken and continuous with each additional leave day taken.

3.1 A leave for the birth, adoption, or foster care placement of a child of the employee must be concluded within one (1) year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two (2) weeks. However, an employee is entitled to leave for one of these purposes for at least one (1) day, but less than two weeks duration on any two occasions. An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires twelve (12) months after the birth or placement.

3.2 There is no minimum amount of leave that must be taken where the leave is to care for a child, parent, or spouse of the employee who has a serious health condition, or because of the employee's own serious health condition. However, leave shall be accounted in increments of not less than one (1) hour.

3.3 Where spouses employed by the District are entitled to leave, the combined number

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or workweeks of leave to which both may be entitled shall be limited to twelve (12) workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child.

4.0 **Concurrent Use of Paid Leave with FMLA/CFRA Leave**

4.1 An employee shall be required to use any accrued and available personal necessity leave and vacation leave concurrently with FMLA/CFRA leave before time off without pay.

4.2 After exhaustion of available personal necessity leave and vacation leave.

4.2.1 If the leave is for the employee's own serious health condition, the employee shall be required to use any accrued and available regular sick leave and supplemental sick leave concurrently with FMLA/CFRA leave before time off without pay.

4.2.2 If the leave is for the care of a parent, spouse or child with a serious health condition, the employee shall be required to use any accrued and available family illness leave concurrently with FMLA/CFRA leave before time off without pay.

4.3 After exhaustion of all personal necessity leave, vacation leave, and regular sick leave, the employee may elect to use accrued and available compensatory time concurrently with FMLA/CFRA leave to substitute for all or part of any FMLA/CFRA leave that would otherwise be unpaid.

5.0 **Exhaustion of FMLA/CFRA Leave Concurrently with Other Leaves**: If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the District may designate such leave as running concurrently with the employee's 12-week FMLA/CFRA entitlement.

6.0 **Request for Leave and Medical Certification**: Employees shall complete applicable forms, as provided by the District, in connection with FMLA/CFRA leave.

6.1 A request for leave shall be made on a form provided by the District. Where the need for leave is foreseeable, the employee shall provide the District with at least thirty (30) calendar days' advance notice. If the leave is not foreseeable, or if the employee knows that leave will be needed, but does not know the exact dates (e.g., birth of a child), the employee shall provide as much advance notice as is practicable, but no later than five (5) working days from learning of the qualifying event. If the District determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the District may delay the granting of leave until, in the discretion of the District, adequate substitute coverage can be obtained.

6.2 Where leave is requested to care for a child, parent, or spouse who has a serious health condition, or for the employee's own serious health condition, the employee

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must provide the District with written medical certification from the health care provider of the individual requiring care.

6.2.1 If the leave is for the employee's own serious health condition, the medical certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of the employee's position.

6.2.2 If the request is for intermittent leave or a reduced work schedule to care for a child, parent, or spouse who has a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means that there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced work schedule.

6.3 Failure of an employee to provide satisfactory medical certification may result in the denial or postponement of leave. If the District has reason to doubt the validity of a medical certification, the District may require a medical opinion of a second health care provider selected by the District, and at the District's expense. If the second opinion is different from the first, the District may require the opinion of a third provider jointly selected by the District and the employee, and at the District's expense. The opinion of the third provider will be binding.

7.0 Benefits While on Leave

7.1 During FMLA/CFRA leave, if an employee is eligible to participate in the District's Health and Welfare Benefits plan, the District will pay the employee's employee-only hospitalization plan premium for up to twelve (12) workweeks. If the employee fails to return to work at the end of the leave, the District may recover the amount that was paid for the employee's premium for any period of the FMLA/CFRA leave not covered by paid leave. The District shall have the right to recover premiums through deduction from sums due the employee for wages, vacation days, compensatory time, etc.

7.2 During FMLA/CFRA leave, if an employee is eligible to participate in the District's discretionary fringe benefit allowance, the fringe benefit allowance, pro rated on the basis of the employee's percent of paid employment, will be paid for any period of the FMLA/CFRA leave during which the employee is covered by paid leave. However, the discretionary fringe benefit allowance will not be paid for any period of the FMLA/CFRA leave during which the employee is in unpaid status.

8.0 Reinstatement upon Return from Leave

8.1 An employee who returns to work immediately following the expiration of an approved FMLA/CFRA leave will be entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position.

8.2 During leave, an employee may be required to periodically report on the employee's status and intent to return to work.

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8.3 As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, the employee must provide the District with medical certification from the health care provider verifying the employee's ability to return to work and perform the essential duties of the position. Failure to provide satisfactory certification will result in denial of reinstatement.

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