

## **FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT**

### **FAMILY MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE**

#### **Board of Trustees Policy 4205**

In compliance with the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), eligible District employees may take leave of up to 12 weeks for qualified medical and family reasons. The purpose of family medical leave is to provide employees reasonable leave to care for an eligible family member, or the employee himself or herself, in the event of a serious medical condition, or to enable the employee to care for a child within one year of the child's adoption or receipt into foster care.

In compliance with California Pregnancy Disability Leave (PDL) law, an employee may take leave of up to four months (17.33 weeks) due to pregnancy-related or childbirth-related disability. Pregnancy disability leave is in addition to leave provided under CFRA

In accordance with FMLA, CFRA, and PDL, District paid benefits continue during the period of covered FMLA, CFRA, and PDL leave.

#### **How Paid Leave is Applied**

Family medical leave under FMLA and CFRA runs concurrently with applicable paid leaves, including sick leave, vacation and personal necessity leave. This means that the leave is granted only to ensure a maximum of 12 weeks of leave with benefits for certain qualifying events (see below). For example, if an employee has paid leave of one week available, unpaid family medical leave will be for an additional 11 weeks, making a total of 12 weeks of leave in any 12 month period.

Pregnancy-related or childbirth-related leave under PDL also runs concurrently with applicable paid leaves, including sick leave, vacation and personal necessity leave in the same manner as described above for family medical leave. Leave is granted to ensure a maximum of 17.33 weeks of benefits for qualifying events.

#### **Eligibility for Family Medical Leave**

Individuals eligible for family medical leave include full-time or part-time employees who have been employed for more than 12 months with the District and have worked at least 1,250 hours in the 12-month period prior to the date the leave begins.

#### **Qualifying Events for Purpose of Family Medical Leave**

The conditions for which family medical leave may be taken are:

1. birth or adoption of a child, or the receipt of a child into foster care, within one year of such birth or placement (for the purpose of bonding), or
2. the employee's own serious health condition that causes the employee to be unable to perform some or all of the essential functions of the job, or

3. a serious health condition of an employee's child, spouse, parent or member of the immediate household, which requires the employee to care for the family member.

A serious health condition means an illness, injury, impairment, or physical or mental condition which involves either inpatient care or continuing treatment or supervision by a health care provider.

### **Eligible Child**

An eligible child is defined as:

1. a biological, adopted or foster child, a stepchild, or a legal ward under the age of 18, or
2. an adult dependent child over the age of 18 who is incapable of self-help due to a mental or physical disability, or
3. a child under 18 who is treated as the employee's child or for whom the employee has been "in loco parentis."

### **Applications for Family Medical Leave**

A request for family medical leave should be made in writing by completing the family medical leave application form. The application must be submitted to the employee's administrator and then forwarded to the District Office of Human Resources at least thirty days before the requested start of the leave unless the reason for the leave is due to an emergency, in which case the request must be made immediately. The completed application must state the reason for the leave and the beginning and ending dates of the leave.

### **Conditions of Family Medical Leave**

1. Family medical leave for an employee's own serious health condition runs concurrently with any available paid leave balances. An employee who requests family medical leave for his or her own serious health condition is required to use all accrued paid leave, including vacation time, sick leave and extended sick leave, or as provided in the employee's relevant bargaining unit agreement, prior to going on unpaid family medical leave status.
2. Family medical leave for a family member's serious health condition runs concurrently with any available paid leave balances. An employee who requests family medical leave to care for his or her spouse, child, parent or member of the immediate household with a serious medical condition must use all available paid leave, including vacation time, personal necessity leave, and sick leave to the extent allowed in the employee's relevant bargaining unit agreement for care of family members prior to going on unpaid leave status. At the exhaustion of all paid leaves, the remainder of the family medical leave will be unpaid. Paid and unpaid family medical leave may be provided up to a combined maximum of twelve weeks.
3. Up to twelve (12) weeks of family medical leave is available during each 12-month period of employment. Leave eligibility is calculated using a rolling 12-month period measured backwards. That is, each time an eligible employee takes family medical leave, the remaining entitlement will be the balance of the 12 weeks which has not been used during the immediate preceding 12 months.

4. Leave taken because of the serious health condition of an employee, spouse, child, parent or member of the immediate household may be taken intermittently or on a reduced medical schedule when medically necessary. Leave may be counted in full or partial days or full or partial weeks. Such intermittent or reduced time schedule leave may require the employee to transfer temporarily to another position. Leave taken because of the birth or placement of a child may not be taken intermittently or on a reduced schedule leave, except as specifically provided by California law and as expressly approved by the Director of Human Resources.
5. While in unpaid status under family medical leave, an employee will not accrue additional benefits such as sick leave, vacation, or seniority. However, Family Medical Leave is counted as active work status for the purposes of pension vesting or eligibility in pension plans.
6. If both spouses/parents work for the District, family medical leave is limited to a combination of twelve weeks for the qualifying event of a birth, adoption, or foster care placement for the purpose of bonding.

#### **Family Medical Leave Coordination with Pregnancy Disability Leave**

Family medical leave is separate and distinct from pregnancy disability leave for pregnant employees. Pregnant employees may be entitled to pregnancy disability leave in addition to family medical leave.

An eligible employee may be entitled to take a pregnancy disability leave of up to four months and a family medical leave of up to twelve weeks for a combination of approximately seven months.

#### **Medical Certification Statement**

An application for family medical leave or pregnancy disability leave must be accompanied by a Medical Certification Statement completed by a health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. If leave is for the care of a family member, it should also estimate the amount of time that the employee will be needed to care for the patient. If leave is for the employee's own health condition, certification should also state that the employee is unable to perform the functions of his or her own position. The District may require the employee to obtain a second medical opinion at District expense. If the two medical opinions conflict, the opinion of a third medical provider, approved jointly by the employee and the District, may be required, at District expense. The third opinion will be final and binding. If additional leave is requested beyond the period stated in the certification, the District may require recertification in accordance with these procedures.

#### **Return From or Failure To Return From Family Medical Leave or Pregnancy Disability Leave**

The employee is expected to return to work day immediately following the approved leave. If the employee wishes to return earlier, both the employee's administrator and the District Office of Human Resources should be notified at least 5 days before the employee's planned return. Failure to return from leave on the expected return date without notification may be construed as an abandonment of the employee's position. The District will require a certification that the employee is physically able to return to work upon return from leave due to the employee's own serious health condition under family medical leave or due to pregnancy disability leave. However, if an employee returning from leave due to his or her

own serious medical condition is unable to perform the essential functions of his or her job because of a physical or mental condition, he or she may request reasonable accommodation under the District's Administrative Procedure 4670 Requesting and Receiving Reasonable Accommodation.

### **Reinstatement Rights**

Unless considered a "key" employee, an employee on family medical leave is entitled to be returned to the same position held prior to the leave, if still available, or to a comparable position with equivalent pay, benefits, if applicable, and other terms and conditions of employment, subject to provisions of the contract with the relevant bargaining unit. A "key" employee is one who is among the highest paid 10% of the District's employees and whose reinstatement would cause substantial economic injury to the district's operations. An employee on family medical leave will not suffer the loss of any other employment benefit that the employee earned or was entitled to before using the leave.

### **Health Care Benefits (if applicable):**

District paid benefits will continue during the period of covered family medical leave and/or pregnancy disability leave.

Employees are responsible for the employee monthly contribution share of the monthly premium of the plan and tier elected and enrolled. Payments will be deducted by payroll deduction if sufficient payroll funds are available to make the full deduction. In the event payroll is insufficient to cover the required monthly contribution, payment must be made directly to the District or to the carrier in accordance with applicable benefits administration rules. The District shall notify the employee of the procedure in effect at the time of leave.

If the employee does not return from family medical leave for a reason other than continuation of a serious health condition and employment is terminated, the District may recover the cost of the health care premiums from the employee.

### **Reference**

The Family Medical Leave Act became effective on August 5, 1993.

The California Family Rights Act was amended by AB 1460 to conform the state law to the federal Family Medical Leave Act. These amendments were effective on October 5, 1993.

