



EXCELLENCE ★ INNOVATION

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# Leaves of Absence as related to Pregnancy

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Certificated Employees

## Procedures

Notify the Human Relations department and your site in writing regarding:

- ✚ your expected due date
- ✚ whether you plan to work up to your due date;
  - ❖ If you must leave earlier, please provide a letter from your physician.

## Sick Leave

Depending on your individual situation, most employees usually return to work:

- ✚ six (6) calendar weeks after birth
- ✚ eight (8) weeks after a cesarean (c-section)

Sick leave will be utilized during this period of time. If you have exhausted your sick leave, you will receive differential pay which is your daily salary minus the daily rate of a substitute teacher (\$120/day).

### Article 16.6.2

The employee shall receive two (2) calendar contract weeks (10 paid work days) of fully paid leave under this section, which shall not count against the employee's sick leave accrual or any other leave of absence the employee may be entitled to under Article 16, including paid parental leave. This two-week period of leave shall be available to unit members beginning July 1, 2020. This two-week period of paid leave is only available during the contracted work year when the member is on leave for pregnancy-related disability. It will run concurrent with any paid pregnancy disability leave currently offered and/or enacted in the future, and it will not extend the total amount of time available for an employee to be on pregnancy disability leave.

## Extensions

If there are complications and your physician does not release you to return to work, accumulated sick leave will continue to be deducted until you are released to return.

You will need to provide your school/department as well as the Human Relations department with a letter from your doctor stating that you will be unable to return to work as scheduled.

## End of Recovery

After the birth of your child and your recovery, your options are:

- ✚ return to work
- ✚ request a leave of absence
  - ❖ Child bonding/parental leave (CFRA)
  - ❖ Child Rearing Leave (requires Board approval) Up to 1 (one) year of unpaid leave
  - ❖ General Leave (requires Board approval)
- ✚ resign

Before you return, you will need to provide a letter from your physician releasing you to return to work. This letter should be submitted to your school/department as well as the Human Relations department.

## Health Benefits

During your pregnancy/recovery period, the District health/benefit program will cover your medical expenses as outlined in the plan.

If you decide NOT to return to work and are approved for a Child Rearing Leave or a General Leave, you will be responsible for paying the monthly health/benefit premium. Please contact Benefits at extension x92206 regarding continuation of insurance coverage.

If you decide NOT to return to work and are approved for a Child Bonding/Parental Leave, your health/benefit premium will be covered by the District up to 12 workweeks. Depending upon on your accumulated sick leave balance, this leave will either be in a fully paid or differential pay status.

You have 30 days from the date of birth to add new dependents to your insurance coverage. Please contact Benefits at extension x92206 concerning enrollment.

## **Types of Leave**

### **Pregnancy Leave (PDL)**

A request for pregnancy leave must be submitted in writing, indicating the date that the employee plans to begin her leave and the date in which she intends to return to employment. The employee is expected to continue the performance of her duties until her physician certifies that she is physically incapable of doing so. A written statement from the physician is required. If the employee wishes to go out at an earlier date, she may request an unpaid leave per VTA Contract Article 16.14, to be approved by the Assistant Superintendent of Human Relations.

To return to employment, a written statement from the physician is required indicating that the employee is physically capable of resuming the performance of her duties, with or without restrictions, on a specified date. The employee may not return to work prior to submitting the physician's release to the Certificated Human Relations department.

When an employee is out on leave, the employee's accumulated sick leave is exhausted first. Under Article 16.6.2, the employee shall receive two (2) calendar contract weeks (10 paid work days) of fully paid leave under this section, which shall not count against the employee's sick leave accrual or any other leave of absence the employee may be entitled to under Article 16, including paid parental leave. This two-week period of leave shall be available to unit members beginning July 1, 2020. This two-week period of paid leave is

only available during the contracted work year when the member is on leave for pregnancy-related disability. It will run concurrent with any paid pregnancy disability leave currently offered and/or enacted in the future, and it will not extend the total amount of time available for an employee to be on pregnancy disability leave.

Following the sick leave, certificated employees are entitled to 100 days of absence for personal illness/injury, which starts on the first day after the employee's sick leave is exhausted. During those 100 days, the employee is paid differential pay, which is equal to her daily rate minus the cost of a substitute.

### **Family Medical Leave Act (FMLA)**

Family Medical Leave Act (FMLA) allows eligible employees to take leave for their own serious health conditions, child care, or specified family members' serious health conditions. Under FMLA, pregnancy and pregnancy-related disabilities are "serious health conditions". FMLA is integrated and runs concurrent with Pregnancy Disability Leave (PDL). A physician's verification and written request for an FMLA leave is required. To be eligible for FMLA leave, an employee must be either a full-time or part-time employee, have more than 12 months (52 weeks) of service with the employer, or have worked at least 1,250 hours in the 12-month period before the date the leave begins. Employees who meet the eligibility requirements are entitled to 12 workweeks and participation in the group health plan as if still working, including the employer's contribution.

### **California Pregnancy Disability Leave (PDL)**

In California, female employees have the right to pregnancy disability leave (PDL). This leave is integrated and runs concurrent with FMLA. Employees are entitled to up to 4 months (determined by the employee's physician) and participation in the group health plan as if still working, including the employer's contribution.

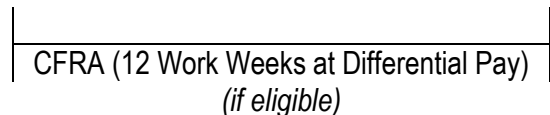
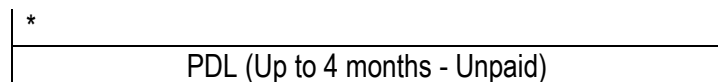
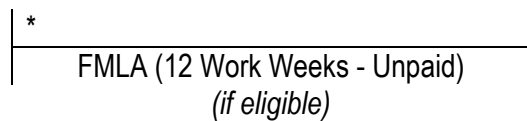
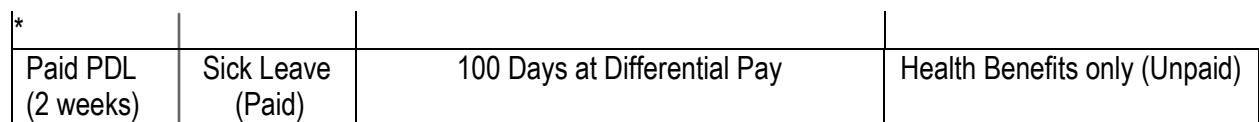
### **California Family Rights Act (CFRA)**

The California Family Rights Act (CFRA) allows eligible employees to take a leave that can be used after the birth of the employee's child for child care and bonding. CFRA commences upon the exhaustion of the four months of the PDL leave or at the end of the employee's

period of pregnancy disability, whichever occurs first. To be eligible for CFRA leave, an employee must be either a full-time or part-time employee, have more than 12 months (52 weeks) of service with the employer before the date the leave begins. Employees who meet the eligibility requirements are entitled to 12 workweeks of leave. Accumulated sick leave must be exhausted before differential pay is utilized, and medical coverage remains intact. CFRA can be used within 12 months of the birth of the child for child bonding.

**Example**

Below is a **sample** timeline for certificated employees taking Pregnancy Leave:



\* Doctor's note required

\* The two (2) calendar contract weeks of fully paid leave is only available during the contracted work year when the member is on leave for a pregnancy-related disability.

**VTAVUSD Contract Language**

16.6 Pregnancy Disability Leave

16.6.1 Employees are entitled to use sick leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom on the same terms and conditions governing leaves of absence from other illness or medical disability. Prior to utilizing any accumulated sick leave balance, the employee shall receive two (2) weeks of paid maternity leave as described in 16.6.2. Such leave shall not be used for child care, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above.

16.6.2 The employee shall receive two (2) calendar contract weeks (10 paid work days) of fully paid leave under this section, which shall not count against the employee's sick leave accrual or any other leave of absence the employee may be entitled to under Article 16, including paid parental leave. This two-week period of leave shall be available to unit members beginning July 1, 2020. This two-week period of paid leave is only available during the contracted work year when the member is on leave for pregnancy-related disability. It will run concurrent with any paid pregnancy disability leave currently offered and/or enacted in the future, and it will not extend the total amount of time available for an employee to be on pregnancy disability leave.

16.6.3 The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and the employee's physician; however, the District management may require a verification of the extent of disability through physical examination of the employee by a physician appointed by the District, and at the District's expense.

16.6.4 Employees are entitled to leave with differential pay for disabilities because of pregnancy, miscarriage, childbirth, or recovery therefrom when sick leave has been exhausted. The date on which the employee shall resume duties shall be determined by the employee on leave and the employee's physician; however, the District management may require a verification of the extent of disability through a physical examination of the employee by a physician appointed by the District.

16.6.5 The employee on leave for pregnancy disability shall be entitled to return to a position comparable to that held at time the leave commenced.

## 16.7 Child Rearing Leave

16.7.1 Up to one full school year of unpaid leave may be granted to a male or female teacher who is a natural or adopting parent for the purpose of rearing his/her child. Arrangement for such leave must be made as soon as possible.

## 16.12 General Leave

16.12.1 After having completed four (4) years of service, any certificated employee may, at the discretion of the Board, be granted a leave of absence without pay for not less than one semester nor more than one (1) year.

16.12.2 The employee shall provide the Board with written notice by March 1st for a first semester or one year leave for the upcoming school year. For a second semester leave of the current school year, the employee shall provide written notice by September 15th. The employee shall provide the Board with written notice of his/her intention to return by November 1st for a first semester leave or by March 1 for a second semester or one year leave. Failure to notify the Board shall be considered as notice that the teacher shall not return and that the position is vacant. At least ten (10) days before the notice is due, the District shall remind the employee of this obligation by certified letter.

16.12.3 If a full-time general leave is extended by the Board for a second year, the person filling the vacancy shall be offered a probationary contract. This provision would not be in effect if the teacher on leave is committed to a one time two year or less teaching assignment in a foreign country.

## 16.15 Family Leave Act

16.15.1 It is the intent of this provision to be consistent with the federal Family Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.) and the California Family Rights Act of 1991, as amended October 5, 1993 and 2016 (Cal. Gov't Code § 12945.2). It shall be interpreted so that there shall be no violation of state or federal law. 28

16.15.2 Full-time certificated employees with more than twelve (12) months of continuous service with the District shall be granted family care and medical leave for up to a total of twelve (12) work weeks in a school year pursuant to the requirements of this provision. Employees are entitled to use accumulated sick leave for this absence. Part-time



certificated employees who have completed at least one thousand two hundred fifty (1,250) hours of service in the twelve (12) months preceding the leave shall be entitled to the same benefit.

16.15.2.1 For purposes of this provision, the term "family care and medical leave" means: A. leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption of the child or foster care of the child by the employee, within one year of such birth or placement; B. leave to care for the employee's spouse, child or parent with a serious health condition; or C. leave because of a serious health condition of the employee that makes the employee unable to perform the functions of his or her position, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions.

16.15.3 For purposes of this provision, the term "child" means a biological, adopted, foster child, a step-child, a legal ward, or a child of an employee standing in loco parentis who is either under eighteen (18) years of age and incapable of self care because of a mental or physical disability.

16.15.3.1 For purposes of this provision, the term "parent" means biological, foster, adoptive parent, a step-parent or a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

16.15.3.2 For purposes of this provision, the term "serious health condition" means an illness, injury, impairment, or physical or mental condition which involves either of the following: A. Inpatient care in a hospital, hospice, or residential health care facility; or B. Continuing treatment or continuing supervision by a health care provider.

16.15.3.3 For purposes of this provision, the term "health care provider" means an individual holding either a physician's and surgeon's certificate issued pursuant to applicable law, or an osteopathic physician's and surgeon's certificate issued pursuant to applicable law, or an individual who has been determined by the United States Secretary of Labor to be capable of providing health care services under the Family and Medical Leave Act of 1993.

16.15.4 An unpaid family care leave shall be treated as any other unpaid leave. During the unpaid family care leave an employee shall retain employee status with the District, and such leave shall not constitute a break in service. An employee returning from an unpaid family care leave shall have no less seniority than when the leave commenced.

16.15.5 If the employee learns of facts necessitating a family care and medical leave more than thirty (30) calendar days prior to the time the leave is needed, the employee shall provide written notice to the District immediately. A minimum of thirty (30) calendar days written notice is required.

16.15.6 If the employee learns of facts necessitating the family and medical care leave less than thirty (30) calendar days prior to the time the leave is needed, the employee shall provide written notice to the District as soon as possible. The employee is required to provide the District with written notice within five (5) working days of learning of the need for the leave.

16.15.7 If the employee's need for the leave is foreseeable due to a planned medical treatment or planned supervision of the employee, or that of a child, parent, or spouse with a serious health condition, the employee shall consult with the District regarding the scheduling of the treatment or supervision so as to prevent undue disruption to the operations of the District. Any scheduling of treatment or supervision shall be subject to the approval of the health care provider of the individual with the serious health condition. In any event, thirty (30) calendar days written notice is required.

16.15.8 The District requires that an employee's request for a family care and medical leave be supported by a written certification issued by the health care provider of the individual family member requiring care.

16.15.8.1 If the employee is requesting the leave to care for a child, parent, or spouse with a serious health condition, the certification shall include: A. the date on which the serious health condition commenced; B. the probable duration of the condition; C. an estimate of the time that the health care provider believes the employee needs to care for the individual requiring the care; D. a statement that the serious health condition warrants the participation of the employee to provide care for the employee's child, parent, or spouse.

16.15.8.2 If the employee is requesting the leave for his or her own serious medical condition, the certification shall include: A. the date on which the serious health condition commenced; B. the probable duration of the condition; C. a statement that, due to the serious health condition, the employee is unable to perform the function of his or her position.

16.15.8.3 If additional leave is requested beyond the period stated in the certification, the District may require the employee to obtain recertification in accordance with the procedures set forth above.

16.15.9 In any case in which the District has reason to doubt the validity of the certification provided for the employee's own serious health condition, the District may require, at the District's expense, that the employee obtain the opinion of a second health care provider, designated or approved by the District, concerning any information certified under Article 16.15.8.2.

16.15.10 In any case in which the second opinion described in Article 16.15.9 differs from the opinion in the original certification, the District may require, at the District's expense, that the employee obtain the opinion of a third health care provider, designated or approved jointly by the District and the employee. The opinion of the third health care provider shall be considered to be final and shall be binding on the District and the employee.

16.15.11 As a condition of an employee's return from leave taken because of the employee's own serious health condition, the employee shall obtain certification from his or her health care provider that the employee is able to resume work.

16.15.12 An eligible employee may elect, or the District may require the employee, to substitute accrued paid leave such as sick leave, differential pay sick leave, or any other paid leave for any part of the twelve (12) work week period.

16.15.13 Family care and medical leave taken because of the serious health condition of the employee or the employee's spouse, child or parent, may be taken intermittently or on a reduced schedule leave when medically necessary. Intermittent or reduced schedule leave shall not result in a reduction of the total amount of family care and medical leave to which the employee is entitled pursuant to state and federal law. Leave taken because of the birth of a child or placement of a child with the employee, shall not be taken intermittently or on a reduced schedule leave unless expressly agreed to by the District and the employee.

16.15.14 If an employee requests intermittent leave, or a reduced schedule leave, the District may require the employee to transfer temporarily to an available alternative position. The alternative position must be one which the employee is qualified for, which has equivalent pay and benefits, and better accommodates the recurring periods of leave than the employee's regular position.

16.15.15 During any period an employee takes unpaid family care and medical leave the District shall maintain and pay for coverage for current health and welfare benefits for a maximum of twelve (12) work weeks. The District may recover the premium that it paid as required by this provision for maintaining coverage for the employee under the group health plan if both of the following conditions occur:

16.15.15.1 The employee fails to return from leave after the period of leave to which the employee is entitled has expired.

16.15.15.2 The employee's failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to family care and medical leave or other circumstances beyond the control of the employee.

16.15.16 If both parents are employed by the District, the District shall not be required to grant leave in connection with the birth, adoption, or foster care of a child that would allow the parents family care and medical leave totaling more than twelve (12) work weeks within a school year.

16.15.17 Leave taken under the pregnancy disability provision set forth in Article 16.6 runs concurrently with family care and medical leave under Federal law, but not family and medical leave under California law. Consequently, an eligible employee may take a pregnancy disability leave of up to four (4) months and a family care and medical leave of up to twelve (12) work weeks, for a combination of four (4) months plus twelve (12) weeks (approximately seven (7) months).

16.15.18 Leave taken under the industrial accident or illness disability runs concurrently with family care and medical leave under both Federal and State law. An eligible employee may take a combined industrial accident or illness and family care and medical leave for a maximum total of twelve (12) work weeks in a school year.

## 16.16 Parental Leave

16.16.1 Full-time/part-time certificated employees with more than twelve (12) months of continuous service with the District shall be granted California Family Rights Act leave (child bonding/parental leave) for up to a total of twelve (12) work weeks in a calendar year pursuant to the requirements of this provision. Employees are entitled to use sick leave for

this absence and are entitled to differential pay if all sick leave has been exhausted. The leave must be completed within one (1) year of the birth or foster/adoptive placement of the child and the leave may be granted in two (2) week intervals. The employee shall have two (2) opportunities to request leaves of shorter duration. The foregoing provisions are intended to comply with Education Code section 44977.58 (AB 2393).