

Family Care And Medical Leave

The district shall not interfere with, restrain, or deny the exercise or attempted exercise by any eligible employee of his/her right to any family care and medical leave or pregnancy disability leave (PDL) provided through the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA), nor shall it discharge or discriminate or retaliate against any employee for his/her involvement in any inquiry or proceeding related to any leave under any of these laws or his/her opposition to or challenge of any unlawful district practice in relation to any rights granted by any of these laws. (Government Code [12945](#), [12945.2](#); 29 USC [2615](#))

(cf. [4030](#) - Nondiscrimination in Employment)

(cf. [4032](#) - Reasonable Accommodation)

(cf. [4033](#) - Lactation Accommodation)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child (son or daughter) means a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis as long as the child is under 18 years of age or an adult dependent child. (Government Code [12945.2](#); 29 USC [2611](#))

Eligible employee for FMLA and CFRA purposes means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. However, these requirements shall not apply when an employee applies for PDL. (Government Code [12945.2](#); 29 USC [2611](#); 29 CFR [825.110](#))

Employee disabled by pregnancy means a woman who, in the opinion of her health care provider, is unable because of pregnancy to perform any one or more of the essential functions of her job or to perform any of them without undue risk to herself, her pregnancy's successful completion, or other persons; or who is suffering from severe "morning sickness" or needs to take time off for any pregnancy-related condition including, but not limited to, prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss or end of pregnancy, or recovery from childbirth or loss or end of pregnancy. (2 CCR [7291.2](#))

Parent means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. Parent does not include a spouse's parents. (Government Code [12945.2](#); 2 CCR [7297.0](#); 29 USC [2611](#); 29 CFR [825.122](#))

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either of the following: (Government Code [12945.2](#); 29 USC [2611](#); 29 CFR [825.113-825.115](#))

1. Inpatient care in a hospital, hospice, or residential health care facility

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

- a. A period of incapacity of more than three consecutive full days
- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code [300](#). In addition, for purposes of CFRA, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code [297.5](#), [300](#); 2 CCR [7297.0](#); 29 CFR [825.122](#))

Eligibility

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Family Code [297.5](#); Government Code [12945.2](#); 29 USC [2612](#); 29 CFR [825.112](#))

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child
2. To care for the employee's child, parent, or spouse with a serious health condition
3. The employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position
4. Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

In addition, the district shall grant any pregnant female employee PDL during pregnancy, when she is disabled by pregnancy, childbirth, or any related medical condition. (Government Code [12945](#); 2 CCR [7291.4](#))

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. (Government Code [12945.2](#); 29 USC [2612](#))

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR [825.200](#))

In addition, for each pregnancy, a female employee shall be entitled to PDL for the period of the disability not to exceed four months. (Government Code [12945](#); 2 CCR [7291.9](#))

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks for the reason of the birth of her child, if the child has been born by this date (e.g., baby bonding), whether or not she or the child has a serious health condition or disability. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code [12945](#), [12945.2](#); 2 CCR [7291.13](#), [7297.6](#))

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. The basic minimum duration of leave for the birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (2 CCR [7297.3](#); 29 USC [2612](#))

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply whether the parents are married, not married, or registered domestic partners. (Government Code [12945.2](#); 2 CCR [7297.1](#); 29 USC [2612](#))

Use/Substitution of Paid Leave

An employee shall substitute his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district for any FMLA or CFRA leave not involving his/her own serious health condition or pregnancy disability. For the employee's PDL or FMLA or CFRA leave due to his/her own serious health condition, the employee shall use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy and may use accrued vacation leave and other paid or unpaid time off at his/her option. (Government Code [12945](#), [12945.2](#); 2 CCR [7291.11](#); 29 USC [2612](#))

(cf. [4141/4241](#) - Collective Bargaining Agreement)

(cf. [4161/4261/4361](#) - Leaves)

(cf. [4161.1/4361.1](#) - Personal Illness/Injury Leave)

(cf. [4261.1](#) - Personal Illness/Injury Leave)

Intermittent Leave/Reduced Work or Leave Schedule

PDL and family care and medical leave for the serious health condition of an employee or his/her child, parent, or spouse may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll

system uses to account for absences or use of leave, not to be greater than one hour. (2 CCR [7291.9](#), [7297.3](#); 29 USC [2612](#))

The district may require an employee to transfer temporarily to an available alternative position if the employee is pregnant and provides medical certification from her health care provider of the medical need for intermittent leave or leave on a reduced work or leave schedule or if the employee's need for the intermittent leave or leave on a reduced work or leave schedule is foreseeable based on his/her planned medical treatment or that of a family member. This alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR [7291.8](#),[7297.3](#); 29 USC [2612](#))

(cf. [4113.4/4213.4/4313.4](#) - Temporary Modified/Light-Duty Assignment)

Request for Leave

An employee shall provide at least verbal notice sufficient to make the district aware of the need to take PDL or family care and medical leave and the anticipated timing and duration of the leave. (2 CCR [7291.17](#),[7297.4](#))

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR [7297.4](#))

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. (2 CCR [7297.4](#))

When the need for the PDL or family care and medical leave is foreseeable, the employee shall provide the district with at least 30 days advance notice before the leave. The employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code [12945.2](#); 2 CCR [7291.17](#), [7297.4](#))

When the 30 days notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. (2 CCR [7291.17](#), [7297.4](#))

Certification of Health Condition

Within five business days of an employee's request for family care and medical leave for his/her own or his/her child's, parent's, or spouse's serious health condition, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR [7297.4](#); 29 CFR [825.305](#))

The certification shall include the following: (Government Code [12945.2](#); 2 CCR [7297.0](#); 29 USC [2613](#))

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of the employee to provide care during a period of the treatment or supervision of the child, parent, or spouse
 - b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse
4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

In addition, at the employee's option, the certification may include a diagnosis identifying the serious health condition. (2 CCR [7297.0](#))

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA as long as there is no harm to the employee. (29 CFR [825.301](#))

If the Superintendent or designee doubts the validity of a certification that accompanies a request for leave for the employee's own serious health condition, he/she may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code [12945.2](#); 29 USC [2613](#))

For PDL, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if he/she has reason to question the appropriateness of the leave or its duration. (2 CCR [7291.17](#))

For PDL that is foreseeable and for which at least 30 days notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall

provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 7291.17)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because she is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 7291.17)

The Superintendent or designee shall not request any genetic information, as defined in 42 USC [2000ff](#), from any employee or his/her family member except as necessary to comply with a certification requirement for PDL or FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC [2000ff-1](#), 2000ff-5)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code [12945.2](#); 2 CCR 7291.17; 29 USC [2613](#))

Fitness for Duty Certification/Release to Return to Work

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from the health care provider that he/she is able to resume work.

(cf. [4112.4/4212.4/4312.4](#) - Health Examinations)

The certification from the employee's health care provider shall address the employee's ability to perform the essential functions of his/her job.

Rights to Reinstatement

Upon granting an employee's request for PDL or family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code [12945.2](#); 2 CCR [7291.10](#); 29 USC [2614](#))

However, the district may refuse to reinstate an employee returning from family care and medical leave to the same or a comparable position if all of the following apply: (Government Code [12945.2](#); 29 USC [2614](#))

1. The employee is a salaried "key employee" who is among the highest paid 10 percent of district employees who are employed within 75 miles of the employee's worksite.
2. The refusal is necessary to prevent substantial and grievous economic injury to district operations.
3. The district informs the employee of its intent to refuse reinstatement at the time it determines that the refusal is necessary, and the employee fails to immediately return to service.

(cf. [4117.3](#) - Personnel Reduction)

(cf. [4217.3](#) - Layoff/Rehire)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR [7291.10](#))

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, he/she shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code [12945.2](#); 29 USC [2614](#))

For up to a maximum of four months for PDL or 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the leave if he/she fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (Government Code [12945.2](#); 2 CCR [7291.11](#); 29 USC [2614](#); 29 CFR [825.213](#))

(cf. [4154/4254/4354](#) - Health and Welfare Benefits)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code [12945.2](#); 2 CCR [7291.11](#))

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC [2612](#); 29 CFR [825.126](#))

Military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR [825.126](#))

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty in support of a contingency operation pursuant to law. (29 USC [2611](#); 29 CFR [825.126](#))

Qualifying exigencies include time needed to: (29 CFR [825.126](#))

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange childcare or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 days of leave per instance) with a military member who is on short-term, temporary, Rest and Recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR [825.302](#))

An employee who is requesting such leave for the first time shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR [825.309](#).

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR [825.302](#))

During the period of qualified exigency leave, the district's rule regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Military Caregiver Leave

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC [2611](#), [2612](#); 29 CFR [825.127](#))

Covered servicemember may be: (29 CFR [825.127](#))

1. 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 otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Son or daughter of a covered servicemember means the biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis. (29 CFR [825.127](#))

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR [825.127](#))

Next of kin means the nearest blood relative to the covered servicemember, or as designated in writing by the covered servicemember. (29 USC [2611](#), [2612](#))

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC [2611](#); 29 CFR [825.127](#))

Serious injury or illness means: (29 USC [2611](#); 29 CFR [825.127](#))

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran

d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR [825.310](#).

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC [2612](#))

During the period of military caregiver leave, the district's rule regarding an employee's use of his/her accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

Notifications

The Superintendent or designee shall provide the following notifications about state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the FEHA and FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR [7291.16](#), [7297.9](#); 29 USC [2619](#))

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the leave, when the need for the leave is reasonably foreseeable. (2 CCR [7291.17](#), [7297.4](#))

(cf. [4112.9/4212.9/4312.9](#) - Employee Notifications)

2. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (2 CCR [7291.16](#); 29 CFR [825.300](#))

3. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR [825.300](#))

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to substitute paid leave, whether the district will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial

f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR [825.300](#))

4. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, he/she shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (29 CFR [825.300](#))

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR [825.300](#))

If the district requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a fitness-for-duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (29 CFR [825.300](#))

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR [825.300](#))

Records

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (Government Code [12946](#); 29 USC [2616](#); 42 USC [2000ff-1](#); 29 CFR [825.500](#))

Legal Reference:

EDUCATION CODE

[44965](#) Granting of leaves of absence for pregnancy and childbirth

FAMILY CODE

[297-297.5](#) Rights, protections, and benefits under law; registered domestic partners

[300](#) Validity of marriage

GOVERNMENT CODE

[12940](#) Unlawful employment practices

[12945](#) Pregnancy; childbirth or related medical condition; unlawful practice

[12945.1-12945.2](#) California Family Rights Act

[12946](#) Fair Employment and Housing Act: discrimination prohibited

CODE OF REGULATIONS, TITLE 2

[7291.2-7291.17](#) Sex discrimination: pregnancy and related medical conditions

[7297.0-7297.11](#) Family care leave

UNITED STATES CODE, TITLE 1

7 Definition of marriage

UNITED STATES CODE, TITLE 29

[2601-2654](#) Family and Medical Leave Act of 1993, as amended

UNITED STATES CODE, TITLE 42

[2000ff-1-2000ff-11](#) Genetic Information Nondiscrimination Act of 2008

CODE OF FEDERAL REGULATIONS, TITLE 29

[825.100-825.800](#) Family and Medical Leave Act of 1993

COURT DECISIONS

United States v. Windsor, (2013) 699 F.3d 169

Re Marriage Cases, (2008) 43 Cal.4th 757

Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864

Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045

Management Resources:

FEDERAL REGISTER

The Family and Medical Leave Act; Final Rule; February 6, 2013. Vol. 78, No. 25, pages 8903-8947

U.S. DEPARTMENT OF LABOR PUBLICATIONS

Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers

WEB SITES

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

U.S. Department of Labor, FMLA: <http://www.dol.gov/whd/fmla>

Regulation ROMOLAND SCHOOL DISTRICT

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[Romoland ESD](#) | BP 4261 Personnel

Leaves

The Governing Board shall provide for paid and unpaid leaves of absence for employees in accordance with law, Board policy, administrative regulation, collective bargaining agreements, and merit system rules, as applicable.

(cf. [4141/4241](#) - Collective Bargaining Agreement)

(cf. [4161.9/4261.9/4361.9](#) - Catastrophic Leave Program)

The Board recognizes the following justifiable reasons for employee absence:

1. Personal illness or injury

(cf. [4161.1/4361.1](#) - Personal Illness/Injury Leave)

(cf. [4261.1](#) - Personal Illness/Injury Leave)

2. Industrial accident or illness

(cf. [4161.11/4361.11](#) - Industrial Accident/Illness Leave)

(cf. [4261.11](#) - Industrial Accident/Illness Leave)

3. Family care and medical leave

(cf. [4161.8/4261.8/4361.8](#) - Family Care and Medical Leave)

4. Military service

(cf. [4161.5/4261.5/4361.5](#) - Military Leave)

5. Personal necessity and personal emergencies

(cf. [4161.2/4261.2/4361.2](#) - Personal Leaves)

6. Disability leave for certificated employees in accordance with Education Code [44986](#)

7. Vacations for classified staff and certificated management staff, as applicable

8. Sabbaticals for purposes of study or training related to the employee's job duties

(cf. [4161.3](#) - Professional Leaves)

(cf. [4261.3](#) - Professional Leaves)

9. Attendance at work-related meetings and staff development opportunities

(cf. [4131](#) - Staff Development)

(cf. [4231](#) - Staff Development)

(cf. [4331](#) - Staff Development)

10. Compulsory leave

(cf. [4118](#) - Suspension/Disciplinary Action)

(cf. [4218](#) - Dismissal/Suspension/Disciplinary Action)

Long-Term Leaves

With Board approval, an employee may receive a leave of absence, without pay and without accruing seniority or service credit, for a period of up to one school year. Applications for long-term leave shall be made in writing and shall state the purpose for which leave is requested. All long-term leave agreements shall be in writing and shall state the terms and conditions of the leave, including the conditions governing the employee's return.

At the end of a long-term leave, the employee shall be reinstated to a similar position as that held at the time leave was granted, unless otherwise agreed upon.

The Board shall consider any written request by an employee to return to work prior to the expiration date of the leave.

Administrative and Supervisory Personnel

Certificated administrative and supervisory employees who are not subject to the district's bargaining agreement for certificated employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other certificated employees unless otherwise specified in individual contract, memorandums of understanding, Board policy, administrative regulation, or law.

Classified administrative and supervisory employees who are not subject to the district's bargaining agreement for classified employees shall generally be entitled to those leave provisions provided in the bargaining agreement for other classified employees unless otherwise specified in individual contract, memoranda of understanding, Board policy, administrative regulation, or law.

(cf. [2121](#) - Superintendent's Contract)

(cf. [4300](#) - Administrative and Supervisory Personnel)

(cf. [4312.1](#) - Contracts)

Legal Reference:

EDUCATION CODE

[22850-22856](#) Pension benefits, STRS members on military leave

[44018](#) Compensation for employees on active military duty

[44036-44037](#) Leaves of absence for judicial and official appearances

[44043.5](#) Catastrophic leave

[44800](#) Effect of active military service on status of employees

[44842](#) Failure to provide notice or to report to work

[44940](#) Sex offenses and narcotic offenses; compulsory leave of absence

[44962-44988](#) Leaves of absence (certificated)

[45059](#) Employee ordered to active military/naval duty, computation of salary

[45190-45210](#) Leaves of absence (classified)

FAMILY CODE

[297-297.5](#) Registered domestic partner rights, protections and benefits

GOVERNMENT CODE

[3543.1](#) Release time for representatives of employee organizations

[3543.2](#) Scope of representation

[12945.1-12945.2](#) California Family Rights Act

[20990-21013](#) Pension benefits, PERS members on military leave

LABOR CODE

[230-230.2](#) Leaves for victims of domestic violence, sexual assault or specified felonies

[230.3](#) Leave for emergency personnel

[230.4](#) Leave for volunteer firefighters

[230.8](#) Leave to visit child's school

[233](#) Illness of child, parent, spouse or domestic partner

MILITARY AND VETERANS CODE

[395-395.9](#) Military leave

[395.10](#) Leave when spouse on leave from military deployment

UNITED STATES CODE, TITLE 29

[2601-2654](#) Family and Medical Leave Act of 1993

UNITED STATES CODE, TITLE 38

[4301-4334](#) Uniformed Services Employment and Reemployment Rights Act of 1994

Policy ROMOLAND SCHOOL DISTRICT

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