

## **Family Care And Medical Leave**

### Your Rights Under The Family And Medical Leave Act Of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

### REASONS FOR TAKING LEAVE

Unpaid leave must be granted for any of the following reasons:

1. To care for the employee's child after birth, or placement for adoption or foster care;
2. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
3. For a serious health condition that makes the employee unable to perform the employee's job.

Certain kinds of paid leave may be substituted for unpaid leave.

### ADVANCE NOTICE AND MEDICAL CERTIFICATION

The employee is required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

1. The employee ordinarily must provide 30 days' advance notice when the leave is "foreseeable."
2. The district will require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

### JOB BENEFITS AND PROTECTION

1. For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" to the same extent and under the same conditions as apply to unpaid leave taken for any other purpose.
2. Upon return from FMLA leave, most employees must be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms.
3. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
4. The district shall recover the health care premiums it paid if the employee fails to return from leave after the leave period has expired provided that this failure to return is for a reason other than the

continuation, reoccurrence, or onset of a serious health condition that entitles the employee to family care and medical leave or other circumstances beyond the employee's control.

#### UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

1. Interfere with, restrain, or deny the exercise of any right provided under FMLA;
2. Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

#### ENFORCEMENT

1. The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
2. An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

#### FOR ADDITIONAL INFORMATION

Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in a 12-month period before the date you want to begin your leave, you may have a right to an unpaid family care or medical leave (CFRA leave). This leave may be up to 12 work weeks in a 12 month period for the birth, adoption or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse.

Even if you are not eligible for CFRA leave, if you are disabled by pregnancy, childbirth or related medical conditions, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of actual disability. If you are CFRA-eligible, you have certain rights to take BOTH a pregnancy disability and a CFRA leave for reason of the birth of your child. Both leaves contain a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under law.

If possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or planned medical treatment for yourself or of a family member). For events which are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave.

Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy or your own serious health condition or certification from the health care provider of your child, parent or

spouse who has a serious health condition before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or impact of the leave on your seniority and benefits, please contact Teri Briar, Director, Human Resources.

Authority Cited: Sections 12935, subd. (a) and 12945.2, Government Code

FRESNO UNIFIED SCHOOL DISTRICT

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