

## **Family and Medical Leave Policy**

State and federal family and medical leave laws provide up to 12 workweeks of unpaid family/medical leave within a 12-month period, under the following conditions:

- The employee has more than 12 months of service. If the leave is for FMLA only, the 12 months of service must have accumulated within the previous seven years;
- The employee has worked at least 1,250 hours during the previous 12-month period before the need for leave; and
- The employee is employed at a work site where there are 50 or more employees within a 75 mile radius.

Leave may be taken for one or more of the following reasons:

- The birth of the employee's child, or placement of a child with the employee for adoption or foster care;
- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's spouse, child, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform his or her job.

### **Military Family Leave Entitlements**

- Eligible employees whose spouse, son, daughter or parent is on covered active duty or called to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- Eligible employees may also take a special leave entitlement of up to 26 weeks of leave to care for a covered service-member during a single 12-month period. A covered service-member is either:
  - 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; or
  - 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, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

### **Calculating the 12-month Period**

For purposes of calculating the 12-month period during which 12 weeks of FMLA or qualifying exigency leaves may be taken, the Northern California Conference uses a rolling 12-month period.

Under most circumstances, leave under federal and state law will run at the same time and the eligible employee will be entitled to a total of 12 weeks of family and medical leave in the designated 12-month period.

For leave to care for a covered service-member, the 12-month period begins on the first day of the leave, regardless of how the 12-month period is calculated for other leaves. Leave to care for a covered service-member is for a maximum of 26 workweeks during a 12-month period.

### **Pregnancy, Childbirth or Related Conditions**

Leave because of the employee's disability for pregnancy, childbirth or related medical condition is not counted as time used under California law (the California Family Rights Act). However, time off because of pregnancy disability, childbirth or related medical condition does count as family and medical leave under federal law (the Family and Medical Leave Act). Employees who take time off for pregnancy disability and who are eligible for family and medical leave will also be placed on family and medical leave that runs at the same time as their pregnancy disability leave. Once the pregnant employee is no longer disabled, or once the employee has exhausted PDL and has given birth she may apply for leave under the California Family Rights Act, for purposes of baby bonding

Any leave taken for the birth, adoption, or foster care placement of a child does not have to be taken in one continuous period of time. California Family Rights Act leave taken for the birth or placement of a child will be granted in minimum amounts of two weeks. However, the Conference will grant a request for a California Family Rights Act leave (for birth/placement of a child) of less than two weeks' duration on any two occasions. Any leave taken must be concluded within one year of the birth or placement of the child with the employee.

### **Leave Procedures**

The following procedures shall apply when an employee requests family medical leave:

#### Employee Procedures:

- Please contact the Human Resources Department as soon as you realize the need for family/medical leave.
- If the leave is based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or a family member, the employee must notify the Conference at least 30 days before leave is to begin.
- The employee must consult with his or her supervisor regarding scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of the Conference. Any such scheduling is subject to the approval of the health care provider of the employee or the health care provider of the employee's child, parent, or spouse.
- If the employee cannot provide 30 days' notice, the Conference must be informed as soon as is practical.
- Complete any and all forms provided to you by the employer.

#### Employer Procedures:

- Determine eligibility
- Submit required form(s) within 5 business days of receiving the request for FMLA by the employee.
- Notify employee within 5 business days after receiving the paperwork back from the employee, whether the requested leave will be designated as FMLA leave and will count towards FMLA.

If the Family and Medical Leave Act/California Family Rights Act request is made because of the employee's own serious health condition, the Conference may require, at its expense, a second opinion from a health care provider that the Conference chooses. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by the Conference.

If the second opinion differs from the first opinion, the Conference may require, at its expense, the employee to obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee. The opinion of the third health care provider shall be considered final and binding on the Conference and the employee.

## **Certification**

The Northern California Conference requires the employee to provide certification within 15 days of any request for family and medical leave under state and federal law, unless it is not practicable to do so. The Conference may require recertification from the health care provider if additional leave is required. (For example, if an employee needs two weeks of family and medical leave, but following the two weeks needs intermittent leave, a new medical certification will be requested and required.) If the employee does not provide medical certification in a timely manner to substantiate the need for family and medical leave, the Conference may delay approval of the leave, or continuation thereof, until certification is received. If certification is never received, the leave may not be considered family and medical leave.

If the leave is needed to care for a sick child, spouse, or parent, the employee must provide a certification from the health care provider stating:

- Date of commencement of the serious health condition;
- Probable duration of the condition;
- Estimated amount of time for care by the health care provider; and
- Confirmation that the serious health condition warrants the participation of the employee.

When both parents are employed by the Conference, and request simultaneous leave for the birth or placement for adoption or foster care of a child, the Conference will not grant more than a total of 12 workweeks of family/medical leave for this reason.

If an employee cites his/her own serious health condition as a reason for leave, the employee must provide a certification from the health care provider stating:

- Date of commencement of the serious health condition;
- Probable duration of the condition; and
- Inability of the employee to work at all or perform any one or more of the essential functions of his/her position because of the serious health condition.

The Conference will require certification by the employee's health care provider that the employee is fit to return to his or her job.

Failure to provide certification by the health care provider of the employee's fitness to return to work will result in denial of reinstatement for the employee until the certificate is obtained.

## **Leave Related to Military Service**

A leave taken due to a "qualifying exigency" related to military service must be supported by a certification of its necessity. A leave taken due to the need to care for a service-member shall be supported by a certification by the service-member's health care provider or other certification allowed by law. Special certification requirements apply to leaves related to military service.

## **Health and Benefit Plans**

An employee taking family medical leave will be allowed to continue participating in any health and welfare benefit plans in which he/she was enrolled before the first day of the leave (for a maximum of 12 workweeks, or 26 workweeks if the leave is to care for a covered service-member) at the level and under the conditions of coverage as if the employee had continued in employment for the duration of such leave. The Conference will continue to make the same premium contribution as if the employee had continued working. The continued participation in health benefits begins on the date leave first begins. In some instances, the Conference may recover from

an employee premiums paid to maintain health coverage if the employee fails to return to work following family/medical leave.

Employees on pregnancy disability leave will be allowed to continue to participate in group health coverage for up to a maximum of four months of pregnancy disability leave (if such insurance was provided before the leave was taken) on the same terms as if you had continued to work.

Payment of the Employee Contribution for health coverage is due when it would be made by payroll deduction.

### **Substitution of Paid Leave**

Generally, FMLA/CFRA leave is unpaid. You will be required to substitute paid leave in the following circumstances:

- Accrued sick leave, vacation or other paid time off must be used for absences that are otherwise unpaid by state disability insurance, workers' compensation benefits or any other disability leave plan.
- Accrued sick leave or paid time off that is available as "Kin Care" must be used when leave is to care for a family member.

Paid leave *may be* substituted for unpaid leave in the following circumstances:

- Vacation and other accrued time (other than sick leave) may be used for any family/medical leave qualifying event.
- Accrued sick leave may be used by the employee for the employee's own serious health condition.
- Accrued sick leave (in excess of "Kin Care" if applicable) may be used for the care of a family member if mutually agreed upon by the Conference and the employee.
- Accrued sick leave may be used for the birth or placement for adoption or foster care of a child if mutually agreed upon by the Conference and the employee.

### **Reinstatement**

Under most circumstances, upon return from family/medical leave, an employee will be reinstated to his or her original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. For example, if an employee on family/medical leave would have been laid off had he or she not gone on leave, or if the employee's job is eliminated during the leave and no equivalent or comparable job is available, then the employee would not be entitled to reinstatement. In addition, an employee's use of family/medical leave will not result in the loss of any employment benefit that the employee earned before using family/medical leave.

For additional information about eligibility for family/medical leave, contact the Human Resources Department.

### **Carryover**

Leave granted under any of the reasons provided by state and federal law will be counted as family/medical leave and will be considered as part of the 12-workweek entitlement (26-workweek entitlement if leave is to care for a service-member) in a 12-month period. The 12-month period is measured forward from the date any employee's first Family and Medical Leave Act leave begins. Successive 12-month periods commence on the date of an employee's first use of such leave after the preceding 12-month period has ended. No carryover of unused leave from one 12-month period to the next 12-month period is permitted.

### **Intermittent Leave**

Employees may take Family and Medical Leave Act/California Family Rights Act leave intermittently (in blocks of time, or by reducing their normal weekly or daily work schedule) if the leave is for the serious health condition of the employee's child, parent, or spouse, or of the employee, and the reduced leave schedule is medically necessary as determined by the health care provider of the person with the serious health condition. The smallest increment of time that can be used for such leave is one hour.