

SOLANO COMMUNITY COLLEGE DISTRICT

FAMILY CARE AND MEDICAL LEAVE

4135

POLICY: In accordance with state and federal laws, the Governing Board shall grant family care and medical leave to eligible employees, without discrimination. Employees who are granted such leave shall be employed in the same or a comparable position upon returning from family care or medical leave, subject to any exceptions or limitations provided by law.

**REFERENCES/
AUTHORITY:**

California Government Code
12940 Unlawful employment practices
12945 Pregnancy; childbirth or related medical condition; unlawful practice
12945.4 California Family Rights Act; family care leave; definitions; conditions
19702.3 Family care leave; exercise of rights

Code of Regulations, Title 2
7297.0-7297.9 Family care leave

United States Code, Title 29
2601, 2611-2619, 2631-2636, 2651-2654 Family and Medical Leave Act of 1993

Code of Regulations, Title 29
825 Family and Medical Leave Act of 1993

SLD/zg

BP 4135

ADOPTED: November 20, 1996

REVISED: January 21, 2004

**SOLANO COMMUNITY COLLEGE DISTRICT
HUMAN RESOURCES PROCEDURES**

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Eligibility

Any employee who has served the District more than 12 months and who has at least 1,250 hours of service with the District during the previous 12-month period, shall be eligible to take unpaid family care or medical leave under the provisions of this personnel procedure.

Family care and medical leave may be used for the following reasons:

- (a) The birth of the employee's child, and in order to care for the child.
- (b) The placement of a child with the employee for foster care or in connection with the employee's adoption of the child.
- (c) To care for the employee's child, parent, spouse, or domestic partner with a serious health condition.
- (d) The employee's own serious health condition that makes the employee unable to perform the functions of his or her position.

Definitions

"Child" means a biological, adopted or foster son or daughter, a stepson or stepdaughter, 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.

"Parent" means a biological, foster or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to an employee when the employee was a child.

"Serious health condition" means an illness, injury, impairment or physical or mental condition that involves either: Inpatient care in a hospital, hospice or residential health care facility; or continuing treatment or continuing supervision by a health care provider. With respect to state law, an employee's disability due to pregnancy, childbirth or related medical condition is not included as a "serious health condition."

Duration of Leave

Family care and medical leave shall not exceed 12 workweeks during any 12-month period. The 12-month period for calculating leave entitlement shall commence on the date the employee's first family care or medical leave begins. The 12 weeks of family care and medical leave to which an

employee is entitled under state law shall run concurrently with the 12 weeks of family care and medical leave to which an employee is entitled under federal law, except for any leave taken under federal law for disability on account of pregnancy, childbirth, or related medical conditions.

The right to take a family care and medical leave is separate and distinct from the right to take a pregnancy disability leave under state law.

Leave taken for a birth, or placement for adoption or foster care, must be concluded within one year of the birth or placement.

Terms of Leave

During the period of family care or medical leave, the employee shall use his or her accrued vacation leave, other accrued time off, or any other paid or unpaid time off negotiated with the District.

If an employee takes a leave because of the employee's own serious health condition, the employee shall substitute accrued sick leave and/or differential leave during the period of the leave taken pursuant to this personnel procedure.

Maintenance of Benefits

During the period of family care or medical leave, the employee shall continue to be entitled to participate in the District's health plan and the District shall continue to pay health care premiums under such plan on the same terms as if the employee had continued to work during the period of the leave. Any premium payments required to be made by the employee must be paid to the District's Payroll Department by the first day of each month.

The District may recover health insurance premiums paid on behalf of the employee during the period of the family care or medical leave, if both of the following conditions occur: the employee fails to return from leave for thirty (30) days after the period of leave to which the employee is entitled has expired and 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 leave under state or federal laws or other circumstances beyond the control of the employee.

Advance Notice of Leave/Intent to Return

If an employee learns of the need for family care or medical leave more than 30 days before the leave is to begin, he or she shall give the District at least 30 days' advance notice. If the employee learns of the need for family care or medical leave fewer than 30 days in advance, he or she shall provide such notice as soon as practicable.

If leave is needed for a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of District operations.

If leave is taken intermittently or on a reduced leave schedule, the District may temporarily transfer the employee as permitted by law.

On or before the first day of an employee's family care or medical leave is to begin, the employee shall notify the Human Resources Department of his or her anticipated date of return to work. The Human Resources Department will keep the employee's supervisor informed. The District may require periodic updates on the employee's intent to return to work. If, because of changes in circumstances, an employee requires more or less leave than originally anticipated, such employee shall give the District at least two business days' notice of his or her intent to return to work.

Certifications

An employee's request for leave because of a serious health condition of the employee or to care for a child, spouse or parent who has a serious health condition shall be supported by a certification from the health care provider of the person requiring care and acceptable to the District. This certification shall include:

- (a) The date, if known, on which the serious health condition began; and
- (b) The probable duration of the condition.

In addition, if the request for leave is to care for a family member, the certification shall include an estimate of the amount of time the employee needs to care for the person requiring care and a statement that the serious health condition warrants the participation of a family member to provide care during the period of the leave. If the request for leave is based on the employee's own serious health condition, the certification shall include a statement that, due to the serious health condition, the employee is unable to perform the functions of his or her position.

If the employee is requesting leave for intermittent treatment or leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of the treatment and the expected duration of the leave.

In any case in which the District has reason to doubt the validity of any certification provided to support an employee's request to take leave because of the employee's own serious health condition, the District may require the opinion of a second and third health care provider consistent with state and federal law.

Reinstatement/Non-Discrimination

Upon granting an employee's request for family care or medical leave, the District shall guarantee to reinstate the employee in the same or a comparable position when the leave ends to the extent required by law.

Notifications

The District shall provide all notifications as required by law regarding employees' rights and obligations pertaining to family care and medical leaves.

SLD/zg

BP 4135 Family Care & Medical Leave Procedures

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Governing Board Review: 1/21/04