

Truckee-Donner Recreation and Park District Policy Handbook

POLICY TITLE: Family Care and Medical Leave and Pregnancy Disability Leave
POLICY NUMBER: 234

234.10 Under the California Family Rights Act of 1991 (CFRA) and the Federal Family and Medical Leave Act of 1993 (FMLA), if an employee has worked for the District at least 1,250 hours during the last 12 months and has more than 12 months of service with the District, then the employee may have a right to take unpaid family care and medical leave of up to 12 work weeks in any 12-month period (CFRA leave and FMLA leave). FMLA leave and CFRA leave may be taken for the following reasons:

- 1) The birth of a child of the employee, placement of a child with the employee in connection with an adoption or foster care; or
- 2) Care for a spouse, registered domestic partner, child, or parent who has a serious health condition; or
- 3) The employee's own serious health condition that makes the employee unable to work.

Under most circumstances, leave under federal and state law will run at the same time (concurrently) and the eligible employee will be entitled to a total of 12 weeks of family and medical leave in the designated 12-month period. Part time employees are entitled to leave on a pro-rata basis.

CFRA leave and FMLA leave may be taken in intermittent periods, provided that the total leave taken does not exceed 12 work weeks in any 12-month period. Leave taken for the birth, adoption, or foster care placement of a child of the employee must be concluded within one year.

Leave because of the employee's disability for pregnancy, childbirth or related medical condition is not counted as time used under California law (CFRA). Time off because of pregnancy disability, childbirth or related medical condition does count as family and medical leave under federal law (FMLA). Pregnancy disability leave runs concurrently with FMLA leave. Once the pregnant employee is no longer disabled, she may apply for leave under the California Family Rights Act, for purposes of baby bonding.

Under most circumstances, upon return from FMLA/CFRA/pregnancy disability 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. 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.

The District may deny reinstatement to employees who are among the highest paid ten percent (10%) of the District's employees and whose reinstatement would cause substantial and grievous economic injury to the District's operations.

If the District grants an employee's request for FMLA/CFRA/Pregnancy Disability leave, the District must maintain and pay for the employee's group health plan coverage for which the District would have paid if the employee had not taken leave, for a maximum of 12 weeks. All employees who were required to pay a portion of their benefits prior to taking leave, must continue to pay that same portion while on leave. If the employee fails to return from leave for a reason other than the recurrence or continuation of the health condition that brought about the leave, or for other reasons beyond the employee's control, the District is entitled to recover any health premiums paid by the District on the employee's behalf during any unpaid period of leave.

Employees on leave who are not eligible for continued paid coverage may continue their group health insurance coverage through federal COBRA by making monthly payments to the District for the amount of the applicable premium.

If the need is foreseeable, the employee should provide reasonable advance notice (30 days) of the need for any type of leave, and, for planned medical treatments or supervision, the employee must make reasonable efforts to schedule the leave so as to avoid disrupting the operation of the District. Employees should consult with their supervisor regarding the scheduling of any planned medical treatment. If the employee cannot provide 30 days notice, the District must be informed as soon as is practical. Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until the employee complies with the notice policy.

The District may require an employee requesting leave because of the employee's own serious health condition to submit a medical certification from his or her health care provider. As a condition of reinstatement following an employee's leave taken because of the employee's own serious health condition or pregnancy disability leave, the District will require the employee to submit a medical certification from his or her health care provider stating that the employee is able to resume work. Failure to provide certification of the employee's fitness to return to work will result in denial of reinstatement for the employee until the certificate is obtained. Medical certification will be required for all pregnancy disability leaves.

The District may require, at its expense, a second opinion from a health care provider that the District chooses. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by the District. If the second opinion differs from the first, the District may require, at its expense, the employee to

obtain the opinion of a third health care provider designated or approved jointly by the District and the employee. The third opinion shall be considered final and binding on the District and the employee.

When required, certification must be provided within 15 days of any request for leave unless it is not practicable to do so. The District may require recertification from the health care provider if additional leave is required.

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

All medical certifications/requests for leave should include the date of commencement of the serious health condition/pregnancy disability leave and probable duration of the condition. For the employee's own serious health condition, the certification should state the 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. For pregnancy disability leave the certification should state the employee is unable to perform one or more of the essential functions of the job without undue risk to herself, the successful completion of her pregnancy, or to other persons. For a leave requested due to a family member's serious illness, the certification should also include the estimated amount of time for care and confirmation that the serious health condition warrants the participation of the employee.

When both parents are employed by the Company, and request leave for the birth or placement for adoption or foster care of a child, the District may limit the leave time to a total of 12 workweeks in a 12 month period between the two parents.

The District may be legally permitted to deny a request for leave under certain circumstances; i.e. due to the small size of the District work force. However, this exception does not apply to pregnancy disability leave, and the District may not deny requests for pregnancy disability leave due to the small size of the District work force.

FMLA/CFRA/Pregnancy Disability leave is considered unpaid leave, except as otherwise provided herein through substitution of paid leave. 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 for the employee's own serious health condition and for the care of a family member with a serious health condition.
- When leave is taken for a condition for which payment is provided under State Disability Insurance or State Paid Family Leave, the employee may elect to use sick pay in an amount equal to the difference between the disability benefit and full pay, in which case the employee would endorse the disability or paid family leave benefits over to the District and accrued sick leave would be debited proportionately back to the employee's sick leave bank.
- When an employee qualifies for State Disability Insurance benefits or State Paid Family Leave benefits, there is a 7 Day waiting period prior to receiving benefits. If

the leave is for an employee's own serious health condition/pregnancy disability leave or to care for a family member with a serious health condition, then the employee may elect to use sick pay during this waiting period. If the leave is for baby bonding, whether the employee is male or female, the employee is required to use one week of accrued vacation pay during the 7 Day waiting period. Otherwise, this waiting period is unpaid.

The substitution of paid leave for family care or medical leave does not extend the total duration of family care and medical leave beyond twelve (12) weeks in a 12-month period, to which an employee is entitled. For example, if an employee substitutes two weeks paid vacation time for the first two weeks of family care or medical leave, that two weeks paid time will leave up to ten (10) additional weeks of unpaid leave.

Accrual of Benefits During Leave of Absence - Employees on leave of absence shall not accrue sick leave, vacation leave or any other benefit during any **unpaid** portion of the absence. Regular full-time employees who work (or receive paid leave for) less than 80 hours per month due to a family care or medical leave will receive proportional accrual/pay for holiday, sick leave, vacation, and compensatory time.

Measuring the 12-Month Period – 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 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.

Fraudulent statements or claims regarding leaves of absence may be cause for immediate termination.

234.20 **Pregnancy Disability Leave** - There is no waiting period or length of service requirement for employee eligibility. Female employees may take up to four months of pregnancy disability leave, depending upon the period(s) of the employee's actual disability. When medically necessary, pregnancy disability leave may be taken in intermittent periods, provided that the total leave taken does not exceed four months. Pregnancy disability leave runs concurrently with FMLA leave taken for disability arising from pregnancy, childbirth, or related medical conditions. If the female employee is also eligible for CFRA leave, the employee may be entitled to take BOTH a pregnancy disability leave, which runs concurrently with FMLA leave, and a CFRA leave for baby bonding.

An employee is "disabled" if, in the opinion of her health care provider, she is unable because of pregnancy to work at all or is unable to perform any one or more of the essential functions of her job, or to perform these functions without undue risk to herself, the successful completion of her pregnancy, or to other persons. Pregnancy leave usually begins when ordered by the employee's physician and duration of the leave will be determined by the employee's physician. Part-time employees are entitled

to leave on a pro rata basis. The four months of leave includes any period of time for actual disability caused by the employee's pregnancy, childbirth, or related medical condition. This includes leave for severe morning sickness and for prenatal care.

Temporary transfers due to health considerations will be granted when possible. If the health care provider certifies that it is medically advisable because of pregnancy, the employee will be transferred to a less strenuous or hazardous position or duties, as long as such a transfer can be reasonably accommodated. The transferred employee will receive the pay that accompanies the job, as is the case with any other temporary transfer due to temporary health reasons. Requests for transfers of job duties will be reasonably accommodated if the job and security rights of others are not breached.

An employee will be allowed to use accrued sick time during a pregnancy disability leave. An employee will be allowed to use accrued vacation or personal time during a pregnancy disability leave. Pregnancy disability leaves are otherwise unpaid.

All employees requesting leave should notify the District Clerk or General Manager. Please feel free to contact the District Clerk for questions or clarification on these policies.