

# LODI UNIFIED SCHOOL DISTRICT

Rule 4161.8

4261.8

4361.8

## Personnel

### Family Care and Medical Leave

#### **Eligible Employee**

An eligible employee is one who has been employed for at least 12 months with the District and has at least 1,250 hours of service during the previous 12 month period. Full-time teachers are deemed to meet the 1,250 hours of service requirement.

#### **Reasons for Family Care Leave**

1. The birth of a child of the employee;
2. The placement of a child with the employee for adoption or foster care;
3. To provide care for the employee's child, parent, spouse or registered domestic partner, or child of a registered domestic partner, who has a serious health condition;
4. The serious health condition of the employee which makes the employee unable to perform one or more of the essential functions of the employee's position. This does not include leave taken for pregnancy-related or childbirth-related disabilities for purposes of leave under the California Family Rights Act.

#### **Definitions**

For purposes of this policy the following definitions apply:

"Child" 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.

"Parent" means a biological, foster or adoptive parent, a stepparent, a legal guardian, or another 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:

1. Inpatient care in a hospital, hospice or residential health care facility; or
2. Continuing treatment or continuing supervision by a health care provider.

### **Duration of Leave**

Family care leave shall not exceed 12 work weeks during any 12-month period.

If husband and wife are both employed by the District, a total of 12 work- weeks may be used by the spouses for Family Care and Medical Leave which is taken in connection with the birth or placement of a child. This restriction shall apply whether the parents are married or not or are registered domestic partners.

Family Care Leave may be taken in one or more time periods on an intermittent or reduced leave schedule basis. If FMLA leave is taken to care for a child, spouse or parent with a serious health condition, or because of the employee's own serious health condition, leave may be taken at the employee's discretion on an intermittent or reduced-time leave schedule when medically necessary.

An employee may take leave due to birth/adoption/foster care, on an intermittent or reduced-time leave schedule without permission from the District. An employee may request intermittent leave of less than two (2) weeks duration on any two (2) occasions for the purpose of birth/adoption/foster care. Thereafter, the District may require the intermittent leave to be taken in a minimum duration of two (2) weeks for these purposes.

The District may limit leave increments to 15-minute increments for classified employees and one-hour increments for all other employees.

If an employee needs intermittent leave, or a reduced-time work schedule, that is foreseeable for a planned medical treatment for the employee or a family member, the District may require the employee to temporarily transfer to an available position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

Earned sick leave, supplemental sick leave or differential pay, and paid vacation which is used by the employee for a serious health condition, will count as part of the employee's entitlement to 12 workweeks of Family Care Leave.

### **Terms of Leave**

A rolling 12-month period shall be measured backward from the date the employee uses any family care and medical leave.

Family Care Leave taken for birth or adoption must be concluded within one year of the birth or adoption. Pregnancy disability leave, under California law, is provided for up to four months depending on the employee's actual period of disability. This entitlement is separate from and in addition to the employee's entitlement to 12 workweeks of Family Care Leave.

### **Employee Notice Requirements**

If an employee's need for Family Care Leave is foreseeable, the employee must provide the District with reasonable advance notice of the employee's need for leave.

State and federal law also require employees to make a reasonable effort to schedule Family Care Leave for any planned medical treatment, so as to avoid disruption to the District's operations, subject to approval of the health care provider of the individual requiring treatment.

### **Seniority Protection**

The employee shall retain his/her employee status with the district during the Family Care Leave period, and the leave shall not constitute a break in service for purposes of longevity or seniority under any employee benefit plan or collective bargaining agreement. For purposes of layoff, recall, promotion, job assignment and seniority-related benefits such as vacation, the employee returning from Family Care Leave shall return with no less seniority than he/she had when the leave began. Except, the District may refuse to reinstate an employee to the same or a comparable position when all of the following circumstances apply:

1. When the employee is a salaried "key employee" who is among the highest paid 10 percent of the District's employees;
2. The District's refusal is necessary to prevent substantial and grievous economic injury to the operations of the District; and

3. The District notifies the employee of its intent to refuse reinstatement at the time the District determines (b) above, and the employee fails to immediately return to service.

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the district reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement, provided the district has no continuing obligations under a collective bargaining agreement or otherwise.

### **Maintenance of Benefits**

During the period of Family Care Leave, the employee shall continue to be entitled to participate in the District's health benefits program. The District will maintain group health insurance coverage for an employee on Family Care Leave pursuant to this policy/regulation for up to a maximum of 12 workweeks during the period of the Leave on the same terms as if the employee continued to work, where such insurance was provided before the Leave was commenced. The District may recover premiums paid for an employee who fails to return to work following the Leave, where the failure to return is for a reason other than the continuance, recurrence or onset of a serious health condition or other circumstances beyond the control of the employee.

### **Verification Requirements**

Employee requests for Family Care Leave under this policy/regulation which are due to the serious health condition of the employee, or the employee's parent/spouse/child, registered domestic partner, or the child of a registered domestic partner, shall be supported by certification from the health care provider of the individual requiring care.

This certification shall include:

1. The date on which the serious health condition commenced;
2. The probable duration of the condition;
3. A statement that, due to the serious health condition, the employee is unable to perform one or more of the essential functions of his or her job; or

4. A statement that the serious health condition warrants the participation of the family member (employee) to provide care during a period of treatment of the individual requiring care;
5. An estimate of the amount of time that the employee needs to care for the individual.

Recertification may be required on a reasonable basis. Additionally, the District may require at the District's expense that the employee obtain the opinion of a second health care provider, who is approved or selected by the District, concerning the information contained in the original certification.

A medical certification that the employee is able to return to work from Family Care Leave which is taken for the employee's own serious health condition shall be required.

### **Relationship to Paid Leave**

Family Care Leave is an unpaid leave. However, certain types of paid leaves may run concurrently with Family Care Leave. The District will designate any leave taken by the employee, whether paid or unpaid, as a qualified Family Care Leave based on the information provided by the employee and certification from a health care provider as referenced above. If an employee uses paid leave under circumstances which do not qualify for a Family Care Leave, the leave taken by the employee shall not be counted against the employee's entitlement to 12 workweeks of Family Care Leave.

Absence from work due to a work-related illness or injury which constitutes a serious health condition will be counted as Family Care Leave for purposes of calculating Family Care Leave time taken by an eligible employee. Nonetheless, the total length of such absences is controlled by the employee's rate of recovery and the business needs of the Board of Education/District and is not necessarily limited to the 12 workweeks maximum duration of Family Care Leave.

### **Service Member Family Leave**

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period to an employee to care for a covered service member who is his/her spouse, child, parent, or next of kin.

Covered service member means a member of the Armed Forces, including a member of the National Guard or Reserves, who has suffered a serious injury or illness and who is undergoing medical treatment, recuperation, or therapy, is

otherwise in outpatient status, or is otherwise on the temporary disability retired list for that injury or illness.

Next of kin means the nearest blood relative to that individual.

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.

Serious injury or illness means an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

The employee shall provide reasonable and practicable notice of the need for the leave when the necessity for the leave is foreseeable.

The leave can be taken intermittently or on a reduced schedule when medically necessary. An employee taking service member leave in combination with other leaves pursuant to this 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.

During the period of service member leave, the district shall require the employee to use his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district.

Rule

approved: 05/17/94  
revised: 11/19/02 (and renumbered from 4154/4254/5341)  
revised: 05/01/07  
revised: 01/15/08 (technical revision)  
revised: 09/02/08