

APPENDIX G
EL CAMINO COMMUNITY COLLEGE DISTRICT
FAMILY CARE AND MEDICAL LEAVE PROCEDURES

Individual/Family

Leave Care

FAMILY CARE AND MEDICAL LEAVE PROCEDURES

FAMILY AND MEDICAL LEAVE ACT (FMLA)

Employees who meet all requirements of these procedures may be entitled to family care and-medical leave in connection with the birth, adoption, or foster care placement of a child with the employee, or the serious illness of a child, parent, or the employee him/herself. Family and medical leave will be granted in accordance with the Family and Medical Leave Act.

Eligibility for Family Care Leave and Medical Leave

To be eligible for family care and medical leave, an employee must:

- (1) Have worked continuously for the District for at least one year prior to the date when such leave is requested; and
- (2) Have provided at least 1,250 hours of service during the 12 months before the leave is requested; and
- (3) Not have taken a maximum of twelve work weeks of family care and medical leave within the preceding 12-month period.
- (4) Comply with all requirements of state and federal law pertaining to family care and medical leave.

Permissible Uses of Family Care and Medical Leave

Family care and medical leave may be requested for:

- (1) The birth of an employee's child;
- (2) The adoption of a child;
- (3) The placement of a foster child with an employee;
- (4) The serious illness or health condition of an employee's child, spouse, or parent;

(5) The serious health condition of the employee him/herself.

Amount of Family Care Leave

Provided all the conditions of this procedure are met, an employee may be granted up to twelve work weeks (60 work days) of family care and medical leave during any 12-month period. The leave may be taken in one or more periods; however, the District retains the right to deny a leave request if the leave is deemed not to be of sufficient duration (e.g. less than two weeks) or if a request is for intermittent leave where the intermittent schedule is not medically necessary.

Any employee requesting leave for his or her own serious illness/injury, under this program, shall be required to utilize all accumulated sick leave, available sub difference and vacation leave first.

Employees may request Family Care and Medical Leave, under this program, to care for a family member with a catastrophic illness or injury, with prior approval, may use accumulated sick leave, vacation and/or personal business leave.

The total amount of permissible family care leave (up to twelve work weeks (60 work days)) will be reduced by the amount of the other leave used.

References to the amount of leave available are based upon the entitlements of a full-time employee. Employees who work less than a full-time schedule or less than a 12-month year are entitled to leave in whatever proportion their work schedule bears to full-time. In no case will an employee scheduled to work less than a 12-month year be entitled to use family care and medical leave during schedule periods of non-work status.

Special Provisions for Pregnancy Related Disability and Child Care Leave

- (1) Upon expiration of any pregnancy disability leave authorized by Government Code Section 12945.2, the employee is eligible for up to an additional 12 weeks of family care leave to care for the newborn child.
- (2) During the period of "disability" (6 weeks for a normal pregnancy) the employee shall use accumulated sick leave or available sub difference until those entitlements are exhausted. Thereafter, the employee shall use vacation and/or personal business leave.
- (3) Upon expiration of the pregnancy disability period, the employee may request family care leave pursuant to these procedures.
- (4) The District shall continue to pay its portion of the employee's medical insurance during the period of family care leave.
- (5) The amount of family care leave available will be reduced by any other paid leave taken aside from the pregnancy "disability" period as defined in Government Code Section 12945.2.

Conditions for Granting Family Care Leave

If the employee can anticipate when the leave may be required (e.g., leave for a planned medical treatment), the employee may be required to schedule the leave in a manner that will minimize its disruption to the District, to the extent it is medically acceptable.

Family care and medical leave may be denied if the employee has not complied with these procedures.

For family care and medical leave requests for child care, if both parents are employed by the District, a combined total of 12 work weeks of leave is available to a mother or father for the birth, adoption or foster care placement of a child.

Relation to Pay and Other Benefits

Except to the extent that paid leave is substituted for family care and medical leave, an employee on family care and medical leave is not entitled to any continued salary during the leave period. The District will continue to pay medical, vision, and dental benefits for an employee and his/her dependents at the same level those benefits were paid for by the District immediately prior to the employee commencing family care leave. An employee may elect to continue to participate in life insurance plans by paying, at the employee's own expense, the costs ordinarily paid by the employer. If the employee is unwilling or unable to make the required payments, the employee will not be covered by the employee benefit plans during the leave period. Upon reinstatement, however, the employee shall not thereafter lose any benefits as a result of the family care and medical leave.

Upon termination of family care and medical leave, the employee shall be entitled to reinstatement to a position with the same or similar duties and pay which can be performed at the same or similar geographic location as the position held prior to the leave, unless the original position has been eliminated due to a reduction in force or restructuring of the District prior to the expiration of the leave. In the event the original position has been eliminated due to a layoff or restructuring, the employee shall retain his/her pre-leave seniority for layoff recall and other seniority related rights or benefits. Upon termination of family care and medical leave, an employee shall retain the same seniority as at the time the leave commenced. Seniority shall not accrue during the leave period.

In the event an employee who is on leave fails to return to work upon expiration of all authorized leave, the District shall be entitled to recover the cost of premiums paid for the employee's medical insurance at the same level those benefits were provided immediately prior to the employee commencing leave.

Procedure for Requesting Family Care Leave

An employee shall notify his/her supervisor, in writing, of the need for family care and medical leave as soon as possible under the circumstances. If the leave is requested in connection with a planned, non-emergency medical treatment, the employee may be requested to reschedule the treatment, to the extent feasible, so as to minimize disruption or inconvenience to the District's operations and co-workers. The written request for family care and medical leave shall specify the reason for the leave (e.g., birth, adoption, illness of parent, etc.), the anticipated date of commencement and duration of the leave. The District shall require a certification issued by the health care provider of the individual requiring care. The medical certification shall include all of the following:

- (1) The date on which the serious health condition commenced;
- (2) The probable duration of the condition;
- (3) For Employee's Own Illness: A statement that the serious health condition prevents the employee from performing the essential functions of his/her position;
- (4) For Care of Others: The health care provider's estimate of the amount of time the employee needs to care for the individual;
- (5) A statement that the serious health condition warrants the participation of a family member (the employee) to provide care.

The District has the right to require a second medical opinion, paid for by the District and from a health care provider not regularly employed by the District. The District may also require a third medical certification (employer-paid) in the event of a conflict between the first and second opinions. If the leave extends beyond the period indicated in the original medical certification, or additional leave is requested, the employee may be required to obtain recertification.

Definitions

For the purposes of this section, the following definitions are applicable:

- (1) "Child" means a biological, adopted, or foster child, a stepchild, or a legal ward.
- (2) "Parent" means a biological, adoptive parent, foster, a stepparent, or a legal guardian.
- (3) "Spouse" means the legal husband or wife of the employee.
- (4) "Serious health condition" means an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during the period of the treatment and that involves either inpatient care, or continuing treatment or supervision by a health care provider.

Legal References:

129 USC 2601 – U.S. Family & Medical Leave Act (1993) Gov. Code Sec. 12945.2
“California’s Family Rights Act” CAL-FMLA (1993)