



Sacramento Public Library Authority

September 27, 2012

Agenda Item 9.0: Policy Update:
Family Medical Leave Act (FMLA) Policy

TO: Sacramento Public Library Authority Board Members

FROM: Rivkah K. Sass, Library Director

RE: Family and Medical Leave Act (FMLA) Policy

RECOMMENDED ACTIONS:

Adopt Resolution 12-38, A Resolution Approving the Revised Family and Medical Leave Act Policy effective September 27, 2012 (Exhibit A)

REASONS FOR RECOMMENDATION:

Family Medical Leave

The federal Family and Medical Leave Act (FMLA) was enacted in 1993 to require employers with 50 or more employees to allow eligible employees to take job-protected, unpaid leave for up to 12 weeks for specific qualified reasons.

The Policy was first approved by the Authority Board in March 2003, and updated in January 2009. Since then, changes have been made to the Federal Family and Medical Leave Act, the California Family Rights Act (CFRA), as well as Pregnancy Disability Leave (PDL).

The Library Authority's FMLA Policy has been revised to reflect these changes.

ATTACHMENTS:

Resolution 12-38, A Resolution Approving the Revised Family and Medical Leave Act Policy effective September 27, 2012

Exhibit A: Family and Medical Leave Act Policy - Revised



Sacramento Public Library Authority

RESOLUTION NO. 12-38

Adopted by the Governing Board of the Sacramento Public Library Authority on the date of:

September 27, 2012

A RESOLUTION APPROVING THE REVISED FAMILY AND MEDICAL LEAVE ACT POLICY EFFECTIVE SEPTEMBER 27, 2012

BE IT HEREBY RESOLVED BY THE GOVERNING BOARD OF THE SACRAMENTO PUBLIC LIBRARY AUTHORITY AS FOLLOWS:

1. The revised Family and Medical Leave Act Policy is approved and effective September 27, 2012.

Sophia Scherman, Chair

ATTEST:

Rivkah K. Sass, Secretary

By: _____
Brenda Haggard, Assistant Secretary

ATTACHMENTS:

Exhibit A: Family and Medical Leave Act Policy - Revised



Sacramento Public Library Authority

Sacramento Public Library Policies and Procedures

Policy No:			
Title:	Family and Medical Leave		
Department:	Human Resources		
Issue Date:	July 6, 2003	Board Approval Date:	July 6, 2003
Revision Date:	July 2012		

I. PURPOSE

The Sacramento Public Library Authority will provide family and medical leave for eligible employees as required by state and federal law. This policy outlines the rights and obligations with respect to such leave. Nothing in this policy is intended to provide rights or benefits other than those required by law.

II. POLICY

Employees requesting family and medical leave must state the reason for leave. FMLA/CFRA leave is permitted for the following reasons:

- A. The birth of the employee's child or to care for a newborn of the employee;
- B. The placement of a child with the employee in connection with adoption or foster care;
- C. To care for a Family Member who has a Serious Health Condition; or
- D. A Serious Health Condition that makes the employee unable to perform the functions of his/her position.
- E. Certain leave entitlements for families of military service members, as more fully described in sections E. and F. below.

ATTACHMENT A: PROCEDURES

A. Federal Family and Medical Leave Act (FMLA)

FMLA provides up to 12 full time workweeks, or 480 hours, of unpaid job-protected leave in a 12-month period rolled forward from the date an employee's first FMLA leave for qualified employees described in 29 U.S.C. Sections 2601 et seq.

B. Pregnancy Disability Leave (PDL)

California leave of absence for qualified disabled pregnant employees described California Government Code Section 12945. PDL provides up to four (4) calendar months or eighty-eight (88) work days of leave for qualified disabled pregnant employees described in California Government Code Section 12945. PDL runs concurrent with FMLA for the first 12 weeks. Qualified disabled pregnant employees are eligible for PDL with no service requirement for eligibility.

C. California Family Rights Act (CFRA)

CFRA provides up to 12 full time workweeks, or 480 hours, of unpaid job protected leave in a 12-month period) for qualified employees described in California Government Code Section 12945.2.

Employees may request an unpaid CFRA leave for purposes of baby bonding after the birth, adoption or foster care placement of the child. The CFRA leave begins after the conclusion of the PDL leave.

D. Spouses Both Employed by Library

In any case in which a husband and wife both employed by the Library are entitled to leave, the aggregate number of workweeks of leave to which they are entitled is limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e. bonding leave). This limitation does not apply to any other type of leave under this policy.

E. Caring for injured service member or veteran during rehabilitation

Families of wounded members of the Armed Forces may take up to *26 weeks* of unpaid leave during a single 12-month period.

1. Eligible employees. Leave may be taken by the wounded service member's spouse, son, daughter, parent or "next of kin" (nearest blood relative).
2. Covered service member. The service member must be undergoing medical treatment, recuperation, therapy in outpatient status, or otherwise be on the temporary disability retired list for a serious injury or illness. "Covered service member" includes a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the preceding 5 years.

F. Emergencies involving family members on military duty

Eligible employees may take up to 12 weeks of unpaid leave if a “qualifying exigency” exists arising out of the fact that the employee’s spouse, or a son, daughter or parent is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

“Qualifying exigency” exists when:

1. A family member in the regular Armed Forces is on covered active duty during deployment to a foreign country or when a family member in the National Guard or reserves is on covered active duty for contingency operations.
2. Short notice deployment. Leave is for a maximum of seven (7) calendar days beginning on the date the covered military service member is notified of the impending call or order to active duty.
3. Military events and related activities.
4. Childcare arrangements and school activities.
5. Financial and legal arrangements.
6. Family counseling
7. Rest and recuperation. Up to five (5) days’ leave may be taken to spend time with a covered service member who is on short-term leave from active duty for rest and recuperation.
8. Post-deployment military activities.
9. Additional activities mutually agreed to by the Library and employee

EMPLOYEES ELIGIBLE FOR LEAVE

An employee is eligible for FMLA/CFRA leave if the employee:

- A. Has been employed by the Library for at least 12 months; and
- B. Has worked for the Library at least 1,250 hours during the 12- month period immediately preceding the commencement of the leave (includes regular and overtime hours. Does not include any absences, paid or unpaid, e.g. PTO leave, holidays, jury duty or other absences).

INTERMITTENT AND REDUCED SCHEDULE LEAVES

Intermittent leave for a serious health condition of employee or family member may be taken when medically necessary. The medical certification must state the medical necessity for the intermittent or reduced schedule leave and its expected duration.

Intermittent or reduced schedule leave may be taken in an amount of no less than one (1) hour at a time if the leave is being taken because of the serious health condition of employee or family member or due to a qualifying exigency involving family members on military duty.

Intermittent or reduced schedule leave for the birth or placement of a child for adoption or foster care may only be taken subject to the Library Director's approval.

EMPLOYEE/EMPLOYER NOTIFICATION

Employees will be notified of their eligibility for requested leave under FMLA and/or CFRA and reason for ineligibility, if applicable.

When the need for leave is foreseeable, the employee must provide at least 30 calendar days advance notice to his/her supervisor/manager and Human Resources prior to taking leave.

When the notice for leave is unforeseeable, the employee must provide notice to his/her supervisor/manager and Human Resources "as soon as practicable" (generally the same day or next business day). Additionally, the employee may be requested to provide justification for notification of less than 30 calendar days.

The employee must provide the necessary certification within 15 calendar days of notification to Human Resources. If the Library determines that the certification is deficient, the employee must provide the requisite information within seven additional calendar days. Once sufficient information is received, the Library will designate the leave under FMLA and/or CFRA in writing, within five business days, absent extenuating circumstances.

MEDICAL CERTIFICATION OF NEED FOR LEAVE

Employees who request leave for their own Serious Health Condition or to care for a family member who has a Serious Health Condition must provide written certification from the Health Care Provider of the individual requiring care. The certification shall include the date on which the Serious Health Condition commenced and the probable duration of the condition.

If the leave is requested because of the employee's own Serious Health Condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

If the leave is requested because of a family member's Serious Health Condition, the certification shall include a statement that the Serious Health Condition warrants the participation of the employee to provide care and an estimate of the duration of, and time needed for, such care.

If the leave is for a qualifying exigency for a covered military member, employee shall provide a copy of the active duty orders or other documentation issued by the military which indicates that the covered military member is on a covered active duty or call to covered active duty, and the dates of the covered military member's active duty service.

If an employee requests leave intermittently (a few days or hours at a time) or a reduced work schedule to care for an immediate family member with a Serious Health Condition, or

due to the employee's own Serious Health Condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the need can best be accommodated through an intermittent or reduced work schedule.

REQUIRED USE OF PAID ACCRUED LEAVES

FMLA/CFRA leave is unpaid. FMLA and CFRA authorize an employer to require that employees use paid accrued leaves while on family or medical leave. The Library requires an employee to concurrently use paid accrued leaves while using FMLA/CFRA leave. Employees must exhaust their accrued leaves concurrently with FMLA/CFRA, except:

1. Employees are not required to use accrued compensatory time off earned in lieu of overtime (CTO) pursuant to the Fair Labor Standards Act.
2. Employees may retain a maximum of forty (40) hours total accumulation of all types of leave (excluding CTO).

Leave under FMLA and CFRA are concurrent with one exception: Pregnancy Disability Leave is concurrent with FMLA but not with CFRA. The Human Resources Department should be consulted for details on aggregate leaves.

EMPLOYEE BENEFITS WHILE ON LEAVE

- A. Employees will accrue PTO while on Family Medical Leave on a pro-rata basis when such leave is integrated with State Disability Insurance, Paid Family Leave, or Worker's Compensation Leave. Leaves taken without pay will not accrue PTO unless there are actual hours worked within the pay period.
- B. Health Benefits
An employee taking FMLA/CFRA leave will be allowed to continue participating in the Library's health plans in which the employee was enrolled before the first day of leave (for up to a maximum of 12 or 26 full time workweeks, as applicable) at the level and under the same terms and conditions of coverage as if the employee had continued employment for the duration of such leave. Employees will continue to be responsible for payment of their portion of the premiums for medical and/or dental insurance.
- C. Flexible Spending Accounts
Flexible spending contributions, if applicable, will be continued during FMLA/CFRA leave. If the leave is taken based on a qualifying event (e.g. birth/adoption of a child, change in work status of spouse, etc.), the employee may change the FSA election.
- D. Deferred Compensation Plans, 401(a) and 457
Payroll deductions for 401(a) and 457 deferred compensation plans, if applicable, will be continued during FMLA/CFRA leave.

- E. If an employee fails to return to work after his/her leave entitlement has been exhausted, the Library will have the right to recover its share of health plan premiums for the entire leave period from the employee, unless the employee does not return because of the continuation, recurrence, or onset of a Serious Health Condition of the employee or his/her family member that would entitle the employee to leave, or because of circumstances beyond the employee's control. The Library may recover premiums through deduction from any sums due the employee (e.g. unpaid wages, vacation pay, etc.).

REINSTATEMENT UPON RETURN FROM LEAVE

- A. FMLA and CFRA provide for reinstatement to the similar position if the employee returns to work at the end of the 12-week (or shorter) leave. The employee has no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been working continuously during the FMLA/CFRA/PDL period.
- B. Reinstatement may be denied to certain “key” employees. “Key” employees are those among the highest paid 10 percent of all employees by the Library
- C. Return to Work Certification
A return to work certification from the employee’s health care provider will be required when the reason for any leave is the employee’s own serious health condition. When required, a return to work certification shall include a statement by the health care provider of the employee’s ability to perform the essential functions of the position.

Where reasonable job safety concerns exist, up to once every 30 days, the Library may require the employee to present a fitness-for-duty certification before allowing the employee to return to work from intermittent leave.

ATTACHMENT B: GUIDELINES and DEFINITIONS

DEFINITIONS

- A. *Family Member* means:
 - 1. Parent: The biological, foster, or adoptive parent, a stepparent or a legal guardian of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child. Parent does not include “parents-in-law”.
 - 2. Child: Biological, adopted, or foster child, a stepchild, a legal ward, or a child of an employee who is standing in loco parentis, who is either (i) under 18 years of age, (ii) or over 18 years of age and incapable of self-care due to mental or physical disability.
 - 3. Spouse: A husband or wife or domestic partner as defined or recognized under California law.

- B. *Serious Health Condition* means an illness, injury, impairment, or physical or mental condition that involves one of the following:
1. Hospital Care: Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (*i.e.*, inability to work, or perform other regular daily activities due to the Serious Health Condition, treatment involved, or recovery there from) or subsequent treatment in connection with such inpatient care.
 2. Absence Plus Treatment: Continuing treatment by a Health Care Provider, which includes a period of incapacity lasting more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition, provided the first visit to a Health Care Provider must occur within seven (7) days of the incapacity along with treatment (e.g. prescription medication), that also involves:
 - i. Treatment two or more times within thirty (30) days of the first day of incapacity by or under the supervision of a Health Care Provider; or
 - ii. Treatment by a Health Care Provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the Health Care Provider.
 3. Pregnancy: Any period of incapacity related to pregnancy or for prenatal care. (This condition qualifies for FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to Pregnancy Disability Leave.)
 4. Chronic Conditions requiring treatment which involves all of the following:
 - i. Requires periodic visits (twice or more per year for the same condition for treatment by a Health Care Provider ;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)
 5. Permanent/Long-term Conditions Requiring Supervision
 - i. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective; and
 - ii. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a Health Care Provider.
 6. Multiple Treatments (Non-Chronic Conditions)

A period of absence to receive multiple treatments (including any period for recovery there from) by a Health Care Provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment.

C. Health Care Provider means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. An individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a Serious Health Condition;
3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law;
4. Physician assistants, nurse practitioners, nurse-midwives and licensed clinical social workers who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law;
5. Any Health Care Provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a Serious Health Condition to substantiate a claim for benefits.

ATTACHMENT C: FORMS

Information on FMLA/CFRA/PDL is available on the Human Resources Page. Employees receive all applicable forms from Human Resources when notified of an absence.

APPENDIX: RELATED POLICIES

N/A