

COUNTY PROPOSAL  
OCAA NEGOTIATIONS

July 20, 2012

8/21/12

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Article IV (Leave Provisions)

Section 14. Family Leave

A. General Provisions

1. Family Leave shall be granted to the extent required by law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the federal Family and Medical Leave Act of 1993 (FMLA), and the regulations of the California Family Rights Act (CFRA). Unless otherwise provided by this Section, "family leave" under this Agreement shall mean leave pursuant to the FMLA and CFRA.

2. Family Leave may be used in the following situations:

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a. An employee's serious health condition which makes the employee unable to perform the functions of his/her job, except for leave taken for disability due to pregnancy, childbirth or related medical conditions;

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b. The birth of a child, and in order to care for the newborn child within one year of birth;

c. Placement of a child for adoption or foster care within one year of the placement;

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d. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child);

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e. Leave for a qualifying exigency arising out of the fact that the employee's spouse, child or parent is on covered active duty or called to active duty status in the Armed Forces.

f. Leave to care for a spouse, child, parent, or "next of kin" who is a covered servicemember of the Armed Forces who has a

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serious injury or illness incurred in the line of duty while on active military duty or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.

2. The County and OCAA agree that certain other types of leave available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The County may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.

3. Eligibility for Family Leave will be determined according to the requirements of applicable law.

4. Family leave shall not exceed twelve (12) work weeks for situations covered by subsection A(2)(a) - (d) above or twenty-six (26) weeks to care for a covered service member (subsection A(2)(e) and (f) above) during any calendar year. Where Family Leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

5. Leave taken under the FMLA for disability due to pregnancy shall run concurrently with leave taken under the California Pregnancy Disability Act. A family member may also be entitled to an additional twelve (12) weeks of bonding time under the CFRA.

6. The twelve (12) month period for calculating leave entitlement will be based on the calendar year (January 1 to December 31).

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7. When a request for Family Leave is approved, the Department shall determine whether sick leave, vacation, compensatory time and/or annual leave is to be applied. Such determination shall be consistent with other leave provisions of this Agreement. Regardless of the determination, an eligible employee may choose to substitute sick leave, vacation, annual leave or compensatory time for unpaid Family Leave. Paid leave will run concurrently with unpaid Family Leave when taken for an FMLA/CFRA qualifying event.

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## B. Notification Requirements

1. Employees shall provide at least 30 days verbal notice sufficient to make the agency/department aware that the employee needs Family Leave for reasons qualifying for Family Leave under this agreement or applicable law, and the anticipated timing and duration of the leave. Where 30 days advance notice is not practicable, notice must be given as soon as practicable.
2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no such case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.
3. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.
4. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to Department operations.
5. The agency/department will promptly (within two business days absent extenuating circumstances) notify an employee if leave is to be counted as Family Leave. Family Leave may not be retroactively designated by the agency/department as Family Leave or CFRA leave except as provided by law.

## C. Verification

1. As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his or her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.
2. Employees who request leave to care for a covered servicemember who is a child, spouse, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's injury or illness.

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3. The first time an employee requests leave because of a qualifying exigency, the employee is required to provide the County with a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active or called to active duty in a foreign country with the dates of active duty service. New active duty orders or similar documentation shall be provided to the County if the need for qualifying exigency leave arises out of a different active or call to active duty status of the same or a different covered military member.
4. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

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