

North Orange County Regional Occupational Program

Administrative Regulation

ROP AR 4361.8 (a)

Management Personnel

FAMILY CARE AND MEDICAL LEAVE

Introduction

The ROP provides:

1. Family care and medical leave for up to twelve weeks per year in accordance with California's Family Rights Act and the Federal Family and Medical Leave Act
2. Pregnancy leave for up to four months in accordance with California Fair Employment and Housing Act
3. Disability leave as required to reasonably accommodate employees with a qualified disability under the Americans with Disabilities Act ("ADA") or with a workplace injury
4. Use of six days of sick leave to care for an ill child, parent or spouse

Family Care and Medical Leave

Eligibility

To be eligible for family care and medical leave, an employee must (1) have worked for ROP for at least twelve months prior to the date on which the leave is to commence; and (2) have worked at least 1,250 hours in the twelve months preceding the leave.

Permissible Uses of Family Care and Medical Leave

"Family care leave" may be requested for:

1. The birth or adoption of an employee's child
2. The placement of a foster child with the employee

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3. The serious health condition of an employee's child, spouse, or parent
4. The serious health condition of the employee

A "serious health condition" is one that requires either in-patient care in a medical facility or continuing treatment or supervision by a health care provider.

Use of Paid Leave During Family Care and Medical Leave

Employees are required to use accrued vacation time and other paid personal leave (except sick leave) for all family care and medical leaves. Employees are required to use paid sick leave and extended sick leave only for the employees' medical leaves.

Amount of Leave

Provided all the conditions of this policy are met, an employee may take a maximum of twelve weeks of family care and medical leave in a 12-month period. The 12-month period commences on the first day on which the first family care or medical leave is taken. Spouses who are both employed by the ROP may take a maximum combined total of twelve weeks of family care leave in a 12-month period for the birth, adoption, or foster care of their child.

The use of paid leave during family care or medical leave does not extend the total duration of family care and medical leave to which an employee is entitled to beyond twelve weeks in a 12-month period. For example, if an employee has accrued four weeks of unused paid vacation time at the time of the request for family care or medical leave, that paid vacation time will be used for the first four weeks of family care or medical leave, leaving up to eight additional weeks of unpaid leave.

Family care leave taken for the birth, adoption, or foster care placement of a child must be commenced within one year of the birth, adoption, or placement and may not be taken intermittently, or on a reduced schedule without the approval of the Superintendent or designee. Family care or medical leave for the serious health condition of the employee's spouse, parent or child, may be taken intermittently or on a reduced schedule where medically necessary. If leave is taken intermittently or on a reduced schedule, the ROP retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits that better accommodates the employee's leave schedule.

Leave's Effect on Pay

Except to the extent that other paid leave is substituted for family care or medical leave, family care and medical leave is unpaid.

Leave's Effect on Benefits

During an employee's family care or medical leave, the ROP shall continue to pay for the employee's participation in the ROP group health plans, to the same extent and under the same terms and conditions as would apply had the employee not taken leave.

If the employee fails to return from the leave for a reason other than the recurrence or continuation of the health condition that brought about the leave or other circumstances beyond the employee's control, the ROP can recover any health premiums paid by the ROP on the employee's behalf during any unpaid periods of the leave.

Employees on family care and medical leave accrue employment benefits, such as sick leave, vacation benefits or seniority benefits (classified staff only), only when paid leave is being substituted for unpaid leave, and only if the employee would otherwise be entitled to such accrual.

Procedure for Requesting Family Care and Medical Leave**1. Notice Requirement**

Employees should notify the ROP of their request for family care or medical leave as soon as they are aware of the need for such leave. For foreseeable events, if possible, the employee must provide thirty calendar days' advance written notice to the ROP of the need for family care or medical leave. For events that are unforeseeable thirty days in advance, but are not emergencies, the employee must notify the ROP, in writing as soon as he or she learns of the need for the leave, ordinarily no later than two to three working days after the employee learns of the need for the leave. If the leave is requested in connection with a planned, non-emergency medical treatment, the employee may be requested to reschedule the treatment so as to minimize disruption of the ROP's business.

If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the ROP reserves the right to deny the taking of the leave until at least thirty days after the date the employee provides notice of the need for family care or medical leave.

All requests for family care or medical leave should include the anticipated date(s) and duration of the leave. Any requests for extensions of a family care or medical leave must be received at least five working days before the date on which the employee was originally scheduled to return to work and must include the revised anticipated return to work and must include the revised anticipated date(s) and duration of the family care or medical leave.

1. Medical Certification

Any request for medical leave for an employee's own serious health condition or for family care leave to care for a child, spouse, or parent with a serious health condition must be supported by medical certification from a health care provider. Employees must provide the required medical certification within fifteen calendar days after the ROP's request for certification, unless it is not practicable under the circumstances to do so. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave must also be supported by an updated medical certification.

The medical certification for a child, spouse, or parent with a serious health condition shall include:

- a. The date on which the serious health condition commenced;
- b. The probable duration of the condition;
- c. The health care provider's estimate of the amount of time needed for the family care; and
- d. The health care provider's assurance that the health care condition requires family care leave.

The medical certification for leave for the employee's own serious health condition shall include:

- a. The date on which the serious health condition commenced;
- b. The probable duration of the condition;
- c. A statement that, due to the serious health condition, the employee is unable to perform the functions of his or her position.

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In addition, the ROP may require the employee to obtain a second opinion from a doctor of the ROP's choosing at the ROP's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the ROP may require a third opinion, also at the ROP's expense, performed by a mutually agreeable doctor who will make a final determination. Before permitting the employee to return to work, the ROP shall require the employee to provide medical certification that he or she is able to return to work.

USE OF SICK LEAVE TO CARE FOR FAMILY MEMBERS

Employees may take paid sick leave to attend to an illness of a child, parent, or spouse. Employees may use six days of their available entitlement. Use of this sick leave entitlement does not have to be personal necessity leave; however, this leave will be counted as family care and medical leave. The first day of sick leave used will be the first day counted as family care and medical leave.

Employees must provide a medical certification for a child, spouse, or parent with a serious health condition.

PREGNANCY-RELATED DISABILITY

Any employee who is disabled because of pregnancy, childbirth, or related conditions may take a pregnancy-related disability leave of up to four months, in addition to any family care or medical leave to which the employee may be entitled.

An employee taking pregnancy-related disability leave must use accrued sick leave and accrued vacation and other paid personal leave. The use of paid leave for pregnancy-related disability leave does not extend the total duration of the leave to which an employee is entitled.

The provisions of the ROP Family Care and Medical Leave policy and administrative regulations regarding the leave's effect on pay, notice requirements, medical certification requirements and reinstatement also apply to all pregnancy-related disability leaves. For the purpose of applying those provisions, an employee's pregnancy-related disability is considered to be a serious health condition.

September 20, 2001