

TUALATIN VALLEY FIRE AND RESCUE
STANDARD OPERATING POLICY AND PROCEDURES
NUMBER 8.2.8

ORIGINATED AND APPROVED: 07-19-99

LAST REVISED DATE: 04-08-08

SUBJECT: FAMILY AND MEDICAL LEAVE OF ABSENCE

PURPOSE: To establish guidelines by which leave will be granted for family and medical leave for the purpose of the birth of a child, adoption or foster care, care for an immediate family member with a serious health condition, and/or the care of oneself due to a serious health condition.

POLICY: As per the Oregon Family Leave Act of 1995 (OFLA) and the Family and Medical Leave Act of 1993 (FMLA), eligible employees may take family and medical leave without penalty and will be granted the same, or equivalent, position upon return in accordance with the guidelines of this policy.

AUTHORITY AND RESPONSIBILITY: The Human Resources Department will administer and monitor the provision of family leave to all eligible employees. Employees with supervisory responsibilities will ensure the provision of family leave to all eligible employees, and all employees will take responsibility for notifying their supervisors when experiencing a “qualifying event,” as defined below.

DEFINITIONS: Unpaid leave of absence for up to 12 weeks is provided to eligible employees for certain family or medical reasons. This section describes family medical leave under both federal and state laws. If there are greater rights under state law, those state laws will apply. In practical terms, that means in most instances, Oregon family medical leave laws will apply (as coverage is broader under the state laws).

- I. **Eligibility:** Employees eligible for leave of absence under the FMLA must have been employed by the District for 12 months or more and have at least 1,250 hours of service during the 12 months immediately preceding the leave of absence. Under OFLA, employees must have been employed by the District for at least 180 days and worked an average of 25 hours per week in the previous 180 days to qualify for state family leave. Employees taking leave to care for a newborn, adopted, or newly-placed foster child only have to meet the 180-day employment requirement (regardless of the number of hours worked).
- II. **Qualifying Purposes:** Employees may request family and medical leave for:
 - A. The addition of a child to the family through birth, adoption, or placement by foster care ("parental leave");

- B. A serious health condition of the employee's spouse, child, parent, parent-in-law, or same-sex domestic partner;
- C. A serious health condition that prevents an employee from performing his or her job.
- D. For military families, employees may take up to twenty-six weeks of leave to care for spouses, children, parents, or next of kin who are service members with serious illnesses or injuries incurred during active duty in the Armed Forces.
- E. Any qualifying exigency arising from a spouse's, child's or parent's active duty in the Armed Forces, including an order or call to duty. Time limits for this FMLA leave are the same as for all other FMLA leaves (excepting II.D above).

Under Oregon law (OFLA), employees may also request family and medical leave for:

- F. The care of a minor child who is ill and requires home care, even if the child does not have a serious health condition, provided another family member is not willing and able to care for the child. Effective January 2008, OFLA may be used to care for grandparents and/or grandchildren with a serious health condition.

In addition to the basic 12-week family leave entitlement, employees may qualify for additional family medical leave under Oregon law in the following circumstances:

- G. 12-weeks leave for an illness, injury, or condition related to pregnancy or childbirth that disables the employee;
- H. 12 weeks of sick child leave for those employees who take 12 weeks of family leave as parental leave, provided the child does not have a serious health condition.
- I. The twenty-six weeks leave provision to care for an ill or wounded family member (see II.D above) is available only during one twelve-month period and is combined with all other FMLA leaves in that period. This results in a maximum total leave entitlement of twenty-six weeks for the twelve month period.

III. General Provisions:

- A. Notice: Employees are requested to give the District 30 days' notice of the need for leave when it is foreseeable by submitting a completed Form 8.2.8.a, *Request for FMLA*, to Human Resources. If the reason for the leave is unforeseeable, employees must give the District verbal notice within 24 hours of when the leave starts and submit a completed *Request for FMLA* to Human Resources as soon as possible. An employee should make a reasonable effort to schedule treatment for serious health conditions in a manner that does not unduly disrupt business operations.

- B. Twelve-Month Leave Period: The leave calculation year for family medical leave is 12 months, starting with the first day family leave is taken by the employee (12-month "looking forward" method). Paid and other leaves will run concurrently. Leave granted under state workers' compensation laws will be treated in accordance with the above laws and will run concurrently with FMLA; however effective January 2008, leave granted under state workers' compensation law may or may not run concurrently with OFLA.

Any accrued paid leave, such as vacation, personal leave, and accrued sick leave, must be substituted for unpaid family medical leave and taken before the remainder of family medical leave is taken as unpaid leave. An employee on family leave is entitled to utilize accrued paid leave as follows:

C. Leave Use:

1. Non-Bargaining Unit Employees: Non-bargaining unit employees will utilize any accrued vacation, personal, or sick leave during the period of family leave. The employee will designate the order of paid leave usage on the *Request for FMLA* form. In cases where such order is not provided, the District will reserve the right to determine the order of utilization.
2. Bargaining Unit Employees: Employees belonging to the bargaining unit will utilize accrued leave in the following order:
 - a. Serious Health Condition of Self: Any condition involving the employee's own serious health condition, as defined by this policy, will require an employee to utilize his or her sick leave accruals first, followed by personal leave and vacation.
 - b. Serious Health Condition of Others: Any qualified leave taken for the serious health condition of another as defined within this policy (e.g., for condition of spouse, child, etc.), may utilize up to two shifts (53-hour employees), 48 hours (48-hour employees), or 40 hours (40-hour employees) of sick leave first before utilizing personal leave, followed by vacation and then sick leave.
 - c. Parental Leave: For any qualified parental leave, as defined within this policy, the employee may utilize up to two shifts (53-hour employees), 48 hours (48-hour employees), or 40 (40-hour employees) of sick leave first before utilizing personal leave, followed by vacation and then sick leave.
 - d. Filling Shifts: The responsible Division Chief will delegate the filling of shifts vacated by FMLA.

Leave under OFLA runs concurrently with leave under FMLA in most circumstances.

- D. **Medical Certification:** The District will require a medical certification of serious health conditions of the employee or qualifying family members. The employee will be required to provide the certification by submitting Form 8.2.8c, *Medical Leave Certification*, in a timely manner, usually within 15 days of submitting the request for leave.

Under Oregon law, employees who use sick child leave on more than three separate occasions in a 12-month leave period may be required to provide medical documentation from the child's doctor to verify that the child was ill and required home care for all subsequent uses of sick child leave in the 12-month period.

- E. **Intermittent/Reduced Schedule Leave:** Intermittent or reduced schedule leave is not generally available for family leave used for birth, adoption, or foster placement, unless approved by the employee's supervisor. In other situations where intermittent or reduced schedule leave is available, employees may be temporarily transferred to available alternative positions that better accommodate intermittent or reduced schedule leave.

- F. **Reinstatement:** The District will require returning employees to provide a signed medical release or certification of fitness to return to work as outlined in SOG 8.5.3, *Fitness for Duty*, if the leave was for his or her own serious health condition. Generally, employees returning from leave will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms, unless their former position has been eliminated for bona fide business reasons where the employee may have no reinstatement rights. Before returning to work, employees will be required to contact the Sr. Benefits Administrator and may be required to have a fitness assessment by the Wellness Program Coordinator.

Employees returning to a light duty assignment must present the appropriate medical release form (located under the Human Resources section on the Forms page on the District Net) completed and signed by the treating physician to the Sr. Benefits Administrator.

Under Oregon law, reinstatement following Oregon Family Medical Leave is to the employee's former position, unless the position has been eliminated, in which case the employee is entitled to reinstatement to an available, equivalent job.

- G. **Continuation of Benefits:**
1. Employees on paid or unpaid leave are entitled to continue health benefits on the same terms and conditions as active employees for up to 12 weeks in a leave calculation year. The District may recover premiums paid on behalf of an employee who does not return to work for reasons other than a serious health condition of the employee or family member or other circumstances beyond the control of the employee.

2. Employees on unpaid FMLA leave will be required to remit to the District or the Northwest Firefighters Relief Association (NFRA) an amount equal to the employee portion of the insurance premium co-payment. If leave is unpaid, vacation and sick leave accruals cease until such time as the employee returns to work. There will be no adjustment made to seniority date as a result of an employee utilizing FMLA. Consistent with SOG 8.2.1, *Attendance and Leaves*, no PERS contributions will be made during unpaid family medical leave. Employees on FLMA are not entitled to rights, benefits, or position of employment other than the rights, benefits, and position that the employee would have been entitled to had the employee not taken the family leave.

- IV. Modified Work Assignments (Light Duty): When an employee becomes disabled due to a serious health condition or pregnancy/prenatal care, they may be eligible for a modified work assignment as per SOG 8.2.2, *Temporary Non-Hazardous / Modified Duty Assignment*.
- V. Americans with Disabilities Act: If an employee's disability due to a serious health condition becomes permanent and the employee falls under the protection of the Americans with Disabilities Act, provisions of that Act will apply. Upon the request of the employee, reasonable accommodation will be considered. If such reasonable accommodation is available and can be provided without placing an undue hardship upon the District, it will be granted to the employee.
- VI. Employer Postings: The District will provide information to all employees regarding their rights under FMLA and OFLA via District bulletin boards. Human Resources will ensure that each work site has the required information posted in an obvious location for all employees to see.

Initiating FMLA is time-sensitive for both the employee and the organization. Personnel should contact their supervisor or the Sr. Benefits Administrator for guidelines.

APPROVED:

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