

**ORANGE COUNTY SOCIAL SERVICES AGENCY
ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL**

Subject: Family Medical Leaves of Absence Eligibility Policy

Number: C 44

Approved:

Date: 02-13-07

I. PURPOSE

To establish a procedure for requesting, identifying, and granting family medical leaves of absence in accordance with the Federal Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), California Pregnancy Disability Leave (PDL), Parenthood Leave, Memoranda of Understanding (MOU), the Personnel and Salary Resolution (P&SR), and County of Orange policy.

II. POLICY

Non-discretionary leaves of absence shall be granted to eligible employees in any of the following situations:

1. The birth of a child of an employee and to care for a newborn
2. The placement of a child for adoption or foster care
3. The serious health condition of a parent, child, or spouse the serious health condition of a declared domestic partner or a child of the declared domestic partner (CFRA only)
4. The serious health condition of an employee which may prevent him/her from performing the duties of his/her position

Non-discretionary leaves of absence shall be approved unless the employee does not provide required documentation supporting eligibility or lacks eligibility for the leave(s) requested. Refer to the chart on Section III for eligibility requirements.

Upon completion of an approved leave of absence, the employee has the right to return to the same or equivalent position.

III. BACKGROUND

The County pays its normal share of health insurance premiums while an eligible employee is on an approved FMLA/CFRA leave. If the employee is not on FMLA/CFRA leave (or a paid leave status), (s)he is responsible for both the County and employee share of premiums while on leave without pay. The employee may contact Employee Benefits at (866) 325-2345 to speak with a qualified representative to discuss his/her financial obligations regarding health care benefits prior to beginning his/her leave. For information regarding health care costs, click on the current year's health plan rates at:

http://www.ocgov.com/hr/employeebenefits/county_employees.asp

For questions about an employee's individual leave, please contact the assigned SSA Human Resources and Career Development (HRCDD) Administrative Manager.

For an employee who is married to a County of Orange employee, the aggregate number of work weeks of leave may be limited to 12 work weeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child, or to care for a parent or declared domestic partner or child of a declared domestic partner with a serious health condition. This limitation does not apply to leave taken by either spouse/partner to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his/her own serious illness. The 12 weeks may be split in any way or taken simultaneously, e.g., 6 weeks each.

All types of leave must be considered in determining an employee's absence. The first 15 days of family medical leave will be considered Agency leave. If the leave of absence continues after 15 days, it will transition into official leave of absence.

IV. DEFINITIONS

LEAVES OF ABSENCE

Type of Leave:	Family Medical Leave Act (FMLA)
Reason for Leave:	<ul style="list-style-type: none">• Birth and bonding of a child• Placement of a child for adoption or foster care• Serious health condition of a parent, spouse or child of the employee• Employee's own serious health condition
Time Allowed:	12 weeks (480 hrs) per calendar year
Eligibility Requirements:	<ul style="list-style-type: none">• 12 months of service and worked at least 1,250 hrs in 12-month period before leave begins• Runs concurrently with all other family medical leaves, including parenthood, non-occupational disability, or workers' compensation
Type of Leave:	California Family Rights Act (CFRA)
Reason for Leave:	Same as FMLA with the following additions: <ul style="list-style-type: none">• Disability due to pregnancy not covered (CFRA leave will start after PDL)• Serious health condition of employee's declared domestic partner or a child of a declared domestic partner
Time Allowed:	12 weeks (480 hrs) per calendar year
Eligibility Requirements:	<ul style="list-style-type: none">• 12 months of service and worked at least 1,250 hrs in 12-month period before leave begins• Runs consecutively with Pregnancy Disability Leave (PDL)• Runs concurrently with all other family medical leaves, including parenthood, non-occupational disability, or workers' compensation
Type of Leave:	Parenthood Leave
Reason for Leave:	In connection with birth or placement for legal adoption of a child
Time Allowed:	6 months; one leave within any 12-month period
Eligibility Requirements:	<ul style="list-style-type: none">• New employee probation must be completed• Must begin within 6 months before or after an event• Runs concurrently with all other family medical leaves
Type of Leave:	Official Leave for Non-Occupational Disability
Reason for Leave:	Non-occupational disability including disabilities related to pregnancy and childbirth
Time Allowed:	6 months; one leave per 12- month period
Eligibility Requirements:	<ul style="list-style-type: none">• Employee has been paid for 6,240 hrs of County service• Runs concurrently with all other family medical leaves
Type of Leave:	Pregnancy Disability Leave (PDL)
Reason for Leave:	Disabled due to pregnancy, childbirth or a related medical condition
Time Allowed:	16 weeks per pregnancy
Eligibility Requirements:	<ul style="list-style-type: none">• No eligibility requirements other than pregnancy-related disability• If eligible, runs consecutively with CFRA• If eligible, runs concurrently with FMLA and Parenthood Leave
Employee expecting a child:	Under California law, a pregnant employee is entitled to Pregnancy Disability Leave (PDL). This type of leave benefits disabled employees ineligible for FMLA/CFRA or Parenthood Leave entitlements.

PDL is a time allotment (up to 16 weeks) reserved for an employee who is disabled due to pregnancy, childbirth, or related medical conditions/complications from the time of conception until, generally, 6-8 weeks after delivery. An employee may be entitled to PDL beyond 8 weeks after delivery if she has not already exhausted her allotment.

All medical conditions/complications requiring use of PDL time must be substantiated with a physician's note. An employee is only entitled to the amount of time (up to 16 weeks) needed to recover from a disabling condition or complication related to the pregnancy. PDL protects an employee's job position and enables her to return to the same position she left within 16 weeks.

V. PROCEDURE

A. Employee

An employee who is eligible for family medical leave of absence shall:

1. Notify his/her supervisor of the need for family medical leave at least 30 days in advance or immediately after the need for leave arises.
2. Submit appropriate documentation to the supervisor, including certification from health care provider supporting the need for family, medical, parenthood, pregnancy disability, or non-occupational disability leave. The certification must be submitted within 15 days of the request for leave and shall include:
 - a. A statement that the employee cannot perform his/her duties because of the employee's own serious health condition and the date the serious health condition began, the probable duration of the condition, and employee's expected return to work date, or
 - b. A statement that leave is needed by employee to provide care for an eligible family member, or
 - c. Sufficient documentation of the birth of a child or placement of a child for legal adoption.
3. Contact Employee Benefits at (866) 325-2345 to discuss employee's obligations regarding his/her health care benefits plan while on leave of absence.
4. Complete Section I of official County of Orange Leave of Absence (LOA) form (Attachment A) and forward it to supervisor.

B. Supervisor

The supervisor who has been informed of employee's request/need for family medical leave of absence (FMLA/CFRA) must respond in writing within two days of the request. He/she shall immediately:

1. Discuss reason for and duration of leave with the employee to determine if FMLA/CFRA applies. Consult with SSA/HRCDD regarding the type of leave, eligibility requirements, duration of leave, benefits, etc.
2. Telephone/email SSA/HRCDD at 541-7790 to ask if employee is eligible for FMLA/CFRA. SSA/HRCDD will immediately confirm or deny employee's eligibility.
3. Complete template memo (Attachment B), initial it, issue it to the employee, or mail it by certified post, and distribute copies of completed form as listed on the form.
4. If the employee has not submitted a completed LOA form, provide a blank LOA form for the employee to complete and submit.
5. Complete Section II of LOA form with necessary documentation. Recommend approval, denial or modification of leave request. Non-discretionary leaves of absence are normally approved unless employee does not provide documentation supporting eligibility or if the employee is ineligible. If the employee is not available, the supervisor may complete the LOA form and write in "employee not available for signature."
6. Forward completed form and documentation to the next managerial levels for final SSA Division approval.

7. Code employee timesheet with FMLV code, if applicable, from first day of absence through duration of leave (up to 12 weeks), whether or not accrued balances are used.
- C. Manager shall
1. Consult with SSA HRCD Administrative Manager, if necessary, regarding employee's eligibility for non-discretionary leave.
 2. Review the LOA form recommendation and complete Section III. A or III. B recommending approval, modification or denial of the request and forward documents to next managerial level/Deputy Director.
- D. Deputy Director shall review recommendation on the LOA form; complete Section III. A or III. B recommending approval, modification or denial of the request, and forward the documents to SSA Deputy Director/Division Director.
- E. Deputy Director/Division Director shall review the recommendation for approval, modification or denial and complete Section IV of LOA form; make the final Agency recommendation to approve, modify or deny request; and forward the completed form to SSA HRCD.
- F. SSA HRCD
1. The SSA HRCD Office Specialist shall
 - a. Obtain signature of SSA HRCD Administrative Manager/designee for approved or modified leave of absence.
 - b. Process and track approved or modified LOA form by inputting data into Advantage HR system. Bi-weekly report of inputted data is forwarded to Employee Benefits by County of Orange Human Resources Department.
 - c. Send employee a copy of approved LOA form and notification letter regarding procedures on health care benefits and returning to work.
 - d. Send an email to supervisor, Administrative Manager, and/or Deputy Director of approved leave of absence.
 2. SSA HRCD Administrative Manager shall
 - a. Review recommendation for denial of non-discretionary leave. Such leave may be denied only for failure to provide required documentation or lack of employee's eligibility.
 - b. Inform employee that if the documentation is missing, approval of the request for leave of absence is contingent upon the provision of all required documentation and set a deadline for the employee to provide documentation.
 - c. If documentation is not provided, prepare summary of circumstances leading to recommendation of the denial of the request for a leave of absence. Attach the summary to completed LOA form with documentation to the County of Orange Director of Human Resources Department for review of decision.
 - d. Track recommendation to the Orange County Director of Human Resources Department and respond to employee's questions regarding the denial of the request for a leave of absence.
 - e. If Director of Human Resources Department does not uphold Agency recommendation, inform supervisor and Administrative Manager and/or Deputy Director of the denial of the employee's request for leave of absence, the appeal process, and the result of the process.
 - f. Prepare a letter informing the employee of the denial of the request for a leave of absence by the County of Orange Director of Human Resources Department Provide information regarding the appeal process. Mail letter by certified post/return receipt.
- G. Return to Work

The employee on any non-discretionary leave of absence shall give notice to the supervisor and to SSA HRCD designated Office Specialist two weeks prior to the date of his/her return to work.

As stated in the notification letter sent by SSA HRCD, if the employee is returning from a medical leave due to illness, injury or pregnancy for more than 14 consecutive calendar days in length, the employee must make an appointment with Employee Health for a release to return to work. An employee who receives a work release for full duty may report directly to work on the scheduled return date. An employee who is released with work restrictions must return to the SSA/HRCD Office for arrangement to return to work. Continued absence without authorization for 3 consecutive working days may invoke the provision toward an automatic resignation.

VI. REFERENCES

Leaves of Absence, P&P C14

SSA Human Resources Supervisory/Management Handbook (
<http://admin/HR/Main/HRHandbook/HRHandbook.htm>)

VII. ATTACHMENTS

- A. County of Orange Leave of Absence Form
- B. Notification by Supervisor of FMLA/CFRA Eligibility

NOTES

Leaves of absence based on other discretionary or non- discretionary leaves other, than family medical leave, are covered by SSA Policies and Procedures, "C 14, Leaves of Absence. " Military leave is covered under "[C 26 Military Leave of Absence.](#)"

Declared domestic partner - Registered by the State of California's Secretary of State as a domestic partnership