

**CHAPTER 2: Administration and General Institution  
ADMINISTRATIVE PROCEDURE NO. 2.23.1 (7346)**

**ADMINISTRATIVE PROCEDURE  
San Mateo County Community College District**

**Subject:** AP 2.23.1 Leaves of Absence  
**Adoption Date:** 9/13  
**References:** Education Code Sections 87700, 87787, 87832 and 88192; Military and Veteran's Code Sections 389 et seq.; 38 U.S. Code Sections 4301 et seq.

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**TYPES OF LEAVES OF ABSENCE**

1. **Personal Business Leave of Absence**

Employees may request leaves of absence from duty for personal reasons that do not fall into any other type of leave. Personal business leaves are without pay and without District paid health benefits. This type of leave must be approved by the division/department administrator. Leaves of absence of thirty (30) or more days require Board approval.

2. **Family/Medical Leave of Absence**

The Family and Medical Leave Act (FMLA) and the California Family rights Act (CFRA) allow employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. Entitlement to Family and Medical Act provisions runs concurrently with all other applicable regulations.

a. **Eligibility**

- i. Employee must have at least twelve (12) months of service prior to requesting the leave of absence, and
- ii. Must have worked at least 1,250 hours during those twelve (12) months.

b. **Entitlement**

Leave of absence durations may be up to twelve (12) work weeks of unpaid leave during a rolling twelve (12) month period for one or more of the reasons listed below. A rolling twelve month period is defined by the twelve months following the first instance of an FMLA/CFRA leave usage measured backwards.

c. **Other**

- i. Spouses employed within the District are entitled to a combined maximum of twelve (12) work weeks of family leave for family care of employee's child, birth/adoption/foster care of a child, or an employee's parent with a serious health condition.
- ii. Employees may take FMLA leave in blocks of time, or by reducing work schedule.

d. **Reasons**

- i. **Serious health condition:** illness, injury (including on-the-job injuries), impairment, physical or mental condition that involves either:
  - In-patient care (i.e., an overnight stay) in a hospital, hospice, or residential health care facility
  - Continuing treatment (includes chronic conditions, long-term or permanent treatment or conditions and recovery) or supervision by a health care provider for absence of more than three (3) calendar days from work
  - Pregnancy or prenatal (regular doctor visits are not included)

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- ii. Family care for employee's spouse, domestic partner, son, daughter, parent or domestic partner's son, daughter or parent, who has a serious health condition.
- iii. Maternal/Paternal Leave
  - Leave for a birth or care of an employee's new born baby; or placement for adoption or placement for foster care of employee's child.
  - Leave may be taken prior to the birth/placement of the child under certain circumstances.
  - Leave must conclude within twelve (12) months of the birth or placement of the employee's child.
  - Foster Care: Voluntary placement of the child by a parent with a relative or guardian, absent State involvement, does not qualify for FMLA leave.
  - Disability related to pregnancy, child birth or related condition does not qualify under CFRA regulation.
  - CFRA count begins after birth of child for bonding purposes only.
  - For maternity leave, an employee is considered incapacitated for a period of six (6) weeks for a normal birth delivery and up to eight (8) weeks for caesarian section birth delivery following the birth of a new born baby.
  - The District provides twelve (12) months of maternity leaves without pay securing employment.
- iv. Pregnancy Disability Leave

The Pregnancy Disability Leave is for any period(s) of actual disability caused by employee's pregnancy, childbirth or related medical conditions up to four (4) months (or 88 work days for full time employees) per pregnancy regardless of the years of service employed.
- v. Family Military Leave
  - An employee who is the spouse, child or parent or next to kin to care for a service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to twenty six (26) weeks of leave of absence employment.
  - An employee's spouse, son, daughter or parent who is on active duty or has been notified of an impending call to active duty status, in support of a contingency operation due to any qualifying exigency (current provisions continue to be redefine) is entitled up to twelve (12) weeks of leave of absence.

### 3. Military Leave of Absence

To protect the employment rights of employees entering the armed forces of the United States and to ensure conformance with the applicable federal laws, the SMCCCD will grant thirty (30) days of paid leave of absence to all regular employees, who enter military service for active duty as a result of the following:

- a. Initial enlistment in the armed services of the United States
- b. Initial training period in the National Guard
- c. Activation of military service as a member of the Reserves or National Guard for an indefinite period or for a periodic training period up to ten working days
- d. Any service requirements under the Selective Service Act

There is no waiting period to be eligible for Military Leave. An employee should advise the District of their estimate return to work when requesting the leave and contact the supervisor at least two weeks prior to the expiration of the leave to discuss the return to work. Subject to the governing federal and state laws, employees are entitled to full re-employment rights.

## **EMPLOYEE RIGHTS**

### **1. Employee Notice**

Employees seeking family medical leaves of absence must provide:

- i. a thirty (30) day advance notice when the need is foreseeable
- ii. within one (1) or two (2) business days notice of having knowledge of an unforeseeable leave
- iii. within two (2) business days of returning to work for a qualified FMLA leave to count toward FMLA

Please review the Catastrophic Illness Leave Program Procedures for employee's own illness who have been diagnosed with a catastrophic illness. This information is available at

### **2. Confidentiality**

Pursuant to the Americans with Disabilities Act and additional regulations, written medical certifications that includes diagnoses is held in strictest confidence, thereby not shared by Human Resources with the immediate supervisor or administrator unless it has previously been disclosed to those individuals by the employee.

### **3. Medical Certification**

Family medical leaves of absence require a certification of health care provider form completed by a treating physician and must be submitted to the Human Resources Department within fifteen (15) calendar days. This verification supports the leave of absence and determines employee's rights of available paid leave when applicable. If the leave of absence extends beyond the projected length of time, an additional medical certification will be required for review to continue on an approved leave of absence. If accommodations need to be made due to a restricted work schedule or job duties, a medical certification must be received and reviewed by the department supervisor and Human Resources prior to the employee's returning back to work. Failure to supply a certification of health care provider form will result in an unapproved leave of absence and denial of a family/medical leave of absence.

### **4. Health Benefits**

For the duration of FMLA leave (12 weeks), the District will continue the employee's health coverage. District health benefits continue for five (5) calendar months following the expiration of all paid leaves for employee's own injury or illness. If the employee has a medical cap expense prior to the leave of absence, while on paid status, the over the cap amount will continue to be deducted from his/her paycheck. During the five (5) month health coverage continuation period, it is the employee's responsibility to pay their medical cap expense to the District directly. This amount is due the first of the month for that month coverage. If the leave of absence extends beyond the five (5) calendar month health coverage continuation period or the employee is not entitled to health benefits during their leave of absence, the employee may elect to continue health benefits (medical, dental, vision and life insurance) at employee's expense. District paid health benefits resume upon the employee's return to work at fifty (50%) percent or more of full time.

### **5. Compensation**

Approved family medical leaves, if applicable, may qualify the employee to use sick leave, vacation leave, compensation time, and/or extended sick leave/partial pay. Refer to the Collective Bargaining Agreements for details. Employee may continue to accrue vacation and/or sick leave while on paid status.

**Short-Term Disability:** Employees who are on an approved medical leave of absence for their own illness or injury, and who have exhaust their sick leave and the thirty (30) day waiting period may be eligible for short term disability (salary continuance) benefits regulated by Hartford Life Insurance Company. If approved for short term disability benefits, maximum wages received may be up-to two-

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third (2/3) of employee's monthly gross earnings. Hartford Life combines extended sick leave or partial pay with two-third (2/3) maximum wage benefit. Duration of wages is pursuant to company's policy.

##### 6. Return to Work

An employee has the right to be restored to his original job or to an equivalent job, identical to the original job in terms of pay, benefits, and other employment terms and conditions for all approved leaves of absence. The Family and Medical Leave Act require two (2) day notice before returning to work. However, the District would like to be notified by the employee two (2) weeks prior to returning to work. The Office of Human Resources may request a fitness for duty examination at the District's expense. Employee may also be allowed to return to work with job duties modification or work schedule restrictions with advance notice. The Human Resources Department will review the restrictions and notifies the employee whether or not approval has been granted to return to work. Approval is based on restrictions and job duties.

##### 7. Denial of Family/Medical Leave of Absence

Failure to supply a certification of health care provider form will result in an unapproved leave of absence and denial of a family/medical leave of absence. Falsification of information may result in an unapproved leave of absence and grounds for immediate termination. At the expiration of all applicable paid District leaves, employees may request up to three medically-verified leaves of six (6) months each, for a total of eighteen (18) months. For classified employees, denial of medical leaves of absence request may result in placement on the thirty-nine (39) month re-employment list, until such time that the employee is medically-released and fit to return to duty. Unapproved leaves of absences will result in separation of employment with the District.