

Suggested policy format and content. RTPA specific policies should be developed in consultation with RTPA Legal Counsel, Board of Directors and appropriate regulatory agencies.

6. Family Care and Medical Leave

I. Pregnancy Leave

Eligibility

An employee is eligible for Pregnancy Disability Leave (PDL) regardless of the length of time she has worked for RTPA. Further, an employee does not have to work full-time in order to be eligible.

Period of Pregnancy Disability Leave

RTPA will provide up to 4 months (defined as one-third of a year, 17¹/₃ weeks, or 693 hours) of disability leave to pregnant employees. PDL is required only when a woman actually is disabled. This includes time off for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, and any related medical condition. Generally, a woman is disabled if she is unable to perform one or more of the essential functions of her job without undue risk to herself or others. The medical opinion of the employee's health care provider will be used to determine whether she is disabled by pregnancy or a related medical condition. RTPA will require an employee to obtain from her health care provider medical verification of her inability to work due to pregnancy, childbirth, or a related medical condition.

Disability leave does not need to be taken at one time. Leave can be taken before or after the birth. All of the leave taken will be totaled in computing whether an employee has utilized the maximum 4 months of leave. Periodic absences for pregnancy-related illness of limited duration taken prior to childbirth may be subtracted from the 4-month maximum leave allowed by law for pregnancy-related disability.

Notice

If possible, an employee should provide RTPA with at least 30 days advance notice before PDL commences. The employee must provide the date her leave will commence and the estimated duration of the leave. If 30 days advance notice is impossible due to lack of knowledge, a change in circumstances, or a medical emergency, the employee should give notice to RTPA within 2 business days of learning of the need to take PDL.

Combining Pregnancy Disability Leave with CFRA Leave

Employees are entitled to take Pregnancy Disability Leave in addition to their leave entitlement under the California Family Rights Act ("CFRA"). An employee may take CFRA leave following Pregnancy Disability Leave. CFRA leave is not taken concurrently with PDL. Under the CFRA, an employee is entitled to 12 weeks of CFRA leave to bond with the baby (within 12 months of birth), to bond with an

adopted child (within 12 months of adoption), or care for a parent, spouse, or child with a serious health condition. More information regarding CFRA leave is provided in the following sections.

Combining Pregnancy Disability Leave with FMLA Leave

The federal counterpart to the CFRA is known as the Family and Medical Leave Act (“FMLA”). Generally, the FMLA provides up to 12 weeks of leave per year to bond with a baby during the first 12 months after birth, to bond with an adopted child within 12 months after adoption, or care for a parent, spouse, or child with a serious health condition. An employee cannot take 4 months of Pregnancy Disability Leave, 12 weeks of CFRA leave, and 12 weeks of FMLA leave consecutively, because FMLA leave is used concurrently with Pregnancy Disability Leave and CFRA leave.

More information regarding FMLA leave is provided in Section II of this policy.

Returning to Work

At the end of an employee’s authorized leave due to pregnancy, RTPA will return the employee to her former position, or if that position is unavailable, to a comparable position with no reduction in pay.

Benefits

RTPA will continue to pay health insurance premiums for an employee, to the extent those premiums normally were covered by RTPA, for a period of up to 4 months (over the course of a 12 month period) during a Pregnancy Disability Leave. The employee, however, will be responsible for paying for any excess premiums and for health benefits for dependents, supplemental life insurance, and flexible spending account amounts that normally are deducted from her paycheck. The time that the agency maintains and pays for health benefits during Pregnancy Disability Leave is in addition to the 12 weeks of health benefits that an employee is eligible for while taking leave under the CFRA. See discussion below for further information regarding payment for health insurance and other benefits during a leave.

While on Pregnancy Disability Leave (PDL), an employee must use her accrued Sick Leave (if available) and may choose to use her other accrued leave such as Vacation, floating holidays, and compensatory time in order to remain in a paid status and/or to supplement the employee’s Disability benefits. An employee also may decline to use accrued leave (with the exception of Sick Leave) while on PDL; this would not change the employee’s eligibility for health insurance benefits (described above) or Disability benefits. The ability to choose whether or not to use accrued leave time only applies when an employee is covered by PDL. If an employee remains on leave after her PDL is concluded (for example, CFRA, FMLA, or other approved leave), the employee will be required to use accrued leave in accordance with RTPA policies.

II. California Family Rights Act and Family And Medical Leave Act

Eligibility

To be eligible for family and/or medical leave under the CFRA or FMLA, an employee must have worked for RTPA for at least 12 months and have worked at least 1,250 hours over the previous 12 months by the

first day of their leave. Each time a new or renewed leave request under CFRA or FMLA is made, RTPA will determine whether an employee meets these two separate eligibility requirements.

Job-protected unpaid family and/or medical leave is available to eligible male or female employees for up to 12 weeks per 12-month period for the following reasons:

- Birth of a child and in order to bond with the child within 12 months after birth (applies to both parents);
- Placement of a child with the employee for adoption or foster care during the first 12 months after the child is placed with the employee (applies to both parents);
- Caring for an immediate family member with a serious health condition;
- Serious health condition that renders the employee unable to perform the functions of the employee's position.

A serious health condition is an illness, injury (including on-the-job injuries), impairment, or physical or mental condition of the employee, or of the immediate family member of the employee, that involves either: 1) in-patient care (i.e., an overnight stay) in a hospital, hospice, or residential care facility; 2) continuing treatment or supervision by a health care provider; or 3) conditions that incapacitate for more than three consecutive days and require ongoing medical treatment.

Certification of Serious Health Condition

RTPA requires written certification from the health care provider of the employee or immediate family member with a serious health condition on a form provided by RTPA. The certification does not require the health care provider to identify the type of serious health condition. The certification must include: 1) the date that the serious health condition commenced; 2) the probable duration of the condition; 3) an estimate of the amount of time the employee will need to care for himself/herself or the child, parent, or spouse; and 4) a statement that the serious health condition warrants participation of a family member to provide care during the period of treatment or medical supervision, or a statement that the employee, due to the serious health condition, is unable to perform one or more of the essential functions of his/her job. Additionally, if the need for leave is based upon the employee's own serious health condition, the certification must include an assessment by the health care provider, using the employee's job description, of whether the employee is unable to perform work of any kind, or a statement that the employee is unable to perform specific essential functions of his/her job.

An employee will have 15 calendar days to obtain the certification once RTPA requests it. If the employee fails to provide the certification or provides an inadequate certification, RTPA may deny the request for leave. RTPA may request recertification of eligibility for the leave as often as every 30 (thirty) days. Additionally, RTPA may request that an employee obtain a fitness-for-duty certification from his/her health care provider before the employee returns to work.

Returning to Work

At the end of an employee's authorized family and/or medical leave, RTPA will return the employee to his/her former position or, if that position is unavailable, to a comparable position with no reduction in pay.

Intermittent Leave

CFRA and FMLA leave do not need to be taken in one continuous period of time. An employee may take intermittent or reduced family and/or medical leave if the need for intermittent leave is certified by the health care provider treating the serious health condition of the employee or the employee's immediate family member.

Intermittent leave may be taken for the following reasons, with approval from a health care provider:

- For scheduled treatments, recovery from treatment, or recovery from illness.
- For periods of disability due to a chronic serious health condition such as asthma, diabetes, or epilepsy.
- To provide care for a child, parent, or spouse with a serious health condition.

Under the FMLA and CFRA, leave for the birth or adoption of a child that is not related to a serious health condition may not be taken intermittently or on a reduced leave schedule without written approval of the Executive Director.

If an employee requests an intermittent or reduced leave schedule, the employee is required to work out a schedule with their supervisor that meets the employee's needs without unduly disrupting RTPA operations.

Use of Accrued Sick, Vacation, Compensatory Leave, and Floating Holidays

Employees must use all accrued sick leave and/or paid time off while on family and/or medical leave. RTPA then requires the employee to use accrued vacation, compensatory time, and floating holidays while on family and/or medical leave for the serious health condition of an immediate family member or the employee. Unpaid leave will be granted if the employee does not have any accrued sick, vacation, paid time off or floating holiday..

Benefits

a. While on Paid Leave

RTPA will continue to pay health insurance premiums for an employee on family and/or medical leave, or if eligible for Cafeteria Benefits, out of the employee's Cafeteria Benefits allowance, while the employee is in paid status. RTPA also will continue to pay any other benefits the employee has authorized while the employee is in paid status. All insurance premiums normally paid by RTPA, such as vision, dental, and life insurance, will continue to be paid by RTPA while the employee is in paid status. Employees will continue to be responsible for payment of their usual deductions for any of their elected benefits while in a paid status. While an employee is in paid status, the employee will continue to accrue paid time off or vacation and sick leave hours at their usual accrual rate.

b. While on Unpaid Leave

If an employee must take family and/or medical leave in unpaid status, RTPA will pay the employee's health insurance premiums, to the extent those premiums normally were covered by RTPA, for a period of up to 12 weeks. The employee, however, will be responsible for paying any excess premiums for health benefits for dependents, supplemental life insurance, and Flexible Spending Account amounts that normally are deducted from his/her paycheck. The employee may forward the funds to RTPA to pre-pay these amounts each month. The employee also may wait

until he/she returns from an Unpaid Leave to repay their missed benefit contributions if permitted by RTPA based on an agreed upon payment schedule. An appropriate schedule of repayment may be created between the employee and the Director of Finance and Administrative Services if approved by the Executive Director. An employee cannot continue placing money into a deferred compensation plan while in unpaid status.

If an employee does not return to work after taking the unpaid leave, the employee will be responsible for reimbursing RTPA for the amounts paid by RTPA for the employee's insurance premiums during the employee's unpaid leave unless the reason the employee is not returning is due to the continuation, recurrence, or onset of a serious health condition or because of other circumstances beyond the control of the employee.

Concurrent Use of Leave Entitlements

If an employee requests leave for his/her own serious health condition or the serious health condition of an immediate family member, RTPA will designate the employee's leave as both CFRA and FMLA leave. An employee may not "stack" their leave by taking 12 weeks of CFRA leave and 12 weeks of FMLA leave separately in the same 12-month period. Except in the instance of Pregnancy Disability Leave, an employee's CFRA and FMLA leave will be used concurrently. With regard to Pregnancy Disability Leave, FMLA leave will be used concurrently with the Pregnancy Disability Leave. If an employee takes less than 12 weeks of Pregnancy Disability Leave and then requests CFRA leave to bond with the baby, the remainder of the FMLA leave will be used concurrently with CFRA leave.

Following is an example of how PDL, FMLA, and CFRA may run concurrently:

		First Day of Leave due to Disability																			
Week		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
State		PDL - Disabled due to conditions related to pregnancy (Not to exceed 17 1/3 weeks)								CFRA - Employee's own disability and birth of her child.											
Federal		FMLA - Employee's own disability and Birth of her child.																			

Calculation of the 12-Month Leave Period

Employees are entitled to take up to 12 weeks of leave under the FMLA and CFRA in a 12-month period. The 12-month period will be calculated using a rolling 12-month period measured backward from the date an employee uses any leave. For example, if an employee takes four weeks of leave in February and eight weeks between October and November, the employee will be eligible for leave again in February of the following year. The amount of leave available, however, will be only four weeks. The employee will not be eligible for the other eight weeks until the following October.

Notice

The employee must give their supervisor 30 days' notice in the event of a foreseeable leave, or as soon as practicable if the need for the leave is unforeseeable. The notice may be oral or in writing. The notice must provide enough information to RTPA so that RTPA can determine whether the employee is eligible for FMLA and/or CFRA leave.

Once a supervisor is informed of an event triggering an employee's entitlement to FMLA and/or CFRA leave, the supervisor must immediately notify the Director of Finance and Administrative Services. Events that trigger or may trigger an entitlement to FMLA and/or CFRA leave include: pregnancy, an employee's absence for more than three consecutive days or more than ten days in three months due to his/her own illness, an employee's request for time off for ongoing medical treatment, and an employee's absence for three or more days to care for a family member.

Duration of Leave

Full-time employees are entitled to 12 workweeks or 60 work days of 8 hours a piece per 12-month period. Eligible employees who work less than five days per week or who work a part-time or alternative work schedule are entitled to the number of working days that constitutes 12 workweeks on a pro rata or proportional basis.

There is no minimum duration for FMLA or CFRA leave taken for the serious health condition of the employee or of the employee's immediate family. The basic minimum duration for CFRA leave when the leave is taken for the birth of a child, adoption, or foster care placement is two weeks. The employee may request an exception to this two-week requirement. Leave taken for the birth, adoption, or foster care placement of a child must be completed within one year after the qualifying event.

In the event both parents are employed by RTPA and eligible for FMLA or CFRA leave for the birth, adoption, or foster care placement of their child, RTPA may limit the parents' leave entitlement to a combined total of 12 weeks in a 12-month period.

Employees who do not return to work within three work days after an approved leave or certification has expired may be considered to have abandoned their job by RTPA. Failure to report to work following an approved leave or certification has expired may lead to discipline of the employee up to and including termination at the agency's discretion.

III. Accommodation

If an employee's health care provider certifies that the employee is in need of an accommodation due to a serious health condition, RTPA will attempt to make a reasonable accommodation for the employee. If an employee believes he/she is entitled to an accommodation, he/she must request accommodation from his/her supervisor, the Director of Finance and Administrative Services, or the Executive Director. RTPA will act in compliance with all applicable laws, including the Americans with Disabilities Act and Fair Employment and Housing Act.

IV. Military Exigency Leave

Eligibility

An otherwise FMLA-eligible employee will be qualified for Military Exigency Leave (MEL) if his/her spouse, son, daughter, or parent is on active military duty, or has been called to active duty in a "contingency" military operation that requires deployment to a foreign country. MEL is a type of FMLA leave. A "son or daughter" on active duty or called to active duty includes a child of any age.

MEL is available to family members of the Regular Armed Forces, the National Guard, and Reserves. It may also be available to certain retired members of the Regular Armed Forces and the retired Reserve.

Leave Entitlement

RTPA will grant job-protected unpaid MEL when an employee's spouse, child, or parent is on active duty (or has been notified of an impending call or order to active duty). Eligible employees are entitled to up to 12 workweeks of unpaid leave in a 12-month period to deal with "any qualifying exigency" related to or affected by the family member's call to service or active duty. Any period of leave taken for MEL is counted against the employee's overall

12-week leave entitlement. As with other types of FMLA leave, the 12-month period will be calculated using a rolling 12-month period measured backward from the date an employee uses any MEL. For example, if an employee takes

4 weeks of MEL, he/she will then have 8 weeks of MEL/FMLA leave left in that same 12-month period to care for a family member or to care for themselves in case of a serious health condition. MEL may be taken intermittently or on a reduced leave schedule.

Exigency leave applies only to a federal call to active duty.

A military leave will meet the definition of a "contingency" military operation if (1) it has been designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(2) results in the call or order to, or retention on, active duty members of the National Guard and Reserve under the law during a war or national emergency declared by the President or Congress.

What qualifies as an "exigency?"

- Short Notice Deployment
- Military Events and related activities
- Child Care and School Activities
- Parental Care
- Financial and Legal Arrangements
- Counseling
- Rest and Recuperation (R&R) Leave for a Military Member (maximum of 15 calendar days)
- Post-Deployment Activities
- Additional activities that demand the attention of the employee due to the contingency military operation.

Certification

Employees must provide specific information to the Director of Finance and Administrative Services, such as a copy of the covered military member's orders or call to duty and the dates of the military member's active duty service, in order to certify eligibility for MEL. Additionally, an employee will be required to provide a signed statement or description of facts regarding the exigency underlying each leave request.

Benefits

RTPA will pay the employee's health insurance premiums to the extent those premiums normally were covered by RTPA for a period of up to 12 weeks. The employee, however, will be responsible for paying for any excess premiums and for health benefits for dependents, supplemental life insurance, and flexible spending account amounts that normally are deducted from his/her paycheck. The employee may forward the funds to RTPA to pre-pay these amounts each month. The employee also may wait until he/she returns from an Unpaid Leave to repay their missed benefit contributions if permitted by RTPA based on an agreed upon payment schedule. An appropriate schedule of repayment may be created between the employee and Director of Finance and Administrative Services if approved by the Executive Director. An employee cannot continue placing money into a deferred compensation plan while in unpaid status.

Use of Accrued Sick, Vacation, Paid Time Off, Compensatory Leave, Floating Holidays

Employees must use all accrued sick leave and/or paid time off while using MEL. RTPA then requires the employee to use accrued vacation, compensatory time, and floating holidays while using MEL. Unpaid leave will be granted if the employee does not have any accrued sick, vacation, paid time off, floating holidays, or compensatory time.

V. Military Caregiver Leave

Leave Entitlement

RTPA will grant job-protected unpaid Military Caregiver Leave (MCL) to an eligible employee who is the spouse, son, daughter, parent, or "next of kin" of an injured military member for up to 26 workweeks in a single 12-month period to provide care for that family member. The 26-week period is applied on a "per-military member, per-injury basis." MCL is a type of FMLA leave.

A "Military Member" is any member of the regular Armed Forces, or the National Guard or Reserve, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. "Military Member" does not include retired military service members unless they are on the temporary disability retired list, nor does it include discharged military members. Employees also may take Caregiver Leave to care for a veteran service member who is undergoing medical treatment, recuperation, or therapy for serious injury or illness that occurred any time during the five years preceding the date of treatment.

A different 12-month period applies to MCL than for other forms of FMLA leave. The 12-month period applicable to MCL begins on the first day the eligible employee takes such leave and ends 12 months after that date, regardless of the separate 12-month period used to determine other FMLA leave.

Leave may be taken intermittently or on a reduced leave schedule when medically necessary.

Next of Kin

Next of kin is defined as the service member's nearest blood relative other than the spouse, parent, son, or daughter, in the following order of priority: (1) blood relatives who have been granted legal custody of the service member by court decree or statutory provision; or (2) brothers, sisters, grandparents, aunts, uncles and first cousins, unless the service member has specifically designated, in writing, another blood relative for purposes of this leave.

Certification

In order to qualify for MCL, an employee must provide the Director of Finance and Administrative Services either the invitational travel orders, invitational travel authorizations, or a Department of Labor-approved certification form completed by a Department of Defense (DoD) health care provider, a Veterans Affairs healthcare provider, a DoD TRICARE authorized provider, or a DoD non-network TRICARE authorized provider.

Benefits

RTPA will pay the employee's health insurance premiums to the extent those premiums normally were covered by RTPA for a period of up to 12 weeks. The employee, however, will be responsible for paying for any excess premiums and for health benefits for dependents, supplemental life insurance, and flexible spending account amounts that normally are deducted from his/her paycheck. The employee may forward the funds to RTPA to pre-pay these amounts each month. The employee also may wait until he/she returns from an Unpaid Leave to repay their missed benefit contributions if permitted by RTPA based on an agreed upon payment schedule. An appropriate schedule of repayment may be created between the employee and Human Resources if approved by the Executive Director. An employee cannot continue placing money into a deferred compensation plan while in unpaid status.

Use of Accrued Sick, Vacation, Paid Time Off, Compensatory Leave, and Floating Holidays

Employees must use all accrued sick leave and/or paid time off while using MCL. RTPA then requires the employee to use accrued vacation, compensatory time, and floating holidays while using MCL. Unpaid leave will be granted if the employee does not have any accrued sick, vacation, paid time off, floating holidays.