Family and Medical Leave Guidelines
California Family Rights Act (CFRA), Family Medical Leave Act (FMLA), Fair Employment and Housing Act (FEHA), Temporary Family Disability Insurance and Labor Code Section 233 – Sick Leave to Attend Family

1. Policy Statement
In accordance with employee MOUs and the District’s Employee Handbook Section 6.10, it is the policy of the Soquel Creek Water District to comply with the provisions of the California Family Rights Act (CFRA), the Federal Family and Medical Leave Act (FMLA,) as well as other provisions under the law governing leaves (including the Fair Employment and Housing Act (FEHA), Temporary Family Disability Insurance and Labor Code Section 233 – Sick Leave to Attend Family.) These acts require the District to grant Family and Medical Leave to employees who meet certain eligibility requirements. Employees may not be counseled or disciplined for using entitled and eligible leave under these provisions. Employers may not discourage, interfere with, or retaliate against employees covered under these provisions.

A. The District will notify employees regarding their rights and benefits under these provisions upon receiving information that may indicate an employee is, or may be, absent for a qualifying reason.
B. Upon request, an employee must supply the District with information regarding the purpose and nature of the leave. Upon review of this information, the District will confirm whether or not the leave qualifies as Family and Medical Leave and notify the employee regarding his or her rights and benefits within five (5) business days absent extenuating circumstances. If the leave is denied, the notice will include the reason for the denial.
C. In certain circumstances the District may designate all known qualifying periods of leave as the employee’s Family and Medical Leave.
D. Depending on the circumstances, this designation may be made after the leave has begun, but with notice to the employee. The leave may be designated as Family and Medical Leave retroactive to the start of the leave if appropriate.
E. These guidelines do not supersede any MOU/labor agreement(s) or the District’s policy contained in the Employee Handbook.

2. Employee Eligibility
A. Employees are eligible for protections under the FMLA/CFRA under the following conditions:
   1. The employee has been employed with the District for any period(s) (including temporary work) totaling at least twelve (12) months within the last seven (7) years; and
   2. The employee has worked at least 1,250 hours during the previous twelve (12)-month period.
B. Independent contractors do not qualify for family medical benefits under this policy.

3. Duration of Leave
A. Employees may take a maximum of twelve (12) workweeks of Family and Medical Leave during any twelve (12)-month period. The twelve (12) month period begins at the commencement of the initial leave period.
B. Approved holidays count against the Family and Medical Leave.
C. Intermittent Leave:
   1) If medically required, employees may take leave in blocks of time, or by reducing their
      normal weekly or daily work schedule.
   2) For bonding leave with newborns, leave must be completed within the first twelve (12)
      months of birth or adoption for a minimum of two (2) weeks at a time except that on two
      (2) occasions an employee may take a leave of at least one (1) day but less than two (2)
      weeks.
   3) Where leave is taken because of the birth or the placement of a child for adoption or foster
      care within the first twelve (12) months, intermittent leave may be taken only if the
      employer agrees.
   4) Employees needing intermittent leave must schedule their leave as much as possible at a
      time not to disrupt the department’s business operation. Employees must make a reasonable
      effort to schedule appointments during lunch or before or after work so as to not unduly
      disrupt District operations.
   5) Employees must follow call-in procedures for intermittent leave.
D. Spouses, registered domestic partners who are both employed by the District are entitled to a
   combined total of twelve (12) paid and/or unpaid workweeks of leave for the birth or
   placement for adoption or foster care of the employees’ child.

4. Reasons for Which Leave May be Taken
Employees may take a maximum of twelve (12) paid and/or unpaid workweeks of Family and
Medical Leave during any twelve (12)-month period for one or more of the following reasons:
A. The birth of a child of an employee, and to care for a newborn child subject to the provisions
   of Section 3 above (expires within twelve (12) months of the birth);
B. The placement of a child with an employee for adoption or foster care subject to the
   provisions of Section 3 above (expires within twelve (12) months of placement);
C. Care for the employee’s spouse, registered domestic partner, child, parent or parent-in-law
   with a serious health condition and/or inpatient care (grandparents (unless identified as an “in
   loco parentis” relationship) are specifically excluded from the definition of parent); or
D. Serious health condition and/or inpatient care that makes the employee unable to perform the
   functions of the employee’s position.
E. Military Exigency Leave (see Section 13 of this policy for specifics).
F. Military Caregiver Leave (see Section 14 of this policy for specifics).

5. Coordination of FMLA, CFRA and Pregnancy Disability Leave (PDL)
The right to Pregnancy Disability Leave under state law is separate and distinct from Family and
Medical Leave under this policy. An employee is entitled to take up to four (4) months of
Pregnancy Disability Leave under the California Fair Employment and Housing Act (FEHA). An
employee who is physically and mentally capable of returning to work before the expiration of
the four (4) months is not entitled to a full four (4) month leave of absence for pregnancy
disability. There are no minimum employment qualifications for an employee to use Pregnancy
Disability Leave but certification from a physician is required.
A. Pregnancy disability leave will be designated as Family and Medical Leave under FMLA in
   accordance with Section 3 of this Policy.
B. An employee is also entitled to Family and Medical Leave under CFRA to care for a newborn child once the pregnancy disability leave ends. If Family and Medical Leave under FMLA is not exhausted, then it will run concurrently with CFRA until FMLA is exhausted.

C. Family and Medical Leave under CFRA cannot begin until pregnancy disability leave ends. Family and Medical Leave under FMLA, however, run concurrently with pregnancy disability leave.

D. An employee who takes pregnancy disability leave that is also FMLA leave does not need to re-qualify when taking CFRA leave for the birth of the child.

6. Request and Advance Notice Requirements
Employees must provide thirty (30) calendar days advance notice if the need for Family and Medical Leave is foreseeable. When thirty (30) days’ notice is not possible, the employee must provide the requested certification to the District as soon as practicable or within fifteen (15) days after the qualifying event. The employee must make a reasonable effort to schedule the Family and Medical Leave to avoid disruption to the operations of the District.

7. Health Care Provider Certification
A. For Family and Medical Leave due to serious health conditions, the District requires that an employee provide certification from a health care provider. The statement should not include a diagnosis or description of the medical condition, but must include the following:
   1) The employee has a serious medical condition that prevents the employee from working;
   2) The date on which the serious health condition of the employee or family member started;
   3) The probable duration of the condition;
   4) The estimated time for care of the family member if applicable; and
   5) A statement that a qualifying family member (Section 4) has a serious health condition which warrants the participation of the employee to provide family care during a period of treatment or supervision.

B. Requests for additional time beyond that originally estimated must be supported by a new certification from a health care provider.

C. For intermittent or reduced leaves, new certification may be required every thirty (30) calendar unless the medical provider note gives a longer duration of treatment. If the duration is longer than six (6) months, or “lifetime,” a new medical provider note may be required every six (6) months.

D. If certification is incomplete or insufficient, the District will first attempt to have the employee fix deficiencies within 15 (fifteen) days of the notice of deficiency. The District may contact the employee’s medical provider to seek clarification or to authenticate the medical certification submitted. A District Management Representative or a Human Resources Representative may contact an employee’s medical provider, but in no circumstances will the immediate supervisor contact the medical provider. The employee shall be notified of such contact.

8. Leave Usage
A. Other than for Pregnancy Disability Leave (PDL), FMLA and CFRA leave will run concurrently with all other qualifying leaves.
B. For the employee’s medical leave the employee must exhaust paid leave, e.g. sick leave, compensatory time, personal leave, vacation, prior to any use of leave without pay unless a labor agreement provides otherwise.

C. For all other Family and Medical Leaves, employees may exhaust qualifying sick leave, and must exhaust paid compensatory time, personal leave, vacation, prior to any use of leave without pay unless a labor agreement or statute states otherwise.

9. Benefits (Medical, Dental, Vision Care, Basic Life Insurance) Under Family and Medical Leave
   A. Employees on leave without pay status during FMLA/CFRA Leave, will be provided benefits at the same level as if the employee were continuously at work during the entire leave period to a maximum of twelve (12) paid/unpaid workweeks.
   B. The total entitlement for benefits under FMLA/CFRA Leave, whether paid or unpaid, will not exceed twelve (12) workweeks, subject to the provisions of appropriate labor agreements and except in case of pregnancy disability or Military Leaves described in sections 13 & 14 below.
   C. In the case of pregnancy disability or Military Leaves described in sections 13 & 14 below, employees may be entitled to additional benefits coverage.
   D. Employees responsible for the payment of premiums will be required to continue such payment while on leave.
   E. Employees, who resign, retire or are terminated without returning from FMLA/CFRA Leave, may be required to reimburse the District any premiums paid on their behalf by the District while on unpaid status.
   F. An employee who fraudulently obtains or uses CFRA leave is not protected by CRFA’s job restoration or maintenance of health benefits provisions.
   G. The time that an employer maintains and pays for group health coverage during Pregnancy Disability Leave (PDL) does not count towards the obligation to pay for up to 12 weeks of group health coverage during CFRA leave, even where PDL qualifies for FMLA leave.

10. Job Restoration
    A. Upon return from Family and Medical Leave, an employee shall be restored to the position held by the employee when the Family and Medical Leave began, or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment, unless employment would have ceased regardless of leave.
    B. In addition, an employee’s use of Family and Medical Leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using the leave, or for disciplinary purposes.
    C. An employee who fraudulently obtains or uses CFRA leave is not protected by CRFA’s job restoration or maintenance of health benefits provisions.

11. Temporary Family Disability Insurance (Partial Wage Replacement)
    A. An employee may be eligible for a partial wage replacement benefit for unpaid Family and Medical Leave taken by the employee. (Paid Family Leave: California Unemployment Insurance Code sections 3300 et seq.)
    B. The District will provide information regarding the rights and benefits under Paid Family Leave to each employee taking family leave under this policy.
C. It is the employee’s responsibility, however, to submit claims for benefits under the Paid Family Leave program directly to the California Employment Development Department (EDD). The EDD is responsible for determining whether or not the employee has provided the required documentation for the claim.

12. Sick Leave to Attend Family
A. District MOU agreements set forth that employees may use their paid sick leave accruals for illness or preventive care of a family member or treatment of an existing health condition for a family member.
B. As identified in Section 4 above, eligible family members are defined as the employee’s spouse, registered domestic partner, child or parent.
C. This leave runs concurrently with FMLA/CFRA Leave and other leaves guaranteed under labor agreements.
D. An employee must provide the name and relationship of the person for whom the leave is requested.
D. An employee may not be disciplined for using leave under Labor Code Section 233.

13. Military Exigency Leave
A. Family and Medical Leave requirements generally apply.
B. An employee may take up to 12 workweeks of unpaid, job-protected leave during any 12-month period for a qualifying exigency that arise when the employee’s spouse, domestic partner, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.
C. The District may require the employee to provide a copy of the family member’s active duty orders or other reasonable documentation. This information may only be required once per family member.
D. An Exigency Leave is not a 12 workweek entitlement in addition to the standard 12 workweek Family and Medical Leave entitlement.
E. An Exigency Leave may be taken on an intermittent basis.
F. Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member’s absence.
G. Other Family and Medical Leave requirements apply to military caregiver leaves.

14. Military Caregiver Leave
A. An eligible employee may take up to a total of 26 workweeks of unpaid, job-protected leave during a “single 12-month period” to care for a covered service member with a serious injury or illness. The employee must be the spouse, domestic partner, son, daughter, parent, or next of kin of the covered service member.
B. The “next of kin” of a current service member is the nearest blood relative, other than the current service member’s spouse, domestic partner, parent, son or daughter, in the following order of priority:
   1. a blood relative who has been designated in writing by the service member as the next of kin for FMLA purposes.
   2. blood relative who has been granted legal custody of the service member
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3. brothers and sisters
4. grandparents
5. aunts and uncles
6. first cousins

C. The District may require an employee to provide reasonable documentation of the family relationship.

D. International Travel Orders (ITO) and International Travel Authorizations (ITA) may be required as certification equal to medical certification.

E. Employees may take this leave on an intermittent basis.

F. This 26 workweek entitlement is a one-time entitlement with its own 12-month period as distinct from the 12 workweek civilian entitlements with its own 12-month period addressed in Section No. 3 above. However, an employee is not entitled to 26 weeks of leave to care for a family member under the Military Caregiver Leave provision, plus an additional 12 weeks of leave for other FMLA qualifying reasons.

G. “Covered service member” is either:
   • a current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or
   • a veteran of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service member.

H. For a current service member, a serious injury or illness is one that may render the service member medically unfit to perform his or her military duties. For a veteran, a serious injury or illness is one that rendered the veteran medically unfit to perform his or her military duties, or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran’s ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

15. FMLA/CFRA Fraud is Prohibited
An employee who fraudulently obtains Family and Medical Leave from the Soquel Creek Water District is not protected by the FMLA’s or the CFRA’s job restoration or maintenance of benefits provisions. In addition, the District will take all such available appropriate disciplinary action against an employee due to fraud.

For additional details, please refer to the California Family Rights Act (CFRA), the federal Family and Medical Leave Act (FMLA), U.S. Department of Labor (Wage and Hour Division), the California Fair Employment and Housing Act (FEHA), Temporary Family Disability Insurance or Labor Code Section 233 – Sick Leave to Attend Family.