

COUNTY OF INYO

FAMILY CARE LEAVE POLICY

1. Introduction

It is the policy of the County to provide family care and medical leave to its employees in accordance with the California Family Leave Act and the Federal Family and Medical Leave Act. These provisions apply to all eligible employees, both full-time and part-time, who have a year or more of continuous service with the County.

2. When Leave May Be Taken

Family care leave may be taken for the purpose of:

- a. the birth of the employee's child
- b. the placement of a child with the employee through adoption or foster care
- c. an employee's need to care for a spouse, child, or parent with a serious health condition,
or

Medical Leave may be taken when an employee's own serious health condition renders the employee unable to perform the functions of his or her job.

3. Definitions

Child includes a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing "in loco parentis".

Parent includes biological, foster, or adoptive parent, a stepparent, legal guardian, or person having stood "in loco parentis" to employee.

Serious health condition or illness is limited to an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of treatment or supervision and involves either 1) inpatient care in a hospital, hospice, or residential health care facility; or 2) continuing treatment or continuing supervision by a health care provider. It specifically does not include short-term minor injuries and illness for which sick leave may be utilized.

4. Amount of Leave

Family Care Leave - provided all the conditions of the policy are met, the County, upon request, will grant an employee 12 weeks of family care leave in any 12-month period (Federal Law).

Medical Leave -An employee who requests family care leave because of his or her own serious health condition is limited to 12 weeks in any 12-month period.

Sick leave, vacation, and flex days may be used during family care leave. Sick leave must be used first when medical leave is taken. Unpaid leave beyond the 12-week family care leave must be approved by the Board of Supervisors.

5. Family Care Leave Taken Concurrently with Maternity Leave

In the event an employee has taken the maximum four-month maternity leave that California law requires employers to provide, the total amount of family care and maternity leave granted to the employee combined shall not exceed seven months.

6. Restrictions on Leave Available to Parents for Childbirth, Adoption, or Foster Care

An employee's option to take leave to care for a newborn, adopted, or foster child expires one year after the birth or placement of the child with the employee. Thus, an employee must commence leave within a year of the child's birth or placement or else forfeit the option.

In the event both parents are employed by the County, they are limited to a combined leave which does not exceed the maximum amount available to one employee, if leave is requested with regard to the birth, adoption, or foster care of the employees' child. In addition, the County may refuse to grant one parent employee's request for leave if it would result in both parent employees being on leave at the same time.

These limitations do not apply, however, to leave requested by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or in the event of the employee's own serious illness. Under these circumstances, each employee may simultaneously take the maximum amount of leave available.

7. Leave's Effect on Pay and Benefits

Employees on family care or medical leave are not entitled to any continued salary during the leave period. The County will continue to pay the employees' health insurance premiums for the first 12 weeks of such leave.

However, should an employee voluntarily terminate from the County while on family care or medical leave (for reasons other than the need to provide continuing care for an ongoing serious health condition affecting the employee's spouse, child, or parent, or in the event an ongoing serious health condition affecting the employee prevents his/her return to work), then the County may collect the cost of the premiums from the employee.

After the first 12 weeks of leave an employee may at his or her own expense elect to continue health insurance benefits.

8. Intermittent or Reduced Leave

Employees need not take leave continuously when leave is considered "medically necessary" for the purpose of caring for a seriously ill spouse, parent, or child, or in the event of the employee's own serious illness. Under such circumstances leave may be taken intermittently (hours, days, weeks, etc.) or on a reduced leave schedule (half days, half weeks, etc.). The County will deduct from an employee's pay the amount of time off from work.

The County reserves the right to temporarily transfer an employee to an alternative position with equivalent pay and benefits, in the event the position better accommodates the employee's intermittent leave and the employee is qualified to perform the job functions.

9. Job Protection

As mandated, family care and medical leave does not constitute a break in service. The employee will be returned to the same or to a comparable position upon termination of the leave. Moreover, the employee shall retain that same seniority that the employee possessed at the time the leave commenced for the purpose of layoff, recall, promotion, job assignment, and seniority related benefits. Seniority shall not continue to accrue during the leave period.

The County may deny reinstatement to any "key" employee if necessary to prevent substantial and grievous economic injury to the County. A "key" employee refers to any employee who, on the date of the request for leave, is either one of the five highest paid employees, or whose gross salary is among the top ten percent of employees. An employee will be notified of his/her status as a key employee if there is any possibility that reinstatement may be denied at the end of the leave period. Should the employee still decide to take leave, the County will continue to pay the employee's health benefits until the expiration of the maximum leave period.

10. Procedure for Requesting Family Care Leave

To the extent that leave is foreseeable or based on planned medical treatment, an employee is required to notify the County as soon as he/she is aware of the need to take leave, and if practical, must try to schedule the leave so as to minimize disruption to County operations.

The leave request should be written to the department head and include the anticipated date and duration of the family care or medical leave. Upon request, the employee will be required to obtain a medical certification of the serious health condition requiring leave from the "health care provider" treating the individual. A health care provider includes any licensed physician, osteopath, or other health care provider designated by the Secretary of Labor. An acceptable certification will include:

- a. the date on which the serious health condition commenced;
- b. the probable duration of the condition;
- c. the health care provider's estimate of the amount of time needed for family or medical leave; and
- d. the health care provider's assurance that the health care condition requires family or medical leave.

If the employee's family or medical care leave extends beyond the period indicated in the original medical certification, the County may request an updated certification. In addition to a medical certification, the employee shall be responsible for informing the County, as far in advance as possible, of the date upon which the leave is expected to be completed, or any extensions of the anticipated leave completion date.

Should the employee fail to return to work upon the expiration of the leave period without obtaining an extension, the employee will be considered to have voluntarily terminated her/her employment with the County.