



HEALTH RESEARCH ASSOCIATION

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POLICY

Subject: FAMILY LEAVE ACT	Issued By: HUMAN RESOURCES
	Approved By: Kathleen R. Hurtado President & CEO

Policy #: 504.1	Issue Date: July, 1999	Revised Date: July 17, 2005	Effective Date: August 1, 2005
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Reference:
The LAC + USC Healthcare Network **does not have** a policy regarding the Family/Medical Leave Act or the California Family Leave Act. Therefore, this policy has been revised and adapted from HRA’s old policy #HRD-006, entitled “Family/Med. Leave Act & Cal. Family Leave Act,” and dated July 1999.

PURPOSE

To govern leaves of absence that relate to either the Federal Family Leave Act (FMLA) or the California Family Leave Act (CFLA); referred to collectively as “Family Leave.” Also, to ensure that HRA Staff-Members are allowed to balance their work and family lives by taking reasonable – paid or unpaid – leave for certain reasons as described below.

POLICY

HRA’s CEO/President shall have full and sole authority to grant requests for “Family Leaves” of absence under either the Federal or the California Family Leave Acts using the following guidelines:

1. **STAFF-MEMBER ELIGIBILITY:** To be eligible for “Family Leave,” Staff-Members must:
 - a. Be an HRA employee;
 - b. Have worked at HRA for at least a total of 12 months;
 - c. Have worked at HRA for at least 1,250 hours over this 12-month period; and
 - d. Have worked at a location where at least 50 HRA employees are employed within a 75-mile radius;

2. **LEAVE ENTITLEMENT:** Subject to the eligibility requirements listed above in #1, and at the sole discretion of HRA’s CEO/President, an HRA employee may take up to a total of 12 weeks of paid, or unpaid, “Family Leave” within a rolling 12-month period for one or more of the following reasons:
 - a. For the birth or placement of a child for adoption or foster care. Leaves that are granted for this reason must conclude within 12 months of the birth or placement;
 - b. To care for an immediate family member* (i.e., spouse, significant other, child or parent) with a serious health condition; or,

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c. To take medical leave when the employee is unable to work because of a serious health condition.

* - Note: If both spouses are HRA employees, they are jointly entitled to a combined total of 12 work-weeks of “Family Leave” for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition.

3. **INTERMITTENT LEAVE:** Under the following circumstances, and subject to the approval of HRA’s CEO/President, HRA employees may take “intermittent” “Family Leave” in “blocks” of time, or by reducing their normal weekly, or daily, work schedule:

- a. Where intermittent leave is for the birth or placement of a child for adoption or foster care;
- b. When intermittent leave is medically necessary in order to either care for a seriously ill immediate family member, or because the employee is seriously ill and unable to work a normal work schedule.

Note: In the case of 3b, when intermittent leave is foreseeable based upon planned medical treatment(s), the employee is responsible for scheduling the treatment(s) in a manner that does not unduly disrupt HRA’s operations, subject to the approval of the health care provider. In such cases, and at the sole discretion of HRA’s CEO/President, HRA may also transfer the employee temporarily to an alternative job – with equivalent pay and benefits – that better accommodates recurring periods of leave than the employee’s regular job.

4. **SUBSTITUTION OF PAID LEAVE:** Subject to the three conditions listed below, HRA employees may choose to use – or be required to use – accrued paid leave (i.e., previously accrued sick or vacation time) to cover some, or all, of the otherwise unpaid leave afforded by the Federal Family Leave Act:

- a. HRA’s CEO/President must give advance approval – in writing – for accrued sick or vacation time to be used to cover unpaid “Family Leave;”

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- b. HRA’s Human Resources Department is responsible for designating if paid leave used by an HRA employee counts as “Family Leave,” based upon the information provided by an employee;
 - c. In no case can an employee’s paid leave be credited *AFTER* the leave has been completed.
5. **MAINTENANCE OF HEALTH BENEFITS WHILE ON LEAVE:** HRA is required to maintain group health insurance coverage for an employee on “Family Leave” whenever such insurance was provided before the leave was taken, and on the same terms as if the employee had continued to work. However, the following guidelines will be strictly followed:
- a. Where appropriate, arrangements will need to be made for employees taking unpaid “Family Leave” to pay their share of health insurance premiums while on leave. Such arrangements should be made with HRA’s Human Resources Department;
 - b. HRA’s obligation to maintain health benefits under the Federal Family Leave Act will stop if, and/or when, the employee informs HRA of any intent *NOT* to return to work at the end of the “Family Leave” period. The same is true (HRA’s obligation ends) if the employee fails to return to work when the 12 weeks of “Family Leave” are exhausted.
6. **STATUS OF “OTHER BENEFITS” – WHILE ON LEAVE:**
- a. **LIFE INSURANCE & PENSION BENEFITS** – Certain types of earned benefits, such as life insurance and pension participation, will be temporarily discontinued during the pay period following the effective date of the “Family Leave;”
 - b. **VACATION & SICK TIME ACCRUAL** – Vacation and sick benefits will continue to accrue for the first 30 days of the “Family Leave;”
 - c. **RATE OF ACCRUALS RESUMES UPON RETURN TO WORK** – The employee will be restored to the same level of accruals of earned benefits that they had enjoyed prior to taking their “Family Leave,” once they return to work;
 - d. **NO LOSS OF PREVIOUSLY ACCRUED BENEFITS** – Use of “Family Leave” will not result in the loss of any previously accrued benefits from before the time that an employee’s “Family Leave” began. Accordingly, a “Family Leave” period will not be counted as a break in service for the purposes of vesting, or eligibility to participate in, benefit programs;

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7. **JOB RESTORATION:** Upon return from “Family Leave,” an employee will be restored to their original job, or to an equivalent job with equivalent pay and benefits;
8. **KEY EMPLOYEE EXCEPTIONS:** Under specific and limited circumstances where a restoration to employment will cause substantial and grievous economic injury to its operations, HRA may refuse to reinstate certain highly-paid “key” employees after using “Family Leave.” In order to do so, HRA must:
 - a. Notify the employee of their status as a “key” employee in response to the employee’s notice of intent to take “Family Leave;”
 - b. Notify the employee as soon as HRA decides that it will deny job restoration and explain the reasons behind such decision;
 - c. Offer the employee a reasonable opportunity to renegotiate “Family Leave” after giving this notice; and,
 - d. Make a final determination as to whether the leave – or any subsequent reinstatement – will be denied.

Note: A “key” employee is a salaried employee who is either among the highest paid 10% of employees working within 75 miles of the work site, or among the five highest paid HRA employees, whichever group is larger.

9. **REQUIRED EMPLOYEE DOCUMENTATION:** Employees seeking to take “Family Leave” will be required to provide the following:
 - a. 30-day advance notice, in writing, of the need to take “Family Leave” when the need is foreseeable;
 - b. Medical certifications supporting the need for “Family Leave” due to a serious health condition affecting either the employee or their immediate family member (i.e., spouse, significant other, child or parent);
 - c. Second and/or third medical opinions and periodic recertification, at HRA’s expense;
 - d. Periodic reports during “Family Leave” on the employee’s status and intent to return to work; and,
 - e. A doctor’s release and/or return-to-work certification.

Note: When “Family Leave” is taken, for either the employee’s or their immediate family member’s planned medical treatment, the employee must attempt to schedule such treatment so that it will not unduly disrupt HRA’s operations.

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10. **NEWBORN “FAMILY LEAVE” LIMITED TO ONE MONTH AFTER PREGNANCY DISABILITY:** “Family Leave” regulations limit newborn leave to one month, when taken in conjunction with the maximum pregnancy disability leave, which is four months.

DEFINITIONS:

1. **SERIOUS HEALTH CONDITION:** Is defined as an illness, injury, impairment, or physical or mental condition that involves:
 - a. Any period of incapacity or treatment connected with in-patient care (i.e., overnight stay) in a hospital, hospice or residential medical facility;
 - b. Any period of incapacity requiring absence from work of more than three calendar days that also involves continuing treatment by (or under the supervision of) a health care provider; or,
 - c. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable, or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days

Note: Examples of serious health conditions as cited in legislative history include, but are not limited to, heart attacks, heart conditions requiring heart bypass or heart valve surgery, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries caused by serious accidents with or on or off the job, severe morning sickness, the need for prenatal care, childbirth, and recovery from childbirth.

2. **HEALTH CARE PROVIDER:** Is defined as persons who qualify – under the “Family Leave” regulations – to provide certification and/or treatment of a serious health condition for an employee or their immediate family member. These persons include:
 - a. Doctors of medicine or osteopathy, authorized to practice medicine or surgery by the state in which the doctor practices; or

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- b. Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a "subluxation" as demonstrated by X-ray to exist) authorized to practice in the state, and conforming within the scope of their practice to state laws; or,
 - c. Christian Science practitioners listed with the First Church of Christ Scientist of Boston, MA;
3. **“NEWBORN” CHILD:** An employee’s newborn – or newly adopted – child. “Child” is defined as a biological, adopted, or foster child; a step child; and/or a Legal Ward;
4. **PARENT:** An employee’s biological, foster, or adoptive parent, a step-parent, and/or a legal guardian.

RESPONSIBILITY

Human Resources / Supervisors / Employees