

## Family and Medical Leave Act (FMLA)

Employees who have been employed with DSUSD for at least 12 months and have worked at least 1,250 hours in the 12 months preceding the first date of leave may be eligible for up to 12 workweeks of **unpaid** leave in a 12-month period due to the following circumstances:

1. To care for a spouse, child or parent with a serious health condition; or
2. An employee's own serious health condition that makes the employee unable to perform the essential functions of his/hers position.

Under FMLA, employees shall or may use accumulated sick, personal necessity, and/or vacation leave in place of unpaid FMLA leave.

Employees who have been employed with DSUSD for at least 12 months preceding the first date of leave and have exhausted all current and

## California Family Rights Act (CFRA)

accumulated sick leave are eligible for up to 12 workweeks of **paid** leave at differential pay in a 12-month period due to the following circumstances:

1. Birth of a child and care of the newborn;
2. Placement of a child with the employee for adoption or foster care.



Leave taken for purposes of bonding with a new, adopted or foster child must be commenced within one year of the qualifying birth, adoption or foster care placement.

## Employee Obligations

**Request Form:** For planned or scheduled absences, an employee must complete the DSUSD Employee Leave Request Form (25)-79A for FMLA/CFRA leave and submit it to Personnel Services together with required documentation at least 30 days in advance.



In the event of an emergency or other unplanned circumstances, the employee must submit the appropriate forms and documentation to Personnel Services as soon as

practicable.

**Medical Certification:** An employee requesting family care and medical leave because of his/her own serious health condition must provide medical certification of the condition issued by his/her health care provider. The medical certification must state: (1) the date the condition started; (2) how long it is expected to last; and (3) a statement that, due to the serious health condition, the employee is unable to perform the functions of his/her position.

The District may require that the employee obtain subsequent re-certification regarding the employee's serious health condition, if additional leave is requested.

The District may require an examination by an independent second health care provider. If the second provider's opinion differs from the employee's treating physician, the District may require at its expense, a third opinion. The third opinion will be final and binding on the parties.

**Failure to comply with the above-described obligations may result in the delay and/or denial of employee's leave request.**

## Other Types of FMLA/CFRA Leaves

When medically necessary, FMLA/CFRA leave may be taken on an intermittent and reduced work schedule under the terms and conditions set forth in Administrative Regulation (AR) 4261.8.

**Intermittent Leave:** An employee may request leave to be taken in separate periods of time due to a single illness or injury as determined by the health care provider of the individual, rather than one continuous period of time. AR 4261.8 states that in the event leave is taken for the birth or placement of a child, "the basic minimum duration of the leave shall be two weeks." However, on no more than two different occasions, the District may grant requests for leave of less than two weeks duration.

**Reduced Work Schedule:** A reduced work schedule is one that reduces the usual number of hours per workweek, or hours per workday, of an employee for reasons outlined under intermittent leave.



### Pregnancy Disability Leave (PDL)

If you are disabled by pregnancy, childbirth or related medical conditions, you are entitled to take a pregnancy disability leave of up to four (4) months depending on your period(s) of actual disability. If you are CFRA-eligible, you have certain rights to take both a pregnancy disability leave and a CFRA leave for reason of the birth of your child. Both leaves provide for reinstatement to the same or comparable position at the end of the leave subject to any defense allowed under the law.

## Additional Requirements

**Employee FMLA/CFRA:** The 12 month period during which an employee may use up to 12 workweeks of FMLA/CFRA leave shall be calculated as a “rolling” 12 month period measured backward from the first date an employee uses any FMLA/CFRA leave. Thus, each time an employee takes family care leave, the remaining leave entitlement would be any balance of the 12 work weeks, which has not been used during the immediately preceding 12 months.

**Employee Family Care FMLA/CFRA:** Employees requesting family care and medical leave to care for a child, spouse or parent must provide medical certification of the serious health condition of the individual requiring care. The medical certification must state: (1) the date the condition started; (2) how long it is expected to last; (3) how much time the medical care provider estimates the employee will need to care for the individual requiring care; and (4) that the condition requires a family member to provide care. If additional leave is requested, DSUSD may require the employee to submit additional medical certification. Notwithstanding the provisions contained herein, bargaining unit employees remain subject to negotiated agreement provisions pertaining to leaves of absence.

## Definitions

**Serious Health Condition:** A serious health condition means an illness, injury, impairment, physical or mental condition as defined by the FMLA/CFRA that involves either of the following:

1. Inpatient care in a hospital, hospice or residential health care facility
2. Continuing treatment or continuing supervision by a healthcare provider.

**Parent:** The biological, foster or adoptive parents, a stepparent or a legal guardian of an employee or an individual who stands or stood in *loco parentis* to an employee when the employee was a child. Parent does not include “parent-in-law.”

**Child:** Biological, adopted or foster child, stepchild, legal ward, or a child of an employee standing in *loco parentis to that child*, who is either under 18 years of age, or an adult dependent child.

**Spouse:** A husband or wife as defined or recognized under State law for purposes of marriage.

## Employee Requirements

**Leaves:** Eligible employees may be entitled to up to 12 work weeks’ of unpaid leave in a 12 month period as provided herein.

**Health Benefits:** While the employee is on an approved FMLA/CFRA qualifying leave, the District will continue to pay its share of the employee’s health and welfare benefits at the same level as if the employee is not on leave. If an employee fails to return to work from family care and medical leave, the district will recover premiums paid for maintaining an employee’s health coverage so long as the failure to return is not due to the continuation, recurrence, or onset of a serious health condition.

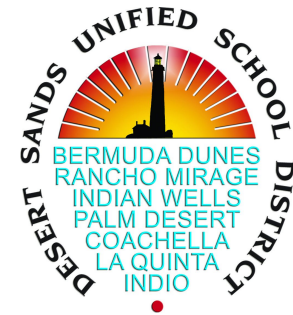
**Right of Return:** At the conclusion of family care and medical leave, and upon the receipt of a return to work clearance from the employee’s treating physician, the employee will be reinstated to the same or comparable position. Such position will have the same pay, benefits and working conditions, including privileges and prerequisites, that the employee had prior to taking the leave. If the position is unavailable (due to, for example, a temporary or indefinite layoff), the employee will have no greater right to reinstatement that he/she would have had if the employee had been continually employed during the FMLA/CFRA leave period.

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA/CFRA. It is also unlawful to discharge or discriminate against any person for opposing any practice made unlawful by FMLA/CFRA or for involvement in any proceeding under or relating to FMLA/CFRA.

# Desert Sands Unified School District Personnel Services



## Information Regarding DSUSD’s Family Care and Medical Leave Policies



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