

SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

POLICIES & PROCEDURES MANUAL

POLICY 32.070 - FAMILY, MEDICAL, AND PREGNANCY DISABILITY LEAVE

Date: August 24, 2021
Revision No: 6
Supersedes: January 1, 2021
First Adopted: June 5, 2002

PURPOSE

To define the City of San Bernardino Municipal Water Department's (SBMWD) policy and procedure with regard to family, medical, and pregnancy disability leave in accordance with state and federal laws including the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), and the California Pregnancy Disability Act (PDA). If the Family Medical Leave Act of 1993 is rescinded and there is no California code (i.e., Government Code Section 12945.2), statute or regulation requiring family medical leave implementation, then this Policy is similarly rescinded. If the Family Medical Leave Act of 1993 or any applicable California code, statute or regulation is substantively amended or changed, then this policy shall be automatically superseded and shall be implemented consistent with the amendment(s) or change(s).

DEFINITIONS

California Family Rights Act (CFRA) - State law that entitles eligible employees to take protected unpaid leave for certain reasons.

Family and Medical Leave Act (FMLA) - Federal law that entitles eligible employees to take protected unpaid leave for certain reasons.

Incapacity is defined as the inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom,

Serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves: (A) inpatient care in a hospital, hospice, or residential medical care facility; or (B) continuing treatment or continuing supervision by a health care provider (HCP).

Inpatient Care in a hospital, hospice, or residential care facility, including any period of incapacity. A person is considered "inpatient" when a health care facility admits the person to the facility with the expectation of at least an overnight stay, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Continuing Treatment by an HCP is defined as (A) a period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity that also involves (i) treatment two or more times by an HCP, by a nurse or physician's assistant under direct supervision of an HCP, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, an HCP; or (ii) treatment by an HCP on at least one occasion which results in ongoing medical treatment or supervision by an HCP, including a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. Medication that is over-the-counter and can be initiated without a visit to an HCP does not constitute a regimen of continuing treatment; (B) any period of incapacity due to pregnancy, or for prenatal care; (C) any period of incapacity or treatment for such incapacity due to a chronic serious health condition.

Chronic Serious Health Condition is one which (A) requires periodic visits for treatment by an HCP, or by a nurse or physician's assistant under direct supervision of an HCP; (B) continues over an extended period of time; and (C) may cause episodic rather than a continuing period of incapacity. Absences for such incapacity qualify for leave even if the absence lasts only one day.

Certification, in the case of leave for the employee's own serious health condition, a medical certification issued by the HCP of the eligible employee shall state the date on which the health condition commenced the probable duration of the condition, and a statement that due to the serious health condition the employee is unable to perform the functions of his/her position. In the case of leave to care for an eligible family member with a serious health condition, or to care for an eligible servicemember with a serious illness or injury, a medical certification issued by the HCP of the eligible family member or covered servicemember, as appropriate shall state the date on which the health condition commenced, the probable duration of the condition, and a statement that the condition warrants participation of the family member to provide care. In the case of leave due to a qualifying exigency of an eligible family member on active duty, certification shall be in the form prescribed by the Secretary of Labor. Certification may include, but is not limited to, a copy of the meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, a copy of a bill for services for the handling of

legal or financial affairs, etc.

12-month period is to be calculated using a "rolling" 12-month period measured backward from the date leave is to begin.

Highly Compensated Employee or *Key Employee* is defined as a salaried employee who is among the highest paid 10 percent of all employees, salaried and non-salaried.

Health Care Provider (HCP) is defined as either (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State of California or an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, who directly treats or supervises the treatment of the serious health condition.; or (B) any other person so deemed by the United States Secretary of Labor.

Parent is defined as the biological parent, foster parent, adoptive parent, stepparent, or legal guardian. This definition does not include parents "in law".

Employment Benefits means all benefits provided or made available to employees, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

Child for the purpose of FMLA means a biological, adopted, or foster child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis, who is (A) under 18 years of age; or (B) 18 years of age or older and incapable of self-care because of a mental or physical disability. For the Purposes of CFRA, the child does not need to be incapable of self-care if over 18 years of age.

Intermittent Leave means leave taken in separate blocks of time due to a single illness or injury.

Reduced Leave Schedule is a change in the employee's schedule for a period of time, usually from full-time to part-time.

Active Duty means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

Contingency Operation has the same meaning given such term in section 101(a)(13) of the United States Code.

Covered Servicemember means (A) a member of the Armed Forces, including the National Guard or Reserves, 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 illness or injury; (B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

Outpatient Status, with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Next of Kin means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her blood relative for purposes of military caregiver leave under the FMLA.

Serious Injury or Illness, in the case of a member of the Armed Forces, National Guard, or Reserves, means (A) an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty) that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; (B) in the case of a veteran, an injury or illness that was incurred by the member in the line of duty on active duty (or was aggravated by service in the line of duty on active duty) and manifested itself before or after the member became a veteran.

Domestic Partner has the meaning provided in the California Family Code Section 297.

All definitions are consistent with the Family Medical Leave Act of 1993, 29 U.S.C. 261 *et seq.*, the California Family Rights Act (CFRA), Government Code Section 12945.2, and the California Pregnancy Disability Leave Provisions, California Government Code 12945. Any term not defined herein and subject to interpretation under the Family Medical Leave Act by the United States Department of Labor (Department of Labor) shall be given the same meaning as is given by the Department of Labor, as applies to the FMLA, or by interpreting case law, as applies to the CFRA or PDA.

GENERAL

- A. Family and Medical Leave Act (FMLA)
Employees who have been employed for at least twelve (12) months and worked at least 1,250 hours during the preceding

12-month period are eligible for family and medical leave. Employees who meet the applicable time-of-service requirements may be granted a total of twelve (12) weeks of family leave due to their own serious health condition, to care for an eligible family member with a serious health condition, the birth or placement for adoption or foster care of a son or daughter, due to qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty in the Armed Forces in support of a contingency operation, or the inability to work (or telework) due to the care of a child under the Emergency Family and Medical Leave Expansion Act (referenced at the end of this policy).

Employees who meet the applicable time-of-service requirements may be granted a total of twenty-six (26) weeks of family leave to care for a servicemember. Family leave to care for a servicemember shall only be available during a single twelve (12) month period, during which an eligible employee may be granted a combined total of 26 weeks of leave to care for the servicemember and leave for any of the following reasons: the employee's own serious health condition; birth, adoption or placement of a son or daughter in foster care; to care for a spouse, son, daughter or parent with a serious health condition; and qualifying exigency.

FMLA will run concurrently with CFRA for leave that is qualifying under both regulations.

B. California Family Rights Act (CFRA)

Employees who have been employed for at least twelve (12) months and worked at least 1,250 hours during the preceding 12-month period are eligible for CFRA. Employees who meet the applicable time-of-service requirements may be granted a total of twelve (12) weeks of family leave due to their own serious health condition, to care for an eligible family member with a serious health condition, the birth or placement for adoption or foster care of a son or daughter, due to qualifying exigency related to the covered active duty or call to covered active duty of the spouse, domestic partner, child, or parent of the employee in the Armed Forces.

CFRA will run concurrently with FMLA for leave that is qualifying under both regulations.

FMLA and CFRA leaves provide only for unpaid leave. Accrued leave shall be utilized as follows:

1. Employee's Own Serious Health Condition

If leave is requested for an employee's own serious health condition, the employee must use all of his or her accrued sick leave, vacation leave, banked holiday leave, and administrative leave, if applicable, in that order and combined. The remainder of the leave period

will then consist of unpaid leave. This applies to both FMLA and CFRA.

2. Care of a child, parent, spouse, or domestic partner of the employee (FMLA)/CFRA
If leave is requested for the care of a child, parent, spouse, or domestic partner of the employee, an employee may use up to eighty (80) hours of accrued sick leave (less any sick leave used during the current calendar year to care for a family member as described in the appropriate Memorandum of Understanding (MOU) Sick Leave Article), accrued vacation, banked holiday, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave. This applies to both FMLA and CFRA.
3. Care of an adult child who is not incapable of self-care, grandparent, grandchild, or sibling (CFRA)
If leave is requested to care for the employee's adult child who is not incapable of self-care, grandparent, grandchild, or sibling, an employee may use up to eighty (80) hours of accrued sick leave (less any sick leave used during the current calendar year to care for a family member as described in the appropriate Memorandum of Understanding (MOU) Sick Leave Article), accrued vacation, banked holiday, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave. This applies to CFRA only.
4. Birth, Adoption, or Foster Care
If leave is requested for the birth of the employee's child and in order to care for the child, or the placement of a child with the employee for adoption or foster care, an employee may use accrued vacation, banked holiday, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave. The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement. This applies to both FMLA and CFRA.
5. Qualifying Exigency Arising Out of an Eligible Family Member on, or has Pending Call, to Active Duty - FMLA
If leave is requested for a qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty, in the Armed Forces in support of a contingency operation, the employee may use accrued vacation, banked holiday, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid

leave.

6. Qualifying Exigency Related to the Covered Active Duty or Call to Active Duty of an Eligible Family Member - CFRA

If leave is requested for a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, registered domestic partner, child, or parent in the US Armed Forces, the employee may use accrued vacation, banked holiday, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave.

7. Servicemember Family Leave - FMLA Only

If leave is requested by an employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember to care for that servicemember, the employee may use up to eighty (80) hours of accrued sick leave* (less any sick leave used in the current calendar year to care for a family member as described in the appropriate MOU Sick Leave Article), accrued vacation, banked holiday, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave. This leave is only available in a single 12-month period.

*If the employee is the next of kin of a covered servicemember, accrued sick leave can only be used if the covered servicemember is an immediate family member as defined in the Sick Leave Article of the appropriate MOU.

B. Pregnancy Disability Leave (PDL)

Employees, regardless of service time, are eligible for up to sixteen (16) weeks of unpaid leave under the Pregnancy Disability Act (PDA) due to disability caused or contributed to by pregnancy, childbirth, or recovery therefrom with appropriate medical certification. Leave taken under the PDA will be counted against the 12-week FMLA entitlement, if any. Employees who qualify are entitled to an additional 12 weeks of leave under CFRA for continued disability and/or bonding.

While on PDL, FMLA and/or CFRA leave due to disability related to pregnancy, the employee must use all accrued sick leave, vacation leave, banked holiday leave, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave.

Employees who qualify are eligible for up to 12 weeks of FMLA leave to care for their spouse for pregnancy related disability and/or to care for the newborn child with

appropriate medical certification. While on FMLA leave to care for a spouse or child, the employee may use accrued sick leave, accrued vacation leave, banked holiday leave, and administrative leave, if applicable, in that order and combined. The remainder of the leave will then consist of unpaid leave. Employees who qualify are also eligible for up to 12 weeks of leave to bond with the child.

While on leave for bonding, the employee may use accrued vacation leave, banked holiday leave, and administrative leave, if applicable, in that order and combined. The remainder of the leave period will then consist of unpaid leave.

An employee on FMLA, CFRA, and/or PDL leave for their own serious health condition who is receiving disability benefits (short or long term disability, etc.) may, but is not required to, use accrued sick leave, vacation leave, banked holiday leave, and administrative leave, if applicable, in that order and combined to supplement said disability payments. An employee receiving Workers' Compensation benefits may, but is not required to, use accrued sick leave to supplement Workers' Compensation payments. In no case will an employee receive more than 100% of base pay between disability payments and supplemental leave payments.

C. Other

For employees not eligible for family and medical leave, or have exhausted such leave, the Water Board will review business considerations and the individual circumstances involved and consider leave of absence without pay pursuant to each individual unit's MOU.

Except for those employees designated as "key employees" under FMLA, employees will be returned to the same or equivalent position upon their return from leave.

INTERMITTENT LEAVE

Intermittent leave or reduced leave schedule requests are normally related to foreseeable planned medical treatments. Any employee wishing to use intermittent leave, or a reduced leave schedule shall submit a Notice of Leave to SBMWD with a medical certificate. SBMWD may transfer the employee temporarily to an alternative position with equivalent pay and benefits, if the new position will better accommodate recurring periods of leave than the employee's regular position.

Intermittent leave or a reduced schedule leave may also be requested for leave due to a qualifying exigency under FMLA or CFRA. The employee shall provide notice of the need for such leave as is reasonable and practicable.

Leave taken to care for a child, parent, spouse or domestic partner with a serious health condition, to care for an eligible servicemember, or in the case of an employee's own serious health condition, can be taken intermittently or on a reduced leave schedule "when medically necessary". The provision of certification from a health care provider will satisfy the prerequisite of medical necessity.

An employee may take leave intermittently or on a reduced leave schedule for the birth or adoption or foster care placement of a child only if the employee and SBMWD agree to such an arrangement and provided that the leave is completed within twelve (12) months of the birth, adoption, or placement of the child.

Intermittent leave or leave taken on a reduced leave schedule will reduce the total amount of leave by that amount actually taken.

Leave taken intermittently will not affect the exempt status of an employee who is otherwise exempt from the overtime requirements of the Fair Labor Standards Act (FLSA).

Intermittent leave or reduced leave schedule may be taken in any size increment that SBMWD's payroll system is capable of using to account for leave, currently 15 minutes.

DESIGNATION OF LEAVE

If the Department determines that a qualified employee has attained FMLA, CFRA, Emergency Family and Medical Leave, or PDL status, the Department will designate leave taken pursuant thereto. The Department will advise the qualified employee, in writing, of this designation.

APPLICATION FOR LEAVE

In all cases, an employee requesting leave must complete the "Request for Family, Medical, and/or Pregnancy Disability Leave" or "Request for Emergency Family and Medical Leave" and return it to Human Resources. The completed Request must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.

NOTICE OF LEAVE

An employee intending to take family, medical, and/or pregnancy disability leave of any kind because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least thirty (30) days before the leave is to begin. If leave is foreseeable based on a planned medical treatment, the employee must make every reasonable effort to schedule the treatment so as not to disrupt unduly SBMWD's operations. If leave is to begin within thirty (30) days, or is unexpected, an employee must give notice to his or her immediate supervisor, the Director of his or her division, and Human Resources as soon as the necessity for the leave arises.

An employee intending to take leave for a qualifying exigency shall provide notice of the necessity for such leave as is reasonable and practicable.

MEDICAL CERTIFICATION OF LEAVE

A request for intermittent leave or leave for a duration of more than 6 days based on pregnancy disability, the serious health condition of the employee, to care for a covered servicemember, or the serious health condition of an employee's child, parent, spouse or domestic partner, must also be accompanied by a "Medical Certification for Leave of Absence or Return to Work" form completed by the applicable HCP. The certification must state the date on which the pregnancy disability or health condition commenced, the probable duration of the condition, and that the employee is unable to perform the functions of his or her job (employee's own serious health condition) or the condition warrants participation of a family member to provide care (care for child, parent, spouse domestic partner, or covered servicemember).

If the employee is needed to care for a child, parent, spouse, domestic partner, or covered servicemember, the certification must so state along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition or is disabled due to pregnancy, the certification must state that the employee cannot perform the functions of his or her job.

SPOUSES/PARENTS EMPLOYED BY THE SAME EMPLOYER

In any case in which both spouses entitled to FMLA leave are employed by the same employer, the aggregate number of work weeks of leave to which both may be entitled to is limited to twelve (12) work weeks during any twelve (12) month period if the leave is taken for the birth of a son or daughter, placement of a son or daughter for adoption or foster care, or to care for a parent with a serious health condition.

In any case in which both parents entitled to CFRA leave are employed by the same employer, each will be allowed up to twelve (12) work weeks during any twelve (12) month period if the leave is taken for the birth of a son or daughter or placement of a son or daughter for adoption or foster care.

In any case in which both spouses entitled to leave are employed by the same employer, the aggregate number of work weeks of leave to which both may be entitled is limited to twenty-six (26) work weeks in a single twelve (12) month period if the leave is to care for a covered servicemember.

In any case in which both spouses entitled to leave are employed by the same employer, the aggregate number of work weeks of leave to which both may be entitled to under FMLA is limited to twenty-six (26) work weeks in a single twelve (12) month period for a combination of servicemember family leave and leave for any of the

following reasons: birth of a son or daughter; placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent with a serious health condition; the employee's own serious health condition; due to a qualifying exigency arising out of the fact that a spouse, son, daughter, or parent of the employee is on active duty, or has impending active duty notice/orders, in the Armed Forces in support of a contingency operation.

BENEFITS COVERAGE DURING LEAVE

The Department will pay its portion of your FMLA/CFRA/PDL protected benefits for up to twelve (12) weeks while you are out on FMLA and/or CFRA and up to a maximum of four (4) months for PDL. During the period of FMLA, PDL, and CFRA leave, an employee will be retained on his or her selected health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage.

If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse SBMWD for payment of health insurance premiums during the leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or is due to circumstances beyond the employee's control.

With respect to premiums for other plans like short-term or accident insurance, pension, and retirement plans, SBMWD will require the employee to pay premiums, at the group rate, during the period of leave not covered by any accrued time off, as a condition of continued coverage during the leave period. However, the nonpayment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority, or any employee benefit plan.

During a family care and medical leave period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service, for purposes of longevity, seniority, or any employee benefit plan. An employee returning from leave shall return with no less seniority than the employee had when the leave commenced, for purposes of layoff, promotion, job assignment, and seniority-related benefits such as vacation.

RESTORATION TO EMPLOYMENT

An employee eligible for family, medical, and/or pregnancy disability leave, with the exception of those employees designated as highly compensated employees or key employees under FMLA, will be restored to his or her old position or to a position with equivalent pay, benefits, and other terms and conditions of employment. SBMWD cannot guarantee that an employee will be returned to his or her original job. A determination as to whether

a position is an "equivalent position" will be made by SBMWD.

SBMWD may refuse to reinstate an employee returning from FMLA leave to the same or a comparable position if all of the following apply: (A) the employee is a highly compensated employee or key employee; (B) the refusal is necessary to prevent substantial and grievous economic injury to SBMWD's operations; (C) the employer notifies the employee of the intent to refuse reinstatement at the time the employer determines the refusal is necessary under subparagraph (B). In any case in which the leave has commenced, the employer shall give the employee a reasonable opportunity to return to work following the notice prescribed in subparagraph (C), above.

RETURN FROM LEAVE

If an employee wishes to return to work from leave due to his/her own serious health condition, he or she must provide a certification from an HCP that he or she is able to return to work. If an employee wishes to return to work before the expiration of a family or medical leave of absence, notification must be given to the employee's supervisor at least five (5) working days prior to the employee's planned return.

FAILURE TO RETURN FROM LEAVE

The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. An employee who requests additional leave due to the continuation, recurrence or onset of his or her own serious health condition, of the serious health condition of the employee's child, parent, spouse or domestic partner, or the injury/illness of a covered servicemember, must submit a request for an extension, in writing, to the employee's Director. The BOWC reserves ultimate discretion as to whether to grant the request for additional leave.

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT (INCLUDED IN THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT [FFCRA])

1. Eligibility

- a.** Employees are eligible for up to twelve (12) weeks of job-protected Public Health Emergency Leave if the following requirements are met:
 - i.** The employee has worked for the Department for at least 30 calendar days;
 - ii.** The employee is unable to work (or telework) due to a need to care for a son or daughter (under 18 years of age) whose school or place of care has been closed, or whose childcare provider is unavailable, due to a COVID-19 emergency declared by either a Federal, State, or local authority; and
 - iii.** The employee provided reasonable notice of the need for the leave.

- iv. Protected Health Emergency Leave is a form of FMLA leave and is not in addition to any other FMLA leave. Therefore, an employee may only be eligible for a portion of 12 weeks of leave depending on FMLA usage in the previous 12-month period.
- v. Employees shall request leave as soon as practicable and shall certify the need for leave in writing at the time of request, using Department prescribed forms.

b. Paid Leave

The first ten (10) days of Emergency Family Medical Leave may consist of unpaid leave unless the employee elects to utilize accrued leaves, including Emergency Paid Sick Leave as described in this policy. For the remaining 10 weeks, an employee is entitled to paid leave at two-thirds (2/3) of the employee's regular rate of pay. However, paid leave is subject to a cap of \$200 per day and \$10,000 total (or \$12,000 total if the employee used EPSL for the first ten days of the leave). Employees may supplement the remaining one-third (1/3) with their accrued available leave to obtain up to 100% of their regular rate of pay.

c. Restoration to Prior Position

Employees out on Emergency Family and Medical Leave are entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave.

If the Department is unable to restore the employee to an equivalent position to the employee's prior position, the Department will notify the employee if an equivalent position becomes available within one (1) year of either, the date the public health emergency concludes or date which is twelve (12) weeks after the employee started their Emergency Family and Medical Leave (whichever date is earlier). Notification shall be by regular mail to the employee's address on file.

d. Expiration

The provision of this section shall expire on March 31, 2021 or when the Emergency Family Medical Leave Expansion Act is no longer effective.

On March 11, 2021, the President signed the American Rescue Plan Act (ARPA) to be effective April 1, 2021. ARPA allows employers to voluntarily provide an extension of the Emergency Family and Medical Leave Act Expansion originally required under FFCRA from

April 1, 2021, through September 30, 2021.

Effective April 1, 2021, eligible employees can use Emergency Family and Medical Leave (EFMLA) for any of the following reasons:

- i. When the employee is quarantined or isolated subject to federal, state, or local quarantine or isolation order
- ii. When the employee is advised by a health care provider to self-quarantine because of COVID-19
- iii. When the employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
- iv. When the employee is caring for another person who is isolating or quarantining on government or doctor's orders
- v. When the employee is caring for a child whose school or place of care is closed due to COVID-19
- vi. When an employee is seeking or awaiting a diagnostic test for, or a medical diagnosis, of COVID-19 because they have been exposed or because their employer has requested the test or diagnosis
- vii. When an employee is obtaining a COVID-19 vaccination or recovering from an injury, disability, illness, or condition related to the vaccination.

EFMLA taken for any of the above reasons is paid at 2/3 of regular pay. The 10-day unpaid waiting period established under the FFCRA has been eliminated effective April 1, 2021, and the cap on total paid leave has been increased from \$10,000 to \$12,000. The daily cap remains the same at \$200.

An employee who has exhausted their 12-week entitlement of FMLA for any FMLA qualifying reason, including EFMLA, cannot receive additional EFMLA time.

This provision shall expire on September 30, 2021, or when the Emergency Family and Medical Leave Act Expansion is no longer in effect.

FORMS FOR USE IN IMPLEMENTATION OF POLICY

Request for Family Medical and/or Pregnancy Disability Leave

Request for Emergency Family and Medical Leave

Medical Certification for Leave of Absence or Return to Work

Certification of qualifying Exigency for Military Family Leave

Certification of Need for Emergency Family and Medical Leave

Response to Employee Request for Family Medical and/or Pregnancy Disability Leave

Response to Employee Request for Emergency Family and Medical Leave

A Quick Guide to Leave Provisions Under FMLA, CFRA, and PDL
SBMWD will post Notice to Employees of Rights under FMLA, PDL,
CFRA, and Families First Coronavirus Response Act (FFCRA) at
each job location

Policy Review

Substantive changes Board Approved:	<u>5/8/2018</u>
No changes:	<u>7/2019</u>
Substantive changes Board Approved:	<u>4/28/2020</u>
No Changes	<u>7/2020</u>
Substantive changes Board Approved:	<u>1/12/2021</u>
Substantive changes Board Approved:	<u>8/24/2021</u>

**SAN BERNARDINO MUNICIPAL WATER DEPARMTENT
HUMAN RESOURCES
FAMILY, MEDICAL, AND PREGNANCY DISABILITY LEAVE
ORDER/LIMITS TO LEAVE TYPES MATRIX**

REASON FOR LEAVE	ORDER OF LEAVE TYPE USAGE						LIMITS TO LEAVE/ NOTES
	Sick Leave	Vacation	Holiday Bank	Administrative Leave (if applicable)	Unpaid Leave	*** LOA Non-FMLA	
Employee's Own Serious Health Condition, including pregnancy Use of accrued leave as described herein is mandatory	1	2	3	4	5	6	Intermittent leave may be taken only for absences due to illness or pregnancy with medical certification
Employee's Care of a Child, Parent, Spouse, Domestic Partner, grandchild, grandparent, sibling, or covered servicemember****	1*	2 (**)	3	4	5	6	(*) 80 hour limit on sick leave usage per calendar year per MOU for all units, <u>except</u> part-time in which Resolution #658 indicates a 40 hour calendar year limit for family sick leave. (**) Use of vacation leave must be approved by supervisor and Department. Intermittent leave may be taken when medically necessary and with a medical certification.
Birth of the Employee's Child and to care for that Child or Placement of a Child with the Employee for Adoption or Foster Care****	N/A	1 (*)	2	3	4	5	(*) Use of vacation leave must be approved by the supervisor and the Department.
Qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is on active duty, or has impending active duty orders, in the Armed Forces in support of a contingency operation****	N/A	1 (*)	2	3	4	5	(*) Use of vacation leave must be approved by the supervisor and the Department.
ARPA Emergency Medical and Family Leave ****							Use any combination of leave in any order

(***)LOA must be requested in writing by employee (or designated representative in the case of incapacitation) upon exhaustion of protected leave and will be submitted to the Board for consideration.

**** Use of accrued leave is optional, but if used must be in the order described herein.

SICK LEAVE BENEFITS MATRIX
ACCRUALS AND LIMITS

BARGAINING UNIT	BANK	ACCRUAL RATE	EARNING OF ACCRUALS	FAMILY LEAVE LIMIT	ACCRUAL LIMITS
General, and Mid-Management, Full Time Regular Employees	Accrued leave available for use after first 3 months of employment	3.69 hours per pay period	Non-pay status must not be 50% or more in order to receive accruals	80 hours per calendar year	Refer to appropriate MOU - Mandatory Sick Leave Sell Back program
Management/Confidential Full Time Regular Employees	Accrued leave available for use after first 3 months of employment	3.69 hours per pay period	Non-pay status must not be 50% or more in order to receive accruals	80 hours per calendar year	Unlimited
Regular, Part-time Employees	Receive 11 hours after first 3 months of employment and additional 11 hours after completion of 6 months of employment	1.69 per 40 hours worked/paid	Non-pay status must not be 50% or more in order to receive accruals	40 hours per calendar year	Unlimited

SICK LEAVE BENEFITS MATRIX
COVERAGE, REASONS FOR LEAVE, USE INCREMENTS AND INCENTIVE

BARGAINING UNIT	EMPLOYEE/FAMILY MEMBER COVERED	REASONS FOR LEAVE	USE INCREMENTS	INCENTIVE	SUPPLEMENT TO HOLIDAYS
<p>Management/ Confidential; Mid-Management; General; Regular, Part-time Employees</p>	<p>An employee's own illness or injury;</p> <p>The employee's child (natural, step-, grand, foster or in loco parentis);</p> <p>The employee's spouse or domestic partner;</p> <p>The employee who is the spouse, child, parent or next of kin* of a covered servicemember</p>	<p>Injury or illness, medical or dental appointments, physical therapy appointments, and any other medically-related treatment supported by documentation of necessity for treatment</p>	<p>15 minute increments</p>	<p>All Except Regular Part-Time: After one year of service, and at end of fiscal year thereafter, an employee who uses less than 27 hours of Sick Leave in any fiscal year will - receive 8 hours to vacation bank</p>	<p>Sick leave used as Holiday Supplement will not be counted in the 27 hours for the purposes of obtaining the 8 hour vacation leave bonus</p>

*In order to be eligible to use accrued sick leave as next of kin, the servicemember must be a covered family member per the Sick Leave Article of the applicable MOU.