

LOS ANGELES UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION

821
April 7, 2010

LAW AND RULES

821 MILITARY SPOUSE/REGISTERED DOMESTIC PARTNER LEAVE, SERVICE MEMBER FAMILY CAREGIVER LEAVE, AND SERVICE MEMBER FAMILY EXIGENCY LEAVE

This rule is based on Military and Veterans Code, Section 395.10 and any other applicable provisions of federal or State law.

A. DEFINITIONS

For purposes of this Rule, the following definitions shall apply: (1) "Qualified Employer" means any public or private employer who employs 25 or more employees. (2) "Qualified Employee" means a District employee who works an average of 20 or more hours per week. (3) "Qualified Member" means a member of the Armed Forces of the United States (i.e. Army, Navy, Air Force, Marines, Coast Guard) who has been deployed during a period of military conflict in an area designated as a combat theater or combat zone by the President of the United States; OR a member of the Armed Forces Reserve Components or the National Guard who has been deployed during a period of military conflict, but not necessarily in a combat zone (i.e., called upon to backfill a position vacated by an active duty member of the military). (4) "Combat Zone" means an area so designated by the President of the United States by an Executive Order. (5) "Military Conflict" means a period of war declared by the United States Congress OR a period of deployment for which a member of a reserve component is ordered to active duty either by the Governor or the President of the United States. (6) "Spouse" means an individual to whom one is legally married. (7) "Registered Domestic Partner(s)" are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring AND who have filed a Declaration of Domestic Partnership with the Secretary of the State. (8) "Covered Service Member" means a) a member of the Regular Armed Forces, the National Guard, or the 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 injury or illness or b) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Regular Armed Forces, the National Guard, or the Reserves at any time during the five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. (9) "Contingency Operation" is a military operation a) against an enemy of the United States or against an opposing military force or b) that results in the call or order to, or retention of, active duty members of the uniformed services during a war or during a national emergency declared by the President or Congress. (10) "Serious injury or illness" is an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. (11) "Qualifying Exigency" includes: seven days or less in short-notice deployment, military events and related activities; urgent (as opposed to recurring and routine) childcare and school activities; financial and legal arrangements; counseling; rest and recuperation breaks during deployment; post-deployment activities; and additional activities arising out of the call to duty not encompassed in the aforementioned categories, but agreed to by the employer and employee. (12) "Next to Kin" means the nearest blood relative.

CHANGE:

To state that the leave is available to a family member of 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, National Guard, or Reserves at any time during the five years preceding the date of treatment, recuperation, or therapy.

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- B. 1. An unpaid leave of absence shall be granted at the request of a qualified employee who is the spouse/registered domestic partner of a qualified member of the Armed Forces on leave from deployment from a combat zone during a period of military conflict.

2. SERVICE MEMBER FAMILY CAREGIVER LEAVE

An unpaid leave of absence shall be granted at the request of a regular employee who is the spouse; child; parent; or next of kin of covered service member to care for the service member.

3. SERVICE MEMBER FAMILY EXIGENCY LEAVE

An unpaid leave of absence for a qualifying exigency shall be granted at the request of a regular employee who is the spouse, child, or parent of a service member who is a member of the Reserves or the National Guard, or the regular Armed Forces who is called to active duty or is serving on active duty.

C. ELIGIBILITY

1. Work an average of 20 or more hours per week;
2. Has been employed by the District for at least 12 months (does not need to be consecutive) and worked at least 1250 hours for the District in the 12-month period preceding the leave
3. Has been employed by the District for at least 12 months (does not need to be consecutive) and worked at least 1250 hours for the District in the 12-month period preceding the leave.

D. NOTIFICATION

1. The employee is to provide the supervisor with (a) notice of his or her intent to take the leave no later than two business days after receiving official orders of his or her spouse/registered domestic partner's leave from deployment. (b) a Request of Absence form, attaching a copy of the documentation (i.e., official orders) that certifies that the qualified spouse/registered domestic partner will be on leave from deployment during the time of the requested leave, and (c) written proof of marriage to/domestic partnership with the qualified spouse/registered domestic partner (i.e., marriage certificate or domestic partnership certificate).

CHANGE:

To state that the leave is available to a family member of 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, National Guard, or Reserves at any time during the five years preceding the date of treatment, recuperation, or therapy.

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- Whenever possible, the employee is expected to give 30 days notice of the need for FMLA leave to the supervisor. If the employee cannot give at least 30 days advance notice of his/her need for the leave, the notice must be provided 'as soon as practicable,' generally either the same day or next business day; and a Request for Absence form provided to the supervisor, attaching:
2. sufficient certification from an authorized health care provider on an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued by any member of the covered service member's family. The certification may include (a) whether the service member has incurred a serious injury or illness, (b) whether the injury or illness may render the service member medically unfit to perform the duties of the member's office, grade, rang, or rating, (c) whether the injury or illness was incurred by the service member in the line of duty on active duty, and (d) whether the service member is undergoing medical treatment, recuperation, or therapy, is otherwise on outpatient status, or is otherwise on the temporary disability retired list.
 3. a copy of the service member's active duty orders or other documentation issued by the military which indicates that the service member is on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation and the dates of the service member's active duty service, and certification providing the appropriate facts including contact information if the leave involves meeting with a third party.

E. LENGTH OF LEAVE

The leave shall not exceed a total of:

1. 10 scheduled work days in a 12-month period. (Should the employee's spouse/registered domestic partner be granted leave from deployment more than once in a given year, the employee shall be entitled to 10 days of leave on each occasion as long as official orders as provided,)
2. 26 work weeks in a 12-month period.
3. 12 work weeks in a 12-month period.

The selected dates of leave shall be at the discretion of the employee.

CHANGE:

To add the provisions of the National Defense Authorization Act and allow qualifying employees to take new family leaves related to military service.

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F. IMPACT ON OTHER LEAVES

The leave provided for in this rule shall not affect or prevent the District from allowing a qualified employee to take a leave that he or she is otherwise entitled to take. An eligible employee is limited to a combined total of 26 weeks of leave in a given year for a combination of Service Member Family Caregiver Leave and any other type of FMLA leave.

G. BENEFITS

The leaves shall not affect a qualified employee's rights with respect to any other employee benefit provided for in other rules.

H. COMPENSATION

California Military Spouse/Registered Domestic Partner Leave, Service Member Family Caregiver Leave, and Service Member Family Exigency Leave are unpaid; however, the employee may at his or her discretion choose to use available, accrued vacation during the leaves. An employee who wishes to use available, accrued vacation shall attach a completed Request of Absence form.

CHANGE:

To add the provisions of the National Defense Authorization Act and allow qualifying employees to take new family leaves related to military service.

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