

Department of Human Resources

Medical Leave Program

City and County of San Francisco



MODULE 2:

Managing Sick Leave and Intro to FMLA



PROTECTED LEAVES

FMLA/CFRA

ADA/FEHA

Pregnancy Disability Leave (PDL)

Sick Leave Ordinance (SLO) (waived by some unions)

Paid Parental Leave (PPL)

Family Friendly Workplace Ordinance (FFWO)

Paid Family Leave (PFL)

Labor Code Provisions (Worker's Comp, Drug/Alcohol Rehab, Bone Marrow/Organ Donor, Kin Care)

State AB 1522

What is the City's benefit?

- Employee Handbook (pp. 32-33)
- Civil Service Rules (Rule 120 *et seq.*)
- Accrual: 13 paid 8-hour days per year or shift equivalent
- Maximum Accrual: 1,040 hours
- May not be used during first 6 months of employment, unless employee covered by Sick Leave Ordinance
- **MOUs (check for rules on supplementing SDI and other short or long-term disability benefits)**
- Employees may be required to use sick leave under FMLA/CFRA regulations

TRAINING OBJECTIVES AND GOALS

- ✓ Improve productivity through better attendance
- ✓ Minimize cost associated with employee absences due to sick leave
- ✓ Improve or maintain Citywide morale by ensuring each employee does his/her own work
- ✓ Ensure that sick leave use is consistent with provisions in the Employee Handbook, Civil Service Rules and in collective bargaining agreements
- ✓ Standardize sick leave procedures throughout the City
- ✓ Recognize acceptable levels of sick leave use

Sick Leave



Proper Use



What is it?



Managing



Why do we have it?

- To limit workplace exposure to communicable disease
- To allow employees to fully recuperate from illness before returning to work
- To enhance workplace productivity
- To allow employees to provide care for their loved ones

APPROPRIATE USES OF SICK LEAVE

- Actual Physical or Mental Illness
- Doctor's appointment
- Caring for sick family members
- Mourning for family members

How do we manage it?

- Employee obligations
- Employer process
 - Forms
 - Medical Certification
 - Monitoring and Recording



Employee Obligations

- Call in promptly
- Use sick leave for proper reasons
- Provide medical certification when requested



OUR SICK LEAVE MANAGEMENT PROCESS



FORMS

City and County of San Francisco

Request for Leave

(Do not use this form for requesting FMLA Leave.)

If you are requesting Leave under the FAMILY AND MEDICAL LEAVE ACT, obtain and complete FMLA 1A & 2.

NEW RENEWAL

(Read reverse side for important information on leaves prior to completing form.)

SECTION I: Employee MUST Complete

Name _____ Social Security No. _____

Address _____ City, State Zip Code _____

Telephone No. _____ Employment Status: Permanent Probationary Temporary Provisional Exempt

Type of Leave Requested: (Check one below)

Sick leave with pay Sick leave without pay

- Check if you will be receiving State Disability Insurance and wish to supplement with Sick Leave, Vacation or Compensatory Time credits
- Check if you will be receiving State Disability Insurance and **DO NOT** wish to supplement with sick leave, vacation or compensatory time credits

Military Leave & Other Related Leaves (copy of orders must be attached)

- Check Box if you are taking a Military Leave with Official Orders for Training (ref. CSR 120.26.7)
- Check Box if you are requesting Military Leave with Official Orders for Active Duty (ref. ASO Sec.2.3)
- Check Box if you are requesting Leave for a Spouse and Registered Domestic Partner during a Leave from Deployment: (ref. CSR 120.29)

(Check one below)

- Leave with pay (Discretionary leave credits only – i.e., VA, FH, AD, AE, OE)
- Leave without pay

Educational Leave

Family Care Leave (for permanent employees only)

Personal Leave (See Reverse Side) (Specify) _____

To Accept Other City and County Employment

Department: _____ Class No. & Title _____

Other: (Specify) _____

Date of Leave: From: _____ Through: _____

Signature _____ Date _____

SECTION II - HEALTH CARE PROVIDER MUST COMPLETE (For FMLA Leave, use Certification of Health Care Provider (FMLA2) form.)

I, the undersigned health care provider, do hereby certify that the above-named employee is completely incapacitated for the performance of essential functions for the time period indicated below. In signing this form, I understand and agree to answer in a timely fashion the employer's reasonable questions as to the basis of the statements made on this form. I understand that my cooperation is necessary to secure the employer's approval of sick leave.

Date of leave: From _____ Through _____ Inclusive

Health Care Provider: (Print Name) _____ License No. _____

Address _____ City _____ State _____ Zip Code _____

Signature _____ Date _____ Telephone _____

RETURN TO PATIENT WHO IS RESPONSIBLE FOR FORWARDING TO THE EMPLOYER.

SECTION III - APPROVALS

PRINT NAME/TITLE	SIGNATURE	DATE	APPROVE	DISAPPROVE (ATTACH REASONS)
(Employee's Supervisor)				
(Personnel Officer/Designee)				
(Appointing Officer/Designee)				

QUIZ: INPATIENT IRMA

Irma is a long time PCS Analyst. Over the past three years she has been frequently absent for short and long periods of time.

Her family hand delivers a doctor's note saying that Irma will be unable to work for 30 days. Based on her attendance history, Irma is not eligible for FMLA/CFRA. She has not worked 1,250 hours within the last 12 months.

Is the note sufficient to approve the leave?

What forms should the department use for Irma's leave?

What kind of leave should be approved?

For _____ Rx # _____
Address _____ Date 9/1/14

Irma has been admitted to the hospital and will be unable to work through Oct 1.

Diagnosed As Written

MD.  MD.
May Substitute

FORMS FOR IRMA

Request for Leave (RFL)

Start with the RFL that allows Irma to request paid or unpaid sick leave. She may also qualify for Family Care Leave, which can be designated on the RFL.

Reasonable Accommodation (RA) Packet

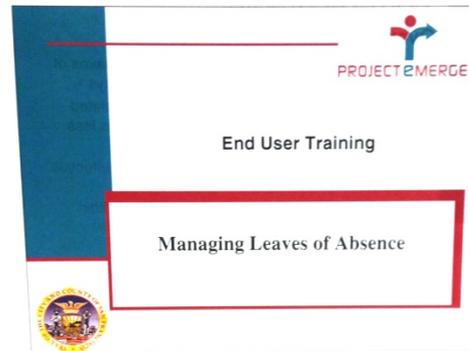
If you have not already done so, send Irma an RA packet telling her that her leave use indicates a possible need for reasonable accommodation of a disability. Send the letter in Appendix A with the forms.

RECORDING AND MONITORING



Training Guide
Managing Leaves of Absence

Managing Leaves of Absence Overview



Contents

- Leaves of Absence
 - Overview
 - Reports or Queries
- Unpaid Leaves of Absence
 - Overview
 - Action / Action Reason List
- Paid Leaves of Absence
 - Overview
 - Action / Action Reason List
- Extend or Return Employee from Leave
 - Overview
 - Action / Action Reason List

RECORDING AND MONITORING

	A	B	D	E	F	H	N
1			MRG_PY_EMPL_EARNS_BETWEEN_PPE				
2			08/1/2013 to 08/1/2014				
3		95					
4	Roster Code	Employee ID	Name	Pay Period End	Earn Code	Oth Hrs	Job Description
5	HRD21	012345	Constance Compliance	8/2/2013	946	0.00	Analyst
6	HRD21	012345	Constance Compliance	8/2/2013	SLP	4.00	Analyst
7	HRD21	012345	Constance Compliance	8/2/2013	WKP	76.00	Analyst
8	HRD21	012345	Constance Compliance	8/16/2013	946	0.00	Analyst
9	HRD21	012345	Constance Compliance	8/16/2013	CTP	1.00	Analyst
10	HRD21	012345	Constance Compliance	8/16/2013	WKP	79.00	Analyst
11	HRD21	012345	Constance Compliance	8/30/2013	946	0.00	Analyst
12	HRD21	012345	Constance Compliance	8/30/2013	WKP	80.00	Analyst
13	HRD21	012345	Constance Compliance	9/13/2013	946	0.00	Analyst
14	HRD21	012345	Constance Compliance	9/13/2013	LHP	8.00	Analyst
15	HRD21	012345	Constance Compliance	9/13/2013	SLP	2.50	Analyst
16	HRD21	012345	Constance Compliance	9/13/2013	VAP	16.00	Analyst
17	HRD21	012345	Constance Compliance	9/13/2013	WKP	53.50	Analyst
18	HRD21	012345	Constance Compliance	9/27/2013	946	0.00	Analyst
19	HRD21	012345	Constance Compliance	9/27/2013	SLP	2.00	Analyst
20	HRD21	012345	Constance Compliance	9/27/2013	WKP	78.00	Analyst
21	HRD21	012345	Constance Compliance	10/11/2013	946	0.00	Analyst
22	HRD21	012345	Constance Compliance	10/11/2013	FHP	3.00	Analyst
23	HRD21	012345	Constance Compliance	10/11/2013	WKP	77.00	Analyst
24	HRD21	012345	Constance Compliance	10/25/2013	946	0.00	Analyst

Query Viewer

Enter any information you have and click Search. Leave fields blank for a list of all values.

*Search By begins with

Search [Advanced Search](#)

Search Results

*Folder View

Query Personalize | Find | View All | First 1 of 1 | Last

Query Name	Description	Owner	Folder	Run to HTML	Run to Excel	Run to XML	Schedule	Add to Favorites
MRG_PY_EMPL_EARNS_BETWEEN_PPE	Empl Earns between PPE	Public		HTML	Excel	XML	Schedule	Favorite

My Favorite Queries Personalize | Find | First 1-2 of 2 | Last

Query Name	Description	Owner	Folder	Run to HTML	Run to Excel	Run to XML	Schedule	Remove
MRG	ndr/eth - ee04 cat per dpt/dt	Public		HTML	Excel	XML	Schedule	-
MRG	nder/eth - ee04 cat cw per dt	Public		HTML	Excel	XML	Schedule	-

REPORT

Close

Monitoring Attendance

CITY AND COUNTY OF SAN FRANCISCO
 OFFICE OF THE CONTROLLER
 PAYROLL/PERSONNEL SERVICES DIVISION

20



14

BEN ROSENFELD
 CONTROLLER

DEBRA NEBREA
 PAYROLL DIRECTOR

PAYDAY & HOLIDAY CALENDAR

2014 JANUARY 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
			★	3		4
5	6	7	8	9	10	11
12	13	●	15	16	17	18
19	★	21	22	23	24	25
26	27	●	29	30	31	

2014 FEBRUARY 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	●	12	13	14	15
16	★	18	19	20	21	22
23	24	●	26	27	28	

2014 MARCH 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	●	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

2014 APRIL 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	●	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

2014 MAY 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	●	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	★	27	28	29	30	31

2014 JUNE 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	●	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

2014 JULY 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2014 AUGUST 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2014 SEPTEMBER 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2014 OCTOBER 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2014 NOVEMBER 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

2014 DECEMBER 2014						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

★ LEGAL HOLIDAY ● PAYDAY ■ PAY PERIOD END DATE
 ■ SLP ■ SLL

K:\Calendar\CAL2013.xls

TEST YOUR KNOWLEDGE

After payday

Mondays and Fridays

After being denied vacation

Adjacent to vacation

Adjacent to holidays

In conjunction with local events

The same time each week

What are some patterns of leave that raise questions of abuse?

Acceptable Levels of Use

- Consistent with Department policy
- Annual sick leave usage less than 104 hours, excluding protected absences
- Semi-annual sick leave less than 52 hours

ABUSE AND EXCESSIVE USE OF SICK LEAVE



ENFORCE SICK LEAVE RULES



I have a hair appointment

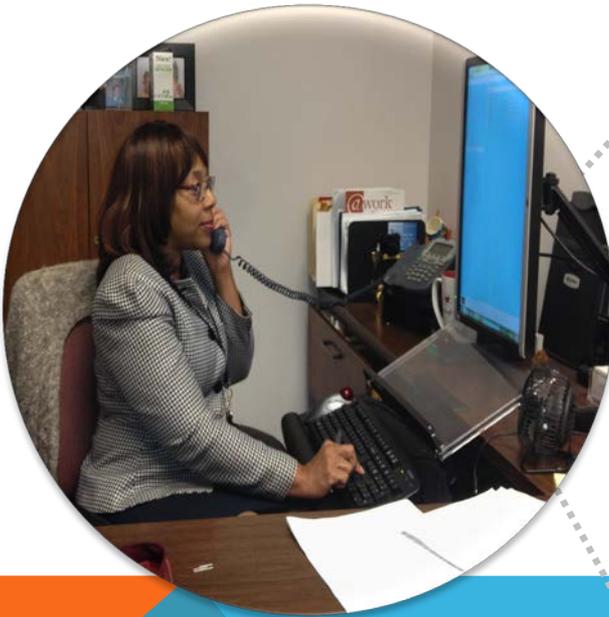
I over slept

My kid has the day off school

My coworker is being rude

I need a mental health day

How to Address Abuse and Excessive Use



- Days and times
- Other events



- Talk to your employees
- Pay attention



- Engage employee and health care provider
- Explore solutions



- Document the process
- Follow Procedures

Identify Patterns

- Mondays and Fridays
- Before or after a holiday, vacation or payday
- After denial of vacation request
- Coincides with events or project due dates
- Earn and burn



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER
PAYROLL PERSONNEL SERVICES DIVISION

20 14

2014-2015 PAYROLL & HOLIDAY CALENDAR

MONTH	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
JAN																															
FEB																															
MAR																															
APR																															
MAY																															
JUN																															
JUL																															
AUG																															
SEP																															
OCT																															
NOV																															
DEC																															

★ LEGAL HOLIDAY ● PAYDAY ■ PAY PERIOD END DATE

How to communicate with employees about sick leave

Informal Counseling

We met today to discuss my concerns about your sick leave use. I've noticed that your sick leave absences frequently fall before or after a weekend. The attached calendar shows ten Monday and Friday SP absences during the quarter ending September 30, 2014.

Sick leave is different from vacation because it's unplanned. That means it's more disruptive to our work. I don't want to discourage you from using sick leave when appropriate, but I'm concerned about the pattern I'm seeing. I rely on you to be here to perform your assigned work, and your frequent unplanned absences affect our ability to provide services. Effective immediately you must bring in medical certification for all sick leave absences.

Document and Consider Referral to EAP

G
E
C



**SUPERVISOR'S GUIDE:
HOW TO REFER EMPLOYEES TO THE EAP
Employee Assistance Program 415-554-9580**

The purpose of the Employee Assistance Program (EAP) is to provide sufficient, easy access to high quality consulting and personal guidance for employees' problem solving for confidential business and personal issues so that employees maintain wellness to support job satisfaction and work performance.

Supervisors and managers have the responsibility to oversee employees' performance and ensure that the performance meets the standards required for delivering high quality products and services. When the manager or supervisor observes that employee performance does not meet the standards it is the supervisor's manager's responsibility to work with the employee to take actions that will return the performance to the required standard. When an employee's personal/interpersonal issues contribute significantly to a drop in performance the Employee Assistance Program can be helpful.

PROBLEM IDENTIFICATION PROCESS

1. The supervisor observes that an employee's performance has changed and no longer meets performance standards.
2. The supervisor talks with the employee about the performance and they begin the problem solving conversation to explore the causes: Is it a **skill** issue? Is it a **knowledge** issue? Is it an **environmental** issue (tools, etc)? Is it a **desire/willingness** issue? Is it an **ability** (talent) issue? Is it a **personal life** issue?
3. The supervisor and employee explore possible corrective action solutions. These are evaluated and the appropriate solution or combinations of solutions are selected. A formal Performance Improvement Plan may be appropriate.

Corrective action solutions can include training offered through the employee's department, training offered by DHR's Workforce Development, training/education offered by City College, changes to the environment, mentoring, coaching, more practice, etc.

When the problem is not a skill or knowledge issue and appears to be related to the employee's personal life or inter-personal skills the supervisor should consider a referral to the Employee Assistance Program.

Continued on page 2

istance
)

WORKSHOPS,
AL HEALTH
FIAL,

3/15/07

* Increased anger, anxiety or panic attacks
* Chronic sadness or depression
* Inability to concentrate

* Increasing your respiratory needs
* Creating a Meaningful Retirement
* For a schedule of EAP group workshops, visit
http://www.ci.sanfrancisco.ca.gov

Page 1 of 2

CITY & COUNTY OF SAN FRANCISCO

Take advantage of confidential counseling, group workshops, and other EAP services.

- Confidential counseling for individuals, couples and families
- Anger management
- Stress management
- Parenting
- Separation and divorce
- Dealing with difficult people
- Work/life balance
- Substance abuse and addiction
- Crisis intervention
- Communication and conflict resolution
- Violence prevention
- Behavioral health referrals

Confidential, voluntary EAP services are available to City & County of San Francisco employees, their family members and significant others. Most of our services are free.

- Document Counseling in Memorandum
- Refer to Employee Assistance Program

Document and Discuss Reasonable Accommodations for Excessive Absences

EMPLOYMENT RIGHTS FOR PERSONS WITH DISABILITIES IN THE CITY AND COUNTY OF SAN FRANCISCO

POLICY

The Americans with Disabilities Act (ADA) and California's Fair Employment and Housing Act (FEHA) prohibit employment discrimination against qualified applicants and employees on the basis of disability. In accordance with the law, it is the policy of the City and County of San Francisco to provide equal employment opportunities to qualified individuals with disabilities.

WHO IS PROTECTED?

The law covers qualified applicants and employees with disabilities. A qualified individual with a disability is defined as an individual with a disability who meets the skill, experience, education and other job-related requirements of a position held or sought, and who, with or without reasonable accommodation, can perform the essential functions of the job.

A person with a disability is an individual who:

- has a physical or mental impairment that limits a major life activity; or
- has a record of such an impairment which is known to the employer; or
- is regarded by the employer as having, or having had, such an impairment; or
- is regarded by the employer as having, or having had, a disorder or condition that has no present disabled effect, but that may become a disability.

Impairments that require special education or related services are also disabilities.

Major life activities include seeing, hearing, breathing, walking, speaking, learning, working, caring for oneself, performing manual tasks, lifting, and other physical, mental and social activities, etc.

YOUR RIGHTS UNDER THE LAW

Applicants

- An employer must provide equal employment opportunity for qualified applicants with disabilities to enable them to participate in the job application process and to be considered for a job.
- Reasonable accommodations must be provided, as needed, to ensure that individuals with disabilities have equal opportunity in the application and

EMPLOYEE REASONABLE ACCOMMODATION REQUEST FORM

Last Name _____ First Name _____ Last 4 Numbers of Social Security Number _____
Address _____ City _____ Zip _____ Work Phone _____ Home Phone _____

It is the policy of the City and County of San Francisco to provide reasonable accommodations to qualified individuals with disabilities in accordance with the federal Americans with Disabilities Act and the California Fair Employment and Housing Act. You may be required to provide documentation in support of your request for reasonable accommodation.

Please note that this information will be maintained in a separate confidential file from your personnel file and access will be limited only to those with a need-to-know.

1. Current Position:

Class: _____ Title: _____ Section: _____
Dept.: _____

2. Reasonable Accommodation Request:

What type of accommodation do you request?

- Purchase of assistive device(s) Removal of architectural barrier Reassignment
 Removal of communications barrier Job Restructuring Other
 Purchase of assistive services Modified Work Schedule

Please describe the accommodation: (use extra sheets if needed)

Please explain how you believe this accommodation will enable you to perform the essential functions of your position: (use extra sheets if needed)

3. Essential Duties of Your Position:

Please identify the essential duties (do not include marginal duties) of your position for which you are requesting an accommodation:

1. _____
2. _____
3. _____
4. _____

HEALTH CARE PROVIDER CERTIFICATION FORM

Employee's Name _____ Last 4 digits of Social Security No. _____

The above-referenced individual has identified you as the health care provider who is treating the medical condition for which he/she is seeking reasonable accommodation. Attached is the employee's signed medical release. Please complete this certification form and the essential functions guide and return it in the envelope provided. Please write **legibly**; if clarification is needed, you will be contacted by a personnel representative. Thank you again for your assistance.

Date of your last examination of this individual: _____

To discuss this matter, I am requesting that a department representative contact me by phone at: _____

A. Major Life Activities

1. Does this person have a medical condition, that makes one or more of his/her major life activity/activities¹ difficult to perform?
 Yes No
2. If yes, the major life activity/activities affected is/are: _____

B. Duration of Medical Condition

1. Is this medical condition temporary? Yes ___ No ___
2. If yes, please state the expected duration of this condition: _____

¹ Major life activities include, but are not limited to, walking, talking, breathing, seeing, hearing, lifting, caring for oneself, learning, thinking, concentrating, interacting with others, speaking, performing manual tasks, reading, sitting, and working

- Document Counseling Informally in Memorandum
- Discuss Reasonable Accommodations Process

Investigate

- Discuss suspected leave abuse with employees
- Encourage supervisor and managers to be aware of what's going on in the workplace
- Check social media
- Authenticate medical certificates and verify absences are for actual illness (Do not contact MD)



What should I avoid asking a health care provider?

Questions that would likely lead to disclosure of :

- ✓ **Diagnosis**
- ✓ **Prognosis**
- ✓ **Genetic conditions**
- ✓ **Pre-existing medical conditions**

Quiz

On the same date that Accountant Andy was supposedly under the care of his doctor, his supervisor saw Andy playing soccer at Silver Terrace Park.

What possible routes of investigation should you take?

Dr. John B. Arkusinski, DO
Family Practitioner
204 Main Street Italy, TX, 76651
Phone: (972) 483-7703

FONASE
(fluticasone propionate)
NASAL SPRAY, 50 mcg

Certificate for school or work:
Accountant Andy was under my care on 9-20-13 he/she will
be able to return to school/work on 9-21-13

Physicians comments: _____

[Handwritten Signature]

GlaxoWellcome
WM16237-27R

- Ask Andy if it was him
- Look online for a team roster and schedule
- See if Andy posted anything about it on Facebook

Was that you?

Initiate Discipline

- Counsel employees
- Consider progressive discipline
- Refer to EAP and discuss RA process
- Consult with Human Resources
- Document on annual performance form



Formal Discipline

Reprimands should include facts regarding the suspected abuse or excessive use.

Sample:

On May 14, 2014, at 7:30 am you called the On Duty Clerk to report that you were sick and unable to come to work for your scheduled shift. At 10:00 am on May 14, I observed you at Silver Terrace Park playing soccer. When I discussed the situation with you on May 16, you stated that you were only sick for a brief time in the morning.

Sample:

You are hereby given this written reprimand as disciplinary action for your continuing inability to report to work as scheduled. Department records show you were absent from work approximately 215 hours during the period from January 1 to December 31, 2013. The dates are as follows:

- Attach a list of days, document patterns
- Identify a goal for improvement

Document on Annual Performance Appraisal Form



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF HUMAN RESOURCES

2014

Performance Plan and Appraisal Report

I. EMPLOYEE IDENTIFICATION INFORMATION

1. LAST NAME, FIRST NAME, MIDDLE INITIAL	2. JOB CODE NUMBER AND TITLE	3. STATUS <input type="checkbox"/> Permanent (PCS) <input type="checkbox"/> Provisional (TPV) <input type="checkbox"/> Permanent Exempt (PEX) <input type="checkbox"/> Temporary Exempt (TEX) <input type="checkbox"/> Temporary Civil Service (TCS) <input type="checkbox"/> Limited Tenure (Restricted Use) (TLT) <input type="checkbox"/> Non Civil Service (Restricted Use) (NCS)
4. WORK LOCATION & DIVISION	5. DEPARTMENT	6. REASON FOR REPORT <input type="checkbox"/> Annual <input type="checkbox"/> Dept. Review Period <input type="checkbox"/> Probationary <input type="checkbox"/> Unscheduled
	7. REVIEW PERIOD	8. PROBATION START AND END DATE

CITY & COUNTY OF SAN FRANCISCO • DEPARTMENT OF HUMAN RESOURCES
PERFORMANCE PLAN AND APPRAISAL REPORT

II. PERFORMANCE PLAN – JOB DESCRIPTION

REVIEW OF DUTIES & RESPONSIBILITIES BASED ON JOB DESCRIPTION

FUNCTIONAL/WORKING TITLE	COMMENTS:
1.	
2.	17. Attendance: Regular and prompt attendance is required for your job. All planned absences must be requested and approved in advance. For illness, emergencies or other unplanned and unforeseeable absences, notify your supervisor as soon as possible, but no later than the beginning of the work day on the first day of the absence
3.	
4.	
5.	
6.	COMMENTS:
7.	COMMENTS:
8.	COMMENTS:
9.	COMMENTS:
10.	COMMENTS:
11.	COMMENTS:

During the reporting period Bob missed 25 days due to unplanned sick leave.

CITY & COUNTY OF SAN FRANCISCO • DEPARTMENT OF HUMAN RESOURCES
PERFORMANCE PLAN AND APPRAISAL REPORT

12. Statement of Incompatible Activities: Fully comply with the department's Statement of Incompatible Activities as approved by the Ethics Commission. Compliance includes, but is not limited to: Restrictions on Incompatible Activities, Restrictions on Use of City Resources, City Work-Product and Prestige, and Prohibition on Gifts for Assistants with City Services	COMMENTS:
13. Use of City and County Resources for Business Purposes Only: All City equipment, devices, and materials (i.e., photocopiers, telephones, computers, vehicles, etc.) are the property of the City and County and are to be used only for official business purposes.	COMMENTS:
17. Attendance: Regular and prompt attendance is required for your job. All planned absences must be requested and approved in advance. For illness, emergencies or other unplanned and unforeseeable absences, notify your supervisor as soon as possible, but no later than the beginning of the work day on the first day of the absence	COMMENTS:
18. Compliance with Rules, Policies and Procedures: Fully comply with all rules and policies and procedures. Also comply with City rules and policies in the Employee Handbook including, but not limited to: Policy on Equal Employment Opportunity; Policy on Equal Opportunity and Reasonable Accommodation for Individuals with Disabilities; Policy Prohibiting Harassment; Policy Prohibiting Employee Violence in the Workplace; Policy Regarding the Treatment of Co-Workers and Members of the Public; Responsibility for Responding to and Reporting Discrimination, Retaliation and Harassment; Reporting and Responding to Workforce Violence, etc.	COMMENTS:

SICK LEAVE ORDINANCE PROTECTIONS

San Francisco Administrative Code Chapter 12W and AB1522 protect sick leave use. Both laws prohibit discrimination or retaliation against employees for using accrued sick days, or for filing a complaint regarding any sick day policy violation.

INTRODUCTION TO FMLA & CFRA

Designating Leave



WHY DESIGNATE FMLA/CFRA LEAVE?

Legal Mandate

In all cases, it is the employer that designates an employee's leave as family/medical leave.

Start the Clock

If you fail to designate the time off as family/medical leave and notify the employee of this designation, you cannot normally retroactively count the time against the employee's leave entitlement.

RETROACTIVE DESIGNATIONS

- **Ok if by agreement with the employee**

An employee is involved in a serious auto accident and is absent for several days. He subsequently contacts his supervisor to report that he has been in the hospital. In this situation, you can notify the employee of his eligibility for FMLA/CFRA, confirm that he is indeed in the hospital, and then, with his agreement, designate his leave retroactively to the first date of his absence.

- **From the date of notice**

If an employee submits an FMLA request on September 1, and is eligible to take the leave, but is unable to provide the certification for another 2 weeks, then you can designate the leave retroactively to the date on the notice.

FMLA & CFRA Leave Management



What does the employee need to do?

When do you designate?

How do you designate?

WHAT MUST THE EMPLOYEE DO TO COMMUNICATE NEED?

No specific words or forms are required

Oral requests are okay

Statements from family are acceptable

It's what you know that counts

Hospital admissions

Absence of 5 days or more

INITIAL RESPONSE TO REQUEST FOR FMLA/CFRA (ELIGIBILITY NOTICE)

- ✓ Respond within 5 business days
- ✓ Confirm or deny eligibility for leave (employment time and term requirements)
- ✓ Give Notice of Eligibility and Rights & Responsibilities
- ✓ Decide if FMLA-2 will be needed

WHAT IS SUFFICIENT NOTICE TO DESIGNATE THE LEAVE?

Employee's serious health condition

Inpatient treatment

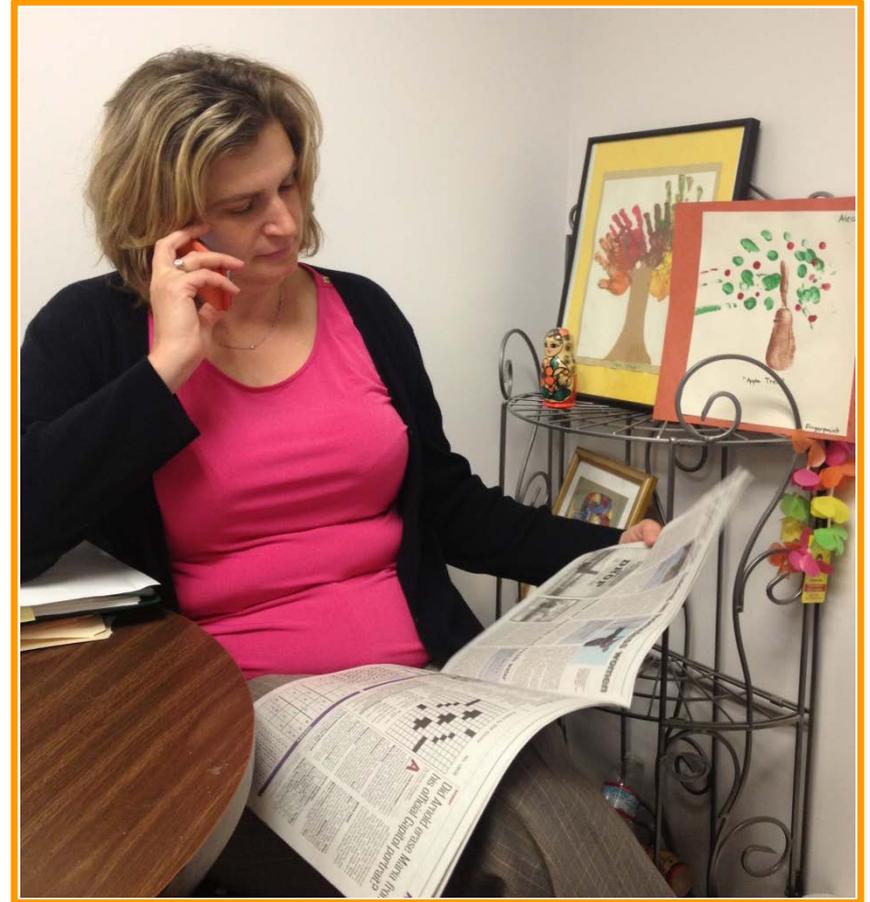
Chronic condition

Qualifying family member's serious health condition and employee's participation in care

Pregnancy-related disability (FMLA Only)

**AN EMPLOYEE'S SISTER
CALLS TO REPORT THAT
AN EMPLOYEE IS IN THE
HOSPITAL AND CAN NOT
WORK**

**WHAT SHOULD YOU
DO?**



WHAT SHOULD YOU DO?

1. Ask the employee's sister if she can receive FMLA/CFRA forms for the employee.
2. Ask the sister if she knows how long the employee will be away from work.
3. Mail Automatic Designation Letter (FMLA 4) to the employee's address on record.
4. Send Employee Request for Leave under FMLA/CFRA form (FMLA 1A) to the employee's address on record.

AUTOMATIC DESIGNATION LETTER



AUTOMATIC FMLA DESIGNATION / INFORMATIONAL LETTER

Place employee's name and address below.

The Personnel Office received information from your supervisor that you have been absent for more than five (5) consecutive workdays, and that your absence may be related to your own serious health condition, the serious health condition of an immediate family member, or the birth, adoption, or new placement of a foster child.

Based on this information, and despite no request from you to do so, we have preliminarily designated your absences as covered by the Family Medical Leave Act due to:

- A. The birth of the employee's child and in order to care for such child.
- B. The placement with the employee of a child for adoption or foster care and to care for such child.
- C. In order to care for an immediate family member because such family member has a serious health condition. Circle one:
CHILD SPOUSE/DOMESTIC PARTNER PARENT OTHER _____
- D. Employee's own serious health condition that makes the employee unable to perform the functions of his/her job.

Dates of absence designated as FMLA Leave: _____ through _____

By designating these days as FMLA Leave, your absences are protected, and may not be counted as absences for disciplinary purposes. The number of days you were absent, will, of course, be deducted from the total 12 week (480 hours) leave period available to you under the FMLA. We are not certain if you are entitled to FMLA Leave during your current absence and have enclosed information about the FMLA and other types of City Leaves. If you are not eligible for FMLA Leave, you will want to request another type of leave on the Request for Leave (DHR 7-20) form. If the reason you are absent is covered by the FMLA and you want to continue this designation, complete an Employee Request for Family and Medical Leave (FMLA 1A) and Certification of Health Care Provider (FMLA 2) form and return both to our office within 15 calendar days of this letter.

Signature of Preparer

Department

Printed Name

Date

ENCLOSED FORMS:

- Your Rights Under the Family and Medical Leave Act (FMLA 1)
- Employee Request for Family and Medical Leave (FMLA 1A)
- Certification of Health Care Provider (FMLA 2)
- Request For Leave (DHR 7-20)

cc: Personnel File

EMPLOYEE REQUEST FORM



- New request
 Request for extension¹
 Workers' compensation related

I am requesting leave under the Family and Medical Leave Act² for the following reason (check one):

- A. Birth of the employee's child and to care for such child. Child's date of birth: _____
 B. Placement with the employee of a child for adoption or foster care, and to care for such child (Attach required documentation)
 C. To care for an immediate family member because such family member has a serious health condition (Submit "Certification of Health Care Provider" (FMLA 2) form within 15 calendar days)

Select family member: CHILD SPOUSE/DOMESTIC PARTNER PARENT OTHER (explain): _____

- D. Employee's serious health condition that makes the employee unable to perform the functions of his/her job.³ (Submit "Certification of Health Care Provider" (FMLA 2) form within 15 calendar days.)

Your request will constitute FMLA and will be designated as such if you checked one of the above and your request was approved.⁴ If you checked D, the City will require you to provide a medical certification of fitness as a condition of returning to work. If you fail to submit the required certification, the City may refuse to return you to work until the certification is submitted.

FMLA Requested From (dates): _____ through _____

Employee Name

Disaster Service Worker No.

Employee Class Number and Title

Dept. Name

Employee Signature

Date

cc: Personnel File

¹ Requests for extension of FMLA leave must be submitted two business days prior to the end of the current scheduled FMLA leave. Failure to submit timely may delay granting the extension. FMLA form 1C must also be submitted.

² Refers to both federal and state leaves under the Family Medical Leave Act and the California Family Rights Act.

³ The City will count a workers' compensation absence against your FMLA leave if you suffer an on-the-job injury or illness that qualifies as a serious health condition.

⁴ Except for authorized workers' compensation leave or pregnancy disability leave, when you use qualified FMLA leave, you must concurrently use accrued sick leave for your time off. After sick leave with pay credits have been exhausted, you may elect to use accrued vacation leave to cover the remaining FMLA leave, followed by the use of floating holidays.

RESPONSE TO EMPLOYEE REQUEST



FMLA 1B

City and County of San Francisco

Response to Employee Request for Leave under the Family and Medical Leave Act

Employee Name: _____ Date: _____

Response to your request of for FMLA leave dated: _____

- New request Request for extension Workers' compensation related

1. This is to inform you that:

- You are eligible for leave under FMLA.
 You are not eligible for leave under FMLA. Reason: _____

2. Leave dates requested (dates): _____ through _____

- Will be counted toward your FMLA entitlement.
 Will not be counted toward your FMLA entitlement.

3. You will/ will not be required to furnish the "Certification of Health Care Provider" (FMLA 2) of a serious health condition. If required, you must submit the form by (date): _____

Note: FMLA form 2 must be submitted within 15 calendar days after you are notified of this requirement or the commencement of your leave may be delayed until the certification is submitted. Your leave may also preliminarily be designated as FMLA leave, subject to submission of the "Certification of Health Care Provider" (FMLA 2) form.

4. You may be requested to provide the City with a Certification of Health Care Provider (FMLA 2) form no more frequently than every thirty (30) days from the date you commence your leave as to your serious health condition or your family member's serious health condition.

Except as explained below, you have a right under the FMLA for up to 12 weeks (480 hours) of unpaid leave in a rolling 12-month period⁵ for the reasons listed on FMLA 1A. Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work. Unless you have been designated as a key employee, you must be reinstated to the same or an equivalent position with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse the City for its contribution of health insurance premiums paid on your behalf during the unpaid portion of your FMLA leave.

Departmental HR Representative Name

Signature

FOR OFFICE USE ONLY

Family and Medical Leave Expiration Notice:

Leave Ending (date): _____

Date Sent: _____ (two weeks prior to leave expiration)

Initials of Sender: _____

cc: Personnel File

⁵ Each time you take FMLA leave, your remaining leave entitlement will be the balance of the 12 weeks you have not used during the immediately preceding 12 months. For example, if you took four weeks on 9/01/13, four weeks on 12/01/13 and four weeks on 3/01/14, you would not be entitled to any additional FMLA Leave until 9/01/14.

FAILURE TO GIVE NOTICE OF FMLA/CFRA RIGHTS CAN BE A COSTLY MISTAKE

Faust v. California Portland Cement Company

- Faust experienced severe lower back pain, had chiropractic treatment and filed a workers' compensation claim.
- Chiropractor recommended physiotherapy, chiropractic therapy, rest and no "regular job duties" for a month.
- HR manager questioned the chiropractor's note. Faust took leave.
- The company failed to notify Faust of his right to take medical leave under the California Family Rights Act (CFRA) or the Family Medical Leave Act (FMLA).
- Faust's employment was terminated because "the paperwork [he] submitted was insufficient to sustain an approved absence from work."

TAKEAWAYS FROM THE FAUST CASE

1. Always give employees notice of eligibility and rights, if leave may qualify for FMLA/CFRA protections.
2. Questions regarding medical certifications should be resolved through the FMLA/CFRA verification process.
3. Follow FMLA/CFRA timelines for verification of eligibility and medical certifications.

Can an employee refuse FMLA/CFRA?

Foster Farms Case

Holding: An employee can refuse FMLA/CFRA leave, even if the reason for leave qualifies for FMLA/CFRA protections.

Caveat: This case involved a family member's serious health condition

WITHDRAWAL OF TENTATIVE DESIGNATION



WITHDRAWAL OF FMLA DESIGNATION

Place employee's name and address below:

Although the City made a preliminary designation that your absence from work was for reasons covered by the Family and Medical Leave Act,

- you did not submit the required Certification of Health Care Provider form (FMLA 2).
- your Certification of Health Care Provider form (FMLA 2) failed to confirm that the reason for the absence was an FMLA reason.

As such your absence from _____ through _____ is not covered under the FMLA. Enclosed is a Request For Leave (DHR #7-20) form that you may complete and submit by _____ if you have not already done so. For answers to your questions, please contact _____ at _____.

(telephone number)

Signature of Preparer

Department

Printed Name

Date

cc: Personnel File

WRAP UP

Request for FMLA/CFRA

Respond to employee within 5 days

Eligibility Notice

Calculate term, time and FMLA/CFRA hours used then send notice of eligibility

Designate Leave

Review medical certification or facts and send notice to employee

CONTACTS

Janie White

Medical Leave
Program Manager

(415) 551-8903

Janelle Peterson

Medical Leave Program
Administrative Analyst

(415) 557-4830

THE END

MEDICAL LEAVE PROGRAM