

AFSCME - ARTICLE 41

Family Care Leave

Section 1. After completing one year of service, permanent employees shall be granted, upon written request, up to six months of family care leave without pay with benefits, on a rolling twelve month year basis, for the purpose of attending to the medical needs of a spouse, domestic partner, parent, son or daughter or other person qualifying as a dependent who has a serious health condition, as defined by the Family and Medical Leave Act, provided the employee has at least 1250 hours of actual work time within the twelve months preceding the commencement of the leave (900 hours for permanent part-time employees). Leave under this Section shall be approved on an intermittent or reduced-time basis during the first twelve weeks of absence per rolling twelve month year. After twelve weeks of absence, whether taken intermittently, on a reduced-time basis, or continuously, subsequent leaves in the rolling twelve month year shall not be approved for periods less than two consecutive weeks. For eligible permanent part-time employees, both the six month and 12 week entitlements provided by this subsection will be pro-rated based on the employee's percentage on full-time regular hours worked.

The request, which shall be submitted, at least two weeks in advance if circumstances permit, must include documentation supporting the need for Family Care Leave.

One aggregate six month entitlement of leave without pay with benefits will be provided for family care leave without pay used under this Section, sick leave without pay used under Article 17, Section 5.a., and parental leave without pay used under Article 18, Section 1.a. Leave used under these Articles, as well as military exigency leave used under Article 17, Section 12, will be deducted from the six month entitlement and run concurrently.

After the employee has used an aggregate of six months of leave without pay with benefits under this Section, Article 17, Section 5.a., Article 18, Section 1.a., and/or military exigency leave used under Article 17, Section 12, the Employer is not required to grant subsequent leave without pay with benefits until such time that the employee again becomes eligible for some portion of the six month entitlement under the rolling twelve month year, provided that the employee has at least 1250 hours of actual work time within the 80 twelve month period preceding commencement of the leave (900 hours for permanent part-time employees).

The continuation of benefits under this Section is subject to the employee's payment of any required employee contribution under Article 25, Section 3.

Section 2. State-paid coverage for life insurance and state payments toward coverage for health benefits as provided in Articles 24 and 25 will continue for the period of time the employee is on family care leave without pay with benefits under Section 1 of this Article.

Section 3. Upon request of the employee, an extension of up to an additional six months of leave without pay shall be granted provided the employee provides proof of the family member's continuing illness or disability. The extension shall be without benefits and shall be contiguous to the termination of the initial six months of leave without pay with benefits. It shall not be used on an intermittent or reduced-time basis.

Section 4. a. If eligible for paid sick leave, an employee shall be required to use all applicable paid sick family and additional sick family leave upon commencement of family care leave without pay. Such sick leave used will run concurrently with and reduce the six month entitlement to leave without pay with benefits. Employees shall not be required to use annual, personal, compensatory or holiday leave upon commencement of leave without pay; however, if annual, personal, compensatory or holiday leave is used, it also will run concurrently with and reduce such entitlement.

b. Effective during the first pay period of leave calendar year 2012, Subsection 4, a. applies except that employees may choose to retain up to ten days of accrued sick leave to be used as sick family and/or additional sick family, in accordance with Article 14, Section 4, and 5. The choice to retain or not retain sick leave cannot be made retroactively, and saved days will be measured based on accrued sick leave availability at the commencement of the absence. Saved days may be used by employees for absences appropriate for the use of such leave at any time during the first 12 weeks of the six month entitlement to leave without pay with benefits; such sick leave used will run concurrently with and reduce the six month entitlement to leave without pay with benefits. Days saved and requested for intermittent or reduced-time absences for periods less than two consecutive weeks after the first 12 weeks of the six month entitlement to leave without pay with benefits will be reviewed for approval under the provisions of Article 14; such use will not be counted against the six month entitlement to leave without pay with benefits.

Section 5. An employee shall have the right to return to the same position in the same classification held before going on family care leave, or to an equivalent position with regard to pay and skill for absences under Section 1 of this Article. After commencing the extension period under Section 3 of this Article and upon receipt of a written request to return to work, the employee shall be offered a position in the same classification and seniority unit for which a vacancy exists and to which there are no seniority claims and which the agency intends to fill. If such a position is not available, the employee shall be offered, during the remainder of the six-month period, any position in the same classification, in a lower classification in the same classification series, or a position previously held, within the same geographical/organizational limitation as the seniority unit, for which a vacancy exists and to which there are no seniority claims and which the agency intends to fill. If the employee refuses an offer of a position in the same classification, the employee's rights under this Section shall terminate. If the employee accepts a position in a lower classification or a position previously held, the employee will be offered a position in the same classification if there is a vacancy in that classification during the remainder of the six- month period in the seniority unit, provided there are no seniority claims to the position, and the agency intends to fill the position.

Section 6. For the purpose of this Article, parent shall be defined as the biological, adoptive, step or foster parent of the employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. For the purpose of this Article, son or daughter shall be defined as a biological, adopted, or foster child, a step-child, a legal ward, or a child of a person standing in loco parentis, or a biological or adopted child of the employee's domestic partner 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 purpose of this Article, domestic partner shall be defined as a same sex domestic partner who meets the eligibility criteria established by the Commonwealth.

Section 7. It is understood by both parties that the provisions of this Article are consistent with the Family and Medical Leave Act of 1993, 29 U.S.C. Sections 2601, et seq.