



MEETING DATE: January 8, 2025

AGENDA ITEM: 8A. Sick Leave Policy 1137 (New)

FROM: Cary Curtis

RE: Adopt New Policy 1137- Sick Leave and Approve Update to Policy 1138
Family Leave

REASON FOR RECOMMENDED BOARD ACTION:

The Board will review the proposed two policies for adoption and inclusion in the BPPFD Policy Manual.

BACKGROUND:

The District does not have a current sick leave policy to comply with State Labor Law. The District does have an existing Family Leave Policy (Lexipol). Changes to the law are reflected in the proposed Family Leave policy (additions are highlighted in yellow.)

The Sick Leave policy was drafted by the District HR Counsel, Laura Fowler. It reflects the current law regarding employee access to sick leave. There are two options of sick leave accrual that the District can choose. Annual front loading of 40 hours/5 shift days of sick leave or an accrual method by which hours are added each month to achieve the 40 hours or 5 shift days total. With the accrual method, sick leave hours can be carried over to the next year, presenting difficulty for the Administrative Assistant to track. The recommended method proposed, reflected in the draft policy, is to front load the sick hours for each District employee. That will happen in January 2025. Sick hours are established on a calendar year, rather than fiscal year.

There is a recommended exception added to the sick leave policy. The three full time firefighter positions should have access to their sick leave as Personal Time Off (PTO). The full time positions have limited opportunity for trades between each other and if they take time off, the leave hours are deducted from their pay. Considering the positions have no benefits, leave time, retirement or medical coverage, their 5 shifts (120 hours) should be allowed to be utilized as PTO, to be taken when needed and approved by the Battalion Chief and/or Fire Chief.

The leave submission form referred to in the Family Leave policy will be developed as soon as possible.

FISCAL IMPACT:

There is a negative impact to current budget because sick leave and coverage of the vacant shifts were not budgeted. Sick leave and coverage will be added to future budgets. When a person has a scheduled shift and calls in sick, the affected Battalion Chief (with notification to the Fire Chief) will make a decision if it is necessary to fill the shift. Evaluation of qualified personnel in the District, available for response, will factor into the decision. There may be other alternatives to provide coverage for the open shift, without adverse budget impact.

IMPACTS TO THE CUSTOMER:

Positive impacts for the Public when the District adheres to state law and assures that our firefighters are well and able to respond. Sick leave is an important right which employees have, to get well and return to their jobs. Extending sick time to personal time off for our full time firefighters is a motivating step to retain good personnel.

RECOMMENDATION:

Adopt the policies as recommended.

ATTACHMENTS:

- A. FAMILY AND MEDICAL LEAVE- UPDATED JAN 8 2025 (1)
- B. BECKWOURTH PEAK - PAID SICK LEAVE POLICY-1137 PROPOSED FINAL

Family and Medical Leave

1138.1 PURPOSE AND SCOPE

The purpose of this policy is to provide general guidance for managing unpaid leave for eligible employees for qualified medical and family reasons, including (29 USC § 2612; Government Code § 12945.1; Government Code § 12945.2):

- The birth, adoption, or foster care placement of a child.
- To care for an immediate family member with a serious health condition.
- When an employee is unable to work because of his/her own serious health condition.
- To care for a spouse, son, daughter, parent, or next of kin service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty. Under the California Family Rights Act (CFRA), this includes care for a domestic partner. Under the CFRA, leave can also be taken for a "designated person," who is someone related by blood or whose relationship with the employee is "equivalent to a family relationship." An employee can designate a person once every 12 months.
- Under CFRA, leave due to a qualifying exigency (as defined in Unemployment Insurance Code § 3302.2) related to the covered active duty or call to active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States.

This policy does not address all possible situations and circumstances that may arise when an employee requests leave for family or medical reasons. As these leave situations arise, supervisors should consult with the Admin Officer/Fire Chief or legal counsel to obtain specific guidance regarding leave rights and obligations.

Nothing in this policy supersedes any provision of any collective bargaining agreement, civil service or other local rule, or any law that provides greater family or medical leave rights.

1138.1.1 DEFINITIONS

Definitions related to this policy include:

CFRA - California Family Rights Act (Government Code § 12945.1; Government Code § 12945.2).

Child - A child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability (29 USC § 2611; 29 CFR 825.102; 29 CFR 825.122). An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, or foster child; stepchild; or a child for whom the employee is standing in loco parentis (in place of a parent). Under CFRA, a child includes a legal ward and child of a domestic partner (Government Code § 12945.2).

FMLA - The federal Family and Medical Leave Act (29 USC § 2601 et seq.).

Qualified health care professional - A physician, surgeon, doctor of osteopathy, podiatrist, dentist, psychologist, optometrist, nurse practitioner, nurse midwife, clinical social worker, or

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physician assistant duly licensed and authorized to practice medicine; chiropractors for some purposes; any health care provider from whom the department benefits plan will accept certification of the existence of a serious health condition to substantiate a claim for benefits (29 CFR 825.125).

Spouse - The person with whom an employee has entered into a marriage as defined or recognized by the location in which the marriage was entered into (29 USC § 2611; 29 CFR 825.102; 29 CFR 825.122).

Family member(under CFRA) - A child, parent, grandparent, grandchild, sibling, spouse, or domestic partner as defined in Family Code § 297, or a designated person as defined by Government Code § 12945.2.

Family member(under FMLA) - A spouse, child, or parent as defined by 29 CFR 825.122.

1138.2 POLICY

It is the policy of the Beckwourth Peak Fire District to manage unpaid leave for eligible employees for qualified medical and family reasons in compliance with federal and state law and any applicable collective bargaining agreement.

1138.3 ELIGIBLE EMPLOYEES

Employees are eligible for FMLA/CFRA after working for the Beckwourth Peak Fire District for at least one year and completing 1,250 hours over the 12 months prior to the commencement of the leave (29 USC § 2611; 29 CFR 825.110; Government Code § 12945.2).

For leave under FMLA, employees may not be eligible for leave if there are less than 50 other employees within 75 miles of the employee's work site (29 USC § 2611; 29 CFR 825.110).

1138.4 TYPE AND DURATION OF LEAVE

Generally, eligible employees are entitled under FMLA/CFRA to 12 work weeks of unpaid leave during a 12-month period (29 USC § 2612; 29 CFR 825.100). Up to 26 weeks of unpaid leave during a single 12-month period may be available to care for certain injured military service members. The 12-month period is measured backward from the date leave is taken and continuously with each additional leave day taken.

1138.4.1 SERIOUS HEALTH CONDITIONS

Eligible employees may take up to 12 weeks of leave to care for a family member with a serious health condition or when the employee is unable to work because of his/her own serious health condition (29 USC § 2612(a)(1); 29 CFR 825.200; Government Code § 12945.2).

Under FMLA, if both spouses are employed by the Beckwourth Peak Fire District, the combined number of work weeks to care for a sick parent is limited to 12 work weeks during any 12-month period (29 USC § 2612(f); 29 CFR 825.201).

Generally, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves (29 USC § 2611; 29 CFR 825.113):

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- An overnight stay in a hospital, hospice, or residential medical care facility (29 CFR 825.114).
- Continuing treatment by a qualified health care professional due to a serious health condition of more than three full consecutive calendar days (29 CFR 825.115(a)).
- Any period of incapacity due to pregnancy complications or prenatal care (29 CFR 825.115(b)).
- A chronic condition which requires treatment (29 CFR 825.115(c)).
- A permanent condition for which treatment may not be effective (such as Alzheimer's or the terminal stages of a disease) (29 CFR 825.115(d)).
- Any period of absence to receive multiple treatments, including any recovery period, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days without medical intervention or treatment (such as cancer chemotherapy or physical therapy for arthritis) (29 CFR 825.115(e)).

1138.4.2 BIRTH OR PLACEMENT OF A CHILD

Eligible employees may take up to 12 weeks of leave for the birth, adoption, or foster care placement of a child of the employee (29 USC § 2612; 29 CFR 825.200; Government Code § 12945.2). The leave must be concluded within one year of the birth or placement of the child (29 CFR 825.120; 29 CFR 825.121).

Under FMLA, if both parents are employed by the Beckwourth Peak Fire District, the combined number of work weeks of leave is limited to 12 work weeks during any 12-month period (29 USC § 2612(f); 29 CFR 825.120; 29 CFR 825.121).

1138.4.3 MILITARY EXIGENCY LEAVE

Eligible employees may take service member leave of up to 12 weeks for qualifying exigencies occurring because a spouse, child, or parent is on covered active duty or has been notified of an impending order to active duty (29 USC § 2612(a)(1)(E); 29 CFR 825.200). This type of leave is available to a family member of a person in the National Guard, Reserves, or members of the regular Armed Forces deployed to a foreign country. Qualifying exigencies include (29 CFR 825.126):

- Addressing issues that arise from a short notice (seven or less days) deployment.
- Attending military events related to the active duty or call to duty.
- Attending family support or assistance programs.
- Making child care or educational arrangements or attending school activities arising from active duty or a call to active duty.
- Making financial and legal arrangements.
- Spending time with a military member who is on short-term rest-and-recuperation leave during a period of deployment.

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- Attending post-deployment activities.
- Addressing issues that arise from the death of a military member, such as making funeral arrangements.
- Caring for a military employee's parent who is incapable of self-care, such as providing care on an immediate need basis or arranging for alternative care.

1138.4.4 MILITARY CAREGIVER LEAVE

Eligible employees may take up to 26 weeks of leave in a single 12-month period to care for a spouse, son, daughter, parent, or next of kin who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces, provided that such injury or illness may render the family member medically unfit to perform work (29 USC § 2612; 29 CFR 825.200).

Military caregiver leave is also available to family members of covered veterans who were members of the Armed Forces, including the National Guard or Reserves, at any point in the five years preceding the date on which the covered veteran undergoes medical treatment, recuperation, or therapy (29 USC § 2612; 29 CFR 825.127).

During the single 12-month period, employees are entitled to no more than a combined total of 26 weeks of FMLA leave. In any case in which both spouses are employed by the Beckwourth Peak Fire District, the combined number of work weeks of leave is limited to 26 during any 12-month period (29 USC § 2612(f); 29 CFR 825.127).

Service member FMLA leave runs concurrent with other leave entitlements provided under federal, state, and local law. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

1138.4.5 FAMILY MILITARY LEAVE

An employee who is a spouse or registered domestic partner of a member of the military who is deployed to designated combat zones is entitled to take up to 10 days unpaid leave (Military and Veterans Code § 395.10).

1138.4.6 INTERMITTENT LEAVE

An employee may take leave for the employee's own serious health condition, for the serious health condition of the employee's spouse, child, or parent, or to care for a covered service member with a serious injury or illness, intermittently or on a reduced schedule if medically necessary, and if that medical need can best be accommodated by an intermittent schedule as defined in federal law (29 USC § 2612(b); 29 CFR 825.202; 29 CFR 825.124).

Leave due to a military exigency may be taken on an intermittent or reduced-leave schedule (29 CFR 825.202).

Intermittent leave for the birth, adoption, or foster care placement of a child is only available if granted at the discretion of the Fire Chief, unless the employee has a serious health condition in

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connection with the birth or if the newborn child has a serious health condition (29 CFR 825.120; 29 CFR 825.121).

Intermittent leave for any employee shall be tracked and calculated.

1138.4.7 PREGNANCY DISABILITY LEAVE

FMLA is separate and distinct from disability leave for pregnant employees. Pregnant employees may be entitled to a disability leave as provided in the Pregnancy Disability Leave Policy in addition to any FMLA/CFRA leave.

1138.4.8 LEAVE FOR VICTIMS OF CRIME OR ABUSE

Eligible employees may take leave if the employee is the victim of a crime, abuse, or sexual assault and needs leave for any of the purposes specified in Government Code § 12945.8. Reasonable advance notice of leave is required except in cases where notice is not feasible. Information relating to this leave shall be kept confidential to the extent permitted by law (Government Code § 12945.8).

The Department shall provide written notice of employee rights for this leave as provided in Government Code § 12945.8.

1138.5 EMPLOYEE BENEFITS WHILE ON LEAVE

While on leave, employees will continue to be covered by any group health insurance to the same extent that coverage is provided while the employee is on the job (29 USC § 2614(c); 29 CFR 825.209). However, employees will not continue to be covered under non-health benefit plans.

Employees are responsible for any health plan employee contributions while on leave (29 CFR 825.210). Employee contribution rates are subject to any change in rates that occurs while the employee is on leave. If an employee fails to return to work after their leave entitlement has been exhausted or expires, the Department may recover its share of health plan premiums for the entire leave period unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or their family member that would entitle the employee to leave, or because of circumstances beyond the employee's control (29 CFR 825.213). The Department may recover premiums through deduction from any sums (e.g., unpaid wages, vacation pay).

Employees may not earn additional time off while on unpaid leave.

1138.6 SUBSTITUTION OF PAID ACCRUED LEAVES

Subject to applicable collective bargaining agreements and civil service rules, employees are required to exhaust all applicable paid leave before taking unpaid leave. Paid accrued leave includes vacation leave, sick leave, personal leave, and compensatory time earned in lieu of overtime, pursuant to the Fair Labor Standards Act, during FMLA and/or CFRA leave. Employees may not use paid accrued leave to extend FMLA/CFRA leave beyond 12 work weeks per year.

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1138.6.1 USE OF SICK LEAVE

Employees are required to first exhaust paid sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

Employees may choose to use paid sick leave concurrently with leave under this policy (Labor Code § 233):

- To care for a family member (as defined by Labor Code § 245.5) with a serious health condition.

1138.7 USE OF FMLA/CFRA LEAVE

If an employee takes a leave of absence for any reason that is FMLA/CFRA-qualifying, the Department may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for Firefighters who are on workers' compensation leave pursuant to Labor Code § 4850.

1138.8 PROCEDURES

The following procedures will apply for all employees requesting leave under FMLA/CFRA:

- (a) When a leave is requested for a medical or other FMLA/CFRA-related treatment appointment, the employee must make a reasonable effort to schedule the appointment at a time that minimizes disruption to the department's operations (29 USC § 2612; 29 CFR 825.302).
- (b) An employee who wishes to take FMLA/CFRA must provide their supervisor with 30 days' advance notice when the leave is foreseeable or as soon as practicable if the need for leave is not foreseeable (29 USC § 2612; 29 CFR 825.302; 29 CFR 825.303).
- (c) At the time of the request, the employee must complete a FMLA/CFRA request form.

Requests for medical leave shall be accompanied by a qualified health care professional statement, including the date on which the serious health condition began and the estimated date of return to work (29 USC § 2613; 29 CFR 825.302).

Once the leave is requested or designated by the Department, the supervisor should forward the request and any medical certifications to the Admin Officer/Fire Chief and ensure the employee is provided the necessary forms and FMLA/CFRA information within five days (29 CFR 825.300).

Employees are required to provide medical certification of a qualified health care professional or military documentation, if requested (29 CFR 825.305; 29 CFR 825.308; 29 CFR 825.309; 29 CFR 825.310).

Employees shall be required to periodically report on their status and intent to return to work (29 USC § 2614; 29 CFR 825.311). This may assist in avoiding a delay in reinstatement when the employee is ready to return to work.

Employees returning from a medical leave from the employee's own serious health condition will be required to present medical verification from a qualified health care professional of the

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employee's ability to return to work and a list of any restrictions that need to be accommodated (29 USC § 2614; 29 CFR 825.100; 29 CFR 825.312).

1138.9 REINSTATEMENT FOLLOWING LEAVE

Generally, employees returning from FMLA/CFRA within the qualified period will be restored to their original job or to an equivalent job with equivalent pay and benefits (but not seniority), unless the employee would not otherwise have been employed at the time reinstatement is requested (e.g., in the case of a layoff) (29 USC § 2614; 29 CFR 825.214; 29 CFR 825.216).

If the same position is no longer available, such as in a layoff, the employee will be entitled to a position that is comparable in pay, job content, and promotional opportunities and geographic location, if such a comparable position exists.

If upon return from leave an employee is unable to perform the essential functions of the job because of a physical or mental disability, the supervisor should work with the Admin Officer/Fire Chief or legal counsel to engage in an interactive process with the employee to identify a potential reasonable accommodation.

After exhausting paid FMLA/CFRA leave, non-paid leave will continue until the conclusion of the protected 12- or 26-week time limit. Following the protected leave, the Fire Chief, in consultation with the legal counsel or the Admin Officer/Fire Chief, will determine whether non-FMLA/CFRA leave should apply.

1138.10 RESPONSIBILITY

Supervisors should work with the Admin Officer/Fire Chief or legal counsel regarding questions relating to leave or reinstatement from leave under this policy. The Admin Officer/Fire Chief should advise the supervisor and inform members of their rights and responsibilities.

1138.11 RECORDS

The Department will maintain leave-related records as required by 29 CFR 825.500 for at least three years and in compliance with the department's established records retention schedule.

Records and documents related to doctor certifications and other medical information created for purposes of complying with FMLA/CFRA and this policy shall be maintained as confidential medical records in separate files from employee personnel files.

1138.12 NOTICE TO EMPLOYEES

The Fire Chief should ensure that a notice explaining the FMLA's provisions and procedures is prominently posted in conspicuous places in the Department where it can be readily seen by all employees and applicants for employment. Electronic posting is sufficient as long as the other posting requirements have been met as provided by 29 CFR 825.300 (29 CFR 825.300).



TO BE INCORPORATED INTO LEXIPOL FORMAT

PAID SICK LEAVE POLICY 1137

Employees of Beckwourth Peak Fire Protection District ("the District") may be entitled to Paid Sick Leave under this policy pursuant to California law. The intent of this policy is to comply with California law regarding mandatory sick leave.

Eligibility:

To be eligible for Paid Sick Leave under this policy, employees must work for the District in California for 30 or more days within a year of their hire date. Employees become eligible to earn Paid Sick Leave once they have worked for 30 or more days.

Usage:

Employees become eligible to use accrued California Paid Sick Leave on the 90th day of employment. Paid sick leave may be used for the following reasons:

- The diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member; or
- To attend legal proceedings, or to obtain medical treatment, counseling or other victims' services for domestic violence, sexual assault, stalking, or other qualifying acts of violence when the employee or the employee's family member is a victim.
- For other reasons required by California law. If you are unsure of whether sick leave applies to a particular absence, please contact the Fire Chief.

For purposes of this policy, a "family member" is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent,

grandchild, sibling, and a “designated person.” A “designated person” is any person the employee identifies when requesting paid sick leave. An employee may designate one person each 12-month period, counted from the time the designation is made.

Accrual:

Employees accrue 40 hours or five days (whichever is greater) of sick leave every calendar year. At the beginning of each calendar year, eligible employees will receive five (5) days or forty (40) hours (whichever is more) of sick leave. If an employee is hired mid-year, the District will ensure that three (3) days or twenty-four (24) hours (whichever is greater) is available for use by the 120th calendar day of employment and that five (5) days or forty (40) hours (whichever is greater) is available for use by the 200th's calendar day of employment. Any accrued but unused Paid Sick Leave does not carry over into the following year.

Separation of Employment:

Upon separation of employment from the District (voluntary termination, involuntary termination, etc.) employees are not entitled to be compensated for unused Paid Sick Leave. However, if an employee separates from employment and then is rehired by the District within one year, previously unused paid sick days will be reinstated.

Increments:

Employees may use California Paid Sick Leave in no less than two-hour increments.

Notice:

To the extent possible, employees must provide reasonable advance notice of their need to use Paid Sick Leave under this policy. If the need for leave is not foreseeable, an employee must provide notice as soon as practicable.

Benefits Continuation:

Paid Sick Leave under this policy will not constitute a break in the employee's continuous service for the purpose of District-provided benefits and seniority.

Relationship with Other Leave Policies:

If a law or regulation provides for greater accrual or use of sick days, the law, regulation, or policy with the greater protection will apply. For questions regarding your entitlement to Paid Sick Leave, please contact the Fire Chief.

Exceptions:

Full-Time Shift Employees/Firefighters may be authorized to utilize their available sick leave hours for other personal purposes and as approved by the Fire Chief.