

AGENDA ITEM 1 E  
Consent Item

**MEMORANDUM**

**DATE:** December 3, 2020

**TO:** El Dorado County Transit Authority

**FROM:** Maria Harris, Human Resources Manager

**SUBJECT:** Proposed Revisions to the **El Dorado County Transit Authority Personnel Policies and Procedures Manual**

**REQUESTED ACTION:**  
**BY MOTION,**

**Adopt Resolution No. 20-28 revising the El Dorado County Transit Authority Personnel Policies and Procedures Manual to comply with new State employment law**

**BACKGROUND**

The El Dorado County Transit Authority (El Dorado Transit) reviews and updates its policies and procedures regularly for compliance with current State and Federal laws, clarification of policy language, as well as consideration of new policies and procedures based on best industry practices.

**DISCUSSION**

Senate Bill 1383 becomes effective on January 1, 2021 significantly expanding the California Family Rights Act (CFRA) family and medical leave law under Government Code section 12945.2. The law will now apply to all public agency employees, add the ability to care for a serious health condition of more family members, and eliminate other previous restrictions on the use of CFRA leave. The CFRA will now deviate from the Federal Family Medical Leave Act (FMLA) that it otherwise generally ran concurrently with, and creates leave entitlements for employees under both laws for up to 24 weeks of protected leave in a 12-month period under certain circumstances.

The recommended revisions to the El Dorado County Transit Authority Personnel Policies and Procedures Manual are noted in the following excerpts as separate documents (attached) with bold and underlined text. There is a strikethrough on items to be deleted.

The full El Dorado County Transit Authority Personnel Policies and Procedures Manual document is available for review at the El Dorado Transit offices during normal business hours.

*El Dorado County Transit Authority Personnel Policies and Procedures Manual*  
*Article 5.14 California Family Rights Act (CFRA) Revision*

## **5.14 California Family Rights Act (CFRA)**

Under the California Family Rights Act (CFRA) an eligible employee is entitled to up to twelve (12) weeks of unpaid family/medical leave within any twelve (12) month period. The total amount of leave ~~taken~~ allowable is twelve (12) workweeks in a twelve (12) month period, unless the employee is qualified for additional time for a disability due to pregnancy, childbirth or related medical condition. The twelve (12) month period begins with the first day leave is taken. At the leave's conclusion, the employee will be restored to the same or an equivalent position, except as otherwise required by law or policy.

This leave does not run concurrently with leave provided under the California Pregnancy Disability Act. However, this leave may run concurrently with some leaves that qualify under the Federal Family and Medical Leave Act and/or any other leave where permitted by state and federal law.

### **Eligible Employees**

To be eligible for a leave under CFRA the employee must:

1. Have worked for El Dorado Transit for at least twelve (12) months; and ~~2. Have worked for~~ at ~~least~~ 1,250 hours in the last twelve (12) months prior to taking CFRA; and
- ~~2. Be employed at a worksite that has fifty (50) or more employees within seventy-five (75) miles.~~

### **Reasons For Leave**

The employee may take family/medical leave for any of the following reasons:

1. Birth of the employee's or the employee's registered domestic partner's child, or to care for a newly born child; or
2. Placement of a child with the employee and/or the employee's registered domestic partner for adoption or foster care; or
3. To care for an ~~immediate~~ family member to include (spouse, registered domestic partner, child (including adult child), registered domestic partner's child, grandparent, grandchild or sibling employee's parent) with a serious health condition; or
4. An employee's serious health condition that makes the employee unable to perform the functions of the employee's job.

4.5.To care for an employee’s spouse, registered domestic partner, child or parent in the United States Armed Forces because of a qualifying exigency related to the covered active duty or call to covered active duty.

Under CFRA if both parents are employed by El Dorado Transit, and leave is taken for the birth, placement or adoption of a child, they are both entitled to a total ~~if combined~~ leave is limited to of twelve (12) weeks of leave individually. A leave for the birth, placement or adoption of a child, must be completed within the twelve (12)-month period beginning on the date of birth or placement of the child. Under the CFRA, leave for an employee’s own serious health condition does not include a disability caused by pregnancy, childbirth or related medical condition since this is covered by a separate state law. For Pregnancy Disability Leave policy see Section 5.18.

**No Work While On Leave**

Taking of another job while on family, medical, or any other authorized leave may lead to disciplinary action, up to and including termination.

**Local Family and Medical Leave Laws**

El Dorado Transit will honor local family and medical leave laws when those laws offer more protection or benefits to employees.

**Notice To Employer Of Leave**

If an employee’s need for family/medical leave is foreseeable, the employee must give El Dorado Transit at least thirty (30) days' prior written notice. When the need is not foreseeable, the employee must notify El Dorado Transit within two business days of learning of the employee’s need for leave, except in extraordinary circumstances. If the employee does not provide this notice, the employee’s leave may be delayed. If the employee’s need is due to planned medical treatment, the employee is expected to schedule the treatment to avoid disrupting El Dorado Transit's operations.

Request forms for family/medical leave are available from Human Resources. Employees requesting leave must use this form.

**Medical Certification For A Serious Health Condition**

If an employee is requesting leave because of the employee’s or a covered relation's serious health condition, the appropriate health care provider must supply medical certification. A medical certification form may be obtained from Human Resources. If possible, the employee should provide medical certification within fifteen (15) days after the leave request. If at least thirty (30) days notice of the need for medical leave is provided, the employee should provide the medical certification before leave begins. If the employee does not provide the required medical certification in a timely manner, the leave request may be delayed until it is provided.

El Dorado Transit, at its expense, may require an examination by a second health care provider designated by El Dorado Transit, if reasonable doubts exist regarding the medical certification. If the second health care provider's opinion conflicts with the original medical certification, El Dorado Transit, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. El Dorado Transit may require subsequent medical recertification. Failure to provide requested certification within fifteen (15) days, if practicable, may result in delay of further leave until certification is provided.

### **Reporting While on Leave**

If an employee takes leave because of the employee's serious health condition or to care for a covered relation with a serious health condition, the employee may be required to contact El Dorado Transit at a mutually agreeable time regarding the status of the medical condition and returning to work. In addition, the employee must give notice as soon as practicable (within two (2) business days if feasible) if the dates of leave change, are extended or initially are unknown.

### **Leave Is Unpaid**

Family/medical leave is unpaid leave. If an employee requests leave because of the birth, adoption or foster care placement of a child, or to care for a covered relation with a serious health condition, any accrued paid vacation, personal or family leave, if applicable, will be substituted for unpaid family/medical leave. If an employee requests leave because of the employee's serious health condition, any accrued paid vacation, personal or family leave or medical/sick leave, if applicable, will be substituted for any unpaid family/medical leave. The substitution of paid time for unpaid family/medical leave time does not extend the length of the leave provided by the law. Also, the employee's family/medical leave may run concurrently with other types of leave.

Employees on a medical leave may also receive pay from short-term or long-term disability payments, or workers' compensation benefits, if applicable, according to the terms of those plans. The fact that an employee may receive compensation under these plans does not extend the length of the family/medical leave provided by the law.

### **Medical and Other Benefits**

During an approved family/medical leave, El Dorado Transit will maintain the employee's health benefits under the same terms and conditions applicable to employees not on leave.

- If paid leave is substituted for unpaid family/medical leave, El Dorado Transit will deduct the employee's portion of the health plan premium as a regular payroll deduction.

- If the employee's leave is unpaid, the employee must pay the employee's portion of the premium by making arrangements with Human Resources.
- The employee's health coverage may cease if the employee's premium payment is more than thirty (30) days late. If the employee's payment is more than thirty (30) days late, El Dorado Transit will send the employee a letter to this effect. If El Dorado Transit does not receive the employee's co-payment within fifteen (15) days of this letter, the employee's coverage will cease.

If the employee does not return to work at the end of the leave for at least thirty (30) calendar days, the employee will be required to reimburse El Dorado Transit for the cost of the premiums paid by El Dorado Transit for maintaining coverage during the employee's unpaid leave, unless the employee cannot return to work due to a serious health condition or because of other circumstances beyond the employee's control.

### Exemption For Highly-Compensated Employees

~~Certain highly-compensated employees may not be returned to their former or equivalent position following a leave if doing so would cause substantial economic detriment to El Dorado Transit, as determined by El Dorado Transit. Highly-compensated employees are among the highest paid ten percent (10%) of employees at a worksite or within seventy-five (75) miles of that work site. El Dorado Transit will notify an employee if the employee qualifies as a highly-compensated employee and El Dorado Transit intends to deny reinstatement of the employee's return to work in such instances.~~

### Intermittent and Reduced Schedule Leave

Leave due to a serious health condition may be taken intermittently (in separate blocks of time due to a single serious health condition) or on a reduced leave schedule (reducing the usual number of hours an employee works per workweek or workday) if medically necessary. If the employee's leave is unpaid, El Dorado Transit will adjust the employee's salary based on the amount of time actually worked. Also, while the employee is on an intermittent or reduced schedule leave, El Dorado Transit may temporarily transfer the employee to an available alternate position that better accommodates the employee's intermittent or reduced leave and that has equivalent pay and benefits.

### At The End Of Your Leave

If the employee's leave is because of the employee's serious health condition (except if the employee are taking intermittent leave), the employee is required to provide medical certification that the employee is able to resume work prior to the employee's return. Before the employee's return, the employee must obtain a return-to-work medical certification form from Human Resources. An employee who fails to provide the return-

to-work medical certification form will not be permitted to resume work until it is provided.

**EL DORADO COUNTY TRANSIT AUTHORITY  
RESOLUTION NO. 20-28**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
EL DORADO COUNTY TRANSIT AUTHORITY  
UPDATING THE PERSONNEL POLICIES AND PROCEDURES MANUAL**

**WHEREAS**, one of El Dorado County Transit Authority (“El Dorado Transit”) key governance policies is the Personnel Policies and Procedures Manual (“Policies”); and

**WHEREAS**, the last revision to the Policy was on February 6, 2020; and

**WHEREAS**, the proposed Policy includes clarifications and revisions necessary to comply with new or updated State and/or Federal laws and regulations; and

**WHEREAS**, the proposed revisions represent Board approved policy and are intended to improve readability and ease of use.

**NOW, THEREFORE**, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE EL DORADO COUNTY TRANSIT AUTHORITY: The Board adopts the attached revisions to the Personnel Policies and Procedures Manual of the El Dorado County Transit Authority.

**PASSED AND ADOPTED BY THE GOVERNING BOARD OF THE EL DORADO COUNTY TRANSIT AUTHORITY** at a regular meeting of the Board held on the 3<sup>rd</sup> day of December 2020, by the following vote of the Board:

AYES:

NOES:

ABSTAIN:

ABSENT:

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John Hidahl, Chairperson

ATTEST:

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Megan Wilcher, Secretary to the Board