

# Human Resources

## Administrative Guideline 2020 No. 1



**Re:** Paid Family and Medical Leave ("PFML") Implementation

**Date:** January 6, 2020

**From:** Clover Codd, Chief Human Resources Officer

- I. **Introduction:** The Washington State Paid Family and Medical Leave ("PFML") law (Chapter S0A RCW) and supporting regulations establish a program administered by the Washington Employment Security Department ("ESD") to provide paid leave benefits and job protection to eligible employees who need leave for certain family and medical reasons. PFML benefits will be available starting on January 1, 2020. This guideline provides a summary of the PFML program, but employees may obtain additional information at [www.paidleave.wa.gov](http://www.paidleave.wa.gov). To the extent an issue is not addressed in this guideline, the District will administer this benefit program consistent with applicable statutes and regulations.
- II. **Payroll Deductions.** The PFML program is funded through premiums collected by ESD via payroll deductions and District contributions. The premium rate is established by law; employees are currently responsible for two-thirds of the total premium amount and the District pays the other one-third. Should the State in the future modify the PFML premium rate or the percentage of premiums subject to collection through payroll deduction, the District will modify payroll practices to reflect those statutory changes.
- III. **Eligibility.** Under PFML, employees may be eligible for monetary benefits and job protection when taking leave for covered reasons. Eligibility requirements are as follows:
  - a. **Monetary Benefits:** In order to be eligible for monetary benefits from ESD, an employee must have worked 820 hours in Washington (for any District or combination of Districts) during the year preceding the claim.
  - b. **Job Protection:** In order to be eligible for job protection under PFML, an employee must meet FMLA eligibility requirements (must have worked for the District for at least 12 months and have worked 1250 hours in the last year).
- IV. **Leave Entitlement.** Eligible employees are entitled to take up to 12 weeks of medical or family leave, or a combined total of 16 weeks of family and medical leave per claim year; an additional two weeks of leave may be available in the event the employee's leave involves incapacity due to their pregnancy. The claim year begins when the employee files a claim for PFML benefits or upon the birth/placement of the employee's child. PFML leave may be taken for the following reasons:
  - a. **Medical Leave:** Medical leave may be taken due to the employee's own serious health condition, which is an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider, as those terms are defined under the FMLA and RCW S0A.05.010. However, an employee is not eligible for PFML benefits if the employee is receiving time loss benefits under the workers compensation system.

- b. **Family Leave:** Family leave may be taken to care for a covered family member with a serious health condition; for bonding during the first 12 months following the birth of the employee's child or placement of a child under age 18 with the employee (through adoption or foster care); or for qualifying military exigencies as defined under the FMLA. For purposes of family leave, covered family members include the employee's child, grandchild, parent (including in-laws), grandparent (including in-laws), sibling, or spouse.

PFML runs concurrently with FMLA where an absence is covered by both laws. PFML leave may be taken intermittently, provided that there is a minimum claim requirement of eight consecutive hours of leave in a week for which benefits are sought.

- V. **PFML Application Process.** An employee must submit an application to ESD in order to seek PFML benefits. For guidance on the application process, please refer to the ESD website ([www.paidleave.wa.gov](http://www.paidleave.wa.gov)). Eligibility determinations will be made by ESD. If approved, the employee will need to file weekly benefit claims with ESD to continue receiving benefits.
- VI. **Notification Requirements.** An employee must provide written notice to the District of the intent to take PFML leave. If the need for leave is foreseeable, notice must be given at least 30 days in advance of the leave. For unforeseeable leave, notice must be given as soon as practicable. The employee's written notice must include the type of leave taken (family or medical), as well as the anticipated timing and duration of the leave. If an employee fails to provide this required notice to the District, ESD will temporarily deny PFML benefits. After receiving the employee's notice of the need for leave, the District will advise the employee whether the employee is eligible for job protection under PFML or FMLA or both.

If leave is being taken for the employee's or family member's planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt District operations.

If taking leave intermittently, an employee must notify the District each time PFML leave is taken so that the District may properly track leave use.

- VII. **PFML Monetary Benefits.** If ESD approves a claim for PFML benefits, partial wage replacement benefit payments will be made by ESD directly to the employee. The amount of the benefit is based on a statutory formula, which generally results in a benefit in the range of 75-90 percent of an employee's average weekly wage, subject to a maximum of \$1,000 per week. ESD's website is expected to include a benefits calculator to assist employees in estimating their weekly benefit amount.

With the exception of leave taken in connection with the birth or placement of a child, monetary PFML benefits are subject to a seven-day waiting period. The waiting period begins on the Sunday of the week in which PFML leave is first taken. The waiting period is counted for purposes of the overall duration of PFML leave, but no monetary benefits will be paid by ESD for that week.

VIII. **Supplementation of PFML Benefit with Paid Leave.**

Employees are permitted to use the following accrued leave banks as a "supplemental benefit" under the PFML law:

- Annual leave
- Sick leave
- Personal leave

Employees may use such available accrued leave in accordance with the applicable District leave policy, even if the employee also seeks PFML benefits for the same week. Employees must inform the District of how many hours per day of which kind of leave the employee wishes to take.

Employees may contact the Leaves of Absence office for assistance in estimating their PFML payments to help them estimate how much supplemental leave they would like to use. These calculations are estimates only. It will be the employees choice and responsibility to inform the Leave of Absence department how much and what kind of paid leave they wish to use to supplement PFML payments, even if that leave time plus the PFML payments result in an employee receiving more or less than 100% of their normal pay.

**Important note:** when submitting a weekly PFML benefit application to ESD, an employee should not report the receipt of supplemental accrued leave to ESD; this will ensure that the full PFML benefit is received for the week.

- IX. **Coordination with Other Benefit Programs.** When an employee is on job protected leave and only receiving PFML benefits, the employee is deemed to be in paid status for purposes of District policies and benefit programs. Insurance coverage will be handled in the same manner as other unpaid leaves of absence, pursuant to District policy, applicable collective bargaining agreements, and subject to any FMLA or other legal requirements requiring continuation of coverage.
- X. **Job Restoration; Return to Work Recertification.** An employee who is eligible for job-protected leave will be restored to the same or equivalent position at the conclusion of PFML leave, unless unusual circumstances have arisen (e.g., the employee's position or shift was eliminated for reasons unrelated to the leave). The District may require a return-to-work certification from a health care provider before restoring the employee to work following PFML leave where the employee has taken leave for the employee's own serious health condition. Under certain conditions, the District may deny job restoration to a salaried employee who is among the highest paid ten percent of District employees. If an employee taking PFML leave chooses not to return to work for any reason, the employee should notify the District as soon as possible.

Clor Codd 1/6/2020

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