

METRO EXPOSITION-RECREATION COMMISSION

RESOLUTION NO. 93-8


Approving a revised Family Medical Leave policy.

The Metro Exposition-Recreation Commission finds:

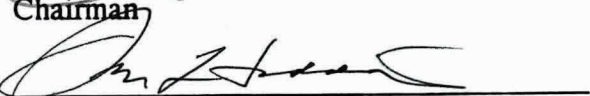
1. That a newly enacted federal Family Medical Leave statute differs in some aspects with the current state statute;
2. That the federal statute requires employers to comply with whatever provisions of state and federal law are more generous to employees, so employers must comply with both state and federal mandates; and
3. That employers are required to comply with the federal statute in August, 1993.

BE IT THEREFORE RESOLVED that the Metro Exposition-Recreation Commission approves the revised Section 9.05 - Family Medical Leave, of the **MERC Personnel Policies** which complies with applicable portions of both the state and federal statutes to be effective August 1993.

Passed by the Commission on August 11, 1993.



Chairman



Secretary/Treasurer

Approved As To Form:

Daniel B. Cooper, General Counsel

By:



Mark B. Williams
Senior Assistant Counsel

MERC STAFF REPORT

Agenda/Item Issue: CONSIDERATION OF RESOLUTION ADOPTING THE REVISED FAMILY MEDICAL LEAVE POLICY.

Resolution No. 93-8

Date: July 23, 1993

Presented by: Paula Paris

BACKGROUND: July 8, 1992, the Commission approved revised Personnel Policies. Family Medical leave, pursuant to the applicable state statutes, is included in those policies. Since that time, however, a federal statute has been enacted regarding Family Medical Leave which differs in some aspects with the state statute, thus requiring a revision of the current Family Medical Leave policy. The federal law requires employers to comply with whatever provisions of state and federal law are more generous to employees, so employers must comply with both the state and federal mandates.

FISCAL IMPACT:

a) The state statute requires 12 weeks of leave within a two-year period, and the federal statute requires 12 weeks of leave within a one-year period. Since employees are still allowed to use any accrued leave time, any cost of accrued leave balances will be annual rather than biennial; and

b) The state statute requires employees to pick up their insurance costs if they are on Family Medical Leave without pay. However, the federal statute requires the employer to pay for insurance premiums for the entire period of leave for the employee, whether it is leave with or without pay.

RECOMMENDATION: Employers are required to comply with the newly enacted federal statute in August 1993. The revised Family Medical Leave policy complies with that federal statute and will replace the existing MERC Family Medical Leave policy, section 9.05. Therefore, we request adoption of the revised Family Medical Leave policy.

9.05 Family Medical Leave

The Commission provides family medical leave of up to twelve (12) weeks within a one-year period for eligible employees when a serious health condition requires inpatient care or continuing treatment by a health care provider and makes the employee unable to work, and/or for the care of family members who suffer serious health conditions. For the purpose of this leave, family members are defined as a seriously-ill spouse, parent, parent-in-law, or child, or a sick minor child requiring home care. At the employee's discretion, the leave shall be paid from accrued personal leaves (including vacation leave, sick leave, compensatory time leave, personal holiday leave), or be unpaid.

- (A) The employee shall be entitled to take family medical leave without being penalized for taking such leave.
- (B) An employee returning from family medical leave shall be reinstated with no greater or lesser right in employment than if the employee has not taken the leave (pursuant to ORS 939, Oregon Laws 1991).
- (C) All full-time and part-time employees who have completed at least 180 calendar days of employment while averaging at least twenty-five (25) hours of work per week are eligible to request the leave.
- (D) Employees have the option of using their accumulated leave balances during the family medical leave. Health and welfare coverage will continue at the same level of benefits and contributions for employees on Family Medical Leave as for other benefit-eligible employees. If employees fail to return from leave, except because of their own or a family member's serious health condition or another circumstance beyond their control, the Commission can recover health premiums it paid during the leave. These monies may be recovered from the final paycheck if there is one, or a lawsuit.
- (E) Eligible employees may take a maximum of twelve (12) weeks of family medical leave within a one-year period. Each one-year period begins on the date of the first day of actual leave taken. Leave may be taken continuously or, under certain circumstances, on a reduced leave schedule (such as two days a week), or intermittently.
- (F) When the employee can anticipate that the serious health situation is going to arise, the employee must submit a written request to the Department Head and Personnel Department at least fifteen (15) days prior to taking the leave. When the employee cannot anticipate the serious health condition of the family member, an oral request can be made to the Department Head to be confirmed in writing to the Department Head and Personnel Department within three (3) working days.

The employee's written request must contain the following:

- (1) The relationship of the employee to the person needing care,
 - (2) The health condition of the family member necessitating the leave, along with a doctor's certification stating such health condition,
 - (3) The anticipated length of absence, not to exceed twelve (12) weeks,
 - (4) Other family members who are taking family medical leave and when they are taking it, or are otherwise available to care for the family member.
- (G) The Commission is not required to grant this leave of absence during any period of time in which another family member is also taking a family medical leave of absence from their employer, or is otherwise available to care for the family member. If a husband and wife both work for the Commission, they can have only 12 weeks of leave for birth, placement or caring for a sick parent or parent-in-law, which they can split between them. However, both are entitled to the full 12 weeks for their own illness, or caring for a sick child or spouse.
- (H) The employee who takes a family medical leave of absence has a duty to make a reasonable effort to schedule medical treatment or supervision so as to minimize disruption of the Commission's operations, subject to the approval of the treating physician.
- (I) The former position of an employee on family medical leave shall either remain vacant during the leave, or it may be filled on a temporary basis and considered vacant for reinstatement purposes.
- (J) At the conclusion of a family medical leave, the employee shall be reinstated to his/her former position, unless it has been eliminated due to material changes in the Commission's financial or business circumstances, or the circumstances have so changed that the employee cannot be reinstated to his/her former position, in which case the employee shall be reinstated to an equivalent position which is available and suitable. If the circumstances have so changed that the employee cannot be reinstated to the former or an equivalent position, then the employee shall be reinstated to an available suitable position.
- (K) Employees who do not return by the date specified may be disciplined up to and including dismissal.