

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: **Reproductive Loss Leave**

POLICY NUMBER: **609**

EFFECTIVE DATE: **January 2024**

REVIEWED DATE: **October 2023**

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SUNSET REVIEW FOR CONTINUATION: **January 2026**

POLICY

It is County policy to grant Reproductive Loss Leave in accordance with SB 848 each fiscal year. Reproductive Loss Leave, as defined below under Qualifying Reasons, is a leave of absence due to a miscarriage, a stillbirth, a failed adoption or failed surrogacy or an unsuccessful assisted reproduction.

Reproductive Loss Leave may only be taken within three (3) months of the date of the reproductive loss or within three months of another California Family Rights Act Leave (CFRA).

If an employee experiences more than one reproductive loss event within a 12-month period, the employee is entitled to five (5) days of Reproductive Loss Leave for each event, not to exceed a total of twenty (20) days within a 12-month period per fiscal year.

ELIGIBILITY CRITERIA

Employees are eligible for leave after 30-days of employment.

- **Biweekly Employees**
An employee may take up to five (5) days of leave. Biweekly rate employees on a paid status shall be eligible for paid Reproductive Loss Leave up to three (3) days. The remaining two (2) can be subsidized with sick leave. If an employee has no sick leave balances, the two (2) days may be taken using other paid leave accruals. If no paid leave is available, the two (2) days may be taken as unpaid leave.
 - The three (3) days of paid Reproductive Loss Leave shall not be deducted from other leaves of absence or compensatory time off for which the employee may be eligible (see Compensation Ordinance 4.2.2(d)(6) for possible combination with sick leave).
- **Non-biweekly Rate Employees**
Employees are eligible for unpaid Reproductive Loss Leave. An employee may take up to five (5) days of unpaid Reproductive Loss Leave. Employees may use paid leave accruals, if any, in lieu of unpaid leave.

The five (5) days of leave may be taken intermittently or continuously. The leave shall be taken in whole-day increments, and may be combined with other leaves of absence, such as [Pregnancy Disability Leave \(PDL\)](#)

PROCEDURES

Employee Responsibility:

Once an employee becomes aware they will require time off due to a reproductive loss, the employee must notify their supervisor, Department Human Resources Officer (DHRO) or Leave Coordinator of their need for leave.

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Qualifying Reason
Following are reasons the leave may be taken: a failed adoption, failed surrogacy, miscarriage, stillbirth or an unsuccessful assisted reproduction.
<ul style="list-style-type: none">Failed adoption as a result of the dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party. This event applies to a person who would have been a parent of the adoptee if the adoption had been completed.
<ul style="list-style-type: none">Failed surrogacy as a result of the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate. This event applies to a person who would have been a parent of a child born as a result of the surrogacy.
<ul style="list-style-type: none">Miscarriage by a person, by the person's current spouse or domestic partner, or by another individual if the person would have been a parent of a child born as a result of the pregnancy.
<ul style="list-style-type: none">Stillbirth resulting from a person's pregnancy, the pregnancy of a person's current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy that ended in stillbirth.
<ul style="list-style-type: none">Unsuccessful assisted reproduction resulting from an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure. This event applies to a person, the person's current spouse or domestic partner, or another individual. If the person would have been a parent of a child born as a result of the pregnancy.

Department Responsibility:

State law requires the Reproductive Loss Leave to remain confidential. It is the department's responsibility to maintain the confidentiality of this leave. Any information provided to the employer pursuant to this section shall be maintained as confidential and shall not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

Department will complete the Reproductive Loss Leave Tracking Form and must accurately track any leave and post appropriate pay codes in UKG.

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**Reproductive Loss Leave
Frequently Asked Questions**

1. When is Reproductive Loss Leave available?

The leave is available effective January 01, 2024.

2. Is there a limit of Reproductive Loss Leave available?

Yes. Five (5) days total may be used for each reproductive loss. The maximum leave available is twenty (20) days per fiscal year (July 1st through June 30th).

3. Will temporary or student workers be eligible to utilize the reproductive loss leave?

Yes, non-biweekly rate County employees shall be eligible for up to five (5) days of unpaid leave per loss. Employees may use paid leave accruals, if any, in lieu of unpaid leave. The maximum leave available is twenty (20) days per fiscal year (July 1st through June 30th).

4. How can I make sure my leave reason isn't disclosed to others?

All leaves are considered confidential. Your DHRO cannot reference the leave reason to your co-workers.

5. I used 16 hours of leave last week and returned to work but realize I require additional time off. Am I entitled to additional time?

Yes, you may use up to five (5) days for each reproductive loss. You may take leave continually or intermittently (intermittent leave must be taken in full-day increments). Please coordinate the use of hours with your departmental payroll or leave coordinator.

6. Am I entitled to any pay during a Reproductive Loss Leave?

Only biweekly rate employees on a paid status shall be eligible for paid Reproductive Loss Leave up to three (3) days. The remaining two (2) can be subsidized with sick leave. If an employee has no sick leave balances, the two (2) days may be taken using other paid leave accruals. If no paid leave is available, the two (2) days may be taken as unpaid leave.

Non-biweekly rate employees may use paid leave accruals, if any, in lieu of unpaid leave.

7. I am currently seeing a therapist due to reproductive loss. Can I take off three-hours per day for therapy sessions?

No. The time must be taken as whole-day increments. You may use up to five (5) days for each reproductive loss. You may take leave continually or intermittently. Please coordinate the use of hours with your departmental payroll or leave coordinator.

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8. I work an 8.5-hour, 10-hour or 12-hour shift. If I miss an entire shift, is there a restriction on how many hours I may be paid?

Your normal shift will act as a full day and your department will apply hours for your entire missed shift. Up to five days will be allowed for each loss.

9. I recently suffered a miscarriage and had a previous miscarriage. Am I eligible for additional reproductive loss leave?

Effective January 1, 2024, the maximum Reproductive Loss Leave available is twenty (20) days per fiscal year. The leave would be available for events that occur on or after 1/1/2024. Up to five (5) days of Reproductive Loss Leave may be used for each reproductive loss.

10. I suffered two miscarriages in the past few months and need more leave to recover. What options are available?

Please coordinate with your Departmental Human Resources Officer (DHRO) or leave coordinator to see if this may qualify for another type of leave of absence such as Pregnancy Disability Leave (PDL). In California, people who suffer a miscarriage are entitled to time off under PDL. The law provides job-protected leave for up to four months for a pregnancy-related medical condition, which can include miscarriage, postpartum depression, anxiety, or related mental health issues.

11. After my most recent loss, my physician authorized continuous leave. Can I use Reproductive Loss Leave?

Your leave may fall under PDL or FML/CFRA and you would still be eligible for Reproductive Loss Leave.

The Reproductive Loss Leave does not run concurrently with CFRA. However, if you had been out on leave caring for a spouse and suffered a reproductive loss, you could use the leave at the end of your existing CFRA leave of absence, which would extend it by up to five days. Your department will coordinate the use of leaves.

12. My spouse is extremely distraught after our surrogate broke our contract. The physician authorized leave but I'm worried about my spouse's wellbeing. Am I allowed to take Reproductive Loss Leave to care for my spouse?

You may take five days of Reproductive Loss Leave for the breach of the surrogacy. If your spouse needs additional care, their physician may authorize you to act as a caregiver. FML and CFRA provide employees with time off for a variety of reasons.

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FURTHER INFORMATION

Contact the Employee Benefits Division at 888-550-2203

REFERENCES

[County of San Diego Compensation Ordinance, Section 4.2.4](#)

[Legislative Analysis](#)

[California Government Code section 12945.6](#)

APPROVED BY:

Original document approved and signed by Susan Brazeau on x/xx/xx.

Susan Brazeau, Director
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