

Rule 1513

Reproductive Loss Leave Policy

Eligibility for Reproductive Loss

Employees are eligible for reproductive loss leave if they have worked for the County for 30 days prior to the qualifying reproductive loss event.

An employee can take leave following their own, their spouse's, or their partner's reproductive loss event if the employee would have been the parent of the child born or adopted.

A reproductive loss event is defined as the day, or for a multiple-day event, the final day of one of the following:

- **Miscarriage**
- **Stillbirth**
- **Failed adoption:** 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.
- **Failed surrogacy:** The dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate.
- **Unsuccessful assisted reproduction:** An unsuccessful round of intrauterine insemination or an assisted reproductive technology procedure (i.e., artificial insemination or an embryo transfer, including gamete and embryo donation). Assisted reproduction does not include reproduction through sexual intercourse.

Length for Reproductive Loss

Eligible employees may take reproductive loss leave for up to 5 days when suffering a reproductive loss event. An employee who is subject to multiple reproductive loss events in a 12-month period, is limited to a maximum of 20 days of reproductive loss leave in a rolling 12-month period.

Reproductive loss leave must be taken within 3 months of the event triggering the reproductive loss event and does not need to be taken on consecutive days.

Immediately following or prior to, a Reproductive Loss Leave, an eligible employee may choose to go on leave from work under FMLA and/or CFRA. Please review the County Family Medical and California Family Rights Act for eligibility requirements.

Procedure for Requesting Leave

The County has Leave of Absence request forms available.

An employee requesting Reproductive Loss Leave shall make such request to Human Resources, who shall transmit the request to the department head.

A department head requesting Reproductive Loss Leave shall make their request directly to the Human Resources Director, who shall transmit the request to the County Administrative Officer.

The Human Resources Office shall approve the request on behalf of the County upon determining that the employee is an eligible employee for purposes of such leave.

The County will maintain employee confidentiality relating to reproductive loss.

Employees are not required to provide documentation supporting their request for Reproductive Loss.

Leave Is Unpaid

The County shall not pay for any reproductive loss leave taken by eligible employees. However, accrued sick leave, vacation, and other personal paid time off may be substituted for unpaid leave.

Reinstatement

Employees returning from Reproductive Loss Leave will be restored to the original or an equivalent position (with equivalent pay, benefits, and other employment terms). Exceptions to this provision may apply if business circumstances have changed (e.g. if an employee's position is no longer available due to a job elimination).

Employer Responsibilities

The County is required to inform employees requesting leave whether they are eligible for Reproductive Loss Leave. If they are, the notice/designation letter must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the notice must provide a reason for the ineligibility.

The County must inform employees if leave will be designated as Reproductive Loss Leave and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not Reproductive Loss-protected, the employer must notify the employee.

Unlawful Acts by Employers

It shall be an unlawful employment practice for an employer to retaliate against an individual,

including, but not limited to, refusing to hire, discharging, demoting, fining, suspending, expelling, or discriminating against, an individual because of either of the following:

- An individual's exercise of the right to reproductive loss leave.
- An individual's giving information or testimony as to their own reproductive loss leave, or another person's reproductive loss leave, in an inquiry or proceeding related to rights guaranteed under this section.

It shall be an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.

The employer shall maintain the confidentiality of any employee requesting leave under this section. 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.

An employee's right to reproductive loss leave shall be construed as a separate and distinct right from any right under this part.

Enforcement

An employee may file a complaint with the Human Resources Department for any alleged violation/s under this policy, and the Human Resources Department will make every effort to address the situation. This Reproductive Loss Leave Policy does not modify any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.