

July 11, 1994

Mr. John Stroh, Manager
San Joaquin County Mosquito and Vector Control District
7759 S. Airport Way
Stockton, California 95206-3918

RE: FAMILY AND MEDICAL LEAVE POLICY

Dear John:

As I have discussed with you, I have some concerns in regards to the Draft 2, June 14, 1994, policy #2160. As this type of policy is clearly a negotiable item under the Meyers-Miliias-Brown Act due to it dealing with wages, hours and working conditions, I am requesting that we hold a meet and confer session on the policy prior to it being adopted by the San Joaquin Mosquito Abatement and Vector Control District Board of Directors.

At your request, so that you may have this reviewed by the Board's legal counsel, I have listed my major concerns below. You will note that some of these concerns deal not only with issues I would like to negotiate, but there is also some conflict with SJPEA's interpretation of the State and Federal laws which deal with this issue and the interpretation written in your policy. I may need to discuss more concerns than the following when we meet over this issue as I have not discussed this policy with my membership yet. However, I do not anticipate any concerns which you or your negotiator would not be able to address at the meeting without legal counsel.

1. II. DEFINITIONS

Descriptions under items B and C are not as broad as the law allows. The following should be listed as an eligible family member:

- A. biological, adopted, and foster children under 18
- B. anyone under 18 who is treated as the employee's child (could be the child of spouse or domestic partner or a grandchild in the home)

- C. disabled children of any age: those who have a physical or mental impairment that qualifies as a disability under ADA and who require supervision or active help in performing activities of daily living
- D. anyone who treated the employee as a son or daughter when the employee was under 18 or disabled
- E. common-law husbands and wives

Excluded are:

- A. domestic partners, either same sex or opposite sex not recognized as partners
- B. parents-in-law, grandparents, brothers and sisters
- C. children over 18 who are not disabled.

The description under D(1) should be clarified as follows:

inpatient care of at least an overnight stay in a hospital, hospice, or other residential medical institution

2. **IV. LEAVE**

It is requested that Items C, D and E be removed from the policy as they do not meet the requirements of the law. It is our interpretation that employees may use intermittent leave and reduced leaves in fewer hour increments than are listed in this policy.

Also, it is our understanding that part-time employees are entitled to the full 12 weeks of leave as long as they meet the 12-month, 1250-hour requirement.

3. **V. SUBSTITUTION OF SICK LEAVE AND VACATION**

Item A, we would like to discuss the statement "all accrued sick leave may be required to be used before unpaid leave will be granted." This is an issue which is clearly negotiable.

4. **VI. NOTICE REQUIREMENT**

"Leave based on birth, adoption or placement of a child shall be presumed to be a foreseeable event." While this is true, 30 days notice of an exact date is obviously no

Mr. John Stroh
July 11, 1994
Page Three

always possible. It will be possible to give a due date for a birth, however, I understand that adoptions are granted at the last minute. Therefore, I think clarifying language should be discussed.

5. VII. MEDICAL CERTIFICATION

Although the form you utilize for certification is provided by the Federal Department of Labor, it violates provisions included in the California Confidentiality of Medical Information Act - California Civil Code Section 56 et. seq. as follows:

3. Diagnosis. In California, an employer is limited to a general description of the reason for the treatment, not the complete diagnosis.
6. Regimen of treatment to be prescribed. In California, it is illegal to ask the "course of treatment" which this form alludes to in asking for the "general nature of treatment".

Also, Item B should be further clarified. There are restrictions on who can perform a second or third opinion (it cannot be from a provider "employed on a regular basis by the employer" or the employer "may not regularly contract with or otherwise regularly utilize" the provider who gives the second opinion. Also, periodic reports on the employee's status and intent to return to work can be no more frequently than once a month.

I look forward to negotiating this issue with you as soon as possible.

Sincerely,

SAN JOAQUIN PUBLIC EMPLOYEES ASSOCIATION

Marcia Mooney (KC)

Marcia Mooney
Sr. Employee Relations Representative

cc: Larry Nolin
Keith Nienhuis
Larry Fraser