

Kin Care

Leave of Absence / Supervisor Section

1. What Is Kin Care?

“Kin Care” is a right granted to eligible employees, including UC employees, under the California Labor Code. Kin Care authorizes employees to use up to one-half (½) of the sick leave that they accrue annually, to take time off to care for a sick family member. Employees do not receive additional sick leave under Kin Care. Instead, sick leave taken under Kin Care is protected and may not be “counted against” or used as a basis for disciplining an employee for absenteeism, for example.

2. Who Is Eligible For Kin Care?

Employees who accrue sick leave are eligible for Kin Care. Employees who are not eligible for sick leave, such as per diem employees, are not eligible for Kin Care.

In addition, an employee must have sick leave available to use on the day of the absence for that absence to be covered under Kin Care. An employee who has exhausted his/her sick leave and then is absent to care for a sick family member cannot claim that absence under Kin Care.

3. How Much Kin Care Can an Employee take each Calendar Year?

No more than one-half of an employee's annual accrued sick leave benefits can be counted as Kin Care. For full-time career employees this would mean no more than 48 hours of sick leave can be counted as Kin Care. (Calculation: Full time employee accrues 8 hours of sick leave per month (96 hours of sick leave per year) and thus could take no more than 48 hours for Kin Care in a calendar year).

4. What Health Conditions are Covered under Kin Care?

An eligible employee may take Kin Care to care for an ill family member. For purposes of Kin Care, an "illness" should be read broadly to encompass minor illnesses, a cold, the Flu and of course serious health conditions. This is different than Family and Medical Leave ("FMLA"), which is limited to serious, chronic health conditions.

When employees take sick days to care for a family member with a serious or chronic health condition, the absence may qualify under both FMLA and Kin Care. In such cases, supervisors need to notify employees that such absences fall under both Kin Care and FMLA and will be deducted from the employee's annual entitlement for both Kin Care and FMLA.

5. What Constitutes a "Family Member" for Purposes of Kin Care?

Kin Care can be used to care for a sick family member. Qualifying "family members" for coverage under Kin Care include the following:

- Spouse or Registered Domestic Partner of an employee.
- Child of an Employee:

- The term “child” includes biological, adopted, foster child, stepchild, legal ward, child of a domestic partner, or a child in loco parentis of the employee.
 - **Note:** A “child” is not required to be a minor (under 18 years of age) to be covered under Kin Care.
- PARENT of an Employee:
 - The term “parent” includes biological, foster or adoptive parent, a stepparent or a legal guardian.
 - **Note:** Mothers-in-law, fathers-in-law, and grandparents are not considered “parents” for purposes of Kin Care.)

6. What Record Keeping is Required?

As part of a department’s routine process of receiving information from employees who call in sick, procedures need to be in place to inquire about the following:

- Whether the sick day is due to the employee or family member’s illness?
- If a family member, what is that relative’s relationship to the employee? (mother, child, etc.)
- Whether the illness is a serious health condition that may be covered under FMLA?
 - **Caution:** The scope of the questions must be limited to protect the confidentiality of medical information of an employee or family member’s health condition. For example, the department cannot ask the employee to reveal what the specific health condition is.

7. What About Employees Covered by PTO?

The Paid Time Off (“PTO”) program provides employees with increased flexibility in planning time off by creating two leave banks:

- PTO Bank consisting of vacation plus one-half (½) of sick leave
- and**
- An Extended Sick leave (“ESL”) bank consisting of one-half (½) of sick leave.

For employees in the PTO Program, most absences allowable under Kin Care are charged to an employee’s PTO Bank and reported as “PTO-S” for timekeeping purposes. The ESL bank would only be charged when an employee is absent for more than three consecutive work days (or more than two consecutive days for part-time employees with a 50% through 75% time). In that situation, the first three days (or two days for part-time employees) would be charged to the employee’s PTO bank and beginning on the fourth day (third day for part-time employees) the absences would be charged to the employee’s ESL bank.

8. Does a Leave of Absence Form Need to be Submitted for Kin Care?

No. Typically, a Leave of Absence form does not need to be submitted unless the employee will be absent and use sick leave for more than three (3) continuous work days.

9. Is a Doctor’s Note Required for Kin Care?

No. Typically, an employee taking Kin Care does not need to submit a doctor’s note (or medical certification). In rare instances, when an employee has been issued corrective action and directed to provide a doctor’s note for all sick days, then an employee may need to submit a doctor’s note.

10. What about Attendance Rules/Policies?

When reviewing attendance information for employees, special attention must be paid to exclude absences taken under Kin Care. Absences covered under Kin Care cannot be the basis for corrective action for violating an Attendance Policy/Rule and cannot be considered in performance evaluations. Likewise, absences taken under FMLA, Workers' Compensation, Bereavement or Disability leave cannot be counted against or be the basis of discipline for attendance violations.

11. Does the Employee Need to Say Kin Care?

Not necessarily. Employees may not be aware about Kin Care. Management can advise employees and ask if the issue is related to Kin Care at the time the employee calls to report or call out.