



December 10, 2014

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer
Janet Sutter, Executive Director
Internal Audit Department

Subject: Review of Protected Leave Administration

Overview

The Internal Audit Department has completed a review of protected leave administration. Based on the review, controls in place to ensure compliance with policies, procedures, and regulations related to protective leaves are adequate.

Recommendation

Receive and file the Review of Protected Leave Administration, Internal Audit Report No. 14-502.

Background

Protected leave is centrally administered for the Orange County Transportation Authority (OCTA) by a human resources (HR) assistant in the Benefits Section of the HR Department.

There are several laws that provide protection to employees for certain types of eligible leaves. The two most commonly used are the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

FMLA and CFRA are federal and state leave laws, respectively, that allow an employee to take up to 12 weeks of unpaid leave from his or her job in a 12-month period. Employees are eligible for FMLA and CFRA if they have been employed with OCTA for at least 12 months as of the date that the leave commences, and if they have at least 1,250 hours of active service.

Other common protected leaves are Kin Care Leave (KCL) and Pregnancy Disability Leave (PDL). KCL allows employees with available sick leave to take leave to care for a sick family member, while PDL allows time off for employees disabled temporarily by pregnancy, childbirth, or a related medical condition.

Discussion

The Internal Audit Department reviewed OCTA's Leave of Absence Policy as well as federal and state regulations, interviewed responsible staff and management, and performed sample testing to determine compliance with federal and state regulations and internal policies and procedures.


Summary

Based on the review, controls over protected leave administration are adequate and in compliance with OCTA policies and procedures and applicable federal and state regulations.

Attachment

- A. Review of Protected Leave Administration, Internal Audit Report No. 14-502

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ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Review of Protected Leave Administration

Internal Audit Report No. 14-502

December 1, 2014



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**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT
Review of Protected Leave Administration
December 1, 2014**

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Conclusion

The Internal Audit Department (Internal Audit) has completed a review of protected leave administration. Based on the review, controls in place to ensure compliance with policies, procedures, and regulations related to the Family Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and the Orange County Transportation Authority (OCTA) Leave of Absence (LOA) Policy are adequate.

Background

Protected Leave Types

There are several laws at the federal and state levels that provide protection to employees for certain types of eligible leaves. The two most commonly used are the FMLA and the CFRA.

FMLA and CFRA are federal and state leave laws, respectively, that allow an employee to take up to 12 work-weeks of unpaid leave from his or her job in a 12-month period. FMLA and CFRA run concurrently when leave is for an employee's own serious health condition, or to care for a parent, child, or spouse. FMLA and CFRA both apply to employers with 50 or more employees. Employees are eligible for FMLA and CFRA if they have been employed with OCTA for at least 12 months as of the date that the leave commences and if they have at least 1,250 hours of active service during the previous 12-month period.

Another type of protected leave is Kin Care Leave (KCL). This allows employees, who have annual sick leave accrual available, to take leave to care for a sick family member including a child, parent, spouse, or registered domestic partner. Within a calendar year, the maximum amount of KCL available is half of an employee's annual sick leave accrual. For example, if an employee accrues two weeks of sick leave per year, then he or she would be eligible to take up to one week of KCL during the calendar year.

Pregnancy Disability Leave (PDL) is covered under the California Fair Employment and Housing Act (FEHA). FEHA contains provisions relating to pregnancy disability leave that apply to employers with five or more employees. An employee disabled temporarily by pregnancy, childbirth, or a related medical condition is entitled to PDL. Once the healthcare provider releases the employee to return to work, pregnancy disability leave will end and CFRA may be available for "bonding time".

The Family School Partnership Act allows parents, grandparents, and guardians to take time off from work to participate in their children's school or child care activities. Employees that meet the eligibility requirements can take up to 40 hours each year, but no more than eight hours per month.

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Administrative Support

Protected leave is centrally administered for OCTA by a Human Resources (HR) assistant in the Benefits Section of the HR Department. The HR assistant is supported by an associate HR representative.

Objectives, Scope, and Methodology

The objective was to review controls in place to ensure compliance with policies, procedures, and regulations related to FMLA, CFRA, and the OCTA LOA Policy.

The review methodology included, but was not limited to, the following:

- Review of OCTA's LOA Policy as well as requirements under FMLA, CFRA, and other applicable regulations;
- Review of the collective bargaining agreements for coach operators, maintenance workers, and Transportation Communication Union staff to determine whether required language is included;
- Testing of protected leave requests for evidence of compliance with regulations, policies, and procedures;
- Reviewing and assessing reasonableness of access to protected leave records;
- Comparison of OCTA's LOA Policy to FMLA and CFRA regulations to identify any areas where OCTA policies and procedures are not consistent;
- Comparison of OCTA's medical certification form to FMLA medical certification requirements;
- Applying data analytics testing to protected leave activity to detect instances of non-compliance or abuse of protected leave; and
- Reviewing protected leave activity of heavy usage employees identified by analytical testwork or employees suspected of abuse by management.

The scope includes, but is not limited to, leave requests submitted from January 1, 2012 through December 31, 2013, recorded in the Lawson payroll software system and related supporting documentation maintained in the HR file room. The scope did not include workers compensation-related leave activity.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.