

**Resolution No. 2022-12
TRIVIEW METROPOLITAN DISTRICT**

**A RESOLUTION DECLINING ANY AND ALL EMPLOYER PARTICIPATION
IN THE COLORADO PAID FAMILY AND MEDICAL LEAVE INSURANCE
PROGRAM**

WHEREAS, in November of 2020, Colorado voters approved Proposition 118, codified in Part 5, Article 13.3 of Title 8, Colorado Revised Statutes (C.R.S.), establishing the Family and Medical Leave Insurance (“FAMLI”) Program, a state insurance plan providing paid leave for Colorado workers during certain life circumstances; and

WHEREAS, the premiums required for FAMLI will be collected starting January 1, 2023, and benefits will begin January 1, 2024; and

WHEREAS, at a public meeting held October 20, 2022, the Board of Directors held a public hearing on the decision whether to participate in FAMLI; and

WHEREAS, the District does not have any employees; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT AS FOLLOWS:

1. The Board of Directors finds and determines that, with regard to the public hearing on the decision of whether to decline participation in FAMLI, notice was given and the hearing was conducted in accordance with the regulations adopted by the Colorado Department of Labor and Employment and codified at 7 CCR 1107-2.

2. The Board of Directors, acting by and on behalf of the District, declines any and all participation in the FAMLI Program. The Board of Directors further directs its staff to bring the matter of revisiting the decision to decline participation in FAMLI before a future Board by no later than eight years from the date of the vote on this Resolution.

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APPROVED AND ADOPTED October 20, 2022, by the Board of Directors of Triview Metropolitan District.

TRIVIEW METROPOLITAN DISTRICT

By: Mark Meli
Officer of the District

Attest:

By: Joyce Levad

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

George M Rowley
General Counsel to the District

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing constitutes a true and correct copy of the resolution of the Board adopted at a meeting held on October 20, 2022, as 16055 Old Forest Point Suite 302 Monument, Colorado 80132.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of October 2022.

Joyce Levad
Signature

JOYCE LEVAD
Printed Name

FAMLI PROGRAM OPT-OUT REQUIREMENTS FOR DISTRICT WITH EMPLOYEES

The Board of Directors of the Special District must:

1. Vote on a resolution declining participation (either full or partial) in the FAMLI program. (The form opt-out resolution is available in LawSuite)
2. District must provide notice of the public meeting
 - a. Public notice must be given in the same manner as any other business before the Board
 - b. The Board must also provide written notice to employees in advance of the meeting. The written notice must:
 - i. Contain information regarding the vote process, and
 - ii. Provide the opportunity to submit comments through a public process to the District.
 1. NOTE: Follow the same method of communication for this notice as the District would typically use to communicate other employment or benefits information to employees.
 2. NOTE: Districts considering a proposal to decline participation in the FAMLI Program **may, but are not required** to, provide similar information to employees as would be included in the post-vote notice, as well as a copy of the proposed resolution, and an explanation of procedures adopted or used by the District Board of Directors to take public comment. (See Section 3.b. below)
3. Within 30 days after the vote on the resolution, provide written notice of the BOD's decision to opt out of the FAMLI Program (Notification Template included below)
 - a. This notice must be provided to employees individually AND posted in a conspicuous and accessible place in each establishment where employees are employed.
 - i. Should the District not maintain any physical workspace or an employee works remotely, e-mail or web-based notification may be substituted.
 - ii. The Division has stated that it will create and make available posters and notices containing the information required by the Local Government Opt-Out Rule (§ 2.6.F.2.e. of 7 CCR 1107-2) and employers may use those posters and notices to comply with the notice requirements. It is the responsibility of the District to request printed materials from the Division. NOTE: as July 15, 2022, no such posters or notices have been published.
 - b. The notice must:
 - i. Explain the difference between benefits offered by the FAMLI Program and leave plans of the employer;
 - ii. State which employees, if any, are eligible for federal FMLA;

- iii. Provide information regarding the rights of employees to individually and voluntarily opt into the FAML I Program with contact information for the Division.
4. Before January 1, 2023, notify the Division of the vote by registering in the Division's online system and by uploading a letter containing the following NOTE: the online system is expected to be available in fall of 2022:
 - a. A letter on Special District letterhead;
 - b. The date of the vote;
 - c. The result of the vote to decline participation;
 - d. That the District:
 - i. declines all participation – including collecting and remitting employee premiums; or
 - ii. declines employer participation but will support employees who individually opt in – but will facilitate the withholding and remittance of the premiums of those employees who individually opt in to the FAML I Program.]
5. After benefits begin in 2024, the District must give **180 days** advance written notice to employees prior to a meeting for a vote to change opt-in/opt-out status of the FAML I Program. Such notice must:
 - i. Include information regarding the vote process
 - ii. Provide opportunity to submit comments through a public process to the governing body
6. The District with employees must renew the declination of participation through a similar vote process and margin no later than every eight (8) years. In the absence of a vote further declining coverage, a local government with employees will become a covered employer.

See §§ 2.1. through 2.7. of the Local Government Opt-Out Rule, [7 CCR 1107-2](#).

[Post-Vote Notification to Employees Template]

NOTICE TO EMPLOYEES OF THE DECISION TO DECLINE PARTICIPATION IN THE FAMILY AND MEDICAL LEAVE INSURANCE (FAMLI) PROGRAM, AND THE RIGHT TO VOLUNTARILY OPT INTO THE FAMLI PROGRAM

Notice is hereby given to District Employees that a vote on Resolution No. 2022- 12 was held on OCTOBER 20, 2022, in which the Board of Directors declined [*PICK ONE*: all participation in the Family and Medical Leave Insurance (“FAMLI”) Program **OR** employer participation, but will facilitate withholding and remittance of the premiums of individual employees opting into the Program.] This notice explains how the vote affects employees’ rights and benefits.

I. LEAVE COMPARISON: FAMLI PROGRAM, DISTRICT’S LEAVE PROGRAM

The FAMLI Program

Under the FAMLI Program, covered individuals may take up to 12 weeks of paid aggregate family/medical leave (up to 16 weeks for pregnancy complications) in a 12-month period for:

- Birth, adoption, placement through foster care, or care of a new child during the first year after birth, adoption, or placement through foster care;
- Care for a family member with a “serious health condition” (including pregnancy);
- An employee’s own “serious health condition”;
- Exigency leave (based on a qualifying need arising out of current or impending active-duty military service); or
- Safe leave (employee or employee’s family member is the victim of domestic abuse, stalking, or sexual assault/abuse).

Employers participating in the FAMLI Program must submit insurance premiums to the State starting on January 1, 2023, through a payroll premium split between employers and employees. Paid leave benefits start no sooner than January 1, 2024. Paid leave is a partial income replacement as follows: 90% of an employee’s average weekly wage for the portion of their wages equal to or less than 50% of the state average weekly wage; and 50% of the portion of their wages that exceeds the state average weekly wage. The maximum weekly benefit is \$1,100. For more information, see the FAMLI Premium and Benefits Calculator: <https://famli.colorado.gov/individuals-and-families/premium-and-benefits-calculator>.

The District has [*PICK ONE*: declined participation and will not be deducting an employee’s premium or sending the premium to the FAMLI Division **OR** declined

participation, but will facilitate withholding and remittance of the premiums of individual employees opting in in the FAMLI Program.

District Employee Benefit Program

Paid Holidays of the District are: [. . .]

The Paid Sick/Personal Leave Policy of the District is:

[Explanation of District's Paid Sick/Personal or Paid Leave Program – how many hours annually by FTE, when can leave be used, can the leave be carried over]

The Paid Vacation Leave Policy of the District is:

[Explanation of District's Vacation Leave Program – how many hours annually by FTE, when can leave be used, can the leave be carried over]

Short-Term Disability Coverage:

[Explanation of any short-term disability coverage, and eligibility therefore, that the District has in place]

Long-Term Disability Coverage:

[Explanation of any long-term disability coverage, and eligibility therefore, that the District has in place]

Workers' Compensation:

[Explanation of the Workers' Compensation program]

Federal Family Medical Leave Act (FMLA):

[Indicate whether your District is subject to FMLA, and provide a description of the program]

[If your District has other employee benefits, list and provide a description]

[It may be helpful to refer to other, more detailed policies of the District, with a statement such as: "District employees should refer to the District's Personnel Guidelines/Employment Manual for more details."]

II. EMPLOYEE'S RIGHT TO VOLUNTARILY OPT-IN AS AN INDIVIDUAL PARTICIPANT

Even though the District has decline participation in the FAMLI Program, a District employee may individually opt into the program by contacting the FAMLI Division at [CDLE FAMLI info@state.co.us](mailto:CDLE_FAMLI_info@state.co.us)