

**CHAPTER 45**  
**FAMILY AND MEDICAL LEAVE ACT/CALIFORNIA FAMILY RIGHTS ACT**  
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## CHAPTER 45

### FAMILY AND MEDICAL LEAVE ACT/CALIFORNIA FAMILY RIGHTS ACT

#### 1. FAMILY AND MEDICAL LEAVE ACT/CALIFORNIA FAMILY RIGHTS ACT.

a. Policy. The federal Family and Medical Leave Act (FMLA) of 1993, as amended, and the California Family Rights Act (CFRA) require employers to provide up to 12 weeks of unpaid, job-protected leave during a 12-month period for eligible employees for specified family and medical reasons. The 12-month period for all departmental employees shall be based on a calendar year. Both FMLA and CFRA laws require the employer to maintain the employee's health, dental, vision, and/or medical reimbursement account benefits while an employee is on a family/medical leave. Although FMLA/CFRA is an unpaid leave, the Department shall allow employees to use accrued leave credits to receive payment during the leave. It is the policy of the Department to provide family and medical leave in compliance with the FMLA and CFRA. It is also the policy of the Department to ensure employees are free from discrimination and harassment for exercising their rights under the FMLA/CFRA. Neither the FMLA nor CFRA supersede any collective bargaining unit (BU) agreement that provides greater family or medical leave rights.

#### b. Family and Medical Leave Act/California Family Rights Act Interaction.

(1) The FMLA is a federal law and is administered and enforced by the United States (U.S.) Department of Labor, Wage and Hour Division. The CFRA is a state law, administered by the California Department of Fair Employment and Housing (DFEH), which provides for an unpaid leave of absence for family reasons or for an employee's own serious illness.

(2) Where the FMLA and CFRA laws differ, the most generous or less restrictive leave provisions must be applied.

(3) The FMLA and CFRA leave run concurrently except during Pregnancy Disability Leave (PDL), Qualifying Exigency Leave (QEL), and Military Caregiver Leave (MCL) if the family member is not covered under CFRA.

#### c. Employer Notice Requirements – Family and Medical Leave Act.

(1) Commanders shall ensure all departmental personnel are informed of the provisions of the FMLA.

(2) Commanders shall post the U.S. Department of Labor's (DOL) Wage and Hour Division Publication WH1420, Employee Rights Under the Family and

Medical Leave Act, revised April 2016, Annex A, in a conspicuous place where it can be seen by employees and applicants for employment. This publication is available on the DOL Web site:

<https://www.dol.gov/whd/regs/compliance/posters/fmla.htm>. Poster quality copies can be obtained by contacting the nearest office of the Wage and Hour Division of the U.S. DOL.

(3) All newly hired employees receive a CHP 197, Receipt for Notice to Employees of Rights under FMLA, as part of their new employee hiring package. New employees must read the information and complete the CHP 197. They shall type their name and command on the form before printing the form. Three copies will be automatically generated. The employee must sign all 3 copies. One copy is to be maintained in the employee's personnel field folder; 1 copy is to be forwarded to Human Resources Section (HRS), Personnel Files Services, to be maintained in the employee's official personnel file; and 1 copy is retained by the employee for future reference.

(4) Supervisors shall provide employees with a CHP 197 during the employee's annual performance review.

(5) Employees requesting an FMLA/CFRA leave shall receive a copy of the U.S. DOL Fact Sheet #28: The Family and Medical Leave Act, Annex B, and a copy of the DFEH-E03B brochure: California Family Rights Act, Annex C. These publications may be obtained on the DOL Web site:

[https://www.dol.gov/whd/fmla/fact\\_sheets.htm](https://www.dol.gov/whd/fmla/fact_sheets.htm) and the DFEH Web site: <http://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/poster-and-brochure-tab-list/?target=employment>.

(6) Employees requesting an FMLA Military Family Leave shall receive a copy of the U.S. DOL Fact Sheet #28M: The Military Family Leave Provisions under the Family Medical Leave Act, Annex D, and Uniformed Services Employment and Reemployment Rights Act-Family and Medical Leave Act Questions, Annex E. These publications may be obtained on the DOL Web site:

[https://www.dol.gov/whd/fmla/fact\\_sheets.htm](https://www.dol.gov/whd/fmla/fact_sheets.htm) and <https://www.dol.gov/whd/fmla/fmla-faqs.htm>.

d. Employer Notice Requirements – California Family Rights Act.

(1) Commanders shall ensure all departmental personnel are informed of the provisions of the CFRA.

(2) Commanders shall post the California DFEH-100-21, Family Care and Medical Leave and Pregnancy Disability Leave, Annex F, in a conspicuous place where it can be seen by employees and applicants for employment.

This publication is available on the DFEH Web site:  
<http://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/>.

e. Employee Notices. The FMLA/CFRA regulations require employers to provide employees with two employee notices. The following California Highway Patrol (CHP) forms can be accessed on the CHP Intranet site under Forms.

(1) CHP 738, Notice of Eligibility and Rights and Responsibilities.

(a) Supervisors shall be responsible for completing and providing an employee with the CHP 738 within 5 business days after the employee has submitted a request for an FMLA/CFRA leave or the supervisor becomes aware the employee's leave may qualify for FMLA/CFRA.

(b) The CHP 738 informs the employee whether or not the employee is eligible for an FMLA/CFRA leave based on the eligibility requirements of having worked 12 months and at least 1,250 hours in the previous 12 months.

(c) The determination of the the employee's eligibility does not mean the leave has been approved for FMLA/CFRA at this point. The form also provides important information regarding the employee's FMLA/CFRA rights and responsibilities, information on the medical certification requirements, and the consequences for not meeting those requirements, as well as information regarding the return-to-work release.

(d) Supervisors shall complete the employee information on the CHP 738 and check all boxes that apply to the employee's FMLA/CFRA leave request. The original should be provided to the employee.

(e) A copy of the completed CHP 738 shall be forward to HRS, Personnel Transactions Unit (PTU), to be maintained as part of the employee's FMLA/CFRA package.

(2) CHP 739, Designation Notice.

(a) Supervisors shall be responsible for completing and providing an employee with the CHP 739 within 5 business days after the employee has submitted the applicable completed medical certification form.

(b) The CHP 739 informs the employee whether or not the requested leave is approved and will be designated as FMLA/CFRA leave. If the leave is not approved, the employee must be notified in writing of the reason why the leave is denied. The original CHP 739 should be provided

to the employee. A copy of the CHP 739 shall be forward to HRS, PTU, to be maintained as part of the employee's FMLA/CFRA package.

(c) If the leave is denied for employees represented by BUs 1, 4, 11, 14, or 15, the command shall forward a copy of the CHP 739 to the Office of Employee Relations, who will in turn notice the Service Employees International Union.

(d) For each FMLA/CFRA qualifying event, only one CHP 739 is required, per calendar year, regardless of whether or not the leave is taken as a continuous block of time or on an intermittent or reduced leave schedule basis.

(e) A retroactive notice is allowed if it does not cause the employee harm or injury.

f. Procedures to Request a Family and Medical Leave Act/California Family Rights Act Leave.

(1) Procedures – Employee.

(a) An employee shall notify their supervisor of a need for family or medical leave, with the anticipated date and duration of the leave.

1 Foreseeable Event. Regardless of whether or not FMLA/CFRA is to be continuous or will be taken intermittently, an employee must provide their supervisor at least 30 days advance notice before FMLA leave is to begin if the leave is foreseeable based on:

a An expected birth, placement for adoption, or foster care.

b The planned medical treatment for a serious health condition of the employee or of an eligible family member.

c The planned medical treatment for a serious injury or illness of a covered service member.

2 Unforeseeable Event. If 30 days' notice is not practicable (e.g., lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency), notice must be given as soon as possible.

3 The employee shall advise their supervisor as soon as possible if dates of scheduled leave change are extended or were initially unknown.

4 If an employee fails to give a 30-day notice of a foreseeable leave, with no reasonable excuse for the delay, the request for leave may be delayed until 30 days after the date the employee provides notice of the need for leave.

5 The employee may request in writing that a leave be counted as FMLA/CFRA retroactively.

(b) While on FMLA/CFRA leave, an employee must maintain contact with their supervisor regarding their status and intent to return to work.

(c) Request for a Family and Medical Leave Act/California Family Rights Act Leave.

1 An employee requesting an FMLA/CFRA leave shall complete a CHP 30, Employee Request for Medical, Family and/or Military Family Leave of Absence Pursuant to the Family and Medical Leave Act (FMLA)/California Family Rights Act (CFRA). The CHP 30 is available on the CHP Intranet site under Forms.

2 The completed CHP 30 will be submitted to the supervisor.

(d) Employee's Own Serious Health Condition, or to Care for a Spouse or Registered Domestic Partner, Child, or Parent.

1 If the request for an FMLA/CFRA leave is for the employee's own serious health condition, or to care for the employee's spouse or registered domestic partner, child, or parent:

a An employee shall either verbally inform their supervisor of the employee's own serious health condition, or the serious health condition of an eligible family member, and the need for a leave, or provide their supervisor with a completed CHP 30 requesting a leave.

b An employee is required to submit a completed medical certification from a health care provider to the supervisor within 15 calendar days of receipt of the certification, absent extenuating circumstances. (Refer to paragraph 1.m.)

c An employee is required to periodically report on their status and intent to return to work.

(2) Procedures – Supervisors/Managers. The following procedures shall be followed when an employee requests an FMLA/CFRA leave, or when a

supervisor becomes aware of circumstances which indicate an employee's request for a leave may fall under the criteria for FMLA/CFRA.

(a) General Information.

1 A supervisor will become aware of a need for leave when an employee has either requested family or medical leave (verbally or in writing), notified the supervisor of a need for a leave that may qualify for FMLA/CFRA leave (verbally or in writing), or has been absent from work for more than 3 consecutive days, for a reason that may qualify under FMLA/CFRA.

2 An employee does not need to expressly assert FMLA/CFRA rights. Supervisors are required to inform employees in writing of their FMLA/CFRA rights when an employee states the leave is needed for any reason that would qualify under the FMLA/CFRA.

3 If the employee is represented, refer to the employee's BU contract for any additional provisions that may apply.

(b) Verifying Employee Eligibility.

1 When a supervisor becomes aware of an employee's need for leave, the supervisor shall verify the employee's eligibility.

2 It is the supervisor's responsibility to determine the employee's eligibility and designate the time as FMLA/CFRA leave. However, HRS, PTU, shall be contacted to confirm eligibility.

3 Supervisors shall verify eligibility and electronically transmit the CHP 30 with the preliminary verification to: [CHP-FMLA@chp.ca.gov](mailto:CHP-FMLA@chp.ca.gov) in HRS, PTU. The FMLA coordinator will forward the e-mail to the personnel specialist to confirm eligibility, sign off on the CHP 30, and electronically return the CHP 30 to the employee's supervisor to include with the employee's FMLA/CFRA package.

(c) Employee Family and Medical Leave Act/California Family Rights Act Package.

1 If the employee meets the eligibility criteria, supervisors shall provide the employee with an Employee FMLA/CFRA package. If the employee is not present, the supervisor shall mail the Employee FMLA/CFRA package to the employee's home address.

2 The Employee FMLA/CFRA package is to include the following forms, which are available on the CHP Intranet site under Forms:

a The CHP 30 is to be completed by the employee and submitted to the supervisor.

b The CHP 738 is to be completed by the supervisor, the original provided to the employee, and a copy shall be forwarded to HRS.

c The appropriate medical certification: CHP 740, Certification of Health Care Provider for Employee's Serious Health Condition; CHP 741, Certification of Health Care Provider for Family Member's Serious Health Condition; CHP 742, Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act); or CHP 743, Certification for Serious Injury or Illness of Covered Servicemember for Military Family Caregiver Leave (Family and Medical Leave Act). Refer to paragraph 1.m. The medical certification is to be completed by the health care provider and returned by the employee within 15 calendar days.

d A copy of the employee's duty statement, if the leave is for the employee's own serious health condition.

e A copy of the U.S. DOL's Fact Sheet #28: The Family and Medical Leave Act, Annex B, and a copy of the DFEH-E03B brochure: California Family Rights Act, Annex C. If requesting an FMLA Military Family leave, a copy of the U.S. DOL Fact Sheet #28M: The Military Family Leave Provisions under the Family Medical Leave Act, Annex D, and Uniformed Services Employment and Reemployment Rights Act-Family and Medical Leave Act Questions and Answers, Annex E.

f The CHP 737, Leave of Absence Request, if the employee is requesting an unpaid leave of absence, or requesting leave of 30 days or more, or will be utilizing Non-Industrial Disability Insurance (NDI) or State Disability Insurance (SDI).

g The CHP 739 is to be completed by the supervisor and the original provided to the employee. A copy shall be forwarded to HRS.

g. Employee Eligibility.

(1) To be eligible for FMLA/CFRA benefits, an employee must have at least 12 months (52 weeks) of state service, and have worked at least 1,250 hours (actual time worked) immediately before the date the FMLA/CFRA leave is to start.

(a) The hours do not need to be worked consecutively.

(b) Time off for sick leave, vacation/annual leave, administrative time off, compensating time off, holidays, informal time off, or personal leave are not counted towards the 1,250 hours of work.

(c) Overtime hours are counted.

(d) Time off for military leave is counted.

(e) Union Paid Leave may count.

(f) Any paid leave due to job-related injuries or illness will not be counted towards satisfying the 1,250 hours worked requirement. The 12-month period is measured backwards from the date an employee uses any FMLA/CFRA leave.

(2) The determination of an employee's eligibility is made as of the date the leave commences. If an employee reaches a 12-month eligibility requirement while on the leave, the leave period prior to meeting the requirement is non-FMLA/CFRA leave.

(3) Refer to Annex E for special rules for returning reservists under the Uniformed Services Employment and Reemployment Rights Act.

(4) Part-time and permanent intermittent employees are eligible for an FMLA/CFRA leave if they meet the 1,250 hours of service and other qualifying conditions.

h. Reasons for Leave. The FMLA/CFRA leave may be taken for the following reasons:

(1) Birth and care of an employee's newborn child.

(2) Care for a newly adopted or placed foster child.

(3) Care for an immediate family member (employee's spouse or domestic partner, child, child of domestic partner, or parent) who has a serious health condition, which requires the employee to provide care.

(4) Employee's own serious health condition that makes the employee unable to perform the essential functions of their job.

(5) Employee is a victim of domestic violence, sexual assault, or stalking. Refer to Chapter 26, Miscellaneous Absences with Pay, of this manual.

(6) Family and medical events as specified in the Family and Medical Leave Act–Military Leave Entitlements policy. (Refer to paragraph 2.)

i. Definition of Family Member.

(1) Spouse. Spouse means a husband or wife as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into.

(2) Child. A biological, adopted, or foster child, stepchild, legal ward, or child of a person standing in place of a parent, who is either under the age of 18, or age 18 or older and "incapable of self-care" because of a mental or physical disability. Standing in the place of a parent means charged with a parent's rights, duties, and responsibilities; it does not require a biological or legal relationship.

(3) Parent. A biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stands or stood in place of a parent to the employee when the employee was a child, regardless of whether there is/was biological or legal relationship between the other person and the employee. This definition does not include parents "in-law."

j. Domestic Partner.

(1) California Family Code Section 297.5 gives domestic partners the same rights, protections, and benefits as spouses.

(2) Domestic partner coverage is available to same-sex partners (registered with the Secretary of State) or opposite-sex partners if the state employee and/or partner are age 62 or over and eligible for social security.

(3) Under the California Domestic Partner Rights and Responsibilities Act of 2003, the CFRA provides state employees with 12 work weeks of job-protected leave to a domestic partner, with the same rights as a "spouse" for specified family and medical reasons. The FMLA also provides state employees with 12

work weeks of job-protected leave, but does not recognize domestic partners as an eligible leave entitlement. Employers must comply with both state and federal laws when providing an employee with a family or medical leave. Therefore, under both federal and state laws, a state employee may receive two leaves: a job-protected leave to care for a registered domestic partner under CFRA, and an FMLA leave for the employee's own serious health condition, or that of a parent or dependent.

(4) When a BU agreement recognizes domestic partners under CFRA, a state employee is limited to only one family medical leave which counts against both CFRA and FMLA entitlements.

k. Definition of a "Serious Health Condition." As determined by the health care provider, a serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

(1) Inpatient Care. An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care.

(2) Incapacity and Treatment. A period of incapacity of more than 3 consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(a) Treatment 2 or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(b) Treatment by a health care provider on at least 1 occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of continuing treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

(c) The requirement in paragraphs 1.k.(2)(a) and 1.k.(2)(b) for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within 7 days of the first day of incapacity.

NOTE: "Incapacity," for purposes of FMLA/CFRA, is defined as the inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefore or recovery therefrom. The term "treatment" includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition.

(3) Pregnancy and Prenatal Care.

(a) An employee is entitled to leave under FMLA, but not under CFRA, for their own incapacity due to pregnancy, for prenatal care, or for their own serious health condition following the birth of the child.

(b) If an employee's pregnancy precludes them from working, they are entitled to FMLA leave and PDL, but not CFRA leave (refer to Chapter 8, Leave of Absence, of this manual), for incapacity due to pregnancy even though they do not receive treatment from a health care provider during the absence, and even if the absence does not last for more than 3 consecutive calendar days.

(c) A spouse is entitled to FMLA leave, and a domestic partner is entitled to CFRA leave, if needed to care for a pregnant spouse who is incapacitated, or if needed to care for them during their prenatal care, or if needed to care for them following the birth of a child if they have a serious health condition.

(4) Chronic Conditions. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(a) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).

(d) The employee need not receive treatment from a health care provider during the absence, even if the absence does not last more than 3 consecutive calendar days.

(5) Permanent/Long-Term Conditions. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be

effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(6) Conditions Requiring Multiple Treatments. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for either restorative surgery after an accident or other injury; or a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

(7) Domestic Violence, Sexual Assault, or Stalking. California Labor Code Sections 230 and 230.1 provide unpaid leave to an employee who is a victim of domestic violence, sexual assault, or stalking in order to: (a) obtain a restraining order, (b) appear in court, or (c) seek medical attention or counseling services. Employees may utilize available leave credits for time taken for these purposes. (Refer to Chapter 26 of this manual.) Employees shall be entitled to FMLA/CFRA benefits, which would run concurrently with this unpaid leave benefit.

(8) Treatment of Substance Abuse. Family and Medical Leave Act leave shall only be taken for treatment for substance abuse by a health care provider or by a provider of health care services with a referral by a health care provider.

(a) Absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(b) Treatment for substance abuse does not prevent the Department from taking employment action against an employee, up to and including dismissal, for violation of the Department's substance abuse policy. An employee may be terminated whether or not the employee is presently taking FMLA leave.

(c) An employee may also take FMLA leave to care for a covered family member who is receiving treatment for substance abuse. No employment action shall be taken against an employee solely for the reason they are providing care for a covered family member receiving treatment for substance abuse.

(9) Exclusions. Unless complications arise, voluntary, preventative, routine, or short-term conditions requiring only brief treatment and recovery do not

meet the definition of a serious health condition, and do not qualify for FMLA/CFRA leave.

(a) Cosmetic treatments (e.g., treatments for acne) are not serious health conditions, unless inpatient hospital care is required or complications develop. Routine physical, eye, and dental examinations are examples of excluded conditions.

(b) The common cold, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, and periodontal disease are also examples of excluded conditions.

(c) However, if any condition meets the criteria for a serious health condition (e.g., inpatient care, or incapacity of more than 3 consecutive calendar days that also involves qualifying treatment), then the related absence would be protected by FMLA/CFRA, if all other qualifying criteria are met. For example, restorative dental or plastic surgery after an injury or removal of cancerous growths may be considered a serious health condition, as well as a mental illness or allergies.

I. Health Care Provider. A health care provider is:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices.

(2) A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice, and performing within the scope of their practice as defined under state law.

(3) A nurse practitioner, nurse-midwife, clinical social worker, or physician assistant, authorized to practice and performing within the scope of their practice as defined under state law.

(4) A Christian Science Practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(5) A health care provider listed above who practices in a country other than the U.S., who is authorized to practice in accordance with the law of that country, and who is performing within the scope of their practice as defined under such law.

m. Medical Certifications.

(1) An eligible employee requesting FMLA/CFRA leave shall be required to provide their supervisor with a completed medical certification form which supports the need for leave due to a serious health condition affecting the employee or eligible family member.

(2) The employee shall be allowed at least 15 calendar days to obtain the medical certification. If the employee has not submitted the medical certification within the 15 calendar days, they shall be allowed an additional 10 calendar days to submit the form.

(3) The medical certification form must be completed by a health care provider as defined in paragraph 1.l. above.

(4) Employee's Serious Health Condition. An eligible employee requesting FMLA/CFRA leave for their own serious health condition shall be required to provide their supervisor with a completed CHP 740. The CHP 740 is available on the CHP Intranet site under Forms.

(5) Family Member's Serious Health Condition. An eligible employee requesting FMLA/CFRA leave for an eligible family member's serious health condition shall be required to provide their supervisor with a completed CHP 741. The CHP 741 is available on the CHP Intranet site under Forms.

(6) Medical Certification Abroad. In circumstances where the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the Department will accept a medical certification from a health care provider who practices in that country. When the certification by a foreign health care provider is in a language other than English, the employee must provide the Department with a written translation of the certification.

(7) Failure to Provide a Medical Certification or Equivalent Substantiation. It is the employee's responsibility to provide a complete and sufficient medical certification, or equivalent substantiation to the Department to support their request for FMLA/CFRA. An employee who fails to provide a complete and sufficient medical certification or equivalent substantiation to support their FMLA/CFRA request may have their FMLA/CFRA leave delayed or denied.

(8) Equivalent Substantiation. The CHP 740 or CHP 741 shall be given to the employee at the same time as the CHP 738. However, other medical certification forms shall not be precluded from being accepted. Some health care providers have their own medical certification form(s) that can be accepted if complete and sufficient information has been provided.

(9) The medical certification forms shall be maintained as confidential documents.

n. Second and Third Opinions.

(1) If the Department doubts the validity of the employee's medical certification for a serious health condition, the Department may require a second health care opinion. The Department is responsible for designating and paying for the second health care provider. If the first and second opinions conflict, the Department may obtain, and pay for, a third opinion from a health care provider jointly selected by the employee and the Department. The third opinion is final and binding.

(2) Pending receipt of either the second or third opinions, the employee will be provisionally entitled to the benefits of FMLA/CFRA. These additional certifications are at the Department's expense and cannot be provided by a health care provider employed on a regular basis by the Department. Second and third opinions shall not be requested without the consent of the appropriate Commissioner.

(3) Certifications for the serious health condition of an immediate family member cannot be challenged if the following 4 criteria are answered in the original certification:

(a) The date, if known, the serious health condition commenced;

(b) The probable duration of the condition;

(c) An estimate of the time period the health care provider believes the employee needs to care for the immediate family member; and

(d) A statement in which the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the immediate family member, including providing psychological comfort and arranging "third party" care for the family member and directly providing, or participating in the medical care.

o. Recertification.

(1) If the medical certification indicates the minimum duration of the condition is more than 30 days, the Department will wait until the minimum duration expires before requesting a recertification.

(2) The Department may require the employee to provide a recertification sooner, if:

- (a) The circumstances of the previous certification have changed significantly; or
- (b) The employee requests an extension of the leave; or
- (c) The Department receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

(3) Recertification shall be at the employee's expense.

(4) The CFRA regulations do not allow for annual recertification of lifetime conditions. The Department cannot request recertification from an employee in January of each year, unless the certification has expired.

p. Periodic Updates. An employee is required to periodically report on the status and intent to return to work, at intervals determined reasonable for the particular situation.

q. Leave Entitlement.

(1) Determining 12 Work Weeks.

(a) Eligible employees are entitled to take up to a total of 12 "work weeks" of paid or unpaid job-protected leave in a calendar year. Per the Fair Labor Standards Act (FLSA), an employee's work week will consist of the number of hours the employee usually works

(b) An employee whose work week is normally 40 hours a week is entitled to 40 hours multiplied by 12 weeks (480 hours).

(c) The FMLA/CFRA leave for a fractional employee is prorated according to the employee's time base.

(d) When an employee works a schedule that varies from week to week, the employee's leave entitlement will be based on the average hours the employee worked in the 12-month period prior to the date the employee's FMLA/CFRA leave began.

(2) Intermittent or Reduced Work Schedule.

(a) An FMLA/CFRA leave does not need to be taken in one continuous period of time but can be taken intermittently. An employee using FMLA/CFRA on an intermittent basis is not entitled to more than 12 weeks (480 hours for a normal 40-hour work week) within a 12-month period.

(b) When an FMLA/CFRA leave is taken for the serious health condition of the employee, or the serious health condition of a covered family member, or the serious injury or illness of a covered service member, or the employee's domestic partner under CFRA, leave may be taken intermittently when the health care provider of the person with the serious condition indicates it is medically necessary. Intermittent FMLA/CFRA leave is taken in separate blocks of time due to a single qualifying reason.

(c) In accordance with the Code of Federal Regulations Section 825.202, Intermittent leave or reduced leave schedule, a reduced work schedule is a work schedule that reduces an employee's normal number of working hours per work week, or hours per work day, and is allowed for an FMLA/CFRA leave taken for the serious health condition of the employee, or to care for a covered family member with a serious health condition. (Refer to paragraph 1.h.[3] for the definition of a covered family member.)

(d) When a leave is taken for a medical or other FMLA/CFRA-related appointment, the employee must make a reasonable effort to schedule the appointment at a time that minimizes disruption to the Department's operations.

(e) If an employee takes leave intermittently or on a reduced work schedule, only the amount of leave actually taken will be counted toward the 12 work week entitlement.

(f) Eligibility for intermittent leave or leave on a reduced work schedule for a qualifying condition is established at the commencement of the leave and does not need to be reestablished until the next 12-month period (calendar year). Considering this, the criteria for 1,250 hours worked is applied only once per 12-month period (calendar year) for each qualifying condition.

(g) If an employee needs intermittent leave that is foreseeable based on planned medical treatment for the employee or the employee's family member, the Department may require the employee to transfer to an available alternative position with equivalent pay and benefits. Transfer to an alternative position requires compliance with any applicable BU agreement.

r. Baby Bonding Leave.

(1) Under FMLA/CFRA, employees are allowed to take up to a total of 12 weeks of leave to bond with their child after birth. It must be taken within 1 year of the date of the birth.

- (2) Baby bonding leave applies to both male and female employees.
- (3) Baby bonding leave may be taken in one continuous block or on an intermittent basis. The request for leave taken for either a continuous block or on an intermittent basis must be submitted and approved in advance. An employee must give reasonable notice prior to taking the time off. The minimum duration of such leave is 2 weeks; however, the employee can request, and must be permitted, to take leave of at least 1 day, but less than 2 weeks, at least twice during the 12-week period.
- (4) This leave entitlement expires 12 months from the date of the birth of the child.
- (5) Employees are not entitled to utilize sick leave for bonding with their healthy, newborn child.

s. Bonding Leave for Adoption or Foster Care.

- (1) Under FMLA/CFRA, employees are allowed to take up to a total of 12 weeks of leave to bond with their adopted or foster child after adoption or placement. It must be taken within 1 year of the date of the adoption or placement.
- (2) Includes leave to attend meetings with lawyers, adoption agencies, counseling sessions, or travel to a foreign country.
- (3) Leave may be taken by either parent.
- (4) Leave must conclude within 1 year of adoption or placement date.
- (5) Employees are not entitled to utilize sick leave to bond with a healthy adopted or foster child.

t. Parents with the Same Employer. Parents employed by the Department are each entitled to 12 weeks of FMLA/CFRA leave for the birth and care of the newborn child, or placement for adoption or foster care of the employee's child within a 12-month period. The Department does not limit parents to a combined total of 12 weeks.

u. Proof of Birth of a Child, or Adoption, or Foster Care Placement of a Child. An employee is not required to submit a completed medical certification from a health care provider if requesting a leave for the birth of a child, or adoption, or foster care placement of a child. However, applicable documentation must be submitted to prove the birth, adoption, or foster care placement of the child.

v. Twelve-Month Period. The 12-month period for all departmental employees is based on a calendar year (January 1 through December 31). Each time an employee takes FMLA/CFRA leave, the remaining leave entitlement would be any balance of the 12 weeks, which has not been used during the current calendar year. An FMLA/CFRA leave may be taken in one 12-week stretch, or intermittently in increments of 15 minutes or more that cannot exceed a total of 12 weeks.

w. Maximum Leave Period. An FMLA/CFRA leave shall run concurrently with regular leaves of absence. The total leave(s) of absence cannot exceed 1 year as provided for in BU agreements, laws or regulations.

x. Use of Leave Credits.

(1) Vacation, Annual Leave, and Personal Leave. Departmental policy allows an eligible employee to use accrued leave credits (e.g., vacation/annual leave, personal leave) during unpaid FMLA/CFRA leave. No limitations may be placed on the use of paid vacation, annual leave, or personal leave for FMLA/CFRA unpaid leave. The use of leave credits will be counted toward the employee's 12-week entitlement.

(2) Sick Leave. Sick leave may only be used in accordance with BU agreements and/or applicable civil service laws, rules, and policies. An employee who has been placed on attendance restriction (interim reporting) for sick leave shall not be prohibited from using vacation leave for a qualifying FMLA/CFRA leave. Disciplinary action cannot be taken against an employee for a qualifying absence under FMLA/CFRA.

y. Retroactive Designation.

(1) An employee's leave may be retroactively designated as an FMLA/CFRA leave provided the employer has preliminarily designated the leave as FMLA/CFRA leave and is waiting for the medical certification and/or substantiation.

(2) If a supervisor did not know the reason for the employee's absence until the employee's return to work, the leave can be retroactively designated as an FMLA/CFRA leave. However, the supervisor must notify the employee within 5 business days that the leave will be designated as an FMLA/CFRA leave.

(3) If there is a mutual agreement to retroactively designate an FMLA/CFRA leave, the supervisor shall send a letter to the employee confirming the agreement. The employee must submit a CHP 30 as soon thereafter as possible.

z. Holidays.

(1) When a holiday falls on a normal scheduled work week and the employee is taking a full week of FMLA/CFRA leave, the holiday counts against the employee's 12-week entitlement.

(2) If the employee is taking FMLA/CFRA leave in increments of less than a week, the holiday will only count against the employee's 12-week entitlement if the employee was required to work on a holiday.

aa. Coordinating a Family and Medical Leave Act/California Family Rights Act Leave with Other Leaves.

(1) Job-Related Injuries.

(a) Paid leave due to job-related accidents or injuries under Industrial Disability Leave (IDL), Temporary Disability (TD), or 4800.5 time are not counted as an employee's FMLA/CFRA leave.

(b) Twelve work weeks of FMLA/CFRA leave will be available to eligible employees who exhaust IDL or TD benefits.

(2) Pending Workers' Compensation Claims.

(a) Supervisors shall provisionally designate FMLA/CFRA for all employees with pending workers' compensation claims that may qualify as having a serious health condition under FMLA/CFRA.

(b) If an employee's workers' compensation claim for IDL, TD, or 4800.5 time is approved, the provisional designation will be removed without further notice.

(c) If workers' compensation is denied or terminated, the Department will verify the employee's eligibility for FMLA/CFRA and designate accordingly.

(3) Non-Job-Related Injuries. A leave qualifying under NDI or SDI will run concurrently with FMLA/CFRA leave. Pregnancy Disability Leave will run concurrently with only FMLA leave. Refer to Chapter 8 of this manual.

bb. Maintenance of Health Benefits.

(1) The FMLA/CFRA requires the employer to maintain the employee's health, dental, and vision benefits (at normal state contributions) while an employee is on FMLA/CFRA leave. Employees who make a monthly contribution toward their health, dental, or vision insurance premiums are still

responsible for paying their portion of the monthly premium in order to maintain their coverage. The Department will continue to pay its share of an employee's health, dental, and vision benefits.

(2) An accounts receivable will be established for the employee's share of the premium. Employee Benefit Services staff in HRS will send a notice to the employee with the amount owed. The accounts receivable will be collected by payroll deduction upon the employee's return to work.

(3) FlexElect or Consolidate Benefits "Cash Option" and Medical Reimbursement Accounts.

(a) An employee, who currently receives the cash option (in lieu of benefits) under the state's FlexElect or Consolidated Benefits Cash Option program, or the medical reimbursement account, will have their enrollment stopped while on an unpaid leave of absence. If the employee returns to pay status in the same cash option plan year, enrollment will resume.

(b) If an employee is enrolled in the Medical Reimbursement Account and wishes to continue to submit claims for services provided during their unpaid leave of absence, they may elect to continue to make contributions through the Consolidated Omnibus Budget Reconciliation Act.

(4) The Department will recover the state's contributions made toward the employee's health, dental, and vision benefits if the employee fails to return to work following FMLA/CFRA leave, unless there is a continuation, recurrence, or onset of a serious health condition, or other circumstances beyond the employee's control. It shall be the commander's responsibility to determine if the employee fails to return for the above reasons.

cc. Working Overtime While on a Family and Medical Leave Act/California Family Rights Act Leave. Overtime shall be allowed, outside the employee's normal work shift, on a regular day off, or at the commander's discretion in order to meet the needs of the Department. However, if an employee is on FMLA/CFRA leave for the employee's own serious illness or injury, overtime shall not be allowed during that period of leave. In addition, overtime shall not be allowed if the employee is on unpaid leave.

dd. Return-to-Work Certification. An employee returning to work from leave for a serious health condition shall submit a note from the health care provider releasing the employee to full duty. If an employee is returning to work with specific restrictions following a serious health condition that does not involve the use of intermittent leave, a form completed by the employee's health care provider must identify any restrictions or modified work assignments.

ee. Reasonable Accommodation. If an employee is unable to perform the essential functions of their job, the employee may be eligible for a reasonable accommodation under the Fair Employment and Housing Act and the Americans with Disabilities Act. The employee is responsible for contacting their supervisor and requesting a reasonable accommodation. When a request is received, the Department will engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations. Additional questions regarding reasonable accommodations should be directed to the Office of Equal Employment Opportunity (OEEEO).

ff. Reinstatement Following Leave.

(1) An employee returning from FMLA/CFRA leave shall be returned to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

(2) An employee's use of FMLA/CFRA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA/CFRA leave.

(3) If the employee is unable to perform the essential functions of the job, reasonable accommodation should be considered.

gg. Light Duty.

(1) Employees may not be required to work light-duty jobs in lieu of taking FMLA/CFRA leave.

(2) If an employee, who is recovering from a serious health condition, voluntarily accepts a light-duty work assignment, the time on the light-duty assignment will not be counted as FMLA/CFRA leave.

(3) At the end of the light-duty assignment, the employee has the right to be reinstated to the same or equivalent position.

hh. Minimum Increment of Usage. Paid/unpaid FMLA/CFRA leave may be taken in one 12 work week period or in increments of 15 minutes or more.

ii. Employees in Work Week Group E or SE. An employee in Work Week Group E or SE is excluded from the FLSA and generally does not utilize leave in less than whole day increments. However, under FMLA/CFRA, deductions may be made from the salary of an excluded employee "for any hours taken as intermittent or reduced FMLA/CFRA leave within a work week without affecting the exempt status of the employee." This applies regardless of whether the employee is on paid or

unpaid FMLA/CFRA leave. In this case, the FMLA/CFRA leave must be indicated on the employee's CHP 71, Attendance Report, and STD. 634, Absence and Additional Time Worked Report, noting the leave credits charged and/or dock, as applicable.

jj. Declining Leave. An employee has the right to decline FMLA/CFRA leave benefits. However, the supervisor is still required to give the employee the CHP 738 to notice the employee of eligibility.

(1) The employee shall provide a written notice declining the rights to an FMLA/CFRA leave for the dates of absences.

kk. Attendance Reporting. All employees shall enter "FMLA/CFRA" in the reason for absence section of the STD. 634 and submit it with the CHP 71, or CHP 415, Daily Field Record, forms.

(1) CHP 71, Attendance Report. For employees whose attendance is reported on a CHP 71, the following procedures shall be followed:

(a) When an employee is on unpaid leave, the appropriate number of hours for the absence shall be entered in the *Off-Pay* column with the notation FMLA/CFRA entered in the *Remarks* column.

(b) When an employee is substituting accrued paid leave credits for FMLA/CFRA leave, the number of hours shall be entered in the appropriate leave credit column with the notation FMLA/CFRA entered in the *Remarks* column.

(2) Automated CHP 415, Daily Field Record. For employees whose attendance is reported on a CHP 415, the following procedures shall be followed:

(a) When an employee is on unpaid leave, the appropriate number of hours for the absence shall be entered in the *Dock* column and "Unpaid Time off for FMLA/CFRA" shall be entered in the Notes section of the CHP 415.

(b) When an employee is substituting accrued paid leave credits for FMLA/CFRA leave, the number of hours shall be entered in the appropriate leave credit column and "Use of (number of hours and type of leave) credits for FMLA/CFRA" shall be entered in the Notes section of the CHP 415.

(c) Commands shall forward a copy of the CHP 415 to HRS.

(d) Human Resources Section will maintain manual records for automated employees.

II. Employees on an Alternate Work Week Schedule.

(1) An employee normally on an alternate work week schedule, who is on FMLA/CFRA leave for 30 continuous days or more, must revert back to a Monday through Friday schedule and the regular work shift shall be 8 hours.

(2) An employee normally on an alternate work week schedule, who is on FMLA/CFRA leave for less than 30 continuous days, or off intermittently, may remain on their normal shift.

mm. Discrimination.

(1) If an employee believes there has been interference with, or the employee has been restrained, or denied the exercise of any right provided by this FMLA/CFRA policy, or if an employee believes they were discharged or discriminated against for opposing any practice, or because of involvement in any proceeding related to the policy, the employee may contact the U.S. DOL, Wage and Hour Division, and may also file a civil action. An employee may also contact a private attorney, union or whomever else the employee might consult about job/health/legal problems.

(2) If an employee believes a discriminatory pattern of behavior has been demonstrated in the administration of this policy, the employee may contact the Department's OEEEO, the DFEH or the federal Equal Employment Opportunity Commission. The departmental discrimination complaint process is the formal mechanism for such disputes arising out of the administration of this policy.

nn. Additional Resources.

(1) The U.S. DOL Web site: <https://www.dol.gov/whd/fmla>.

(2) The California Department of Human Resources Web site: <http://www.calhr.ca.gov/employees/Pages/family-leave.aspx>.

(3) The DFEH Web site: <http://www.dfeh.ca.gov/legal-records-and-reports/laws-and-regulations>.

## 2. FAMILY AND MEDICAL LEAVE ACT – MILITARY LEAVE ENTITLEMENTS.

### a. General.

(1) The U.S. DOL amended FMLA regulations to incorporate military family leave entitlements into the regulations. The FMLA regulations provide for two types of military family leave for FMLA-eligible employees, QEL and MCL.

(2) To be eligible for QEL or MCL, an employee must meet the same FMLA leave requirements as outlined in paragraph 1.g.(1).

### b. Qualifying Exigency Leave.

(1) An eligible employee may take FMLA leave for any qualifying exigency arising out of the fact the employee's spouse, son, daughter, or parent is on, or has been notified of an impending call to, "covered active duty" in the Armed Forces to a foreign country. For members of a regular component of the Armed Forces, covered active duty is defined as duty during deployment with the Armed Forces to a foreign country. For members of the U.S. National Guard and Reserves, covered active duty is defined as duty during deployment with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation as defined in Section 101(a)(13)(B) of Title 10, U.S. Code.

(2) Qualifying Exigencies. An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

- (a) Short-notice deployment.
- (b) Military events and related activities.
- (c) Childcare and school activities.
- (d) Financial and legal arrangements.
- (e) Attend counseling.
- (f) Rest and recuperation.
- (g) Parental care.
- (h) Postdeployment activities.
- (i) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

(3) Procedure to Request Qualifying Exigency Leave. An employee requesting QEL must submit a CHP 742. The CHP 742 shall be completed by the employee to support a request for FMLA leave due to a qualifying exigency.

(4) This leave entitlement is in addition to the 10 days of unpaid spousal leave provided under Military and Veterans Code Section 395.10.

c. Military Caregiver Leave.

(1) Military Caregiver Leave is leave protection for an eligible employee whose spouse, son, daughter, parent, or next of kin (nearest blood relative) is injured while on active military duty, to take up to a combined total of 26 work weeks of FMLA leave during a single 12-month period, to care for the covered servicemember's serious illness or injury.

(2) Covered Servicemember.

(a) A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, who is otherwise in outpatient status, or is otherwise on the temporary disability list for a serious injury or illness.

(b) A veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness is included as a covered servicemember. However, the veteran must have been a member of the Armed Forces (including the National Guard or Reserves) at any time within 5 years preceding treatment of the serious injury or illness.

(3) Eligible Employees. Eligible employees allowed to take this leave are a spouse, son, daughter, parent, or next of kin (nearest blood relative) of an injured or ill servicemember.

(4) Twelve-Month Period. The single 12-month period begins on the first day the employee takes leave for this reason and ends 12 months later. The method for calculating MCL differs from other FMLA leave which is tracked based on the calendar year January through December.

(5) Procedure to Request Military Caregiver Leave. An employee requesting MCL to care for a covered servicemember with a serious injury or illness must submit a CHP 743. The CHP 743 shall be completed by an authorized health care provider of the covered servicemember such as the Department of Defense (DOD), Department of Veterans Affairs, DOD tricare, DOD nonnetwork tricare, and DOD authorized representative.

d. Interplay Between Qualifying Exigency Leave and Military Caregiver Leave.  
The 12 weeks for QEL and 26 weeks for MCL run concurrently.

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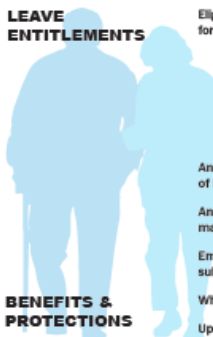
# ANNEX A

## EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

# EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### LEAVE ENTITLEMENTS



Eligible employees who work for a covered employer can take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- The birth of a child or placement of a child for adoption or foster care;
- To bond with a child (leave must be taken within one year of the child's birth or placement);
- To care for the employee's spouse, child, or parent who has a qualifying serious health condition;
- For the employee's own qualifying serious health condition that makes the employee unable to perform the employee's job;
- For qualifying exigencies related to the foreign deployment of a military member who is the employee's spouse, child, or parent.

An eligible employee who is a covered servicemember's spouse, child, parent, or next of kin may also take up to 26 weeks of FMLA leave in a single 12-month period to care for the servicemember with a serious injury or illness.

An employee does not need to use leave in one block. When it is medically necessary or otherwise permitted, employees may take leave intermittently or on a reduced schedule.

Employees may choose, or an employer may require, use of accrued paid leave while taking FMLA leave. If an employee substitutes accrued paid leave for FMLA leave, the employee must comply with the employer's normal paid leave policies.

While employees are on FMLA leave, employers must continue health insurance coverage as if the employees were not on leave.

Upon return from FMLA leave, most employees must be restored to the same job or one nearly identical to it with equivalent pay, benefits, and other employment terms and conditions.

An employer may not interfere with an individual's FMLA rights or retaliate against someone for using or trying to use FMLA leave, opposing any practice made unlawful by the FMLA, or being involved in any proceeding under or related to the FMLA.

An employee who works for a covered employer must meet three criteria in order to be eligible for FMLA leave. The employee must:

- Have worked for the employer for at least 12 months;
- Have at least 1,250 hours of service in the 12 months before taking leave,\* and
- Work at a location where the employer has at least 50 employees within 75 miles of the employee's worksite.

\*Special "hours of service" requirements apply to airline flight crew employees.

### BENEFITS & PROTECTIONS

### ELIGIBILITY REQUIREMENTS

### REQUESTING LEAVE

### EMPLOYER RESPONSIBILITIES

### ENFORCEMENT

Generally, employees must give 30-days' advance notice of the need for FMLA leave. If it is not possible to give 30-days' notice, an employee must notify the employer as soon as possible and, generally, follow the employer's usual procedures.

Employees do not have to share a medical diagnosis, but must provide enough information to the employer so it can determine if the leave qualifies for FMLA protection. Sufficient information could include informing an employer that the employee is or will be unable to perform his or her job functions, that a family member cannot perform daily activities, or that hospitalization or continuing medical treatment is necessary. Employees must inform the employer if the need for leave is for a reason for which FMLA leave was previously taken or certified.

Employers can require a certification or periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

Once an employer becomes aware that an employee's need for leave is for a reason that may qualify under the FMLA, the employer must notify the employee if he or she is eligible for FMLA leave and, if eligible, must also provide a notice of rights and responsibilities under the FMLA. If the employee is not eligible, the employer must provide a reason for ineligibility.

Employers must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

Employees may file a complaint with the U.S. Department of Labor, Wage and Hour Division, or may bring a private lawsuit against an employer.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.



For additional information or to file a complaint:

## 1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

## www.dol.gov/whd

U.S. Department of Labor | Wage and Hour Division



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## ANNEX B

### FACT SHEET #28: THE FAMILY AND MEDICAL LEAVE ACT

U.S. Department of Labor  
Wage and Hour Division



#### Fact Sheet #28: The Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. This fact sheet provides general information about which employers are covered by the FMLA, when employees are eligible and entitled to take FMLA leave, and what rules apply when employees take FMLA leave.

#### COVERED EMPLOYERS

The FMLA only applies to employers that meet certain criteria. A **covered employer** is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

#### ELIGIBLE EMPLOYEES

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

- Works for a *covered employer*;
- Has worked for the employer for at least *12 months*;
- Has at least *1,250 hours* of service for the employer during the 12 month period immediately preceding the leave\*; and
- Works at a location where the employer has at least *50 employees within 75 miles*.

Special hours of service eligibility requirements apply to airline flight crew employees. [See Fact Sheet J: Special Rules for Airline Flight Crew Employees under the Family and Medical Leave Act.](#)

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. [See "FMLA Special Rules for Returning Reservists"](#).

#### LEAVE ENTITLEMENT

Eligible employees may take up to **12 workweeks** of leave in a 12-month period for one or more of the following reasons:

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## ANNEX B

### FACT SHEET #28: THE FAMILY AND MEDICAL LEAVE ACT (*continued*)

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to 26 workweeks of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons. *See* [Fact Sheets 28F: Qualifying Reasons under the FMLA](#) and [28M: The Military Family Leave Provisions under the FMLA](#).

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the employer's approval.

Under certain conditions, employees may choose, or employers may require employees, to "substitute" (run concurrently) accrued paid leave, such as sick or vacation leave, to cover some or all of the FMLA leave period. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

#### NOTICE

Employees must comply with their employer's usual and customary requirements for requesting leave and provide enough information for their employer to reasonably determine whether the FMLA may apply to the leave request. Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. If an employee later requests additional leave for the same qualifying condition, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. *See* [Fact Sheet 28E: Employee Notice Requirements under the FMLA](#).

Covered employers must:

- (1) Post a notice explaining rights and responsibilities under the FMLA. Covered employers may be subject to a civil money penalty for willful failure to post. For current penalty amounts, see [www.dol.gov/whd/fmla/applicable\\_laws.htm](http://www.dol.gov/whd/fmla/applicable_laws.htm);
- (2) Include information about the FMLA in their employee handbooks or provide information to new employees upon hire;

## ANNEX B

### FACT SHEET #28: THE FAMILY AND MEDICAL LEAVE ACT (*continued*)

- (3) When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA-qualifying reason, provide the employee with notice concerning his or her eligibility for FMLA leave and his or her rights and responsibilities under the FMLA; and
- (4) Notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employee's FMLA entitlement.

*See* [Fact Sheet 28D](#): Employer Notice Requirements under the FMLA.

#### CERTIFICATION

When an employee requests FMLA leave due to his or her own serious health condition or a covered family member's serious health condition, the employer may require certification in support of the leave from a health care provider. An employer may also require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. *See* [Fact Sheet 28G](#): Certification of a Serious Health Condition under the FMLA. For information on certification requirements for military family leave, *See* [Fact Sheet 28M\(c\)](#): Qualifying Exigency Leave under the FMLA; [Fact Sheet 28M\(a\)](#): Military Caregiver Leave for a Current Servicemember under the FMLA; and [Fact Sheet 28M\(b\)](#): Military Caregiver Leave for a Veteran under the FMLA.

#### JOB RESTORATION AND HEALTH BENEFITS

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave. *See* [Fact Sheet 28A](#): Employee Protections under the Family and Medical Leave Act .

#### OTHER PROVISIONS

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent or reduced schedule FMLA leave or the taking of FMLA leave near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under the FLSA regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an eligible employee's use of FMLA leave.

#### ENFORCEMENT

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any

## ANNEX B

### FACT SHEET #28: THE FAMILY AND MEDICAL LEAVE ACT (*continued*)

proceeding, related to the FMLA. *See* [Fact Sheet 77B: Protections for Individuals under the FMLA](#). The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

1-866-4-USWAGE  
TTY: 1-866-487-9243  
[Contact Us](#)

# ANNEX C

## CALIFORNIA FAMILY RIGHTS ACT BROCHURE

COMPLAINTS MUST BE FILED WITHIN ONE YEAR OF THE LAST ACT OF DISCRIMINATION

### FILING A COMPLAINT

THE MISSION OF THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING IS TO PROTECT THE PEOPLE OF CALIFORNIA FROM UNLAWFUL DISCRIMINATION IN EMPLOYMENT, HOUSING AND PUBLIC ACCOMMODATIONS, AND FROM THE PERPETRATION OF ACTS OF HATE VIOLENCE AND HUMAN TRAFFICKING.

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

### CALIFORNIA FAMILY RIGHTS ACT



If you believe your CFRA rights have been violated, you may, within one year of the discrimination, file a complaint of discrimination with the DFEH by following these steps:

- 1 Contact DFEH by using the information on the back of this brochure
- 2 Be prepared to present specific facts about the alleged discrimination or denial of leave
- 3 Keep records and provide copies of documents that support the charges in the complaint, such as paycheck stubs, calendars, correspondence (such as doctors' letters provided to the employer, emails, voicemail, etc.), and other potential proof of discrimination

DFEH will conduct an impartial investigation. We represent the State of California. DFEH will, if possible, try to assist both parties to resolve the complaint.

If a voluntary settlement cannot be reached, and there is sufficient evidence to establish a violation of the law, DFEH may litigate the case in civil court. If a court decides in favor of the complaining party, remedies may include reinstatement, back pay, reasonable attorney's fees, costs, damages for emotional distress, and punitive damages.

#### FOR MORE INFORMATION

Department of Fair Employment and Housing  
Toll Free: (800) 884-1684  
TTY: (800) 700-2320  
Online: [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

Also find us on:



If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, the DFEH can assist you by scribing your pre-complaint by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or call us through your VRS at (800) 884-1684 (voice).

To schedule an appointment, contact the Communication Center at (800) 884-1684 (voice or via relay operator 711) or (800) 700-2320 (TTY) or by email at [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov).

*The DFEH is committed to providing access to our materials in an alternative format as a reasonable accommodation for people with disabilities when requested.*

Contact the DFEH at (800) 884-1684 (voice or via relay operator 711), TTY (800) 700-2320, or [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov) to discuss your preferred format to access our materials or webpages.

DFEH-E03B-ENG / April 2017

The Fair Employment and Housing Act (FEHA), enforced by the Department of Fair Employment and Housing (DFEH), contains family care and medical leave provisions for California employees. These leave provisions are known as the California Family Rights Act (CFRA). CFRA covers employers who do business in California and have 50 or more part-time or full-time employees.

Under CFRA, if you have more than 12 months of service with your employer, and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, you may have a right to family care or medical leave. This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child or for your own serious health condition or that of your child, parent, spouse, or registered domestic partner.

All employers covered by CFRA must provide information about CFRA to their employees and post this information in a conspicuous place where employees tend to gather. A poster that meets this requirement is available on DFEH's "Resources" page online ([www.dfeh.ca.gov](http://www.dfeh.ca.gov)).

**EMPLOYERS WHO PROVIDE EMPLOYEE HANDBOOKS MUST INCLUDE INFORMATION ABOUT CFRA LEAVE IN THE HANDBOOK**

## ANNEX C

### CALIFORNIA FAMILY RIGHTS ACT BROCHURE (*continued*)



#### CFRA LEAVE REQUIREMENTS:

- To be eligible for CFRA leave, an employee must have more than 12 months of service with the employer and have worked at least 1,250 hours for that employer in the 12-month period before the leave begins.
- An eligible employee may take an unpaid leave to bond with an adopted or foster child or to bond with a newborn.
- An eligible employee may take unpaid leave to care for a parent, registered domestic partner, or child with a serious health condition. CFRA leave may also be taken for the employee's own serious health condition.
- Full-time employees may take leave of up to 12 work weeks in a 12-month period. Part-time employees may take leave on a proportional basis. The leave does not need to be taken in one continuous period of time.
- An employer may require a 30-day advance notice of the need for a CFRA-qualifying leave. When this is not possible due to the unexpected nature of the qualifying event, notice should be given as soon as practicable. Notice can be written or verbal and should include the timing and the anticipated duration of the leave, but an employer may not require disclosure of an underlying diagnosis. An employer must respond to a leave request within 5 business days.
- The employer may require written communication from the health-care provider of the child, parent, registered domestic partner, or employee with a serious health condition stating the reasons

for the leave and the probable duration of the condition. However, the health care provider may not disclose the underlying diagnosis without the consent of the patient.

- In addition to the family care and medical leave requirements of the CFRA, employers of five or more persons have additional obligations pertaining to pregnancy disability leave (PDL). Please refer to the DFEH publication "Pregnancy Leave" for more information.
- Employees are entitled to take CFRA leave in addition to any leave entitlement they might have under PDL. Leave taken for the birth or adoption of a child must be completed within one year of the event.

#### SALARY AND BENEFITS DURING CFRA LEAVE

Employers are not required to pay employees during a CFRA leave. An employer may require an employee to use accrued vacation time or other accumulated paid leave other than sick time. If the CFRA leave is for the employee's own serious health condition, the use of sick time can be required.

If the employer provides health benefits under a group plan, the employer must continue to make these benefits available during the leave. Similarly, the employee is entitled to continue accruing seniority and participate in other benefit plans.

#### RETURN RIGHTS AFTER CFRA LEAVE:

- 1 After CFRA leave, employees are guaranteed a return to the same or comparable position and can request the guarantee in writing.
- 2 If the same position is no longer available, such as in a layoff or closure, the employer must offer a position that is comparable in terms of pay, benefits, shift, schedule, geographic location, and working conditions, including privileges, perquisites, and status, unless the employer can prove that no comparable position exists. An employee is not entitled to reinstatement if the employee would have been otherwise laid off or terminated.

#### FAMILY TEMPORARY DISABILITY INSURANCE (FTDI) OR "PAID FAMILY LEAVE"

Employees on CFRA leave of absence may also be eligible for six weeks of paid leave under FTDI, a program administered by the California Employment Development Department (EDD). For further information, contact the EDD at (800) 480-3287 or visit EDD's website at [www.edd.ca.gov](http://www.edd.ca.gov).

## ANNEX D

### FACT SHEET #28M: THE MILITARY FAMILY LEAVE PROVISIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT

U.S. Department of Labor  
Wage and Hour Division



#### Fact Sheet #28M: The Military Family Leave Provisions under the Family and Medical Leave Act

The military family leave provisions of the Family and Medical Leave Act (FMLA) entitle eligible employees of covered employers to take FMLA leave for any “qualifying exigency” arising from the foreign deployment of the employee’s spouse, son, daughter, or parent with the Armed Forces, or to care for a servicemember with a serious injury or illness if the employee is the servicemember’s spouse, son, daughter, parent or next of kin.

#### QUALIFYING EXIGENCY LEAVE

A covered employer must grant an eligible employee up to **12 workweeks** of unpaid, job-protected leave during any 12-month period for qualifying exigencies that arise when the employee’s spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

Covered active duty means:

- for members of the **Regular** Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or
- for members of the **Reserve** components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

Deployment to a foreign country includes deployment to international waters.

Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member’s absence. See [Fact Sheet 28M\(c\), Qualifying Exigency Leave](#), for additional information about qualifying exigencies under the FMLA.

#### MILITARY CAREGIVER LEAVE

A covered employer must grant an eligible employee up to a total of **26 workweeks** of unpaid, job-protected leave during a “single 12-month period” to care for a covered servicemember with a serious injury or illness. The employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember.

A covered servicemember is either:

- a **current** member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or

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## ANNEX D

### FACT SHEET #28M: THE MILITARY FAMILY LEAVE PROVISIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT (*continued*)

- a veteran of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered servicemember.

For a current servicemember, a serious injury or illness is one that may render the servicemember medically unfit to perform his or her military duties. For a veteran, a serious injury or illness is one that rendered the veteran medically unfit to perform his or her military duties, or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran's ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

See [Fact Sheets 28M\(a\), Military Caregiver Leave for a Current Servicemember under the FMLA](#) and [28M\(b\), Military Caregiver Leave for Veteran under the FMLA](#), for additional information on these provisions, including the definition of a serious injury or illness for a covered servicemember, and certification requirements. See also the "[Employee's Guide to the Family and Medical Leave Act](#)" and the "[Employee's Guide to Military Family Leave](#)" for additional information, including the employee's requirement to provide notice of their need for leave.

#### ENFORCEMENT

It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to the FMLA. See [Fact Sheet 77B: Protections for Individuals under the FMLA](#). The Wage and Hour Division is responsible for administering and enforcing the FMLA for most employees. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress. If you believe that your rights under the FMLA have been violated, you may file a complaint with the Wage and Hour Division or file a private lawsuit against your employer in court.

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

For Information on the effective date, click [here](#).

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200 Constitution Avenue, NW  
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TTY: 1-866-487-9243  
[Contact Us](#)

## ANNEX E

### UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT- FAMILY AND MEDICAL LEAVE ACT QUESTIONS

#### USERRA-FMLA Questions

**(Q) What is the Uniformed Services Employment and Reemployment Rights Act (USERRA)?**

USERRA is a federal law that provides reemployment rights for veterans and members of the National Guard and Reserve following qualifying military service. It also prohibits employer discrimination against any person on the basis of that person's past USERRA-covered service, current military obligations, or intent to join one of the uniformed services.

**(Q) What effect does USERRA have on FMLA-eligibility requirements?**

USERRA requires that servicemembers who conclude their tours of duty and who are reemployed by their civilian employers receive all benefits of employment that they would have obtained if they had been continuously employed, except those benefits that are considered a form of short-term compensation, such as accrued paid vacation. If a servicemember had been continuously employed, one such benefit to which he or she might have been entitled is leave under the FMLA. The servicemember's eligibility will depend upon whether the servicemember would have met the employee eligibility requirements outlined above had he or she not performed USERRA-covered service.

**(Q) How should the 12-month FMLA requirement be calculated for returning servicemembers?**

USERRA requires that a person reemployed under its provisions be given credit for any months of service he or she would have been employed but for the period of absence from work due to or necessitated by USERRA-covered service in determining eligibility for FMLA leave. A person reemployed following USERRA-covered service should be given credit for the period of absence from work due to or necessitated by USERRA-covered service towards the months-of-employment eligibility requirement. Each month served performing USERRA-covered service counts as a month actively employed by the employer. For example, someone who has been employed by an employer for nine months is ordered to active military service for nine months after which he or she is reemployed. Upon reemployment, the person must be considered to have been employed by the employer for more than the required 12 months (nine months actually employed plus nine months of USERRA-covered service) for purposes of FMLA eligibility. It should be noted that the 12 months of employment need not be consecutive to meet this FMLA requirement.

**(Q) How should the 1,250 hours-of-service requirement be calculated for returning servicemembers?**

An employee returning from USERRA-covered service must be credited with the hours of service that would have been performed but for the period of absence from work due to or necessitated by USERRA-covered service in determining FMLA eligibility. Accordingly, a person reemployed following USERRA-covered service has the hours that would have been worked for the employer added to any hours actually worked during the previous 12-month period to meet the 1,250 hour requirement. In order to determine the hours that would have been worked during the period of absence from work due to or necessitated by USERRA-covered service, the employee's pre-service work schedule can generally be used for calculations. For example, an employee who works 40 hours per week for the employer returns to employment following 20 weeks of USERRA-covered service and requests leave under the FMLA. To determine the person's eligibility, the hours he or she would have worked during the period of USERRA-covered service (20 x 40 = 800 hours) must be added to the hours actually worked during the 12-month period prior to the start of the leave to determine if the 1,250 hour requirement is met. [Special hours of service eligibility requirements apply to airline flight crew employees.](#)

**(Q) Where can I get more information about USERRA and the FMLA?**

The Department of Labor's Veterans' Employment and Training Service (VETS) administers USERRA, provides technical assistance/educational outreach, and investigates complaints. Information about USERRA is available on the VETS website. The address is <http://www.dol.gov/vets/>. There you will find USERRA information as well as a directory of local VETS offices.

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## ANNEX F

### FAMILY CARE AND MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE

THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

#### FAMILY CARE AND MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE



Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, and if we employ 50 or more employees at your worksite or within 75 miles of your worksite, you may have a right to a family care or medical leave (CFRA leave). This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse. If we employ less than 50 employees at your worksite or within 75 miles of your worksite, but at least 20 employees at your worksite or within 75 miles of your worksite, you may have a right to a family care leave for the birth, adoption, or foster care placement of your child under the New Parent Leave Act (NPLA). Similar to CFRA leave, the NPLA leave may be up to 12 workweeks in a 12-month period. While the law provides only unpaid leave, employees may choose or employers may require use of accrued paid leave while taking CFRA leave under certain circumstances and employees may choose to use accrued paid leave while taking NPLA leave.

Even if you are not eligible for CFRA or NPLA leave, if you are disabled by pregnancy, childbirth or a related medical condition, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of actual disability. If you are CFRA- or NPLA-eligible, you have certain rights to take BOTH a pregnancy disability leave and a CFRA or NPLA leave for reason of the birth of your child. Both leaves contain a guarantee of reinstatement -for pregnancy disability it is to the same position and for CFRA or NPLA it is to the same or a comparable position -at the end of the leave, subject to any defense allowed under the law.

If possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or a planned medical treatment for yourself or of a family member). For events that are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave. Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy disability or for your own serious health condition. We also may require certification from the health care provider of your child, parent or spouse, who has a serious health condition, before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption, or foster care placement of a child, the basic minimum duration of the leave is two weeks, and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits, please contact \_\_\_\_\_.

DFEH-100-21 / March 2019

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