

## Family Medical and Leave Act of 1993

(FMLA)

## California Family Rights Act of 1993

(CFRA)



### Family Medical and Leave Act of 1993 (FMLA)

Under federal FMLA, eligible employees 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 with the employee 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 functions of the employee's job (including pregnancy)
- For qualifying exigencies related to the deployment of a military member who is the employee's spouse, child, or parent to a foreign country

An eligible employee may also take up to 26 weeks of unpaid, job-protected leave in a 12-month period to care for a covered servicemember (as defined in 29 C.F.R. § 825.122) with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember. Spouses who are FMLA eligible and work for the same employer may be limited to a combined total of 26 weeks of military caregiver leave.

### California Family Rights Act of 1993 (CFRA)

The CFRA is the State law that provides leave provisions similar to FMLA but expands covered family members to child of any age, child of domestic partner, siblings, grandchild, grandparent, foster/adoptive parent, parent-in-law, stepparent, legal guardian, domestic partner, or a "designated person" identified by the employee at the time the employee requests the leave. A designated person is any individual related by blood or whose association with the employee is the equivalent of a family relationship. An employee may not identify more than one designated person in a 12-month period from the first date of designation. Eligible employees may take up to 12 weeks of unpaid, job-protected leave in a 12-month period for the following reasons:

- For bonding time after birth of a child (including the child of a domestic partner)
- Placement of a child with the employee for adoption or foster care
- To care for the employee's spouse, parent, or other covered family member (i.e., covered under FMLA) with a serious health condition
- The employee's own serious health condition that makes the employee unable to perform the functions of the employee's position (excluding pregnancy)
- A qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child (of any age), or parent in the United States Armed Forces, as specified in Section 3302.2 of the Unemployment Insurance Code

## Am I eligible?

To be eligible for FMLA and/or CFRA, you must have worked for the County for at least 12 months and a minimum of 1,250 hours within the past 12 months.

## Do I have to use FMLA and/or CFRA Leave all at the same time?

If your leave qualifies for both CFRA and FMLA, such as a medical leave, it will be counted for both CFRA and FMLA at the same time. If your leave only qualifies for either FMLA or CFRA, for example pregnancy, CFRA and FMLA will be counted separately and will not run at the same time.

## Can I take intermittent leave?

For a medical leave, FMLA and CFRA permit you to take an intermittent leave or a reduced work schedule. Your leave will be based on medical necessity. For the birth or placement of a child, CFRA permits an intermittent schedule to be taken in two-week intervals. However, on two occasions you may take leave in an interval of less than two weeks. Any other request for intermittent leave is granted at the discretion of your department.

## How are my health insurance premiums paid while I am on a FMLA and/or CFRA Leave?

The County will pay for its portion of your health benefits under the County's group health plan for up to a maximum of 12 weeks (6 pay periods) while you are out on FMLA and/or CFRA leave. You will continue to be responsible for your portion of your insurance premiums, if any, while you are on leave. You will be billed for the balance of any premiums or monies due not collected through your pay warrant.

## How about the other non-FMLA/CFRA protected benefits, for example, voluntary life insurance?

You will also be required to pay the premiums for any non FMLA/CFRA/Pregnancy Disability Leave (PDL) protected benefits that you wish to continue while you are on a protected leave. The County will bill you for the balance of any premiums or monies due not collected through the pay warrant. Failure to pay your share of the insurance premiums timely will result in the loss of your and/or your family's benefits.

## What happens when my 12 weeks of FMLA/CFRA benefits are exhausted?

Depending upon the terms of your MOU, compensation plan, or contract, your benefits may be continued with the use of your leave balances. Please refer to your MOU for details: [hr.sbcounty.gov/memorandas-of-understanding](http://hr.sbcounty.gov/memorandas-of-understanding)

## What benefits or job protection do I get?

The County is required to reinstate you in the same or an equivalent position with the same pay and benefits as the position you held before your leave.

## What happens if my FMLA/CFRA Leave runs out while I'm still off work?

Once you have exhausted your FMLA and/or CFRA leave(s), your right to a leave of absence is governed by your MOU, compensation plan, or contract. Any additional leaves of absence are granted by your department and should be discussed with your immediate supervisor.

## When can I use my FMLA/CFRA Leave again once it is exhausted?

The County uses a 'rolling calendar' to determine your eligibility for FMLA and CFRA. This means that when you request leave, only the leave taken within the past 12 months will count against your 12-week maximum.

**Example: Mary took 2 weeks of leave in December. She requests a leave a few months later that will begin April 5 and end April 30. Looking back over the past 12 months, Mary only used 2 weeks so she is entitled to 10 of the maximum 12 weeks.**

## What if both parents are County employees and we want to take time off in connection with the birth, adoption, or foster care of our child at the same time

Each County employee is entitled up to 12 weeks of CFRA for child bonding leave time. FMLA will run concurrently with CFRA as applicable.

## How do I request my FMLA/CFRA Leave?

You must tell your supervisor of your need for leave at least 30 days before your leave begins if possible. Examples of leave requiring a 30-day notice include an expected birth, a placement for adoption or foster care, or planned medical treatment for you or your family member's serious health condition.

If a 30-day notice is not possible due to lack of knowledge as to when the leave will begin, a change in circumstances or a medical emergency, notice must be given to your supervisor as soon as possible. You should file FMLA and/or CFRA leave request with the County's Protected Leaves and Disability Provider. All eligible leaves will be designated as FMLA and/or CFRA leave even if you did not specifically request FMLA and/or CFRA leave. Both Federal and State laws require the County, as your employer, to grant you FMLA and/or CFRA leave for all eligible leaves of absence.

## How will I know if I'm using my FMLA and/or CFRA Leave?

You will receive notification from the County's Protected Leaves and Disability Provider regarding your FMLA and/or CFRA status. This notification will explain how much time will be counted towards your leave entitlement.

## Will I be required to provide any other information for my leave to be approved?

If you are taking a medical leave, you must provide a "Health Care Provider Certification for Medical Leave" form completed by your doctor to the County's Protected Leaves and Disability Provider. For family leave, you must provide a "Health Care Provider Certification for Family Leave" form. This form should be completed by your family member's doctor. If you do not provide either of these certifications, your request for FMLA and/or CFRA leave may be denied.

## Where do I go for more information?

You can contact your immediate supervisor, manager, payroll specialist, or Human Resources Business Partner with questions or for additional information.

## What do I have to do when I am ready to come back to work?

In all cases, you must contact your supervisor before you return to work. You will need to be examined at the Center for Employee Health and Wellness before you return to work if you were off work for any of the following reasons:

- Greater than 10 workdays due to a serious health condition
- If you have an occupational injury
- If you have a communicable disease
- If your medical provider has ordered any job modifications

You must provide your supervisor with a copy of your return-to-work order five (5) working days prior to reporting back to work so your supervisor can schedule your return-to-work appointment at the Center. Your return-to-work order should include any work restrictions or modifications that are necessary. At the end of your examination, the Center will provide you with a "Notice of Medical Evaluation" form. This form will indicate if you are able to return to work and will list any work restrictions/modifications. The Center will send a copy to your department, but you will need to take your copy to your supervisor.



## Pregnancy Disability Leave (PDL)

PDL is the Pregnancy Disability Leave allowance under the California Fair Employment and Housing Act. PDL allows up to four months of disability leave due to pregnancy.

### Who is eligible for PDL?

Any employee disabled by pregnancy as determined by a qualified medical professional.

### How does PDL work with FMLA and CFRA?

When a leave is taken due to pregnancy disability, PDL and FMLA (if eligible) will be counted at the same time, since the leave is due to pregnancy disability. CFRA does not cover an employee for pregnancy disability, but allows for an additional 12 weeks of family leave after the employee is medically able to return to work. This is commonly referred to as “bonding time”. CFRA does not begin until either:

1. PDL has been exhausted or
2. Employee is medically released to return to work

### How does this affect my County benefits?

Your premium subsidy will continue during the duration of your PDL. If you normally pay for part of your health insurance premiums above and beyond what your medical premium subsidy cover, you are required to continue to pay while you are out on leave.

### What happens if I exhaust my PDL before I am medically released back to work?

The County will start your CFRA leave once your PDL has been exhausted, even if you are not medically released back to work. This protects your position while you are out on leave.

### If all three leaves are exhausted, can I still take bonding time?

If you have exhausted your FMLA, CFRA, and PDL entitlements, additional family leave time for bonding is at the discretion of your supervisor.

## Reproductive Loss Leave (RLL)

RLL is an unpaid bereavement leave under the California Fair Employment and Housing Act. It allows eligible employees to take up to 5 days of leave when they have suffered a reproductive loss event. Employees do not have to take their days consecutively but within 3 months of the reproductive loss event. If employees are on another protected leaves such as CFRA or PDL, then the employees may use their reproductive loss leave within three months of the end of the other leave.

### What are qualifying reproductive loss events?

The qualifying reproductive loss events include the following:

- Failed adoption
- Failed surrogacy
- Miscarriage
- Stillbirth
- Unsuccessful assisted reproduction

### Who is eligible and qualified for RLL?

An employee who is employed for at least 30 days prior to a reproductive loss event and experiences the event as the:

- Birth mother
- Spouse
- Domestic partner
- An individual who would have been a parent as a result of the pregnancy/surrogacy

### What if there is more than one loss in a 12-month period?

An eligible employee who experiences more than one reproductive loss event can receive another up to 5 days of leave, up to a maximum of 20 unpaid leave days within a 12-month period.