

# CFRA

## California Family Rights Act

### Employer's of 50 or more FT/PT Employees Collectively

An employer is not required to pay an employee during a CFRA leave, except when an eligible employee elects, or the employer requires, the employee to use any accrued vacation time or other accumulated paid leave other than accrued sick leave.

However, if CFRA leave is for the employee's own serious health condition, the employee may elect or the employer may require the employee to use any accrued vacation time or other accumulated paid leave, including any accrued sick leave. Additionally, the employee may elect to use accrued sick leave for any other reason mutually agreed to by the employer.

#### **An employer must continue health care coverage for employees during their CFRA leave**

If the employer provides health benefits under any group health plan, the employer has an obligation to continue providing such benefits during an employee's CFRA leave. This obligation commences on the date leave first begins. The obligation continues for the duration of the leave(s), up to a maximum of 12 work weeks in a 12-month period.

#### **An employer must continue other benefits during an employee's CFRA leave**

During the period of CFRA leave, the employee is entitled to accrual of seniority and to participate in employee benefit plans, including life, short-term or long-term disability or accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to any other leave granted by the employer for any reason other than CFRA leave.

### **Eligibility Requirements**

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#### **CFRA leave**

An employee may take an unpaid leave for the birth of a child for purposes of bonding, for placement of a child in the employee's family for adoption or foster care, for the serious health condition of the employee's child, parent, or spouse, and for the employee's own serious health condition.

#### **Health condition**

Serious health condition means illness, injury (including on-the-job injuries), impairment, or physical or mental condition of the employee or a child, parent or spouse of the employee that involves either:

- In-patient care (i.e., an overnight stay) in a hospital, hospice, or residential health care facility
- Continuing treatment or supervision by a health care provider

#### **Employers covered under CFRA**

Employers subject to CFRA are those who do business in California and employ 50 or more part-time or full-time employees, including non-profit religious organizations. Covered employers also include the State of California and any of its political and civil subdivisions, and cities and counties, regardless of the number of employees.

#### **Requirements employee must satisfy to be eligible to take a CFRA leave**

To be eligible for CFRA leave, an employee must be either a full-time or part-time employee working in California, have more than 12 months (52 weeks) of service with the employer, have worked at least 1,250 hours in the 12-month period before the date the leave begins, and work at a location in which the employer has at least 50 employees within 75 miles radius of the employee's work site.

## **Leave Requirements**

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### **The maximum CFRA leave entitlement**

Leave under the California Family Rights Act (CFRA) may total up to 12 workweeks in a 12-month period. It does not need to be taken in one continuous period of time.

### **How the 12-month period is calculated**

An employer may choose how to compute the 12-month period in which the 12 workweeks of leave entitlement occurs, using any of the four calculation methods listed below. An employer must apply the chosen method consistently and uniformly to all employees.

- The calendar year
- Any fixed "leave year" of 12 months, such as a fiscal year, a year required by State law, or a year starting on an employee's anniversary date
- The 12-month period measured from the date an employee's first CFRA leave begins
- A rolling 12-month period measured backward from the date an employee uses any leave

### **The CFRA leave may be added onto pregnancy disability leave**

At the end of an employee's period(s) of pregnancy disability leave, a CFRA-eligible employee may request a CFRA leave of up to 12 workweeks for reason of birth of her child if the child has been born by this date. There is no requirement that either the employee or child have a serious health condition nor is there a requirement that the employee no longer be disabled by her pregnancy, childbirth, or related medical condition before taking CFRA leave for reason of birth of her child.

### **The minimum duration for a CFRA leave taken for the birth, adoption, or foster care placement of a child**

Basic minimum duration of a CFRA leave is two weeks when the leave is taken for the birth, adoption, or foster care placement of a child. However, an employer shall grant a request for a CFRA leave of less than two weeks duration on any two occasions. In addition, leave taken for the birth, adoption, or foster care placement of a child must be completed within one year of the qualifying event. Where CFRA leave is taken for the serious health condition of a parent, child, or spouse or for the serious health condition of the employee, leave may be taken intermittently or on a reduced-work schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, an employer may limit leave increments to the shortest period of time the employer's payroll system uses to account for absences.

### **There are limitations to the CFRA leave entitlement**

If both parents are eligible for CFRA leave but are employed by the same employer, that employer may limit leave for the birth, adoption, or foster-care placement of their child to 12 workweeks in a 12-month period between the two parents. No other limitations restrict these parents from taking a CFRA leave for other qualifying reasons.

## **Reinstatement**

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### **An employer must reinstate the employee at the end of his/her CFRA leave**

Upon granting an employee a CFRA leave, the employer must guarantee reinstatement to the same or comparable position and provide the guarantee in writing upon the request of the employee. Employment in a comparable position means employment in a position that is virtually identical to the employee's original position in terms of pay, benefits, and working conditions, including privileges, perquisites, and status. It must involve the same or substantially similar duties and responsibilities, skill, effort, and authority, must be performed at the same or geographically proximate work site, and ordinarily means the same shift or same or equivalent work schedule.

### **Reasons why an employer could deny reinstatement to an employee on CFRA leave**

An employer may deny reinstatement to an employee if his/her position ceased to exist, such as in a lay-off. An employer may also deny reinstatement if the employee taking the leave is a key employee (salaried and among the highest paid 10 percent) and the denial of reinstatement is necessary to prevent substantial and grievous economic injury to the operations of the employer. However, the employer must notify the employee of the

intent to refuse reinstatement at the time the employer determines the refusal is necessary as well as give the employee a reasonable opportunity to return to work.