



# Paternity Leave Packet

Answers to Frequently Asked Questions  
about Paternity Leave,  
FMLA, and CFRA

# ***Congratulations!***

**We hope you will find the information in this packet a helpful tool in planning your Paternity Leave.**

As a new father, you may want to take some time away from work to enjoy your new baby and to help mom out during the beginning of your baby's life. We've tried to simplify this process for you in this packet. Please remember, you can always contact HR for guidance and assistance.



Please Note: This summary is intended to be an aid in providing employees who will be on Paternity Leave with possible leave options. While every attempt is made to align this packet with current California and Federal Leave Laws, it is important to remember these laws are ever-changing and information within this packet is subject to change without notice.

# Frequently Asked Questions

## 1. What are FMLA and CFRA?

FMLA stands for Family Medical Leave Act. FMLA allows qualified employees to take up to 12-weeks of job-protected leave to bond with a newborn child or a child placed for adoption/foster care. CFRA stands for California Family Rights Act. CFRA is the California equivalent of FMLA and allows for 12 weeks of leave. CFRA and FMLA run concurrently.

To be eligible for FMLA/CFRA leave, you need to have worked for the District for at least 12 months. The District will send eligibility paperwork to you after you request your leave of absence.

FMLA/CFRA leave to bond with your new child begins the first day you are off work and runs concurrently with depletion of sick leave. FMLA/CFRA is limited to 12 workweeks every 12 months. The 12-month period is measured forward from the date of your first FMLA/CFRA leave usage. During these 12 weeks the District continues contributions to medical and dental benefits, but you will be responsible for your portion of the benefit cost.

## 2. How do I request Paternity Leave?

As soon as is practical, please let your site administrator or supervisor and human resources know so that preliminary planning for coverage of your position can begin. To notify us of your upcoming leave, please fill out and return the Employee Request for Leave form with your projected leave dates. If your estimated leave dates change as your leave gets closer, please contact human resources with the new dates.

## 3. What happens when I run out of sick leave?

Employees who are new fathers who are off work for the purposes of bonding with their new child are eligible to receive differential pay (Certificated) or half pay (Classified) for 12 work weeks. Child bonding time must be taken within 1 year of the child's birth. Differential/Half pay during baby bonding only begins when accrued sick leave is exhausted.

## 4. What is Differential Pay?

Differential pay for certificated employees is defined under Extended Illness Leave, Ed Code 44984. Differential pay is your daily pay rate less the amount of money the District is paying or would pay for a substitute to take your place.

## 5. What if I want to stay out beyond the 12 weeks of FMLA/CFRA?

You may request a Parental Leave of Absence (WTA Article 11.8.1) or Personal Business Leave (CSEA Article 11.4.1), but this time will be unpaid. Please be advised that you will not receive any salary or District-paid benefits during this leave. However, benefits may be purchased through the District.

## 6. How much leave is allowed if both parents work for the District?

If both parents work for the district, only one twelve (12) week period of child bonding, combined, is available in a 12-month period.

**7. How do holidays, breaks or district in-service days effect my pay on leave?**

Depending on your work calendar, the salary is divided over 11 or 12 months so that you are paid an equal amount, even though you may be on summer vacation or a holiday break (i.e. winter break, spring break, etc.). You are, in reality, only paid for actual days you work when students are in class or when you are attending district in-service. If holidays or non-work days (such as school vacations) occur during your leave, sick leave will not be deducted. However, holidays and non-duty days will count as days used under your FMLA/CFRA leave entitlement.

**8. How will my substitute be selected? Am I responsible for finding someone?**

Your supervisor and Human Resources will assist with finding someone to temporarily fill your position. If you have a recommendation, please inform your site administrator. Please enter your expected dates of absence into Aesop so that we can begin working to fill your position.

**9. Will my Paternity leave affect my salary advancement when I return?**

To be eligible to advance to the next step on the salary schedule a certificated employee must have worked at least 75% of the total work days of the employee's assigned position during the previous year (WTA article 11.8.5).

**10. If I am a certificated employee and I take a long leave, do I get my school and grade back when I return?**

We try to place everyone in their first choice of school and grade but this is not guaranteed. For a short-term CFRA/FMLA bonding leave that does not involve extended unpaid Parental leave, you will most likely return to the same class. It is important to remember that although FMLA and CFRA are "job-protected leaves," this does not mean you will return to the exact position you occupied prior to your leave. It is the obligation of the District to place you in the same or a comparable position within the scope of your credential upon your return.

**11. What is Paid Family Leave?**

Paid Family Leave (PFL) allows eligible workers partial salary replacement but does not provide job protection or return rights. Eligibility for PFL is not determined by the District. Please contact EDD's Paid Family Leave department for eligibility determination.

**12. I'm still confused, who can answer my other questions?**

Human Resources is here to help! This whole topic can be very confusing. We suggest you make an appointment with the Risk/Benefits Manager to talk about how your salary and benefits may be affected if you plan to take Paternity leave.

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) 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 otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

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

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

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



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