

Leave for Pregnancy Disability and Child Bonding Cheat Sheet

Disclaimer: This guidance is for informational purposes only, does not establish substantive policy or rights, and does not constitute legal advice.

California law guarantees job-protected leave to eligible employees who are disabled by pregnancy, childbirth, or a related medical condition referred to as Pregnancy Disability Leave or PDL, and separately guarantees job-protected leave to eligible employees to bond with a new child (via birth, adoption, or foster care placement) referred to as California Family Rights Act leave or CFRA leave. Employees also have federal rights to leave for a pregnancy-related disability or to bond with a new child, which are provided for by the Family and Medical Leave Act (FMLA). When both state and federal laws apply, the employee receives the benefit of the more protective law.

Leave Scenario	PDL	CFRA – Child Bonding	FMLA
Determining eligibility	Employee has pregnancy-related disability and employer has 5+ employees. (Gov. Code, § 12945 & Cal. Code Regs., tit. 2, §§ 11035 & 11037).	Employee a new child (via birth, adoption, or foster placement), Employee has worked for employer for 1+ year, has 1250+ hours of service in the past year, and employer has 5+ employees. (Gov. Code, § 12945.2 & Cal. Code Regs., tit. 2, §§ 11087 & 11088)	Employee has a serious pregnancy-related health condition or a new child (via birth, adoption, or foster placement), Employee has worked for employer for 1+ year, has 1250+ hours of service in the past year, and 50+ employees work within 75-mile radius. (29 U.S.C. § 2611(2) & 29 C.F.R. § 825.110).
Amount of time allowed for leave	Up to 4 months, based on hours worked per week and duration of disability. (Cal. Code Regs., tit. 2, § 11042). Note: PDL will run at the same time as FMLA.	Up to 12 weeks within one year of the child's birth, adoption, or start of foster care. (Cal. Code Regs., tit. 2, § 11090) Note: CFRA leave will run after PDL. CFRA leave will run at the same time as FMLA.	Up to 12 weeks within one year of the child's birth, adoption, or start of foster care, OR because of a serious pregnancy-related health condition. (29 U.S.C. § 2612; 29 C.F.R. § 825.701; Gov. Code, § 12945.2). Note: FMLA will run at the same time as PDL and/or CFRA leave.
Advance notification to employer	Employee should provide at least 30 days' notice if possible. (Cal. Code Regs., tit. 2, § 11050).	Employee should provide at least 30 days notice if possible. (Cal. Code Regs., tit. 2, § 11091).	Employee should provide at least 30 days' notice if possible. (29 U.S.C. 2612(e)(1)).

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Taking leave all at once or intermittently	The leave does not need to be taken in one continuous period of time. (<i>Cal. Code Regs., tit. 2, § 11042</i>).	Bonding leave may be taken in separate 2-week blocks. On two occasions, leave may be taken in smaller increments of time. (<i>Cal. Code Regs., tit. 2, § 11090</i>).	Employee is entitled to intermittent leave for a serious pregnancy-related health condition and intermittent leave is medically necessary. Otherwise, employer approval is required to take intermittent leave. (29 U.S.C § 2612(b); 29 C.F.R. § 825.202(c)).
Terminating an employee while on leave	Caution: An employee on leave can be terminated due to layoffs. However, this should be vetted through legal counsel because there is a risk that the employee will file a lawsuit. Employee shall be reinstated to same or comparable job, except in limited circumstances unrelated to leave. (<i>Cal. Code Regs., tit. 2, § 11043</i>).	Caution: An employee on leave can be terminated due to layoffs. However, this should be vetted through legal counsel because there is a risk that the employee will file a lawsuit. Employee shall be reinstated to same or comparable job, except in limited circumstances unrelated to leave. (<i>Cal. Code Regs., tit. 2, § 11089</i>).	Caution: An employee on leave can be terminated due to layoffs. However, this should be vetted through legal counsel because there is a risk that the employee will file a lawsuit. Employee shall be reinstated to same or comparable job, except in limited circumstances unrelated to leave. (29 U.S.C. § 2614(a); 29 C.F.R. §§ 825.214 & 825.216).
Employee eligibility for state benefits	Employee may apply to EDD for State Disability Insurance (SDI) and qualify. (<i>Cal. Code Regs., tit. 2, § 11044</i>).	Employee may apply to EDD for Paid Family Leave (PFL) and qualify. (<i>Cal. Code Regs., tit. 2, § 11092</i>).	N/A
Employee use of paid sick / vacation time	Employer may require use of sick time unless employee is receiving SDI from EDD. (<i>Cal. Code Regs., tit. 2, § 11044</i>).	Employer may require use of vacation time unless employee is receiving PFL from EDD to bond with a new child. Employer may not require use of sick leave; however, employer and employee can mutually agree that sick leave may be used. (<i>Cal. Code Regs., tit. 2, § 11092</i>).	Employee may elect to use, or employer may require use of: vacation time, sick leave, or paid time off. (29 C.F.R. § 825.207).
Employer's responsibility to pay for health care coverage	Employer must pay for the continuation of employee's group health benefits if employer normally pays for those benefits. (<i>Cal. Code Regs., tit. 2, § 11044</i>).	Employer must pay for the continuation of employee's group health benefits if employer normally pays for those benefits. (<i>Cal. Code Regs., tit. 2, § 11092</i>).	Employer must pay for the continuation of employee's group health benefits if employer normally pays for those benefits. (29 U.S.C. § 2614(c); 29 C.F.R. § 825.209).

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Loss of employee seniority benefits	Employee will not lose seniority benefits and may accrue seniority or benefits if employer allows accrual for other disability leave. (<i>Cal. Code Regs.</i> , tit. 2, § 11044)	Employee will not lose seniority benefits and may accrue seniority or benefits if your employer allows accrual during other forms of leave. (<i>Cal. Code Regs.</i> , tit. 2, § 11092).	Employee will not lose seniority benefits and may accrue seniority or benefits if your employer allows accrual for other forms of leave. (29 U.S.C. § 2614(a) (2); 29 C.F.R. § 825.209(h)).
Requirement of medical certification	Employer may require medical certification. (<i>Cal. Code Regs.</i> , tit. 2, § 11050).	N/A	Employer may require medical certification of a pregnancy-related serious health condition. (29 U.S.C. § 2614(a)(4); 29 C.F.R. § 825.306).
Leave eligibility for child's other parent	PDL only applies to the parent who has a disability related to the pregnancy. (<i>Cal. Code Regs.</i> , tit. 2, § 11035).	Both parents (including fathers, adoptive/foster parents, or same sex parents) are entitled to CFRA leave, even if both parents work for the same employer. (<i>Cal. Code Regs.</i> , tit. 2, § 11087).	Both parents are entitled to leave even if they work for the same employer. (29 U.S.C. § 2611; 29 C.F.R. § 825.110).

Source: <https://calcivilrights.ca.gov/employment/pdl-bonding-guide/#:~:text=CFRA%20leave%20will%20run%20at,2%2C%20%C2%A7%2011090>).