



## FAMILY CARE AND MEDICAL LEAVE (CFRA 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, you may have a right to 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. 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.

Even if you are not eligible for CFRA 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-eligible, you have certain rights to take BOTH a pregnancy disability leave and a CFRA 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 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 \_\_\_\_\_.

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



## PREGNANCY LEAVE

If you believe you are a victim of discrimination  
you may, within one year of the discrimination,  
file a complaint of discrimination with the  
Department of Fair Employment and Housing  
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  
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 issue a civil  
complaint and litigate the case in state or  
federal court.

If the court decides in favor of the complaining  
party, remedies may include reinstatement,  
back pay, reasonable attorney's fees and  
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.*

The Fair Employment and Housing Act (FEHA),  
enforced by the California Department of Fair  
Employment and Housing (DFEH), contains  
provisions relating to pregnancy leave. These  
provisions cover all employers with five  
or more full or part time employees.

In addition, there are certain leave and transfer  
protections and guarantees provided under the  
FEHA and the California Family Rights Act (CFRA).

All employers must provide information about  
pregnancy leave rights to their employees and  
post information about pregnancy leave rights  
in a conspicuous place where employees tend  
to gather. Employers who provide employee  
handbooks must include information about  
pregnancy leave in the handbook.

IT IS UNLAWFUL FOR AN EMPLOYER  
TO DISCRIMINATE IN TERMS OF  
COMPENSATION, CONDITIONS, OR  
PRIVILEGES OF EMPLOYMENT BECAUSE  
OF PREGNANCY, CHILDBIRTH, OR  
RELATED MEDICAL CONDITIONS





# RIGHTS AND OBLIGATIONS

## LEAVE REQUIREMENTS

- An employee disabled by pregnancy, childbirth, or a related medical condition is entitled to up to four months of disability leave per pregnancy. If the employer provides more than four months of leave for other types of temporary disabilities, the same leave must be made available to employees who are disabled due to pregnancy, childbirth, or a related medical condition.
- Leave can be taken before or after birth during any period of time the employee is physically unable to work because of pregnancy or a pregnancy-related condition. All leave taken in connection with a specific pregnancy counts toward computing the four-month period.
- Pregnancy leave is available when an employee is actually disabled. This includes time off needed for prenatal or postnatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, loss or end of pregnancy, or any other related medical condition.
- If an employee is disabled as the result of a condition related to pregnancy, childbirth, or associated medical conditions and requests reasonable accommodation upon the advice of the employee's health-care provider, an employer must provide reasonable accommodation.
- As an accommodation, and with advice of a physician, an employee can request transfer to a less strenuous or hazardous position or duties because of the employee's pregnancy.
- Employees are entitled to take pregnancy disability leave in addition to any leave entitlement they might have under CFRA. For example, an employee could take up to four months pregnancy disability leave for any period of disability, and also take up to 12 weeks CFRA leave to bond with the baby; to bond with an adopted child; or to care for a parent, spouse, or child with a serious health condition. CFRA leave may also be taken for the employee's own serious health condition. For more information, see DFEH's brochure entitled "California Family Rights Act."
- If possible, an employee must provide their employer with at least 30 days advance notice of the date for which the pregnancy disability leave or accommodation is sought and the estimated duration of the leave or accommodation.
- If 30 days advance notice is not possible due to a change in circumstances or a medical emergency, notice must be given as soon as practicable. The leave may be modified as an employee's changing medical condition dictates. If the reinstatement date differs from the original agreement, or if no agreement was made, an employer must reinstate the employee within two business days of being given notice that the employee intends to return. When two business days are not feasible, reinstatement must be made as soon as possible to expedite the employee's return.

## SALARY AND BENEFITS DURING LEAVE

- Employers who provide health insurance coverage for employees who take leave for other temporary disabilities must provide coverage for employees who take leave for pregnancy, childbirth or related medical conditions.
- An employer may require an employee to use accrued sick leave during any unpaid portion of their pregnancy disability leave. The employee may also use vacation leave credits to receive compensation for which the employee is eligible. But an employer may not require an employee to use vacation leave or other accrued time off during pregnancy disability leave.

## RETURN RIGHTS

- It is illegal for an employer to fire an employee because that employee is pregnant or taking pregnancy disability leave. Employers are required by law to reinstate employees to the same position those employees had before taking leave, and an employee may request this guarantee in writing. In some situations, an employee may be reinstated to a position that is comparable (same tasks, skills, benefits, and pay) to the job they had before taking PDL.
- However, pregnancy disability leave does not protect employees from employment actions not related to their pregnancy, such as layoffs.



# CERTIFICATION OF HEALTH CARE PROVIDER

For Pregnancy Disability Leave, Transfer and/or Reasonable Accommodation

EMPLOYEE NAME: \_\_\_\_\_

Please certify that, because of this patient's pregnancy, childbirth, or a related medical condition (including, but not limited to, recovery from pregnancy, childbirth, loss or end of pregnancy, or post-partum depression), this patient needs (check all appropriate category boxes):

☐ TIME OFF FOR MEDICAL APPOINTMENTS

When: \_\_\_\_\_ Duration: \_\_\_\_\_

☐ DISABILITY LEAVE *(Because of a patient's pregnancy, childbirth or a related medical condition, patient cannot perform one or more of the essential functions of patient's job or cannot perform any of these functions without undue risk to self, to successful completion of the pregnancy, or to other persons)*

Beginning (Estimate): \_\_\_\_\_ Ending (Estimate): \_\_\_\_\_

☐ INTERMITTENT LEAVE

Specify the intermittent leave schedule: \_\_\_\_\_

Beginning (Estimate): \_\_\_\_\_ Ending (Estimate): \_\_\_\_\_

☐ REDUCED WORK SCHEDULE

Specify the reduced work schedule: \_\_\_\_\_

Beginning (Estimate): \_\_\_\_\_ Ending (Estimate): \_\_\_\_\_

☐ TRANSFER/BE ASSIGNED TO A LESS STRENUOUS OR HAZARDOUS POSITION OR DUTIES

Specify the medically advisable position/duties: \_\_\_\_\_

Beginning (Estimate): \_\_\_\_\_ Ending (Estimate): \_\_\_\_\_

☐ REASONABLE ACCOMMODATION(S)

Specify (can include, but is not limited to, modifying lifting requirements, providing more frequent breaks, or providing a stool or chair): \_\_\_\_\_

Beginning (Estimate): \_\_\_\_\_ Ending (Estimate): \_\_\_\_\_

**Health Care Provider Name (print):** \_\_\_\_\_

**Medical Health Care Specialty:** \_\_\_\_\_

**License Number:** \_\_\_\_\_

HEALTH CARE PROVIDER SIGNATURE

DATE

Authority Cited: Government Code sections 12935, subd. (a), and 12945

Reference: Government Code sections 12940, 12945; FMLA, 29 U.S.C. §2601, et seq. and FMLA regulations, 29 C.F.R. § 825

DFEH-E10P-ENG / June 2017





## YOUR RIGHTS AND OBLIGATIONS AS A PREGNANT EMPLOYEE

*If you are pregnant, have a related medical condition, or are recovering from childbirth, please read this notice.*

California law protects employees against discrimination or harassment because of an employee's pregnancy, childbirth or any related medical condition (referred to below as "because of pregnancy"). California law also prohibits employers from denying or interfering with an employee's pregnancy-related employment rights.

### YOUR EMPLOYER HAS AN OBLIGATION TO:

- Reasonably accommodate your medical needs related to pregnancy, childbirth or related conditions (such as temporarily modifying your work duties, providing you with a stool or chair, or allowing more frequent breaks);
- Transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy; and
- Provide you with pregnancy disability leave (PDL) of up to four months (the working days you normally would work in one-third of a year or 17 1/3 weeks) and return you to your same job when you are no longer disabled by your pregnancy or, in certain instances, to a comparable job. Taking PDL, however, does not protect you from non-leave related employment actions, such as a layoff.
- Provide a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private as set forth in the Labor Code.

### FOR PREGNANCY DISABILITY LEAVE:

- PDL is not for an automatic period of time, but for the period of time that you are disabled by pregnancy. Your health care provider determines how much time you will need.
- Once your employer has been informed that you need to take PDL, your employer must guarantee in writing that you can return to work in your same position if you request a written guarantee. Your employer may require you to submit written medical certification from your health care provider substantiating the need for your leave.
- PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, doctor-ordered bed rest, severe morning sickness, gestational diabetes, pregnancy-induced hypertension, preeclampsia, recovery from childbirth or loss or end of pregnancy, and/or post-partum depression.
- PDL does not need to be taken all at once but can be taken on an as-needed basis as required by your health care provider, including intermittent leave or a reduced work schedule, all of which counts against your four month entitlement to leave.
- Your leave will be paid or unpaid depending on your employer's policy for other medical leaves. You may also be eligible for state disability insurance or Paid Family Leave (PFL), administered by the California Employment Development Department.
- At your discretion, you can use any vacation or other paid time off during your PDL.

- Your employer may require or you may choose to use any available sick leave during your PDL.
- Your employer is required to continue your group health coverage during your PDL at the same level and under the same conditions that coverage would have been provided if you had continued in employment continuously for the duration of your leave.
- Taking PDL may impact certain of your benefits and your seniority date; please contact your employer for details.
- 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). 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.

#### NOTICE OBLIGATIONS AS AN EMPLOYEE:

- Give your employer reasonable notice. To receive reasonable accommodation, obtain a transfer, or take PDL, you must give your employer sufficient notice for your employer to make appropriate plans. Sufficient notice means 30 days advance notice if the need for the reasonable accommodation, transfer, or PDL is foreseeable, otherwise as soon as practicable if the need is an emergency or unforeseeable.
- Provide a Written Medical Certification from Your Health Care Provider. Except in a medical emergency where there is no time to obtain it, your employer may require you to supply a written medical certification from your health care provider of the medical need for your reasonable accommodation, transfer or PDL. If the need is an emergency or unforeseeable, you must provide this certification within the time frame your employer requests, unless it is not practicable for you to do so under the circumstances despite your diligent, good faith efforts. Your employer must provide at least 15 calendar days for you to submit the certification. See your employer for a copy of a medical certification form to give to your health care provider to complete.
- Please note that if you fail to give your employer reasonable advance notice or, if your employer requires it, written medical certification of your medical need, your employer may be justified in delaying your reasonable accommodation, transfer, or PDL.

#### ADDITIONAL RIGHTS UNDER CALIFORNIA FAMILY RIGHTS ACT (CFRA) LEAVE:

You also may be entitled to additional rights 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. 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 (not related to pregnancy) or that of your child, parent or spouse. 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. For further information on the availability CFRA leave, please review your employer's Notice regarding the availability of CFRA leave.

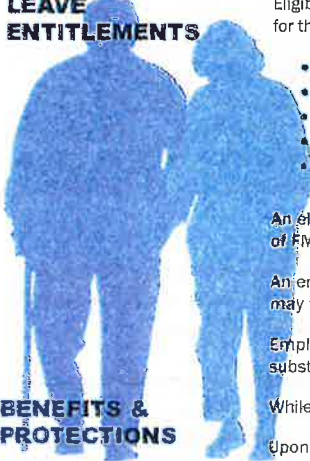
*This notice is a summary of your rights and obligations under the Fair Employment and Housing Act (FEHA). For more information about your rights and obligations as a pregnant employee, contact your employer, visit the Department of Fair Employment and Housing's Web site at [www.dfeh.ca.gov](http://www.dfeh.ca.gov), or contact the Department 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). The text of the FEHA and the regulations interpreting it are available on the Department of Fair Employment and Housing's Web site at [www.dfeh.ca.gov](http://www.dfeh.ca.gov).*



# 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 1 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.

## ELIGIBILITY REQUIREMENTS

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.

## REQUESTING LEAVE

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.

## EMPLOYER RESPONSIBILITIES

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.

## ENFORCEMENT

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



## Family/Medical Leave Information Sheet

The following is important information regarding your Family Medical Leave. Please review this information and contact Mt. San Antonio College if you have any questions.

1. If you normally pay a portion of the premiums for your group health insurance, these payments will continue during the period of your leave. You must continue to pay your share of the premiums during the FMLA leave period to maintain coverage under your benefits plan. If you are receiving a paycheck while out on leave, the premiums will be deducted as usual from your paycheck. If you are not receiving a paycheck while on leave, you must make arrangements with Mt. San Antonio College, to make payments. If payment is not made timely your group health insurance may be canceled. We will notify you in writing at least 15 days before the date your health coverage will lapse. Otherwise, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.
2. In general, FMLA is an unpaid leave but you may elect to use accrued paid leave during your FMLA leave. Use of paid accrued vacation or sick time off during a family or medical leave does not extend the total amount of leave available. Additionally, leave for a workers' compensation injury or illness will be charged against an employee's entitlement to FMLA leave, provided that the leave meets FMLA requirements. In all circumstances, an employee is entitled only to a maximum leave of twelve (12) weeks under FMLA, whether paid, unpaid, or partially paid. Any paid leave used for an FMLA-qualifying reason will be charged against your FMLA and/or applicable state leave entitlement.
3. If you are a "key employee" as described in section 825.217 of the FMLA regulations, restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to Mt. San Antonio College. If you are a key employee, Mt. San Antonio College will give you a separate notice for each leave request.
4. While on leave you may be required to furnish Mt. San Antonio College with periodic reports of your status and intent to return to work. We may ask for a recertification periodically during the leave period if: (1) you request an extension of your leave; (2) circumstances change regarding the injury or illness; or (3) we receive information that casts doubt on the continuing validity of your most recent certification. If your leave is for intermittent leave, we will require recertification every six (6) months.
5. If your request is for intermittent leave and you have some control over the timing of your leave, you are expected to make an effort to schedule appointments at times that will cause the least disruption to the functionality of your department. You are expected to provide your supervisor with as much notice as possible when you need time off from work. If you are not able to provide reasonable notice to your supervisor, you may be required to provide documentation to verify the urgency of the situation (i.e. why more notice could not be given).
6. The 12 month period during which an eligible employee may take job-protected family medical leave is a 12-month period measured rolling backward from each date an employee uses any FMLA leave, and/or in accordance with any applicable State leave regulations.
7. Newborn leave (for care of a newborn child or the placement of a child for adoption or foster care) must be completed within 12 months after the birth, adoption, or placement of the child. When both spouses are employed by Mt. San Antonio College, the amount of Family and Medical Leave available in a twelve (12) month period for bonding with a newborn, adopted, or foster child may be limited to a combined total of twelve (12) weeks.
8. You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment upon your return from FMLA leave and as required by applicable State law. (If your leave extends beyond the end of your FMLA entitlement, you do not have these return rights under FMLA).
9. If you do not return to work following your leave for any reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious health condition or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse Mt. San Antonio College for your share of health insurance premiums paid on your behalf during your leave.



## Verification of Birth or Placement

Employee Name: \_\_\_\_\_

Date: \_\_\_\_\_

Employee ID: \_\_\_\_\_

Leave Reference ID: \_\_\_\_\_

### INSTRUCTIONS FOR THE EMPLOYEE

If your leave is to bond with a newborn child, adoption, or foster care placement, you must complete this Verification of Birth or Placement Form and specify your relationship to that child.

For leave to bond with a newborn child that has not yet been born, please use the expected date of birth.

**Mail or fax your form(s) to:**

### VERIFICATION

Date of Placement, Date of Birth, or Expected Date of Birth: \_\_\_\_\_

Requested Leave Period: \_\_\_\_\_ through \_\_\_\_\_

Specify the relationship to the child:

\_\_\_\_\_

\_\_\_\_\_

X \_\_\_\_\_  
Employee's Signature

\_\_\_\_\_ Date

By signing this, I confirm that the attached information is accurate.

**YOUR RIGHTS AND OBLIGATIONS AS A PREGNANT EMPLOYEE**

If you are pregnant, have a related medical condition, or are recovering from childbirth, **PLEASE READ THIS NOTICE.**

- California law protects employees against discrimination or harassment because of an employee's pregnancy, childbirth or any related medical condition (referred to below as "because of pregnancy"). California law also prohibits employers from denying or interfering with an employee's pregnancy-related employment rights.

- Your employer has an obligation to:

- reasonably accommodate your medical needs related to pregnancy, childbirth or related conditions (such as temporarily modifying your work duties, providing you with a stool or chair, or allowing more frequent breaks);

- transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy; and

- provide you with pregnancy disability leave (PDL) of up to four months (the working days you normally would work in one-third of a year or 17 1/3 weeks) and return you to your same job when you are no longer disabled by your pregnancy or, in certain instances, to a comparable job. Taking PDL, however, does not protect you from non-leave related employment actions, such as a layoff.

- provide a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private as set forth in the Labor Code.

- For pregnancy disability leave:

- PDL is not for an automatic period of time, but for the period of time that you are disabled by pregnancy. Your health care provider determines how much time you will need.

- Once your employer has been informed that you need to take PDL, your employer must guarantee in writing that you can return to work in your same position if you request a written guarantee. Your employer may require you to submit written medical certification from your health care provider substantiating the need for your leave.

- PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, doctor-ordered bed rest, severe morning sickness, gestational diabetes, pregnancy-induced hypertension, preeclampsia, recovery from childbirth or loss or end of pregnancy, and/or post-partum depression.

- PDL does not need to be taken all at once but can be taken on an as-needed basis as required by your health care provider, including intermittent leave or a reduced work schedule, all of which counts against your four month entitlement to leave.

- Your leave will be paid or unpaid depending on your employer's policy for other medical leaves. You may also be eligible for state disability insurance or Paid Family Leave (PFL), administered by the California Employment Development Department.

- At your discretion, you can use any vacation or other paid time off during your PDL.

- ° Your employer may require or you may choose to use any available sick leave during your PDL.
- ° Your employer is required to continue your group health coverage during your PDL at the same level and under the same conditions that coverage would have been provided if you had continued in employment continuously for the duration of your leave.
- ° Taking PDL may impact certain of your benefits and your seniority date; please contact your employer for details.
- ° 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). 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.

#### **Notice Obligations as an Employee.**

- Give your employer reasonable notice: To receive reasonable accommodation, obtain a transfer, or take PDL, you must give your employer sufficient notice for your employer to make appropriate plans. Sufficient notice means 30 days advance notice if the need for the reasonable accommodation, transfer, or PDL is foreseeable, otherwise as soon as practicable if the need is an emergency or unforeseeable.
- Provide a Written Medical Certification from Your Health Care Provider. Except in a medical emergency where there is no time to obtain it, your employer may require you to supply a written medical certification from your health care provider of the medical need for your reasonable accommodation, transfer or PDL. If the need is an emergency or unforeseeable, you must provide this certification within the time frame your employer requests, unless it is not practicable for you to do so under the circumstances despite your diligent, good faith efforts. Your employer must provide at least 15 calendar days for you to submit the certification. See your employer for a copy of a medical certification form to give to your health care provider to complete.
- **PLEASE NOTE** that if you fail to give your employer reasonable advance notice or, if your employer requires it, written medical certification of your medical need, your employer may be justified in delaying your reasonable accommodation, transfer, or PDL.

#### **Additional Rights under California Family Rights Act (CFRA) Leave**

- You also may be entitled to additional rights 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. 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 (not related to pregnancy) or that of your child, parent or spouse. 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. For further information on the availability CFRA leave, please review your employer's Notice regarding the availability of CFRA leave.

This notice is a summary of your rights and obligations under the Fair Employment and Housing Act (FEHA). For more information about your rights and obligations as a pregnant employee, contact your employer, visit the Department of Fair Employment and Housing's Web site at [www.dfeh.ca.gov](http://www.dfeh.ca.gov), or contact the Department at (800) 884-1684. The text of the FEHA and the regulations interpreting it are available on the Department of Fair Employment and Housing's Web site at [www.dfeh.ca.gov](http://www.dfeh.ca.gov).



# Fact Sheet



U.S. Department of Labor  
Employee Benefits Security Administration  
September 2009

## The Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits discrimination in group health plan coverage based on genetic information. GINA is effective for plan years beginning after May 21, 2009 (January 1, 2010 for calendar year plans). Regulations implementing the provisions of GINA were made public on October 1, 2009.

**Builds on HIPAA's protections.** GINA expands the genetic information protections included in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA prevents a plan or issuer from imposing a preexisting condition exclusion provision based solely on genetic information, and prohibits discrimination in individual eligibility, benefits, or premiums based on any health factor (including genetic information).

**Additional underwriting protections.** GINA provides that group health plans and health insurance issuers cannot base premiums for an employer or a group of similarly situated individuals on genetic information. (However, premiums may be increased for the group based upon the manifestation of a disease or disorder of an individual enrolled in the plan.)

**Prohibits requiring genetic testing.** GINA also generally prohibits plans and issuers from requesting or requiring an individual to undergo a genetic test. However, a health care professional providing health care services to an individual is permitted to request a genetic test. Additionally, genetic testing information may be requested to determine payment of a claim for benefits, although the regulations make clear that the plan or issuer may request only the minimum amount of information necessary in order to determine payment. There is also a research exception that permits a plan or issuer to request (but not require) that a participant or beneficiary undergo a genetic test.

**Restricts collection of genetic information.** GINA also prohibits a plan from collecting genetic information (including family medical history) prior to or in connection with enrollment, or for underwriting purposes. Thus, under GINA, plans and issuers are generally prohibited from offering rewards in return for collection of genetic information, including family medical history information collected as part of a Health Risk Assessment (HRA). The regulations provide several examples illustrating GINA's application to HRAs.

An exception is included for incidental collection, provided the information is not used for underwriting. However, the regulations make clear that the incidental collection exception is not available if it is reasonable for the plan or issuer to anticipate that health information will be received in response to a collection, unless the collection explicitly states that genetic information should not be provided.

**Other protections.** GINA also contains individual insurance market provisions, administered by the Department of Health and Human Services's Centers for Medicare & Medicaid Services, privacy and confidentiality provisions, administered by the Department of Health and Human Services's Office for Civil Rights, and employment-related provisions, administered by the Equal Employment Opportunity Commission (EEOC).

**"NOTICE A"****YOUR RIGHTS AND OBLIGATIONS AS A PREGNANT EMPLOYEE**

If you are pregnant, have a related medical condition, or are recovering from childbirth, **PLEASE READ THIS NOTICE.**

- California law protects employees against discrimination or harassment because of an employee's pregnancy, childbirth or any related medical condition (referred to below as "because of pregnancy"). California law also prohibits employers from denying or interfering with an employee's pregnancy-related employment rights.
- Your employer has an obligation to:
  - reasonably accommodate your medical needs related to pregnancy, childbirth or related conditions (such as temporarily modifying your work duties, providing you with a stool or chair, or allowing more frequent breaks);
  - transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy; and
  - provide you with pregnancy disability leave (PDL) of up to four months (the working days you normally would work in one-third of a year or 17½ weeks) and return you to your same job when you are no longer disabled by your pregnancy or, in certain instances, to a comparable job. Taking PDL, however, does not protect you from nonleave related employment actions, such as a layoff.
  - provide a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private as set forth in Labor Code section 1030, et seq.
- For pregnancy disability leave:
  - PDL is not for an automatic period of time, but for the period of time that you are disabled by pregnancy. Your health care provider determines how much time you will need.
  - Once your employer has been informed that you need to take PDL, your employer must guarantee in writing that you can return to work in your same position if you request a written guarantee. Your employer may require you to submit written medical certification from your health care provider substantiating the need for your leave.
  - PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, doctor-ordered bed rest, "severe morning sickness," gestational diabetes, pregnancy-induced hypertension, preeclampsia, recovery from childbirth or loss or end of pregnancy, and/or post-partum depression.

**"NOTICE B"****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 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 an unpaid 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.
- Even if you are not eligible for CFRA leave, if disabled by pregnancy, childbirth or related medical conditions, you are entitled to take pregnancy disability leave (PDL) of up to four months, or the working days in one-third of a year or 17½ weeks, depending on your period(s) of actual disability. Time off needed for prenatal or postnatal care; doctor-ordered bed rest; gestational diabetes; pregnancy-induced hypertension; preeclampsia; childbirth; postpartum depression; loss or end of pregnancy; or recovery from childbirth or loss or end of pregnancy would all be covered by your PDL.
- Your employer also has an obligation to reasonably accommodate your medical needs (such as allowing more frequent breaks) and to transfer you to a less strenuous or hazardous position if it is medically advisable because of your pregnancy.
- If you are CFRA-eligible, you have certain rights to take BOTH PDL and a separate CFRA leave for reason of the birth of your child. Both leaves guarantee reinstatement 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 a family member). For events that are unforeseeable, you must to notify your employer, 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.
- Your employer may require medical certification from your health care provider before allowing you a leave for:
  - your pregnancy;
  - your own serious health condition; or
  - to care for your child, parent, or spouse who has a serious health condition.