

## CFRA Notice and CFRA/FMLA Designation (50 or More Employees)

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The California Family Rights Act (CFRA) and the Family and Medical Leave Act (FMLA) have different employer coverage rules. All public employers regardless of size and all private employers with **five or more** employees are covered by the CFRA. All public employers regardless of size and all private employers with **50 or more** employees are covered by the FMLA.

The CFRA and the FMLA also have different employee eligibility requirements. Both the CFRA and the FMLA require the employee to have worked for their current employer for at least 12 months (these months do not have to be consecutive) and have worked 1,250 hours in the 12 months preceding the date of leave. The FMLA has an additional employee eligibility requirement that the employee works at a worksite that has 50 or more employees within a 75-mile radius.

Once the employee has established eligibility, the employee may only take CFRA and/or FMLA leave for qualifying reasons. The CFRA and FMLA share the following qualifying reasons for leave:

- The employee's own serious health condition;
- A parent's, child's (if the child is under the age of 18 or over the age of 18 if the child is incapable of self-care due to a physical or mental disability), or spouse's serious health condition;
- To bond with a child after the birth, adoption or place in foster care of the child; or
- For qualifying military exigencies.

If an employee's qualifying reason for leave is covered under both the CFRA and the FMLA, then both leave entitlements will run at the same time, otherwise known as CFRA/FMLA concurrent leave.

In addition to the above qualifying reasons, an employee may take CFRA-only leave for any adult child's serious health condition regardless of disability, as well as a parent-in-law's, grandparent's, grandchild's, sibling's, registered domestic partners's, or someone else with a blood or family-like relationship with the employee's ("designated person") serious health condition. Also, an employee may take up to 26 weeks of FMLA-only leave to care for a military servicemember.

Because there are some differences in qualifying reasons between the CFRA and the FMLA, there may also be a situation where an employee exhausts CFRA leave but will remain eligible for FMLA — and vice versa — in the same 12-month period because the reason for the CFRA leave is not covered by the FMLA (e.g., the employee first takes 12 weeks of leave to care for a grandparent under the CFRA and then takes a separate 12 weeks of leave to bond with a baby under the FMLA.)

Employers must provide employees with a notice of their rights under the CFRA. The Notice section of this form provides that information to the employee. Fill in the blank at the end of the notice with the name of the individual managing leaves of absence for your organization. If the employee's leave request also qualifies under the FMLA, you must also provide the separate *FMLA — Notice of Eligibility and Rights and Responsibilities* form.

Leave covered under the CFRA must be designated as CFRA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's CFRA leave entitlement. If the leave qualifies for FMLA, the employer must designate the leave as FMLA-protected, and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. This form meets both of those requirements.

This form is not for use if the employee is requesting pregnancy disability leave. Please use the *FMLA/PDL Designation Notice* form. If an employee is taking leave that is only covered by the FMLA, you may use the *FMLA Designation* form, which does not contain any references to the CFRA.

In order to determine whether leave is covered under either the CFRA, the FMLA or both, the employer may request that the leave be supported by a medical certification (this requirement must be noted in your employer's CFRA/FMLA leave policy).

If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient.

## **CFRA Notice and CFRA/FMLA Designation (50 or More Employees)**

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While use of this form is optional, completion of the form provides employees with the information required under the CFRA by 2 C.C.R. §11091(a)(1)(A) and, if applicable, under the FMLA by 29 C.F.R. §§ 825.300(d), 825.301 and 825.305(c), which must be provided within five business days of the employer having enough information to determine whether the leave is for an FMLA-qualifying reason.

The following are instructions for completing each section of the designation section of this form:

### **Designation Notice Instructions**

#### **Section I — Employer**

Indicate the most recent date you received a request, medical certification or other documentation of the employee's need for leave.

Indicate whether the leave is approved or denied, or if more information is needed. If leave request is approved, indicate whether leave is CFRA-only, FMLA-only, or CFRA and FMLA running concurrently.

#### **Section II — Additional Information Needed**

If needed, indicate any additional information required to make a leave request determination.

#### **Section III — CFRA and/or FMLA Leave Approved**

If leave beginning and ending dates are known, indicate those dates in the first check box. If the length or timing of leave is not known, use the second check box.

Indicate whether employee will be using other paid leave during CFRA and/or FMLA leave.

For CFRA and/or FMLA leave, you may not require employees to use paid leave if the employee is receiving money through a paid disability plan such as State Disability Insurance (SDI), Paid Family Leave (PFL), workers' compensation or an employer-provided short term disability plan. Employees can choose to supplement these wage replacement benefits with paid leave.

#### **Use of State Disability Insurance (SDI) — Employee's Own Serious Health**

Complete this section if the employee will receive SDI benefits and has requested to supplement SDI benefits with sick, vacation or PTO leave benefits.

#### **Use of Paid Family Leave (PFL) — All Other Reasons**

Complete this section if the employee will receive PFL benefits and has requested to supplement PFL benefits with sick, vacation or PTO leave benefits.

#### **Continued Health Benefits**

Employees are entitled to continued health benefits during CFRA and/or FMLA leave for a maximum of 12 weeks. Under California Law, employees on pregnancy disability leave (PDL) will be allowed to continue to participate in group health coverage for up to a maximum of four months of PDL (if such insurance was provided before the leave was taken) on the same terms as if they had continued to work. The entitlements to employer-paid group health coverage during pregnancy disability leave and during CFRA and/or FMLA leave are two separate entitlements.

Provide the amount of money the employee must pay, the due dates and the grace period for health benefits payment. Be sure to verify the grace period with your insurance carrier.

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### **Return to Work**

You may require medical certification of the employee's ability to return to work if the absence is for the employee's own serious health condition. In order to require such certification, you must have a uniformly-applied policy or practice for all similar situations. The medical certification can address the employee's ability to perform the essential functions of the employee's job. If the return to work certification contains this information, you must provide the employee with a list of the essential functions of the employee's job, no later than with this designation notice.

Complete this section if you are requiring a release to return to work. Attach the essential functions of the employee's job if you want the health care provider to certify that the employee is able to perform the essential functions of the employee's job upon return to work.

▲ Click above to insert your company logo

Replace this text with company name or delete to leave blank

## CFRA Notice

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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, and if we employ five or more employees, you may have a right to a 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; for your own serious health condition or that of your child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, registered domestic partner, or someone else with a blood or family-like relationship with the employee ("designated person"); or for a qualifying military exigency. 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, parent-in-law, grandparent, grandchild, sibling, spouse, registered domestic partner, or someone else with a blood or family-like relationship with the employee ("designated person"), 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 [Name of the Individual Managing Leaves of Absence for Your Company](#).

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## CFRA/FMLA Designation Notice

### SECTION I — EMPLOYER

The employer is responsible for designating leave as CFRA-qualifying and/or FMLA-qualifying and giving notice to the employee. Once an eligible employee communicates a need to take leave for a CFRA-qualifying reason and/or FMLA-qualifying reason, an employer may not delay designating such leave as CFRA, FMLA or CFRA/FMLA leave, and neither the employee nor the employer may decline CFRA, FMLA or CFRA/FMLA protection for that leave.

From (*Employer*) \_\_\_\_\_ Date \_\_\_\_\_

To (*Employee*) \_\_\_\_\_

On \_\_\_\_\_ we received your most recent information to support your need for leave due to:

- The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly-placed child. **(CFRA only, FMLA only or CFRA/FMLA depending on eligibility and leave availability)**
- Your own serious health condition. **(CFRA only, FMLA only or CFRA/FMLA depending on eligibility and leave exhaustion)**
- The serious health condition of your child (if the child is under the age of 18, or over the age of 18, if the child is incapable of self-care due to a physical or mental disability), parent or spouse. **(CFRA only, FMLA only or CFRA/FMLA depending on eligibility and leave availability)**
- The serious health condition of your child (if the child is an adult capable of self-care), parent-in-law, grandparent, grandchild, sibling, spouse, registered domestic partner or designated person. **(CFRA only)**
- A qualifying exigency arising out of the fact that your spouse, child or parent is on covered active duty or has been notified of an impending call or order to covered active duty with the Armed Forces. **(CFRA only, FMLA only, or CFRA/FMLA depending on eligibility and leave availability)**
- A qualifying exigency arising out of the fact that your registered domestic partner is on covered active duty or has been notified of an impending call or order to covered active duty with the Armed Forces. **(CFRA only)**
- A serious injury or illness of a covered servicemember where you are the servicemember's spouse, child, parent or next of kin (*Military Caregiver Leave - 26 weeks*). **(FMLA only)**

**We have reviewed information related to your need for leave under the CFRA or CFRA/FMLA along with any supporting documentation provided and decided that your leave request is:** *(Select as appropriate)*

- Approved.** All leave taken for this reason will be designated as: *(Go to Section III for more information)*
  - CFRA Only
  - FMLA Only
  - CFRA/FMLA leave with CFRA and FMLA running concurrently
- Not Approved.** *(Select as appropriate)*
  - The CFRA and/or FMLA doesn't apply to your leave request.
  - As of the date the leave is to start, you do not have any CFRA or FMLA leave available to use.
  - Other: \_\_\_\_\_
- Additional information** is needed to determine if your leave request qualifies as CFRA and/or FMLA leave. *(Go to Section II for the specific information needed. If your CFRA and/or FMLA leave request is approved and no additional information is needed, go to Section III.)*

# CFRA/FMLA Designation Notice

## SECTION II — ADDITIONAL INFORMATION NEEDED

We need additional information to determine whether your leave request qualifies under the CFRA and/or FMLA. Once we obtain the additional information requested, we will inform you **within 5 business days** if your leave will or will not be designated as CFRA and/or FMLA leave and count toward the amount of CFRA and/or FMLA leave you have available. **Failure to provide the additional information as requested may result in a denial of your CFRA and/or FMLA leave request.**

If you have any questions, \_\_\_\_\_ at \_\_\_\_\_,  
please contact: Name of Employer Representative Contact Information

### **Incomplete or Insufficient Certification**

The certification you have provided is incomplete and/or insufficient to determine whether the CFRA and/or FMLA applies to your leave request (*select as applicable*).

- The certification provided is incomplete and we are unable to determine whether the CFRA and/or FMLA applies to your leave request. *"Incomplete" means one or more of the applicable entries on the certification have not been completed.*
- The certification provided is insufficient to determine whether the CFRA and/or FMLA applies to your leave request. *"Insufficient" means the information provided is vague, unclear, ambiguous or non-responsive.*

**Specify the information needed to make the certification complete and/or sufficient:**

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You must provide the requested information no later than (*provide at least seven calendar days*) \_\_\_\_\_, unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.

### **Second and Third Opinions**

- We request that you obtain a (  second /  third opinion) medical certification at our expense, and we will provide further details at a later time. *Note: The employee or the employee's family member may be requested to authorize the health care provider to release information pertaining only to the serious health condition at issue.*

## SECTION III — CFRA AND/OR FMLA LEAVE APPROVED

Your CFRA and/or FMLA leave request is approved. All leave taken for this reason will be designated as CFRA and/or FMLA leave and will count against the amount of CFRA and/or FMLA leave you have available to use in the applicable 12-month period. The CFRA and FMLA, if applicable, requires that you notify us as soon as practicable if the dates of scheduled leave change, are extended or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against the **total amount of CFRA and/or FMLA leave** you have available to use in the applicable 12-month period: (*Select as appropriate*)

- Provided there is no change from your **anticipated CFRA and/or FMLA leave schedule**, the following number of hours, days or weeks will be counted against your leave entitlement: \_\_\_\_\_
- Because the leave you will need will be unscheduled, it is not possible to provide the hours, days or weeks that will be counted against your CFRA and/or FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

## CFRA/FMLA Designation Notice

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Please be advised: *(check all that apply)*

- Some or all of your CFRA and/or FMLA leave will not be paid.** Any unpaid CFRA and/or FMLA leave taken will be designated as CFRA and/or FMLA leave and counted against the amount of CFRA and/or FMLA leave you have available to use in the applicable 12-month period.
- Based on your request, some or all of your available paid leave (e.g., sick, vacation, PTO) will be used during your CFRA and/or FMLA leave.** Any paid leave taken for this reason will also be designated as CFRA and/or FMLA leave and counted against the amount of CFRA and/or FMLA leave you have available to use in the applicable 12-month period.
- We are requiring you to use some or all of your available paid leave (e.g., sick, vacation, PTO) during your CFRA, FMLA or CFRA/FMLA leave.** Any paid leave taken for this reason will also be designated as CFRA, FMLA or CFRA/FMLA leave and counted against the amount of CFRA, FMLA or CFRA/FMLA leave you have available to use in the applicable 12-month period.
- Other:** \_\_\_\_\_

*(e.g., Short- or long-term disability, workers' compensation, etc.)* Any time taken for this reason will also be designated as CFRA and/or FMLA leave and counted against the amount of CFRA and/or FMLA leave you have available to use in the applicable 12-month period.

### **Use of State Disability Insurance (SDI)**

- If you're eligible for SDI benefits, you may elect to supplement your benefits with your sick, vacation or PTO leave. Your SDI benefits and sick/vacation/PTO pay will be coordinated so that your payments do not exceed your normal rate of pay.

### **Use of Paid Family Leave (PFL)**

- If you're eligible for PFL benefits, you may elect to supplement your benefits with your sick, vacation or PTO leave. Your PFL benefits and sick /vacation/PTO pay will be coordinated so that your payments do not exceed your normal rate of pay.

### **Continued Health Benefits**

Under state and federal family and medical leave, you're eligible for continued health benefits during your CFRA and/or FMLA leave for a maximum of twelve (12) weeks.

Your continuation of health benefits will begin on \_\_\_\_\_ *(date)*. If you currently contribute to the payment of benefits, you must continue to do so while on leave.

Your payment in the amount of \_\_\_\_\_ is due on or before: \_\_\_\_\_  
*(date, e.g. 15th of each month)*

**Option:** The Company's health plan has a grace period for late payments. If your payment is more than \_\_\_\_\_ days late, your benefits will cease.

Please send the payment to:

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State and Zip Code

Your medical benefit coverage will end on \_\_\_\_\_ *(date)*. You may be eligible for continued COBRA coverage.

## CFRA/FMLA Designation Notice

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### **Return to Work Requirements**

To be restored to work after taking CFRA and/or FMLA leave, you (  will be /  will not be) required to provide a certification from your health care provider that you are able to resume work. This request for a return-to-work certification is *only* with regard to the particular serious health condition that caused your need for CFRA and/or FMLA leave. **If such certification is not timely received, your return to work may be delayed until the certification is provided.**

A list of the essential functions of your position (  is /  is not) attached. If attached, the return-to-work certification must address your ability to perform the essential job functions.

For FMLA purposes, portions of this form are adapted for California use from U.S. Department of Labor WH-382 June 2020 (OMB Control Number 1235-0003 Expires 6/30/2026). Employees should retain a copy of this disclosure in their records for three years. DO NOT SEND THE COMPLETED FORM TO THE U.S. DEPARTMENT OF LABOR WAGE AND HOUR DIVISION.