

Provided By Employco USA, Inc.

Employment Law Summary

California

California Family Care and Medical Leave Comparison Chart

California employers must comply with two comprehensive family and medical leave laws: the federal Family and Medical Leave Act (FMLA) and the state California Family Rights Act (CFRA).

The chart below compares key features of the two laws. Note that additional state and local laws require employee leave for other purposes, such as the employee’s illness, bereavement and pregnancy disability.

	California Family Rights Act (CFRA)	Federal Family & Medical Leave Act (FMLA)
I am eligible if:	I have or a family member has a serious health condition, I have worked for my employer for 1+ year, I have 1,250 hours of service in the past year, and my employer has 5+ employees. (Gov. Code, § 12945.2; Cal. Code Regs., tit. 2, § 11087)	I have or a family member has a serious health condition, I have worked for my employer for 1+ years, I have 1,250+ hours of service in the past year, and 50+ employees work within a 75-mile radius. (29 U.S.C. § 2611(2); 29 C.F.R. § 825.110)
How much leave do I get?	Up to 12 weeks per year for all CFRA purposes. (Cal. Code Regs., tit. 2, § 11090)	Up to 12 weeks per year for all FMLA purposes. (29 U.S.C. § 2612; 29 C.F.R. § 825.701)
Which family members may I take leave for?	An eligible employee may take job-protected leave to care for the following people experiencing a serious health condition: a child of any age, spouse, domestic partner, parent, grandparent, grandchild, sibling or someone else with a blood or family-like relationship with the employee (“designated person”). “Child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of an employee or the employee’s domestic partner,	An eligible employee may take job-protected leave to care for a child, spouse or parent with a serious health condition.

	<p>or a person to whom the employee stands in loco parentis. “Parent” includes a biological, foster or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.</p>	
<p>What is a serious health condition?</p>	<p>A serious health condition is an illness, injury or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider. (Cal Code Regs., tit. 2, § 11087)</p>	<p>A serious health condition is an illness, injury or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider. (29 U.S.C. § 2611(11); 29 CFR § 825.113)</p>
<p>Should I notify my employer when I’m going to take leave?</p>	<p>Yes. Give your employer at least 30 days’ notice if possible. (Cal. Code Regs., tit. 2, § 11091)</p>	<p>Yes. Give your employer at least 30 days’ notice if possible. (29 U.S.C. § 2612(e)(1))</p>
<p>Am I required to take leave all at once?</p>	<p>No. The leave does not need to be taken in one continuous period of time. (Cal. Code Regs., tit. 2, § 11090)</p>	<p>Maybe. You can take leave intermittently if medically necessary. Otherwise, you need the approval of your employer to take intermittent leave. (29 U.S.C. § 2612(b); 29 C.F.R. § 825.202(c))</p>
<p>Will I lose my job while on leave?</p>	<p>No. You will be reinstated to your same or comparable job, except in limited circumstances unrelated to your leave (such as layoffs). (Cal. Code Regs., tit. 2, § 11089)</p>	<p>No. You will be reinstated to your same or comparable job, except in limited circumstances unrelated to your leave (such as layoffs). (29 U.S.C. § 2614(a); 29 C.F.R. §§ 825.214 & 825.216)</p>
<p>Will I be paid on leave?</p>	<p>Maybe. You will be paid if your employer pays employees on CFRA leave, if you use accrued paid time off (such as vacation time), or if you apply to the California Employment Development Department (EDD) for State Disability Insurance (SDI) or Paid Family Leave (PFL) and</p>	<p>You will be paid if your employer pays employees on FMLA leave, if you use accrued paid time off (such as vacation time), or if you apply to EDD for SDI or PFL and qualify.</p>

	qualify. (Cal. Code Regs., tit. 2, § 11092)	
Am I required to use sick/vacation time?	<p>CFRA leave for self: If you are receiving SDI for your own serious health condition, an employer may not require you to use accrued vacation or sick time. You may elect to supplement SDI with accrued vacation or sick time. If you are not receiving SDI, you may elect to use, and your employer may require you to use, accrued vacation and/or sick time.</p> <p>CFRA leave for family member: If you are receiving PFL to care for the serious health condition of a family member, an employer may not require you to take accrued vacation time. You may elect to supplement PFL with accrued vacation time or, if your employer agrees, sick time. If you are not receiving PFL, you may elect to use it, and your employer may require you to use accrued vacation time, and you and your employer may agree that you can use sick time.</p>	You may elect to use vacation time, sick leave or paid time off. If you are on unpaid leave, your employer may require you to use vacation time, sick leave or paid time off. (29 C.F.R. § 825.207)
Will my employer continue to pay for my health coverage?	Yes. Your employer must pay for the continuation of your group health benefits if your employer normally pays for those benefits. (Cal. Code Regs., tit. 2, § 11092)	Yes. Your employer must pay for the continuation of your group health benefits if your employer normally pays for those benefits. (29 U.S.C. § 2614(c); 29 C.F.R. § 825.209)
Will I lose seniority or benefits?	No. And, you may accrue seniority or benefits if your employer allows accrual for other forms of leave. (Cal. Code Regs., tit. 2, § 11092)	No. And, you 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))

Do I need to provide a medical certification?	Maybe. Your employer may require medical certification of a serious health condition. (Cal. Code Regs., tit. 2, § 11091)	Maybe. Your employer may require medical certification of a serious health condition. (29 U.S.C. § 2614(a)(4); 29 C.F.R. § 825.306)
--	--	---

Source: California Civil Rights Department