



# City and County of San Francisco

## Employee Rights under the Family and Medical Leave Act & California Family Rights Act

**FMLA 1**

### OVERVIEW

The Family Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA) of 1993 require the City to provide, within a rolling 12-month period, up to 12 weeks (480 hours) of unpaid, job-protected leave to eligible employees for certain family and medical reasons. You are eligible for these leaves if you have worked for the City for at least one year, and for 1,250 hours over the previous 12 months. Hours taken as sick pay, vacation, or other type of leave do not count as hours worked for this calculation.

### REASONS FOR TAKING LEAVE<sup>1</sup>:

Under the FMLA, unpaid leave must be granted for any of the following reasons:

- To care for your child after birth, and to care for that child
- For the placement of a child for adoption or foster care with you, and to care for that child
- To care for your spouse or domestic partner, son or daughter, or parent, who has a serious health condition
- For a serious health condition that makes you unable to perform your job.<sup>2</sup>

City policy requires that, except for authorized workers' compensation leave or pregnancy disability leave, when you use qualified FMLA leave, you must concurrently use accrued sick leave for your time off. After sick leave with pay credits have been exhausted, you may elect to use accrued vacation leave to cover the remaining FMLA leave, followed by the use of floating holidays.

### ADVANCE NOTICE AND MEDICAL CERTIFICATION:

You are required to provide advance notice and medical certification for your leave. Your use of FMLA leave may be denied if these requirements are not met.

- You ordinarily must provide 30 days advance notice when the leave is foreseeable
- The City requires medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the City's expense) and a fitness for duty report to return to work
- While on leave, you may be required to furnish the City with periodic status reports.

### JOB BENEFITS AND PROTECTION:

- The City will maintain your health coverage under your group health plan for the duration of your FMLA leave. You are responsible for your share of premium costs, if any
- Upon return from FMLA leave, you will likely be restored to your original or equivalent position with equivalent pay, benefits, and other employment terms unless you are designated a key employee
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of your leave.

### UNLAWFUL ACTS BY EMPLOYERS:

The FMLA makes it unlawful for the City to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA
- Discharge or discriminate against you for opposing any practice made unlawful by FMLA, or for involvement in any proceeding under or relating to the FMLA.

### ENFORCEMENT:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of FMLA violations
- An eligible employee may bring a civil action against an employer for violations.

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:

Contact your departmental Human Resources office.

<sup>1</sup> Information on the California Family Rights Act of 1993 and the City's Pregnancy Disability Leave is provided on page 2 of this form.

<sup>2</sup> The City will count a workers' compensation absence towards your FMLA entitlement if you suffer an on-the-job injury or illness that qualifies as a serious health condition.

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Under the California Family Rights Act (CFRA), if you have more than 12 months of service 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. This leave may be up to 12 work weeks (480 hours) in a 12-month period for the birth of your child, adoption or foster care placement of a child with you, for your own serious health condition, or for the serious health condition of your child, parent, spouse, or registered domestic partner.

Even if you are not eligible for CFRA leave, if you are disabled by pregnancy, childbirth or related medical conditions, 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 the birth of your child. Both leaves contain a guarantee of 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 your child, or a planned medical treatment for yourself or a family member). For unforeseeable events you must notify the City 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 policy.

The City may require certification from your health care provider before allowing you a leave for pregnancy or your own serious health condition, or certification from the health care provider of your child, parent, spouse, or registered domestic partner 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.

Taking a family care or pregnancy disability leave may impact certain employment benefits. If you need more information regarding your eligibility for a leave and/or the impact of the leave on your benefits, please contact your departmental Human Resources office.