

NCIRE FAMILY MEDICAL LEAVE

Family Medical Leave (FMLA), California Family Rights (CFRA)

NCIRE provide leaves of absences for eligible employees under the federal Family and Medical Leave Act and California Family Rights Act (referred to in this policy as “Family Care/Medical Leave”). This is a mandate take an unpaid family or medical leave of absence (Family/Medical Leave) of up to 12 weeks in a 12-month period.

Eligibility

To be eligible for FMLA/CFRA, an employee must have

- worked for NCIRE for at least 12 months, and
- worked at least 1,250 hours during the 12 months preceding the start of the leave and
- work at a location with at least 50 employees within a 75-mile radius

Hours worked means actual hours worked and does not include paid or unpaid time off. The 12-month period is measured backward from the date an employee uses any FMLA leave.

Any leave taken pursuant to this policy, other NCIRE policies, or law which qualifies as leave under the FMLA and/or the CFRA will be counted against the employee’s available leave under the applicable NCIRE policy(s) and law, as well as the available leave under the FMLA and/or the CFRA, to the extent permitted by applicable law.

Qualifying Events or Reasons for Leave

Eligible employees may take a Family Care/Medical Leave for the following reasons:
birth of a child and to care for that child;

- placement of a child with the employee for adoption or foster care;
- care for the employee’s parent, child, spouse or domestic partner with a serious health condition; or
- employee’s own serious health condition, which renders the employee unable to perform the essential functions of the job.

The basic minimum duration of a leave taken for the birth, adoption, or foster care placement of an employee’s child is two weeks, except on two occasions an employee may request such a leave of less than two weeks’ duration, and the employee must conclude the leave within one year following the child’s birth or placement.

An employee may not be granted a Family/Medical Leave to gain employment or work elsewhere, including self-employment. If an employee misrepresents facts in order to be granted a Family/Medical Leave, he/she will be subject to immediate termination.

Definition of Serious Health Condition

For the purposes of this policy, a serious health condition is defined as an illness, injury, impairment, or a physical or mental condition that involves inpatient care (i.e., overnight stay) in a hospital, hospice or residential care facility, including any period of incapacity or any treatment in connection with such inpatient care; incapacity (i.e., inability to work, attend school or perform other regular daily activities) of more than three consecutive calendar days that also involves continuing treatment by a health care provider; incapacity or treatment due to chronic health conditions requiring periodic treatment; incapacity for a condition which is permanent or long-term for which

treatment may not be effective and the employee is under the continuing supervision of a health care provider; or any period of absence to receive multiple treatments for restorative surgery or for a condition that would result in incapacity of more than three consecutive calendar days if left untreated.

Medical Certification

If a leave is requested due to the serious health condition of employee, family member, spouse or domestic partner, the employee must submit medical certification from a health care provider within 10 days of the leave request. The certification must state:

- whether the child, parent, spouse, domestic partner or employee is suffering from a serious health condition;
- the date, if known, of the onset of the serious health condition; and
- the probable duration of the condition.

If the employee suffers from the serious health condition, the certification must also include a statement that due to the condition, the employee is unable to work at all or is unable to perform one of more of the essential functions of the position. If a family member suffers from the serious health condition, the certification must include an estimate of the time period the health care provider believes the employee needs to care for the family member, and a statement that the condition warrants the participation of the employee to provide care during a period of treatment or supervision of the family member. Failure to provide the requested medical certification in a timely manner may result in denial of leave until it is provided. Under certain circumstances, NCIRE, at its expense, may require a second and third medical examination of the employee. NCIRE also may require medical recertification periodically during the leave, and an employee will be required to present a fitness-for-duty certification upon return to work following a leave for his/her own serious health condition.

Notice of Leave

If the need for leave is foreseeable, employees must give NCIE at least 30 days' prior written notice. Where the need for leave is not foreseeable, employees are expected to notify NCIRE in writing as soon as practicable, generally within 1 to 2 business days of learning of the need for leave. An employee should submit a written Request for Family/Medical Leave of Absence which includes the anticipated date(s) and duration of the requested leave. Employees are required to make a reasonable effort to schedule medical treatment so as not to disrupt the companies' operations, subject to the approval of their health care provider, or the health care provider of their family member, as appropriate.

Length of Leave

Eligible employees may take up to a total of 12 weeks of unpaid leave during any 12-month period. Family Care/Medical Leave may be taken intermittently (in separate blocks of time due to employee's own or a family member's health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary.

Leave Is Unpaid – Use and Accrual of Vacation and Sick Time During Leave Coordination with State Benefits

Family Care/Medical Leave is a mandated unpaid benefit. However, an employee who takes a leave due to his or her own serious health condition may apply accrued sick leave and accrued vacation time during the leave.

An employee who takes a leave for the adoption or placement of a child for foster care, or leave to care for a spouse, parent, or child with a serious health condition may apply all accrued sick and vacation leave.

Any employee receiving State Disability, Paid Family Leave, San Francisco Parental Leave Law or Workers' Compensation benefits during the Family/Medical Leave, must coordinate their company time off with state benefits. An employee may not receive more than an amount equal to 100% of his or her salary from a combination of paid time and disability or workers' compensation benefits Use of accrued sick or vacation time and receipt of

State Disability Insurance or Paid Family Leave benefits will not extend the length of any leave taken under this section. Employees will not accrue paid time off benefits (e.g., sick, vacation, holiday, etc.) while on unpaid leave.

Medical Benefits During Leave

If you are on an approved Family/Medical leave, NCIRE will maintain an employee's group health benefits as if the employee had continued to be actively employed, up to a total of 12 weeks in a 12-month period. If an employee takes more than 12 weeks of approved Family/Medical Leave in a 12-month period, then the employee may elect to continue coverage at the employee's sole expense for the remainder of the Family/Medical Leave. If paid leave is substituted for unpaid Family/Medical Leave NCIRE will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the leave is unpaid, an employee must pay his/her portion of the premium during the leave. Group health care coverage may cease for the remainder of the leave if the premium payment is more than 15 days late. If NCIRE pays the missed employee premium contributions, the employee will be required to reimburse the Company for the delinquent payments. If an employee does not return to work at the end of the leave period, he or she may be required to reimburse NCIRE for the cost of the premiums paid by the Company for maintaining coverage during unpaid leave, unless the employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

Intermittent or Reduced Leave Options

Family/Medical Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single covered health condition) or on a reduced leave schedule (reducing the usual number of hours an employee works per workweek or workday) if medically necessary. Employees are required to make a reasonable effort to schedule medical treatment so as not to disrupt unduly the operations of the Company, subject to the approval of their health care provider, or the health care provider of their family member, as appropriate. In addition, if an employee is on an intermittent or reduced schedule leave that is foreseeable due to planned medical treatment, NCIRE may temporarily transfer the employee to an available alternative position with equivalent pay and benefits which better accommodates the recurring leave.

Reporting While On Leave

During such leaves, employees may be required to contact their supervisors periodically to report on their status and intention to return to work.

Return to Work Following Leave

An employee who returns to work before the end of his or her planned leave period should provide advance notice of the intended return date to allow sufficient time for management to make adjustments to employees' work assignments. Generally, employees will be restored to the position held before the leave or to an equivalent position of like seniority, status, employment benefits, pay, and other terms and conditions of employment. However, employees have no greater rights to reinstatement or to other benefits and conditions of employment than if they had not taken the Family Care/Medical Leave. As provided by law, under certain circumstances, reinstatement following Family/Medical Leave may be denied. In addition, any right to reinstatement terminates if an employee fails to return to work at the end of an approved leave, in accordance with applicable laws. If leave is taken because of the employee's own serious health condition, then the employee must provide medical certification that he/she is fit to resume work. Employees failing to provide a release to return to work when required to do so will not be permitted to resume work until it is provided.

Legal Compliance

This policy will be interpreted and applied in accordance with applicable federal, state and local laws, and to the extent that this policy may conflict with those laws, they are controlling over this policy. Further, NCIRE retains all available rights and defenses under applicable law, whether or not specifically set forth in this policy

Pregnancy and Childbirth Related Disability Leaves and Accommodations

Under California law, an employee disabled due to pregnancy, childbirth or a related medical condition is eligible for an unpaid leave of absence of up to four months for the period of such disability. A pregnancy or childbirth disability leave of absence shall be for the period of time during which the employee is actually disabled due to the pregnancy, childbirth or related condition, up to four months per pregnancy. When medically advisable, a Pregnancy Disability Leave may be taken intermittently or on a reduced work schedule. Multiple disability leaves for the same pregnancy will be combined for purposes of calculating the four months. Should the employee qualify for Family Medical Leave, Pregnancy Disability Leave (PDL) will run concurrently.

When the employee is no longer deemed disabled due to pregnancy, the employee may be eligible to take 12 weeks of time off for the purpose of bonding with their newborn baby under CFRA. Please refer to the above section on FMLA/CFRA for eligibility and applicable rules and conditions. Any FMLA time that was not exhausted during PDL will run concurrently with CFRA during baby bonding for medical benefit continuation.

Request for Transfer or Accommodation

A pregnant employee may be entitled to transfer to a less strenuous or hazardous position for the duration of her pregnancy upon request, where such transfer can be reasonably accommodated. An employee also may be entitled to reasonable accommodation for conditions related to pregnancy, childbirth or related medical conditions upon request, where such reasonable accommodation would not cause an undue hardship to NCIRE. A request for reasonable accommodation or transfer must be supported by the written certification of the employee's health care provider that such an accommodation or transfer is medically advisable.

Use of Accrued Sick and Vacation time – Coordination with State Disability

Pregnancy Disability Leave is a mandated unpaid benefit. Employees will be required to use any accrued sick leave and may elect to use any accrued vacation while on PDL. In addition, an employee may be eligible for state disability benefits during the leave, although she may not receive more than an amount equal to 100% of her salary from a combination of paid time and state disability benefits. The substitution of paid time for unpaid leave time and/or the receipt of disability benefits does not extend the maximum four-month Pregnancy Disability Leave period.

Medical Benefits

During an approved Pregnancy Disability Leave, NCIRE will maintain an employee's group health benefits as under the same conditions as if she had continued to be actively employed for a maximum of 90 days, **only if** the leave also qualifies under the FMLA. If the employee is not eligible for leave under the FMLA, then she may elect to continue group health benefits at her sole expense.

Notice of Leave

If possible, an employee must provide at least thirty-days (30) notice of her intention to take leave, or as much notice as is practicable under the circumstances. A request for leave must be supported by a medical certification from the employee's health care provider.

Return from Leave

Generally, upon return from an approved Pregnancy Disability Leave that does not exceed the maximum available leave, an employee will be reinstated to the same position or a comparable position, if available, subject to any exceptions provided by law. However, an employee has no greater rights to reinstatement or to other benefits and conditions of employment than if she had not taken the pregnancy disability leave. As provided by law, under certain circumstances, reinstatement following Pregnancy Disability Leave may be denied. In addition, any right to

reinstatement terminates if an employee fails to return to work at the end of an approved leave, in accordance with applicable laws. As a condition of returning from a Pregnancy Disability Leave, an employee must provide NCIRE's HR Department with a certification from her health care provider that she is able to resume work.

Length of Leave

A pregnancy or childbirth disability leave of absence shall be for the period of time during which the employee is actually disabled due to the pregnancy, childbirth, or a related medical condition, up to four months per pregnancy. This would cover all time off needed for prenatal care, morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth. Pregnancy-related disability leaves may be taken intermittently or on a reduced hours schedule, as medically necessary.