



FAMILY MEDICAL LEAVE ACT/ CALIFORNIA FAMILY RIGHTS ACT FREQUENTLY ASKED QUESTIONS

1. What are the FMLA and CFRA and how much leave am I entitled to?

FMLA stands for the federal Family and Medical Leave Act. CFRA stands for the California Family Rights Act. Both leaves run concurrently and allow eligible employees to take up to 12 work weeks of unpaid family leave during a rolling 12-month period, but there are a few instances where a longer period of leave may be allowed. For example, some military family leaves and family leave due to pregnancy, childbirth or related medical conditions may be eligible for a longer period of leave.

Additional information may be accessed by clicking the following:

- [FMLA Poster](#)
- [CFRA Poster](#)
- [LADWP Policy](#)



2. What are the qualifying reasons for taking a family leave of absence?

- Birth of a child (employee, spouse or domestic partner), or placement of a child for adoption or foster care.
- Due to the employee's pregnancy and related medical conditions (which could include prenatal care and severe morning sickness), the employee may be entitled to up to 4 months of Pregnancy Disability Leave (PDL) for the period the employee is disabled due to pregnancy, childbirth, and related medical conditions, in addition to 12 weeks family leave under the CFRA.
- Employee's own serious health condition (which includes pregnancy, childbirth, and related medical conditions).
- Serious health condition of the employee's child, spouse, domestic partner, or parent.
- Employee's spouse, domestic partner, parent, or child is on active duty or has been called to active duty and experiences a "qualifying exigency."
- The care of a covered servicemember who has a serious illness or injury and is a spouse, domestic partner, parent, child, or next of kin to the employee.



3. Who is considered a "family member," under the FMLA/CFRA for purposes of taking family leave?

An employee's spouse/domestic partner, children (adult child), children of domestic partners, parents, parent-in-law, brothers/sisters, and "next of kin" for purposes of military caregiver leave; the nearest blood relative to the service members includes a grandparent, grandchild, or sibling.

4. Which employees are eligible to take family leave?

Employees are eligible to take family leave if they have worked for the LADWP or City of Los Angeles for at least 12 months and have worked for at least 1,250 hours over the 12-month period immediately preceding the date the leave begins.

5. Are exempt employees (exempt from Civil Service) covered?

Yes, as long as they meet the eligibility requirements.

6. Under the FMLA/CFRA, do the 12 months of service with the employer have to be continuous or consecutive?

No. The 12 months do not have to be continuous or consecutive; all time worked for the employer is counted.





7. How do I determine if I have worked 1,250 hours in a 12-month period in order to qualify for family medical leave?

Your individual record of hours worked would be used to determine whether 1,250 hours had been worked in the 12 months prior to the commencement of family leave. The following may be helpful for estimating whether this test for eligibility under the FMLA/CFRA has been met:

- 24 hours worked in each of the 52 weeks of the preceding year
- Over 104 hours worked in each of the 12 months of the preceding year
- 40 hours worked per week for more than 31 weeks (over seven months) of the preceding year.

8. Do I have to give LADWP my medical records for family leave due to my or a family member's serious health condition?

An employer can request certification ([FMLA Certification Form #2](#)) from a health care

provider to verify that the employee or the employee's immediate family member suffers from a covered serious health condition. (The medical certification form which LADWP provides requires the health care provider to only verify the condition qualifies as a "serious health condition"; the nature of the condition need not be disclosed.) However, the employer can ask for a second and even third opinion to verify the validity of the medical certification for an employee's own serious health condition.

9. Does the FMLA/CFRA guarantee paid time

No. The FMLA/CFRA is all unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid leave, such as vacation or sick leave, for some or all of the family leave period.

With some limited exceptions, LADWP requires an employee to use most of their accrued paid time, except that an employee may elect to maintain a maximum of 40 hours in each compensatory time bank (vacation, B-time, accumulated overtime), for a combined total of 120 hours.

When paid leave is substituted for unpaid family medical leave, it does not extend the 12-week family leave period

10. What is considered allowed time off?

For most family leaves, up to 12 weeks in an established 12-month period is allowed. Intermittent leaves or a reduced work schedule may be taken when medically necessary. However, when leave is taken for the birth, adoption, or foster care placement of a child, intermittent leave may be granted in minimum of two-week increments, except that on two occasions, increments of less than two weeks may be used.

FMLA and CFRA leave will run concurrently, except in the case of a leave taken for disability due to pregnancy, childbirth, or a related medical condition in the State of California, in which case CFRA leave will not commence until PDL (pregnancy disability leave) is exhausted or the employee is no longer medically disabled.



11. Does the group health coverage continue while the employee is on family leave?

LADWP may continue group health plan coverage under certain criteria for the duration of approved family leave, under the same conditions as if the employee was actively working. However, employees are still responsible for their share of the benefit premium payments.

12. Does workers' compensation leave and disability leave count against an employee's FMLA/CFRA leave entitlement?

Family leave and workers' compensation leave, or disability leave will generally run together if the employee is eligible.

13. Can LADWP require me to return to work before I exhaust my family leave?

Subject to certain limitations, an employer may deny the continuation of family medical leave due to a serious health condition if you fail to fulfill any obligations to provide supporting medical certification. The employer may not, however, require you to return to work early from approved family leave by offering you a light duty assignment.

14. Can LADWP make inquiries about my family leave during my absence?

Yes, but only to you. LADWP may ask you questions to confirm whether the leave needed or being taken qualifies for FMLA/CFRA purposes and may require periodic reports on your status and intent to return to work after family medical leave. Also, if LADWP wishes to obtain another medical opinion, you may be required to obtain additional medical certification at LADWP's expense, or recertification during a period of family leave. LADWP may have Occupational Health Services (OHS) or another health care provider representing LADWP contact your health care provider, with your permission, to clarify information in the medical certification or to confirm that it was provided by the health care provider. The inquiry may not seek additional information regarding your medical condition or that of a family member.



15. Can LADWP refuse to grant me family leave?

If you are an “eligible” employee who has met the family leave notice and certification requirements (and you have not exhausted your family leave entitlement for the year), you may not be denied leave.

16. Does an employee have to use their compensatory time off for FMLA/CFRA?

An employee is required to use most of their available compensatory time but is allowed to maintain a maximum balance of 40 hours in each of their vacation, B time, and accumulated overtime banks, not to exceed a combined 120 hours.

17. Under what circumstances is leave designated as family leave and counted against the employee’s total entitlement?

It is the employer’s responsibility to designate leave taken for an FMLA/CFRA reason as family leave. The designation must be based upon reasonable information, usually furnished by the employee. Leave may not be designated as family leave after the leave has been completed and the employee has returned to work, except if:

- LADWP is awaiting receipt of the medical certification to confirm the existence of a serious health condition.
- LADWP was unaware that the reason for leave was eligible under the FMLA and/or CFRA, and subsequently acquires information from the employee such as when the employee requests additional or extensions of leave; or, the employer was unaware that the leave was for an FMLA/CFRA reason, and the employee notifies the employer within two days after return to work that the leave was FMLA/CFRA leave.
- Upon mutual consent of LADWP and the employee.



18. A newly hired employee is pregnant and does not qualify for FMLA/CFRA. Are they entitled to any time off?

An employee is entitled to Pregnancy Disability Leave (PDL) and bonding time (if covered under an MOU) even if they do not meet the requirements for FMLA/CFRA. All PDL time requires doctor certification. Bonding time can be up to 4 months if the MOU provisions apply. MOU bonding time must be consecutive and taken within 6 months from date of birth. If the employee returns PRIOR to exhausting the 4 months of bonding time, it is considered complete.

19. Can LADWP request recertification of a serious health condition?

The FMLA regulations allow employers to request recertification of a serious health condition at least once every six months, even for a lifetime condition (29 C.F.R. section 825.308.) However, for the California CFRA, regulations only allow an employer to request re-certification “upon the expiration of the time period the health care provider originally estimated (2 C.C.R. section 11091(b) or, where the frequency and/or duration has changed or does not match the most recent certification.



20. What supporting documentation do I need to submit for FMLA/CFRA?

- **Birth** - proof of pregnancy with due date identified
- **Bonding** - birth record/birth certificate
- **Foster/Adoption** - notice of placement/Court notice of adoption
- **Serious Health Condition of Employee** - Form 2, Medical Certification
- **Qualifying Exigency** - military orders/deployment notification with date
- **Serious illness or injury of active service member** - Medical Certification from Veteran's Hospital, VA Disability Office, Honorable Discharge documents

21. What forms do I need to apply for FMLA/CFRA leave, and who do I give it to for processing?

- Completing an Employee Request for Family or Medical Leave, FMLA Request Form #1 (Employee Request for Family or Medical Leave ([FMLA Form 1A](#))), and if applicable:
 - A Certification of Health Care Provider ([FMLA Certification Form #2](#))
The employee shall complete Section I and the health care provider shall complete Section II of the form; or
 - A Certification for Serious Injury or Illness of Covered Service Member ([FMLA Certification Military Form #4](#))
The employee shall complete Section I and the health care provider shall complete Section II of the form; or
 - A Certification of Qualifying Exigency for Military Family Leave ([FMLA Qualifying Exigency Military Form #4B](#))
- Submitting the completed forms, to the supervisor, no later than 15 to 30 calendar days, depending on the qualifying reason, before the leave is to begin, unless it is not practical under the particular circumstances to do so despite the employee's diligent and good faith efforts.