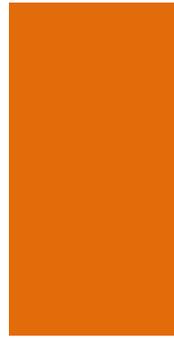
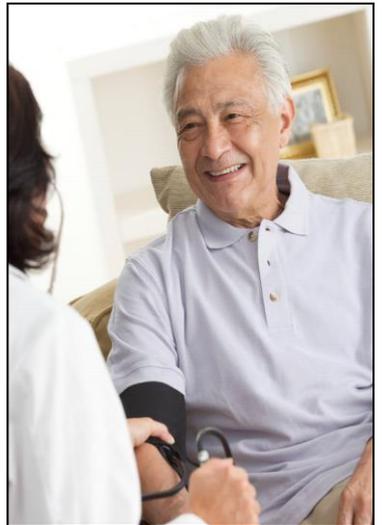


ALAMEDA COUNTY



FAMILY AND MEDICAL LEAVE HANDBOOK



Human Resource Services



Medical Leaves & Accommodation Services

January 2023

Table of Contents

	Page
Section 1 General Information	4
• Introduction	4
• Family and Medical Leave Act (FMLA)	5
• California Family Rights Act (CFRA)	5
• California Pregnancy Disability Leave (PDL)	5
• Reasonable Accommodation	6
Section 2 Eligibility, Qualifying Reasons & Leave Entitlement	7
<i>Family and Medical Leave Act/California Family Rights Act</i>	7
• Eligible Employees	7
• Qualifying Reasons for FMLA/CFRA Leave	7
• Amount of Leave Entitlement	8
<i>Pregnancy Disability Leave</i>	9
• Eligible Employees	9
• Qualifying Reasons for PDL Leave	9
• Amount of Leave Entitlement	9
• Additional Leave/Entitlement	9
Section 3 Leave Usage	10
• Intermittent Leave and/or Reduced Work Schedule	10
• Leave for Medical Treatments and/or Appointments	10
• Leave for Child Bonding/Placement for Adoption/Foster Care	11
• Minimum Duration for Child Bonding Leave	11
<i>Returning from Leave</i>	11
• Reinstatement Following a Leave	12
• Transfer to an Alternate Position While on Intermittent Leave/Reduced Work Schedule	12
• Temporary Modified Work Assignments	12
Section 4 Required Certification	13
• Employee's/Family Member's Serious Health Condition	14
• Certification for Pregnancy Disability Leave	14
• Certification Following Pregnancy Disability Leave	14
• Certifications for Military Family Leaves	15
• Recertification	15
• Authentication/Clarification	15
• Second/Third Medical Opinions	16
• Release to Resume Work/Fit for Duty Certification	16

Section 5	Integrating County Leaves of Absence	17
	• Alameda County Required Leaves of Absence	17
	• Alameda County Voluntary Leaves of Absence	17
	<i>Catastrophic Sick Leave Program</i>	18
Section 6	Voluntary Insurance Benefit Programs	19
	• California’s State Disability Insurance (SDI)	19
	• California’s Paid Family Leave (PFL)	19
	• SDI and PFL Notifications	20
	• Voluntary Disability Insurance Programs	21
Section 7	Maintaining Your Group Health Insurance Benefits	22
	• Maintaining Group Health Insurance Coverage While on Leave	22
	• Re-storing/Re-enrolling for Group Health Insurance Coverage Upon Return from Leave	23
Section 8	Employee and Employer Obligations	24
	<i>Employee Rights and Responsibilities</i>	24
	• Providing Notice/Requesting Leave	24
	• Foreseeable Leave	24
	• Un-foreseeable Leave	24
	• Related Absences Following Your Return from Leave	23
	• Reporting FML Leave Time	25
	<i>Employer Rights and Responsibilities</i>	25
	• Eligibility Notification, Designation of Leave and Leave Status	25
	• Retroactive Designation of Leave	26
	• Fraudulently Obtained Leave	26
Section 9	Illustrations on the Coordination of “Concurrent/Applicable” Leaves of Absence	27 - 28
Section 10	Frequently Asked Questions (FAQs)	29 - 38
Section 11	Forms, Notices and Procedures	39
Section 12	Resources	40
Section 13	Definitions/Key Terms	41 - 49

SECTION 1

General Information

Introduction

The purpose of this handbook is to provide you with information concerning federal and state family and medical leave provisions, specifically the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA) and Pregnancy Disability Leave (PDL). These statutes provide employees with reasonable job-protected and unpaid leave for medical reasons and specified family care. The intent of these laws is to afford employees the ability to balance the demands of the workplace with the needs of families.

Incorporated within this handbook is information regarding leave eligibility, entitlement, certification, benefits, rights and obligations, and general information regarding Alameda County's/Alameda County Fire Department's (ACFD) administration of these leaves.

This handbook is not intended to be the sole source of information due to the complexities of these leave provisions. Their inter-relationship and overlap with Alameda County's/ACFD leaves of absences, along with the integration of California's State Disability Insurance (SDI) and Paid Family Leave (PFL) insurance benefit programs, as well as, the voluntary short/long term disability insurance programs can be difficult to navigate.

It is the policy of Alameda County/ACFD to afford its employees the benefits provided by these federal and state leave provisions. The FMLA, CFRA and PDL are now known as Family and Medical Leaves (FML). Employees seeking a FML leave of absence should obtain a copy of the Family and Medical Leave Procedures and are strongly encouraged to consult with their Human Resources Office, FML Coordinator, Medical Leaves & Accommodation Services Technician/Case Manager, or the County's Medical Leaves & Accommodation Services before taking a FML leave of absence. Additionally, it is essential that employees taking a FML leave contact the County's Employee Benefits Center (EBC)/ACFD's Benefit Coordinator to receive important information regarding maintenance of group health benefit coverage and information on voluntary short/long term disability insurance programs.

Family and Medical Leave Act (FMLA)

The federal Family and Medical Leave Act requires employers to provide unpaid, job-protected leave, job restoration and continuation of group health insurance benefits in the event an employee or an employee's covered family member has a qualifying health condition or specific family need. The FMLA regulations also include two (2) military family leave provisions known as "Military Caregiver Leave" and "Qualifying Exigency Leave." These provisions are for leave to care for a family member who is a current servicemember (including covered veterans) with a serious injury or illness and leave to address any qualifying exigency due to a family member's (military member) covered active duty or call to covered active-duty status with the Armed Forces. Alameda County's/ACFD's applicable leaves of absence (paid or unpaid) will run concurrent with a FMLA leave of absence. Except in the case of a safety employee's Labor Code §4850 leave, FMLA leave does not run concurrently, but follows the completion of 4850 leave.

California Family Rights Act (CFRA)

The California legislature established the California Family Rights Act, which contains family care and medical leave provisions for California employees. Similar to the FMLA, the act was established to ensure secure leave rights, and provides eligible employees with unpaid, job-protected leave, job restoration and continuation of group health insurance benefits in the event an employee or covered family member has a qualifying medical condition or specific family need. The CFRA also includes "Qualifying Exigency Leave." This provision addresses any qualifying exigency due to a family member's (military member's) covered active duty or call to covered active-duty status with the Armed Forces. Unlike the FMLA, CFRA does not provide leave for disabilities or related medical conditions due solely to pregnancy or childbirth. Alameda County's/ACFD's applicable leaves of absence (paid or unpaid) will run concurrent with a CFRA leave of absence and, in most cases, CFRA and FMLA leaves will run concurrently. Except in the case of a safety employee's Labor Code §4850 leave, CFRA leave does not run concurrently, but follows the completion of 4850 leave.

Pregnancy Disability Leave (PDL)

California's Pregnancy Disability Act, contained within the Fair Employment and Housing Act, has a provision related to pregnancy disability leave. Pregnancy Disability Leave provides employees with unpaid, job-protected leave, job restoration and continuation of group health insurance benefits when disabled due to pregnancy, childbirth, or a related medical condition. Additionally, a PDL leave of absence will run concurrent with a FMLA leave (if eligible). Employees are entitled to take a PDL leave in addition to any leave

entitlement they may have under CFRA (e.g. child bonding leave if taken immediately following PDL leave) without re-qualifying. Alameda County's/ACFD's applicable leaves of absence (paid or unpaid) will run concurrent with a PDL leave of absence. Additionally, a PDL leave of absence will run concurrent with a FMLA leave (if eligible).

Reasonable Accommodation

Pursuant to the federal Americans with Disabilities Act (ADA) and California's Fair Employment and Housing Act (FEHA), an employee with a disability/medical condition (including temporary disabilities and/or short-term impairments if substantially limiting and thus disabling) may request a reasonable accommodation.

Reasonable Accommodation includes any reasonable adjustment/modification to the work environment, work schedule, job restructuring, specified period of unpaid leave, acquiring and/or modifying equipment, and/or providing assistive aids (i.e. reassignments, transfers, interpreters and/or readers, or similar actions). Applicable provisions must be followed for employees covered by a Memorandum of Understanding.

Additionally, California's Fair Employment and Housing and Pregnancy Disability Acts, allows employees to request a reasonable accommodation if affected by pregnancy/childbirth or a related medical condition, to transfer to a less strenuous or hazardous position or duties if medically advisable.

Note: Alameda County/Alameda County Fire Department employees' applicable leaves of absence are pursuant to the provisions provided in their respective County Memorandum of Understanding (MOU)/Administrative Code or ACFD MOU/Official Action Guide (OAG)/Handbook.

More information on the County's Reasonable Accommodation Policy and other medical leaves/FML related policies, procedures, forms and notices can be retrieved from the internet at <http://www.acgov.org/hrs/divisions/dp/> or by contacting your Agency/Department Human Resources Office/FML Coordinator, Medical Leaves & Accommodation Services Technician/Case Manager or the County's Medical Leaves & Accommodation Services located in the Human Resource Services Department.

SECTION 2

Eligibility/Qualifying Reasons/Leave Entitlement

Family and Medical Leave Act/California Family Rights Act

Eligible Employees

To be an “eligible employee” for a leave of absence under the FMLA/CFRA, you must:

- be employed as a full time, part-time, services as needed or intermittent employee with Alameda County;
- have worked at least 12 months for the County/ACFD; and,
- have worked at least 1,250 hours (work hours) during the 12-month period immediately preceding commencement of the leave.

Note: Work hours are defined by the Fair Labor Standards Act (FLSA). In some circumstances, eligibility requirements may be met if previous work for the County/ACFD was provided through a vendor. Also, employees are not required to re-qualify with 1,250 work hours for additional leave if the leave is for the same qualifying reason within the 12-month period or when leave is taken for child bonding immediately following pregnancy disability. (See example)

Example: If Jane qualified for a FMLA/PDL leave due to her pregnancy disability, she does not have to re-qualify with an additional 1,250 work hours to be eligible for leave under CFRA to bond with her newborn child immediately following her release from pregnancy disability.

Qualifying Reasons for a FMLA/CFRA Leave

Circumstances qualifying for leave under the FMLA/CFRA are anyone, or more, of the following reasons:

1. Your own serious health condition (including an on-the-job injury/illness) that makes you unable to perform the essential functions of your job;
2. To care for your child/dependent adult child, parent, or spouse with a serious health condition;
3. To care for your grandparent, grandchild, adult child, sibling, domestic partner or parent-in-law (CFRA Only) with a serious health condition;
4. To care for “designated person” (any individual related by blood or whose association with the employee is equivalent of a family relationship) (CFRA Only) with a serious health condition.

5. Your disability due to pregnancy, childbirth or a related medical condition (FMLA only);
6. To care for your newborn child, within one (1) year of the birth (also known as child bonding leave), or for the placement of a son or daughter for adoption or foster care, within one year of placement;
7. To address any qualifying exigency arising out of the fact that your spouse, domestic partner (CFRA Only), son, daughter, or parent, is a military member on covered active-duty or call to covered active-duty status with the Armed Forces;
8. To care for your spouse, son, daughter, parent, or next of kin who is a current servicemember (including covered veteran) with a serious injury or illness (Military Caregiver Leave FMLA only).

Amount of FMLA/CFRA Leave Entitlement

The amount of an employee's leave entitlement during any 12-month period is based on the number of work hours. The 12-month period is measured forward from the date the FMLA/CFRA leave begins.

For full-time employees: An eligible employee's leave entitlement is limited to a total of up to 12 workweeks of unpaid leave.

For part-time, Intermittent/Services as Needed employees: An eligible employee's leave entitlement is on a proportional basis. The amount of leave entitlement is based on the number of hours worked during the 12 months preceding commencement of the leave. Your Agency/Department Human Resources Office/FML or Disability Coordinator/ Medical Leaves & Accommodation Services Technician/Case Manager can calculate and determine your amount of leave entitlement.

For "Military Caregiver Leave" (FMLA only): An eligible employee's leave entitlement is limited to a total of up to 26 workweeks to care for a current servicemember/covered veteran with a serious injury or illness.

Note: If both mother and father work for the County/ACFD, each is eligible for up to 12 workweeks of unpaid leave for the birth of a child or to care for the child within one (1) year of birth (child bonding), or for the placement of a son or daughter for adoption or foster care within one (1) year of placement. Additionally, employees are only entitled to a combined total of up to 26 workweeks for all types of FMLA leaves (when combined with military caregiver leave) during a single 12-month period. (See examples)

Example 1: If Sam previously used 5 weeks of FMLA/CFRA for his own serious health condition, he would only be entitled to take up to an additional 21 weeks of FMLA (within the same 12-month period) to care for his family member who is a current servicemember/covered veteran.

Example 2: While Doris continues to be disabled and unable to work following the exhaustion of her FMLA/CFRA leave entitlement (12 workweeks), she may become eligible for another leave entitlement (12 workweeks) upon the beginning of a new 12-month period, as long as she meets the FMLA/CFRA eligibility requirements.

Pregnancy Disability Leave

Eligible Employees

There are no eligibility requirements for a leave of absence under California's Pregnancy Disability Leave (PDL).

Qualifying Reasons for a PDL Leave

You must be disabled due to pregnancy, childbirth or a related medical condition (including, but not limited to, recovery from pregnancy, childbirth, loss or end of pregnancy or post-partum depression). Receipt of acceptable medical certification/documentation is required to support a PDL leave of absence.

Amount of PDL Leave Entitlement

For full-time employees: An employee's leave entitlement is limited to up to a total of four months (17 1/3 weeks) per pregnancy.

For part-time, Intermittent/Services as Needed employees: An employee's leave entitlement is on a proportional basis. The amount of leave entitlement is determined based upon the number of hours worked during the four (4) months preceding commencement of the leave. Your Agency/Department Human Resources/Payroll Office/Payroll Coordinator (ACFD), FML or Disability Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager can calculate and determine your amount of leave entitlement.

Additional Leave/Entitlement

Employees are entitled to take a PDL leave in addition to any leave entitlement they may have under CFRA (if eligible) to bond with the child (within the first year of birth) if the leave is taken immediately following the PDL leave. If a CFRA (child bonding) leave is not taken immediately following the PDL leave, the employee must re-qualify (1250 work hours) before taking the CFRA leave.

Employees affected by pregnancy/childbirth or a related medical condition, are also eligible to transfer to a less strenuous or hazardous position or duties (e.g.

temporary modified work assignment/reasonable accommodation), if medically advisable.

Note: For more information on the County's Reasonable Accommodation Policy or other disability related Policies/Procedures, contact your Agency/Department Human Resources Office, FML or Disability Coordinator, Medical Leaves & Accommodation Services Case Manager, or the County's Medical Leaves & Accommodation Services located in the Human Resource Services Department.

SECTION 3

Leave Usage

In most cases, a FMLA/CFRA/PDL leave is usually taken for a period of consecutive days, weeks or months. However, there may be medical/special reasons that require leave to be taken periodically or on an intermittent basis.

Intermittent Leave and/or Reduced Work Schedule

Under some circumstances, employees may need to take a FMLA/CFRA/PDL leave intermittently or on a reduced work schedule. Intermittent leave is taking leave in separate periods of time for a single qualifying reason or on an as needed basis. A reduced work schedule can be taken by reducing your daily or weekly work hours. There must be a medical necessity (special circumstances under a qualifying exigency leave) for these types of leaves and such need for leave can be best accommodated through intermittent leave or reduced work schedule (e.g. temporary modified work assignment).

Note: For more information on the County's Temporary Modified Work Policy or other medical leaves related Policies/Procedures, contact your Agency/Department Human Resources Office, Workers' Compensation Liaison, FML Coordinator, Medical Leaves & Accommodation Services Technician/Case Manager, or the County's Medical Leaves & Accommodation Services in the Human Resource Services Department.

Leave for Medical Treatments and/or Appointments

When leave is needed for planned/scheduled medical treatments/appointments, **employees are required** to make a reasonable effort to schedule the treatments/appointments so as not to unduly disrupt the department operations.

Leave for Child Bonding/Placement for Adoption/Foster Care

Leave taken for purpose of child bonding, adoption or foster care placement of a child does not have to be taken in one continuous period of time. A leave taken for these reasons is covered under both the FMLA and CFRA (if eligible).

A leave taken for child bonding can begin when you are no longer disabled due to pregnancy, childbirth, or a related medical condition (in most cases). However, a CFRA leave may be requested upon the birth of the child under special circumstances (e.g. an employee's leave entitlement under PDL/FMLA has been exhausted prior to the child's birth). Remember, a CFRA leave does not run concurrent with a PDL leave. Employees who were eligible for a FMLA and PDL leave and who then want to take a CFRA leave to child bond **immediately after the PDL leave ends**, are not required to re-qualify (work another 1250 hours) to take a CFRA "child bonding" leave.

Minimum Duration for Child Bonding Leave

The basic minimum duration of child bonding leave, provided for under CFRA, shall be two (2) weeks. However, you may take a leave of less than two (2) weeks' duration on any two (2) occasions. Any additional requests for intermittent leave or a reduced work schedule for child bonding, adoption or foster care placement of a child is subject to approval by your Agency/ Department.

Note: In rare circumstances, where an employee has exhausted their PDL leave entitlement prior to the birth of the child, and when the employee's health care provider determines (based on medical documentation) that a continuation of the leave is medically necessary, an employee may, as a reasonable accommodation, request to utilize a CFRA leave (if eligible) prior to the birth of the child. Employees in this situation should refer to the County's Reasonable Accommodation Policy and Procedure and complete a Request for Reasonable Accommodation form or contact their Agency/Department Human Resources Office, FML Coordinator, Medical Leaves & Accommodation Services Case Manager, or the County's Medical Leaves & Accommodation Services to request a reasonable accommodation.

Returning From Leave

You must immediately notify your supervisor when you have been released to return to work by your health care provider (with/without work restrictions) and report to work as directed. If you have been released to work with work restrictions, your supervisor will need to evaluate your work restrictions and the availability of a temporary modified work assignment or possible reasonable accommodation. Employees who fail to return to work when released to full duty will be considered on an unauthorized leave of absence without pay (AWOL).

Reinstatement Following a Leave

Upon receipt of a release to return-to-work (if applicable), you will be restored to your regular/original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment upon returning from your approved FMLA/CFRA/PDL leave/leave entitlement. **Employees who do not return to work following their leave entitlement do not have these same rights/job protections.**

The use of a FMLA/CFRA/PDL leave will not result in the loss of any employment benefit that you earned or were entitled to before using a FMLA/CFRA/PDL leave. However, you have no greater right to restoration or to other benefits and conditions of employment than if you had been continuously employed.

Additionally, it is very important that employees contact the County's Employee Benefits Center (EBC)/ACFD's Benefits Coordinator upon returning from their FML leave to receive important information regarding their group health insurance and other benefits.

Transfer to an Alternate Position While on Intermittent Leave/Reduced Work Schedule

Your department may temporarily transfer you to an alternative position (for which you are qualified) during the period of your intermittent leave or reduced work schedule to better accommodate recurring periods of leave.

Temporary Modified Work Assignments

If your health provider/clinician releases you to return to work with temporary work restrictions/limitations and your Agency/Department is able to provide you with a temporary modified work assignment, the time spent performing "temporary modified work" does not count against your FML leave entitlement.

Temporary modified work assignments are limited and are based on your work restrictions and availability of modified work within your Agency/Department. Employees performing work duties in a temporary modified work assignment will continue to occupy their regular position.

If you are on industrial sick leave (Workers' Compensation) and choose not to accept an available temporary modified work assignment (based on work restrictions provided by your health care provider), you may lose your Workers' Compensation benefits. However, you may continue to remain off work utilizing your FMLA/CFRA leave entitlement, if eligible.

Note: For more information on the County's Temporary Modified Work Policy or other medical leaves related Policies/Procedures, contact your Agency/Department Human Resources Office, Workers' Compensation Liaison, FML Coordinator, Medical Leaves & Accommodation Services Technician/Case Manager, or the County's Medical Leaves & Accommodation Services located in the Human Resource Services Department.

SECTION 4

Required Certification

Depending on the nature/reason for your leave, you are required to submit a certification supporting the need for a FMLA/CFRA/PDL qualifying leave. Generally, there are three (3) types of certifications: an initial certification, a re-certification, and a return to work/fit for duty certification. Additionally, you are responsible for providing a timely, completed, and sufficient certification within 15 calendar days of receiving a **Notification of Leave** from your Agency/Department's Human Resources Office FML Coordinator/or Medical Leaves & Accommodation Services Technician/Case Manager.

A certification is considered insufficient if your Agency/Department FML Coordinator/or Medical Leaves & Accommodation Services Technician/Case Manager receives a complete certification, but the information provided is vague, ambiguous, or non-responsive. If the certification deficiencies specified by your Agency/ Department FML Coordinator or/Medical Leaves & Accommodation Services Technician/Case Manager are not cured timely, you may be denied the taking of leave.

Employee's/Family Member's - Serious Health Condition

You are required to provide a medical certification from your health care provider for your own serious health condition or from your family member's health care provider, as appropriate. Health care providers are prohibited from providing/disclosing genetic information. Additionally, health care providers are not to disclose the underlying diagnosis without your/your family member's consent. The health care provider should complete a **FML Certification of Health Care Provider (Employee/Family Member)**.

The medical certification shall include (where appropriate):

- that your/your family member's health condition meets the definition of a serious health condition, as defined under the FMLA/CFRA/PDL (e.g. inpatient care in a hospital, hospice or residential medical care facility, absence plus treatment, pregnancy, chronic condition, permanent/long care condition requiring a health care provider's continued supervision, multiple treatments for a non-chronic condition);

- the date on which your/your family member’s serious health condition commenced and duration of the medical condition;
- if you can perform work of any kind (work restrictions) and the estimated period of time necessary;
- the date you will be able to return to work and perform the essential functions of your job;
- if it is medically necessary (warranted) for you to provide care for your seriously ill family member and the type of care that will be provided
- is your/your family member’s medical condition due to pregnancy/childbirth or related condition;
- if it is medically necessary that you have intermittent (e.g. sporadic/irregular) leave for your/your family member’s episodic flare-ups/absences or a reduced work schedule; and the duration and frequency necessary;
- if it is medically necessary that you/your family member attend therapy/follow-up medical appointments, and the duration and frequency necessary.

Certification for Pregnancy Disability Leave (only)

Employees requesting a PDL leave only (ineligible for FMLA) are required to submit a timely, completed and acceptable medical document/certification from their health care provider to support their need for disability leave.

Certification Following Pregnancy Disability Leave

A CFRA leave usually begins once you are no longer disabled due to pregnancy, childbirth or a related medical condition. Employees should submit a medical document/release to return-to-work medical certification which certifies that they are no longer disabled due to pregnancy/childbirth/related medical condition (PDL/PDL and FMLA) to begin “child bonding” leave as provided for under CFRA (if eligible). Remember, you do not have to re-qualify for a CFRA (child bonding) leave if the leave is taken immediately after your PDL leave/leave entitlement ends.

Certification for a Military Family Leaves

Under the FMLA's military family leave provisions, you are required to provide a military family leave certification in the case of a leave taken to (1) care for your family member who is a current servicemember/covered veteran with a serious injury or illness or (2) to address any qualifying exigency arising out of the fact that your family member is a military member on covered active duty or was called to covered active-duty status with the Armed Forces. Employees requesting a military family leave must submit the applicable **Certification for Health Care Provider (Current Servicemember/Covered Veteran) (FML Form 3) or Certification for Qualifying Exigency (FML Form 4)**.

Recertification

Your Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager may request a certification up to once every 30 days: (1) if reasonable safety concerns exist; (2) upon expiration of the time period the health care provider originally estimated; (3) yearly (unless a lifetime condition exists); or (4) if additional leave is requested. Employees must always meet eligibility requirements.

Note: Under certain circumstances (FMLA recertification process) your Human Resources Office/FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager may also request a recertification every six months by providing your health care provider with a record of your absences/intermittent leave and inquiring if such absences are consistent with your serious health condition and your need for leave. Additionally, your health care provider may be asked to review a Description of Employee's Essential Job Functions (Form EF5) for your position to determine your ability to return to work and perform the essential job duties.

Authentication/Clarification of Certification

In order to authenticate a certification, your Human Resources Office/FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager may contact your health care provider directly. If the certification contains deficiencies or if clarification is needed to approve your FML leave, you will be given an opportunity to cure the deficiencies/obtain the necessary clarification in order to approve your leave. Under no circumstances will your direct supervisor contact your health care provider.

- Authentication: Your Human Resources Office/FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager provides your health care provider with a copy of the certification submitted and requests verification that the information contained in the certification was completed and/or authorized by the health care provider who signed the certification.

- *Clarification:* You are responsible for obtaining additional information from your health care provider to cure any deficiencies/omissions and/or obtain further clarification regarding the handwriting on the certification and/or the meaning of what is written necessary to approve your request for FML leave.

Note: Employees have an obligation to cooperate with the certification processes. Additionally, employees are responsible for providing clarification of the certification, if necessary, within seven calendar days. No additional medical information may be requested in the authentication/clarification processes.

Second/Third Medical Opinions

If your Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager has a good faith, objective reason to doubt the validity of a medical certification, you may be required to obtain a second opinion designated by the County/ACFD and at your Agency's/Department's expense. In order to render a sufficient and complete second opinion, you will be required to authorize a release of all relevant medical information requested by the second opinion health care provider.

If the opinion of your health care provider and the County's/ACFD's health care provider who rendered the second opinion differ, your Agency/Department/Medical Leaves & Accommodation Services may require you to obtain certification from a third health care provider (mutually agreed upon) at your Agency's/Department's expense. The third opinion shall be final and binding.

Your Agency/Department/Medical Leaves & Accommodation Services may deny your request for leave if you refuse to release relevant medical information requested by the second/third opinion health care provider. You may receive a copy of the second/third medical opinion upon request.

Release to Resume Work/Fit for Duty Certification

Upon the conclusion of your approved leave, you must provide a written medical document/certification which specifies the **date** in which you can resume work activities **prior** to your return to work.

Under certain circumstances (e.g., reasonable safety concerns) you may be notified that a fit for duty certification is necessary for your return to work from a FMLA/CFRA leave of absence. If a fit for duty certification is requested, you will be required to provide medical certification (e.g. Description of Employee's Essential Job Functions form) confirming your ability to return to work to perform the essential job functions (e.g., physical, environmental, social and psychological demands) of your position with or without a reasonable

accommodation. There may be a delay in your return to work until you provide this certification.

Note: For more information on the County's medical leaves and reasonable accommodation related Policies/Procedures, contact your Agency/Department Human Resources Office, Workers' Compensation Liaison, FML Coordinator, Medical Leaves & Accommodation Services Technician/Case Manager or the County's Medical Leaves & Accommodation Services located in the Human Resource Services Department. Information on the various FML forms and notices can be retrieved from www.acgov.org/hrs/divisions/dp.

SECTION 5

Integrating County Leaves of Absence

Alameda County Required Leaves of Absence

Employees are **required** to use their applicable County MOU/Administrative Code or ACFD MOU/OAG/Handbook paid/unpaid leaves during their FML leave of absence. Applicable County MOU/Administrative Code and ACFD MOU/OAG/Handbook leaves include, but are not limited to: sick leave, family sick leave, industrial sick leave (Workers' Compensation), personal disability leave and pregnancy/child bonding leave. Additionally, employees must exhaust their sick leave/family sick leave (if applicable) before other paid leave(s) can be utilized.

Except in the case of a safety employee's Labor Code §4850 leave, FMLA, CFRA and County MOU/Administrative Code or ACFD MOU/OAG/Handbook paid/unpaid leaves do not run concurrently but follow the completion of 4850 leave.

Alameda County Voluntary Leaves of Absence

There are advantages for employees to integrate their voluntary County MOU/Administrative Code/ACFD MOU/OAG/Handbook paid leaves of absence during a FML leave. Employees on "paid leave status" continue to accrue sick leave and vacation, earn Departmental/County seniority and seniority towards salary step increases. Voluntary paid leaves of absence include, but are not limited to: vacation leave, floating holidays, and compensating time off (if eligible).

IMPORTANT: Your voluntary paid leave balances will automatically be applied during your FML leave unless you provide written notification to limit the integration to your accrued sick leave/family sick leave only.

This written notification must be provided to your Payroll Clerk/Coordinator or FML Coordinator with a copy to your immediate supervisor. A leave without

pay status may affect your group health insurance benefits (e.g., employee bi-weekly contribution, following the exhaustion of your FMLA/CFRA/PDL entitlement).

Examples on how County/ACFD leaves of absences coordinate with FML leaves are located in Section 9 of this handbook. Employees should always refer to their County MOU/Administrative Code or ACFD MOU/Official Action Guide (OAG)/Handbook for information on various leaves of absence.

Catastrophic Sick Leave Program

If your leave of absence is due to a catastrophic illness or injury (a critical medical condition considered as terminal or a long-term major physical impairment or disability), you may be eligible to receive donations of paid leave. Contact the Alameda County's Employee Benefits Center at (510) 891-8991 or ACFD's Benefits Coordinator for more information regarding this program.

SECTION 6

Voluntary Insurance Benefit Programs

California's Insurance Benefit Programs, known as State Disability Insurance (SDI) and Paid Family Leave (PFL) are administered through California's Employment Development Department (EDD) and designed to provide eligible employees with partial wage replacement for a specified period of time for family and medical reasons allowing you to use your paid leave(s) on a pro-rated basis. These programs **are not job-protected leaves**, rather they are insurance programs that compensate (pay) you for various reasons when you are not working. These programs also allow you to use your County MOU/ Administrative Code or ACFD MOU/OAG/Handbook leave accruals at a reduced rate.

Should you elect to participate in these programs, all of your County MOU/ Administrative Code or ACFD MOU/OAG/Handbook paid leaves including sick leave/family sick leave, vacation leave, compensating time off, floating holidays (when eligible), **will be integrated with your SDI/PFL partial wage replacement benefit, unless you provide written notification to limit the integration to your accrued sick leave only.** This written notification must be provided to your Payroll Clerk/Coordinator, or FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager with a copy to your immediate supervisor. Additionally, a FMLA/CFRA leave **will run concurrently** (if eligible) with both SDI and PFL insurance benefit programs.

California's State Disability Insurance Program (SDI)

The State Disability Insurance program is designed to partially replace wages lost because of your disability/medical condition that was not caused by your work. Your specific benefit amount is computed from the highest wages you received in a quarter during a 12-month base period, and which is determined by the date your claim begins. The date you start your claim may affect your benefit amount, your maximum amount payable and the period of your benefit eligibility. SDI requires a seven (7) day unpaid waiting period and the maximum length of time you can receive SDI benefits is 52 weeks, or for the amount of wages in your base period, whichever is less.

California's Paid Family Leave Program (PFL)

The Paid Family Leave program is also an insurance program designed to partially replace your wages (approximately 60 - 70% of your wages, depending on income) when a leave of absence is needed for military exigency leave or to provide care for your ill family members or to bond with a newborn/minor child

up to eight weeks of benefits in a 12-month period. Family members include: your parent, child, spouse/domestic partner, grandparent, grandchild, sibling or parent-in-law. PFL was also expanded to include Military Assistance benefits which are available to eligible employees who need time off work to participate in a qualifying event because of military deployment of their spouse, domestic partner, parent, or child to a foreign country. There is no waiting period for PFL, therefore, benefits begin with the first day off work.

Note: Although PFL leave can now be taken to care for additional family members (i.e., grandparents, grandchild, sibling, or parent-in-law), these “family members” do not meet the definition of the FMLA’s description of “family members” and therefore a leave to care for these individuals is not a covered under FMLA. However, under CFRA the definition of “family member” does include grandparents, grandchild, sibling, parent-in-law (effective 1/1/2022), and therefore a leave to care for these individuals would be covered under CFRA.

SDI and PFL Notifications

The EDD Office notifies the County’s Auditor/Controller’s Office or ACFD’s Payroll Coordinator when an employee has filed for a SDI/PFL partial wage replacement benefit. The ACFD’s Payroll Coordinator notices the employee and the Auditor/Controller’s Office notices the employee and his/her payroll office acknowledging receipt of the SDI/PFL claim filed (including the effective date(s) of the claim) and includes information/instruction on Alameda County’s/ACFD’s integration of benefits while on SDI/PFL.

Occasionally, the information an employee provides to his/her Payroll Office/Coordinator, FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager may be different than the information received by the Auditor’s Office/Payroll Coordinator from the EDD.

Example: Sharon provides her department with a medical document that states she is disabled due to pregnancy/childbirth until 8/1/20. However, the EDD has informed the Auditor’s Office/Payroll Coordinator that Sharon received her final SDI benefit check (due to pregnancy/childbirth disability) on 7/24/20 and was approved to begin receiving her PFL (child bonding) wage replacement benefits on 7/25/20.

When discrepancies occur, your Human Resources, Payroll Clerk/Coordinator, FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager will need your assistance to resolve/rectify the inconsistency to ensure that your leave time is accurately reported and coded (paid correctly) and that you receive the correct benefits that you are entitled to receive.

Note: For information on SDI/PFL programs, contact your Agency/Department Human Resources Office, Payroll Office/Coordinator, FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager or California’s Employment Development Department at www.edd.ca.gov or 1-800-480-3287.

Voluntary Disability Insurance Programs

If you are enrolled in a voluntary short term (STD) and/or long term (LTD) disability insurance program(s), you may wish to utilize these benefits while on a disability leave. Contact your insurance carrier, ACFD's Benefits Coordinator or the County's Employee Benefits Center at (510) 891-8991. For your Evidence of Coverage, go to <http://alcoweb/hrs/ebc/benefits/evidence.htm>.

SECTION 7

Maintaining Your Group Health Insurance Benefits

Maintaining Health Insurance Coverage While on Leave

It is critical that you understand the requirements for maintaining your group health insurance while you are on an approved FML leave, or, if you allow your benefits to lapse while you are on leave, the requirements for restoring your group health insurance benefits upon the day you return to work.

You must satisfy specific requirements in order for the County/ACFD to maintain your group health insurance coverage **under the same terms and conditions as if you had not taken a FML leave**. Failure to satisfy these specific requirements will result in the loss of your group health insurance coverage while on FML leave.

- If you are normally required to contribute (employee contributions/premium payments) towards your group health insurance premium while working, you are **required to continue making your employee contributions while on FML leave**. Additionally, and granted you return to work at the end of your approved FML leave/leave entitlement, your group health insurance coverage will remain in effect.
- Should you allow your group health insurance coverage to **lapse** while on FML leave by failing to make your employee contributions **and** you return to work immediately following the end of your FML leave and leave entitlement, the County/ACFD will restore your group health insurance coverage effective the day you return to work. (See Re-storing/Re-enrolling for Group Health Insurance Coverage Upon Return from Leave)
- If you have allowed your group health insurance coverage to **lapse** and you **do not** return to work immediately following the end of your FML leave and leave entitlement, and you are in an **unpaid leave status** (e.g. leave without pay), your group health insurance coverage **will not be restored upon the day you return to work**. However, you may re-enroll for group health insurance coverage during the next open enrollment period. (See Re-storing/Re-enrolling for Group Health Insurance Coverage)

Note: Any paid leave (e.g. vacation, floating holiday) taken after your FML leave and leave entitlement exhausts requires prior approval from your Agency/Department.

Re-storing/Re-enrolling in Group Health Insurance Coverage Upon Return from Leave

If you fail to make your group health insurance employee contributions while on FML leave, upon your return to work, you must **contact the County's Employee Benefits Center (EBC)/ACFD Benefits Coordinator and complete and submit the re-enrollment documents within 30 days of your return to work.**

Following the submission of your completed re-enrollment documents, and provided that you:

- Returned to work at the end of your approved FML leave and prior to the exhaustion of your leave entitlement, your group health insurance coverage will be restored effective the day you return to work.
- Returned to work after your approved FML leave ended and exhausted your leave entitlement, your group health insurance coverage will be in effect within one to two months from the date on which you returned to work.

Failure to complete and submit the re-enrollment documents within 30 days of your return to work will delay your ability to re-store/re-enroll in a group health insurance plan until the next open enrollment period.

You may contact the EBC/ACFD Benefits Coordinator for assistance in determining the exact effective date of your group health insurance coverage.

Note: If you are ineligible for a FML covered leave, you must continue to make your employee contributions towards your group health insurance premium while on paid leave. If you are on unpaid leave, you will be responsible for the entire cost of your group health insurance premium. Failure to make your employee contributions and/or premium payments will result in your loss of group health insurance coverage.

Important Note: It is essential that employees contact the County's Employee Benefits Center/ACFD Benefits Coordinator to discuss the process for maintaining their group health insurance coverage while on leave and/or making arrangements to continue their employee contributions premium payments to ensure their group health insurance coverage/benefits are maintained.

The EBC/ACFD Benefits Coordinator will mail a Benefit Billing Statement/notification letter to your home, advising you of any premium costs for which you are responsible prior to the date on which your group health insurance coverage will lapse. Failure to make timely employee contributions/premium payments will result in your group health insurance coverage being retroactively cancelled while you are on leave. Additionally, the County/ACFD will recover its costs of maintaining an employee's group health insurance coverage paid during the period of any unpaid approved leave if an employee fails to return to work with Alameda County/ACFD. For more information regarding the maintenance of group health insurance coverage and/or employee contributions, contact the EBC at (510) 891-8991 or your ACFD Benefits Coordinator.

SECTION 8

Employee and Employer Obligations

Employee Rights and Responsibilities

Providing Notice/Requesting Leave

You must **promptly** inform your supervisor of your need for a FMLA/CFRA/PDL leave and the duration of such leave, if known. You may do this by requesting a FML leave specifically and completing an **Employee's Request for FML Leave** or by providing sufficient information which allows your Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager to determine that your absence may be due to a FML qualifying reason.

Note: Employees have an obligation to respond to their Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager's questions designed to determine whether the requested leave is for a qualified reason under the FMLA/CFRA and/or PDL. An Agency/ Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager may deny a FML leave if it is unable to make this determination because of an employee's failure to respond to the appropriate questions.

Foreseeable Leave

Employees are responsible for providing a 30-day advance notice to their supervisor before the FML leave is to begin if the need for the leave is foreseeable (e.g., expected birth, child bonding, placement for adoption/foster care, planned medical treatment/appointment) and such notice is practicable. Failure to provide a 30-day notice for foreseeable leave may result in the FML leave being delayed or denied.

Un-foreseeable Leave

If your leave is unforeseeable, you are responsible for providing notice to your supervisor **as soon as practicable** (same day or next business day) when 30-day's notice is not foreseeable.

Related Absences Following Your Return from Leave

Should you have **any** subsequent absences/appointments due to the same FML qualifying reason/medical condition following your return from FML leave, you **must follow your Agency/Department "call in/leave of absence"**

procedure and specifically advise your supervisor that the reason for your absence/appointment is due to your FML qualifying condition.

Simply calling in “sick” or stating you have a “medical appointment” without referencing that your absence/appointment is related to the same FML qualifying reason/condition will not be sufficient notice for approving a FML leave. Vacation/other paid leaves may be used after sick leave/family sick leave (if applicable) is exhausted as long as medical documentation is received and states that the absence is related to your/your family member’s FML serious health condition.

Example: Jenny’s time off work for 3 weeks in March was designated as a FMLA/CFRA leave. In July, Jenny was absent for 2 days and 5 additional days in August. Jenny advised her supervisor on both occasions that her inability to work was due to the same qualifying reason (medical condition) for which she was previously approved. As such, these 7 days were approved as a FML leave and counted against Jenny’s 12-week FMLA/CFRA leave entitlement.

Reporting FML Leave Time

The County/ACFD has specific time reporting codes (TRC) related to FML leaves of absence. The appropriate TRC for your specific FML leave of absence can be provided by your Payroll Clerk/Alcolink HRMS (Time and Labor) or ACFD Tele Staff/Payroll or FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager. Be sure you discuss your leave of absence and how your leave should be coded with your supervisor. **IMPORTANT: Any incorrect coding of your timesheet(s) while on a FML leave can result in the cancellation of your group health insurance premiums and cause undue financial hardship (out-of-pocket expenses) for you.**

Note: If applicable, employees may want to consider completing their timesheet(s) prior to the commencement of their leave. HRMS Self Service Time Entry users (if applicable) are limited to completing time entry up to two (2) pay periods in advance.

Employer Rights and Responsibilities

Eligibility Notification, Designation of Leave and Leave Status

The County/ACFD is required to provide its employees with notice and information about Family and Medical leaves upon hire. Additionally, the FMLA, CFRA and PDL posters are displayed in designated areas within each Agency/Department.

Employees requesting an FML leave are entitled to receive written notice of:

- Your eligibility for leave within five (5) business days of receipt of your request for leave or knowledge that your absence may be for a qualifying

reason; and, if not eligible, a reason as to why you are not eligible (e.g., required work hours not met)

- The certification/documentation required to designate/approve the leave.
- Your rights and responsibilities in connection with your leave, including important information on maintaining and restoring your group health insurance benefits.
- Your leave status (e.g., approval, denial) within 5 business days of receipt of a completed certification/documentation; and, if not approved, a reason for the delay or denial (e.g., certification deficiencies).

Note: A certification can be deemed incomplete or insufficient if the information is vague, ambiguous, or non-responsive. Deficiencies not cured within the specified period of time allowed may result in the denial of the leave. (See Required Certification, page 11)

Retroactive Designation of Leave

An absence may be retroactively designated as a FML leave when your Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager has enough information that your absence/leave is or was due to a qualifying FML reason/medical condition. If applicable and with appropriate written notice to you, your absence/leave will be retroactively designated and counted against your FMLA/CFRA/PDL leave entitlement.

Example: While Mary is on vacation, she advises her supervisor that she has been hospitalized since the first day of her vacation. Following proper written notification (**FML Notification of Leave**) and receipt of a complete and sufficient certification, Mary's Agency/Department may retroactively designate her absence as a FML leave.

Fraudulently Obtained Leave

An employee who fraudulently obtains or uses FML leave is not protected by its job restoration or maintenance of health benefits provisions and may be FML subject to disciplinary action, up to and including termination.

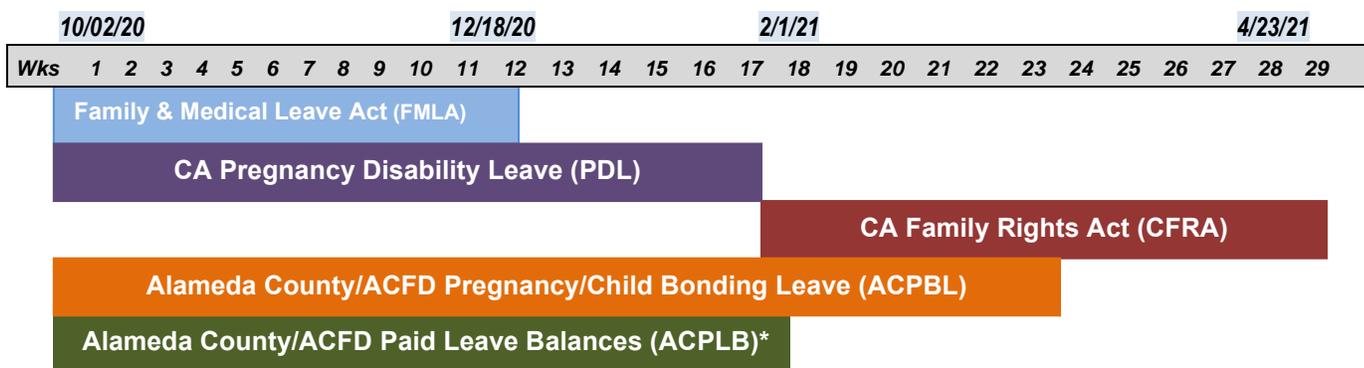
SECTION 9

Illustrations on the Coordination of “Concurrent/ Applicable” Leaves of Absence

Below are some examples on the coordination of leaves and how Alameda County’s/ ACFD’s leaves of absence run concurrently (at the same time) and/or overlap with federal and state family and medical leave provisions.

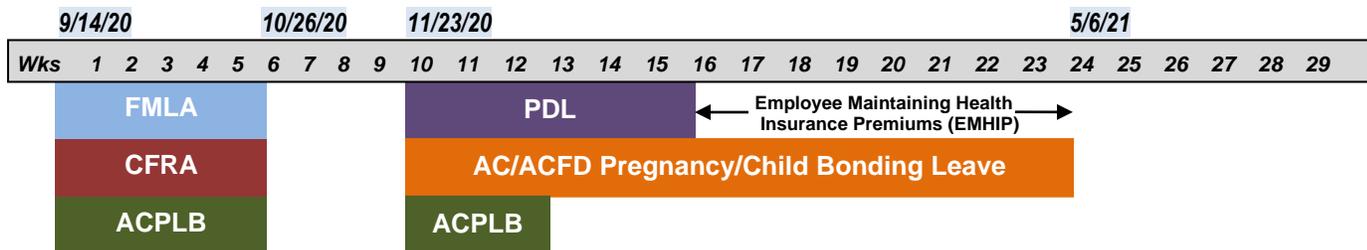
Important note: California’s Labor Code §4850 leave benefit (safety employees) will not run concurrent with a FMLA/CFRA leave. A FMLA/CFRA leave will run following (consecutively) the exhaustion of an employee’s 4850 leave benefit (if eligible).

Example 1: Jenny becomes disabled and unable to work due to her difficult pregnancy on 10/02/20. Jenny’s baby was born on 12/18/20 and she was released from medical care on 2/1/21. Jenny returned to work on 4/23/21. Note: Jenny’s group health insurance coverage was maintained during her absence from work because she continued to make her employee contributions towards her health insurance premiums during her leave.

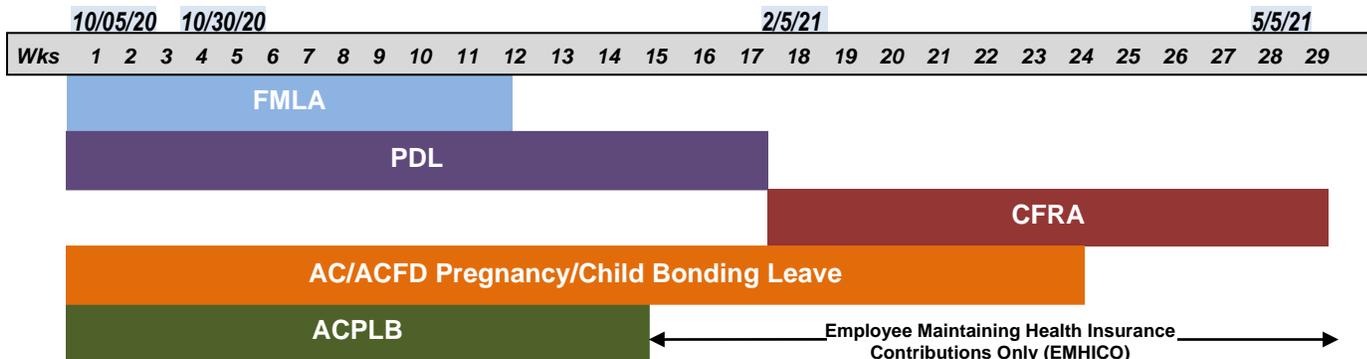


Note: Employees may be entitled to take up to 29 1/3 weeks (approx. 7 months) of leave when experiencing a difficult pregnancy, and combining PDL immediately followed by CFRA (child bonding) leave. Alameda County/ACFD Paid Leave Balances (ACPLB) include sick leave, family sick leave, industrial sick leave, etc.

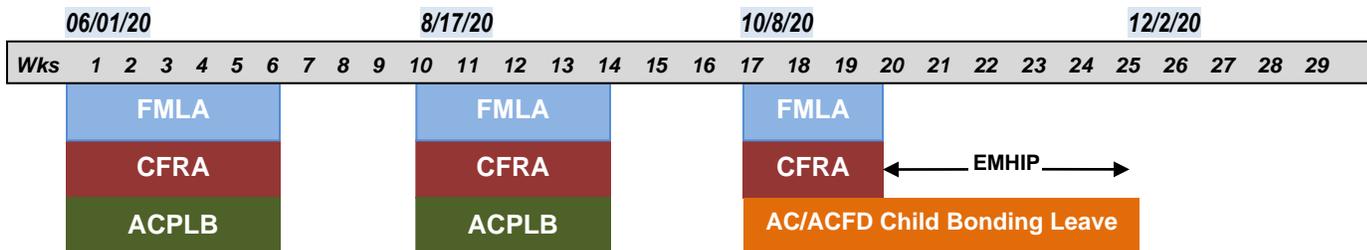
Example 2: Carol became disabled (not related to pregnancy) on 9/14/20 and returned to work on 10/26/20. Carol’s baby was born on 11/23/20. Carol returned to work on 5/6/21. Note: Carol was responsible for maintaining her entire group health insurance premiums during the period she was no longer eligible for PDL leave and she was in a leave without pay status (exhausted her County paid leaves balances). Note: Prior to 9/14/20, Carol used 6 weeks of FMLA/CFRA to care for her mother.



Example 3: Paula became disabled due to her pregnancy on 10/05/20. Paula’s baby was born on 10/30/20. Paula returned to work on 5/5/21. Note: Paula was responsible for maintaining her employee contributions towards her group health insurance premiums (during the period she was on leave without pay (exhausted all of her paid leave balances).

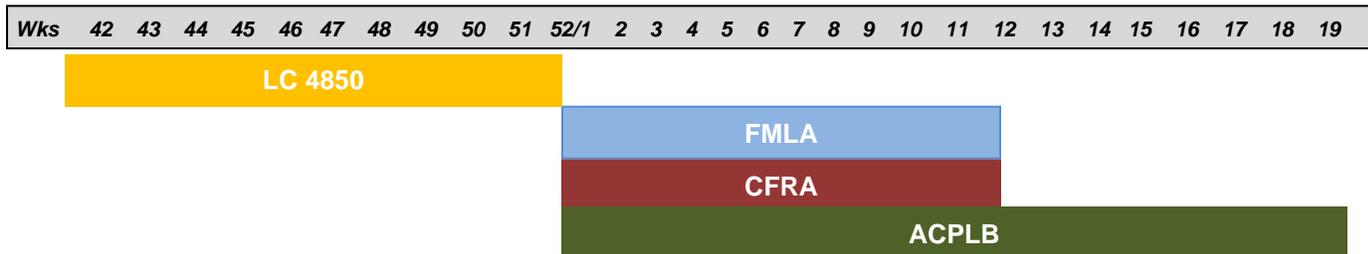


Example 4: Ken was unable to work due to his serious health condition as a result of his on-the-job injury from 6/01/20 – 7/20/20 (6 weeks). Ken was off work caring for his child with a serious health condition from 8/17/20 – 9/14/20 (4 weeks). Ken took time off work to bond with his newborn son from 10/8/20 – 12/2/20 (9 weeks). Note: Ken was responsible for maintaining his entire group health insurance premiums during the period he was no longer eligible for FMLA/CFRA leave and he had exhausted his County paid leave balances (leave without pay status).



Note: Employees who are (1) ineligible for FML leave or (2) remain absent following the exhaustion of their FML leave entitlement, and in an unpaid leave status, will be responsible for maintaining their employee contributions towards their group health insurance premiums (as if working) or their entire group health insurance premiums (see examples which include EMHIP). Additionally, sick leave/family sick leave is not permitted during Child Bonding leave unless otherwise eligible for sick leave/family sick leave (e.g., employee/family member is ill) pursuant to your Alameda County MOU/Administrate Code or ACFD MOU/OAG/Handbook leave provisions.

Example 5: Roger (safety employee) was hurt on-the-job and unable to work for over a year. Roger received and exhausted his LC \$4850 leave benefit. Roger was eligible to take a FMLA and CFRA leave following his 4850 leave benefit.



SECTION 10

Frequently Asked Questions (FAQs)

1. Am I eligible to take a FMLA/CFRA and/or a PDL leave?

A: **FMLA/CFRA Leave:** You are eligible to take a FMLA/CFRA unpaid leave if you have worked for Alameda County/ACFD for at least 12 months in the past seven (7) years and have worked at least 1,250 hours during the 12-month period prior to the commencement of the leave.

Note: Work hours are defined by the Fair Labor Standards Act (FLSA). Paid County/ACFD leaves (e.g., sick leave, vacation, floating holiday) and unpaid leaves (e.g., Personal Disability Leave), including FMLA/CFRA/PDL leave, are not included.

PDL Leave: You are eligible to take a PDL unpaid leave if you are disabled due to pregnancy, childbirth or a related medical condition. No additional eligibility/qualifications are required.

2. Can I choose not to exhaust my own applicable County/ACFD paid leave(s)/unpaid leave(s) prior to the beginning, during or following the ending of my FMLA/CFRA or PDL leave?

A: Yes and No. You **must exhaust** your “applicable” MOU/Administrative Code/OAG or Handbook paid leaves (e.g., sick leave, family sick leave, industrial sick leave) and any “applicable” unpaid leaves (e.g., personal disability leave, pregnancy & child bonding leave) while you are off work/on leave. Additionally, your applicable MOU/Administrative Code or ACFD MOU/OAG/Handbook leaves will run concurrent with your FMLA/CFRA/PDL leave and while you are collecting SDI/PFL benefits.

Upon receipt of your written notice, you **can** choose to limit the integration/use of your paid leaves to accrued sick leave/family sick leave/industrial sick leave only while on a FML leave. Without your written notice your optional paid leaves (e.g., vacation time, floating holidays and compensatory time), when eligible, will be automatically applied/integrated.

3. Is the County/ACFD obligated to designate my leave as a FMLA/CFRA/PDL leave if I have a qualifying condition?

A: Yes. It is the employer’s responsibility to designate leave as FMLA, CFRA and PDL, based on eligibility and information provided by the employee. If the

reason for your absence is due to a FMLA/CFRA and/or PDL qualifying condition/reason, your Agency/Department FML Coordinator or Medical Leaves & Accommodation Services Technician/Case Manager will properly notify you of your eligibility and designate your absence as a FMLA/CFRA or PDL leave with acceptable certification/medical documentation. Failure to cooperate with the certification process may result in a leave without pay status. Under certain circumstances, your Agency/Department, FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager may designate your absence as a FMLA/CFRA/PDL leave upon knowledge (e.g., hospitalization).

4. How much leave am I entitled to under the FMLA, CFRA or PDL?

A: **For FMLA/CFRA Leave:** Eligible employees are entitled to up to 12 workweeks of leave for certain qualifying family and medical reasons during a 12-month period. Leave may also be used for different and separate medical conditions. However, an employee may not be granted more than 12 workweeks of FMLA/CFRA leave in one 12-month period (except when leave is for caring for a current servicemember/covered veteran).

For PDL Leave: Employees disabled by pregnancy, childbirth or a related medical condition are entitled to up to 17 1/3 weeks (four months) of leave per pregnancy.

Leave exceptions/examples:

- **Eligible employees can receive up to a total of 26 weeks of FMLA leave** when approved for leave to care for a seriously ill current servicemember/covered veteran (as provided under the FMLA's Military Caregiver Leave).
- **Eligible employees can receive up to a total of 29 1/3 weeks of leave** when approved for a PDL leave (due to a difficult pregnancy/childbirth/related condition) and a CFRA leave for child bonding (if child bonding leave immediately follows the PDL leave).
- **Eligible employees can receive up to a total of 26 weeks of leave** when approved for leave to care for a seriously ill domestic partner (as provided under CFRA only) and another leave is needed to care for a seriously ill child who is a current servicemember/covered veteran (as provided under the FMLA's Military Caregiver Leave).
- **Eligible employees can receive up to a total of 24 weeks of leave** when approved for a CFRA leave to care for a seriously ill domestic partner (as provided under the CFRA only) and another leave is needed to care for a seriously ill parent (as provided under the FMLA).

5. What is the County's/ACFD's method for determining the 12-month period in which I can take my leave entitlement under FMLA/CFRA?

A: Alameda County/ACFD uses the 12-month period measured forward from the date you first use a FMLA/CFRA leave (e.g., 4/1/2020 through 3/31/2021).

6. How does a FMLA/CFRA/PDL leave benefit me?

A: The following benefits will apply if you are approved for a FMLA/CFRA and/or PDL:

- An unpaid, job-protected leave of absence, maintenance of health insurance coverage **(as if you were working)** and job restoration upon your return from leave. Additionally, there will be no loss in seniority whether on paid/unpaid FML leave.

7. How can I ensure that my group health insurance coverage is maintained while I am on a FML leave? What will happen if I fail to make my normal employee contributions/premium payments towards my group health insurance premiums while on a FMLA/CFRA/PDL leave?

A: The County's/ACFD's obligation under the FMLA/CFRA/PDL leave provisions is to maintain your group health insurance coverage **as if you were working**. While you are on a FML approved leave you must continue to make your employee contributions towards your group health insurance for which you are normally responsible. Failure to make your employee contributions will result in your loss of group health insurance coverage while on FML leave and your coverage will be retroactively cancelled.

If you allow your group health insurance coverage to lapse while on FML leave by failing to make your employee contribution **and** you return to work immediately following the end of your FML leave and leave entitlement, the County/ACFD will restore your group health insurance coverage effective the day you return to work. However, you must contact the EBC/ACFD's Benefits Coordinator and complete and submit the re-enrollment documents to the EBC within 30 days of your return to work. The County/ACFD will deduct (make re-payment arrangements) any applicable employee contribution paid on your behalf from your future pay checks.

Failure to complete and submit the re-enrollment documents within 30 days of your return to work will delay your ability to re-enroll in a group health insurance plan until the next open enrollment period. (See Section 7)

8. Does my industrial sick leave (workers' compensation supplement) or my Labor Code §4850 leave benefit run concurrent with my FMLA/CFRA leave and count against my FMLA/CFRA leave entitlement?

A: Yes and No. The County's/ACFD's Industrial sick leave will run concurrently with your FMLA/CFRA leave and be counted against your FMLA/CFRA leave entitlement, provided that the reason for your absence is due to a serious illness or injury.

Except in the case of a safety employee's Labor Code §4850 leave, FMLA, CFRA and County MOU/Administrative Code or ACFD MOU/OAG/Handbook paid/unpaid leaves do not run concurrently but follow the completion of 4850 leave. The FMLA/CFRA leave will be counted against the safety employee's FMLA/CFRA leave entitlement.

9. When can I as a father take leave to bond with my newborn child?

A: Fathers have the same right to take FMLA/CFRA (if eligible) leave to *bond* with their newborn/foster/adopted child. Child bonding leave (up to 12 weeks) must be taken within one year of the birth or placement.

10. Can the County/ACFD count my leave taken due to pregnancy disability (PDL) against my 12 workweeks of FMLA entitlement?

A: Yes. If you are eligible for a FMLA leave and are disabled due to pregnancy, childbirth or related medical condition, your PDL leave will run concurrently with your FMLA leave and your leave will be subtracted from your 12 workweeks of FMLA leave entitlement. A disability due to pregnancy, childbirth/related medical condition is not cover under CFRA.

11. Can I use a FMLA leave following the birth of my child? How is CFRA applied when I am no longer on a PDL leave?

A: Yes. You will use both a FMLA leave (if eligible) and a PDL leave during the period of time you are disabled due to pregnancy/childbirth/related medical condition. The duration of this period of time is usually 6-8 weeks post-partum provided you have a normal pregnancy/delivery. Your FMLA leave will continue on through your child bonding leave until exhausted (12 weeks) or you return to work. A PDL leave cannot be used for child bonding leave.

When your health care provider releases you to return to work (no longer disabled due to pregnancy/childbirth), a CFRA leave may be taken for child bonding **if the leave is taken immediately following your PDL leave.** Your FMLA leave (if still available) will continue on and run concurrent with a CFRA

leave for child bonding. Child bonding leave is provided under both the FMLA and CFRA and can be taken within one (1) year of the child's birth.

Additionally, FMLA and CFRA leave (if eligible) can be taken to care for your **spouse** who is disabled due to pregnancy/childbirth/related medical condition. Leave to care for your **domestic partner** who is disabled due to pregnancy/childbirth/related medical condition (serious health condition) is provided under CFRA leave only.

12. Can I take FMLA/CFRA leave for reasons related to domestic violence issues?

A: Yes. An eligible employee may take a FMLA/CFRA leave to address certain health-related issues resulting from domestic violence. An eligible employee may take a FMLA/CFRA leave because of his or her own serious health condition or to care for a qualifying family member with a serious health condition that resulted from domestic violence. For example, an eligible employee may be able to take a FMLA leave if he or she is hospitalized overnight or is receiving certain treatment for post-traumatic stress disorder that resulted from domestic violence.

13. If my Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager fails to tell me that my absence is a qualifying family and medical leave, can they count the time I have already been off work against the 12 workweeks of FMLA/CFRA and/or my 17 1/3 weeks of PDL retroactively?

A: Yes, in some situations. If your Agency/Department was unaware that the reason for your absence was a FMLA/CFRA/PDL qualifying reason and/or subsequently acquires information from you (such as when you request additional or extensions of absence); your absence may be retroactively designated as a FMLA/CFRA or PDL leave. This can occur while you are on leave, or upon knowledge that the reason for the absence was a FMLA/CFRA/PDL condition/reason and with proper notification.

Example: You notify your Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager of your need for leave (foreseeable) due to the upcoming birth of your child. Your Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager can retroactively designate any previous absences taken for prenatal care, related medical appointments and/or absences due to morning sickness as FMLA/PDL leave.



14. Are my periodic/episodic flare-ups, related medical appointments and/or visits to a health care provider/therapist, considered as FMLA/CFRA/PDL leave?

A: Yes. The FMLA/CFRA/PDL permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for medical appointments, therapy treatments such as those ordered by a health care provider for physical therapy after a hospital stay or for treatment of your medical condition.

15. Am I required to follow my Agency's/Department's normal call-in procedures when taking FML leave?

A: Yes. Under the regulations, an employee must comply with an employer's call-in procedures unless unusual circumstances prevent the employee from doing so (in which case the employee must provide notice as soon as he or she can practicably do so). The regulations make clear that, if the employee fails to provide timely notice, he or she may have the FML leave request delayed or denied and may be subject to whatever discipline the employer's rules provide.

Example: Sam has a medical certification on file with his Human Resources Office/FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager for his chronic serious health condition, asthma. He is unable to report to work at the start of his shift due to an asthma episode and needs to take unforeseeable FML leave. He follows his department's absence call-in procedure to timely notify his supervisor about his need for leave. Sam has provided his employer with appropriate notice.

16. How much notice do I have to provide before taking FMLA/CFRA/PDL leave?

A: When the need for leave is foreseeable (e.g., based on an expected birth, placement for adoption or foster care, planned medical treatments/appointments), you **must give at least 30-days' notice**. If a 30-day notice is not possible, you are required to provide notice **"as soon as practicable."** This also applies to employees seeking a leave due to a qualifying exigency (military family leave), regardless of how far in advance such leave is foreseeable.

17. If I am released to return to work on a reduced work schedule or shortened workday (e.g., 4 hours per day), can the remainder of my normal workday be considered as an FMLA/CFRA/PDL leave?

A: Yes, provided the reason for the reduced work schedule/shortened workday is due to a serious health condition/disability due to pregnancy or another qualifying FMLA/CFRA/PDL condition.

Note: Employees may be entitled to a temporary modified work assignment if temporary work restrictions exist. Additionally, a reasonable accommodation analysis may be necessary if an employee’s temporary disability and/or short-term impairment is of short duration (i.e., less than six months) and “substantially limiting.”

Employees who fall within these categories should refer to the County’s Reasonable Accommodation and/or Temporary Modified Work Policies and Procedures. For more information on the County’s medical leaves & reasonable accommodation related policies/ procedures, contact your Agency/Department Human Resources Office, Workers’ Compensation Liaison/FML Coordinator, Medical Leaves & Accommodation Services Technician/Case Manager or the County’s Medical Leaves & Accommodation Services located in the Human Resource Services Department.

18. What happens if my Agency/Department FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager says my medical certification is incomplete or insufficient?

A: You will receive written notification and be allowed a reasonable opportunity (seven calendar days unless seven days is not practicable) to correct the deficiency. A certification is considered incomplete if one or more of the applicable entries have not been completed or the information provided is vague, ambiguous, or non-responsive. If the deficiencies specified by your FML Coordinator/Medical Leaves & Accommodation Services Technician/Case Manager are not cured in the resubmitted certification, your Agency/Department may deny the taking of leave.

19. Can my Agency/Department/Medical Leaves & Accommodation Services contact the health care provider about my serious health condition or my family member’s serious health condition?

A: Yes. The health care provider can be contacted for **authentication** of the medical certification by a human resource professional (FML Coordinator or Personnel Officer) or the Medical Leaves & Accommodation Services under certain circumstances. Under no circumstances will your direct supervisor contact the health care provider.

Employees are responsible for obtaining the required certification/information to **cure any certification deficiencies**. Should your Agency/Department wish to obtain another medical opinion, you may be required to obtain additional medical certification at the County’s/ACFD’s expense, or recertification (as allowed) during a period of FMLA/CFRA leave.

Note: The FMLA/CFRA allows limited access to health care providers.

20. Can my employer make me get a second opinion?

A: Yes. An employer may require a second or third medical opinion (at the County’s/ACFD’s expense) if there is a good faith, objective reason to doubt the validity of the medical certification.

21. Who is considered a military member under the FMLA’s/CFRA’s Qualifying Exigency leave? What is a FMLA/CFRA “Qualifying Exigency” leave?

A: A “military member” is your spouse, domestic partner (CFRA Only), son, daughter, or parent who is on covered active duty or call to covered active-duty status in the Armed Forces. (See Section 13, Definitions/Key Terms)

“Qualifying Exigency” is a leave taken for various reasons while your military (family) member is on covered active duty or call to covered active-duty status. The FMLA regulations include a broad list of activities that are considered qualifying exigencies which permit FMLA eligible employees to take leave to address common issues that arise when a military member is deployed, such as attending military-sponsored functions, making appropriate financial and legal arrangements, spending time with the military member during his/her rest and recuperation leave, certain activities related to the care of the military member’s parents and/or arranging for alternative childcare.

22. Are the 12 workweeks of FMLA/CFRA qualifying exigency leave a one-time entitlement?

A: No. If a military member’s covered active duty or call to covered active-duty status with the Armed Forces spans more than one FMLA leave year, an eligible employee would be entitled to take a Qualifying Exigency leave in each FMLA leave year. Moreover, an eligible employee could take Qualifying Exigency leave in a subsequent FMLA leave year for a different military member. Finally, if the same military member returns from deployment and is subsequently redeployed, an eligible employee would again be entitled to a Qualifying Exigency leave.

23. What is a “Military Caregiver Leave”? Who is eligible to take a FMLA Military Caregiver Leave?

A: “Military Caregiver Leave” is a leave taken to care for a current servicemember/covered veteran with a serious injury or illness. If you are the spouse, son, daughter, parent, or next of kin of the servicemember/veteran, you may take up to 26 workweeks of job-protected FMLA leave (in a single 12-month period) to provide care to the servicemember/veteran with a completed health care provider certification. (See Section 13, Definitions/Key Terms)

24. May I take a FMLA leave to care for a current servicemember/covered veteran and another FMLA leave for a different qualifying reason during the same 12-month period?

A: Yes. The FMLA’s regulations provide that an eligible employee is entitled to a combined total of 26 workweeks of Military Caregiver leave and leave for any other FMLA-qualifying reason in a “single 12-month period,” provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason during this period.

Example: In a single 12-month period, Sara could take 12 weeks of FMLA leave to care for her newborn child and 14 additional weeks of FMLA leave to care for a spouse who is a current servicemember. However, Sara cannot take 16 weeks of leave to care for her newborn child and 10 weeks to care for her spouse (servicemember).

25. Can I carry-over unused FMLA weeks of Military Caregiver Leave from one 12-month period to another?

A: No. If you do not use your entire 26 workweeks of leave entitlement during the “single 12-month period,” the remaining workweeks of leave are forfeited. After the end of the “single 12-month period” for Military Caregiver Leave, however, you may be entitled to take FMLA leave to care for the current servicemember/covered veteran if the member is a qualifying family member under non-military FMLA and he or she has a serious health condition.

26. How much leave can I take if I need leave for both my serious health condition (FMLA & CFRA) and a qualifying exigency (FMLA)?

A: You may take up to a total of 12 workweeks of leave for both a Qualifying Exigency Leave and leave for your own serious health condition within the same 12-month period.

Example: An eligible employee may take all 12 weeks of his or her FMLA leave entitlement as Qualifying Exigency leave, or an employee may take a combination of 12 weeks of leave for both Qualifying Exigency leave and leave for his/her serious health condition as provided under both the FMLA and CFRA.

27. Can I take Military Caregiver Leave for more than one seriously injured or ill current servicemember/covered veteran, or more than once for the same servicemember/veteran if he or she has a subsequent serious injury or illness?

A: Yes. By regulation, the FMLA’s Military Caregiver leave is a “per-current servicemember/covered veteran, per-injury” entitlement. Accordingly, an eligible employee may take up to 26 workweeks of leave to care for one

servicemember/veteran in a “single 12-month period,” and then take another 26 workweeks of leave in a different “single 12-month period” to care for another servicemember/veteran.

An eligible employee may also take 26 workweeks of leave to care for a current servicemember/covered veteran in a “single 12-month period,” and then take another 26 workweeks of leave in a different “single 12-month period” to care for the same servicemember/veteran with a subsequent serious injury or illness (e.g., if the servicemember/veteran is returned to active duty and suffers another injury).

28. Are private health care providers, as well as military health care providers, permitted to complete a certification for a FMLA Military Caregiver Leave?

A: Yes. A private health care provider can complete certifications for a Military Caregiver Leave if the health care provider is a Department of Defense (DOD) TRICARE network authorized private health care provider; a DOD non-network TRICARE authorized private health care provider; or a DOD health care provider and/or Veterans Affairs (VA) health care provider. The FMLA’s amended 2013 regulations include any health care provider as defined under the Act (825.125) that is authorized to care/treat non-military members can complete a certification for Military Caregiver Leave.

29. Will I lose my job if I take FMLA/CFRA or PDL leave?

A: No. It is unlawful for any employer to interfere with, restrain or deny the exercise of any right provided under the FMLA, CFRA and/or PDL; nor can the taking of such leave result as a negative factor in employment actions, such as hiring, promotions or disciplinary actions. However, if your employment status would have been impacted had you not been on a FMLA/CFRA/PDL (e.g. through a reduction in force or a pending disciplinary action), your being on a FMLA/CFRA/PDL leave will not protect your job.

30. Are there other circumstances in which the County/ACFD can deny me reinstatement to my job?

A: Employees, who are unable to return to work following their FMLA/CFRA or PDL covered leave period, no longer have job protection under these federal/state leaves. However, employees may continue off work utilizing leave(s) as provided for under their County MOU/Administrative Code or ACFD MOU/OAG/Handbook. Employees who give unequivocal notice that they do not intend to return to work lose their entitlement to FML.

SECTION 11

Forms, Notices and Procedures

The Family and Medical Leave Handbook, forms and procedures can be easily obtained from your Agency/Department Human Resources Office, FML Coordinator or Medical Leaves & Accommodation Services Technician/Case Manager. Employees can also retrieve these documents from Human Resource Services' on the internet at www.acgov.org/hrs/divisions/dp.

1. **Employee's FML Request for Leave**

To be completed by the employee requesting a foreseeable FMLA/CFRA/PDL leave of absence and submitted to his/her supervisor or Agency/Department FML Coordinator/Human Resources Office/Medical Leaves & Accommodation Services.

2. **FML Certification of Health Care Provider (Employee/Family Member)**

To be completed by the employee's/family member's health care provider and submitted to the employee's supervisor or Agency/Department FML Coordinator/Human Resources Office/Medical Leaves & Accommodation Services to verify a serious health condition as defined under the FMLA/CFRA and/or PDL.

3. **FML Certification of Health Care Provider (Servicemember/Veteran)**

To be completed by the current servicemember's/covered veteran's health care provider and submitted to the employee's supervisor or Agency/Department FML Coordinator/Human Resources Office/Medical Leaves & Accommodation Services to verify a serious health condition as defined under the FMLA.

4. **FML Certification for Qualifying Exigency**

To be completed by the employee requesting a qualifying exigency leave, as defined under the FMLA, and submitted to his/her supervisor or Agency/Department FML Coordinator/Human Resources Office/Medical Leaves & Accommodation Services.

5. **FML Notification of Leave (HR Use Only)**

Provided to employees who have; a) requested an FMLA/CFRA/PDL leave of absence; or b) when an Agency/Department has knowledge that an employee's absence may be related to a FMLA/CFRA/PDL qualifying leave. This notification provides employees with information regarding eligibility, certification requirements and rights and responsibilities under the FMLA/CFRA and/or PDL.

6. **FML Designation of Leave (HR Use Only)**

Provided to employees advising of their FML leave status (approved/denied), and/or additional information is required on the certification in order to approve the leave.

7. **FML Leave Status (HR Use Only)**

Notification provided to employees when circumstances of their FML leave changes.

SECTION 12

Resources

Agency/Department Human Resources Office (HR)

Always contact your FMLA/ Coordinator or Personnel Officer located in your Human Resources Department for information on FMLA/CFRA/PDL leaves of absences or other medical leave related matters.

Alameda County's Medical Leaves & Accommodation Services (MLAS)

Located in Alameda County's Human Resource Services Department, the Medical Leaves & Accommodation Services provides administrative support to County Agencies/Departments and employees regarding FMLA/CFRA/PDL leaves of absences and other medical leaves and reasonable accommodation related matters. The Medical Leaves & Accommodation Services also provides some Agencies/Departments with the day-to-day administration of all medical leaves and reasonable accommodation related matters.

Employee Benefits Center (EBC)/ACFD Benefits Coordinator

Alameda County's Employee Benefits Center can advise you of the impact (if any) your leave of absence will have on your group health insurance benefits and/or provide you with information regarding your short/long term disability insurance plan(s). ACFD's Benefits Coordinator can provide information on your short/long term disability insurance plan(s), as well as, advise you on the impact (if any) your leave of absence will have on your group health insurance benefits.

Alameda County's Memorandum of Understanding/Administrative Code

Employees are strongly encouraged to review their specific Memorandum of Understanding (MOU)/Administrative Code or ACFD MOU/OAG/Handbook for important information regarding specific leaves of absences.

Department of Fair Employment and Housing (DFEH)

For specific information/provisions regarding the California Family Rights Act (CFRA) or Pregnancy Disability Leave (PDL), visit the Department of Fair Employment and Housing at www.dfeh.ca.gov.

Department of Labor (DOL)

For specific information/regulations regarding the federal Family and Medical Leave Act (FMLA), visit the Department of Labor at www.dol.gov.

SECTION 13

Definitions/Key Terms

Adoption: legally and permanently assuming the responsibility of raising a child as one's own. The source of an adopted child (e.g., whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for a leave.

Certification: written documentation to support an employee's request for qualifying exigency leave or medical documentation issued by the employee's/family member's/servicemember's or veteran's health care provider to support an employee's request for leave due to his/her/family member's serious health condition.

CFRA: the Moore-Brown-Roberti California Family Rights Act of 1993. (California Family Rights Act, Gov. Code §§ 12945.1 - 12945.2).

Child: a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing "in loco parentis," who is either under age 18, or an adult (age 18 or older) dependent child. An adult dependent child is an individual who is 18 years of age or older and who is "incapable of self-care because of a mental or physical disability" at the time that leave is to commence. An adult child (CFRA only).

- (1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (ADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.
- (2) "Physical or mental disability" means a physical or mental impairment that limits one or more of the major life activities of an individual as defined in the federal Americans with Disabilities Act and state Fair Employment and Housing Act.
- (3) Persons who are "in loco parentis" (in place of a parent) include those with day-to-day responsibilities to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

Note: Verification of a person standing “in loco parentis” would include documentation of any nature that demonstrates that an “in loco parentis” relationship, as defined by law, existed (e.g., a parent relationship between grandmother and employee while employee was a child.)

Concurrent Alameda County/ACFD Leave(s): any applicable County/ACFD paid or unpaid leave of absence (e.g., sick leave, family sick leave, industrial sick leave, pregnancy & child bonding leave, personal disability leave, etc.) that will be applied to an employee’s FMLA/CFRA/PDL leave and counted towards their leave entitlement.

Covered active duty or call to covered active duty status (Qualifying Exigency Leave): for a member of the Regular Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and for a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to Section 688 of Title 10 of the United States Code.

Current servicemember/Covered veteran (Military Caregiver Leave) means: an employee’s spouse, son, daughter, parent or next of kin who is:

- An individual who is a current member (current servicemember) of the Armed Forces (including a member of the National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, is otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness or
- An individual who is a veteran (covered veteran) and was a member of the Armed Forces (including a member of the National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the employee takes FMLA military caregiver leave to care for the veteran.

Designated Person (covered under CFRA only): any individual related by blood or whose association with the employee is equivalent of a family relationship.

Domestic Partner (covered under CFRA only): the person named on the employee’s Affidavit of Domestic Partnership or State Declaration of Domestic Partnership on file with the County’s Employee Benefits Center and/or the employee’s Agency/Department Human Resources Office or the related document on file with ACFD’s Benefits Coordinator.

Eligible Employee (FMLA/CFRA): a full or part-time/intermittent/services as needed employee who has been employed for a total of 12 months (except for a break in service caused by a military service obligation) with Alameda County/ACFD and who has worked (within the meaning of the Fair Labor Standards Act, 29 CFR Part 785) at least 1,250 work hours during the 12-month period immediately preceding the date the leave is to commence is eligible for a FMLA/CFRA leave. Once an employee has met these two eligibility criteria and takes a leave for a qualifying event, he/she does not have to requalify, in terms of the numbers of hours worked, in order to take additional leave for the same qualifying event during the same 12-month leave period. If an employee is not eligible for a FMLA/CFRA leave at the start of a leave because he/she has not met the 12-month length of service requirement, the employee may nonetheless meet this requirement while on leave because leave to which he/she is otherwise entitled counts toward length of service (although not for the 1,250 work hours requirement).

- **Eligible Employee (PDL):** a full or part-time/intermittent/services as needed employee disabled by pregnancy, childbirth or related condition.

FMLA: the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6; (29, U.S.C. 2601 et).

Foster care: a 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

Grandchild: A child of an employee's son or daughter.

Grandparent: the father or mother of an employee's father or mother.

Health Care Provider: a “health care provider” is defined as:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
2. Any other person determined by the Secretary (FMLA regulations) to be capable of providing health care services.

Others “capable of providing health care services” include only:

- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;
 - Nurse practitioners, nurse midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;
3. Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement;
 4. Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and
 5. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

Note: The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions.

6. Department of Defense (DOD) or Veterans Administration (VA) health care provider, DOD TRICARE network authorized private health care provider, DOD non-network TRICARE authorized private health care provider.

Labor Code §4850: is a full salary (without tax deduction) benefit for up to 365 days following an industrial injury for California law enforcement/safety personnel so long as the individual is temporarily totally disabled from work. The 4850 leave benefit may start and stop several times and does not need to be continuous.

Military member (Qualifying Exigency Leave): an employee's spouse, son, daughter, or parent who is on covered active duty or call to covered active-duty status (or has been notified of an impending call or order to covered active duty) in the Armed Forces, National Guard or Reserves.

Next of kin of a current servicemember/covered veteran (Military Caregiver Leave): the nearest blood relative other than the servicemember's/veteran's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the servicemember/veteran's by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the servicemember/veteran's has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave. When no such designation is made and there are multiple family members with the same level of relationship to the servicemember/veteran, all such family members shall be considered the servicemember's/veteran's next of kin and may take a leave to provide care to the servicemember/veteran, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the servicemember's/veteran's only next of kin.

Parent: a biological, adoptive, step or foster father or mother, legal guardian or any other individual who stood "in loco parentis" to the employee when the employee was a child. This term does not include parents "in law."

Parent-in-Law: Parents of an employee's spouse or domestic partner.

Parent of a current servicemember/covered veteran (Military Caregiver Leave): a servicemember's/veteran's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the servicemember/veteran. This term does not include parents "in law."

Pregnancy Disability Leave (PDL): Leave due to pregnancy, childbirth or related condition (including, but not limited to, recovery from pregnancy, childbirth, loss or end of pregnancy, or post-partum depression) pursuant to California's Pregnancy Disability Act, (California Code of Regulations, Section 12926, Subdivision (f), Title 2; Division 4 – Fair Employment and Housing Commission, Subchapter 6A).

Qualifying Exigency: situations or circumstances arising out of the fact that an employee's spouse, son, daughter, or parent, domestic partner (CFRA only) is a military member on covered active duty or call to covered active-duty status in the Armed Forces:

- Issues arising from the military member's short notice deployment (i.e. deployment on seven or less days of notice) for a period of *seven* days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance

programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross;

- Certain school, childcare and related activities, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility when such meetings are necessary due to circumstances arising from the covered active duty or call to covered active-duty status of the covered military member;
- Making or updating financial and legal arrangements to address the military member's absence;
- Certain activities related to parental care of the military member's parent who is incapable of self-care;
- Attending counseling provided by someone other than a health care provider for oneself, the military member, or the child of the military member, provided that the need for counseling arises from the covered active duty or call to covered active-duty status of the military member;
- Taking up to fifteen (15) calendar days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during the period of deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the military member's covered active-duty status, and addressing issues arising from the death of a military member while on covered active duty status;
- Additional activities or any other event which arise out of the military member's covered active duty or call to covered active-duty status provided that the employee and employer agree that such leave is a qualifying exigency.

Reasonable Accommodation: under the federal Americans with Disabilities Act (ADA) and California's Fair Employment and Housing Act (FEHA), an employee with a disability/medical condition may need an accommodation to perform the essential functions of the job. Reasonable accommodation may include but is not limited to making existing facilities readily accessible, job restructuring, modifying work schedules, re-assignment to a vacant position, acquiring or modifying equipment or devices.

Employers have an obligation to engage employees in the interactive process who are unable to return to work at the conclusion of the FMLA/CFRA/PDL leave, to determine whether an extension of that leave would constitute a reasonable accommodation under the ADA/FEHA.

Serious Health Condition (FMLA/CFRA): a “serious health condition” means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse:

1. **Hospital Care:** inpatient care in a hospital (overnight stay not required as long as admitted with the expectation of an overnight stay), hospice, or residential health-care facility, including any period of incapacity (i.e. inability to work or perform other regular daily activities), subsequent treatment or the recovery in connection with such inpatient care; or
2. **Absence Plus Treatment:** continuing treatment by a health care provider includes:
 - (a) A period of incapacity lasting more than three (3) consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, which *also* includes:
 - (b) Treatment (i.e., two (2) or more times) by or under the supervision/orders of a health care provider; *or*
 - (c) Treatment by a health care provider on at least one occasion which results in a continuing regimen of treatment under the supervision of the health care provider; or
3. **Pregnancy (FMLA only):** any period of incapacity related to pregnancy, including morning sickness or for prenatal care. A visit to the health care provider is not necessary for each absence; or
4. **Chronic Conditions Requiring Treatment:** any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g. asthma, diabetes, epilepsy, etc.). A visit to a health care provider is not necessary for each absence; or
5. **Permanent/Long-term Conditions Requiring Supervision:** a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer’s, a severe stroke, or the terminal stages of a disease). Only supervision by a health care provider is required, rather than active treatment; or and

6. **Multiple Treatments (Non-Chronic Conditions):** any absences to receive multiple treatments (including any period for recovery therefrom) by a health care provider, either for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days if not treated/absence of medical intervention or treatment (e.g. cancer/chemotherapy or radiation, severe arthritis/physical therapy, kidney disease/dialysis).

Note: Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA/CFRA leave.

Serious Injury or Illness – Current Servicemember/Covered Veteran (Military Caregiver Leave): as defined in Section 565(a)(18) of the National Defense Authorization Act of 2010, is a:

1) an injury or illness that was incurred by a current servicemember in the line of duty on active duty in the Armed Forces or 2) that existed before the beginning of the member's active-duty service (preexisting conditions) and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, rating, or

2) a serious injury or illness (undergoing medical treatment, recuperation or therapy) that was incurred by the covered veteran/member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Sibling: Each of two or more children or offspring having one or both parents in common.

Son or daughter of a current servicemember/covered veteran: a current servicemember's/covered veteran's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the servicemember/veteran stood in loco parentis, and who is of any age.

Son or daughter on covered active duty or call to covered active duty status in the Armed Forces: an employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age.

Spouse: is a registered domestic partner (CFRA only), husband or wife of any gender.

Twelve workweeks: the equivalent of twelve (12) of an employee's normally scheduled workweeks.