

CFRA Notice and Designation (Five to 49 Employees)

General Instructions

The California Family Rights Act (CFRA) has specific employer coverage and employee eligibility requirements. All public employers and all private employers with five or more employees are covered by the CFRA. An employee is eligible for CFRA leave if they have worked for their current employer for at least 12 months (these months do not have to be consecutive) and have worked 1,250 hours in the 12 months preceding the date of leave.

In addition to the eligibility requirements, an employee may only take CFRA leave if they have a qualifying reason. An employee may take CFRA leave for the following reasons:

- An employee's own serious health condition;
- A qualifying family member's (parent, parent-in-law, child of any age, spouse or registered domestic partner, grandparent, grandchild or sibling) serious health condition;
- Baby bonding; or
- A qualifying military exigency.

Employers must provide employees with a notice of their rights under the CFRA. The notice section of this form meets that requirement. Fill in the blank at the end of the notice with the name of the individual managing leaves of absence for your organization.

Leave covered under the CFRA must be designated as CFRA-protected, and the employer must inform the employee of the amount of leave that will be counted against the employee's CFRA leave entitlement. This form meets that requirement.

This form is not for use if the employee is requesting pregnancy disability leave. Please use the *FMLA/PDL Designation Notice* form.

In order to determine whether leave is CFRA-covered, the employer may request that leave for serious health conditions be supported by a medical certification (this requirement must be noted in your employer's CFRA leave policy). You may use the *Certification of Health Care Provider – Employee's or Family Member's Serious Health Condition* form for this purpose.

If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient.

While use of this form is optional, completion of the form provides employees with the information required under the CFRA by 2 C.C.R. §11091(a)(1)(A), which must be provided within five business days of the employer having enough information to determine whether the leave is for a CFRA-qualifying reason.

The following are instructions for completing each section of the designation notice of this form:

Designation Notice Instructions

Section I — Employer

Indicate the most recent date you received a request, medical certification or other documentation of the employee's need for leave.

Indicate whether the leave is approved or denied, or if more information is needed.

Section II — Additional Information Needed

If needed, indicate any additional information required to make a leave request determination.

Section III — CFRA Leave Approved

If leave beginning and ending dates are known, indicate those dates in the first check box. If the length or timing of leave is not known, use the second check box.

Indicate whether employee will be using other paid leave during CFRA leave. While employers may require the use of vacation or PTO during the unpaid portions of CFRA leave, the California Paid Sick Leave law prohibits employers from requiring the use of sick leave for this time.

During CFRA leave, you may not require employees to use paid leave if the employee is receiving money through a paid disability plan such as State Disability Insurance (SDI), Paid Family Leave (PFL), workers' compensation or an employer- provided short-term disability plan. Employees can choose to supplement these wage replacement benefits with paid leave.

Use of State Disability Insurance (SDI) - Employee's Own Serious Health Condition

Complete this section if the employee will receive SDI benefits and has requested to supplement unpaid leave with sick leave benefits.

Use of Paid Family Leave (PFL) - All Other Reasons

Complete this section if the employee will receive PFL benefits and has requested to supplement PFL benefits with sick, vacation or PTO leave benefits.

Continued Health Benefits

Employees are entitled to continued group health plan benefits during CFRA leave for a maximum of 12 weeks. Under California law, employees on pregnancy disability leave (PDL) will be allowed to continue to participate in group health plan coverage for up to a maximum of four months of PDL (if such insurance was provided before the leave was taken) on the same terms as if they had continued to work. The entitlements to employer-paid group health plan coverage during PDL and during CFRA leave are two separate entitlements.

Provide the amount of money the employee must pay, the due dates and the grace period for health benefits payment. Be sure to verify the grace period with your insurance carrier.

Return to Work

You may require medical certification of the employee's ability to return to work if the absence is for the employee's own serious health condition. In order to require such certification, you must have a uniformly-applied policy or practice for all similar situations. The medical certification can address the employee's ability to perform the essential functions of the employee's job. If the return-to-work certification contains this information, you must provide the employee with a list of the essential functions of the employee's job, no later than with this designation notice.

Complete this section if you are requiring a release to return to work. Attach the essential functions of the employee's job if you want the health care provider to certify that the employee is able to perform the essential functions of the employee's job upon return to work.

CFRA Notice

Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with us and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, and if we employ five or more employees, you may have a right to a family care or medical leave (CFRA leave). This leave may be up to 12 workweeks in a 12-month period for the birth, adoption or foster care placement of your child; for your own serious health condition or that of your child, parent, parent-in-law, grandparent, grandchild, sibling, spouse or registered domestic partner; or for a qualifying military exigency. While the law provides only unpaid leave, employees may choose or employers may require use of accrued paid leave while taking CFRA leave under certain circumstances.

Even if you are not eligible for CFRA leave, if you are disabled by pregnancy, childbirth or a related medical condition, you are entitled to take a pregnancy disability leave of up to four months, depending on your period(s) of actual disability. If you are CFRA-eligible, you have certain rights to take **both** a pregnancy disability leave and a CFRA leave for reason of the birth of your child. Both leaves contain a guarantee of reinstatement — for pregnancy disability, it is to the same position and for CFRA, it is to the same or a comparable position — at the end of the leave, subject to any defense allowed under the law.

If possible, you must provide at least 30 days' advance notice for foreseeable events (such as the expected birth of a child or a planned medical treatment for yourself or of a family member). For events that are unforeseeable, we need you to notify us, at least verbally, as soon as you learn of the need for the leave. Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.

We may require certification from your health care provider before allowing you a leave for pregnancy disability or for your own serious health condition. We also may require certification from the health care provider of your child, parent, parent-in-law, grandparent, grandchild, sibling, spouse or registered domestic partner, who has a serious health condition, before allowing you a leave to take care of that family member. When medically necessary, leave may be taken on an intermittent or reduced work schedule.

If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks, and you must conclude the leave within one year of the birth or placement for adoption or foster care.

Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. If you want more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits, please contact [Name of the Individual Managing Leaves of Absence for Your Company](#).

CFRA Designation Notice

SECTION I - EMPLOYER

The employer is responsible for designating leave as CFRA leave and giving notice to the employee. Once an eligible employee communicates a need to take leave for a CFRA-qualifying reason, an employer may not delay designating such leave as CFRA leave, and neither the employee nor the employer may decline CFRA protection for that leave.

From *(Employer)* _____ Date _____

To *(Employee)* _____

On _____ we received your most recent information to support your need for leave due to:

- The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly- placed child.
- Your own serious health condition.
- The serious health condition of your child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild or sibling.
- A qualifying exigency arising out of the fact that your spouse, child, parent or registered domestic partner is on covered active duty or has been notified of an impending call or order to covered active duty with the Armed Forces.

We have reviewed information related to your need for leave under the CFRA along with any supporting documentation provided and decided that your leave request is: *(Select as appropriate)*

- Approved.** All leave taken for this reason will be designated as CFRA leave. *(Go to Section III for more information)*
- Not Approved.** *(Select as appropriate)*
 - The CFRA doesn't apply to your leave request.
 - As of the date the leave is to start, you do not have any CFRA leave available to use.
 - Other: _____
- Additional information** is needed to determine if your leave request qualifies as CFRA leave. *(Go to Section II for the specific information needed. If your CFRA leave request is approved and no additional information is needed, go to Section III.)*



SECTION II - ADDITIONAL INFORMATION NEEDED

We need additional information to determine whether your leave request qualifies under the CFRA. Once we obtain the additional information requested, we will inform you **within 5 business days** if your leave will or will not be designated as CFRA leave and count toward the amount of CFRA leave you have available. **Failure to provide the additional information as requested may result in a denial of your CFRA leave request.**

If you have any questions,
please contact:

_____ at _____
Name of Employer Representative Contact Information

CFRA Designation Notice

Incomplete or Insufficient Certification

The certification you have provided is incomplete and/or insufficient to determine whether the CFRA applies to your leave request (*select as applicable*).

- The certification provided is incomplete and we are unable to determine whether the CFRA applies to your leave request. *“Incomplete” means one or more of the applicable entries on the certification have not been completed.*
- The certification provided is insufficient to determine whether the CFRA applies to your leave request. *“Insufficient” means the information provided is vague, unclear, ambiguous or non-responsive.*

Specify the information needed to make the certification complete and/or sufficient:

You must provide the requested information no later than (*provide at least seven calendar days*), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.

Second and Third Opinions

- We request that you obtain a (second / third opinion) medical certification at our expense, and we will provide further details at a later time. *Note: The employee or the employee’s family member may be requested to authorize the health care provider to release information pertaining only to the serious health condition at issue.*

SECTION III - CFRA LEAVE APPROVED

Your CFRA leave request is approved. All leave taken for this reason will be designated as CFRA leave and will count against the amount of CFRA leave you have available to use in the applicable 12-month period. The CFRA requires that you notify us as soon as practicable if the dates of scheduled leave change, are extended or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against the **total amount of CFRA leave** you have available to use in the applicable 12-month period: (*Select as appropriate*)

- Provided there is no change from your **anticipated CFRA leave schedule**, the following number of hours, days or weeks will be counted against your leave entitlement: _____
- Because the leave you will need will be unscheduled, it is not possible to provide the hours, days or weeks that will be counted against your CFRA entitlement at this time. You have the right to request this information once in a 30- day period (if leave was taken in the 30-day period).



Please be advised: *(check all that apply)*

- Some or all of your CFRA leave will not be paid.** Any unpaid CFRA leave taken will be designated as CFRA leave and counted against the amount of CFRA leave you have available to use in the applicable 12-month period.
- Based on your request, some or all of your available paid leave (e.g., sick, vacation, PTO) will be used during your CFRA leave.** Any paid leave taken for this reason will also be designated as CFRA leave and counted against the amount of CFRA leave you have available to use in the applicable 12-month period.
- We are requiring you to use some or all of your available paid leave (e.g., vacation, PTO) during your CFRA leave.** Any paid leave taken for this reason will also be designated as CFRA leave and counted against the amount of CFRA leave you have available to use in the applicable 12-month period.
- Other:** _____
(e.g., Short- or long-term disability, workers' compensation, etc.) Any time taken for this reason will also be designated as CFRA leave and counted against the amount of CFRA leave you have available to use in the applicable 12-month period.

CFRA Designation Notice

Use of State Disability Insurance (SDI)

- If you're eligible for SDI benefits, you may elect to supplement your benefits with your sick, vacation or PTO leave. Your SDI benefits and sick/vacation/PTO pay will be coordinated so that your payments do not exceed your normal rate of pay.

Use of Paid Family Leave (PFL)

- If you're eligible for PFL benefits, you may elect to supplement your benefits with your sick, vacation or PTO leave. Your PFL benefits and sick /vacation/PTO pay will be coordinated so that your payments do not exceed your normal rate of pay.

Continued Health Benefits

Under the CFRA, you're eligible for continued health benefits during your CFRA leave for a maximum of twelve (12) weeks.

Your continuation of health benefits will begin on _____ (date). If you currently contribute to the payment of benefits, you must continue to do so while on leave.

Your payment in the amount of _____ is due on or before: _____
(date, e.g. 15th of each month)

Option: The Company's health plan has a grace period for late payments. If your payment is more than _____ days late, your benefits will cease.

Please send the payment to: _____
Representative

Company Name

Address

City, State and Zip Code

Your medical benefit coverage will end on _____ (date). You may be eligible for continued COBRA coverage.

Return to Work Requirements

To be restored to work after taking CFRA leave, you (will be / will not be) required to provide a certification from your health care provider that you are able to resume work. This request for a return-to-work certification is *only* with regard to the particular serious health condition that caused your need for



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CFRA leave. **If such certification is not timely received, your return to work may be delayed until the certification is provided.**

A list of the essential functions of your position (is / is not) attached. If attached, the return-to-work certification must address your ability to perform the essential job functions.