

FMLA/CFRA - Notice of Eligibility and Rights and Responsibilities

INSTRUCTIONS FOR THE DEPARTMENTS

When an employee requests FMLA/CFRA leave or when you learn that an employee's leave may be for a FMLA/CFRA qualifying reason, you must notify the employee of his or her eligibility to take FMLA/CFRA leave within **five business days**, absent extenuating circumstances.

The *Notice of Eligibility and Rights and Responsibilities* must state whether the employee is eligible for leave. If the employee is not eligible for FMLA/CFRA leave, the notice must state at least one reason why. For example, the notice may inform the employee that he or she is ineligible because the employee worked less than 1,250 hours in the preceding 12 months.

Any requirement for medical certification or certification of a qualifying exigency must be specified in the notice, along with the consequences for failing to provide the required certification.

The *Notice of Eligibility and Rights and Responsibilities* also details the specific expectations and obligations of the employee and explains consequences for not meeting those expectations and obligations. This information regarding rights and responsibilities is required by federal and state law.



Contra Costa County

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Date: _____

EE# _____

To: _____

From: _____

Eligibility does not mean approval. Once we obtain the information from what you specified in Section II, we will inform you whether your leave will be designated as Family and Medical Leave Act (FMLA)/California Family Rights Act (CFRA) leave and count toward your leave entitlement. In general, to be eligible an employee must have worked for the County for at least 12-months, and meet the hours of service requirement in the 12-months preceding the leave. Section III provides employees with information regarding their rights and responsibilities for taking FMLA only, CFRA only or FMLA/CFRA leave.

On _____, you informed us that you needed leave beginning on _____ for:

- The birth of a child, or placement of a child with you for adoption or foster care.
- Your own serious health condition, including a workers' compensation injury.
- Your own pregnancy, childbirth or related medical condition.
- You're needed to care for your family member due to a serious health condition. Your family member is your:
 - Spouse Parent Child Child 18+ Domestic Partner Grandparent Grandchild Sibling
 - Parent-in-law
- A qualifying exigency arising out of the fact that your family member is on covered active duty or has been notified of an impending call or order to covered active duty status. Your family member on covered active duty is your:
 - Spouse Parent Child of any age Domestic Partner
- You are needed to care for your family member who is a covered servicemember with a serious injury or illness. You are the servicemember's:
 - Spouse Parent Child Next of Kin

[SECTION I- NOTICE OF ELIGIBILITY]

This Notice is to inform you that you:

- Are **eligible** for:
 - FMLA leave; CFRA leave; FMLA/CFRA running concurrently
 (See Part B below for Rights and Responsibilities)
- Are **not eligible** for FMLA or CFRA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
 - You have not met the FMLA/CFRA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.
 - You have not met the FMLA/CFRA's 1,250 hours of service requirement. As of the first date of requested leave, you'll have worked approximately _____ hours towards this requirement.

If you have any questions, contact _____ or view the FMLA poster located in _____.

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[SECTION II - ADDITIONAL INFORMATION NEEDED]

As explained in Section I, you meet the eligibility requirements for taking FMLA and/or CFRA leave. Please review the information below to determine if additional information is needed in order for us to determine whether your absence qualifies as FMLA/CFRA leave. Once we obtain any additional information specified below we will inform you, within 5 business days, whether your leave will be designated as FMLA/CFRA leave and count towards the FMLA/CFRA leave you have available. **If complete and sufficient information isn't provided in a timely manner, your leave may be denied.**

- No additional information requested. If no additional information is requested, go to Section III.
- We request that the leave be supported by a certification as identified below.
 - Health Care Provider for the employee Health Care Provider for the Employee's Family Member
 - Qualifying Exigency Serious Illness or Injury (*Military Caregiver Leave*)

Select certification form is attached / is not attached.

If requested, medical certification must be returned by _____ . (Must allow no less than **15 calendar days** from receipt of this notice; additional time may be required in some circumstances.)

- We request that you provide reasonable documentation or a statement to establish the relationship between you and your family member, including loco parentis relationship. The information must be returned to us by: _____
- Other information needed: _____
Information requested must be returned by: _____

[SECTION III – NOTICE OF RIGHTS AND RESPONSIBILITIES]

Part A: FMLA/CFRA Leave Entitlement

You have a right under the CFRA for up to 12 weeks and under FMLA for up to (check one): 12 weeks 18 weeks of unpaid, job-protected leave in a 12-month period for the birth of a child or placement of a child for adoption or foster care, for leave related to your own or a family member's serious health condition. The 12-month period for FMLA/CFRA is calculated as a "rolling" 12-month period measured backward from the date of any FMLA/CFRA leave usage.

- Under FMLA only, you have the right to take unpaid job protected leave up to (check one) 12 weeks 18 weeks for qualifying exigencies related to the deployment of a military member to covered active duty and up to 26 weeks of unpaid job protected leave to care for a covered servicemember with a serious injury or illness (Military Caregiver Leave). If applicable, the single 12-month period for Military Caregiver Leave started on _____ (first day of approved leave).
- Under FMLA only, your status within the County, is considered a "key employee" as defined in the FMLA. As a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We have have not determined that restoring you to employment at the conclusion of FMLA/CFRA leave will cause substantial and grievous economic harm to us.

Part B: Substitution of Paid Leave – When Paid leave is Used at the Same Time as FMLA/CFRA Leave

You have a right under the FMLA/CFRA to request that your accrued paid leave be substituted for your FMLA/CFRA leave provided you meet any applicable requirement of the County leave policy. Concurrent leave use means the absence will count against both the designated paid leave and unpaid FMLA/CFRA leave at the same time. If you do not meet the requirements for taking paid leave, you remain entitled to take available unpaid FMLA/CFRA leave in the applicable 12 month period. Even if you do not request it, the FMLA/CFRA allows the County to require you to use your available sick, vacation, or other paid leave during your FMLA/CFRA absence.

- Some or all of your FMLA/CFRA leave will not be paid. Any unpaid FMLA/CFRA leave taken will be designated as FMLA/CFRA leave and counted against the amount of FMLA/CFRA leave you have available to use in the applicable 12-month period.
- You have requested to use some or all of your available paid leave (e.g., sick, vacation, other leaves) during your FMLA/CFRA leave. Any paid leave taken for this reason will also be designated as FMLA/CFRA leave and counted against the amount of FMLA/CFRA leave you have available to use in the applicable 12-month period.

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- We are requiring you to use some or all of your available paid leave (e.g., sick, vacation, other leaves) during your FMLA/CFRA leave. Any paid leave taken for this reason will also be designated as FMLA/CFRA leave and counted against the amount of FMLA/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 FMLA/CFRA leave and counted against the amount of FMLA/CFRA leave you have available to use in the applicable 12-month period.

Applicable conditions for use of paid leave: _____

For a copy of conditions applicable to sick/vacation/ other leave usage, please refer to:

_____ available at: _____

Part C: Maintain Health Benefits

Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work. During any paid portion of FMLA/CFRA leave, your share of any premiums will be paid by the method normally used during any paid leave. During any unpaid portion of FMLA/CFRA leave, you must continue to make any normal contributions to the cost of the health insurance premiums. To make arrangements to continue to make your share of the premium payments on your health insurance while you are on any unpaid FMLA/CFRA leave, contact the Employee Benefits Department at (925) 655-2100. You have a minimum 30-day grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse.

You may be required to reimburse the County for their share of health insurance premiums paid on your behalf during your FMLA/CFRA leave if you do not return to work following unpaid FMLA/CFRA leave for a reason other than: the continuation, recurrence, or onset of your or your family member's serious health condition which would entitle you to FMLA/CFRA leave; or the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or other circumstances beyond your control.

Part D: Other Employee Benefits

Upon your return from FMLA/CFRA leave, your other employee benefits, such as pensions, deferred compensation, or life insurance, must be resumed in the same manner and at the same levels as provided when your FMLA/CFRA leave began. To make arrangement to continue your employee benefits while you are on FMLA/CFRA leave contact:

Employee Benefits Department at (925) 655-2100 and CCERA (for pension only) at (925) 521-3960

Part E: Return-to-Work Requirements

You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA/CFRA protected leave. An equivalent position is one that is virtually identical to your former position in terms of pay, benefits, and working conditions. At the end of your FMLA/CFRA leave, all benefits must also be resumed in the same manner and at the same level provided when the leave began. You do not have return-to-work rights under the FMLA/CFRA if you need leave beyond the amount of FMLA/CFRA leave you have available to use.

Misuse or abuse of approved FMLA/CFRA time is grounds for disciplinary action, up to and including termination.

If the circumstances of your leave changes and you are able to return to work earlier than the date indicated, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If you have any questions, please do not hesitate to contact _____

at (____) _____ - _____.

Departments should retain a copy of this disclosure in their records for three years.