



So Your Employee is Pregnant - what do you do now?

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Pregnancy Disability Leave

- Pregnancy is a disability covered by PDL (Pregnancy Disability Leave Act) and Family Medical Leave Act (FMLA)
 - The disability portion of the leave is not covered by California Family Right Act (CFRA) because PDL is the California law that covers the pregnancy.
 - CFRA covers the “baby-bonding” period after the disability has ended.

Pregnancy Disability Leave

- PDL:
 - Not “*maternity leave*”
 - Up to 17-1/3 weeks (693 hours) of leave allotment (Pro-rated for part-time work)
 - No waiting time on the job to qualify
 - Posting / Policy
 - Job Reinstatement
 - Health Benefits continuation

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3

Pregnancy Disability Leave

- PDL
 - Medical Certification
 - Give employee PDL notices
 - Unpaid
 - Sick/vacation time/PTO – must permit use of paid time
 - Continuation of Benefits
 - Job Reinstatement

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4

What to do first?

1. Have the employee fill out a request for leave
2. Determine if the employee is eligible for FMLA (which will run concurrently with PDL)
 1. Eligibility for FMLA
 1. Employed 12 months (not necessarily consecutive) and 1,250 hours in the 12 months immediately prior to the leave beginning
 2. Eligibility for CFRA (for baby-bonding)
 1. Employed 12 months (not necessarily consecutive, *except if they've been employed 9 months when the leave begins they will be eligible*) and 1,250 hours in the 12 months immediately prior to the leave beginning

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5

The Forms

If they are eligible for FMLA – give them:

- Notice of Eligibility and Rights
 - This form lets the employee know if they are eligible for FMLA/CFRA (or not). You have a legal obligation to let them know if they qualify and how much leave allotment they have available to them.
 - It also lets them know that before you designate the leave as “qualifying” they must provide medical certification.

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6

The Forms

If they are NOT eligible for FMLA – give them:

- Notice of Eligibility and Rights
 - Check the boxes that tells them they are not eligible and why. You have a legal obligation to let them know if they qualify.
- Give them the Pregnancy Disability Letter which outlines their rights and responsibilities under PDL.

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7

The Forms

The Notices

- The employee must receive other brochures and information:
 - FMLA Rights and Responsibilities document (if eligible or not)
 - DFEH CFRA Brochure #188 (if eligible)
 - DFEH PDL brochure #186
 - EDD SDI pamphlet if employees own serious health condition (if you pay into SDI)
 - EDD Paid Family Leave brochure #2511 (if you pay into SDI)

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8

Medical Certifications

Medical Certification:

- Give employee the medical certification when you give the Notice of Eligibility & Rights (or the PDL letter)
- They have 15 calendar days to return the form to you.
 - VERY IMPORTANT TO CALENDAR AND FOLLOW-UP IMMEDIATELY!
 - If not returned timely, contact employee and give them 1 week to return certification

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9

Pregnancy Disability Leave

What's next?

- Discuss with the employee that time they plan to take off
- How their health benefits will work – they must pay their employee share as always
 - How will they do that?
- Give them the charts showing how PDL interacts with income replacement (SDI and PFL)
- Answer their questions.

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10

QUIZ

1. Must I offer leave under the Family Medical Leave Act (FMLA)?

- A. Yes
- B. No
- C. It depends

- ANSWER: A – Yes. As a public school you are considered a “covered employer” and therefore must not only offer FMLA/CFRA but also have a compliant policy in your handbook, regardless of how many employees you have.

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11

QUIZ

2. I have two employees, a couple, who recently became parents. They both asked for leave under FMLA for bonding with their newborn baby. Must I give each 12 weeks of leave?

- A. Yes
- B. No
- C. It depends

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12

QUIZ

- ANSWER: B – No. Since both parents work for you, you may limit the total leave for baby-bonding to 12 weeks. The couple can decide how they wish to split the time.
- Remember that fathers are also entitled to “parental” leave = baby-bonding for dads under FMLA/CFRA

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13

QUIZ

3. Must I give an employee leave for a pregnancy-related disability under CFRA?
 - A. Yes
 - B. No
 - C. It depends

- ANSWER: B – No. CFRA doesn’t cover disabilities due to pregnancy and pregnancy-related conditions. Such conditions are covered by Pregnancy Disability Leave (PDL) and FMLA.
- After the employee is no longer disabled by pregnancy she is entitled to additional leave under CFRA for baby bonding.

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14

QUIZ

4. Which of the following is NOT a reason for an employee to take a California Family Rights Act (CFRA) leave?
- A. To care for the serious illness of a family member
 - B. To bond with a newborn baby
 - C. To care for herself during a pregnancy disability
 - D. To care for a seriously ill domestic partner
- ANSWER: C Time off due to pregnancy-related disabilities is covered by the federal Family Medical Leave Act (FMLA) but not CFRA. In California, pregnancy-related disability leave is covered by the state's Pregnancy Disability Leave (PDL) law.

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15

QUIZ

5. When taking a leave of absence for baby bonding under CFRA, the employee must take the leave:
- A. Generally, all 12 weeks at once
 - B. Intermittently, as the employer dictates
 - C. Generally, in four-week increments
 - D. Generally, in two-week increments

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16

QUIZ

- ANSWER: D If family leave is taken for baby bonding, generally it must be taken at least two (2) weeks at a time. However, an employer must grant a request for a CFRA leave for baby-bonding for less than two weeks' duration on any two (2) occasions and may grant requests for additional occasions of leave lasting less than two (2) weeks.

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17

QUIZ

6. Employees on Pregnancy Disability Leave (PDL) have which one of the following rights related to continued group health coverage?
- A. Continue group health coverage for the duration of the PDL – not to exceed four (4) months
 - B. Continue group health coverage for 12 weeks.
 - C. Continue group health coverage for the duration of PDL – not to exceed four (4) months. The employee may be entitled to an additional 12 weeks of group health insurance coverage under CFRA.
 - D. Employees are allowed to continue group health coverage to the same extent that the employer provides continued group health coverage for other types of temporary disabilities.

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18

QUIZ

- **ANSWER: C & D** An employer is required to maintain and pay for coverage for an employee on PDL for the duration of the leave – not to exceed 4 months. The employer must maintain and pay for the coverage during leave taken under CFRA for baby bonding as well. The two entitlements are separate and distinct. Title 2 Cal. Code Regs. Sec. 7291.11 (c).
- If an employer provides unlimited health coverage for other disabilities, including workers' comp injuries – they must treat pregnancy the same.

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19

Pregnancy Disability Leave and FMLA/CFRA

PDL													CFRA															
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	1	2	3	4	5	6	7	8	9	10	11	12
FMLA																												

PDL (Pregnancy Disability Leave) Up to 17-1/3 weeks (86.63 days / 693 hours). Pro-rated for part-time
 FMLA (Family Medical Leave Act) Up to 12 weeks (60 days/480 hours)
 CFRA (California Family Rights Act) Up to 12 weeks (60 days/480 hours)

PDL runs concurrently with FMLA
 CFRA entitlement, taken after PDL/FMLA leave is 12 weeks and may be taken for purposes of "Baby Bonding" but not during the period of pregnancy-related disability. Baby-bonding leave available to fathers and would include FMLA/CFRA.

Health Benefits continue for entire period of disability (up to 17-1/3 weeks) and for the period of CFRA (Baby-bonding Leave) at the same level and conditions as prior to disability.

INCOME REPLACEMENT

PDL													CFRA															
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	1	2	3	4	5	6	7	8	9	10	11	12
FMLA																												
SDI BENEFITS													PFL BENEFITS															

State Disability Insurance (SDI) – employee is eligible for up to 52 weeks but must be designated as disabled by health care provider. Provides approximately 55% of income up to a maximum of \$1,104.00 per week (2015). One week waiting period before benefits begin.

Paid Family Leave (PFL) - employee is eligible for 6 weeks of income replacement. Provides approximately 55% of income up to a maximum of \$1,104.00 per week (2015). No waiting period when pregnancy related.

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20

Pregnancy Disability Leave (PDL)

*Not Eligible for FMLA/CFRA

PDL																
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17-1/3

PDL (Pregnancy Disability Leave) Up to 17-1/3 weeks (86.63 days / 693 hours) for full-time employee (pro-rated for part-time)

Health Benefits continue for entire period of disability (up to 17-1/3 weeks) at the same level and conditions as prior to disability.

INCOME REPLACEMENT

PDL																	Paid Family Leave (Not Job Protected)					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	1	2	3	4	5	6
SDI BENEFITS																	Paid Family Leave BENEFITS					

State Disability Insurance Benefits (SDI) - employee is eligible for up to 52 weeks but must be designated as disabled by health care provider. Provides approximately 55% of income up to a maximum of \$1,104.00 per week (2015).

Typical pregnancy disability period: disabled 1-week prior to due date and 6 weeks (for natural birth) or 8 weeks (for C-Section) weeks after birth.

Paid Family Leave (PFL) Benefits - employee is eligible for 6 weeks of income replacement. Provides approximately 55% of income up to a maximum of \$1,104.00 per week (2015). No waiting period or break in benefits when pregnancy related.

Pregnancy Disability Leave

Questions?

Feel free to contact me anytime you have questions about leaves.

Contact me if you would like to receive the forms we've talked about.

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