

## **FMLA/CFRA - Notice of Eligibility and Rights and Responsibilities**

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### **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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#### [Part A – NOTICE OF ELIGIBILITY]

Eligibility does not mean approval. Once we obtain the information from what you specified in Part B, we will inform you whether your leave will be designated as FMLA/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. Part B provides employees with information regarding their rights and responsibilities for taking FMLA only, CFRA only or FMLA/CFRA leave.

To: \_\_\_\_\_  
Employee \_\_\_\_\_ EE# \_\_\_\_\_

From: \_\_\_\_\_  
Department Representative

Date: \_\_\_\_\_

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.
- Because you are needed to care for your  spouse;  child;  parent;  registered domestic partner due to his/her serious health condition.
- Because of a qualifying exigency arising out of the fact that your  spouse,  son,  daughter, or  parent is on covered active duty or call to covered active duty status with the Armed Forces.
- Because you are the  spouse,  son,  daughter,  parent, or  next of kin of a covered servicemember with a serious injury or illness.

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 hours of service requirement.

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

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### **[PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA/CFRA LEAVE]**

As explained in Part A, you meet the eligibility requirements for taking FMLA and/or CFRA leave and still have FMLA and/or CFRA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA/CFRA leave, you must return the following information to us by \_\_\_\_\_.** (If a medical certification is requested, departments must allow no less than **15 calendar days** from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- Sufficient medical certification to support your request for leave. A **Certification of Health Care Provider** form that sets forth the information necessary to support your request  **is** /  **is not** enclosed.
- Sufficient documentation to establish the required relationship between you and your family
- Other information needed:  
\_\_\_\_\_  
\_\_\_\_\_
- No additional information requested.

**If your leave does qualify as FMLA/CFRA leave you will have the following responsibilities while on FMLA/CFRA leave (only checked boxes apply):**

- Contact the Benefits Department at (925) 335-1746 to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. 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 will be required to use your available paid  **sick**,  **vacation**, and/or  **other leave** during your FMLA/CFRA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA/CFRA leave and counted against your FMLA/CFRA leave entitlement.
- Due to your status within the County, you are considered a “key employee” as defined in the FMLA/CFRA. As a “key employee,” restoration to employment may be denied following FMLA/CFRA 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.

**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.**

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If your leave does qualify as FMLA/CFRA leave you will have the following rights while on FMLA/CFRA leave:

- 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 leave in a 12-month period calculated as a “rolling” 12-month period measured backward from the date of any FMLA/CFRA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on \_\_\_\_\_ (first day of approved leave).
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- 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. If your leave extends beyond the end of your FMLA/CFRA entitlement, you do not have return rights under FMLA/CFRA.
- If you do not return to work following FMLA/CFRA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA/CFRA leave; 2) the continuation, recurrence, or onset of a covered service member’s serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, 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 we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA/CFRA leave entitlement, you have the right to have  sick,  vacation, and/or  other leave \_\_\_\_\_ run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA/CFRA leave.

For a copy of conditions applicable to sick/vacation/other leave usage, please refer to \_\_\_\_\_ available at: \_\_\_\_\_.

Applicable conditions for use of paid leave: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA/CFRA leave and count towards your FMLA/CFRA leave entitlement.

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.