

Family & Medical Leave Quick Reference Guide*

	FMLA	CFRA	PDL
Employee Eligibility	<ol style="list-style-type: none"> 1. Worked for employer for at least 12 months within the past seven years, <u>and</u> 2. Worked at least 1,250 hours in the prior 12-month period 	<ol style="list-style-type: none"> 1. Worked for employer for at least 12 months, <u>and</u> 2. Worked at least 1,250 hours in the prior 12-month period 	<ul style="list-style-type: none"> • No length or hours of service requirement. Leave is available immediately, for period of actual disability
Amount of Leave Available	<ul style="list-style-type: none"> • 12 weeks in a 12-month period for general FMLA and FMLA Qualifying Exigency Leave • 26 weeks in a <i>single 12-month period</i> for Military Caregiver Leave to care for a covered service member 	<ul style="list-style-type: none"> • 12 weeks in a 12-month period 	<ul style="list-style-type: none"> • Periods of actual disability, up to four months (on a per pregnancy basis)
Method for Determining 12-Month Period	<ul style="list-style-type: none"> • For all FMLA leaves except Military Caregiver leave, the County uses a “rolling” 12-month period measured backward from the date an employee starts any FMLA leave. • The <i>single 12-month period</i> for FMLA Military Caregiver leave begins on the day the employee starts the leave and ends 12 months after that date. 	<ul style="list-style-type: none"> • For CFRA leaves, the County uses a “rolling” 12-month period measured backward from the date an employee starts any CFRA leave. 	<ul style="list-style-type: none"> • Not applicable; PDL applies on a per pregnancy basis.
How Leave Can be Taken	<ul style="list-style-type: none"> • FMLA can be taken on a continuous, intermittent, or reduced schedule basis. • When an employee normally works a part-time schedule, the amount of leave to which the employee is entitled is prorated. <ul style="list-style-type: none"> ○ For example, an employee who works 20 hours a week would be entitled to 12 weeks of 20 hours of FMLA leave, or 240 hours of intermittent FMLA. • If FMLA bonding leave is running concurrently with CFRA, refer to CFRA <i>How Leave Can be Taken</i> section. 	<ul style="list-style-type: none"> • CFRA can be taken on a continuous, intermittent, or reduced schedule basis. • Bonding leave must be taken in increments of at least two weeks, except on two occasions, it may be taken in increments of at least a day but less than two weeks. • Leave is prorated for part-time employees. 	<ul style="list-style-type: none"> • PDL can be taken on a continuous, intermittent or reduced schedule basis. • Leave is prorated for part-time employees.

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Reasons for Leave	<ol style="list-style-type: none"> 1. Employee's own serious health condition (<u>includes</u> pregnancy) 2. Care of employee's child, parent, or spouse (including same sex spouse) with a serious health condition 3. Bonding with newborn child or child placed with employee for adoption or foster care 4. Qualifying Exigency military leave (refer to <i>Qualifying Exigency</i> section below) 5. Military Caregiver Leave: to care for spouse (including same sex spouse), son, daughter, parent, or next of kin who experienced a serious injury or illness in the line of duty while on active military duty 	<ol style="list-style-type: none"> 1. Employee's own serious health condition (pregnancy is <u>excluded</u>) 2. Care of employee's child, child of registered domestic partner, parent, spouse (including same sex spouse), registered domestic partner, grandparent, grandchild, sibling or other "designated person" with a serious health condition 3. Bonding with newborn child or child placed with employee for adoption or foster care 4. Qualifying Exigency military leave (refer to <i>Qualifying Exigency</i> section below) 	<p>Disability due to pregnancy or pregnancy-related conditions, including:</p> <ol style="list-style-type: none"> 1. Prenatal care 2. Severe morning sickness 3. Doctor-ordered bed rest 4. Childbirth and recovery from childbirth 5. Other pregnancy-related medical conditions
Serious Health Condition	<p>Serious Health Condition is defined as one or more of the following:</p> <ul style="list-style-type: none"> • Inpatient care (involving overnight hospital stay) • Continuing treatment by a health care provider and incapacity of more than three full calendar days, that also involves one of the following: <ul style="list-style-type: none"> ○ In-person treatment by a health care provider two or more times within the first 30 days of the date of incapacity, and the first visit must be within seven days of the first date of incapacity, OR ○ In-person treatment by a health care provider on at least one occasion that results in a regimen of treatment, and the treatment visit must take place within seven days of the first day of incapacity • Chronic condition requiring visits to the health care provider at least twice a year for treatment 	<ul style="list-style-type: none"> • In general, refer to FMLA, except that pregnancy-related conditions are not covered • Inpatient care can also include an <u>expected</u> overnight stay in a hospital. 	<ul style="list-style-type: none"> • Refer to above section, <i>Reasons for Leave</i>

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	<ul style="list-style-type: none"> • A period of incapacity which is permanent or long-term, due to a condition for which treatment may not be effective <ul style="list-style-type: none"> ○ Examples: Alzheimer's, severe stroke, terminal stages of a disease • Any period of absence to receive multiple treatments from a health care provider for restorative surgery • Any period of absence for a condition that would likely result in a period of incapacity of more than three consecutive calendar days, in the absence of medical intervention <ul style="list-style-type: none"> ○ Examples: cancer (chemotherapy or radiation), severe arthritis (physical therapy), or kidney disease (dialysis). 		
Employee Notice Requirements	<ul style="list-style-type: none"> • For foreseeable leave, employees must provide 30 days notice or as soon as practicable. When an employee gives less than 30 days advance notice, the employee must respond to a request from the employer to explain why it was not practicable to give 30 days notice; if answer is not acceptable, leave may be delayed. • For unforeseeable leave, employees must notify employer as soon as practicable, and must follow employer's notification policy. If timely notice is not given, period of delay counts as non-FMLA. • Employees must comply with employer's usual procedures for calling and requesting leave, except where unusual circumstances exist. • Employee who seeks leave due to a condition for which the employer has previously provided FMLA-protected leave must inform the employer that the leave is for the FMLA-covered 	<ul style="list-style-type: none"> • Same as FMLA 	<ul style="list-style-type: none"> • Same as FMLA & CFRA

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	<p>condition; calling in “sick” is not enough to place employer on notice that leave is protected by FMLA.</p> <ul style="list-style-type: none"> ○ Ex. In order for FMLA protections to apply, an employee calling in sick on intermittent FMLA for migraines must state either that the absence is for a “migraine” or that it is for “FMLA” reasons. 		
Employer Certification Request	<ul style="list-style-type: none"> • Employer should request medical or qualifying exigency certification within <i>five business days</i> after notice of need for leave is received, absent extenuating circumstances. 	<ul style="list-style-type: none"> • Same as FMLA 	<ul style="list-style-type: none"> • Within two business days after notice, for foreseeable leave. For unforeseeable leave, within two business days after the first day leave is taken
Required Certification	<ul style="list-style-type: none"> • Employees must provide medical or other required certification within <i>15 calendar days</i>: <ul style="list-style-type: none"> ○ Unless meeting the 15-day deadline is not practicable, “despite the employee’s diligent good faith efforts” • It is the employee’s responsibility to request additional time, if needed • If medical certification is incomplete or insufficient, the employee must be given seven calendar days to “cure” the certification 	<ul style="list-style-type: none"> • Same as FMLA • Regulations silent; recommend following FMLA 	<ul style="list-style-type: none"> • Regulations silent; recommend following FMLA • See above
Reinstatement Rights	<ul style="list-style-type: none"> • Reinstatement is required to same/equivalent position. 	<ul style="list-style-type: none"> • Reinstatement is required to same/comparable position. 	<ul style="list-style-type: none"> • Reinstatement is required to same position.
Military Caregiver Leave	<ul style="list-style-type: none"> • Eligible employees can take up to 26 weeks of leave in a single 12-month period to care for a covered service member with a serious injury or illness incurred in the line of duty on active duty 	<ul style="list-style-type: none"> • No special military caregiver provision; however, if the covered service member is a spouse (including same sex spouse), son, 	N/A

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	<ul style="list-style-type: none"> Applies to all armed forces 	daughter, or parent of the employee, the employee may also qualify for CFRA.	
Qualifying Exigency Leave	<ul style="list-style-type: none"> Eligible employees can take up to 12 weeks of FMLA leave for a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on or being called to active duty and deployed to a foreign country Applicable to family members in the Regular Armed Forces, National Guard and Reserves Call to duty must be federal, not state 12 weeks is combined with regular FMLA 	<ul style="list-style-type: none"> Eligible employees can take up to 12 weeks of CFRA leave for a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, parent or registered domestic partner is on or being called to active duty and deployed to a foreign country Applicable to family members in the Regular Armed Forces, National Guard and Reserves 12 weeks is combined with regular FMLA 	N/A

*Information included in this chart is for use as a job aid reference only, and is not intended to constitute legal advice. Please refer any questions regarding the use of FMLA, CFRA, and/or PDL leave to your HR Designee or the Human Resources Department's Disability Access & Leave Management Office.