

Sample 1 (Incorporates State of California leave laws as well as FMLA)

Leaves of Absence

[Company Name]'s Leave of Absence Policy is designed to ensure that all leaves of absence are administered in a manner that conforms to all applicable federal and state laws.

Leaves are to be approved by proper management following consultation with the Human Resources Department. When unpaid time-off exceeds three (3) consecutive business days, the employee must request a leave of absence.

You are expected to give thirty (30) days notice, if at all possible, when requesting leave. Leave requests should be documented on a Leave of Absence Request and signed by both you and your supervisor.

If you are capable of returning to work prior to the scheduled end of the leave, you are expected to give the Company two (2) days advance notice so that we may prepare for your return (unless otherwise indicated within this policy).

If you fail to report for work at the end of a leave and fail to obtain authorization for an extension of a leave, you will be considered to have voluntarily resigned.

Managing "Concurrent" Leaves

A number of federal and state laws regulate temporary leaves from the workplace. In circumstances where these regulations "overlap" one another, leaves will run concurrently with one another.

- **FMLA Leave**
12 week period concurrent with CFRA Leave (if qualified)
- **CFRA Leave**
12 week period concurrent with FMLA Leave
- **PDL Leave**
4 month period concurrent with FMLA Leave (if qualified) followed by a 12 week period of CFRA Leave (if qualified)
- **Workers' Compensation Disability Leave**
12 week period of FMLA Leave (if qualified) concurrent with CFRA Leave (if qualified) followed by continuing Workers' Compensation Disability Leave

Personal Leave

A Personal Leave may be granted for purposes deemed reasonable and/or necessary by management, at the sole discretion of management, and only in the event that an employee is not entitled to any other Company offered leave of absence that is applicable and listed within this policy.

You are eligible to request and receive, upon supervisor approval, a Personal Leave of Absence regardless of your length of employment. Proper documentation may be required to determine the appropriateness of the leave.

Personal Leaves may be granted for up to four (4) weeks and may, in unusual circumstances, be extended for an additional four (4) weeks. A Personal Leave may not exceed eight (8) weeks.

You may, upon request, utilize any accrued vacation during your leave. However, all time off will be classified as Personal Leave for the purpose of calculating total leave time.

If you normally pay a portion of the premiums for your group medical, dental and/or vision coverage through payroll deduction, the contributions due during your leave will be deducted from your normal pay upon your return. If you fail to return to work at the end of your leave, all contributions due will become payable immediately.

Holiday pay will be suspended throughout the duration of the leave. Vacation and sick accrual, if applicable, will continue as normal throughout the leave.

Family and Medical Leave Act (FMLA) Leave

Under the requirements of the Family and Medical Leave Act, eligible employees may take up to twelve (12) weeks of unpaid, job protected leave for certain family and medical reasons.

You may be eligible for FMLA Leave if you have worked for the Company for at least twelve (12) months (does not have to be continuous) and for 1,250 hours over the previous twelve (12) months.

Eligible employees are entitled to up to twelve (12) weeks of unpaid leave each twelve (12) months (calculated in "rolling months" at the start of each leave period) for one of the following reasons: the birth, adoption or foster care of a child; to care for a spouse, son, daughter, or parent with a serious health condition; or for your own serious health condition. Leave for birth, adoption or foster care must conclude within twelve (12) months of the birth or placement of the child.

A serious health condition includes an illness, injury, impairment, or physical or mental condition that involves either inpatient care (i.e. an overnight stay in a hospital, hospice, or residential care facility), or continuing treatment by a healthcare provider. When leave is taken for the purpose of a serious health condition, the Company will require you to provide certification (within 15 days of notification) of the condition and the fact that you are unable to perform job functions, or certification of the fact that you are needed to care for a family member. Re-certification will also be required upon request. The Company reserves the right to seek a second or third opinion at its expense. Failure to provide certification may lead to a delay or refusal to grant the leave. You are also required to submit a fitness for duty certificate at the conclusion of your leave.

If both spouses are employed for the Company, they are entitled to a combined total of twelve (12) weeks of leave for the birth, adoption, or foster care placement of a single child, or to care for a parent with a serious health condition.

FMLA Leave may be taken intermittently, whenever it is medically necessary, to care for a seriously ill family member or because you are seriously ill and unable to work. If you request intermittent leave, you may be required to transfer temporarily to an alternative position (with equivalent pay and benefits) in order to better accommodate repeated periods of absence.

You may, upon request, utilize any accrued vacation or sick time during your leave.

If you normally pay a portion of the premiums for your group medical, dental and/or vision coverage through payroll deduction, the contributions due during your leave will be deducted from your normal pay upon your return. If you fail to return to work at the end of your leave, all contributions due will become payable immediately (unless you are unable to return due to a serious health condition).

Holiday pay will be suspended throughout the duration of the leave. Vacation and sick accrual, if applicable, will continue as normal throughout the leave.

Upon return to work, the Company will reinstate you to your former position or an equivalent position with equivalent benefits, pay, and other terms of employment. However, you will have no greater right to reinstatement than if you had been continuously employed during the leave period. Changes in hours, schedules, duties, jobs, benefits, pay, and the like may occur due to business needs.

If you are considered a key employee (within the highest-paid 10 percent of the workforce) and restoration of employment would cause substantial and grievous economic injury to the Company, there is no obligation to restore you to your previous position. In such circumstances, you will be notified and, if the leave has begun, you will be given the option of returning to work.

The Company will reasonably accommodate any employee with a disability, released to return to work, in accordance with applicable laws.

Military Family Leave

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Sample 2

Basic Family and Medical Leave Entitlement

The Family and Medical Leave Act entitles full-time employees to take up to 12 weeks of Leave Without Pay during any 12-month period to care for family members with serious health conditions and reasons listed below. Part-time employees are entitled to take a prorated amount of time in proportion to the number of hours in the employee's regularly scheduled administrative workweek. The 12 administrative workweeks of leave will be calculated on an hourly basis and will equal 12 times the average number of hours in the employee's regularly scheduled administrative workweek. FMLA may be taken for one of the following reasons:

1. the birth of an employee's son or daughter, and the care of such son or daughter;
2. the placement of an employee's son or daughter for adoption or foster care;
3. the incapacitation due to pregnancy;
4. the care of an employee's spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or
5. an employee's serious health condition that makes the employee unable to perform any one or more of the essential functions of his or her position.

For FMLA, the definition of a family member is more limited than in other family leave regulations. Family members are defined as spouses, children (including adopted, foster, step, and legal wards), and parents. A son or daughter means a biological, adopted, or foster child; a step child; or a legal ward. A spouse is an individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

- i. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
- ii. Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such health conditions, if necessary. These treatments may include incapacitation due to pregnancy, recurring episodic illnesses such as asthma, diabetes, epilepsy, and other illnesses. The incapacitation could include long-term care for individual who suffer from Alzheimer's, severe stroke, or terminal stages of a disease. It could also include physical therapy for arthritis, chemotherapy/radiation, and dialysis for kidney disease.
- iii. A serious illness is not the common cold, flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, or periodontal disease.

Eligibility

Employees who are eligible for sick and annual leave, and have at least 12 months of federal service are eligible for FMLA unless they have appointments of one year or less, or are hourly employees with intermittent work schedules. Such hourly or short-term employees may, however, be covered under Title I of the FMLA, which primarily covers private sector employees. (Please consult with Human Resources about entitlement eligibility).

Military Family Leave Entitlement

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Notice for FMLA

Managers are responsible for informing their employees of their entitlement to take FMLA, and their responsibilities and obligations for use of this leave. Managers should be aware of employee's situations for which FMLA might apply, and advise employees accordingly.

Employee's Responsibilities

Employees must request the use of FMLA in advance and provide proper documentation for leave. This company does not place an employee in this leave status without a written request from the employee.

If leave taken is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide a 30-day notice to the HR department or their supervisor of his or her intent to take leave. If the date of birth, placement, or medical treatment requires leave to begin within 30 days, the employee shall provide such notice as is practicable. If the leave is foreseeable based on a planned medical treatment, the employee shall consult with the agency and make a reasonable effort to schedule medical treatments, to avoid disrupting the operations of the agency, subject to the approval of the health care provider.

If the need for leave is foreseeable and the employee fails to give 30 days' notice with no reasonable excuse for the delay of notification, the agency may delay the taking of the leave until 30 days after the date the employee provides notice of the need to be absent.

If the need for leave is not foreseeable and the employee cannot provide 30 days' notice of his or her need for leave, the employee shall provide notice within a reasonable period of time appropriate to the circumstances involved.

Leave Entitlement

Employees may take only the leave necessary to manage the circumstances that prompted the leave request. The company cannot subtract FMLA leave from an employee's entitlement unless the agency obtains confirmation from the employee to invoke entitlement to this leave.

Employees may substitute annual leave or sick leave for FMLA in advance. Supervisors should consider employee's use of sick leave for general family reasons and for seriously ill family members. If the employee substitutes paid leave for Leave Without Pay, the time off counts against the employee's FMLA entitlement, even though it is charged to a paid leave. If the employee simply requests and is granted annual and/or sick leave for an illness, and does not invoke FMLA, that time off does not count against FMLA entitlement.

An employee may retroactively substitute paid leave for leave without pay previously taken if the employee, or his or her personal representative, is physically or mentally incapable of invoking the employee's entitlement to FMLA leave during the entire period in which the employee was absent from work for the FMLA-qualifying purpose. If the employee or his or her personal representative was incapable of invoking FMLA, the employee may retroactively invoke his or her entitlement to FMLA leave within two workdays after returning to work. The incapacity (of the employee and/or representative) must be documented with medical certification from a health care provider.

Medical Certification

Employees must provide medical certification of a serious health condition or legal documentation for adoption no later than 15 workdays after the employee applies for FMLA. If despite the employee's good faith effort and diligence to acquire medical certification of a serious health condition within the 15 day timeframe, the employee must provide the certification within a reasonable timeframe but not later than 30 calendar days after the date the medical certification was requested. Employees who do not provide medical certification signed by the health care provider that includes all requested information are not entitled to FMLA leave.

The required medical certification is a written medical certification issued by the health care provider of the employee or of the eligible family member. The certification should include the

date the serious health condition began; the probable duration of the serious health condition; a general statement as to the incapacitation, examination, or treatment that may be required by a health care provider; the requirement that the eligible patient needs psychological comfort and/or physical care; or needs assistance for basic care. The health care provider must certify that he or she will provide care for the eligible patient and an estimate of the amount of time needed for this care.

While the employee is obtaining the requested medical certification, or if the company questions the validity of the original certification provided by the employee, and the medical treatment is required to begin, the company shall grant provisional leave pending timely final written medical certification.

Substitution of Paid Leave

An employee may elect to substitute paid leave for any or all of the period of leave without pay for FMLA. An employee may elect to substitute the following paid leave:

- accrued or accumulated annual or sick leave, consistent with current law and regulations governing granting and use of annual or sick leave;
- advanced annual or sick leave approved under the same terms and conditions that apply to any other agency employee who request advanced annual or sick leave; and
- leave made available to an employee under the Leave Transfer Program.

Leave Accounting

FMLA for serious health conditions of an employee or family member may be taken either as one continuous period of time or intermittently from one-half hour to several weeks, or on a reduced schedule. Leave is counted hour for hour. FMLA may be taken intermittently for birth or adoption, or placement of a son or daughter only if the employee and the company both agree to such an arrangement.

Placement of Employee while on FMLA

If an employee takes leave intermittently or on a reduced schedule, the Company may place the employee temporarily in an available alternative position for which the employee is qualified and that can better accommodate recurring periods of leave. The alternative position must be an equivalent grade or pay level, and in the same commuting area.

Upon return from FMLA leave, an employee shall be returned to the same position which he/she held when the leave began; or an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

Reporting Requirements

The Company may require an employee to report periodically on his or her status, and intention to return to work following the FMLA leave. Also, as a condition to returning to work after the Company requires certification from the employee's health care provider that the employee is able to perform the essential functions of his or her position. The Company should advise the employee of any such requirements before the leave begins, and will pay the expenses for any such certification.

Sample 3

This company's Family and Medical leave policy follows the requirements outlined under state and federal law. Employees are eligible for FMLA Leave if they have worked for the Company for at least twelve (12) months (does not have to be continuous) and for 1,250 hours over the previous twelve (12) months. Employees who qualify can request leave of up to 12 weeks. See Human Resources for questions regarding eligibility.

Eligible employees must provide written notice of leave at least 30 days before leave is to commence whenever possible. When leave is needed for a medical emergency and 30 days notice is not feasible, the employee must give as much notice as possible.

Employees who are granted FMLA leave will be informed in writing their eligibility as well as their rights and responsibilities and the consequences for failing to meet these requirements. Employees will also be notified of the terms and conditions of their health and additional benefits while on leave. Granted leave will be credited to the allotted 12-week family and medical leave as allowed by law. Following approved leave, employees will be reinstated to their former position or that of an equivalent position, subject to exceptions outlined in the FMLA.