

FARALLON LAW GROUP NEWSLETTER
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Leaves of Absence and Disability Benefits Under California Law

Managing and administering leaves of absence for California employers can be very challenging and confusing due to the varying statutes and regulations at the state and federal level. Accordingly, this newsletter is not intended to be a complete survey of all the different types of leaves, as it will not include information related to military family leave, domestic violence and victim leave, voting leave, etc. It focuses on family and medical leaves.

Federal Family and Medical Leave Act (FMLA)

In 1993, with the passage of the Family and Medical Leave Act, larger employers are required to grant eligible employees up to 12 weeks of job-protected medical leave for birth or adoption, care for an immediate family member, or medical leave because of serious health condition. It also guarantees that an employee can take up to 12 weeks without pay while keeping the same health insurance. Additionally, their position must be held or else a job with equal pay, benefits, and status will be given upon their return. However, the FMLA doesn't cover those who work for smaller companies (less than 50 employees) and guarantees only unpaid leaves.

California Family Rights Act (CFRA)

In addition to FMLA, the California Family Rights Act contains family care and medical care provisions applicable to California employees. These leave provisions cover employers who do business in California and employ 50 or more part-time or full-time employees.

CFRA allows employees a job-protected leave to care for family members with a serious health condition or their own serious health condition. It provides up to 12 weeks of unpaid leave for the employee and continuation of employer-provided health benefits, including dental and vision. All employees who have worked for the employer for a total of 12 months and who have 1,250 hours of physical time worked in the year preceding the employee's request for leave are eligible.

California State Disability Insurance (SDI) and California Paid Family Leave (CPFL)

California State Disability Insurance is a partial wage-replacement insurance plan for California employees. The SDI programs are state-mandated, and funded through employee payroll deductions. SDI provides affordable, short-term benefits to eligible workers. Workers covered by SDI are covered by two programs: Disability Insurance and Paid Family Leave Insurance.

The Disability Insurance program provides affordable, short-term benefits to eligible employees who suffer a loss of wages when they are unable to work due to a non work-related illness or injury, or due to pregnancy or childbirth.

The Paid Family Leave program provides income replacement for workers who suffer a loss of wages when they need to take time off from work to care for a seriously ill child, spouse, parent, registered domestic partner, or to bond with a new child. Under CPFL, up to six weeks of paid leave can be taken with a percentage of wages continuing to be paid, typically around 55% of base paid wages. Employees covered by SDI are also covered by CPFL insurance.

All employers are covered under CPFL, not just those with 50 or more employees. However, CPFL varies from the unpaid CFRA in that businesses with less than 50 employees are not required to hold a position for a worker who goes on paid family leave.

Employers may have policies that dictate the order in which employees may take different kinds of leave. In any case, employees should begin looking into their options as early as they can to make sure they have all their paperwork sorted out before taking leave.

Please feel free to contact Michelle Reed at 415-255-2450 if you have questions about leaves of absence and the benefits that may be available.

This Newsletter is intended as a general guide to law issues and developments. It does not contain a general legal analysis or constitute a legal opinion of Farallon Law Group LLP or any member of the firm on the legal issues described. It is recommended that readers not rely on this general guide in structuring individual transactions but that professional advice be sought in connection with individual transactions.