

INCLUDES CAL/OSHA COVID-19 EXCLUSION PAY
SEE LAST PAGE FOR IMPORTANT ADDITIONAL NOTES

The following is a general summary of the different types of leave that may be required by state or federal law for private sector employers in California. **This is meant for reference and basic information, and it is not a comprehensive explanation of all facets of these types of leave.** Consultation with legal counsel is highly recommended to confirm what applies to your company and how to formulate your policies, particularly since some types of leaves can run concurrently with others. When local leave laws are also in effect, employers must follow the most stringent.

All types of federally or state-mandated leave apply equally to employees covered by Collective Bargaining Agreements (CBAs), with the exception of certain state or local ordinances that may have waivers. See UCON's charts on [Paid Sick Leave CBA Waivers](#) and [CBA Waivers \(NorCal\)](#) for further details on CBA exemptions.

All of the following types of leave include some level of job protection, usually prohibitions against discrimination/retaliation for exercising leave rights, as well as the right to be reinstated to their job or one with equivalent pay, benefits and seniority. Reasonable advance notice can usually be required when the employee's need to take leave is foreseeable. In many cases, employers can require documentation of the purpose and need for leave. Employers also need to pay attention to posting and employee notification requirements of all types of leave applicable to their company.

TYPE OF LEAVE	APPLICABLE EMPLOYERS	ELIGIBLE EMPLOYEES	PURPOSES ALLOWED FOR LEAVE	AMOUNT OF LEAVE	PAID OR UNPAID
Family Medical Leave Act (FMLA)	50 or more employees in 20 or more calendar weeks in the current or preceding year	Have worked for employer for at least 12 months (need not be consecutive); have at least 1,250 hours of service within preceding 12 months; works at location where employer has at least 50 employees within 75 miles	Employee's "serious health condition" (including pregnancy-related disability); care for child, parent or spouse with serious health condition; baby bonding. This includes leave for an employee, either male or female, to bond with his/her own child or with his/her adopted or foster child. Also, for "Qualifying Exigency" due to son, daughter, or parent of employee on active duty or notified of impending call to active duty; military caregiver leave to care for covered servicemembers or certain veterans w/serious illness or injury.	12 work weeks within 12 month period (12 month period established by employer); time can be taken off intermittently FMLA also provides for: <ul style="list-style-type: none"> • 26 weeks of leave for an employee who is the spouse, son, daughter, parent or next of kin for a covered military servicemember who requires care. • 12 weeks of leave for any "qualifying exigency" arising out of the foreign deployment of the employee's spouse, child or parent. 	Unpaid, but employer-provided healthcare coverage must be continued during leave at the same level as if the employee were still at work (H&W payments for union employees). Employee may use accrued vacation, sick leave or PTO – employer cannot require the employee to use it if the employee is receiving disability benefits (SDI, workers' comp, etc.), or to use vacation or PTO if the leave is pregnancy-related.
California Family Rights Act (CFRA) [As modified by SB 1383, effective January 1, 2021; modifications essentially eliminated the New Parent Leave Act of 2018]	5 or more employees in 20 or more calendar weeks in the current or preceding year	Have worked for employer for at least 12 months (need not be consecutive); have at least 1,250 hours of service within preceding 12 months	Employee's serious health condition (excluding pregnancy); care for child, parent, spouse or registered domestic partner, grandparents, grandchildren, and siblings with serious health condition; baby bonding. This includes leave for an employee, either male or female, to bond with his/her own child or with his/her adopted or foster child. Also, for "Qualifying Exigency" due to spouse, domestic partner, child, or parent of employee on active duty or notified of impending call to active duty.	12 work weeks within 12 month period (12 month period established by employer); time can be taken off intermittently If 2 employees in a marriage or domestic partnership are employed by the same company, they may each take 12 weeks for baby bonding	Unpaid, but employer-provided healthcare coverage must be continued during leave at the same level as if the employee were still at work (H&W payments for union employees). Employee may use accrued vacation, sick leave or PTO – employer cannot require the employee to use it if the employee is receiving disability benefits (SDI, workers' comp, etc.), or to use sick leave other than for the employee's own serious health condition.

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Pregnancy Disability Leave (PDL)	5 or more employees	All employees temporarily disabled by pregnancy, childbirth, or related medical conditions	Employee's pregnancy, childbirth, or related medical conditions	Up to 4 months per pregnancy Note: If an employee is disabled longer than four months, she may be entitled to a leave as a reasonable accommodation for her pregnancy-related or other disability.	Unpaid, but employer-provided healthcare coverage must be continued during leave at the same level as if the employee were still at work.
California Paid Sick Leave	All employers	Employed for 30+ days within a year, although they cannot start using accrued sick days until the 90 th calendar day of employment; employees working under a CBA with a CA PSL waiver are not eligible for this benefit	Employee's own health condition (diagnosis, care including preventive, treatment) or that of a child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling. Also for time off related to sexual assaults, domestic violence, or stalking.	Accrue 1 hour of sick leave for every 30 hours worked; sick leave accrual may be capped at 6 days/48 hours and usage may be limited to 3 days/24 hours. Employers can also front-load 24 hours (3 days) of sick leave every year, or use another accrual method that gives the employee at least 24 hrs of sick leave by their 120 th calendar day of employment.	Paid
"Kin Care" using Paid Sick Leave	All employers	Same as PSL law.	Same medical care for family members as defined under PSL law.	Any or all of accrued sick leave under PSL law. If employer provides additional paid sick leave or PTO beyond that amount, up to half of that must be allowed for kin care.	Paid for the amount of hours required under PSL law, and for half of any additional paid sick leave or PTO provided by the employer.
Cal/OSHA Exclusion Pay [COVID-19 Emergency Temporary Standards – Effective 11/30/2020]	All employers – with three limited exceptions	All employees who must be excluded from the workplace for COVID-19 reasons; exposure to COVID-19 must be work-related.	Close contact/exposure to COVID-19 in the workplace. Refer to the Cal/OSHA COVID-19 ETS FAQ for more details.	No limitations. Workplace exclusion must follow the guidelines from the California Dept. of Public Health, or local guidelines if more stringent.	Paid – See UCON's Union COVID-19 Leave Pay Chart , along with the Cal/OSHA and UCON FAQ, for further advisory.
Disability - Americans with Disabilities Act (ADA)	15 or more employees	"Disabled" under ADA definitions and can perform the essential functions of his/her job	Modified work or period of leave needed by employee for reasons related to his/her disability	Reasonable accommodation analysis (no maximum duration of leave, employer must show undue hardship to limit duration)	Unpaid Employee must be allowed to use any accrued paid leave and may be eligible for state disability or other benefits

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Disability - California Fair Employment & Housing Act (FEHA)	5 or more employees	"Disabled" under FEHA definitions and can perform the essential functions of his/her job	Modified work or period of leave needed by employee for reasons related to his/her disability	Reasonable accommodation analysis (no maximum duration of leave, employer must show undue hardship to limit duration)	Unpaid Employee must be allowed to use any accrued paid leave and may be eligible for state disability or other benefits
Workers' Compensation	All employers covered by Workers' Comp	All employees with injuries arising out of employment	Employee injured at work or due to work duties	No maximum duration	Partially paid through insurance carrier
Jury Duty/Witness Leave	All employers	All employees	Time off to serve on a jury or appear in court in compliance with a subpoena, or serve as a witness	No maximum duration	Unpaid, but employees may use any accrued vacation or PTO.
Organ & Bone Marrow Donors	15 or more employees	Employed at least 90 days prior to beginning leave	Employee donating an organ or bone marrow to another person	Bone Marrow – up to 5 paid business days within 1-year period starting when leave is first taken Organs – up to 30 paid business days within any 1-year period; additional unpaid 30 business days within any 1-year period	Employer can require employee to use accrued vacation, PTO or sick leave for up to 5 days (bone marrow) or up to 2 weeks (organs); however, remainder of time up to 5 days (bone marrow) or up to 30 days (organs) where paid leave has not been accrued must still be paid by employer.
Military Duty (USERRA)	All employers	All employees serving in the uniformed services, either voluntarily or involuntarily	Being called to active or inactive duty, which may include types of training	5 years cumulative leave, with some exceptions. California law also provides for up to 17 calendar days of unpaid leave for reserve corps members of the U.S. armed forces, National Guard or Naval Militia for certain activities.	Unpaid, but employer-provided healthcare coverage must be continued for up to 30 days, then COBRA continuation must be made available
Military Spouse Leave	25 or more employees	Spouse of a qualified servicemember (deployed to military conflict) who works an average of 20+ hours per week	Spouse on leave from deployment during a period of military conflict	Up to 10 days	Unpaid Employee may use accrued vacation or PTO, but employer cannot require the employee to do so.

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Crime Victims' Leave (2 types)	All employers	Employees who are victims of certain serious crimes, or whose immediate family member, registered domestic partner, child of a registered domestic partner, is a crime victim.	1) Time off to attend judicial proceedings related to certain serious crimes 2) Time off to attend any proceeding involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue	No maximum duration	Unpaid Employees can use accrued sick time, vacation, personal leave or PTO for victims' leave to attend judicial proceedings related to the crime. An employee can also use unpaid leave time.
Domestic Violence, Sexual Assault, & Stalking Victims' Leave (2 types)	1) All employers 2) 25 or more employees	Employees who are victims of domestic violence, sexual assault, and/or stalking Employers must also allow employees to use kin care for legal proceedings or medical treatment related to domestic violence.	1) Time off to seek any relief to help ensure the health, safety, or welfare of the victim or his/her child (e.g., obtain restraining order). 2) Time off for related medical treatment and/or counseling, to obtain services from a domestic violence shelter/program or rape crisis shelter/program, to participate in safety planning or take other actions to increase safety.	No maximum duration	State-mandated accrued paid sick leave must be allowed for this purpose; afterwards, employee may use any additional accrued vacation, paid sick leave or PTO.
School Activities Leave	25 or more employees working at the same location	Parents, guardians grandparents, stepparents foster parents, or persons standing in <i>loco parentis</i> to a child in K-12 school or licensed child day care center	To find, enroll, or re-enroll employee's child in a school or with a licensed child care provider; to participate in school or licensed day care center activities w/child	Maximum 40 hrs per year, maximum 8 hrs per calendar month (except for childcare provider or school emergency)	Unpaid Employer may require employees to use accrued vacation or PTO.
School Appearance Leave	All employers	Parent or guardian of pupil who has been suspended; employee must give reasonable advance notice	Required to appear at school following suspension	Unlimited	Unpaid
Voting Time	All employers	All employees, The employee must notify employer at least two working days in advance to arrange a voting time	Voting in a statewide election	Sufficient time to vote. This time must be used at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from working, unless otherwise mutually agreed upon.	Up to two hours paid; if additional time needed, unpaid

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Volunteer Firefighters, Reserve Peace Officers, or Emergency Rescue Personnel - Emergency Duty Leave	All employers	Employees who volunteer as firefighters, reserve peace officers, or emergency rescue personnel	Emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel	No maximum duration	Unpaid
Volunteer Firefighters, Reserve Peace Officers, or Emergency Rescue Personnel –Training	50 or more employees	Employees who volunteer as firefighters, reserve peace officers, or emergency rescue personnel	Fire, law enforcement, or emergency rescue training	Up to 14 days per calendar year	Unpaid
Civil Air Patrol	More than 15 employees	Employees who have been employed at least 90 days prior to taking leave, and are volunteer members of the California Wing of the civilian auxiliary of the U.S. Air Force Civil Air Patrol	Responding to an emergency operation mission	Up to 10 days per year, limited to 3 days per mission unless the emergency is extended by the operating entity and the employer approves	Unpaid Employees can use accrued vacation or PTO, but cannot be required to exhaust it.

IMPORTANT ADDITIONAL NOTES:

- Employees who are taking unpaid leave from work under many of the above leave types may qualify to apply for other state benefits. Payments from the Employment Development Division (EDD) may be available to qualified persons as follows – click on each coverage type for more information.
 - **State Disability Insurance (SDI)**
 - Who is eligible - Individuals with full or partial loss of wages due to their own serious health condition; includes having, being exposed to, and being quarantined for COVID-19 (requires medical documentation).
 - What is provided - 60-70% of wages provided up to \$1,300.00 per week depending on income, for up to 52 weeks; unpaid one-week waiting period is waived for COVID-19 related situations
 - **Paid Family Leave (PFL)**
 - Who is eligible – Individuals with full or partial loss of wages due to the birth or adoption of a child, or in order to care for a serious ill family member as specified; includes caring for an ill or quarantined family member with COVID-19 (requires medical documentation).
 - What is provided - 60-70% of wages up to \$1,300.00 per week depending on income, for up to 8 weeks
 - **Unemployment Insurance (UI)**
 - Who is eligible – Workers with reduced hours, including due to any COVID-19 related reasons
 - What is provided - Up to \$450/week for 13-26 weeks, depending on past quarterly earnings; there is usually an unpaid one-week waiting period but this is waived if UI claim is due to COVID-19 reasons.
- Employers generally cannot take deductions from exempt employees' salaries if they have performed any work during the week, as exempt employees must be paid on a salary basis (rather than based on number of hours worked). There are some circumstances when deductions can be taken from exempt employees' salaries for absences (e.g., deductions permitted under the Family Medical Leave Act when exempt employees are taking intermittent leave), or for when an employee takes full days off for personal reasons or illness and paid time off and /or sick leave has been exhausted. Employers should consult with legal counsel before making deductions from exempt employees' salaries.
- Employees may choose to use accrued paid vacation, PTO, or sick leave (if applicable) for unpaid absences, where not required to do so. Employers can also opt to provide paid leave for absences that are not required to be paid by law; however, such policies should be clear to employees (i.e., in employee handbook) and consistent for all employees eligible for that leave.