The District’s FMLA policy (Family and Medical Leave Act) includes “child bonding”, or sometimes called “baby bonding”. This bonding is meant to allow time off to new parents with a new child so that they can enjoy each other for an uninterrupted and comfortable period of time. There are numerous rules and requirements as described below.

Is Child Bonding only for the birth of a new baby in the family? No, birth isn’t the only qualifying reason. Child bonding can be with any new child who joins a family by birth, adoption, or foster care. For purposes of adoption or foster care, the child has to be a minor, but doesn’t have to be under one year of age. The leave needs to be taken during the first year of the child coming into the family. If eligible, potential time period for bonding leave can start any time after the date that the child arrives, and ends one year later. For a new-born, the qualifying period ends at the first birthday.

Can bonding be for the mother and/or the father? Yes, it is for anyone who is the actual parent – biologically or in reality.

Are grandparents eligible for baby bonding? No, generally not. However, in some situations a grandparent is not just supporting the two parents, but instead replacing a missing parent. If the employee (as a grandparent or any other relation) is actually functioning as the sole parent, or as one of two parents, then this individual is a parent under FMLA/CFRA and can take bonding. A grandparent, who is assuming a joint role of co-parenting with the two existing parents in the home, doesn’t have a qualifying FMLA event. The employee must take the place of a missing parent.

Child care leave is specifically authorized in the contracts – isn’t child bonding the same? No, it isn’t the same. In terms of an employee’s rights, child care is a permissive leave, in which a request can be denied by the District. Child bonding is a mandatory leave. A child care leave does not protect District-paid health benefits, whereas child bonding does provide this protection. Technically, child care leave does not provide specific job protections, while bonding does ensure return rights to the same or equivalent position at the same site or to a close and nearby location.

Is it only FMLA-bonding? I’ve been told that it is CFRA-bonding? It’s both. Bonding falls under both FMLA and the California Family Rights Act (CFRA). Sometimes the reference is only to FMLA-bonding. However, government regulations for bonding under CFRA are so much more detailed and more broad than FMLA, so it is incorrect to omit CFRA, especially for any bonding issues. Sometimes it is only CFRA that is discussed. However, FMLA is applicable too. When taking a CFRA-bonding leave, the FMLA is being used as well. It is true that a pregnant employee will have often used up all or most of the FMLA prior to the 12 additional weeks of CFRA-bonding starting. Thus, CFRA might be the only protection in the bonding period for the mother who was recently pregnant.

Is there a maximum amount of time that I can take off for bonding? Yes, time off for bonding is part of the total time that any FMLA-eligible employee can use. You receive 12 workweeks of protection for all of your FMLA qualifying reasons per FMLA year. If you have multiple, ongoing FMLA reasons, you don’t receive multiple sets of 12 weeks.

Aren’t there exceptions if I am pregnant and disabled by this condition? Yes, this is one very large exception. If you are disabled by pregnancy, California splits the FMLA into two separate protections for pregnancy and baby-bonding. CA Pregnancy Disability Leave (or just PDL) is an important protection – separate from the bonding under CFRA. PDL is explained in much more detail in a different Q&A brochure. Specific details on PDL are not provided here.

Can I still have CFRA-bonding leave if I have used up all of my FMLA for my pregnancy disability? Yes, you can, if you are eligible and complete the appropriate paperwork. CFRA-bonding is distinct from FMLA for purposes of pregnancy. However, if CFRA was previously used in the same FMLA year for a non-pregnancy purpose, then this
previous CFRA/FMLA time would be deducted from your 12 weeks of bonding. Additionally, if your PDL exceeds the 18 weeks of maximum usage, then CFRA will be used for any additional absence due to disability, and this CFRA time similarly would be deducted from your 12 weeks of bonding.

Does CFRA-bonding start when I give birth to my new baby? No, it starts when your doctor releases you as no longer disabled and no longer recovering from childbirth. Note that some initial baby bonding is of course occurring while you are recovering from childbirth, but this time counts as CA PDL, and not as CFRA. To emphasize the point, these CFRA protections are only available for those employees who are eligible, which is discussed in the next few questions below.

If my request for time off qualifies for CFRA bonding, do I need to seek my supervisor’s approval? The answer is Yes and No. Yes, you need to make your request known to your supervisor, and fill out all of the appropriate forms. Yet the answer is also “No”, since a qualifying request must be granted if the proper notice is given, described below. The supervisor doesn’t have authority to deny the request but must sign the form and acknowledge the request, assuming that the request meets all of the required qualifications.

How do I request CFRA-bonding leave for a new child? You obtain the form "Certificate/Request of Absence for Illness/Family Illness/New Child"; check reason “4.G)”. This reason is: “Time-off for New Born/Newly Adopted/New foster care”. You should follow the normal steps that your site has established for submitting this form. You can also be required to submit written verification that you have a new baby in your family, but the FMLA Certification of Health Care Provider is not necessary since a bonding leave is not related to your family member’s health condition.

Is there any other action that I have to take? If you are requesting time off for more than 20 consecutive working days, you also need to complete the District’s request-for-leave form from the appropriate personnel division. For certificated personnel, on form # 1065, check reason “II.7.” (“Bonding with New Child”). For classified personnel, on form # 5006, check reason “6.” (“Bonding Leave for birth/adoption/foster care for new child”). These forms are also required when an extension of leave is requested, even if this specific request of extension is for less than 20 consecutive working days.

Is there a specific minimum amount of time that I can take off for bonding? Yes, there are limits. One primary requirement is that the employee must abide by the California State rule for “minimum-duration”. It says that CFRA-bonding allows an employer to require a minimum duration for bonding of 2 weeks consecutively, so that an employee cannot bond, say, every Friday and Monday. The employee is entitled to take lesser time for CFRA-bonding on two occasions in which an exception to the “2 minimum weeks is allowed. Thus, an employee can bond, say, every Friday and Monday for two different “long weekends”, but no more.

Are the rules for qualifying just like other FMLA eligibility? The answer is Yes, and No. Yes, in the sense that you need to have 130 workdays counting backwards in the last 365 calendar days, and one year with the employer. (The details as to how to count these workdays and year are not presented in this brochure. See the separate brochure on FMLA eligibility.) As mentioned above, the answer is also “No”. Read why in the next question and answer.

Is CA PDL the only exception for not having to meet FMLA eligibility? No, there is another critical exception. First, you’re correct, there are no work-time eligibility requirements for PDL. The second critical exception occurs when you (if you are a pregnant employee) don’t return to work after pregnancy disability, and immediately take CFRA-bonding right after PDL. The 365-day period for counting back starts earlier. This period is counted back from the first day of FMLA leave due to the pregnancy disability, which is a computation much more favorable for the pregnant employee. Please note that for purposes of this eligibility rule, the first day of FMLA-pregnancy leave does not crossover into the previous FMLA Year. The pivotal FMLA absence is directly connected in time with the time off for childbirth in the same FMLA Year. If the employee returns to work after pregnancy disability, and takes no CFRA-bonding immediately after her disability is over, but then later asks for CFRA-baby bonding, the employee loses that automatic eligibility for CFRA. Management must use the last 365 calendar days counting back from the first date of bonding leave, and the employee has to meet again the two thresholds based on the date that the employee starts CFRA-bonding. In some situations, an employee may be OK either way, but only the employee’s timecard and the date that the employee chooses to start a requested CFRA-bonding leave can answer that question.

Do I need to apply for child-bonding prior to childbirth? No, but there can be a specific date for you to give notice of your request. You cannot be required under the CFRA-child bonding leave to give notice of more than 30 days in advance of your request, or in the case of childbirth, the best estimate of your release date as no longer disabled.
Waiting until after childbirth would still give you the 30-day leeway. Most recoveries from childbirth are accorded 40 to 50 calendar days. This estimate should be based on your doctor’s opinion as to when you are able to be released as being no longer disabled due to childbirth. If the date changes, then you need to notify the site and the personnel division of the change, whenever you learn that there will be a change of date in your release. Your site may also have rules that permit notice of leave (or an extension of leave) to be less than 30 days.

If I start CFRA-bonding for three weeks, and then return to work for a while, can I take CFRA-bonding leave after I have gone back to work? Yes, once you take CFRA/FMLA leave in one FMLA year for a specific reason, you retain eligibility for CFRA/FMLA for the remaining part of the FMLA year, but this automatic retention of eligibility applies only for that original reason (in this situation, bonding) that CFRA/FMLA was taken. Thus, yes, you may be able to take CFRA-bonding for, say, 7 weeks when the child first arrives, and then 6 months later in the same FMLA Year, take your remaining 5 weeks of bonding. Also remember that there is the two-week-minimum rule discussed above.

In order to take baby bonding, must I have full illness time? No, not at all. To take bonding, you need to be eligible (the main requirement is 130 workdays in the last 12 months), but you do not need any balance of paid illness nor vacation.

Can my bonding absences be paid with my illness balance? No, bonding absences aren’t paid out of your paid illness. You cannot use full-pay illness nor half-pay illness for bonding. This is true for fathers and for mothers (but only after the mother is no longer disabled by pregnancy/childbirth). You as the bonding parent would not be ill and not be disabled.

Does this mean that my bonding leave will be unpaid? Generally, yes. The employee will usually be unpaid. However, there are exceptions, such as 6 days of Personal Necessity, if you still have a balance of full-pay illness. (The time code is “FCPN”.) Note that using Personal Necessity is your option. Once PN is used up, or declined to be used by you, then you would go into unpaid status, since kin-care cannot be used for bonding. Kin-care is only for the care of an ill family member. For unpaid FMLA bonding, the time code would be “FCUP”. Yet there is an exception for unpaid status as well. If you are in a position that earns and/or accrues vacation, then the District shall require that you use this vacation in its entirety (with the exception described in the next Q&A). The law, the District contracts, and District policy all permit the LAUSD supervisor/timekeeper to require this forced use of vacation, regardless as to whether you object. (The time code would be “FCVA”.)

Am I entitled to Paid Family Leave? Maybe. As your question indicates, there is one final exception in terms of pay. Assuming that you accrue vacation and if you pay into the CA SDI under the auspices of EDD, then EDD has a rule for you. If you successfully apply and receive EDD payments under Paid Family Leave, you will only need to use 2 weeks of vacation before receiving these EDD payments. If you have less than 2 weeks of vacation, then you would need to use all of your vacation balance. Generally, after these two weeks, in these circumstances, it is District practice to stop the vacation usage since you will be receiving payments from the State. However, it’s not illegal for the District to decide to continue the vacation pay, even while you’re receiving EDD pay.

If I’m in unpaid status, wouldn’t I normally lose my health benefits? Yes, but not if you’re bonding under CFRA and/or FMLA. CFRA-bonding protects your health benefits, and protects the District payments for those health benefits. Child-care leave without CFRA-bonding does not protect health benefits. It is true that the law and several District rules allow an employer to stop the protection of health benefits once the first 12 weeks of FMLA (pregnancy) are finished, but the District’s past and current practice is to provide these health benefits throughout all FMLA/CFRA time. Another rule requires the employee to return to work after an unpaid bonding leave for at least 30 days. Otherwise, the employee is subject to retroactively losing the District-paid health benefits for this period of unpaid bonding.

Is the introductory paragraph (far above) correct – that I can take child bonding at any time if it is completed within one year of the child arriving into the family? Well, yes, “at any time” is mostly true, but there are exceptions and restrictions, many of which have been noted already. As discussed above, once eligible for bonding in any one FMLA Year, you retain eligibility for bonding for that same FMLA year, even if you dip below 130 workdays. The 12 weeks for CFRA bonding only lasts as long as the employer's FMLA Year. It is important to realize that CFRA and FMLA rejuvenate these 12 weeks for each new FMLA year, yet re-eligibility is absolutely required. In addition, all bonding in the new FMLA Year must be completed before one year of the child first coming into the family.

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