

CA Pregnancy Accommodation and Bonding Leave

The following legal protections apply if your California employer has five or more employees.

I AM PREGNANT AND NEED SOME CHANGES TO MY JOB SO THAT I CAN KEEP WORKING. WHAT ARE MY RIGHTS?

In California, you have the right to a **reasonable accommodation**—that is, a change or modification to your work duties—of your pregnancy-related condition. This means, for example, that if you cannot stand for a long period of time, or if your doctor told you that you cannot lift more than 10 pounds, your employer may be required to change your job or transfer you to a different position until you can return to your normal job.

I HAVE A DOCTOR'S NOTE THAT SAYS I NEED TO SIT EVERY HOUR FOR TEN MINUTES. I GAVE IT TO MY EMPLOYER AND THEY JUST TOLD ME NO, WITHOUT EVEN TALKING TO ME ABOUT IT. IS THAT ALLOWED?

Once you request a reasonable accommodation, your employer is required to engage in what is called an **“interactive process” to try to find a solution that works for both of you.**

This means they have to talk to you about your restrictions and what they could or could not do to accommodate them. They cannot deny your request without first talking to you about it.

MY DOCTOR RECOMMENDED SOME RESTRICTIONS FOR ME, BUT MY BOSS SAID I CANNOT COME BACK TO WORK UNTIL I NO LONGER HAVE RESTRICTIONS. CAN THEY DO THAT?

Before your employer can force you to take leave (or claim that it would be an undue hardship to accommodate you), they must first talk to you to determine if the accommodations can be made and still allow you to perform the essential functions of your job.

In California, your employer is required to reasonably accommodate your restrictions unless doing so would create an “undue hardship”—for example, extreme difficulty or expense—on the employer.

MY DOCTOR ORDERED ME ON BED REST, BUT I AM STILL IN MY SECOND TRIMESTER. AM I GOING TO LOSE MY JOB?

In California, the **Pregnancy Disability Leave Law (PDL)** allows you to take up to four months of unpaid, job-protected leave from work for a disability related to pregnancy. This means that if your doctor orders you on bed rest, or you need to take time off work for medical appointments for a pregnancy-related medical condition, you are legally allowed to take up to four months off work for that disability. You may need a note from your doctor.

Your employer cannot fire you or take any kind of negative action against you for taking PDL leave. PDL leave can be taken all at once or “intermittently” (for example, taking a few hours off in a day, or a few days or weeks at a time).

DO I HAVE THE RIGHT TO TAKE LEAVE FROM WORK RELATED TO CHILDBIRTH?

Yes. Generally, you will be considered disabled starting 4 weeks before your due date through 6 weeks following vaginal delivery, and 8 weeks following a caesarian section.

DO I HAVE THE RIGHT TO TAKE TIME OFF WORK TO BOND WITH MY NEW CHILD?

Yes. In California, the **California Family Rights Act (CFRA)** allows you to take up to twelve weeks of unpaid, job-protected leave time to bond with a newborn, adopted, or foster child. To qualify for CFRA, you need to meet the following requirements:

1. Have worked for your employer for at least 12 months (they need not be consecutive)

2. Have worked for your employer at least 1,250 hours in the previous 12 months
3. Work for an employer with 20+ employees in a 75-mile radius

MY EMPLOYER CUT OFF MY HEALTH BENEFITS WHILE I WAS OUT ON LEAVE. CAN THEY DO THAT?

No. Both PDL and CFRA require employers to let you keep your health insurance benefits while you are out on leave. If you normally pay for your health insurance, you still have to do that while you are out on leave.

I AM TRYING TO RETURN TO WORK AFTER TAKING MY LEAVE, BUT MY EMPLOYER DOES NOT HAVE A POSITION FOR ME.

When you return from either PDL or CFRA leave, you have the right to return to the same or similar position, unless your employer can show that your position would have been eliminated anyway. (For example, if your employer had layoffs during your leave.)

CAN I SPLIT UP THE BONDING TIME UNDER CFRA, OR DO I NEED TO TAKE IT ALL AT ONCE?

You can take your bonding time intermittently (not all at once), but all twelve weeks must be taken within the first year of the child's birth or placement with your family.

MY DOCTOR SAID I CANNOT LIFT MORE THAN 10 LBS. MY BOSS SAID I HAVE TO DO THIS TASK ANYWAY, BUT OTHER PEOPLE WHO WERE INJURED AT WORK AND HAVE LIFTING RESTRICTIONS HAVE BEEN PLACED ON LIGHT DUTY. IS THIS ALLOWED?

If your employer gives accommodations to people who are injured on the job and have the same or similar restrictions as you, it may be pregnancy discrimination if they do not treat you the same way.

MY SUPERVISOR KEEPS MAKING COMMENTS ABOUT HOW I AM GETTING SPECIAL TREATMENT BECAUSE I AM PREGNANT.

Your employer cannot treat you differently just because you are pregnant. Making comments about your pregnancy-related restrictions could be considered unlawful harassment. See the next question for information about how to take legal action.

WHAT CAN I DO IF MY RIGHTS HAVE BEEN VIOLATED?

For violations of PDL or CFRA, **you can file a formal complaint with the Department of Fair Employment and Housing (DFEH)**, which will investigate and follow up with your employer. You have **one year** from the last unlawful act to file a complaint.

WHAT ARE THE POSSIBLE OUTCOMES OF FILING A COMPLAINT?

If your employer forced you out on leave, you could, among other things, receive money for the time you would have received had you been working if they had not forced you out on leave. You could also get reinstated if you were fired.

**MORE QUESTIONS?
CONTACT US**

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