



A Review of Job Protected Leaves of Absence for CA Employers

Business & People Strategy Consulting Group LLC

Free Webinar Series

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Business & People
Strategy Consulting Group, LLC

- Review current Leaves of Absence that affect California employers
- Visit new LOA laws for 2015



BPSC Group LLC & Your Presenter

Business & People Strategy Consulting Group LLC

- Established in 1998 as an HR consulting business.
- 16 years later offer HR, accounting, administrative, IT, e-commerce and management consulting services.
- Virtual and onsite services.
- We have and continue to serve employers from start-ups to 150K+ employee/multi-billion...across industries and the globe.

Your Presenter

- Dr. Carlyle Rogers
- 24 years HR experience
- Doctorates in law and psychology
- Specialist in employment laws and practices
- Author of 'Dirty Little Secrets: Declassifying the Employment Game'
- President & CEO of BPSC Group LLC

Leaves Affecting All California Employers

Jury and Witness Duty

- Requires employers to provide any employee called upon for jury duty or subpoenaed as a witness time off from work for the duration of the civil service on a jury or as a witness.
- May request advance notice if possible
- May request Proof of Service
- Be careful when considering non-payment of wages.
 - Non-Exempt: Can be unpaid
 - May request use of vacation/personal days
 - Exempt: If any work performed during the workweek, must be paid the full week's salary



Voting & Election Officials

- Requires employers to provide employees with as much time off as needed to vote.
 - A maximum of two hours of time off to vote is paid.
 - Must be at the beginning or end of the regular work shift.
 - May require that employee notifies employer at least 2 days in advance of need.
 - Employers must provide notice of voting rights no less than 10 days prior to statewide election.
- Serving as election official on election year
 - Unpaid for time the time off to serve



Victims of Crime

- Requires the employer to provide an indefinite amount of leave in order to attend judicial proceedings to an employee who is a victim of crime as defined in statute, or has an immediate family member who was a victim of crime.
 - Serious and violent felonies
 - Felony theft or embezzlement
- Includes victim, immediate family member, registered domestic partner, child of registered domestic partner, spouse, child, stepchild, (step) siblings and parents, brother/sister, mother/father.
- Employee must provide copy of notice for judicial proceeding before taking the leave (unless unfeasible).
- Unpaid



School Appearance

- Requires the employer to provide employees with time off in order to appear at school on a child's behalf with regard to school suspension.
- Employer may request written notice from school requiring the attendance.
- Unpaid



Military Service Leave (USERRA)

Federal Uniformed Services Employment and Reemployment Rights Act

- Must provide reinstatement rights for veterans and employees called for military duty up to 5 years (some exceptions don't count towards the limit)
- Period of continuation of health care coverage is 24 months (Cal/Cobra)
- Employees have option to use vacation or PTO



Leaves Affecting California Employers With 5 or More Employees

Pregnancy Disability Leave

- Provides up to four months of protected leave. This leave runs concurrently with FMLA, but not CFRA.
- An employee could take up to four months for pregnancy disability/FMLA leave, and still have another 12 weeks of protected leave under CFRA for bonding with a new child or to care for the employee's/family members' serious medical condition.
- Has very specific requirements related to:
 - Notices and posters
 - Medical certification
 - Reasonable accommodations
 - Pay and benefits during leave
 - Use of sick leave, vacation and PTO
 - Seniority
 - And more...



Disability Leave

- FEHA requires all employers with **5 employees** or more to reasonably accommodate employees who have a disability.
- A reasonable accommodation can and may include a **leave of absence**, the duration of which depends upon the employee's disability.



Leaves Affecting California Employers With 10 or More Employees

Civil Air Patrol

- Employers must provide no less than 10 days per calendar year of leave for an employee who is responding to an emergency operational mission of the California Wing of the Civil Air Patrol.
- Can require the completion of initial 90 day period of employment before granting.
- If it is only a single emergency operational mission, only three days of leave is required.
- Employer can request documentation to verify request.
- Unpaid



Leaves Affecting California Employers With 15 or More Employees

Organ Donation Leave

- Employers must provide eligible employees with up to one month of paid protected leave in a year to donate an organ.
- One year period is 12 consecutive months from the date the employee begins their leave.
- Employee must provide employer with written verification of the need for donation leave.
- Can be required to complete the initial 90 days of employment before granting the leave.
- Can require employee use up to 2 weeks of accrued vacation, sick or PTO.
- Time out for leave can't be considered a break in service or lose benefits.
- This leave is explicitly excluded from running concurrently with FMLA or CFRA.



Bone Marrow Donation Leave

- Employers must provide eligible employees with **up to one week of paid protected leave** in a year to donate bone marrow.
- One year period is 12 consecutive months from the date the employee begins their leave.
- Employee must provide employer with written verification of the need for donation leave.
- Can require that the employee use up to 5 days of sick leave, vacation or PTO.
- Can be required to complete the initial 90 days of employment before granting the leave.
- Time out for leave can't be considered a break in service or lose benefits.
- This leave is explicitly excluded from running concurrently with FMLA or CFRA.



Leaves Affecting California Employers With 25 or More Employees

Military Spouse Leave

- Employers must allow an employee to take up to 10 days to spend time with a military spouse who has been deployed in military conflict.
- Employee may use sick leave, vacation or PTO is desired (employer can't require)
- Important note about exempt employees:
 - Must pay them for any day they perform and work, and
 - Employee can't deduct from salary for partial day's absence.



School Activities Leave

- Employers must provide eligible employees with up to 40 hours of leave per year to participate in school activities with their children.
- Applies to parents, guardians or custodial grandparents.
- Kindergarten through 12th grade or licensed child daycare facility
- If both parents work for employer, can be limited to the parent notifying the employer first
- Employer may require that the other employee receives approval for the time off AND require them to use existing vacation, PTO or personal leave.



Domestic Abuse, Sexual Assault and Stalking Leave

- Requires an employer to provide an indefinite leave of absence to an employee who is seeking services or medical attention as a result of domestic violence, sexual assault, or stalking.
- **Regardless of company size**, no employer may discharge, discriminate or retaliate against an employee who is a victim of crime who takes time off from work to appear in court to comply with a subpoena or other court order.
- Employer may request advance notice (when feasible) of time off.
- Action can't be taken for a related unscheduled absence.
- Employer may request certification to be provided in a reasonable time.
- Employees may elect to use vacation, personal or other time off.



Leaves Affecting California Employers With 50 or More Employees

Family and Medical Leave (FMLA)

- Federal protected leave of absence
- Like CFRA offers up to 12 weeks of leave in a 12 months period
- Reasons for leave:
 - Caring for one's own serious health condition (illness or injury) or that of a family member or registered domestic partner.
 - A qualifying exigency relating to a close family member's military service
 - Pregnancy related disability
 - Bonding with a newborn, adopted child or child placed in foster care
- Up to 26 weeks per 12 months period to care for ill or injured service member.



California Family Rights Leave (CFRA)

- CFRA is modeled after FMLA and also requires employers to provide an employee up to 12 weeks of medical leave per calendar year to:
 - Care for their own serious medical condition;
 - Care for the serious medical condition of a family member, defined as a child, spouse or parent;
 - Bond with a newborn or adopted child.
- May or may not run concurrent with other leaves of absence.
 - May run concurrent with FMLA in many situation unless PDL is involved.
 - When PDL is involved, FMLA & PDL can run concurrent. When PDL is exhausted, the remaining FMLA can run concurrent with CFRA.
 - When caring for an injured service member under FMLA, can run concurrent with CFRA unless the service member is next of kin, in which they must run independent of each other.

CFRA and FMLA

Both have very specific requirements related to:

- Eligibility
- Maximum amounts of leave
- Calculating weeks of leave
- Notice requirements
- Required posting
- Pay and benefits
- State disability insurances
- Vacation, sick leave and PTO
- Leave interactions
- And more!!!



Volunteer Firefighter, Reserve Peace Officer, & Emergency Personnel Leave

- Requires the employer to provide an employee who is a volunteer fire fighter, reserve peace officer, or emergency rescue personnel:
 - Leaves of absence to perform emergency duty, and
 - Up to 14 days of leave per year to engage in fire, law enforcement or emergency rescue training.
- Unpaid



New for 2015

New in 2015: Mandatory Paid Sick Leave

- AB 1522: Healthy Workplaces, Healthy Families Act of 2014
- Requires employers to provide paid sick leave to any employee who worked in California for 30 days at an accrual rate of one hour for every 30 hours worked.
- Employers may limit employees use of paid sick leave to 24 hours or 3 days in each year of employment and may put a maximum cap on total accrual of 48 hours or 6 days.
- Law contains nuances such as detailed recordkeeping and notice requirements, including a new poster requirement. The law also contains penalties for noncompliance.
- The effective date for employers to begin providing the paid sick leave benefit is July 1, 2015.



New in 2015: Time Off for Emergency Duty

- AB 2536 adds new personnel to the list of employees eligible for protected time off for emergency duty (health care providers).
- AB 2536 also requires an employee who is a defined health care provider to notify his/her employer when he/she is designated as emergency rescue personnel and also to notify the employer at the time that the employee learns that he/she will be deployed for emergency duty



Breaking It Down

| Leave of Absence | State or Federal | Paid or Unpaid | Employee Count | | | | | |
|---|------------------|----------------|----------------|---|----|----|----|----|
| | | | 1 | 5 | 10 | 15 | 25 | 50 |
| Bone Marrow Donation Leave | California | Paid | | | | X | X | X |
| California Family Rights Leave | California | Unpaid | | | | | | X |
| Civil Air Patrol Leave | California | Unpaid | | | X | X | X | X |
| Disabilities Leave | California | Unpaid | | X | X | X | X | X |
| Domstic Abuse, Sexual Assault & Stalking Leave | California | Unpaid | | | | | X | X |
| Family & Medical Leave | Federal | Unpaid | | | | | | X |
| Jury Duty & Witness Leave | California | Depends | X | X | X | X | X | X |
| Military Spouse Leave | California | Unpaid | | | | | X | X |
| Organ Donation Leave | California | Paid | | | | X | X | X |
| Pregnancy Disability Leave | California | Unpaid | | X | X | X | X | X |
| School Activities Leave | California | Unpaid | | | | | X | X |
| School Appearance Leave | California | Unpaid | X | X | X | X | X | X |
| Victims of Crime Leave | California | Unpaid | X | X | X | X | X | X |
| Vol Firefighter, Res. Peace Officer & Emer Rescue Personnel Leave | California | Unpaid | | | | | | X |
| Voting Leave | California | 2 Hours | X | X | X | X | X | X |



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THANK YOU

If you would like to speak with one of our HR Consulting Team professionals please contact us at:

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