



Workplace Rights for LGBTQ+ Parents

California laws provide parents, regardless of their gender identity, sexual orientation, marital status, or biological relationship to a child, the right to time off and wage replacement for parenting. If you are a parent who is pregnant or has given birth, check out our website (legalaidthatwork.org/wf) for materials that apply to you, because you may have additional rights related to pregnancy and recovery from childbirth.

I have a new baby / I just adopted a child or became a resource (foster) parent

Congratulations on your new child! California laws provide for job-protected time off and pay which you can use within one year after your child's birth, or if you are adopting or are a resource/foster parent, within one year of when your child is placed in the home.

Workers standing *in loco parentis* to a child may also take job-protected leave to bond with a child. *In loco parentis* means standing in the role of a parent. It includes having day-to-day responsibilities to care for or financially support a child. You do not have to have a biological or legal relationship to a child to be in this role, and there's no limit to the number of parents a child can have.

For example, if a foster parent's partner takes on parental responsibilities for the child, that partner can take bonding leave within one year of the child's placement.



Time Off From Work:

The California Family Rights Act gives parents the right to 12 weeks off from work to bond with and care for your new child. Your employer is required to give you this time, and they cannot hold it against you. Your employer must continue your benefits.

You qualify if your employer has 5+ employees and you have worked for your employer for at least 1 year and over 1250 hours (about 25 hours per week) in the last year.

Pay While You Are On Leave:

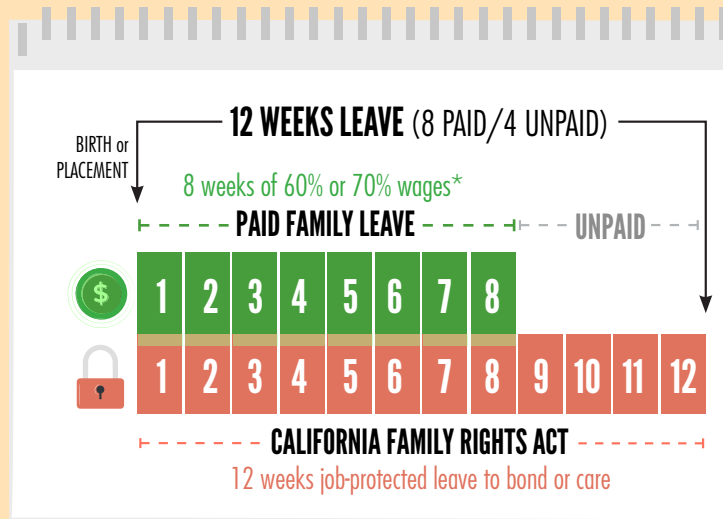
Paid Family Leave provides 60-70% of your pay during 8 weeks of your leave if you have earned wages and paid into the State Disability Insurance fund in the last 5-18 months. Apply at EDD.CA.GOV. Starting in 2025, it will provide up to 90% of your regular income for most workers.

When you apply, you will need to provide proof of your relationship with your child. Proof of relationship can be a Verification of Birth, Birth Certificate, Declaration of Paternity, Certificate of Placement, or Independent Adoption Placement Agreement. If you do not have one of these documents naming you as a parent, you can check a box for "other" and provide what documents you do have, for instance, a birth certificate and/or a marriage license, and a short note stating that you are the child's parent and will be acting as the child's parent (including if you are *in loco parentis*). If the EDD needs more information, they will notify you.

Pay While You Are On Leave (cont)

The California Family Rights Act will protect your job and Paid Family Leave will provide you with income. These rights are available regardless of your immigration status. If you are a foster or resource parent applying for PFL benefits from the EDD, see our guide on Taking Leave from Work to Care for a Foster Child in California.

*beginning in 2025, this will increase to 90% of income for most workers



I have a sick kid

California law also gives parents the right to time off and pay to care for an ill child.

Do you need just a few days or hours? You have the right to earn and use up to 3 California Paid Sick Days each year. Starting January 2024, you can use up to 5 Paid Sick Days per year. You can use them for your health, or to care for a child or family member (this includes chosen family), including taking your child to medical appointments. Some cities and employers provide more.

Is it a serious health condition? Parents can take up to 12 weeks off from work to care for a sick child under the California Family Rights Act. You can also apply to Paid Family Leave to get income for up to 8 weeks while you are taking this time off. See I have a new baby / I just adopted or became a resource (foster) parent! above for more information on the California Family Rights Act and Paid Family Leave. You will need a medical note from your child's healthcare provider. You can only take 12 weeks of California Family Rights Act Leave and receive 8 weeks of Paid Family Leave income total each year.



I want to participate in a school/daycare event or my kid's school/daycare closed unexpectedly

California law also lets parents take unpaid time off from work to participate in a school event, like a field trip or parent-teacher conference, or to care for your child during an unanticipated closure. The Family School Partnership Act lets parents take up to 8 hours off per month and 40 hours total in a year for children in licensed daycare or grades K-12. If there's an emergency, you can take all 40 hours in one month. You qualify if your employer has 25+ employees at the same location.



Lactation Accommodations at Work

Workers are entitled to lactation accommodations, regardless of whether they have given birth. These accommodations include a clean, safe, private space, and adequate time to pump. Check out our factsheet on lactation to learn more: legallaidatwork.org/factsheet/lactation-in-the-workplace-in-california



Visit legallaidatwork.org/wf or call 800-880-8047 for more information and free confidential legal support.

DISCLAIMER: Current as October 2023. The information provided in this resource does not constitute advice. All content is for general informational purposes only. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

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