IFPTE Local 21
@ the Port of Oakland

Family and Medical Leave Act
FMLA Eligibility Rules

- Employer must have at least **50 employees** within 75 miles of worksite
- Employee must have worked for the employer for **at least 12 months**
- Employee must have **worked at least 1250 hours** in the last 12 months

Advantages of FMLA

- Guarantees time off for serious medical conditions (does NOT guarantee paid time off, employee may use accrued benefits)
- Time off cannot be used against you for discipline, benefit reductions, changing work assignments, etc.
- Employer continues their contributions to your health insurance premiums

Amount of FMLA Leave

- 12 weeks of time off
- 12 weeks = 60 work days
- 12 weeks = 450 hours (@ 7.5 hrs./day)
Ways to Use FMLA

- Continuous block of time
- Intermittent usage
- Reduced schedule but NOT flexible scheduling

Medical Conditions that Qualify for FMLA

- Birth of a child
- Placement of a child for adoption or foster care (within first 12 months)
- Care for yourself or immediate family member

What is Considered a “Serious Health Condition?”

- Inpatient care or incapacity requiring more than 3 calendar days
- Incapacity due to pregnancy or prenatal care
- Incapacity that is permanent or long-term

Who Qualifies as Immediate Family Member?

- Yourself
- Spouse
- Child and parent
- No one else*

*California state law expanded FMLA coverage for the care of siblings and grandparents in 2015.
Labor Union Glossary

Americans with Disabilities Act: National law forbidding discrimination against employees on the basis of disability and requiring reasonable accommodations for qualified disabled employees. The ADA is enforced by the Equal Opportunities Employment Commission (EEOC) and by private lawsuit.

ADA/FEHA: Americans with Disabilities Act (ADA) and the California Fair Employment & Housing Act (FEHA) are Federal and State laws that prohibit discrimination against employees or potential employees with disabilities in the terms and conditions of employment.

CFRA/FMLA: The state California Family Rights Act (CFRA) and Federal Family Medical Leave Act (FMLA amended 01-16-09) provides 12 weeks of leave for one’s own serious health condition; the birth of a child; care of a newborn, newly adopted child or new fosters care placement; or the care of a spouse, child or parent with a serious health condition. FMLA has added 26 weeks of leave to care for an ill or injured service member. FMLA has added an “Exigency” leave up to 12 weeks for active duty military personnel.

Disability (under FEHA): A physical or mental disability that limits one or more major life activities including work. A history of such an impairment known to the employer. Applies to an individual who is incorrectly regarded or treated as having an impairment or is regarded or treated as having impairment with no presently disabling effects—then is covered and protected--such as a recovered cancer patient.

Essential Functions of a Job: Essential function means the fundamental job duties of the employment position. The position exists to perform the function. Function requires significant time to perform. Serious consequence of not performing this job function.

Family and Medical Leave Act (FMLA): Federal law establishing a basic floor of 12 weeks of unpaid family and medical leave in any 12-month period to deal with birth or adoption of a child, to care for an immediate family member with a "serious health condition", or to receive care when the employee is unable to work because of his or her own "serious health condition."

Interactive Process: A good-faith communication process between the employer and employee to identify a reasonable accommodation that allows the employee to perform the job effectively.

Reasonable Accommodation: A logical adjustment to the job that allows a person with a disability to perform the essential functions of the position. The term also applies to any adjustment which allows the person to participate in any and all aspects of the employment process, including recruitment, application and promotion, as well as all other employee privileges and benefits.
Where to Find FMLA Paperwork

Find FMLA paperwork on the Port’s Intranet.

Keep scrolling down until you find AP 413.
Part 1: Request for FMLA/CFRA/PDL Leave

Your Dept. Manager signs this form and submits it to HR.
Part 2: Certification of Health Care Provider

Exhibit 413-B

Certification of Health Care Provider

(Family and Medical Leave Act of 1993 and California Family Rights Act)

1. Employee's Name: ____________________________

2. Patient's Name (If different from employee) and relationship of patient to employee: ____________________________

3. Date condition commenced: ____________________________

4. Probable duration of condition: ____________________________

If this certification relates to the employee's pregnancy or childbirth, or condition related to pregnancy or childbirth, proceed to questions 6 and 7.

5. Indicate probable number of health care visits _________, duration of treatment _________, and the frequency with which they have occurred and/or likely will occur (i.e. once w week, once a month, etc.) _________. Include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week:

   a. By Health Care Provider completing this form:

   b. By another Health Care Provider:

Check Yes or No in the boxes below, as appropriate.

6. ______ Yes ______ No Is the employee disabled due to pregnancy to childbirth? If “Yes,” please provide a statement indicating the following: (1) the date on which the employee became disabled due to pregnancy, (2) the probable duration of the period or periods of disability, and (3) an explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

7. ______ Yes ______ No Is it medically advisable for the employee to be transferred to a less strenuous or hazardous position or to less strenuous or hazardous duties? If “Yes,” please provide a statement indicating the following: (1) the date on which the need to transfer became medically advisable; (2) the probable duration of the period or periods of the need to transfer; and (3) an explanatory statement that, due to the employee’s pregnancy, the transfer is medically advisable.

413.12

Return this form to HR when completed.
FMLA Frequently Asked Questions

Employee Eligibility

- **Almost there.** I was badly injured in a car accident 51 weeks after my job started. I have one week of accrued paid vacation time. Could I take my vacation, satisfy the 12-month employment test and qualify for FMLA protections? Yes.

- **Reinstated worker.** We won an arbitration case for a worker who was discharged 14 months ago. The arbitrator reinstated her with full back pay. Will she need to work 1250 hours to reestablish her FMLA eligibility? Authorities disagree. The First Circuit Court of Appeals says a worker reinstated by an arbitrator must requalify. The Sixth Circuit Court says that an employee’s hours of service include those covered by a back-pay order.

Family Care Leave:

- **Hospital visit.** My father had a stroke and is in the hospital. Can I take FMLA to visit with him? Yes, if you are providing emotional care or psychological reassurance, or meeting with his doctors to make decisions about his medical regimen.

- **Depression.** My mother wants me to stay with her for two weeks. She is very depressed. Does this come under the FMLA? Perhaps. Your mother must be under the care of a provider and must be incapacitated from working or taking part in her other regular activities.

- **Domestic partner.** Can I take FMLA leave to care for my longtime domestic partner? Under California state law, yes, you can.

- **Indirect care.** Our six-year-old son, Sam, is in the hospital. Am I entitled to time off to care for our other children so that my wife can be with him? Arguably, yes. In a case that dealt with similar facts, a judge ruled that the FMLA encompasses an absence that is necessary to indirectly provide care for an ill child.

- **Nervous breakdown.** My teenage son is in the throes of a nervous breakdown. He refuses to go to school and demands that someone be near him at all times. Can I take FMLA leave? Probably yes. An emotional illness being treated by a health care provider usually qualifies as serious. Your presence appears to be necessary for safety reasons.

- **Spouses working for same employer.** My wife and I work for the same employer. Our nine-year-old daughter is gravely ill. Can we each take 12 weeks off to care for her? Yes. The only restriction on spouses working for the same employer involves new-child and parent-care leaves.

- **Key employee?** I earn $34 an hour as a machinist. When I asked for time off to care for my mother, my supervisor said that since I am a key employee, the company could fill my
job and not reinstate me. Is she right? No. Only highly-paid salaried workers can be classified as key employees.

• **Filling in.** My sister Carol takes care of our father who has Alzheimer’s disease. Carol needs a vacation. Can I fill in for her? Yes. Leave can be taken to substitute for a regular caregiver.

• **Surveillance.** While a worker was on leave to care for her child, a supervisor saw her drinking in a local pub. Does this provide a lawful basis to fire her? Not necessarily. A caregiver can take a recreational break when her presence is not necessary. On the other hand, if large amounts of her time are spent in this manner, the employer may be able to establish that the request for leave was fraudulent.

• **Restrictions on activities.** Are there any restrictions on how I spend my time while on leave? Employers with established policies regarding outside employment while on paid or unpaid leave may uniformly apply those policies to employees on FMLA leave. Otherwise, the employer may not restrict your activities. The protections of FMLA will not, however, cover situations where the reason for the leave no longer exists, where the employee has not provided required notices or certifications, or where the employee has misrepresented the reason for leave.

• **Appointments.** My mother has emphysema. Can I take time off from work to drive her to her medical appointments? Yes, but you must attempt to have the appointments scheduled at times that do not cause an undue disruption. You must also provide as much advance notice as possible.

• **Niece in the house.** Can I take FMLA time off to care for my nine-year-old niece who is recovering from surgery? She and her mother live with me. Yes. An employee who provides either day to day supervision or financial support can qualify as a parent under the FMLA even if they child also has natural parents.

**Medical Leave:**

• **Allergy.** I missed work for a day because of an allergic reaction. Is my absence covered by the FMLA? This depends. Since the allergy did not incapacitate you for more than three consecutive days, it does not qualify as a serious temporary condition. If you have been receiving medical treatments at least twice a year for an extended period, however, your condition may qualify as chronic. Employees who suffer from chronic disorders may miss work for occurrences as short as a day or even part of a day.

• **Substance abuse.** Does the FMLA protect an alcoholic worker who misses work because he drank the night before? No. The act does not apply to absences or tardies caused by the use of alcohol or illegal drugs.

• **Absence plus light duty.** I had to miss work for two days because of tendinitis. When I returned, my supervisor transferred me to a light-duty position while I underwent physical therapy. Are my two days of absence covered by the FMLA? Yes. Your condition qualifies as serious because you were unable to perform your regular position for more than three days.
• **Incomplete certification.** Management denied me FMLA status because my doctor failed to answer a question on the certification form. Otherwise, the form was fine. Can I be fired because the doctor screwed up? *No. When a medical certification lacks sufficient information to verify FMLA status, the employer must explain the problem and allow the employee time to obtain a corrected form.*

• **Anxiety attack.** A psychiatrist is treating me for a nervous condition. I missed work for three days due to a panic attack caused by my supervisor. Does this come under the FMLA? *Yes, but your employer can insist on a report from your doctor certifying that you were unable to work because of your nervous disorder.*

• **Lifetime certification.** If a doctor certifies that an employee with a back problem will need intermittent leave for the rest of his life, can an employer seek further certifications? *Yes. The employer can request a recertification every six months in connection with an absence.*

• **Late certification.** I missed work for a week but my doctor did not mail and FMLA form until 20 days after I asked him. Does this allow the employer to deny my request for FMLA leave? *This depends on how quickly your employer acts. An employer can deny FMLA or impose discipline if a requested certification does not arrive within 15 days without a timely request for an extension. The employer cannot take action, however, after a valid certification arrives.*

• **More than 12 weeks.** My 12-week FMLA leave is almost over. I will need two more months to get well. Does my employer have to allow me more time off? *This depends in part on your Union contract. Many provide that leaves of absence for legitimate medical reasons may not be unreasonably denied. An employer covered by such language could not deny a request on the grounds that leaves are limited to the FMLA period. Moreover, under the Americans with Disabilities Act (ADA), employers must provide reasonable accommodations to workers with significant disabilities. Extending a leave for an employee who has good prospects of recovery is a reasonable accommodation. A policy that mandates discharge if an absence exceeds the FMLA entitlement is illegal. If your employer denies your request, you can file a grievance, complain to the Equal Employment Opportunity Commission, or sue in court.*

• **Fraud.** A company detective observed me doing heavy work while on leave for a back problem. Could I be fired? *Possibly. The FMLA does not protect workers who request leave dishonestly.*

• **Cosmetic surgery.** Does surgery to remove acne scars come under the FMLA? *Probably not. Unless complications develop, or inpatient hospital care is required, cosmetic procedures unrelated to a serious health condition do not qualify for FMLA leave.*

• **Release.** Can Labor Relations insist that I sign a release for my medical records before approving my four-week leave request? *Yes and no. If you are only seeking unpaid FMLA leave, the answer is no, as your employer may only insist on a provider’s certification. If you are seeking benefits under a paid disability plan, however, you must comply with the plan’s requirement.*
• **Confidentiality.** I submitted a certification to the Medical Department concerning a urinary tract problem. Can medical send it to my supervisor? No. *FMLA certifications are confidential. Medical may only disclose it if you are seeking a job accommodation.*

• **Partial-day leave.** I had to stop work two hours early when my arthritis flared up. How is this counted under the FMLA? *If your normal work week is 40 hours, a two-hour absence is 1/20 of a work week.*

• **Partial-week leave.** I was on FMLA leave Thursday and Friday. How much time should be subtracted from my 12-week entitlement? *If your normal work week is five days, two days is 2/5 of an FMLA week. If your workweek is six days, two days is 1/3 of a week.*

• **Car accident.** I was involved in a car accident driving to work and suffered a painful whiplash condition. I missed Tuesday and Wednesday the first week and five separate days over the next four weeks. I had over a dozen chiropractic treatments before the condition resolved. Do my absences qualify me for FMLA protection? No. *A non-chronic condition does not qualify unless the employee experiences a period of incapacity that lasts for more than three consecutive calendar days. Because your absences were spread out, your condition does not qualify.*

• **Unexpected absences.** Does a medical certification have to be on file for an employee to take FMLA leave? No. *The FMLA covers circumstances under which a need for FMLA leave arises unexpectedly or for the first time.*

• **More leave needed.** An employee with asthma submitted a medical certificate for intermittent leave. The doctor said the expected frequency was three to five days a month. If the employee takes six days off for the condition, can the employer count the day against her? No. *Medical certifications offer approximations, not exact estimates. If the employer believes the employee is malingering, it can ask for an updated medical report.*

• **Ongoing therapy.** May I take FMLA leave for visits to a therapist, if my doctor prescribes the therapy? Yes. *FMLA permits you to take leave to receive “continuing treatment by a health care provider,” which include recurring absences for therapy treatments such as those ordered by a doctor for physical therapy after a hospital stay, or for treatment of severe arthritis.*

**New Child Leave:**

• **State law.** A law in our state allows female employees to take eight weeks of maternity leave. Can I use it to extend my 12-week FMLA leave? No. *Leave taken under one law counts as leave under the other.*

• **Same-sex relationship.** A member is involved in a same-sex relationship with another woman. The members’ partner is having a child in three months. Can the member take time off when the baby is born? Yes. *If the member will be co-parenting the child, she can take leave for the birth of the child and for bonding. You may also take FMLA leave to care for the child if she has serious health problems as she grows up.*
• **Unmarried father.** My girlfriend is expecting. I am the biological father. Can I take FMLA leave when the baby is born? Yes. *A biological father can take FMLA leave to bond with a newborn child whether or not he is married to or living with the mother, or is providing financial support.*

• **Big day.** Can I take FMLA leave to be with my wife when she gives birth? Yes, *if you will be providing physical care or psychological reassurance.*

• **Substitution.** Can my employer make me use up my paid vacation and sick time during my new-child leave? *Your employer may be able to make you use vacation leave (if the leave is earned and available) but probably not your sick leave.*

• **Pregnancy Disability.** Can the employer count leave taken due to pregnancy complications against the 12 weeks of FMLA leave for the birth and care of my child? Yes. *An eligible employee is entitled to a total of 12 weeks of FMLA leave in a 12-month period. If the employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of the 12-week FMLA leave entitlement.*

**Employee Reporting Duties:**

• **Family problem.** If my daughter suffers a seizure, can I simply fax a note saying, “I cannot come to work because of my child’s health problem?” *No. Your note does not alert your employer that your child is suffering from an FMLA health condition.*

• **Status reports.** Can an employer require employees who are on FMLA leave to call in periodically? *Your employer may ask you questions to confirm whether the leave needed or taken qualifies for FMLA purposes, and may require periodic reports on your status and intent to return to work after leave.*

• **Request for extension.** I am on an approved three-week family-care leave. It looks like I will need an additional week. Does the company have to grant me an extension? *Yes, if you provide reasonable notice and a new certification, if requested.*

• **Notice by relative.** Can an employee’s spouse call the company to report an FMLA absence? Yes. *If an employee is unable to call in, notice can be given by a spouse, family member or other responsible party.*

• **Doctor’s note.** If an employee has an FMLA medical certification on file, can an employer demand a doctor’s note verifying that an absence is related to the condition? *No. A doctor’s note is not required for every absence, but if the employer is suspicious of the leave, they can request periodic recertification.*

• **Medical Records.** Do I have to give my employer my medical records for leave due to a serious health condition? *No. You do not have to provide medical records. You must, however, provide a medical certification confirming that a serious health condition exists.*

**Employer Notice Duties:**

• **Waiting game.** I have been caring for my mother for five weeks but have yet to receive an FMLA notice from my company. Do I need one to guarantee my reinstatement rights?
No. An employer’s failure to designate an FMLA leave does not deprive a worker of the Act’s protection.

- **Unwanted designation.** While on workers’ compensation I received a letter that the company was counting the time as concurrent FMLA leave and subtracting it from my FMLA entitlements. Can they do this even though I never asked for FMLA and never filled out any FMLA paperwork? Yes. *When an employee takes a leave under programs such as workers’ compensation or disability insurance, and the absence is for a serious health condition, the employer can designate the leave as FMLA even if the employee objects. An exception arises if the Union contract allows an employee to elect whether or not to use FMLA.*

- **Denials.** If Human Resources determines that a medical absence is not FMLA-qualifying, does the company have to notify the employee with on a particular period? Yes, *in a designation noticed issued within five days of the determination.*

**Paid Leave:**

- **Comp time.** Can an employer force an employee to use accrued compensatory time while out on FMLA leave? Yes. *This is a change made in 2008.*

**Job Restoration:**

- **Seniority.** Does unpaid FMLA time count as time worked for purposes of benefit accrual or pensions? *Not necessarily. Employer do not have to count unpaid FMLA leave as service time unless required by the Union contract or past practice.*

- **Early return.** I was granted a three-week FMLA leave to care for my wife. If her condition improves, can I come back early? Yes, *but your employer can require you to give reasonable notice, generally at least two business days.*

- **Quarterback.** Ben Chavis, the quarterback of our NFL team, when down with a knee injury. His replacement plays better than he did. When Chavis recovers, does the team have to put him back as a starter? *Not necessarily. Being a key employee, Chavis can be denied restoration if this would cause substantial injury to the team.*

- **New hours.** Before my hernia operation, I worked a Monday to Friday schedule. On my return, I was assigned a Tuesday to Saturday schedule. Is this permitted? No. *Except for minor adjustments, an FMLA leave-taker must be allowed to return to his or her previous work schedule.*

- **Job Protection.** Will I lose my job if I take FMLA leave? *Generally, no. It is unlawful for any employer to interfere with or restrain or deny the exercise of any right provided under this law. Employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under “no fault” attendance policies.*
Grievances:

- **Post-discharge surgery.** A nurse was fired for reaching the absence limit. Her last absence was because of intense shoulder pain. A week after discharge, she was diagnoses with a torn rotator cuff and underwent surgery. Can we argue that her last absences was FMLA-protected? Yes. *The FMLA covers absences that ripen into serious health conditions after discharge.*

- **Last-change agreement.** To settle a grievance, the Union agreed that if an employee missed work for any reason during the next six months, he could be discharged. Does this allow the company to fire the worker for an FMLA absence? No. *FMLA rights cannot be waived, even if the worker signs a last-chance agreement.*

- **Prior discipline.** A worker was fired for insubordination. The company says the decision was based on progressive discipline and cited a suspension three months earlier for absenteeism. If we go to arbitration, can we argue that because the suspension violated the FMLA, the termination lacks just cause? *The argument makes sense, but most arbitrators will reuse to open up prior discipline. The employee may have better luck suing in court.*

- **Tardiness.** Does the FMLA protect a worker who is late to work because of a serious health condition? Yes. Although the Act does not mention tardiness, FMLA regulations provide that intermittent leave can be taken for periods of less than a day. A federal judge in Illinois allowed an employee to challenge a five-minute tardy caused by her need to dress her husband’s leg wound. In another case, an arbitrator ruled a 20 minute tardy was FMLA-qualified because the worker was exhausted after staying up all night to monitor her ill mother’s blood pressure. In a third case, a court upheld a $300,000 jury verdict for an employee who was terminated for lateness caused by severe bouts of depression.

- **Diversion attempt.** If a worker being investigated for sexual harassment goes on FMLA leave for stress, will he be immune from disciplinary action? No. *An employer can impose discipline during an FMLA absences if the reason is unrelated to the absence.*

- **If at first you don’t succeed.** A member was terminated for absenteeism. If a labor arbitrator dismisses her grievance, could she file an FMLA lawsuit? Yes, unless the FMLA’s two-year limitations period has expired or the Union contract waives the right to pursue judicial remedies.

Complaints and Lawsuits:

- **Damage for emotional distress.** Can a worker who is denied FMLA leave sue for emotional distress? Courts do not award emotional distress damages in FMLA cases. However, it is sometimes possible to join an FMLA claim with a claim under the Americans with Disabilities Act, which permits recoveries for mental suffering.

- **Double damages.** Are double damages awarded in all successful FMLA lawsuits? No. Although a presumption favors doubling, the penalty does not apply if the employer can establish that its failure to obey the FMLA was in good faith and based on reasonable grounds.
- **Union suit.** Can a Union bring an FMLA lawsuit on behalf of its members? *It appears not.* Courts have only allowed individuals to use.

- **Constructive discharge.** A worker needed time off to care for her husband. She asked several times but her supervisor was hostile, made disparaging remarks, and never gave permission. Fed up, the worker quit. Can she sue under the FMLA? *Perhaps.* Employees who quit work because interference with FMLA rights can sometimes take legal action. To establish a “constructive discharge” lawsuit, the worker must show that the employer made conditions so intolerable that any reasonable employee would have felt compelled to resign.

- **Breach of privacy.** After receiving an FMLA certification, a manager told several other supervisors that the worker had cancer. Can the worker sue? *Yes.* Medical information obtained for FMLA purposes must be kept confidential.

- **Retaliation.** A worker was fired for “poor work.” She is convinced that the true reason is because she took FMLA leave for several weeks during the year. Could she sue in court for double back pay? *Yes.* An employer may not punish a worker for FMLA absences. The worker, however, must be able to convince a judge or jury that the real motivation for her discharge was FMLA. The following evidence supports a claim of retaliation:
  - Closeness in time between the FMLA absences and termination
  - A pattern of harassment, such as close supervision or misapplication of company policies
  - Hostile comments by managers or supervisors
  - The inability of the employer to prove its claim against the employee

- **Complaint about FMLA.** Can my employer fire me for complaining about a violation of FMLA? *No,* nor can the employer take any other adverse employment action on this basis. It is unlawful for any employer to discharge or otherwise discriminate against an employee for opposing a practice made unlawful under FMLA. On the other hand, FMLA does not require that employees on FMLA unpaid leave be allowed to accrue sick/vacation time or seniority.
Different Family Leave Laws for Port of Oakland Employees

**Pregnancy Disability Leave**

Women who work for an employer with 5 or more employees are entitled to up to four months of Pregnancy Disability Leave.

Pregnant employees have the right to take up to 4 months of job-protected leave for disability due to pregnancy, childbirth or a related health condition. This also applies to time off for prenatal care. In addition to leave, pregnant women are entitled to reasonable accommodation at work, like modified duties or frequent bathroom breaks.

Women are entitled to continued employer health insurance coverage while on Pregnancy Disability Leave. PDL runs concurrent with FMLA but the Port will provide health benefits for up to six months.

**FMLA/CA Family Rights Act (CFRA)**

You may be entitled to 12 weeks of job protected leave to bond with your new baby.

Parents have the right to up to 12 weeks of leave to bond with a newborn baby, newly adopted or foster child. Bonding leave must be taken within the first 12 months of the child’s arrival.

To be eligible for job protected bonding leave, an employee must work for a company with 50 or more employees within a 75 mile radius, and the employee must have worked at least one year and 1250 hours in the year prior to taking leave.

Port employees who took 12 weeks unpaid time off under FMLA may be eligible for an additional 12 weeks of leave under CFRA.

**Paid Family Leave Act**

Employees who pay into State Disability Insurance (SDI) are entitled to up to 6 weeks of partial pay to bond with a new child or care for a child with a serious health condition.

The Paid Family Leave Act entitles eligible employees to receive partial pay while taking time off work to bond with a newborn baby, newly adopted or foster child within the first 12 months of the child’s arrival in the home. The benefits are available for up to 6 weeks each year.

The Port allows employees not eligible for maternity leave up to six months of time off with paid health benefits for birth or adoption of child.
Different Family Leave Laws for Port of Oakland Employees

**Sick Leave Use for Family Care**

If you earn paid sick leave, you are entitled to use half of the sick leave earned each year to care for sick family members.

Employees who provide paid sick leave are required to allow employees to use up to ¾ of the sick leave accrued during a 12 month period to care for a sick child, parent, spouse or domestic partner.

To be eligible, an employee must be a full or part time employee with accrued sick leave.

Port employees can use up to 10 sick days annually for the care of immediate family members. See MOU Article M.1.2 for more information.

**Family School Partnership Act**

Parents who work for an employer with 25 or more employees at the same location are entitled to take time off work to attend a child’s school activities.

The Family School Partnership Act allows parents to take unpaid time off from work to participate in activities in their child’s elementary, middle or high school or licensed child care facility. School activities include field trips, parent-teacher conferences, and graduations. A parent may take up to 40 hours each year, but no more than 8 hours per month.

**Lactation Accommodation Laws**

Employed mothers have the right to break time and a private space to express breast milk for their babies.

Federal and California State Laws protect a woman’s right to lactation accommodations. In California, all employers must provide breastfeeding mothers with break time and reasonable accommodations. The space should be private, free from intrusion, and in close proximity to the employee’s work area. The lactation room cannot be a bathroom stall. Breastfeeding mothers can use their regular paid breaks.

If an employed mother needs more time, employers must give them the additional break time, but it may be unpaid.
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For digital versions of the Oakland Master MOU, past issues of our monthly Local 21 @ the Port of Oakland newsletter and more, visit our website at http://www.ifpte21.org/chapters/port-oakland or if you have a smart phone, download a free QR code reader app and scan the image below.

For FMLA questions and/or Oakland specific forms, you can contact Human Resources at the Port of Oakland at 510.627.1519 for more information. Policy Number AP 413 covers FMLA at the Port of Oakland.