



RIVER DELTA UNIFIED SCHOOL DISTRICT

Pregnancy Leave Packet

Answers to Frequently Asked Questions about
Pregnancy Leave Time Off

Congratulations!

We hope you will find the information in this packet a helpful tool in planning your Pregnancy Leave.

While this will be one of the happiest times of your life, work-wise it can quickly become confusing when trying to find your way through the maze of laws and benefits available to you. We've tried to simplify the process for you in this packet. Please remember, you can always contract HR for guidance and assistance.



Please Note: This summary is intended to be an aid in providing employees who will be on Pregnancy Leave with possible leave options. While every attempt is made to align this packet with current California and Federal Leave Laws, it is important to remember these laws are ever-changing and information within this packet is subject to change without notice.

Frequently Asked Questions

1. **I just found out I'm pregnant – what should I do?**

As soon as is practical, please let your site administrator or supervisor and Human Resources know so that preliminary planning for coverage of your position can begin. To notify us of your upcoming leave, please fill out and return the Employee Request for Leave form, (Appendix A) with your projected leave dates. When you have an estimated date of delivery and are likely to begin your leave in less than one month, please submit a doctor's note with your estimated leave dates and due date to Human Resources.

2. **How long can I keep working?**

You may continue working as long as you and your doctor agree that you can perform your job safely.

3. **I am not due for a few weeks, but my doctor has placed me off work. What do I do?**

If the beginning date of your maternity leave has changed, please submit an updated doctor's note to Human Resources with your new release from work date.

4. **What is PDL?**

PDL stands for Pregnancy Disability Leave (Appendix B). PDL begins the first date you are placed off work for your pregnancy and/or delivery and continues as long as your doctor indicates you are disabled by pregnancy post-partum, or for a maximum of four (4) months, whichever comes first, per Government Code Section 12945. During Disability Leave the District will continue to pay its portion of medical and dental benefit premiums.

5. **What is FMLA/CFRA?**

FMLA stands for Family Medical Leave Act (Appendix C). FMLA allows qualified employees to take up to 12-weeks of job-protected leave and runs concurrently with PDL. Since not all employees qualify for FMLA, please check with the Human Resources department for eligibility requirements. The District will send FMLA eligibility paperwork to you when you begin your PDL. FMLA leave begins the first day you are placed off work for your pregnancy and/or delivery. During FMLA the District continues contributions to medical and dental benefits. You will still be responsible for your portion of the benefit cost. FMLA is limited to 12 work weeks every 12 months. The 12-month period is measured forward from the date of your first FMLA leave usage.

6. **I delivered my baby. Now what?**

Please submit a new doctor's note indicating how long your doctor has taken you off work for disability post-partum to Human Resources as soon as possible. ***Please remember to contact the Payroll Department within 30 days of birth if you choose to add your baby to your health plan.***

7. **What is the normal length of time I will be off work for disability?**

Because every pregnancy is different, you and your doctor determine the length of time off work for disability. Routine post-partum pregnancy disability is 6 weeks following a natural delivery, or 8 weeks following a cesarean section. Your doctor may determine that you are disabled from work for additional time before or after the delivery of your baby.

8. **When can I return to work?**

You may return as soon as your doctor releases you. Again, this is a medical decision that is made by you and your physician.

9. **What if I want to stay out a little longer after my doctor releases me from disability?**

Once you receive medical clearance to return to work, you may request to remain off work for "Child Bonding" under the California Family Rights Act (CFRA). CFRA allows for an additional 12 weeks of leave for employees to bond with a newborn child or a child placed for adoption/foster care. CFRA is limited to 12 workweeks every 12 months.

10. **What is Differential Pay and Half Pay (Certificated)?**

If you run out of Sick Leave and you are still disabled by pregnancy, you will be placed on differential pay under Extended Illness Leave, Ed Code 44984. Differential pay is your daily pay rate less the amount of money the District is paying or would pay for a substitute to take your place. Per Ed Code Section 44977.5, employees off work for

the purposes of bonding with their new child are eligible to receive regardless of the type of differential pay system used by the school district pursuant to paragraphs (2) and (3), the compensation a person employed in a position requiring certification qualifications shall receive shall be no less than 50 percent of his or her regular salary for the remaining portion of the 12-workweek period of parental leave. The 12 work weeks of child bonding begin when an employee is no longer disabled post-partum or when a father is out on 12 weeks of child bonding. Child bonding time must be taken within 1 year of the child's birth. Half pay during child bonding only begins when sick leave is exhausted.

11. What is Differential Pay and Half Pay (Classified Employees)?

If you run out of Sick Leave and you are still disabled by pregnancy, you will be placed on differential pay under Entitlement to Other Sick Leave (CSEA Section 11.6). Per Ed Code Section 45196.1, classified employees off work for the purposes of bonding with their new child are eligible to receive regardless of the type of differential pay system used by the school district pursuant to paragraphs (2) and (3), the compensation a classified employee shall receive shall be no less than 50 percent of his or her regular salary for the remaining portion of the 12-workweek period of parental leave. The 12 work weeks of child bonding begin when an employee is no longer disabled post-partum or when a father is out on 12 weeks of child bonding. Child bonding time must be taken within 1 year of the child's birth. Half pay during child bonding only begins when sick leave is exhausted.

12. How do holidays, breaks or district in-service days effect my pay on leave?

Depending on your work calendar, your salary is divided over 11 or 12 months so that you are paid an equal monthly amount, even though you may be on summer vacation or a holiday break (i.e. winter break, spring break, etc.). You are, in reality, only paid for actual days you work when students are in class or when you are attending district in-service. If holidays or non-work days (such as school vacations) occur during your leave, sick leave will not be deducted. However, holidays and non-duty days will count as days used under your FMLA/CFRA leave entitlement.

13. I want to stay out even longer. Are there any other options?

Certificated Employees: If you have exhausted leave under CFRA and you want to remain off work, you may request parental leave without pay for up to one year, minus any time taken off under PDL/FMLA/CFRA. Unpaid parental leave may begin within two (2) years after the birth of the child. Please be advised that you will not receive any salary or District-paid benefits during this leave, however, benefits may be purchased through the District. A maximum of one (1) year extended parental leave may be requested provided that the request for extension is received by the District no later than forty-five (45) calendar days prior to the expiration of the original unpaid leave and the District can secure an adequate replacement. Please note that no sick leave will be accumulated by an employee who is on an unpaid parental leave of absence. To request additional unpaid parental leave, please fill out the "Employee Request for Additional Leave" form (attached), and submit it to HR.

Classified Employees: If you have exhausted leave under CFRA and you want to remain off work, you may request additional unpaid leave under Extended Parental Leave. Upon approval of the Superintendent leave without pay may be granted for up to sixty (60) calendar days. To request additional unpaid leave, please fill out the "Employee Request for Additional Leave" form (attached), and return it to HR.

14. How much leave is allowed if both parents work for the District?

If both parents work for the district, each parent is provided a twelve (12) week period of child bonding, available in a 12 month period.

15. When will I be expected to pay for full cost of my benefits?

While you are off work under your 12 weeks of FMLA as well as while you are receiving differential/half pay during child bonding/CFRA, the District contribution to your benefits will continue as if you were working. If FMLA and child bonding time is exhausted and you have not returned to work and choose to take unpaid leave, the District will not continue to pay the District contribution for your benefits and you will be responsible for the full premium to continue your benefits. Because benefit contributions are paid on a monthly basis, you will be invoiced for the full cost of benefits when you are on unpaid leave for a full month.

Please note that beginning a leave of absence, losing employer contributions to a healthcare plan resulting in a significant increase in the employee's share of premiums (moving to unpaid leave), and returning from leave are Qualifying Events under our medical and dental plans. This means that within 30 days of these events you may drop or add benefits outside of open enrollment.

16. Do I qualify for state disability (SDI)?

Classified employees should apply for SDI during their pregnancy disability. Since certificated employees do not pay into State Disability Insurance (SDI), they are likely not eligible. However, eligibility for state disability is determined by the California Employment Development Department and it is suggested you contact SDI for specific information. Any forms sent to us will be quickly forwarded so your eligibility can be determined accurately.

17. How will my substitute be selected? Am I responsible for finding someone?

The site administrator and Human Resources will assist with finding someone to temporarily fill your position. If you have a recommendation, please inform your site administrator.

18. Will my maternity leave affect my salary advancement when I return (Certificated Employees)?

To be eligible to advance to the next step on the salary schedule a certificated employee must not be on unpaid status more than 25% of the total work days of the employee's assigned position during the previous year.

19. If I am a Certificated employee and I take a long leave, do I get my school and grade back when I return?

We try to place everyone in her first choice of school and grade but this is not guaranteed. For a short-term maternity leave that does not involve CFRA leave, you will most likely return to the same class. It is important to remember that although FMLA and CFRA are "job-protected leaves," this does not mean you will return to the exact position you occupied prior to your leave. It is the obligation of the District to place you in the same or a comparable position within the scope of your credential upon your return.

20. I have income protection or Disability insurance. Can I use it? How does it work?

Some voluntary disability plans cover Pregnancy leave. Please contact the insurance company directly to discuss your plan. If the agency needs any information from the District, they will send the forms directly to Human Resources and the forms will be completed and submitted promptly.

21. What is Paid Family Leave?

Paid Family Leave (PFL) allows eligible workers partial salary replacement but does not provide job protection or return rights. Classified employees should apply for PFL during their child bonding leave. Since certificated employees do not pay into State Disability Insurance (the program under which PFL is paid), they are likely not eligible. However, eligibility for PFL is not determined by the District. Please contact EDD's Paid Family Leave department for eligibility determination.

22. I'm still confused, who can answer my other questions?

Human Resources is here to help! This whole topic can be very confusing, as every situation is quite different. We strongly suggest you make an appointment with HR to talk about how your leave will affect your salary and benefits during your pregnancy leave.

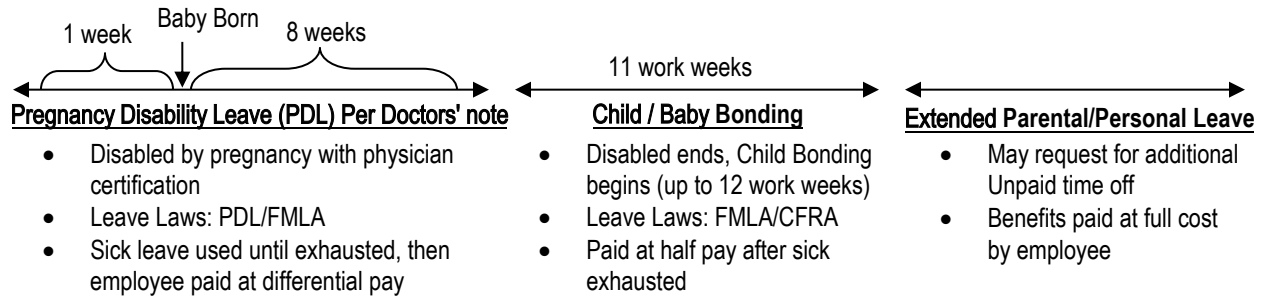
Leave Designations and Timeline

- **Pregnancy Disability Leave (PDL)** begins the first day an employee is placed off work by their doctor regardless of their due date. Pregnancy Disability Leave is available for up to four (4) months for employees who are disabled by pregnancy, child birth, or a related medical condition. A doctor's note must be provided prior to an employee being placed on PDL and will run as long as a physician certifies pregnancy disability.
- **Family Medical Leave Act (FMLA)** begins the first day an employee is placed off work by their doctor. PDL and FMLA run concurrently. Employees are paid using their sick leave, and when sick leave is exhausted, employees are paid differential for the duration of their disability.
- Leave under the **California Family Rights Act (CFRA)** for baby bonding may be requested for an additional 12 weeks after FMLA and/or PDL has been exhausted. For the 12 weeks of child bonding per Education Code Section

44977.5, certificated employees and Ed Code 45196.1, classified employees who have depleted their sick leave will continue to be paid at half pay for the 12 weeks of CFRA.

- Additional unpaid time off may be requested under Parental Leave. Approval of **Extended Parental/Personal Leave** is approved on a case by case basis.

Sample timeline for maternity leave:



- No School/Holiday
- Sick Leave
- Differential/Half Pay
- Delivery Date
- Return to Work

In this example the employee was able to work up until 1 week before her due date of October 14th. She went out on disability on October 9th and began using sick leave. She started her leave with 10 days of sick leave. She ended up giving birth to her baby boy on October 16th, and her doctor certified she would be disabled post-partum for 8 weeks, or through Dec. 8th. Her child bonding began on December 11th and she used 11 of her 12 weeks of child bonding time. She returned to work on March 12th. When she ran out of sick leave on October 20th, she began being paid Differential/Half pay on October 23th through her return to work.

| October | | | | | November | | | | | December | | | | |
|---------|----|----|----|----|----------|----|----|----|----|----------|----|----|----|----|
| M | T | W | TH | F | M | T | W | TH | F | M | T | W | TH | F |
| 2 | 3 | 4 | 5 | 6 | 6 | 7 | 8 | 9 | 10 | 1 | 2 | 3 | 4 | 5 |
| 9 | 10 | 11 | 12 | 13 | 13 | 14 | 15 | 16 | 17 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 20 | 21 | 22 | 23 | 24 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 27 | 28 | 29 | 30 | 25 | 26 | 27 | 28 | 29 | |
| 30 | 31 | | | | | | | | | | | | | |
| 21/53 | | | | | 16/69 | | | | | 16/85 | | | | |
| January | | | | | February | | | | | March | | | | |
| M | T | W | TH | F | M | T | W | TH | F | M | T | W | TH | F |
| 1 | 2 | 3 | 4 | 5 | 5 | 6 | 7 | 8 | 9 | 5 | 6 | 7 | 8 | 9 |
| 8 | 9 | 10 | 11 | 12 | 12 | 13 | 14 | 15 | 16 | 12 | 13 | 14 | 15 | 16 |
| 15 | 16 | 17 | 18 | 19 | 19 | 20 | 21 | 22 | 23 | 19 | 20 | 21 | 22 | 23 |
| 22 | 23 | 24 | 25 | 26 | 26 | 27 | 28 | | | 26 | 27 | 28 | 29 | 30 |
| 29 | 30 | 31 | | | | | | | | | | | | |
| 16/101 | | | | | 18/119 | | | | | 17/136 | | | | |

Reminder-What Human Resources needs for Your Leave

- Before leave begins, provide a doctor's note taking you off work and estimating the dates of pregnancy disability.
- After baby is born, please provide a new doctor's note stating how long you will be disabled post-partum. This note will inform us when you will begin your baby bonding time off when you are no longer disabled.
- Please keep in touch regarding your plan baby bonding time off and your intended return to work date.
- To request unpaid time off provide the Employee Request for Additional Leave form.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.





It is unlawful for an employer to discriminate in terms of compensation, conditions, or privileges of employment because of pregnancy.



Department of Fair Employment and Housing

If a voluntary settlement cannot be reached, and there is sufficient evidence to establish a violation of the law, DFEH may issue an accusation and litigate the case before the Fair Employment and Housing Commission or in civil court. If the Commission or court decides in favor of the complaining party, remedies may include reinstatement, back pay, reasonable attorney's fees, damages for emotional distress, and administrative fines.

For more information, call toll free at (800) 884-1684
Sacramento area & out-of-state at (916) 478-7200
TTY number at (800) 700-2320
or visit our Web site at www.dfeh.ca.gov

In accordance with the California Government Code and ADA requirements, this publication can be made available in Braille, large print, computer disk, or tape cassette as a reasonable accommodation for an individual with a disability.

To request a copy of this publication in an alternative format, please contact DFEH at the numbers above.



State of California
Department of Fair Employment & Housing

DFEH-186 (07-07)

Pregnancy Leave

The Fair Employment and Housing Act (FEHA) contains provisions relating to pregnancy leave. These provisions cover all employers with five or more employees. It is unlawful for an employer to discriminate in terms of compensation, conditions, or privileges of employment because of pregnancy. In addition, there are certain leave and transfer protections and guarantees provided under the FEHA and the *California Family Rights Act (CFRA)*.

All employers must provide information about pregnancy leave rights to their employees and post this information in a conspicuous place where employees tend to gather. Employers who provide employee handbooks must include information about pregnancy leave in the handbook.

Leave Requirements

- An employee disabled by pregnancy is entitled to up to four months disability leave. If the employer provides more than four months of leave for other types of temporary disabilities, the same leave must be made available to women who are disabled due to pregnancy, childbirth, or a related medical condition.
- Leave can be taken before or after birth during any period of time the woman is physically unable to work because of pregnancy or a pregnancy-related condition. All leave



The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

- Taken in connection with a specific pregnancy counts toward computing the four-month period.
- Pregnancy leave is available when a woman is actually disabled. This includes time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, or any related medical condition.
- If an employee is disabled as the result of a condition related to pregnancy, childbirth, or associated medical conditions and requests reasonable accommodation upon the advice of her health-care provider, an employer must provide reasonable accommodation.
- As an accommodation, and with the advice of her physician, an employee can request transfer to a less strenuous or hazardous position for the duration of her pregnancy.
- Employees are entitled to take pregnancy disability leave in addition to any leave entitlement they might have under CFRA. For example, an employee could take four months pregnancy disability leave for her disability, and 12 weeks CFRA leave to bond with the baby; to bond with an adopted child; or to care for a parent, spouse, or child with a serious health condition. CFRA leave may also be taken for the employee's own serious health condition. For more information, see DFEH-188 "California Family Rights Act."
- If possible, an employee must provide her employer with at least 30 days advance notice of the date for which the pregnancy disability leave is sought or transfer begins and the estimated duration of the leave.
- If 30 days advance notice is not possible due to a change in circumstances or a medical emergency, notice must be given as soon as practical. The leave may be modified as a woman's changing medical condition dictates. If a woman desires to return earlier than agreed, an employer must reinstate her within two business days of her notice.

Salary and Benefits During Leave

- Employers who provide health insurance coverage for employees who take leave for non-pregnancy-related, temporary disabilities must provide coverage for employees who take leave for pregnancy, childbirth or related medical conditions.
- An employer may require an employee to use her accrued sick leave during any unpaid portion of her pregnancy disability leave. The employee may also use vacation leave credits to receive compensation during an otherwise unpaid portion of her pregnancy disability leave. An employer may not require an employee to use vacation leave or other accrued time off during pregnancy disability leave.

Return Rights

- After a pregnancy disability leave or transfer, employees are guaranteed a return to the same position and can

- request the guarantee in writing.
- If her same position is no longer available, such as in a layoff due to plant closure, the employer must offer a position that is comparable in terms of pay, location, job content, and promotional opportunities, unless the employer can prove that no comparable position exists.

Filing a Complaint

If you believe you are a victim of illegal discrimination, you can explore filing a complaint with the Department of Fair Employment and Housing (DFEH) by following these steps:

- Contact DFEH by calling the toll-free number at (800) 884-1684 to schedule an appointment or use our online appointment system at www.dfeh.ca.gov
 - Be prepared to present specific facts about the alleged discrimination or denial of leave.
 - Keep records and provide copies of documents that support the charges in the complaint, such as paycheck stubs, calendars, correspondence and other potential proof of discrimination.
- Complaints must be filed within **one year** of the last act of discrimination.
- DFEH will conduct an impartial investigation. We are not an advocate for either the person complaining or the person complained against. We represent the State of California. DFEH will, if possible, try to assist both parties to resolve the complaint.