The 80 hour rule discussed was that an employee taking leave under Parenting Leave (Section E) or under Family Medical Leave would be first required to apply accrued paid sick leave and then apply other available paid leave (annual leave or comp time) until the employee’s total available accrued leave from all three sources reaches 80 hours or less. At that time, the employee can elect to take the Family Medical Leave or Parenting Leave as unpaid leave.

Here are some examples of application of this 80 hour rule:

Under E-4, Parenting Leave
- An employee with a total of 50 hours of sick leave, 40 hours of annual leave and 10 hours of comp time would be required to use 20 hours of sick leave before being eligible to take unpaid leave for parenting. This leaves a bank of 30 hours of sick leave and 50 total hours of combined annual/comp-time leave.
- An employee with 50 hours of sick leave, 90 hours of annual leave and 10 hours of compensatory leave would be required to use all 50 hours of sick leave first and then any combination of annual leave and compensatory time which totals 20 hours before being eligible to take unpaid leave for parenting. This leaves a bank of 80 hours of combined annual/comp-time leave.

Under M-2 for Family Medical Leave that qualifies for paid sick leave
- An employee with a total of 50 hours of sick leave, 40 hours of annual leave and 10 hours of comp time would be required to use 20 hours of sick leave before being eligible to take unpaid leave for Family Medical Leave. This leaves a bank of 30 hours of sick leave and 50 total hours of combined annual/comp-time leave.
- An employee with 50 hours of sick leave, 90 hours of annual leave and 10 hours of compensatory leave would be required to use all 50 hours of sick leave first and then any combination of annual leave and compensatory time which totals 20 hours before being eligible to take unpaid leave for Family Medical Leave. This leaves a bank of 80 hours of combined annual/comp-time leave.

Under M-2 for Family Medical Leave that does NOT qualify for paid sick leave (this will be exceedingly rare since Parenting Leave is dealt with under Section E).
- An employee with a total of 50 hours of sick leave, 40 hours of annual leave and 10 hours of comp time would be required to use a combination of 20 hours of annual leave and compensatory leave before being eligible to take unpaid leave for Family Medical Leave.
- An employee with 50 hours of sick leave, 90 hours of annual leave and 10 hours of compensatory leave would be required to use a combination of 70 hours of annual leave and compensatory time which totals 20 hours before being eligible to take unpaid leave for Family Medical Leave.
- An employee with 90 hours of sick leave, 50 hours of annual leave and 10 hours of comp time would be required to take all 60 hours of the combined annual leave and compensatory leave but the balance of sick leave would remain since the leave does not qualify for sick leave.

The attached revisions to E-4 and M-2. Text in red shows my revisions to apply the discussion above.

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E-34. Employees can choose to use a combination of accrued paid leave or unpaid leave. First, employees must first use accrued sick leave (see FSH 3710 M-2). However, when the combination of the employee’s remaining sick leave, plus any additional accrued paid leave that may be available to the employee falls below 80 hours, then the employee may elect to use unpaid leave for parenting. However, employees must first use accrued sick leave (see FSH 3710 M-2) and then any accrued annual leave or compensatory time, provided however at such time as the employee’s total available leave falls below 80 hours the employee may elect to use unpaid leave for parenting, they have in excess of 80 hours before going on leave without pay. [rev. 7-16][TB(1)

M-2. Family medical leave and/or service member family medical leave is generally leave without pay. However, see Section E above for specialized provisions in the case of parenting leave. In addition, when the absence is not for parenting but also qualifies for the use of sick leave, if available, employees must first use accrued sick leave. However, when the combination of the employee’s remaining sick leave plus any other accrued paid leave that may be available to the employee falls below 80 hours the employee may then elect unpaid leave for the Family Medical Leave may choose to use any combination of paid leave before going on leave without pay to reduce their total balance to 80 hours. Sick leave must be used first in conjunction with family medical leave before any period of unpaid absence. Once sick leave has been exhausted or when the type of absence does not qualify for the use of sick leave, the employee must use other available accrued leave until the employee’s remaining sick leave plus any other accrued paid leave that may be available to the employee falls below 80 hours before the employee may use unpaid leave for the Family Medical Leave. The entire absence or remainder of the approved family medical leave will be unpaid. However, if an employee has more than 80 hours of accumulated annual leave or compensatory time, they must use these hours first before going on leave without pay. Employees may choose to use any combination of compensatory time or annual leave before going on leave without pay to reduce their total balance to 80 hours. [rev. 2-08, 7-16]