

## **PMR NO. 44: LEAVES OF ABSENCE**

### **APPLICABILITY & PURPOSE**

This Personnel Management Regulation (PMR) presents rules for the various types of leaves of absence applicable to County employees.

### **CONTENTS**

- 44.1 Sick Leave
- 44.2 Catastrophic Leave Donation Plan
- 44.3 Vacation Leave
- 44.4 Holidays
- 44.5 Family and Medical Care Leave
- 44.6 School ~~Visit~~ Activities Leave
- 44.7 Bereavement Leave
- 44.8 Personal Leave
- Management Leave
- 44.9 Military ~~Leave~~ Related Leaves
- 44.10 Voting Leave
- 44.11 Jury Duty
- 44.12 Pregnancy Disability Leave / New Parent Leave
- 44.13 Lactation Accommodation
- 44.14 Organ and Bone Marrow Donation Leave
- 44.15 Domestic Violence, Sexual Assault and Stalking Victims Leave
- 44.16 Crime Victims Leave
- 44.17 Administrative Leave
- 44.18 Fitness-for-Duty Leave
- 44.19 Leave Without Pay
- 44.20 Special Leave for Distress Not Otherwise Covered
- 44.21 Sabbatical Leave
- 44.22 Career Development Release Time

### **FORMS AND OTHER ATTACHMENTS**

### **APPROVAL**

#### **44.1 Sick Leave**

A. Defined. Sick leave is leave from duty with pay which may be granted to an employee for the following reasons:

1. The diagnosis, care, treatment of, or preventative care for, the employee's own health condition or that of a qualifying family member or designated person as defined by state law. "Qualifying family members" include an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling;
2. If an employee is a victim of domestic abuse, sexual assault, or stalking, for related reasons permitted by law; and

As otherwise stated in these PMRs or permitted by law.

- B. Eligible Employees. ~~Only~~ All employees who have worked for the County at least 30 days within a 12-month period, are entitled to sick leave, pursuant to this PMR or the applicable collective bargaining agreement (CBA).
- C. Sick Leave Accrual for Regular, Full-time and Part-time Employees Allocated at .5 FTE or More. Unless an applicable CBA provides otherwise, eligible employees will accrue sick leave at the rate of .0462 hours for each hour or major fraction thereof worked, with no limit on accrual. Contingent hire (temporary) employees and Regular, part-time employees allocated at less than .5 FTE will be provided with sick leave in accordance with applicable law and as described in Section 44.1, J. of this PMR or applicable CBA.
- D. Employee Sick Leave Use. Unless an applicable CBA provides otherwise, sick leave up to the total number of working hours accumulated may will be granted by an employee's department head or manager/supervisor for any of the reasons listed in Section 44.1(A) of this PMR. ~~The~~ When the date(s) are known in advance, the employee must submit a written application or time off request to his/her/their supervisor for approval and submittal to the department head.

Sick Leave Use Exception. Represented employees may have exceptions to use of sick leave and should refer to their collective bargaining agreements to understand if there are exceptions to use of sick leave for an illness or injury attributable to an outside occupation for which Workers' Compensation benefits are available and engagement therein has not been authorized.

E. Sick Leave Usage for Industrial Illness or Injury

1. Unless an applicable CBA provides otherwise, in cases where workers' compensation benefits are not immediately payable, the County will provide full pay, without charge against sick leave, during the first week of work, following an industrial illness or injury, provided the County determines that:
  - a. The accident is work related;
  - b. Time off work is warranted; and
  - c. The duration of the time off requested is warranted.
2. In all other cases, unless an applicable CBA provides otherwise, eligible employees may use their accumulated sick leave for time off work following an industrial injury or illness in a proportionate amount of which when added to workers' compensation benefits, will provide total compensation equal to the employee's regular wage or salary. Upon exhaustion of accumulated sick leave or the employee's election not to use accrued sick leave, accrued vacation time may be applied in the same manner.
3. In cases where an industrial illness or injury results in exhaustion of all accrued sick leave, five (5) additional days of sick leave will be credited to the employee upon his/her/their return to work unless an applicable CBA provides otherwise.

~~H. Excessive Sick Leave Usage. An employee who is excessively absent may be subject to disciplinary action. Excessive absenteeism may be defined as absence in excess of the average annual sick leave usage for the employee's department, not including time as a result of FMLA, workers' compensation leave, and up to six days of family sick leave. The pattern of absence and the nature of the illness, as well as other related information, may be taken into account.~~

~~I. Abuse of Sick Leave. An employee will be subject to disciplinary action for abuse of sick leave when the employee claims entitlement to sick leave yet it is determined he/she has not met the requirements for sick leave usage as set forth in 44.1.A, above~~

- F. Abuse/Misuse of Sick Leave. An employee may be subject to disciplinary action for abuse of sick leave when the employee claims entitlement to sick leave, but the County determines the employee has not met the requirements for sick leave usage as set forth in 44.1.A, above.
- G. Evaluation of Sick Leave Usage. Abuse/misuse of sick leave will be considered in establishing the employee's performance rating.
- H. No Payout at Separation. Unused sick leave will not be paid out when an employee separates employment from the County.
- I. Unused Sick Leave Conversion to Retirement Service Credit Upon Retirement. Unless an applicable CBA provides otherwise, retirement service credit is provided for 75% of unused sick leave at the time of retirement from County service for regular-hire employees.
- J. Sick Leave for Regular, Part-Time Employees Allocated Less Than .5 FTE and Contingent Hire (Temporary Employees). The County will provide sick leave benefits as required by law, after an employee completes thirty (30) days of employment with the County as follows:
1. Eligible employees shall receive five (5) days or forty (40) hours of sick leave on July 1 of each year, as determined by their regular work schedule.
  2. New employees will receive five(5) days or forty (40) hours of sick leave in the first pay period thirty (30) calendar days after hire.
  3. Eligible employees may not use paid sick leave until ninety (90) calendar days after hire.
  4. Unused sick leave for regular, part-time employees rolls over year to year; unused sick leave does not roll over from one fiscal year to the next for Contingent-hire (temporary) employees.
  5. All notice requirements and rules regarding the appropriate use of sick leave as defined in the PMRs, CBA and applicable law apply to part-time and Contingent-hire (temporary) employees.

#### **44.2 Catastrophic Leave Donation Plan**

~~A. Eligibility. The catastrophic leave donation plan is available to all regular employees who have completed six months of probation, have applied for and been approved for catastrophic leave and have exhausted all paid leave or anticipate exhausting all paid leave within the next two pay periods.~~

~~B. Definition. Catastrophic leave is defined as a bona fide and verifiable long term illness or injury of the employee or immediate family member that will require the prolonged absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available.~~

~~C. Type of Leave to Be Donated. Donation may include vacation and floating holidays.~~

~~D. Limit (Donor and Recipient). There will be no minimum donation amount. Donors must maintain a leave balance (including sick leave) of one week (37.5 or 40 hours or the equivalent). A recipient may receive up to a maximum of 6 months leave (975 or 1040 hours or the equivalent). Additional time may be received in amounts not exceeding another 6 months equivalent. To be eligible to receive more than the~~

original limit, there must be a favorable prognosis for recovery and a predictable date of return to work. For employees who receive special extended sick leave from the Board of Supervisors upon the request of their department, the total of special extended sick leave and catastrophic leave will not exceed 12 months.

~~E. Integrating of Other Leave Policies. All other leave balances (including sick leave, vacation, floating holidays, compensatory time and personal leave) must be exhausted prior to receipt of donated leave. However, the approving authority may approve the solicitation and acceptance of leave donations prior to all balances being exhausted when a physician's statement and leave balances indicate the probable exhaustion of leave balances within two pay periods. The definition of physician will be the same as that contained in the Family Medical Care Leave Policy, PMR 44.7.B.7. Donated leave will be integrated with other disability plans including but not limited to SDI, Long Term Disability, Social Security, or any other disability plan. In no case will the total of any disability payment and donated leave total be more than the employee's regular wages.~~

~~F. Leave Accrual During Leave Donated. An employee on donated leave will not accrue sick leave, vacation or any other type of leave.~~

~~G. Processing and Administration. The Catastrophic Leave Donation Plan will be administered by the Human Resources Department. Leave must be requested and approved in advance. Approval will be at the discretion of the Director of Human Resources or designee after consultation with the department head. Request must be made on the County's Catastrophic Leave Request Form and submitted to Human Resources by any means, including mail, personal delivery, facsimile, or by representative. After a leave request has been made and approved and donations made, the donor's department may request a budget adjustment from the Board of Supervisors to fund the leave donation. Upon approval and solicitation, Human Resources will provide the required information to the Auditor Controller's Office for processing of leave balance adjustments.~~

~~H. Donor Release. All donors must sign a release form. Donations are irrevocable and become part of the recipient's sick leave balance.~~

~~I. Death of Recipient. Should a recipient employee die, the time credited to the employee's sick leave account will be placed in a bank and distributed in accordance with the Plan requirements. Donations to known terminally ill employees will be posted in amounts not to exceed two pay periods worth of time unless the donor requests that the donation be effective immediately. Any time donated to the employee that was not yet processed will have the donation form returned to the donor.~~

~~J. Conversion from Donor to Recipient. Donated leave will be converted to sick leave at its cash value at the donor's base rate of pay and then credited to the recipient in equivalent hours of leave at the recipient's base rate of pay.~~

~~K. Solicitation. Upon approval of the need for catastrophic leave donation by the Director of Human Resources and provided the requesting employee's leave request so directs, Human Resources will, upon the approval of the employee on the leave request form, send a donation request letter to all departments for posting on employee bulletin boards, or publication in employee newsletters. No confidential medical information will be contained in the donation request. All departments will be supplied with donation forms to give to employees who wish to donate leave.~~

~~L. Taxability. The County Catastrophic Leave Donation Plan will comply with all applicable IRS codes. The leave will be taxable to the recipient and appropriate withholding will be made by the County. There is no tax liability to the donor.~~

A. Definitions.

1. A Catastrophic Leave Bank (CLB) will be maintained by the Human Resources Department. The CLB is designed to provide relief to employees who are unable to work due to a catastrophic illness or injury.
  2. “Catastrophic illness or injury” is defined as a bona-fide and certifiable long-term illness or injury of an employee or employee’s immediate family member, for which a physician has certified the condition is likely to result in an absence of twenty-one (21) or more consecutive calendar days.
  3. “Immediate family member” includes parent, spouse, domestic partner, parent of spouse/partner, sibling, or child. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a permanent or temporary physical or mental disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, or step-child, legal ward, or a child of a person standing in loco parentis. If the leave is for an immediate family member, the requesting employee must be providing active assistance for daily self-care.
  4. “Physician” is defined in the Family and Medical Care Leave Policy, Section 44.5.
  5. Examples of illnesses or injuries that may qualify for the catastrophic leave program include: heart attack, heart conditions requiring heart bypass or valve operations, cancer, back conditions requiring extensive therapy or surgical procedures, stroke, severe respiratory conditions, spinal injuries, emphysema, complications from surgery, severe arthritis, severe nervous disorders, and clinically diagnosed mental health conditions that limit an employee’s ability to perform work of any kind.
- B. Eligibility. The catastrophic leave donation plan is available to regular hire employees who have completed probation, and who have exhausted all paid leave or anticipate exhausting all paid leave within the next two (2) pay periods as a result of a catastrophic illness or injury as defined above in PMR 44.2.A. Contingent hire (temporary) employees are not eligible for the catastrophic leave donation plan.
- C. Application and Approval. To apply for catastrophic leave, an employee must submit a completed Catastrophic Leave Application Form, current medical certification, and any additional supporting documents to Human Resources. Leave donations will not be provided to the recipient for any time prior to the application approval date. HR will review applications on a biweekly basis and make recommendations for approval; final approval will be at the discretion of the Director of Human Resources or their designee. All of an employee’s leave balances including sick leave, vacation, floating holiday, compensatory time, management leave, professional leave, and personal leave must be exhausted prior to receiving donated catastrophic leave.
- D. Administration and Limits.
1. All donors must sign a release form, and may not make conditional donations. Donations may be in the form of vacation, floating holidays, and/or compensatory time and will be deposited into the CLB. Donors must maintain at least one (1) week of paid leave to use for their own purposes.
  2. Donated leave will be converted to its cash value at the donor's base rate of pay and deposited into the CLB upon receipt. Donations will then be converted to catastrophic leave hours based on the recipient's base rate of pay. The converted leave will be provided to eligible employees in up to two-week increments.

3. Donations will be deposited into the CLB and are irrevocable once deposited.
  4. Employees may receive catastrophic leave donations for no more than six (6) calendar months in a rolling twelve (12) month period, unless there are extenuating circumstances and the Human Resources Director or his/her/their designee grant an extension. To be eligible to receive an extension, there must be a predictable date of return to work.
  5. Employees may not donate more than 80 hours per calendar year. Donations will be accepted any time the balance of the CLB is less than \$110,000.
- E. Integration and other Leave Provisions. If a recipient is eligible to receive Temporary Disability (TD), State Disability (SDI), and/or Long-term Disability (LTD) benefits, the County shall prorate applicable leave donations to make up the difference, equal to, but not in excess of, 100% of recipient's regular gross pay. In such circumstances that leave donations are prorated, recipient shall continue to receive the full County contribution (Fringe) toward benefits. Employees on catastrophic leave will not accrue any regular leave, including sick, vacation, management leave, personal leave, floating holidays, or professional leave. When returning to work from catastrophic leave, employees will resume receiving leave in accordance with the accrual and proration schedules outlined in the applicable CBA or the PMR. During the first six (6) months of an employee's return from catastrophic leave, an employee may borrow sick leave up to the amount the employee will earn during his/her/their initial six (6) months back to work. If an employee borrows sick leave, such sick leave borrowed shall be subtracted from future accumulations until accumulations equal excess sick leave actually taken. Thereafter, sick leave shall accumulate as provided by the applicable CBA or the PMR.
- F. Taxability. The County Catastrophic Leave Donation Plan will comply with all applicable tax laws.

#### 44.3 Vacation Leave

- A. Eligible Employees. All employees, except contingent hire (temporary) employees, and elected officials, are entitled to accrue vacation leave. Part-time employees accrue vacation leave on a pro-rata basis.
- B. Vacation Leave Accrual. Unless an applicable CBA provides otherwise, eligible employees accrue vacation leave on the basis of continuous years of service in accordance with the following schedule:

| C. Months of Service                          | D. Hourly Standard Accrual | E. Maximum Workdays Per Year |
|-----------------------------------------------|----------------------------|------------------------------|
| F. 0 through 24 months                        | G. .0385                   | H. 10                        |
| I. Greater than 24 months through 108 months  | J. .0577                   | K. 15                        |
| L. Greater than 108 months through 228 months | M. .0770                   | N. 20                        |

|                                               |          |       |
|-----------------------------------------------|----------|-------|
| O. Greater than 228 months through 348 months | P. .0962 | Q. 25 |
| R. Greater than 348 months                    | S. .1154 | T. 30 |

\* Exceptions: For top management positions in unit #21 (Appointed Officials) and #26 (Assistants, Deputies and Battalion Chiefs): fifteen (15) working days.

U. Unpaid Leave of Absence. Vacation leave does not accrue during any unpaid leave of absence.

V. Vacation Leave Use.

1. Vacation leave may not be taken without written request to the employee's supervisor or manager and notification from them that the request has been approved in advance of the vacation leave. Vacations should be scheduled as far in advance as reasonably possible in each work unit, and staggered over the calendar year to the extent reasonable.
2. Unless an applicable CBA provides otherwise, employee preference for vacation time off, to the extent that it is reasonable, will be honored (on a seniority or annual rotation basis, in the event of a conflict), subject to the department head's judgment to ensure the maintenance of minimum work force at all times, peak workload coverage, ~~an~~ and/or general departmental and public convenience.

W. Changes to Vacation Leave Requests. Unless department rules have established a different procedure, employees must notify the department head in writing to change or cancel any vacation leave request. The requested change or cancellation will have no effect, and vacation leave will be charged to the employee for the original request, unless the department head or his/her/their designee provides his/her/their approval of the change/cancellation request in writing.

X. Limits on Accrual of Vacation Leave. Employees will not accumulate any further vacation leave if their unused vacation leave reaches the following levels:

1. Employees holding positions in unit #24-02 (confidential clerical): 300 unused hours.
2. Employees holding positions in units #21-01 and #21-07 (appointed officials), #24-01 (confidential professionals), #24-03 (deputy county counsels), #24-05 (administrative aides), #24-06 (confidential management), #26-01 (assistants and deputies), ~~#25-01 (deputy district attorneys)~~ and #30-01 (supervisory): 360 unused hours.
3. Other employees' limits are governed by the applicable CBA.
4. To avoid impairment of County services, the County Executive may approve the accumulation of unused vacation hours in excess of the maximums specified above.

Y. Holidays During Approved Vacation Leave. When a holiday observed by the County falls within an employee's approved vacation leave, that day will not be charged against the employee's accrued vacation leave.



Z. Injury or Illness During Approved Vacation Leave. If an employee becomes ill or is injured during approved vacation leave, the employee may choose to use accrued sick leave, if any, for the time of actual illness, provided the employee meets the criteria set forth in Section 44.1.

AA. Payment Upon Separation from Employment. Subject to limits on unused hours specified in subsection F, an employee who separates employment with the County and has earned and accrued vacation leave to his/her/their credit will be paid for the remaining vacation leave as of the last date of employment.

#### 44.4 Holidays

A. Observed County Holidays. The following holidays are observed by the County. Unless an applicable CBA provides otherwise, all regular, probationary, provisional and at-will employees, except contingent hire (temporary) employees, are entitled to the following holidays with pay.

1. New Years Day
2. (Martin Luther King Jr.'s Day)
3. (President's Day)
4. Cesar Chavez Day (March 31)
5. Memorial Day
6. Juneteenth (June 19)
7. Independence Day
8. Labor Day
9. Veteran's Day
10. Thanksgiving Day
11. The Friday immediately following Thanksgiving Day
12. December 25

B. Special Holidays. In addition to the recognized holidays listed in subsection A, the County may, provided approval is given by the Board of Supervisors, observe as a holiday every day appointed by the President of the United States or the Governor of the State of California for a public fast, thanksgiving or holiday upon which federal and/or state government offices will be closed. Such a holiday will be granted to regular, probationary, provisional and at-will (except contingent hire (temporary) employees) employees.

C. Weekend Holidays. If a holiday, falls on a Saturday or Sunday, the Friday preceding a Saturday holiday or the Monday following a Sunday holiday will be deemed a holiday in lieu of the day observed. For an employee who does not work a Monday through Friday schedule, the day immediately following their ~~two days~~ day(s) off will be deemed to be a holiday in lieu of the day observed, unless for business reasons the department head and employee agree to another day, preferably within the same pay period.



D. Floating Holidays. Unless an applicable CBA provides otherwise, two (2) to four (4) days per year (as noted below) will be deemed floating holidays which may be taken at any time or times during the fiscal year in which they are accrued provided written request is made in advance and the department approves such request in writing. Employees eligible for floating holidays are regular, probationary, and at-will (except contingent hire (temporary) employees and elected officials). If an employee transfers to another County position, the total accrual for the year of transfer will not exceed the maximum accrual for the year for any one position held.

1. Manner of Accrual of Floating Holidays for Unrepresented Employees. Each unrepresented employee, except for confidential clerical positions, will accrue two (2) floating holidays on July 1 of each year. Any unrepresented employee hired between July 1 and January 1 of any fiscal year will immediately accrue two (2) floating holidays upon appointment for that fiscal year. Any unrepresented employee hired on or after January 1 through March 30 of any fiscal year will accrue one (1) floating holiday for the balance of the fiscal year. Unrepresented employees hired after March 30 of any fiscal year will not accrue floating holidays for the balance of the fiscal year.
2. Manner of Accrual of Floating Holidays for Employees in Sub-Unit #24-02. Each employee in sub-unit #24-02 (confidential clerical) will accrue four (4) floating holidays on July 1 of each year. All employees hired in a position in sub-unit #24-02 between July 1 and January 1 of any fiscal year will immediately accrue upon appointment four (4) floating holidays (30 hours) for that fiscal year. All employees hired in a position in sub-unit #24-02 on or after January 1 through March 30 of any fiscal year will accrue two (2) floating holidays (fifteen (15) hours) for the balance of that fiscal year. Employees in these groups hired after March 30 of any fiscal year will accrue no floating holidays for the balance of the fiscal year.
3. Manner of Accrual of Floating Holidays for Represented Employees. The right to, use of and manner of accrual of floating holidays for employees represented by a union or association, if any, will be determined by applicable CBA.
4. No Carry-Over of Floating Holidays. Floating holidays must be taken in the fiscal year accrued and will not carry over from one fiscal year to the next. Upon separation of employment from the County, unused, accrued pro-rated floating holidays will be paid at the employee's straight time rate.

#### 44.5 Family and Medical Care Leave

- A. Statement of Policy. ~~To the extent not already provided for under current leave policies and provisions, the County will provide Family Medical Care Leave for eligible employees as required by state and federal law. Unless otherwise indicated, "leave" under this section will mean leave pursuant to the Family Medical Leave Act and California Family Rights Act. This Section provides eligible employees with Family and Medical Care Leave as required by the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Each provision of this Section is subject to the defined terms set forth below in subsection B.~~
- B. Definitions. The following definitions apply to this policy.
1. "12-Month Period" means a rolling twelve (12) month period measured backward from the date leave is taken and continuous with each additional leave day taken. (FMLA 29 CFR 825.200; CFRA 2 CCR 11090(b)).

- a. "Child" means a biological, adopted, foster or step-child, legal ward, or a child of a person standing in loco parentis. "In loco parentis" is defined below in subsection 6. (FMLA 29 CFR 825.122(d); CFRA 2 CCR 11087).
2. "Covered Military Member" means an employee's spouse, domestic partner, child (as defined in 44.5 B. 1. a. above), or parent who is on covered active duty in the Armed Forces. (FMLA 29 CFR 825.126; CFRA 2 CCR 11087).
3. "Covered service member" (Military Caregiver Leave) means an employee's spouse, child, parent or next of kin who is a current member of the Armed Forces (including members of the National Guard or Reserves) and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, is otherwise in outpatient status or on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty. (FMLA 29 CFR 825.127).
  - a. "Covered veteran," means an employee's spouse, child, parent or next of kin who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, if the veteran was discharged or released from the Armed Forces (including National Guard or Reserves) under conditions other than dishonorable at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. (FMLA 29 CFR 825.127).
  4. "Domestic partner" means the person named on the employee's Declaration of Domestic Partnership filed with the Secretary of State and on file with the Human Resources Department. (CA Family Code Section 297)
  5. "Health Care Provider," as defined by FMLA 29 CFR 825.125 and CFRA 2 CCR 11087, means:
    - a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California state in which the doctor practices, or any other individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises the treatment of the serious health condition;  
b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition.
    - b. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct an existing subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice under California State law;
    - c. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
    - d. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;

- e. Any other person determined by the United States Secretary of Labor to be capable of providing health care services under the FMLA; and
  - f. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.
6. “In Loco Parentis” means in the place of a parent; instead of a parent; charged with a parent's rights, duties, and responsibilities. It does not require a biological or legal relationship. (FMLA 29 CFR 825.122 (a)(3); CFRA 2 CCR 11087).
7. “Next of Kin of a Covered Service member” (Medical Caregiver Leave) means the nearest blood relative other than the covered service member’s spouse, parent, child, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his/her/their nearest blood relative for purposes of military caregiver leave. When no such designation is made and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take a leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member’s only next of kin. (FMLA 29 CFR 825.127).
8. “Parent” means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian or other person who stood in loco parentis to the employee when the employee was a child. A biological or legal relationship is not necessary for a person to have stood in loco parentis to the employee as a child. (FMLA 29 CFR 825.122(c); CFRA 2 CCR 11087).
9. “Qualifying Exigency,” as defined by FMLA 29 CFR 825.126, means circumstances arising out of the fact that an employee’s spouse, domestic partner, child, or parent is a covered military member on covered active duty in the Armed Forces, or call to active duty in a foreign country, including:
- a. Issues arising from a covered military member’s short notice deployment (i.e., deployment on seven (7) or less days of notice) for a period of seven (7) days from the date of notification;
  - b. Attendance in military events and related activities, such as official ceremonies, programs, or events sponsored by the military that is related to the covered active duty of the spouse, domestic partner, child or parent; and/or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that is related to the covered active duty of the spouse, domestic partner, child or parent;
  - c. Certain child care and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;

- d. Making or updating financial and legal arrangements to address a covered military member's absence, or for purposes of obtaining, arranging, or appealing military service benefits during a covered military member's active duty, and for a period of 90 days following the termination of the covered active duty;
  - e. Attending counseling provided by someone other than a health care provider for oneself, for the spouse, domestic partner, child, or parent in the Armed Forces of the United States, or for the biological, adopted, or foster child, a stepchild, or a legal ward of the spouse, domestic partner, child, or parent in the Armed Forces of the United States, or a child for whom this person stands in loco parentis, who is either not more than 18 years of age, or equal to or more than 18 years of age and incapable of self-care because of a disability at the time that paid family leave is to commence, the need for which arises from the active duty or call to active duty status of the covered military member;
  - f. Taking up to fifteen (15) days of leave to spend time with a covered military member who is on short-term, temporary, rest and recuperative leave during the period of deployment in a foreign country;
  - g. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of ninety (90) days following the termination of a covered military member's active duty status, and addressing issues arising from the death of a covered military member;
  - h. Certain parental care for the covered military member's parent who is incapable of self-care by requiring active assistance or supervision over daily self-care in three or more of the activities of daily living or instrument activities of daily living, such as arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at the parent's care facility (including but not limited to meetings with hospice or social service providers) if they are necessary due to circumstances arising from the active duty of the covered military member;
  - i. Any other activities to address other events that arise out of the covered active duty or call to covered active duty of the spouse, domestic partner, child, or parent in the Armed Forces of the United States, provided that the employer and employee agree that this leave will qualify as an exigency, and agree to both the timing and duration of this leave.
10. "Spouse" means a partner in marriage or a registered domestic partner, including same-sex partners in marriage, as defined or recognized under California State law for purposes of marriage. (FMLA 29 CFR 825.122(b); CFRA 2 CCR 11087(2)(x)).
11. "Serious health condition," as defined by FMLA 29 CFR 825.113 – 115 and CFRA 2 CCR 11087(2)(v). means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition that involves:
- a. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires; or

Continuing treatment or supervision by a health care provider, including but not limited to treatment for substance abuse.

12. “Serious Injury or Illness” (Military Caregiver Leave) means, (1) an injury or illness that was incurred by a covered servicemember, in the line of duty on active duty, or (2) an injury or illness that existed before the beginning of the servicemember’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of the servicemember’s office, grade, rank or rating. (FMLA 29 CFR 825.127).
  - a. For a covered veteran, “serious injury or illness” means an injury or illness that was incurred or aggravated by the servicemember in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran and is, (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grant, rank or rating; (2) a physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater, and where such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; (3) a physical or mental condition that substantially impairs the veteran’s ability to secure and follow a substantially gainful occupation by reason of disability or disabilities related to military service or would do so absent treatment; or (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

C. Employees Eligible for Leave. An employee is eligible for leave if the employee has:

1. Been employed by the County for at least 12 months; and
2. Has been employed worked at least 1,250 hours (work hours) during the 12-month period immediately preceding the commencement of the leave.

~~C. Reasons for Family Medical Care Leave. Leave is only permitted for the following reasons: 1. The birth of a child or to care for a newborn of an employee; 2. The placement of a child with an employee in connection with the adoption or foster care of a child; 3. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition; or 4. Leave because of a serious health condition that makes the employee unable to perform the functions of their position.~~

D. Qualifying Reasons for Family and Medical Care Leave. Leave is permitted for the following reasons, and as otherwise required by applicable laws:

1. The birth of a child or, within one (1) year of the birth, to care for a newborn of an employee (Baby-Bonding Leave).
2. The placement of a child with an employee through adoption or foster care, within one (1) year of placement (Baby-Bonding Leave);
3. To care for a covered family member (spouse, registered domestic partner, parent, parent-in-law, child, child of an employee’s registered domestic partner, sibling, grandparent, or grandchild) or designated person (a blood relative or someone with whom an employee has a relationship that is equivalent to family) who has a serious health condition;

4. The employee's own serious health condition that makes the employee unable to perform the functions of the employee's position;
5. Any qualifying exigency arising out of the fact that the employee's spouse, domestic partner, child, or parent is a covered military member on covered active duty status (Qualifying Exigency Leave); or
6. To care for a spouse, child, parent, or next of kin who is a covered service member (including certain veterans) with a serious injury or illness (Military Caregiver Leave).

~~E. Amount of Leave. Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period, with the following exceptions: 1. Minimum Duration of Leave. If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions. 2. Leave Due to Serious Health Condition. If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification must follow the provisions of this policy. 3. Spouses Both Employed by County. In any case in which a husband and wife both employed by the County are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). This limitation does not apply to any other type of leave under this policy.~~

E. Amount of Leave Entitlement. Eligible employees are entitled to a total of twelve (12) workweeks of leave during any 12-month period, except for Military Caregiver Leave, during which eligible employees are entitled to a total of twenty-six (26) workweeks of leave during any 12-month period.

F. Leave Usage

1. Intermittent Leave and Reduced Work Schedule. If an employee requests leave intermittently (a few days or hours at a time) or on a reduced schedule to care for an immediate family member with a serious health condition or treatment required for oneself, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the medical need can best be accomplished through an intermittent or reduced leave schedule.
2. Child Bonding, Placement for Adoption/Foster Care. Leave taken for child bonding, adoption or foster care placement of a child does not have to be taken in one continuous period of time, but must be taken within one (1) year of the child's birth or placement. The minimum duration of such leave is two (2) weeks. However, an employee may take a leave of less than two (2) weeks' duration on any two (2) occasions.
3. Leave Due to Serious Health Condition. If leave is requested to care for a covered family member or the employee's own serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification must follow the provisions of this policy.

G. Employee Notice of Leave. Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as



possible of their need for leave. When an employee's leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he/she/they will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee will inform his/her/their supervisor as soon as possible that such leave will be needed. While written notice is recommended, such notice may be given orally. The employee's leave request must include the employee's intent to return to work and the expected date of return. Employees requesting leave to care for a designated person must identify the designated person on the leave request. Absent an emergency or unforeseeable personal or family circumstance, if the County determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the County may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute. (See PMR 44 – Form 1: Request for Family and Medical Care Leave Form).

#### H. Required Certification

1. Certification for Employee's/Covered Family Member's Serious Health Condition. Employees who request leave for their own serious health condition or to care for a covered family member with a serious health condition must provide written certification from the health care provider of the individual requiring care. If the leave is requested because of the employee's own serious health condition, the certification must include the beginning and probable ending dates of the illness and a statement that the employee is unable to work at all or is unable to perform the essential functions of the employee's position. If the leave is requested due to the serious health condition of eligible covered family member, the certification must include a statement that the condition warrants the participation of the employee to provide care during a period of treatment or supervision, an estimate of the amount of time the health care provider believes the employee must care for the covered family member, the probable duration of the medical condition, and the date the serious health condition commenced, if known. (See PMR 44 – Form 2A: Employee's Serious Health Condition Certification Form and PMR 44 – Form 2B: Family Member Serious Health Condition Certification Form).
2. Certification for Military Family Leave. An employee is required to provide a completed and sufficient certification to the County to support the employee's request for Military Caregiver Leave or Qualifying Exigency Leave. (See PMR 44 – Form 3A: Certification for Military Caregiver Leave and PMR 44 – Form 3B: Certification for Qualifying Exigency Leave).
3. Time to Provide Certification. When an employee's leave is foreseeable, the employee must provide a completed and sufficient certification to the County before the leave begins. When this is not possible, the employee must provide a completed and sufficient certification to the County within fifteen (15) calendar days after the County's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.
4. Consequences for Failure to Provide an Adequate or Timely Certification. If an employee provides an incomplete or insufficient certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the County may deny the request for leave until the required certification is provided.
5. Recertification. The County may request a recertification if the employee requests additional leave after the expiration of his/her/their certification. The County may also request recertification for other reasons and at other times as authorized by applicable law.



6. Authentication of Certification. To authenticate an employee's certification, the County Human Resources Department may contact an employee's health care provider. The County may also take other actions to authenticate a certification as authorized by applicable law.
7. Second/Third Medical Opinions. If the County has a good faith, objective reason to doubt the validity of a medical certification provided by an employee, the County may require a medical opinion of a second health care provider chosen and paid for by the County. If the second opinion is different from the first, the County may require the opinion of a third provider jointly approved by the County and the employee, but paid for by the County. The opinion of the third provider will be final and binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion. However, with respect to Military Caregiver Leave, the County may request a second or third opinion of a current service member's serious injury or illness only when a certification is provided by a non-military-affiliated health care provider.
8. Release to Return to Work. As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, the employee must obtain and present a certification from the health care provider indicating that the employee is able to resume the essential functions of his/her/their pre-leave position, with or without accommodation. Failure to provide such certification may result in denial or delay of reinstatement. See PMR 44 – Form 4: Return to Work Certification.

I. Returning from Leave

1. Employee Updates. During leave, employees may be required to periodically report on their status and intent to return to work. If employees' status changes, they should notify the County as soon as reasonably possible, and provide an updated certification.
2. Reinstatement upon Return from Leave. Upon expiration of Family and Medical Care leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to a comparable position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had not taken the leave.
3. Release to Return to Work. As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition which made the employee unable to perform his/her/their job, the employee must obtain and present a certification as required by Section 44.5.H.11.

J. Integrating County Leaves & Insurance Programs

1. Integrating County Leaves
  - a. Substitution of Paid Accrued Leaves. Unless otherwise precluded by law, an employee must use paid accrued leaves, including but not limited to accrued vacation leave, concurrently with Family and Medical Care Leave.
  - b. County's Catastrophic Leave Donation Plan. If an employee's leave of absence is due to a catastrophic illness or injury, the employee may be eligible for Catastrophic Leave, as set forth in Section 44.2.

2. California Insurance Benefit Programs. California has two insurance programs designed to provide eligible employees with partial wage replacement for a specified period of time for family and medical reasons allowing employees to use paid leave(s) on a pro-rated basis. Both programs require a seven (7) day unpaid waiting period.
  - a. State Disability Insurance (SDI). State Disability Insurance (SDI) is a state-run program that provides compensation during a specific twelve (12) month base period for individuals who take time off work because of their own illness or injury. If employees pay into the SDI program, they may be eligible for this benefit. Claims for SDI benefits are filed directly with the State Employment Development Department's (EDD) Disability Insurance Branch. Additional information may be obtained at [www.edd.ca.gov](http://www.edd.ca.gov).
  - b. Paid Family Leave Program (PFL). If employee pay into the SDI program, they may be eligible to qualify for Paid Family Leave. Additional information may be obtained at [www.edd.ca.gov](http://www.edd.ca.gov).

K. Employee Benefits While on Leave

1. Unless an employee uses other paid leave balances, leave under this policy is unpaid. While on unpaid leave, employees will continue to be covered by the group health insurance (which includes dental and vision) to the same extent that coverage is provided while the employee is on paid status. Employees who contribute towards their group health insurance are required to continue their bi-weekly contribution while on leave. After applicable notice and instructions to the employee on continuing his/her/their contributions, coverage on a particular plan may be dropped if the employee is more than thirty (30) days late in making a premium payment. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.
2. Employees will not continue to be covered under the non-health benefit plans, unless specified elsewhere. Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the County will inform the employee whether the premiums should be paid to the carrier or to the County. Coverage on a particular plan may be dropped if the employee is more than thirty (30) days late in making a premium payment. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.
3. If an employee fails to return to work after his/her/their leave entitlement has been exhausted or expires, the County will have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her/their family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The County will have the right to recover premiums through deduction from any sums due to the employee (e.g. unpaid wages, vacation pay, etc.) provided such deductions do not otherwise violate applicable law. Alternatively, the County may initiate legal action against the employee to recover such costs.

- L. Outside Employment While on Leave. Employees must not engage in any outside employment during their leave without approval from the Director of Human Resources and a clear determination that the outside employment does not in any way conflict with the illness or injury that is the cause for an employee being on leave from County employment. Engaging in outside

employment during leave which has not been formally approved by the County is grounds for discipline up to, and including, termination of employment.

~~G. Substitution of Paid Accrued Leaves. Unless otherwise precluded by law, e.g. Labor Code 4850 time, an employee must use paid accrued leaves concurrently with FMLA. Employees who are eligible to receive state disability insurance may receive paid state disability leave (Paid Family Leave) during FMLA or CFRA leave, with the exception of FMLA used for illness of the employee, effective July 1, 2004. H. Medical Certification 1. Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the County. 2. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of their position, subject to the following requirements: a. Time To Provide Medical Certification. When an employee's leave is foreseeable and a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the County within 15 calendar days after the employer's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. b. Consequences for Failure to Provide an Adequate or Timely Certification. If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the County may delay the taking of FMLA/CFRA leave until the required certification is provided. c. Recertification. If the County has reason to doubt the validity or clarity of a certification, the County may require a medical opinion of a second health care provider chosen and paid for by the County. If the second opinion is different from the first, the County may require the opinion of a third provider jointly approved by the County and the employee, but paid for by the County. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification. I. Intermittent Leave or Leave on a Reduced Leave Schedule. If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or treatment required for oneself, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. J. Employee Notice of Leave. Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee will inform their supervisor as soon as possible that such leave will be needed. Such notice may be given orally. If the County determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the County may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute. K. Reinstatement upon Return from Leave 1. Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the leave period. 2. Employees may be required to periodically report on their status and intent to return to work. L. Fitness for Duty Certification. As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition which made the employee unable to perform their job, the employee must obtain and present a fitness for duty certification from the health care provider indicating that the employee is able to resume the essential functions of their pre-leave position. Failure to provide such certification will result in denial or delay of reinstatement. M. Reinstatement of "Key~~

~~Employees". The County may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employees) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the County, and the employee is notified of the County's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. N. Required Forms. Employees must request, complete and return each of the applicable forms (Fitness for Duty to Return from Leave Certification Form or FMLA Leave Request Form) in connection with leave under this policy.~~

#### 44.6 School ~~Visit~~ Activities Leave

##### A. School Visit Leave

1. Definition. ~~School visit leave is up to 40 hours each year, not to exceed 8 hours per month, of paid or unpaid leave taken by a parent, guardian or grandparent having custody of 1 or more children who are in school (grades 1 through 12) or who is attending a licensed child day care facility to participate in activities of the child's school or daycare facility. The County provides eligible employees school visit leave of up to forty (40) hours each calendar year to participate in child-related activities. The pay status (unpaid/paid) is provided for in subsection 5. below.~~
2. Eligible Employees. Only employees who are parents, guardians, stepparents, foster parents, or grandparents of, or persons standing in loco parentis to, a child, are eligible for school visit leave.
3. Child-Related Activities. Eligible employees may use school visit leave to attend either of the following activities for children of the age to attend kindergarten or first through twelfth grades, inclusive, or a licensed child-care provider:
  - a. To find, enroll, or reenroll a child in a school or with a licensed child-care provider, or to participate in activities of the child's school or licensed child-care provider. Eligible employees may not use more than eight (8) hours of school activities leave in any calendar month.
  - b. To address a child-care provider or school emergency, where an employee's child cannot remain in a school or with a child-care provider due to one of the following:
    - i. The school or child-care provider has requested that the child be picked up, or has an attendance policy, excluding planned holidays, that prohibits the child from attending or requires the child to be picked up from the school or child-care provider.
    - ii. Behavioral or discipline problems.
    - iii. Closure or unexpected unavailability of the school or child-care provider, excluding planned holidays.
    - iv. A natural disaster, including, but not limited to, fire, earthquake, or flood.
4. Prior Notice Required. Eligible employees desiring to take school visit leave must provide written notice to their Department Head, manager/supervisor reasonably in advance of the leave. Failure to provide written notice in a reasonable time prior to the leave may result in denial of the leave request.

5. Other Leave Runs Concurrently with School Visit Leave. An employee must use vacation, floating holiday, personal leave, or compensatory time off concurrently with school visit leave. An employee who has exhausted these leaves, may be in leave without pay status. The employee will notify the County of which leave he/she/they intend to run concurrently with school visit leave at the time of the leave request. If the employee fails to make an election, the County may designate which leave will run concurrently with school visit leave.
  6. Documentation of Participation. The County may require the employee taking school visit leave to provide written documentation from the school or licensed child-care facility evidencing the employee's participation.
- B. Leave for School Conference Involving Suspension from School. In accordance with applicable law (Cal. Education Code 48900.1), if an employee who is the parent or guardian of a child facing/who has been suspended from school is summoned to the school, the employee may take unpaid time off (leave without pay) from work to appear at the school. An employee may use vacation, floating holiday, personal leave or compensatory time off in lieu of unpaid leave. Prior to taking leave, the employee is required to give reasonable notice of the need for leave to their supervisor or manager. The County may require a copy of the notice from the school indicating that the employee's presence at school is required.

#### 44.7 Bereavement Leave

- A. Definition. Bereavement leave is leave with pay, up to 5 (five) working days (37 ½ or 40 hours), which shall be granted by the Department Head or their manager/supervisor to be used by the employee in the case of the death of an eligible employee's ~~mother-father~~, child, parent, spouse, domestic partner, sibling, grandparent, grandchild, or parent-in-law within three (3) months of the death. ~~son-or-daughter~~. Bereavement leave may be granted at the sole discretion of the Human Resource Director in case of the death of other persons whose death is a matter of concern to the employee. As allowable by law, the County will maintain the confidentiality of an employee requesting leave under this Section.
- B. Eligible Employees. All employees who have been employed by the County for at least thirty (30) days prior to the commencement of leave and elected officials are entitled to bereavement leave. Regular hire employees employed on a part-time basis are entitled to bereavement leave, but on a pro-rata basis.
- C. Documentation of Death. The County may require the employee taking bereavement leave to provide written documentation of the death for which the bereavement leave is taken.

#### 44.8 Personal Leave

- A. Definition and Use of Personal Leave. ~~Personal leave is paid leave which may be granted at the sole discretion of an employee's department head. Approval or denial of an employee's request for personal leave will be based on the employee's quality of performance, workload, office workload and any other factors the department head deems appropriate.~~ Personal leave is paid leave granted by this PMR or the applicable CBA. Personal leave may not be taken without written request to the employee's supervisor or manager and notification from them that the request has been approved in advance of the leave. Personal leaves should be scheduled as far in advance as reasonably possible in each work unit, and should be staggered over the entire calendar year to the extent reasonable. Employee preference for personal leave time or times, to the extent that it is reasonable, will be honored (on a seniority or annual rotation basis, in the event of a conflict),

subject to the department head's judgment as to the maintenance of minimum work forces at all times, peak workload coverage and/or general departmental and public convenience.

- B. Eligible Employees. ~~Unless an applicable collective bargaining agreement provides otherwise, employees, except temporary employees, may be granted and accrue personal leave. Regular employees employed on a part time basis may be entitled to personal leave, but will accrue it on a pro-rata basis. Regular hire and probationary status employees may be granted and accrue personal leave pursuant to this PMR or applicable CBA. Part-time regular hire employees may be entitled to personal leave, but will accrue it on a pro-rata basis. Represented employees should refer to their collective bargaining agreements to understand if they are eligible for Personal Leave.~~
- C. Manner of Accrual of Personal Leave for Unrepresented Employees in Units #21, #24, and #26. Each unrepresented regular hire employee in positions in units #21 (Appointed Officials – Non-Safety), #24 (except Confidential Clerical) and #26 (Assistants and Deputies – Non-Safety), except for Deputy County Counsels, ~~District Attorneys, Attorneys I—IV,~~ may be eligible to receive personal leave not in excess of forty (40) hours per year which, if allowed, must be taken during the same fiscal year. Each regular hire employee on the payroll as of July 1st will be credited with forty (40) hours of personal leave for that fiscal year. Employees newly appointed between July 1 and October 31 will be credited with forty (40) hours of personal leave for that fiscal year. Any such employee appointed between November 1 and February 28 (or February 29 on leap years) will be credited with twenty (20) hours of personal leave for the balance of that fiscal year. Any such employee appointed between March 1 and May 31 will be credited with eight (8) hours of personal leave for the balance of that fiscal year. Any such employee appointed between June 1 and June 30 will receive no personal leave for that fiscal year.
- D. Manner of Accrual of Personal Leave for Unrepresented Employees in "Confidential Clerical" Positions (Unit 24-02). Each unrepresented regular hire employee in a position in unit #24-02 (Confidential Clerical) will be eligible to receive personal leave not in excess of thirty-seven and one-half (37 ½) hours per fiscal year which must, if allowed, be taken during the same fiscal year. Each regular hire employee on the payroll as of July 1st will be credited with thirty-seven and one-half (37 ½) hours personal leave for that fiscal year. Employees newly appointed between July 1 and October 31 will be credited with thirty-seven and one-half (37 ½) personal leave for that fiscal year. Any such employee appointed between November 1 and February 28 (or February 29 on leap years) will be credited with eighteen (18) hours of personal leave for the balance of that fiscal year. Any such employee appointed between March 1 and May 31 will be credited with seven and one-half (7 ½) hours of personal leave for the balance of that fiscal year. Any such employee appointed between June 1 and June 30 will not receive ~~no~~ personal leave for that fiscal year.
- E. Manner of Accrual of Personal Leave for Unrepresented Deputy County Counsels I-IV (Unit 24-03) ~~and Deputy District Attorneys I through IV (Unit 25-01).~~ Each unrepresented regular hire employee in a position in unit #24-03 (Deputy County Counsels) ~~and Deputy District Attorneys I through IV (Unit 25-01)~~ will be eligible to receive personal leave not in excess of eighty (80) hours per fiscal year which must, if allowed, be taken during the same fiscal year. Each regular hire employee on the payroll as of July 1st will be credited with eighty (80) hours of personal leave for that fiscal year. Employees newly appointed between July 1 and October 31 will be credited with 80 hours of personal leave. Any such employee appointed between November 1 and February 28 (or February 29 on leap years) will be credited with forty (40) hours of personal leave for the balance of that fiscal year. Any such employee appointed between March 1 and May 31 will be credited with eight (8) hours of personal leave for the balance of that fiscal year. Any such employee appointed between June 1 and June 30 will not receive ~~no~~ personal leave for that fiscal year.



F. Manner of Accrual of Personal Leave for Represented Employees. The right to, use of and manner of calculating the accrual of personal leave for employees represented by a union or association, if any, will be determined by applicable CBA.

G. Effect of Transfer on Personal Leave. If an employee transfers from one County position to another, the total accrual for the fiscal year of transfer will not exceed the maximum accrual for that year for any one of the positions held.

~~H. Use of Personal Leave. Personal leave, if granted by a department head and accrued in advance, may not be taken without written request to the department head or their designee and notification from the department head that the request has been approved in advance of the leave. Requests to use personal leave should be scheduled as far in advance as reasonably possible in each work unit, and should be staggered over the entire calendar year to the extent reasonable. Employee preference for personal leave time or times, to the extent that it is reasonable, will be honored (on a seniority or annual rotation basis, in the event of a conflict), subject to the department head's judgment as to the maintenance of minimum work forces at all times, peak workload coverage and/or general departmental and public convenience.~~

H. No Carry Over of Personal Leave. Personal leave will not carry over from one fiscal year to the next. When an employee terminates, there will be no compensation for unused personal leave unless an applicable CBA provides otherwise.

#### **44.9 Management Leave**

A. Definition and Use of Management Leave. Management leave is paid leave granted through this PMR and credited to eligible **regular hire** employees as acknowledgement of the extra hours that management employees are required to work from time to time. Management leave is not a vested right nor compensation for services rendered and as such is not subject to payout upon separation from employment. Unused management leave will carry over from fiscal year to fiscal year as long as the incumbent is a regular-hire employee of the County.

Management leave may not be taken without written request to the employee's supervisor or manager and notification from the **supervisor or manager** that the request has been approved in advance of the leave. Management leave should be scheduled as far in advance as reasonably possible in each work unit, and should be staggered over the entire calendar year to the extent reasonable. Employee preference for **personal management** leave time or times, to the extent that it is reasonable, will be honored (on a seniority or annual rotation basis, in the event of a conflict), subject to the department head's judgment as to the maintenance of minimum work forces at all times, peak workload coverage and/or general departmental and public convenience.

B. Eligible Employees. Unrepresented regular hire employees in the following units who are ineligible for overtime pay are eligible to receive management leave: **#21 (Appointed Officials), #24 (Confidential), #26 (Assistants and Deputies – Non-safety), #27 (Executive - Safety), #30 (Unrepresented Supervisors) and overtime exempt classifications in #24 (Confidential)**. Eligible regular hire employees employed on a part-time basis are entitled to management leave on a pro-rata basis.

C. Manner of Accrual of Management Leave. The County will credit each full-time management employee who is exempt under the Fair Labor Standards Act (FLSA) and **is** not eligible for time-and-a-half overtime **under this agreement** with five (5) standard workdays (forty (40) hours) of management leave every July 1. Employees newly appointed between July 1 and October 31 shall be credited with five (5) days of management leave for that fiscal year. Any such employee



appointed between November 1 and February 28 shall be credited with two and a half (2-1/2) days of management leave for the balance of that fiscal year. Any such employee appointed between March 1 and May 31 shall be credited with one (1) day of management leave for the balance of that fiscal year. Any such employee appointed between June 1 and June 30 shall receive no management leave for that fiscal year. This proration shall also apply to employees who have returned from an approved leave of absence where they were in leave without pay status.

#### **44.9 Military Related Leaves**

- A. In addition to military exigency leave and military caregiver leave described in section 44.5, military leave will be granted in accordance with the provisions of the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA), and the California Military & Veterans Code.
- B. Eligibility
  - 1. Military Leave is available to all County employees, including contingent hire (temporary), part-time, and probationary employees, who perform service in the uniformed services (as defined by USERRA) for active duty, active duty for training, initial active duty training, inactive duty training, and funeral honors performed by National Guard and reserve members, as well as time needed for the purpose of an examination to determine the fitness to perform any such duty. This includes the National Guard or a reserve component of the Armed Forces of the United States.
  - 2. Employees whose spouses/registered domestic partners are qualified members of the Armed Forces, National Guard or Reserves are afforded up to ten (10) days' unpaid leave from work to be with their spouse while the qualified member is on leave from deployment during a period of military conflict, upon giving at least two (2) business days' notice.
  - 3. Military Leave does not apply to service in the armed forces of another country.
- C. Employees requesting a Military Leave of Absence must provide advance notice of their intent to take military leave and provide copies of their orders to their supervisor (who will forward it to Human Resources for processing), unless doing so is unreasonable or is precluded by military necessity. This request must include the type of leave, anticipated dates of the leave, and a copy of the military orders. The type of leave and benefits accorded will vary depending upon the type of military duty or training. In an emergency situation, if orders are not available at the time of the ordered leave, oral notice should be given as soon as possible, with a copy of the order to be provided to the department as soon as it is available.
- D. Right to Reemployment
  - 1. Employees returning from military leave shall have the right to reemployment if:
    - a. The employee (or an appropriate officer of the uniformed service in which the service is performed) has given advance written or oral notice of such military service to the County.
    - b. The cumulative length of the absence and of all previous absences from a position of employment with the County by reason of military service does not exceed five (5) years unless an exception has been approved.

- c. The employee was not separated from military service with a disqualifying discharge or under other than honorable conditions.
- d. The returning employee reports orally or in writing to the County, the employee's intent to return within the timelines described in Section 44.9 E. It is preferred that the employee do so by submitting a reemployment application to the County in accordance with the notice provisions listed below.

E. Return to Work – Notice Provisions

- 1. A person whose military service lasted from one (1) to thirty (30) days must report to the County by the beginning of the first full regularly scheduled work day following the completion of the period of service and the expiration of eight hours after a time for the safe transportation back to the individual's residence.
- 2. A person whose military service lasts from thirty-one (31) to one hundred and eighty (180) days must apply for reemployment with the County no later than fourteen (14) days after the completion of the period of service.
- 3. A person whose military service lasts more than one hundred and eighty (180) days must apply for reemployment with the County no later than ninety (90) days after the completion of the period of service, or if such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.
- 4. For persons qualified under California's military leave law (e.g. who are a member of the National Guard ordered into service by the Governor or President, or a reservist of the United States Military reserve called to full-time active duty), such persons will be afforded up to ninety (90) days after release from service, or after the end of the war or declared emergency, in which to submit a reemployment application, regardless of the length of service. To the extent applicable law affords a greater length of time, the employee will be afforded such greater time period.
- 5. A person who fails to report to work or to apply for reemployment in accordance with the above will forfeit any applicable job protections and reemployment rights and shall be subject to the rules and procedures of the County regarding unexcused absences from work.
- 6. A service member who is hospitalized or convalescing from an illness or injury incurred or aggravated during the performance of military service must apply for reemployment no later than two (2) years following completion of service. That two-year period will be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within two (2) years impossible or unreasonable.

F. Return to Work – Position Placement

- 1. Employees called to military duty for one hundred and eighty (180) days or less including time going to and returning from that duty are entitled to reemployment in the position of employment in which the person would have been employed if their continuous employment with the County had not been interrupted by such service and the person is qualified to perform the duties of that position. If the person is not qualified to perform the duties of that position after the County's reasonable efforts to qualify them, then the person will be restored to the position of employment in which they were employed on the date of the commencement of the

- service in the uniformed services. If the position has been abolished or otherwise has ceased to exist during the employee's absence (i.e., work outsourced, layoffs, etc.) the employee will be reinstated to a position of like seniority, status, and pay if a position exists. If no position exists, the employee will be granted the same rights and privileges that they would have had if they had occupied the position when it ceased to exist.
2. Employees serving one hundred and eighty one (181) days or more will be reemployed in the position the person would have attained had employment not been interrupted by military service, or a position of like seniority, status and pay, so long as the person is qualified for the position or can become qualified after reasonable efforts are made by the County to qualify the person. If an employee is not qualified to perform the duties of such position after reasonable efforts by the County to qualify the employee, he/she/they shall be reinstated to the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform. If the position has been abolished or otherwise has ceased to exist during the employee's absence (i.e., work outsourced, layoffs, etc.) the employee shall be reinstated to a position of like seniority, status, and pay if a position exists. If no position exists, the employee will be granted the same rights and privileges that he/she/they would have had if they had occupied the position when it ceased to exist.
  3. The County will make reasonable efforts to accommodate an employee's disability incurred or aggravated while in military service. If after reasonable accommodation efforts by the County an employee with a service-connected disability is not qualified for employment in the position he/she/they would have attained or in the position that he/she/they left, the employee will be employed in:
    - a. Any other position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the County; or
    - b. If no such position exists, in the nearest approximation with the circumstances of the employee's situation.
  4. Employees who served in a contingent hire (temporary) capacity for a brief, nonrecurrent period prior to leave, with no reasonable expectation that such employment will continue indefinitely or for a significant period may not have reemployment rights.
- G. Pay, Benefits, and Other Provisions During Military Leave. The following benefits apply to employees who have completed at least one year of County employment, or combined military service/County employment, immediately prior to the commencement of the leave:
1. The County will provide up to thirty (30) calendar days of paid military leave for active military duty training, scheduled reserve drill periods, encampment, naval cruises, special exercises, or like activity. During leave under this provision, employees receive their normal County pay for up to thirty (30) calendar days of qualifying leave. Employees on inactive duty training (i.e. drills) are not entitled to their salary, but may choose to use accrued vacation and compensatory time, or take leave without pay. Employees may not receive more than 30 calendar days of paid leave for any one military leave of absence (including multiple orders extending the leave), or during any one fiscal year (County fiscal year: July 1st – June 30th). Exception: National Guard members are entitled to thirty (30) calendar days of pay regardless of length of County service, and are not subject to a limit of thirty (30) calendar days per fiscal year, provided the duty is during a state declared extreme emergency.

2. If an employee's Military Leave exceeds thirty (30) days, the employee will have the option of using available vacation, compensatory time or military leave without pay (LWOP). Employees may not use both their accrued paid leave and the supplemental wage benefit provided by the County.
  3. Leave accrual for active duty leaves of one hundred and eighty (180) days or less (including travel to and from duty): employees will continue to accrue vacation and sick leave, holiday pay, and time/hours in job class for purpose of calculating service time for layoff purposes employment rights, as if they had remained employed with the County.
  4. The County will maintain health benefits and other benefits for the first thirty (30) calendar days of military leave as if the employee was actively employed (this applies to both active duty and inactive duty training). For employees on military leave for more than thirty (30) days, continuation benefits may be available for 24-36 months.
- H. Time spent on military leave counts as County service credit for any calculation, determination or other decision that is dependent upon length of employment with the County. This includes cost of living salary adjustment, vacation accrual rate and seniority ranking which would have occurred during the employee's military absence.
- I. Pension Benefits
1. Military leave (whether paid or unpaid) is not considered a break in employment for retirement benefit calculation purposes, and is considered "service" for vesting and accrual purposes. Upon an employee's return from military leave, the employee may purchase retirement service credit the employee would have earned had he/she/they not been absent ("catch-up contributions").
  2. The cost of the employee's catch-up contributions is the exact amount which would have been contributed had the employee been working for the County. The catch-up contribution payments are deducted pre-tax. The returning employee is given up to three (3) times the length of the military leave without pay time (up to a maximum of five (5) years) to make the retirement catch-up contribution payments.
- J. During times of declared war or otherwise, the Board of Supervisors may approve additional time with supplemental pay and benefits, in addition to the thirty (30) days of full pay under applicable law.

~~44.11 A. Military leave will be granted in accordance with the provisions of federal and state law. Military leaves of absence in excess of 30 days will be reported by the department head to the Director of Human Resources to ensure that all statutory requirements are satisfied.~~

#### **44.10 Voting Leave**

In accordance with applicable law, employees whose work schedule prevents them from voting at a statewide election may take up to two (2) hours off with pay at the beginning or end of the workday, unless other arrangements are approved by the supervisor. If the time off is required, the employee must have prior approval from the employee's Department Head or designee at least two (2) days prior to the statewide election.

#### **44.11 Jury Duty**

- A. ~~Definition.~~ Every employee of the County who is summoned or required to serve as a trial juror is entitled to be absent from the County during the period of service. Such employees will be deemed to be on special service status for the duration of such jury duty. Such employee, except ~~temporary contingent hire (temporary)~~ employees, will be paid the employee's regular salary and will either waive or return to the County any and all jury fees.
- B. ~~Employee Must Immediately Notify Their Supervisor of Receipt of Summons for Jury Duty. An employee summoned for jury duty must immediately notify their supervisor. Employee's summoned for jury duty must notify their supervisor and are required to notify their supervisor daily regarding their jury duty hours and jury duty release time.~~
- C. ~~Employees Must Take Advantage of Court Call-In and other Scheduling Procedures. Where courts have call-in procedures to determine days and hours of service, employees must take advantage of these procedures.~~
- D. ~~If an employee is told by the Court not to report, is dismissed, or is told to call in the next day, the employee must come to work and, if necessary, make the call from the County, unless the employee receives prior approval from the department head, or supervisor, to call from home. Unless an employee receives prior approval from the Department Head or designee, an employee that is told by the Court not to report or who is dismissed must come to work as scheduled or, if required, they must call in and report to work if directed.~~

#### 44.12 **Pregnancy Disability Leave (PDL) / New Parent Leave**

~~A. Definition. Any female employee will be entitled to take an unpaid leave on account of pregnancy, childbirth, or related medical conditions up to 6 months. The employee will be entitled to utilize accrued sick leave during the period of disability, as well as vacation leave or other accrued paid leave during this period of time. An employee will not accrue additional vacation or sick leave during any unpaid portion of this leave. The employee is eligible for and is designated to be on Family Medical Leave upon the commencement of pregnancy disability leave. B. Employees Must Notify of Intent to Take Pregnancy Leave. Any employee who plans to take a leave on account of pregnancy, childbirth, or adoption or related situation should submit in writing to her department head a statement of her intent to take leave, including a physician's statement indicating her last advisable or probable date to remain at work and a statement of her intended date to return to work. Notice must be given not less than 30 days prior to the intended commencement date of the leave, if the leave is foreseeable. When the need for leave does not allow for 30 days' notice, notice must be given as soon as practicable.~~

- A. Definition of PDL. Any employee will be entitled to take an unpaid leave for their own disability due to pregnancy, childbirth, or related medical conditions for up to a maximum of 4 months (based on the number of days they normally would work in a 4-month period), in accordance with applicable Law. Where possible, if an employee takes PDL and is also eligible for Family and Medical Care Leave, PDL leave will run concurrently with Family and Medical Care Leave upon commencement of the PDL leave. The employee will be entitled to utilize accrued sick leave during the period of disability, as well as vacation leave and other accrued paid leave during this period of time. An employee will not accrue additional vacation or sick leave during any unpaid portion of this leave.
- B. In addition to PDL, additional leave may be provided for baby bonding, in accordance with applicable law and as detailed in Section 44.5 D and E.

- C. Additional New Parent Leave: In addition to the leaves noted above, new parents are eligible for six (6) weeks of unpaid leave. Such leave shall run consecutively after exhaustion of leaves above, A and B. The leave must be taken within fifty two (52) weeks of birth or date of adoption.
- D. Employee Notice of Leave. Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. When an employee's leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that leave will be needed in the future, but does not know the exact date(s) (e.g. for the birth or placement of a child or to take care of a newborn), the employee must inform his/her/their supervisor as soon as possible that such leave will be needed. While written notice is recommended, such notice may be given orally. The employee's leave request must include the employee's intent to return to work and the expected date of return. If the County determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the County may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

#### **44.13 Lactation Accommodation**

~~In accordance with state law, the County will provide a reasonable amount of break time to employees who are breast feeding to express milk. If possible, the break time will be that already provided. If not, the break time will be unpaid. The County will provide a private location close to the employee's work area for this break. The break time may be denied if it would seriously disrupt the department's operations. The County will endeavor to provide access to a refrigerator to store expressed milk.~~

In accordance with applicable law, the County will provide the following lactation accommodation(s) to employees who are breastfeeding:

- A. Lactation time – reasonable time to express milk.
  - 1. Whenever possible, lactation time will be the same as employee's regular break time.
  - 2. As needed, departments should make additional time available for lactation.
- B. Appropriate private location in which to express milk.
  - 1. Whenever possible, a private lactation location (not a restroom) will be provided in close proximity to employee's work area.
  - 2. The lactation location area will be free from intrusion and shielded from view; be clean and free of hazards or hazardous substances; contain a surface to place a breast pump and personal items; have a place to sit; and have access to electricity or alternative devices needed to operate an electric or battery-powered breast pump (such as extension cords or charging stations).
  - 3. The lactation location may be the employee's workspace if there is adequate privacy (e.g., if office door can be closed). For non-traditional work sites, the employee shall contact Human Resources to request assistance in identifying an appropriate lactation area.
- C. The County will provide access to a sink with running water and a refrigerator or cooling device for milk storage in close proximity to the employee's workspace.Lactation Accommodation Request Procedure



1. An employee who has or anticipates a need for lactation accommodation should inform their supervisor and discuss relevant workload, scheduling, or location concerns.
2. Supervisors who receive a request shall review available lactation spaces and prepare to make appropriate accommodations for the breastfeeding employee. If the supervisor is unable to locate an appropriate private space, the supervisor shall contact Human Resources for assistance.

#### **44.14 Organ and Bone Marrow Donation Leave**

- A. In accordance with applicable law, the County will provide a leave of absence to qualified employees who choose to donate organs or bone marrow. The following paid leave will be provided:
  1. For Organ donation, up to thirty (30) workdays in a one (1) year period; and
  2. For Bone marrow donation, up to five (5) workdays in a one (1) year period.
- B. To receive leave under this Section, an employee must provide written verification to the County that shows that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation.
- C. Employees are required to use accrued leaves, concurrently with Organ and Bone Marrow donation Leave. They may but are not required to use accrued sick leave. The following amounts of leave accruals shall be used:
  1. For organ donation, the amount (if any) of the employee's accrued leave, not to exceed two (2) weeks; and
  2. For bone marrow donation, the amount (if any) of the employee's accrued leave, not to exceed five (5) days.
- D. Organ and Bone Marrow Donation Leave will not run concurrently with any leave taken under the County's Family and Medical Care Leave.

#### **44.15 Domestic Violence, Sexual Assault and Stalking Victims Leave**

- A. In accordance with applicable law, any employee who is a victim of crime such as domestic violence, stalking, sexual assault, or a crime resulting in physical injury or psychological injury relating to a threat of physical injury, or who experiences the death of a family member (spouse, domestic partner, child, parent, sibling, or equivalent) as a result of a crime, will be entitled to take leave for the following reasons:
  1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the employee's health, safety, or welfare, or that of their child;
  2. Seek medical attention for injuries caused by crime or abuse;
  3. Obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of crime or abuse;

4. Obtain psychological counseling or mental health services related to an experience of crime or abuse; or
  5. Participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation.
- B. As allowable by law, the County will maintain the confidentiality of an employee requesting leave under this Section.
- C. The length of unpaid leave an employee may take is limited to the 12 weeks provided for by Family and Medical Care Leave. Leave under this Section is unpaid, unless the employee chooses to use accrued leave.
- D. Where feasible, the employee is required to give the County reasonable advance notice of the employee's intention to take leave. If advanced notice is not provided, the employee should do so as early as possible. Written certification may be required and may take the form of any of the following: (1) a police report indicating the employee was a victim of domestic violence or sexual assault; (2) a court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee appeared in court; or (3) documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuses resulting from victimization from an act of domestic violence or sexual assault.
- E. Reasonable Accommodations. As set forth in PMR 26.6, absent undue hardship, the County will provide reasonable accommodations for an employee who is a victim of domestic violence, sexual assault, or stalking if the employee has disclosed the employee's status as such a victim and has requested an accommodation for the employee's safety while at work.

#### **44.16 Crime Victims Leave**

- A. Definition. In accordance with applicable law, an employee who is a victim or who is an immediate family member of a victim of a violent or serious felony (as defined by law), or of felony theft or embezzlement, may take leave to attend judicial proceedings related to the crime. Leave under this Section is unpaid, unless the employee chooses to use accrued leave.
- B. Notice of Leave. Before an employee is absent for such a reason, the employee must provide the County with documentation of the scheduled judicial proceedings. If advance notice is not possible, the employee must provide appropriate documentation within a reasonable time after the absence.
- C. Confidentiality. Any records regarding an employee's absence from work under this Section will remain as confidential as allowable by law.

#### **44.17 Administrative Leave**

Administrative Leave is leave with pay ~~taken~~ given at the sole discretion of the County. Employees placed on Administrative Leave will be relieved of their regular duties during the period of Administrative Leave. Employees placed on Administrative Leave ~~will remain at the residences or elsewhere at the instruction of the department head~~ must be available by phone or email during their normal work hours. Administrative leave is not discipline and does not entitle the employee to any right of appeal.

#### **44.18 Fitness for Duty Leave**

Where permitted by law, an employee may be required by the department head or designee to take a physical and/or psychological examination paid for by the County to determine fitness for duty in the position in which the employee is currently employed, or for which he/she/they is applying. In such instances the employee may be placed on paid leave until a determination is made regarding the employee's fitness for duty.

#### **44.19 Leave Without Pay**

~~A. Definition. Leave without pay means leave which is requested after all sick leave, vacation leave, compensatory time off and other leaves of absence which the employee is entitled to use have been exhausted. Leave without pay is not to exceed one year. Upon employee request, the employee may retain up to 75 or 80 hours' vacation in their accrual account. B. Eligibility. All employees except temporary employees are eligible for leave without pay. C. Request Procedure 1. The County Administrator, upon the recommendation of an employee's department head, may grant a leave of absence without pay to regular employees who have been employed by the County for at least 1 year. The leave will be for a minimum of 30 days. Leave of absence without pay will only be considered upon written request to the department head setting forth the reason for the request. If the department head recommends leave without pay, the County Administrator may grant a request provided the need is substantiated and no significant disservice to County operations or the public service will result. 2. Upon conclusion of a leave of absence without pay, the employee is entitled to return to their former or a comparable position to the extent possible. Failure of the employee to return upon the expiration of the leave will constitute a separation from employment which is not subject to appeal. D. No Accrual of Benefits During Leave Without Pay. Vacation, sick leave and other paid leaves will not be earned during the leave, and holidays with pay will not be given. The County contributions to monthly premium costs of medical insurance will be suspended except as provided under approved FMLA. After this time, the employee must make arrangements with the Auditor-Controller's Office to continue to pay their normal monthly premium costs for insurance or lose coverage.~~

- A. Non-medical Leave Without Pay. Non-medical leave without pay is leave which may be granted after all vacation leave, compensatory time off, and other accrued appropriate leaves of absence (except sick leave), which the employee is entitled to use have been exhausted. The leave may be no more than 12 continuous months, including paid and unpaid leave. .
- B. Medical Leave Without Pay. Medical leave without pay is leave which may be granted due to temporary disability from illness or injury, after exhaustion of all accrued paid leave. For medical leave, an employee may be granted leave by the Human Resources Director, upon the recommendation of the employees department, for no more than 12 months (inclusive of any leave taken under Section 44.2, Catastrophic Leave Donation Plan).
- C. Eligibility. All employees, except ~~temporary contingent hire (temporary)~~ employees, who have completed at least one year of employment with the County, are eligible for leave without pay under this policy.
- D. Request Procedure
  - 1. The County Administrator, upon the recommendation of an employee's Department Head and the Human Resources Director, may grant a leave of absence without pay to regular employees who have been employed by the County for at least one (1) year. The leave will be for a minimum of 30 days. Non-medical leave without pay will be granted for a minimum of ten (10) working days. Leave of absence without pay will only be considered upon written request

to the Department Head setting forth the reason(s) for the request. If the Department Head and Human Resources Director recommends leave without pay, the County Administrator may grant a request provided the need is substantiated and will not result in significant disservice to County operations or the public service.

2. Upon conclusion of leave without pay, the employee may return to their former or a comparable position to the extent possible. Failure of the employee to return upon the expiration of the approved leave will result in a separation from employment ~~which is not subject to appeal~~.
- E. Return from Unpaid Medical Leave – Medical Certification. For absences of five (5) working days or less, medical clearance from a health care provider may be required. For absences of six (6) consecutive working days or more due to an employee’s illness or injury, medical clearance from a health care provider will be required. The medical certification must be turned into the Department Head or designee before returning to work.
- F. No Accrual of Benefits During Leave Without Pay. Employees taking leave without pay will not accrue vacation, sick leave, or other paid leaves during the leave, and will not be paid for County holidays . The County contributions to monthly premium costs of medical insurance will be suspended except as required by County policy and/or applicable law. During a leave without pay, the employee must make arrangements with the ~~Auditor-Controller’s Office~~ Department of Finance to continue to pay their normal monthly premium costs for insurance or lose coverage.

#### **44.21 Special Leave for Distress Not Otherwise Covered**

- A. Definition. In extraordinary circumstances, leave with pay for serious economic hardship, illness or distress not otherwise covered by any leave policy may be granted.
- B. Eligibility. Only regular hire employees with at least five years of continuous service may be eligible for special leave for distress not otherwise covered. To be eligible for special leave, if for illness, there must be a favorable prognosis for recovery and there must be a predictable date of return to work.
- C. Procedure for Application. An employee who would otherwise experience serious economic hardship, illness, or distress not otherwise covered by any leave policy provided for above, and who has exhausted all other avenues of paid leave, including catastrophic leave donation except in the case of appointed department heads, may apply in writing to the employee’s department head for leave with pay. If the department head is satisfied that the employee will otherwise experience serious economic hardship, illness or distress, the department head may recommend to the County Executive to grant special leave. The County Executive, if satisfied of the existence of serious economic hardship, illness or distress, ~~may recommend to the Board of Supervisors~~ may grant that special leave. The final decision to grant or deny special leave for distress not otherwise covered will be at the sole discretion of the County Executive or designee.

#### **44.21 Sabbatical Leave**

- A. ~~For employees with five years or more of continuous full-time County service, a department head may grant a leave of absence without pay for up to three calendar months for such purposes as education or restorative endeavors.~~ Regular hire employees with seven years or more of continuous County service may request a Sabbatical leave with out pay for up to six calendar months for such purposes as education or restorative endeavors. Requests must be made to the Department Head and if supported by the Department Head, the Department Head must receive approval before the

leave is granted by the Human Resources Director and County Executive. Contingent hire (temporary) employees are not eligible for sabbatical leave.

- B. Sabbatical leave may only be granted when no disservice to the County will result.
- C. ~~Leave balances may remain for an employee granted sabbatical leave.~~ An employee on Sabbatical leave may use his/her/their accrued leave balances (except for sick leave) concurrent with this leave or may choose to not use their accrued leave and be on unpaid leave.

#### **44.22 Career Development Release Time**

- A. Definition and Usage. Eligible employees may take no more than twenty-two and one-half (22.5) hours (three (3) workdays) for employees in 37.5-hour classifications and no more than twenty-four (24) hours (three (3) workdays) for employees in 40-hour classifications, per fiscal year of paid time away from work during work hours, to attend training that lends itself to upward mobility. Part-time employees receive hours on a pro-rata basis per their position allocation. A class or training qualifies if it increases the employee's knowledge, skill and/or abilities, and would enhance the employee's promotability or prepare the employee for a career change with greater promotional potential. Personal enrichment classes do not qualify. The class must take place during the employee's regular work hours. Release time that is not used in the fiscal year may not be carried over. Supervisors have authority to determine if a class qualifies, subject to a final determination by the department head.
- B. Eligibility. All employees holding full or part-time regular hire classifications in clerical, technical, paraprofessional, skilled craft, service – maintenance, and protective service eeo-4 job categories (eeo-4 codes 30-80) are eligible. Contingent hire (temporary) employees are not eligible for career development release time.
- C. Procedure. Career development release time must be approved in advance by the employee's supervisor for scheduling purposes. Employees wishing to request release time should:
  - 1. Make a written request for release time to their supervisor with as much advance notice as possible, making sure to provide enough information regarding the class/training so eligibility may be determined.
  - 2. Provide proof of registration and attendance within thirty (30) days of completion of the approved class/training.
  - 3. Management will respond (grant or deny) to all requests for career development release time within fourteen (14) calendar days of receipt of the request.
  - 4. Requests for career development release time will not be unreasonably denied. Requests will not be denied solely because the County will incur cost such as overtime, additional hours worked by a part-time employee or by a contingent hire employee to cover for the employee while he/she/they is absent from work to attend class/training.
  - 5. The County shall send annual notices to all eligible employees about the availability of career development release time. Employees who have questions about this release time and how to use it should contact Human Resources for additional information.
- D. Payment Not Provided. This policy does not provide reimbursement for any training or educational expenses resulting from release time.

## **FORMS AND OTHER ATTACHMENTS**

|                |                                                                                  |
|----------------|----------------------------------------------------------------------------------|
| PMR 44 Form 1: | Request for Family/Medical Leave Form                                            |
| PMR 44 Form 2: | Employee's Serious Health Condition - Physician or Practitioner Certification    |
| PMR 44 Form 3: | Family Member Serious Health Condition - Physician or Practitioner Certification |
| PMR 44 Form 4: | Certification for Military Caregiver Leave                                       |
| PMR 44 Form 5: | Certification for Qualifying Exigency Leave                                      |
| PMR 44 Form 6: | Catastrophic Leave Application Form                                              |
| PMR 44 form 7: | Catastrophic Leave Donation Form                                                 |

## **APPROVAL**

Not a Proposal - For Discussion Only



## **PMR NO. 49: REASONABLE ACCOMMODATION**

### **APPLICABILITY & PURPOSE**

This Personnel Management Regulation (PMR) defines County of Marin policy and procedure on Reasonable Accommodation for employment.

### **CONTENTS**

- 49.1 General
- 49.2 Reasonable Accommodation in the Hiring Process
- 49.3 Reasonable Accommodation in Employment
- 49.4 Interactive Process

### **FORMS AND OTHER ATTACHMENTS**

### **APPROVAL**

#### **49.1 General**

The County of Marin will ~~ill-reasonably accommodate environmental illness, learning, physical, sensory or mental impairments that rise to the level of a disability~~ provide reasonable accommodation to persons who have a known qualifying medical condition, physical disability or mental disability where accommodation is needed to (1) enable a person to be considered for a job, (2) enable an employee to perform the essential functions of the employee's job, and/or (3) enable an employee to enjoy equal benefits and privileges of employment. The County is not required to provide a reasonable accommodation that would create an undue hardship for the County or present a direct threat to the employee/applicant. In general, it is the responsibility of the person with a disability to notify the County that a reasonable accommodation is needed.

#### **49.2 Reasonable Accommodation in the Hiring Process**

Upon request, reasonable accommodations will be made for qualified job applicants with disabilities. An accommodation request should be submitted with the employment application. Text telephones (TTY) are available for persons with communications disabilities. Persons with disabilities requesting a reasonable accommodation can expect the Human Resources Department to respond on a case-by-case basis. If the existence of a disability and/or the need for accommodation is not obvious, the Human Resources Department will seek appropriate documentation of the disability, limitations, and the needed accommodations from the applicant.

#### **49.3 Reasonable Accommodation in Employment**

~~A. If an employee believes he or she is a qualified employee with a disability, he or she will complete an Employee Reasonable Accommodation Request Form (Attachment 1) describing their accommodation need, and submit the form to the Human Resources Department.~~

~~B. Once the need for reasonable accommodation arises either by the employee's request or by the County's knowledge of the employee's disability, the County by and through the applicable department and Human Resources will engage in the following process:~~

- ~~1. Review the purpose and essential functions of the job.~~

~~2. Engage in an interactive dialogue with the employee with a disability to ascertain the precise job-related limitations imposed by the employee's disability and how those limitations would be overcome with a reasonable accommodation.~~

~~3. In consulting with the employee, identify the potential reasonable accommodations and assess the effectiveness each would have in enabling the employee to perform the essential functions of the position.~~

~~4. Consider the preference of the employee to be accommodated. Select and implement the reasonable accommodation most appropriate for the County in collaboration with the employee's input.~~

~~C. Reasonable accommodations may include training, modification of equipment and devices, modifying examination, training or policies, granting leave, reassignment to a vacant position, modifying work schedules, making facilities accessible, or job restructuring.~~

~~D. The County Administrator will make a decision regarding what constitutes undue hardship and such decision will be final. Reasonable accommodation may not be made if it creates an undue hardship for the County of Marin.~~

A. Request for Reasonable Accommodation. An employee who believes they are a qualified employee with a disability must complete an Employee Reasonable Accommodation Request Form (PMR 49 -- Form 1) and submit the form to the Human Resources Department. A represented employee is entitled to union representation throughout this process.

B. Medical Documentation

1. If the existence of a disability and/or the need for accommodation is not obvious, the employee must have the employee's physician or health care provider complete a Physician or Practitioner Certification – Request for Reasonable Accommodation Form (PMR 49 – Form 2) to support the request for reasonable accommodation. PMR 49 – Form 2 must be completed, signed, and dated by the employee's physician or health care provider.
2. If the submitted PMR 49 – Form 2 is inadequate, incomplete, or conflicts with other information obtained, the Human Resources Department may ask the employee to obtain further information from the employee's physician or health care provider. Failure to provide adequate and complete documentation may result in a denial of the employee's request for accommodation.

#### **49.4 The Interactive Process**

A. Once the need for reasonable accommodation arises either by the employee's request or by the County's knowledge of the employee's disability, the County by and through the applicable department and the Human Resources Department, or their designee, will engage in the following process:

1. Review the purpose and essential functions of the job.
2. Engage in an interactive dialogue with the employee with a disability to ascertain the precise job-related limitations imposed by the employee's disability and how those limitations would be overcome with a reasonable accommodation.

3. In consulting with the employee, identify the potential reasonable accommodations and assess the effectiveness each would have in enabling the employee to perform the essential functions of the position.
  4. Consider the preference of the employee to be accommodated. Select and implement the reasonable accommodation most appropriate for the County in collaboration with the employee's input.
- B. An employee who has requested a reasonable accommodation must actively participate in the interactive process, as directed by the Human Resources Department. This participation includes communicating with the Human Resources Department and/or their designee about the request, providing medical documentation when requested, identifying potential accommodation options, and determining of accommodation.
- C. The appropriate accommodation in any given situation will be determined on a case-by-case basis.
- D. The County Administrator or the Human Resources Director if designated by the County Administrator will make a decision regarding what constitutes undue hardship, and such decision will be final. Reasonable accommodation may not be granted if it creates an undue hardship for the County.

#### **FORMS AND OTHER ATTACHMENTS**

PMR 49 – Form 1: Employee Reasonable Accommodation Request Form

PMR 49 – Form 2: Physician or Practitioner Certification

#### **APPROVAL**