

1.0 Purpose

- 1.1 The purpose of this Medical and Family Leave Policy is to describe leaves potentially available to County employees under the Family Medical Leave Act, the California Family Rights Act, and California's Pregnancy Disability Leave Law. Additionally, this policy describes eligibility requirements, the administrative procedures for requesting leave, and the County's management of employee medical and family related leave.
- 1.2 This policy shall be administered in accordance with state and federal laws by the Human Resources Director ("Leave Administrator"), who may issue further procedural guidelines to accomplish its purpose.
- 1.3 This policy may be modified by the Board of Supervisors and shall replace any previous version of the policy.

2.0 Definitions

- 2.1 **Medical and Family Leave** means leave under the Family Medical Leave Act of 1993 and the California Family Rights Act of 1993, except as otherwise noted and not including Pregnancy Disability Leave.
- 2.2 **Rolling 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.
- 2.3 **Accrued Paid Leave** means an employee's accrued vacation, compensatory (comp) time, and sick leave.
- 2.4 **CFRA** means the California Family Rights Act of 1993 as amended; California Government Code section 12945.2.
- 2.5 **County** means the County of Colusa.
- 2.6 **Covered Active Duty** means:
 - 2.6.1 In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
 - 2.6.2 In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty.

- 2.7 **Covered Servicemember** means:
- 2.7.1 A member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a Serious Health Condition (as defined in Section 2.14.1); or
- 2.7.2 A veteran who is undergoing medical treatment, recuperation, or therapy, for a Serious Health Condition (as defined in Section 2.14.2) and who was a member of the Armed Forces at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- 2.8 **Designated Person** means any individual related by blood or whose association with the employee is the equivalent of a family relationship.
- 2.9 **FMLA** means the Family Medical Leave Act of 1993; United States Code section 2612.
- 2.10 **Health Care Provider** means a doctor of medicine or osteopathy who is licensed to practice medicine or surgery by the State in which the doctor practices, or any other person determined by the United States Secretary of Labor to be capable of providing health care services under the FMLA.
- 2.11 **Key Employee** means a salaried employee who is among the highest paid ten (10) percent of the employer's employees.
- 2.12 **Next of Kin** means an individual's nearest blood relative.
- 2.13 **Pregnancy Disability Leave (PDL)** means leave provided to an employee who is disabled by pregnancy, childbirth, or a related medical condition.
- 2.14 **Qualifying Exigency** means an event as defined and declared by the United States Secretary of Labor, and applies only to members of the Armed Forces.
- 2.15 **Serious Health Condition** means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, residential medical care facility, or continuing treatment from a health care provider, or an illness, injury, impairment, or physical or mental condition that prohibits the employee from returning to work as ordered by a health care provider.
- 2.15.1 In the case of a member of the Armed Forces, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the

member's office, grade, rank, or rating; and

2.15.2 In the case of a veteran who was a member of the Armed Forces, and a covered servicemember, an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

2.15.3 **Inpatient Care** means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an "inpatient" when a health care facility formally admits him or her to the facility with the expectation that he or she will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.

2.16 **Spouse** means the employee's husband, wife, or registered domestic partner.

2.17 **Veteran** means a person who served in the active military and who was discharged or released therefrom under conditions other than dishonorable.

3.0 Eligibility for Leave

3.1 An employee is eligible for Medical and Family Leave if they were employed by the County for at least twelve (12) months immediately preceding the commencement of leave, and actually worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12) month period. Under the CFRA an employee is eligible for leave based on the same criteria.

3.2 An employee is eligible for PDL upon employment with the County.

4.0 Reasons for Leave

4.1 Eligible Employees may be permitted to take Medical and Family Leave for the following reasons:

4.1.1 Following the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee;

(a) When both parents, who are entitled to leave in connection with the birth, adoption, or foster care of a child under this policy, are both employed with the County, the employees are not cumulatively entitled to more than a combined 12 weeks of FMLA leave; however both

employees are entitled to 12 weeks of CFRA leave for a combined 24 weeks of CFRA leave.

4.1.2 To care for a parent, spouse, or child (including an adult child under CFRA) of the employee who has a serious health condition; or in the case of the CFRA, in addition to the foregoing, a grandparent, grandchild, siblings, and a designated person. Potentially, a parent-in-law is a qualifying relationship. Eligible spouses who work for the same employer are limited to a combined total of 12 workweeks of FMLA leave in a 12-month rolling period to care for a parent with a serious health condition.

(a) A designated person shall be identified by the employee at the time the employee requests the leave.

(b) An employee is limited to one designated person per 12-month rolling period for family care and medical leave.

4.1.3 For an employee's own serious health condition that makes the employee unable to perform the essential functions of the employee's position;

4.1.4 Because of any qualifying exigency as defined in Section 2.13 out of the fact that the spouse, son, daughter, or parent of the employee is on covered active duty or call to active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces;

4.1.5 To care for a spouse, son, daughter, parent, or next of kin who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty, or which existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.

4.2 Eligible employees may be permitted to take PDL if they are disabled by pregnancy, childbirth, or a related medical condition.

5.0 Amount of Leave

5.1 Medical and Family Leave. Eligible employees are entitled to a maximum twelve (12) workweeks of FMLA and CFRA leave during a twelve (12) month period.

5.1.1 In the case where an employee is caring for a family member, or next of kin service member, who suffers from a serious health condition while on active duty, the employee may take up to a maximum twenty-six (26) weeks of leave during that period.

5.1.2 Leave under the FMLA and CFRA, may run concurrently.

5.2 Pregnancy Disability Leave. An employee is entitled to a maximum of four (4)

months of PDL leave per pregnancy. PDL is separate and distinct from Medical and Family Leave.

5.3 Intermittent Leave. Medical and Family Leave and PDL may be taken on an intermittent basis as authorized by the Leave Administrator, and when permitted under this policy.

5.3.1 Leave taken on an intermittent basis shall be taken in increments of at least one quarter (1/4, .25) of an hour.

5.3.2 Employees requesting intermittent leave must attempt to schedule their leave so as not to disrupt the County's operations. Intermittent leave is subject to the notification and certification requirements of this policy.

6.0 Notification and Procedure

6.1 Employees shall notify the Leave Administrator and their supervisor of their request to take leave under this policy, at least thirty (30) days prior to the commencement of the leave, or as soon as possible if circumstances do not permit notification within the required thirty (30) day period. If an employee knows that 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 shall inform the Leave Administrator and his/her supervisor as soon as possible that such leave will be needed.

6.1.1 Requests for leave pursuant to this policy shall be made in writing to the Leave Administrator on a *Leave Request Notification* form. The completed form shall be submitted to the Leave Administrator with all required accompanying documentation.

(a) Upon receipt of the *Leave Request Notification* form, the Leave Administrator shall notify and consult with the employee's department head to coordinate the leave and confirm that the employee notified the employee's supervisor of the leave request.

(b) An employee's failure to use the *Leave Request Notification* form is not sufficient grounds for denial of the leave.

6.1.2 The employee shall be notified, in writing, no later than five (5) business days after receiving the employee's request, by the Leave Administrator of the approval or denial of the leave, the reason(s) for the denial, or any conditions of the approval.

6.1.3 The employee's department head shall be notified of the Leave Administrator's decision, and the notification shall include the date the leave is to begin, and the date the leave is to be terminated.

7.0 Use of Accrued Paid Leave.

7.1 Except as provided for below, employees must exhaust their applicable Accrued Paid Leave balances concurrently with their use of Medical and Family Leave, or PDL. Use of their accrued leave balances will be concurrent with, and not in lieu of, Medical and Family Leave and PDL entitlements.

7.1.1 An employee, at their option, may choose not to use accrued vacation leave concurrently with PDL.

7.1.2 An employee may not use sick leave in conjunction with CFRA leave for the birth of an employee's child, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

8.0 Certification

8.1 Employees who request leave for their own serious health condition, or to care for a child, parent, or spouse who has a serious health condition, must provide written certification from the individual's health care provider.

8.1.1 If the leave is requested to care for a child, parent, or spouse who has a serious health condition the certification must include:

- (a) The date on which the serious health condition commenced;
- (b) The probable duration of the condition;
- (c) An estimate of the amount of time that the health care provider believes the employee needs to care for the individual requiring the care; and
- (d) A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

8.1.2 Upon expiration of the time estimated by the health care provider in section 8.1.1(c) above, the employee must obtain a new certification for any further leave to the extent eligible.

8.2 If the leave is requested because of the employee's own serious health condition, the certification must include:

- (a) The date on which the serious health condition commenced;
- (b) The probable duration of the condition; and

- (c) A statement that, due to the serious health condition, the employee is unable to perform all the essential functions of their position.
- 8.2.1 If the employee is a Covered Servicemember, the written certification required by this section shall be done on the Department of Labor's (DOL) forms WH-385 or WH385-V. These forms can be obtained from the Colusa County Human Resources Office, local offices of the Wage and Hour Division of the Department of Labor, or the Internet at www.dol.gov.whd.
- 8.3 The Leave Administrator, in his/her sole discretion, may periodically require recertification from the employee in accordance with this policy.
- 8.4 The Leave Administrator may require a medical opinion of a second health care provider chosen and paid for by County. If the second opinion is different from the first, the Leave Administrator may require the opinion of a third provider jointly approved by County and the employee, but paid for by County. The opinion of the third provider will be binding. An employee may request a copy of the health care providers' opinions when there is a second or third medical opinion sought.
 - 8.4.1 When the leave is to care for a Covered Servicemember, second and third opinions shall not be required if the first certification was completed by:
 - (a) A United States Department of Defense (DOD) health care provider;
 - (b) A United States Department of Veterans Affairs (VA) health care provider;
 - (c) A DOD TRICARE network authorized private health care provider; or
 - (d) A DOD non-network TRICARE authorized private health care provider.
 - 8.4.2 However, second and third opinions may be required when the first certification was completed by a health care provider that is not one of the types identified in Section 8.4.1(a)-(d) of this Policy.
- 8.5 If the leave is requested to care for a covered service member who is a child, spouse, parent, or next of kin of the employee, the employee must provide written certification from the covered service member's health care provider regarding the service member's serious health condition.
 - 8.5.1 The written certification required by this section shall be done on DOL forms WH-385 or WH385-V. These forms can be obtained from the Colusa County Human Resources Department, local offices of the Wage and Hour

Division of the Department of Labor, or the Internet at www.dol.gov.whd.

8.5.2 In lieu of the DOL forms WH-385 or WH385-V, the employee may submit invitational travel orders or invitational travel authorizations issued to the employee to join a Covered Servicemember at their bedside.

8.6 Qualifying Exigency: The first time an employee requests leave because of a qualifying exigency, the employee shall provide a copy of the military member's active duty orders, or other documentation issued by the military, which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the Leave Administrator if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member.

8.7 If the leave is requested in cases of adoption or foster care placement, the employee must provide written verification, such as an adoptive home study, an adoption placement agreement, or a juvenile court order.

9.0 Benefits While on Leave

9.1 Leave under this policy is unpaid unless the employee is using his or her accrued paid leave concurrently with leave under this policy. While on unpaid leave, an employee will not accrue sick, vacation, or any other leave balances and will not be entitled to holiday or other similar compensation.

9.2 While on leave provided pursuant to this Policy, and if the employee was enrolled in the County's group health insurance at the time the leave commences, the employee will continue to be covered by County's group health insurance for the duration of the leave. The employee is required however, to continue paying the employee's share of premium payments, if, any. Additionally, the County may be entitled to reimbursement of its share of premium payments, from the employee, should the employee fail to return from leave.

9.3 Any obligation the County may have to maintain health insurance coverage ceases if an employee's premium share is more than thirty (30) days late.

10.0 Return from Leave

10.1 Upon expiration of leave, the employee shall be returned 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.

10.2 As a condition of return to employment for an employee whose leave was due to

the employee's own serious health condition which made the employee unable to perform the essential functions of their job, the employee must obtain, and present to the Leave Administrator, a fitness-for-duty certification from the health care provider stating the employee is able to perform the essential functions of their job, without restriction.

10.2.1 If the employee provides the County with certification that accommodations are required as a condition of the employee's return to work, the County will engage in a process with the employee to determine if the employee can be reasonably accommodated.

10.2.2 If, at the end of the leave provided for pursuant to this Policy, the employee is unable to return to work with or without restrictions, the employee will be given an opportunity to engage the Leave Administrator regarding the employee's options, if any.

11.0 Key Employees. The County may deny a Key Employee's Medical and Family Leave if:

11.1 The employee is a Key Employee as defined by this Policy;

11.2 The denial is necessary to prevent substantial and grievous economic injury to the operations of the County; and

11.3 The County notifies the Key Employee of the intent to deny the Key Employee's request for leave at the time the County determines the denial is necessary under subsection 11.2.

11.4 In the case the leave pursuant to this Policy already commenced, the County shall give the Key Employee a reasonable opportunity to return to work following the notice prescribed in subsection 11.3.

11.5 The County may not deny leave under the CFRA based on Key employee status.

12.0 Extension of Probationary Period. An eligible probationary employee who requests and receives leave under this Policy shall have their probationary period extended for the full period of the leave taken.