

Administrative Policy 4-10

Medical Leave Policy

Approved: Board of Supervisors, Resolution No. 24-0130

Authority: Human Resources

Revised Date: April 16, 2024

This policy applies to employees of the County of Sonoma, and County agencies and special districts governed by the Board of Supervisors/Directors/Commissioners. Where the policy uses terms such as “employed by the county”, “county employees”, “departments”, or “department heads”, these terms include employees of the County of Sonoma, and of the Sonoma County Agricultural Preservation and Open Space District, the Sonoma County Community Development Commission, The Sonoma County Fair and Exposition, Inc., the Sonoma County Employees Retirement Association, and the Sonoma County Water Agency.

1. Purpose

The purpose of this policy is to provide County employees, departments, and agencies with information about federal, state, and local laws, regulations, and agreements that govern medical leaves of absence. This policy is established in order to:

- Summarize medical leave protections under federal, state and local laws, County of Sonoma Civil Service Rules, negotiated union contracts, and the County’s Salary Resolution.
- Describe eligibility requirements for medical leave.
- Provide employees with a process to request medical leave.

This policy complies with the Family and Medical Leave Act (FMLA)¹, California Family Rights Act (CFRA)², California Pregnancy Disability Leave (CPDL)³, California Kin Care Law⁴, and the California Healthy Workplaces, Healthy Families act of 2014 (Paid Sick Leave Law, or “PSL”)⁵. This policy is a compilation of the applicable provisions relating to medical leave which are frequently subject to changes in the law. Should this policy be in conflict with laws, rules, or agreements, those laws, rules, or agreements shall control.

2. Policy

The County will provide medical leave in accordance with federal, state, and local laws, regulations and agreements that govern medical leaves of absence. Where multiple, overlapping medical leave provisions apply, they will be applied at the same time to the extent allowed by law.

A. Eligibility Requirements for Medical Leave – Federal Law

1. Eligibility

¹ 29 U.S.C. § 2601, et seq.

² CA Government Code § 12945.2 and 19702.3

³ CA Government Code § 12945

⁴ CA Labor Code § 233

⁵ CA Labor Code §§ 245-249

The Family and Medical Leave Act (FMLA) provides an eligible employee with a right to unpaid, job-protected leave and continuation of health insurance benefits. To be eligible for FMLA protections, a County employee must have been employed with the County for at least 12 months (which do not need to be consecutive) AND; have worked at least 1,250 hours during the 12 month period immediately before the leave starts; AND have a qualifying serious health condition or family circumstance that is covered by FMLA.

2. Amount of Protected Leave and Qualifying Reasons for FMLA Leave:

- a. Basic FMLA Leave: FMLA provides an eligible employee up to 12 work weeks (typically up to 480 hours for a 1.0 full-time equivalent position) of unpaid leave for certain family and medical reasons during a 12- month period. The County uses a “rolling” 12-month period of time, measured backwards from when an employee first uses FMLA leave. Leave may be taken for any one or more of the following reasons:
 - i. For the employee’s own serious health condition that makes the employee unable to perform their job.
 - ii. For the employee’s own disability due to pregnancy, childbirth, or related medical condition.
 - iii. Bonding and/or caring for a newborn, newly adopted, or newly placed foster child.
 - iv. To care for the employee’s FMLA-defined family member: spouse, child, or parent, with a serious health condition.
 - v. Because of any qualifying exigency arising out of the fact that the employee’s FMLA-defined spouse, child, or parent is on covered active duty or has been notified of an impending call or order to active duty status in the Armed Forces of the United States (including the National Guard and Reserves)

- b. FMLA Military Caregiver Leave. An FMLA eligible employee who is the spouse, child, parent or next of kin (as defined by FMLA) of a covered servicemember may take up to 26 weeks of leave during a single 12-month period to care for the covered servicemember with a serious injury or illness. Leave to care for a covered servicemember is only available during a single 12-month period. The single 12-month period begins on the first day the eligible employee takes leave to care for the injured servicemember. The eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reasons during the single 12-month period. Up to 12 of the 26 weeks may be for an FMLA-qualifying reason other than military caregiver leave.

If both spouses are employed by the County and qualify for leave as stated above, they are limited to a combined total of 26 workweeks of leave in a single 12-month period to care for a covered servicemember.

B. Eligibility Requirements for Medical Leave – State Laws

1. Eligibility

- a. California Family Rights Act (CFRA) provides an eligible employee with a right to unpaid, job-protected leave and continuation of health insurance benefits. To be eligible for CFRA protections, a County employee must have been employed with the County for at least 12 months (which do not need to be consecutive) AND; have worked at least 1,250 hours during the 12 month period immediately before the leave starts; AND have a qualifying serious health condition or family circumstance that is covered by CFRA.
- b. California Pregnancy Disability Leave (CPDL) provides an eligible employee the right to unpaid, job protected leave when they are disabled due to pregnancy, childbirth, or related medical conditions. There are no service time requirements to qualify for CPDL.
- c. The California Healthy Workplaces, Healthy Families Act (California Paid Sick Leave Law, or PSL) requires employers to provide sick leave to an employee that can be used for the employee's own illness or to care for a PSL-defined family member. For all County regular and extra-help employees, the County provides sick leave accrual rates, accrual caps, and annual use limits in excess of PSL's requirements. Refer to the applicable union contract or Salary Resolution for details on sick leave accrual rates and usage requirements.
- d. The California Kin Care Act allows an employee, in any calendar year, to use an amount of accrued sick leave that is not less than the amount of leave an employee would accrue in a six-month period, for the employee's own health condition, to care for an ill PSL-defined family member, or for obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking. The County may not automatically designate sick leave use as kin care. The employee has the right to designate use of sick leave accruals as personal sick leave, kin care, or for domestic violence/sexual assault related reasons.

2. Amount of Protected Leave and Qualifying Reasons for CFRA and CPDL Leave:

- a. Basic CFRA Leave: CFRA provides an eligible employee up to 12 work weeks (typically up to 480 hours for a 1.0 full-time equivalent position) of unpaid leave for certain family and medical reasons during a 12 month period. This is determined by a "rolling" 12-month period measured backwards from when an employee first uses CFRA leave. Leave may be taken for any one or more of the following reasons:
 - i. For the employee's own serious health condition that makes the employee unable to perform their job.
 - ii. Bonding and/or caring for a newborn, newly adopted, or newly placed foster child.
 - iii. To care for the employee's CFRA-defined: spouse, registered domestic partner, child, parent, parent-in-law, grandparent, grandchild, sibling, or designated person, with a serious health condition.

- iv. Because of any qualifying exigency arising out of the fact that the employee's CFRA-defined: spouse, registered domestic partner, child, or parent is on covered active duty or has been notified of an impending call or order to active duty status in the Armed Forces of the United States (including the National Guard and Reserves).
- b. CPDL Leave:
 - i. An employee disabled due to pregnancy, childbirth, or a related medical condition is entitled to up to four months (17 1/3 weeks) of disability leave per pregnancy.
 - ii. Leave can be taken before and after birth during any period of time the employee is physically unable to work due to pregnancy or a pregnancy-related condition. All leave taken in connection with a specific pregnancy counts toward the four-month period total.
 - iii. CPDL is available when the employee is actually disabled. This includes time off needed for prenatal or postnatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, loss or end of pregnancy, or any other related medical condition.

C. Additional Medical Leave Provisions

1. County of Sonoma Civil Service Rules

- a. Rule 12 states that department heads may grant leaves without pay, for periods not to exceed six months, at the request of the employee concerned, to employees of their departments because of illness, disability, pregnancy, child rearing, or for educational purposes or for any other reasons the appointing authority deems appropriate. Requests for leaves without pay for periods in excess of six months shall be submitted by the department head, together with a written recommendation, to the Human Resources Director for approval or disapproval. Rule 12 also provides for certain appeal procedures if the leave request is denied. Employees will not receive salary during the leave but may apply accrued and donated leave hours as provided in negotiated union contracts and the Salary Resolution.
- b. Rule 12 states that for disabilities which are found by the State Worker's Compensation Appeal Board or the Industrial Accident Commission to be incurred as a result of Sonoma County employment, leave without pay shall be approved by department heads and the County Human Resources Director for the period following expiration of paid sick leave and vacation until discontinuation of disability compensation payments.

2. Continuation of County-Paid Health Benefit Premiums

- a. During FMLA/CFRA leave, an eligible employee is entitled to receive paid group health plan coverage while on leave for up to 12 work weeks (typically up to 480

hours for a 1.0 full-time equivalent position) at the same levels they had before they took leave. During this time, the County will continue paying the County portion of the health benefit premiums and the employee is responsible for paying the employee portion. This benefit is also applicable to PDL leave; however, the 12 work week cap does not apply, and the County will continue paying the County portion of health benefit premiums for the duration of the approved PDL leave.

- b. For an employee's own medical or pregnancy disability, the County will continue to pay the County's portion of benefit premiums (including medical, dental, life, vision, and long-term disability) for a total of 13 pay periods (26 weeks). The 13 pay period benefit begins with the first pay period in which the employee is in leave without pay (LWOP) status for greater than 50% of their Full-Time Equivalent (FTE). The 13-pay period benefit applies to all permanent and probationary employees, regardless of length of service or hours worked. The 13-pay period benefit will run concurrently to FMLA/CFRA/CPDL leave, if eligible. The 13-pay period benefit applies to the employee's own medical or pregnancy disability only. It does not apply to family care, military caregiver leave, or qualifying exigencies. During the 13-pay period benefit, the employee is responsible for paying the employee portion of their benefit premiums. Please see 4. I. for further details.
- c. Once the employee either reaches the end of the 13 pay period benefit or enters into LWOP status greater than 50% of their FTE for a reason other than their own medical or pregnancy disability, the employee will be notified either: (1) to pay the full premium directly to the Auditor-Controller's Office; or (2) of their COBRA right to continue group health insurance benefits at the employee's cost, in accordance with negotiated union contract or Salary Resolution provisions.

D. Restoration of Employment and Benefits Following a Medical Leave

At the end of FMLA/CFRA/CPDL-qualifying leave, subject to some exceptions including situations where job restoration of a *key employee* will cause the County substantial and grievous economic injury, an employee generally has a right to return to the same or equivalent position they held before the FMLA/CFRA/CPDL protected leave. CFRA extends job restoration rights to a *key employee*. An employee on CPDL leave who is not on FMLA/CFRA is entitled to the right to return to the same position or a substantially similar position held before the leave unless the position has been eliminated.

The department, in consultation with Human Resources Disability Management, will notify the employee if they qualify as a *key employee (applicable to FMLA leave only)*, if it intends to deny reinstatement, and of their rights in such instances. Use of FMLA/CFRA/CPDL leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible employee's FMLA/CFRA/CPDL leave.

E. Coordination with Other Policies and Provisions

FMLA/CFRA/CPDL does not affect any federal, state or local law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or

medical leave rights. Whenever permissible by law, the County will run FMLA/CFRA/CPDL leave concurrently with any other leave provided under state or local law, civil service rule, or an applicable collective bargaining agreement. Additionally, medical leave may be provided as a reasonable accommodation, as determined on a case-by-case basis, under the Americans with Disabilities Act and the County's Disability and Reasonable Accommodation Policy.

F. Questions and Policy Compliance

If you have questions regarding this policy, please contact your department's human resources staff, payroll staff, or the County's Human Resources Disability Management Unit. The County is committed to complying with all federal, state, and local laws and regulations pertaining to medical leave, and shall interpret and apply this policy in a manner consistent with the law.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain, or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. Discrimination is also prohibited under CFRA and CPDL. If an employee believes their FMLA/CFRA/CPDL rights have been violated, they should contact the Human Resources Equal Employment Opportunity (EEO) unit, or the Human Resources Disability Management unit immediately. The County will investigate any complaints and take prompt and appropriate remedial action to address and/or remedy any violation.

An employee also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations. For CFRA and CPDL, an employee can also file complaints with the California Civil Rights Department.

3. Responsibilities

- A. Department Heads/Designees are responsible to ensure that appropriate departmental staff has all necessary information regarding the County of Sonoma's Medical Leave Policy, and to ensure compliance with the policy.
- B. Individual Department Human Resources Staff are responsible for:
 - 1. Determining employee eligibility for appropriate leave options and advising employee of those options in accordance with the requirements of applicable law(s).
 - 2. Providing written notice to an employee as required by applicable law regarding their request for and designation of leave.
 - 3. Processing and tracking leave in consultation with the Human Resources Disability Management unit.
 - 4. Retain records relating to the leave as required by law and County retention policy.
 - 5. Provide copies of all leave documentation to Human Resources Disability Management unit.
- C. Central Human Resources staff are responsible for:
 - 1. Managing posting requirements under federal, state, and local laws/regulations covered by this policy, and distributing requirements to individual departments for posting.

2. Advising department heads, HRLs, and managers on department and employee rights and obligations related to employee medical leaves, the correct application of protections, leave benefit options, and leave management best practices.
3. Updating department and employee resources with current information pertaining to leave protections, forms and related resources.
4. Providing training to department human resources staff and management to enhance awareness of medical leave rights and protections under federal and state laws, County Civil Service Rules, County policy, and negotiated union contracts and the Salary Resolution.

D. Employees are responsible for:

1. Reading this policy.
2. Providing their department with proper, timely and complete notification of the need for a medical leave; and medical notes or certification forms containing required information when requesting and taking a medical leave of absence.

4. Procedures for Use of Medical Leave

The purpose of this section is to provide information to employees to successfully manage their medical leave. This section explains how to begin the process of requesting a medical leave, identifies the type of documentation to include in the request, describes how to schedule or extend a medical leave, explains what is needed to return to work from a medical leave, and discusses requests for continuation of health benefits.

A. Employee Notifies Department of Leave Need: To trigger FMLA/CFRA/CPDL leave protections, an employee must inform (verbally or in writing) their supervisor of the need for FMLA/CFRA/CPDL-qualifying leave and, if known, the anticipated timing and duration of the leave. The employee may do this by either requesting FMLA/CFRA/CPDL leave specifically, or explaining the reasons for leave that would allow the department to determine that the leave is FMLA/CFRA/CPDL-qualifying. For example, the employee might explain that:

1. The leave is for their own serious medical condition or is related to their pregnancy.
2. The leave is to care for a qualifying family member.
3. They have a new child and are requesting leave to bond with the child.
4. The leave is due to a qualifying exigency caused by a covered military member being on active duty or called to active duty status.
5. The leave is to care for a family member who is a covered servicemember with a serious injury or illness.

Calling in “sick,” without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA/CFRA/CPDL leave under this policy. An employee must respond to the County’s lawful questions to determine if absences are potentially FMLA/CFRA/CPDL qualifying, and provide sufficient medical documentation, as discussed in section 4. B.

If an employee fails to explain the reasons for FMLA/CFRA/CPDL-qualified leave, the leave cannot be approved. When an employee seeks leave due to FMLA/CFRA/CPDL-qualifying reasons for which the County has previously provided FMLA/CFRA/CPDL protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA/CFRA/CPDL leave. NOTE: “Reason” does not mean “diagnosis”. Refer to section 2. A. for FMLA/CFRA/CPDL-qualifying reasons.

When the need for leave is foreseeable, an employee must provide 30 calendar days' advance notice of the need to take FMLA/CFRA/CPDL leave. When 30 calendar days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, an employee must provide the County notice of the need for leave as soon as possible under the facts and circumstances of the particular case.

An employee who fails to give 30 calendar days' notice for foreseeable leave without a reasonable explanation for the delay, or otherwise fail to satisfy FMLA/CFRA/CPDL notice obligations, may have FMLA/CFRA/CPDL leave delayed or denied.

The County may retroactively designate leave as FMLA/CFRA-qualifying leave with appropriate written notice to the employee and where prior lack of designation does not cause harm or injury to the employee.

- B. Employee Submits Required Documentation: At the time of the leave request, a Request for Leave of Absence form must be completed by the employee or by their department's human resources personnel on the employee's behalf. The employee must also submit a completed medical certification or note from their medical provider (or from their qualifying family member's medical provider, in the case of leave to care for a family member) containing the required information. Generally, the employee must provide the requested information within 15 calendar days, unless it is not practical to do so despite the employee's diligent good faith efforts. The department will inform the employee if the documentation provided is incomplete or insufficient and will provide the employee at least 7 calendar days to cure deficiencies. The failure to cure deficiencies or otherwise fail to submit requested medical certification in a timely manner may result in the County not being able to approve FMLA/CFRA/CPDL leave.

County-provided medical certification forms are available for the various types of leave covered under this policy and provide the necessary questions to the healthcare provider to determine if leave is FMLA/CFRA/CPDL qualifying. The employee may submit their health care provider's own form/medical note as long as it contains the required information.

If the department has a good faith, objective reason to doubt initial medical certifications regarding the employee's own serious health condition, it will consult with the Human Resources Disability Management unit and may require the employee to obtain a second opinion at the department's expense. If the opinions of the initial and second health care providers differ, the department may, at its expense, require the employee to obtain a third, final and binding certification from a health care provider designated or approved jointly by the department and the employee. The department will reimburse the employee for any reasonable "out of pocket" travel expenses incurred to obtain second or third medical opinions.

1. Medical Certifications/Notes for non-military FMLA/CFRA/CPDL Leave: Medical certifications for both an employee's own medical condition/disability and for family members' medical condition/disability must include:
 - a. The date, if known, on which the serious health condition commenced.
 - b. The probable duration of the condition.
 - c. An estimate of the amount of time the health care provider believes the employee needs to care for themselves, or the qualifying family member.

- d. A statement that, due to the serious health condition, the employee is unable to work. When the leave is requested in order for the employee to care for a qualifying family member, a statement that the serious health condition of the family member warrants participation of the employee to provide care during a period of treatment and/or the need to provide direct care to the family member.
- e. Under no circumstance will the County inquire about or require information that identifies the serious health condition involved. The employee may identify the nature of the serious health condition, at the employee's option.

2. Certifications for Military FMLA/CFRA Leave:

- a. Upon request, the first time an employee seeks leave due to qualifying exigencies (FMLA/CFRA) arising out of covered active duty or call to active duty status of military members, the department may require the employee to provide:
 - i. A copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to active duty status and the dates of the military member's active duty service.
 - ii. A certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested.
 - iii. The employee shall provide a copy of new active duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies as a result of a different covered active duty or call to active duty status of the same or a different military member.
- b. When leave is taken to care for a covered servicemember with a serious injury or illness (FMLA Only), the department will require the employee to obtain certification or a medical note completed by an authorized health care provider of the covered servicemember. In addition, and in accordance with the FMLA regulations, the County may request that the certification/note submitted by the employee set forth additional information provided by the employee and/or the covered servicemember confirming eligibility for such leave.

C. Leave Approval Authority for Longer Duration Medical Leave Requests: Requests for medical leaves less than six months duration are submitted for consideration to the department head/designee. Requests for medical leaves of six months or longer in duration require approval by department heads/designee and the Human Resources Director/designee. This differs from FMLA/CFRA/CPDL leaves, which are statutorily mandated and must be granted for all eligible employees. However, these leaves still require the appropriate documentation for approval.

An employee who is not on approved leave is considered absent without official leave, which could subject the employee to disciplinary action.

D. Cooperating in the Scheduling of Leave: When planning medical treatment for an employee or family member or requesting to take leave on an *intermittent* or reduced schedule work basis, the

employee must consult with their supervisor or designee and make a reasonable effort to schedule treatment so as not to unduly disrupt the County's operations. The employee must consult with their supervisor or designee prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the department and the employee, subject to the approval of the applicable *health care provider*. When the employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including a period of recovery from a *serious health condition*, or to care for a *covered servicemember*, the department may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

- E. Using Paid Leave during Unpaid FMLA/CFRA/CPDL Leave: The use of paid time off during unpaid family/medical leave time does not extend the length of FMLA/CFRA/CPDL leaves, and the paid time off runs concurrently with the FMLA/CFRA/CPDL Leave.
1. If an employee requests FMLA/CFRA/CPDL leave due to their own serious health condition/disability or to care for a covered family member with a serious health condition (including Military Caregiver FMLA), they must first use accrued paid sick leave for otherwise unpaid leave, but they may elect to reserve a balance of 40 hours of accrued sick leave. The employee may choose to use accrued vacation or compensatory time off for unpaid FMLA/CFRA/CPDL leave once their sick time is exhausted or reduced as described above, as allowed under their applicable union contract/Salary Resolution.
 2. If an employee requests CFRA leave to bond with a newborn, adoptive or foster child, they may first use any accrued vacation or compensatory time off for unpaid family/medical leave as allowed under their applicable MOU/Salary Resolution. The employee may not use accrued sick leave for the purposes of bonding with a newborn, adoptive, or foster child.
 3. A leave of absence in connection with a workers' compensation injury/illness or for which an employee receives short term or long term disability benefits shall run concurrently with FMLA/CFRA leave, except for those Safety personnel members on authorized on 4850 leave which does not run concurrently. Upon written request, the department may allow the employee to use accrued paid time off to supplement any paid workers' compensation or short term disability benefits consistent with the type of applicable leave, applicable union contract/Salary Resolution, and County policy. Certain union contracts or the Salary Resolution may require use of accrued sick time to supplement paid workers' compensation benefits; please refer to the appropriate union contract or Salary Resolution for more information.
- F. Medical Recertification: Depending on the circumstances and duration of FMLA leave, the department may require an employee to provide recertification of medical conditions giving rise to the need for leave every thirty days. For chronic or long-term conditions, the County may require certifications every six months.

For leave that also qualifies under CFRA, recertification will be requested only when a prior medical certification has expired or is about to expire and the employee requests additional leave. Conditions indicated as permanent/long-term/ongoing will not need to be recertified, though the department may check-in with the employee on a yearly basis to see if their leave needs have changed. The department will notify the employee if recertification is required and will give them at least 15 calendar days to provide medical recertification. No medical recertification will be required for military caregiver leave.

In general, the employee is responsible to notify the department if their leave needs change, and the department may seek updated certification if the employee's leave usage does not correspond to the certification on file.

- G. Reporting Changes to Anticipated Return to Work Date: If an employee's anticipated return to work date changes and it becomes necessary for the employee to take more or less leave than originally anticipated, the employee must provide the department with reasonable notice of the employee's changed circumstances and new return to work date. If an employee gives the department unequivocal notice of their intent not to return to work, the County's obligation to maintain health benefits (subject to *COBRA* requirements) and to restore their positions will cease.

- H. Return to Work Medical Certification: An employee returning to work from a FMLA/CFRA leave that was taken because of their own serious health condition must provide their department a medical certification/medical note confirming the employee is able return to work. A clearly defined end date on the initial certification/medical note will suffice, or the employee may provide a separate certification/medical note indicating their ability to return to work prior to the end of the leave.

- I. Paying Employee's Share of Health Insurance Premiums:
 - 1. If, during a leave, the County is continuing to pay the County portion of benefit plan premiums in accordance with section 2. C. 2. a. and/or 2. C. 2. b. of this policy, and an employee is using paid time during the medical leave, the County will deduct the employee's shares of the premium as a regular payroll deduction.
 - a. If the employee is unpaid or has insufficient paid time to cover the employee share of the premium, and the employee desires to continue health benefits while on medical leave, the employee must pay their portion of the premium directly to the Auditor-Controller's Office.
 - i. Please note the County's obligation to maintain health care coverage ceases if the employee's premium payment is more than 30 days late. Please see the applicable MOU/Salary Resolution for details. If benefit coverage lapses, the employee and/or the employee's dependents may be eligible to enroll in *COBRA* benefits and the employee will be notified of their *COBRA* rights and eligibility as appropriate.
 - 2. If, during a leave, the County is no longer paying the County portion of benefit plan premiums in accordance with section 2. C. 2. c., the employee will either pay the full premium directly to the Auditor-Controller's Office or will be notified of their *COBRA* right to

continue group health insurance benefits at the employee's cost, in accordance with negotiated union contract or Salary Resolution provisions.

5. Definitions

12-Month Period: A rolling 12-month period measured backward from the date leave first occurs. Each time an employee takes FMLA/CFRA leave, the remaining leave available is any balance of the 12 weeks that has not been used during the immediately preceding 12 months. Example: If the employee used four weeks beginning February 1, 2024, four weeks beginning June 1, 2024, and four weeks beginning December 1, 2024, the employee would not be entitled to any additional FMLA/CFRA leave until February 1, 2025. (See CFR 825.102)

California Family Rights Act (CFRA)-Defined Family Members (See 2 CCR 11087): Family member means an employee's child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person.

- Child: A biological, adopted, or foster child, a stepchild, a legal ward, a child of an employee or the employee's domestic partner, or a person to whom the employee stands in loco parentis. "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.
- Designated Person: any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.
- Domestic Partner: Two adults who have established a registered domestic partnership in accordance with the requirements of California Law or have signed a County Domestic Partner affidavit. Domestic partner has the same meaning as defined in Family Code section 297 for the purposes of CFRA.
- Grandchild: The child of an employee's child.
- Grandparent: A parent of the employee's parent.
- Parent: 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.
- Parent-in-law: the parent of a spouse or domestic partner.
- Sibling: a person related to the employee by blood, adoption, or by having a common legal or biological parent.
- Spouse: means a partner in marriage as defined in Family Code section 300 or a registered domestic partner, within the meaning of Family Code sections 297 through 297.5. As used in this article and the Family Code, "spouse" includes same-sex partners in marriage.

COBRA (Consolidated Omnibus Budget Reconciliation Act): Gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce and other life events. Qualified

individuals may be required to pay the entire premium for coverage up to 102 percent of the cost to the plan. For more information go to: www.dol.gov/dol/topic/health-plans/cobra.htm.

County: County of Sonoma, including the agencies and special districts named in the introduction section of this policy.

Covered Active Duty: (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, or (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 Federal call or order to active duty in support of a contingency operation pursuant to Section 688 of Title 10 of the United States Code. (See 29 CFR 825.126)

Covered Servicemember: (1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, or (2) A covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. See also 29 CFR 825.122, 29 CFR 825.127.

Employee: Full-time and part-time employees, extra-help employees, and all other persons employed by the County, whether in permanent or probationary status.

Family and Medical Leave Act (FMLA)-Defined Family Members (See 29 CFR 825.102):

- Child (also Son or Daughter): A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence. “In loco parentis” means persons with day-to-day responsibilities to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- Child (also Son or Daughter) of a covered servicemember: A covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- Child (also Son or Daughter) on covered active duty or call to covered active duty status: The employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age.
- Next of kin of a covered servicemember: The nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered

servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.

- Parent: A biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents "in law."
- Parent of a covered servicemember: A covered servicemember's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents "in law."
- Spouse: As defined in the statute, means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:
 - Was entered into in a State that recognizes such marriages; or
 - If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

Health Care Provider: The definition of Health Care Provider varies depending on the type of leave as follows:

- CFRA: Either (1) an individual holding either a physician's and surgeon's certificate issued pursuant to Article 4 (commencing with section 2080) of Chapter 5 of Division 2 of the Business and Professions Code or an osteopathic physician's and surgeon's certificate issued pursuant to Article 4.5 (commencing with section 2099.5) of Chapter 5 of Division 2 of the Business and Professions Code, 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, or (2) any other person who meets the definition of others "capable of providing health care services," as set forth in FMLA and its implementing regulations. (See 2 CCR 11087)
- FMLA: A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary to be capable of providing health care services as defined in CFR 825.102. (See CFR 825.102)
- CPDL: (1) A medical or osteopathic doctor, physician, or surgeon, licensed in California, or in another state or country, who directly treats or supervises the treatment of the applicant's or employee's pregnancy, childbirth or a related medical condition, or "a condition related to pregnancy, childbirth, or a related medical condition," as set forth in Government Code section 12945, or (2) A marriage and family therapist or acupuncturist, licensed in California or in another state or country, or any other persons who meet the definition of "others capable of providing health care services" under FMLA and its implementing regulations, including nurse practitioners, nurse midwives, licensed midwives, clinical psychologists, clinical social workers, chiropractors, physician assistants, who directly treats or supervises the treatment of the applicant's or employee's pregnancy, childbirth or a related medical condition, or "a condition

related to pregnancy, childbirth, or a related medical condition," as set forth in Government Code section 12945, or (3) A health care provider from whom an employer or a group health plan's benefits manager will accept medical certification of the existence of a health condition to substantiate a claim for benefits. (See 2 CCR 11035)

Hours Worked: Hours the employee actually worked – not including paid sick leave, vacation leave, compensatory time off, paid administrative leave, mandatory time off (MTO), paid parental leave, compassionate leave, holidays, or any leave without pay.

Incapable of self-care: The individual requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADLs) or “instrumental activities of daily living” (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one’s grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc. (See 29 CFR 825.102)

Intermittent: Leave taken in separate, random, or scheduled blocks of time due to a single qualifying reason, rather than for one continuous period of time.

Key employee: A salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees (salaried and non-salaried, eligible and ineligible) employed by the employer within 75 miles of the employee's worksite. (See 29 CFR 825.217)

Mental or physical disability: A physical or mental impairment that limits one or more of the major life activities of an individual. Regulations at 29 CFR 1630.2(h), (i), and (j), issued by the Equal Employment Opportunity Commission under the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq., define these terms.

Outpatient status: With respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Paid Sick Leave (PSL)-Defined Family Members:

- Child: A biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- Parent: A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
- A spouse, a registered domestic partner, a grandparent, a grandchild, or a sibling.
- Designated Person: A person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days.

Qualifying exigencies: May include attending certain military events, arranging for alternative childcare, handling certain school issues, addressing certain financial and legal arrangements, attending certain

counseling sessions, spending up to five (5) days of leave with a covered military member who is on short-term temporary, rest and recuperation leave during a period of deployment, and attending post-deployment reintegration briefings. Specific definitions exist under both FMLA and CFRA (See 29 CFR 825.126, CA UIC 3302.2).

Reduced Schedule: A leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time.

Serious Health Condition: The definition of Serious Health Condition varies depending on the type of leave as follows:

- CFRA: an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or a family member of the employee that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse. (See 2 CCR 11087)
 - (1) “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 the person to the facility with the expectation that the person 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) “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.
 - (3) “Continuing treatment” means ongoing medical treatment or supervision by a health care provider, as detailed in 2 CCR 11097.
- FMLA: An illness, injury, impairment or physical or mental condition that involves inpatient care as defined in 29 CFR 825.114 or continuing treatment by a health care provider as defined in 29 CFR 825.115. Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not serious health conditions unless inpatient hospital care is required or unless complications develop. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of 29 CFR 825.113 are met. (See 29 CFR 825.102).

Serious Injury or Illness (See 29 CFR 825.127): Pertaining only to FMLA Military Caregiver Leave:

(1) In the case of a current member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces or that 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 may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating; and, (2) In the case of a covered veteran, means 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 the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:

- 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, grade, rank, or rating; or
- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- 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.

Written Request: A written request from an employee can take the form of an email, a letter or other type of note, or completion of applicable forms.