

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
BOARD ACTION SUMMARY**

DEPT: Chief Executive Office

BOARD AGENDA:6.B.14  
AGENDA DATE: December 4, 2018

**SUBJECT:**

Approval to Introduce and Waive the First Reading of an Ordinance Amending Title 3 of the Stanislaus County Code Relating to Personnel Policies and Approval of the Updated Stanislaus County Personnel Policy Manual Tab 11 - Leave Time Benefits

**BOARD ACTION AS FOLLOWS:**

**RESOLUTION NO. 2018-0590**

On motion of Supervisor Withrow -----, Seconded by Supervisor Chiesa -----  
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, and Chairman DeMartini -----

Noes: Supervisors: None -----

Excused or Absent: Supervisors: Olsen -----

Abstaining: Supervisor: None -----

1)  X  Approved as recommended

2)        Denied

3)        Approved as amended

4)        Other:

**MOTION:**

ATTEST:   
PAM VILLARREAL, Assistant Clerk

File No. ORD-56-D-5

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Chief Executive Office

BOARD AGENDA:6.B.14  
AGENDA DATE: December 4, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

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**SUBJECT:**

Approval to Introduce and Waive the First Reading of an Ordinance Amending Title 3 of the Stanislaus County Code Relating to Personnel Policies and Approval of the Updated Stanislaus County Personnel Policy Manual Tab 11 - Leave Time Benefits

**STAFF RECOMMENDATION:**

1. Introduce and waive the first reading of an ordinance amending Stanislaus County Code Section 3.36.030 related to payment for accrued vacation upon separation from County employment, Section 3.40.010 related to sick leave earning rate and use, Section 3.40.020 related to Medical Certificates, Section 3.44.010 related to leaves of absence and Section 3.44.020 related to request and approval for leaves of absence.
2. Approve the Updated Stanislaus County Personnel Policy Manual Tab 11 – Leave Time Benefits.

**DISCUSSION:**

The County provides for a variety of leave types and job protections as required by state and federal laws or negotiated labor agreements. As state and federal laws continually change, the administration of these laws has become more complex. The proposed Personnel Policies and County Code Section changes ensure that the County complies with recent legislative changes including the Healthy Workplaces, Healthy Families Act of 2014, Senate Bill (SB) 579 modifying Kin Care, and the Child Related Activities Leave Law (California Labor Code Section 230.8). The County met and conferred with all labor organizations as required by law during the last round of health benefit negotiations.

Paid Sick Leave Law (Labor Code Sections 245-249) was enacted on July 1, 2015. The Paid Sick Leave Law expanded the ability to use paid sick leave to care for a broader definition of family member including parent-in-law, grandparent, grandchild and sibling.

On October 11, 2015 Governor Brown signed SB 579. The purpose of SB 579 was to harmonize the definitions between the Paid Sick Leave Law and Kin Care. SB 579 applies the protections of Kin Care beyond caring for a family member to any paid sick leave taken for the reasons provided under the Paid Sick Leave Law. Effective January 1, 2016, the result amended Labor Code Section 233 to provide employees with protected leave for their use of one-half of their accrued sick leave for the diagnosis, care or treatment of an existing health condition of, or preventative care for, an

employee or employee's family member and an employee who is the victim of domestic violence, sexual assault, or stalking. In Stanislaus County, one-half of accrued sick leave is approximately 48 hours for a full-time employee. SB 579 also affected the employer's ability to seek medical certification from an employee for use of one-half of the annual sick leave accrual amount. Employers with 25 or more employees are prohibited from discriminating or retaliating against employees who use Protected Sick Leave.

The Child-Related Activities Leave Law (Labor Code Section 230.8) has provided employees with up to 40 hours per year (8 hours per month) for "child-related" activities if the employee is a parent with one or more children attending kindergarten through 12<sup>th</sup> grade or is at a licensed child care provider. SB 579 also modified the Child-Related Activities Leave Law to include time to enroll children in school or with a licensed child care provider and to address a child care provider or school emergency, such as a natural disaster (excludes planned holidays). Additionally, the definition of a "parent" was modified to include parent, guardian, stepparent, foster parent, grandparent, or a person who stands in loco parentis to a child.

The Healthy Workplaces, Healthy Families Act of 2014 entitles any employee, including part-time employees, to one hour of paid sick leave for every 30 hours worked. Stanislaus County provides full-time employees 3.7 hours of sick leave per pay period (96.2 hours annually). Part-time/extra-help employees receive paid sick leave in compliance with this act.

Stanislaus County managers do not participate in the State Disability Insurance (SDI) program. The County provides a self-insured limited income protection plan for managers who are temporarily unable to work due to a non-work related injury or illness. There is a thirty (30) day waiting period before managers are eligible to receive benefits. Management employees are the only ones in the County who have a thirty (30) day waiting period, all non-management employees participate in SDI and have a seven (7) day waiting period before receiving benefits. To maintain internal parity while also recognizing the impact of prior decreases to management benefits and a growing need to better position the organization to recruit qualified applicants into leadership positions in the County, it is requested to change the waiting period from the existing thirty (30) days to a seven (7) day waiting period for individuals needing to use this benefit.

Stanislaus County complies fully with all Federal and State leave laws. The County made previous changes to the Family Medical Leave of Absence (FMLA) to ensure compliance with new FMLA leave laws.

The County is recommending compliance with all these complex changes through the updated County Personnel Policy Manual Tab 11 – Leave Time Benefits and/or modifications to County Code Sections. Minor recommendations include providing clarity regarding approval of time off/use of accruals by the Department Head or Department Head's designee. County Personnel Manual Tab 11 was also reformatted as part of the meet and confer process to assist managers, supervisors, and employees in understanding all leave types and job protections available.

The County Code Sections requiring amendment based upon recent legislative changes are as follows:

**3.36.030 Payment for Accrued vacation upon separation from County Employment**

Historically, vacation pay for an employee separating from county service was identified on the monthly payroll certificate. Due to changes in the law, vacation pay for an employee separating from County service shall be identified on the employee's final check. Additionally, requesting approval to add a designee to grant authorization when the department head is not available.

**3.44.010 Unpaid Leave of Absence – Use**

County ordinance 3.44.010 identified the reasons a leave of absence may be granted. A broader statement to capture the continuously evolving laws so that employees can refer to the County Policy to reflect the then current protected unpaid leaves of absence is requested.

**3.44.020 Request and Approval**

It is requested to amend the existing language for request and approval of leaves of absence to allow employees to submit forms in electronic format, to allow a designee to provide authorization, and to clarify that all applicable leave accruals must be exhausted prior to going on unpaid status.

**3.40.010 Sick Leave Earning Rate and Use**

The new ordinance language reflects changes in California's paid sick leave laws relating to the earning rates and use of sick hours. The new laws expand the reasons for which an employee can take protected time off work without the fear of discrimination or discharge. The new language also broadens the definition of a family member, in accordance with updated laws.

**3.40.020 Medical Certification**

The new language reflects updates in California law relating to when medical certification may be required.

A complete copy of the Personnel Manual Tab 11 – Leave Time Benefits is attached to this agenda item.

**POLICY ISSUE:**

Approval of this agenda item supports the Board's priority of Efficient Delivery of Public Services by ensuring the County complies with changes in the law.

**FISCAL IMPACT:**

There is no fiscal impacts associated with this item as current County staff will continue to manage and direct human resources policies.

**BOARD OF SUPERVISORS' PRIORITY:**

Approval of this item is consistent with the Board of Supervisors' priority of *Delivering Efficient Public Services*.

**STAFFING IMPACT:**

There are no staffing impacts associated with this item.

**CONTACT PERSON:**

Tamara Thomas, Human Resources Director, Chief Executive Office, 209-525-6333

**ATTACHMENT(S):**

1. Ordinance
2. Tab 11 Leave Time Benefits

ORDINANCE NO. C.S. \_\_\_\_\_

**AN ORDINANCE RELATING TO PERSONNEL POLICY UPDATES**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

**Section 1.** Section 3.36.030 of the Stanislaus County Code is amended to read as follows:

Upon separation from County employment, County Officers and employees shall be paid cash in an amount equal to the cash value of their unused accrued vacation time as of their date of separation from County service. Nothing in this section shall prevent a Department Head (or designee) from filling a position vacated by separation immediately following the last day actually worked by the separated employee, provided funds are available for that purpose. Vacation pay of the employee separating from County service shall be identified on the employee's final check.

**Section 2.** Section 3.44.010 of the Stanislaus County Code is amended to read as follows:

Any employee in the Classified Service who has permanent or probationary status may be granted a leave of absence without pay upon written request of the employee which is approved by his or her Department Head (or designee). In cases of leave without pay of thirty (30) calendar days or more, the approval of the Chief Executive Officer or his or her designee shall be required.

Time worked during the probationary period will be counted toward permanent status even if the person has an intervening leave of absence during the probationary period.

**Section 3.** Section 3.44.020 of the Stanislaus County Code is amended to read as follows:

Requests for leave of absence shall be made upon forms prescribed by the Chief Executive Officer and shall state specifically the reason for the request, the date when it is desired to begin the leave and the probable date of return. The request normally is initiated by the employee and shall be promptly transmitted by the employee or his or her designee to the Department Head (or designee). The Department Head (or designee) shall grant, modify or deny the request. The request for leave must be approved by the proper authority prior to the beginning date of the leave, except in the case of illness or disability when such action is impossible. The employee will be required to use and exhaust all vacation and compensatory time or other applicable accruals prior to transitioning to unpaid status.

**Section 4.** Section 3.40.010 of the Stanislaus County Code is amended to read as follows:

- A. While in the continuous service of the County, regular full-time County employees shall be entitled to 3.7 working hours or a proportionately equal number of hours as prescribed in Section 3.32.010 of sick leave pay for each biweekly pay period of actual hours worked.
- B. While in continuous service of the County, part-time extra help, and contract employees, shall be entitled to accrue paid sick leave at the rate of one (1) hour of paid sick leave for every thirty (30) hours worked beginning on the first day of employment. An employee is not eligible to begin using any accrued paid sick leave until after ninety (90) days of employment with the County. All employees other than full-time can only accrue paid sick leave up to a cap of six (6) days or forty-eight (48) hours. Any unused accrued paid sickleave up to the cap would carry over year to year while continuously employed.
- C. Paid sick leave may be used for the diagnosis, care or treatment of an existing health condition or preventive care of the employee or a family member as defined in Labor Code section 245.5(c) as may be amended from time to time. Paid leave may also be used for employees who are a victim of domestic violence, sexual assault, or stalking. If an employee returns to work for the County within one year the unused paid sick days shall be reinstated. Bona fide illness shall include pregnancy when the pregnancy incapacitates the employee to the extent that she cannot fully perform the duties of her job.
- D. Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified and required by State and Federal law. No employer shall deny an employee the right to use sick leave qualified under the law, or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use these protected hours.
- E. All employees are required to follow the daily sick leave call procedure for their department.

In the event of a death in the employee's immediate family, bereavement leave, not to exceed forty working hours or a proportionately equal number of hours as prescribed in Section 3.32.010, may be granted to the employee without charge to sick leave. For reasons held to be sufficient by the employee's Department Head (or designee) and approved by the Chief Executive Officer, immediate family may be expanded to include other persons with whom the employee had enjoyed a parent or family-like relationship; this includes step-relationships and in-law relationships.

**Section 5.** Section 3.40.020 of the Stanislaus County Code is amended to read as follows:

All employees who claim sick leave with pay, upon returning to work after an illness, shall complete a certificate of illness when submitting their time sheet. An employee may be required to furnish a medical certificate issued by a licensed physician or other satisfactory proof of illness upon the request of the Department Head (or designee) after the use of six (6) days or forty-eight (48) hours whichever comes first per calendar year. The certificate of illness approved by the Department Head (or designee) shall accompany the payroll on which illness is shown. In the event this certificate does not accompany the payroll, the time away from work shall be charged to either accrued vacation or the employee shall be marked absent on the payroll. No sick leave will be honored without completion of this certificate. Employees must give advance notice if the reason for leave is planned as may be the case with scheduled doctor's visits. If the need for leave is unforeseeable the employee must follow the department's standard call-in procedure.

Medical certificates submitted by employees for a medically related absence must certify that the employee is medically unable to perform the essential functions of his or her job, or a derivative of this language; and provide specific dates the employee will be unable to work. Medical certificates may be required anytime an employee is off work three (3) or more consecutive days after the use of six (6) days or forty-eight (48) hours in any calendar year. Failure to provide a satisfactory medical certificate may result in the denial of a leave request or use of accruals and the inability to explore reasonable accommodations until the employee obtains the appropriate medical certificate. An employee's failure to provide the required certificate may be considered insubordination according to County Ordinance 3.28.010.

**Section 6.** This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the \_\_\_\_ day of \_\_\_\_\_, 2018, by the following called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors



\_\_\_\_\_  
Jim DeMartini, Chair of the Board of  
Supervisors of the County of  
Stanislaus, State of California

ATTEST:

Elizabeth King

Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By \_\_\_\_\_

APPROVED AS TO FORM:

John P. Doering

County Counsel

By  \_\_\_\_\_

Alice E. Mimms, Deputy



**MEMORANDUM OF UNDERSTANDING PROVISIONS**

Provisions of Memoranda of Understanding approved by the Board of Supervisors shall become operative on the dates set forth in such memoranda, notwithstanding the fact that some sections may conflict with provisions of ordinances or resolutions in effect at the time of approval of the memoranda. Pending amendment of any such conflicting ordinance or resolution sections, the provisions of Memoranda of Understanding shall govern the administration on matters of wages, hours and terms and conditions of employment.

**HOLIDAYS**

**3.48.010      Designated**

Except as otherwise provided in Memoranda of Understanding, County officers and employees, other than temporary part-time, seasonal or personal service contract employees, shall be entitled to the following holidays, which shall be credited or charged as vacation time at the rate of eight hours per observed holiday or at a rate that is proportionately equal as prescribed in Section 3.32.010:

- A. January 1st, New Year's Day;
- B. The third Monday in January, Martin Luther King Day;
- C. The third Monday in February, Washington's Birthday;
- D. The last Monday in May, Memorial Day;
- E. July 4th, Independence Day;
- F. First Monday in September, Labor Day;
- G. November 11th Veterans Day;
- H. November—the Thursday designated as Thanksgiving Day;
- I. The day after Thanksgiving Day;
- J. December 25th, Christmas Day;

- K. Employees whose holidays are specified in Subsections A through J of this section were converted to optional holidays by Memorandum of Understanding shall be credited in the pay period in which the holiday occurs with eight hours vacation time or a proportionate rate after working the major fraction of that particular pay period;
- L. Only the immediate days of mourning declared by the President of the United States and the Governor of California will be considered as County holidays;
- M. Every Monday following a Sunday which falls on January 1st, July 4th, November 11th, or December 25th;
- N. Four hours when Christmas Eve falls on any day of the week except Saturday or Sunday. Employees required to work full shifts, including Saturday or Sunday, on Christmas Eve shall be credited with four hours of vacation time.
- O. Every Friday preceding a Saturday which falls on January 1st, July 4th, or November 11th. (Ordinance CS 671 §§ 1,2, 1998; Ordinance CS 557 §55, 1994; Ordinance CS 107 §§10, 11, 12, 1985; prior code §2-204(a), (b)).

**3.48.020      Employees Required to Work on Holidays**

All employees, except temporary, part-time, seasonal or personal services contract employees, who are required to work on an observed holiday shall be entitled to equivalent vacation time off. (Ordinance CS 557 § 56, 1994; Ordinance CS 107 § 8, 1985; prior code § 2-204(c)).

**3.48.030      Holiday Falling on Scheduled Day Off**

If a holiday listed in Section 3.48.010 falls on a Saturday or on a regularly scheduled day off for employees who work a schedule other than Monday through Friday, all employees except temporary, part-time, seasonal or personal service contract employees, shall be entitled to equivalent vacation time off. It is the intent of this provision that all employees except temporary, part-time, seasonal or personal services contract employees shall be allowed the same number of days off each year regardless of the day of the week on which the holiday falls. (Ordinance CS 557 § 57, 1994; Ordinance CS 107 § 9, 1985; prior code § 2-204(d)).

**MOU provisions exist which may in part modify the compensation for represented employees on holidays.**



## VACATION

### **3.36.010**     Applicability and Policy

- A. This ordinance shall apply to all County officers and employees other than elected officers, temporary, part-time and seasonal employees, and personal service contractors unless otherwise provided by resolution of the Board of Supervisors.
  
- B. It is the policy of the County that employees use all of the vacation time they earn each year. However, an employee may, with the consent of their Department Head (*or designee*), use less than the vacation time they earn in one year and take a correspondingly longer vacation the following year. All vacations shall be taken at such time or times as are approved by the Department Head (*or designee*). In the event that an employee is not permitted to use vacation they have requested, the employee shall be entitled to accumulate said vacation, provided, however, that the employee may not earn vacation after they have accumulated 450 hours of vacation (or a proportionately equal number of hours as prescribed in Section 3.32.010). Provided that the earning and accumulation of vacation shall be subject to all applicable Memoranda of Understanding. The accumulated vacation limit of 450 hours shall not apply to Department Heads, employees designated by the Chief Executive Officer as "management employees," nor to employees classified as "confidential employees."
  
- C. With regard to employees classified as "confidential" employees, effective December 23, 1995, the "effective date," they shall continue to earn and accumulate vacation until they have reached the applicable limit described herein below:
  1. The "GENERAL" limit. All "confidential" employees who as of the effective date have accumulated 450 hours or less of vacation time shall continue to earn vacation until they have earned the "General" limit which is the sum calculated as follows: 450 hours, plus, the amount of vacation they are entitled to earn in any current calendar year pursuant to applicable ordinances and resolutions, if any;
  
  2. The "SPECIAL" limit. All "confidential" employees who as of the effective date have accumulated more than 450 hours of vacation time shall continue to earn vacation until they have earned the "Special" limit which is the sum calculated as follows: The amount of accumulated vacation of said employee as of the effective date, plus the amount of vacation they are entitled to earn during any current calendar year pursuant to applicable ordinances and resolutions, if any.

- D. With regard to Department Heads and employees designated by the Chief Executive Office as "management employees," effective December 23, 1995, the "effective date," they shall continue to earn and accumulate vacation until they have reached the applicable limit described herein below:
1. The "GENERAL" limit. All Department Heads and management employees who as of the effective date have accumulated 800 hours or less of vacation time shall continue to earn vacation until they have earned the "General" limit which is the sum calculated as follows: 800 hours, plus, the amount of vacation they are entitled to earn in any current calendar year pursuant to applicable ordinances and resolutions, if any;
  2. The "SPECIAL" limit. All Department Heads and management employees who as of the effective date have accumulated more than 800 hours of vacation time shall continue to earn vacation until they have earned the "Special" limit which is the sum calculated as follows: The amount of accumulated vacation of said employee as of the effective date, plus the amount of vacation they are entitled to earn during any current calendar year pursuant to applicable ordinances and resolutions, if any.
- E. The foregoing "limits" upon the ability to earn vacation, are subject to the following provisions:
1. In cases where the employee has made a timely request for vacation but the County's need for the services of such person conflicts with that person's ability to utilize vacation, and as a result they would exceed their accumulated vacation limit then, they will be paid for that portion of the vacation time they had requested and not been allowed to use, subject to any limits provided in an applicable Memoranda of Understanding, which would cause them to exceed their limit; or
  2. If not being able to use such timely requested vacation time would not cause the person to exceed their accumulated vacation limit, then, the vacation time they were not allowed to use shall be accumulated; provided, however, that in such case management and confidential employees may have such time either accumulated or converted to cash at the election of the said person.
- F. The "special" vacation accumulation limits set forth in this ordinance, at subsections "C2." and "D2." above, shall be recalculated annually to recognize the fact that an employee may elect to reduce their individual "special" limit by using more vacation in a year than they earn in a year, by converting accumulated vacation to monetary compensation or other benefits, or by any other method provided for by an ordinance or Resolution of the Board of Supervisors. Also, both the said "special" limits and the "general" vacation accumulation limits set forth in this ordinance, at subsections "C1." and "D1." above, shall be recalculated annually to recognize any and all changes in the amount of vacation a person may be entitled to earn during a current calendar year. Said annual recalculations shall be done at the end of each year on a date selected by the Auditor. (Ordinance CS 598 § 1, 2 (part), 1995).

**VACATION ACCRUAL FOR MANAGEMENT EMPLOYEES WHO BECOME NON-MANAGEMENT**—Board Resolution

In the event an employee is removed from management status through lay-off, voluntarily, for cause, or for any other reason, the vacation time accrued may either be frozen or cashed out partially or in its entirety with Department Head (*or designee*) approval. If the accrual is frozen on the books, the time will be maintained separately from any vacation earned in the non-management status. The new vacation accrual will be subject to the applicable vacation accrual maximum.

**3.36.020**      **Vacation Earning Rates**

- A. All vacation and sick leave earned pursuant to this chapter shall be prorated in the event that the employee or Department Head does not work or otherwise earn, through sick leave or vacation, etc., the total number of hours required of them for a bi-weekly pay period.
- B. Unless otherwise provided by ordinance or resolution, County employees other than Department Heads shall earn vacation at the rate of 3.08 hours for each bi-weekly pay period (or a proportionately equal amount as prescribed in Section 3.32.010), until their completion of the second year of continuous service at which time the rate of earning vacation shall be governed by the other applicable provisions of this chapter.
- C. Department Heads and such other classifications as are listed by resolution of the Board of Supervisors shall earn vacation at the rate of 4.62 hours for each bi-weekly pay during their first year of continuous service, at the rate of 6.16 hours for each bi-weekly pay period during their second year of continuous service and continuing through their twentieth year of continuous service, and at the rate of 7.70 hours for each bi-weekly pay period for their twenty-first year and thereafter until separation from County service.
- D. Upon completion of the second year of continuous service, all employees other than Department Heads and such other classifications as listed by Resolution of the Board of Supervisors shall earn vacation at the rates set forth below:
  - 1. For the third year through and including the tenth year of continuous employment, vacation shall be earned at the rate of 4.62 hours for each bi-weekly pay period (or a proportionately equal number of hours as prescribed in Section 3.32.010);
  - 2. For the eleventh year through and including the twentieth year of continuous employment, vacation shall be earned at the rate of 6.16 hours for each bi-weekly pay period (or a proportionately equal number of hours as prescribed in Section 3.32.020);
  - 3. For the twenty-first year and thereafter until separation from County service, vacation shall be earned at the rate of 7.70 hours for each bi-weekly pay period (or a proportionately equal number of hours as prescribed in Section 3.32.010);

- E. All employees, other than Department Heads and management employees, shall earn 16 hours, or the amount provided by applicable resolution or Memoranda of Understanding, of "special" vacation time each calendar year, Department Heads and management employees shall earn 32 hours of "special" vacation time each calendar year. "Special" vacation shall be earned in addition to the regular vacation provided for herein and shall be earned by prorating said amount over twenty-six pay periods.
- F. The granting of any leave of absence without pay or other time off without pay exceeding 15calendar days shall cause the employee's date of eligibility for increased vacation accrual rates to be postponed by the equivalent number of months to the nearest number of months for which the leave of absence is granted based on the number of calendar days in each month." (Ordinance CS 712 § 4, 1999; Ordinance CS 598 §3(part), 1995).

**3.36.030      Payment for Accrued Vacation Upon Separation from County Employment**

Upon separation from County employment, County officers and employees shall be paid cash in an amount equal to the cash value of their unused accrued vacation time as of their date of separation from County service. Nothing in this section shall prevent a Department Head (*or designee*) from filling a position vacated by separation immediately following the last day actually worked by the separated employee, provided funds are available for that purpose. Vacation pay of the employee separating from County service shall be identified on the employee's final check. (Ordinance CS 598 § 4 (part), 1995).

**3.36.040      County Employment During Vacation**

No person shall be permitted to work for compensation for the County in any capacity during the time of his or her paid vacation from County service, provided however, that there shall be an exception for Election Day service as a poll worker or precinct inspector, as follows:

A County employee may work for compensation in the form of the applicable statutory stipend and mileage allowance from the Registrar of Voters whenever that employee voluntarily utilizes regular days off, department-approved vacation time or department-approved compensatory time off to serve as, or attend training to serve as, an Election Day poll worker or precinct inspector. (Ordinance CS 598 § 5 (part), 1995; Ordinance 857, § 2003).

**3.36.050      Approval Required (revised 6/16)**

All requests for vacation must be approved by the employee's Department Head (*or designee*). The Department Head (*or designee*) is responsible for determining that the employee is eligible for the vacation requested. No employee shall be allowed to use vacation time in an amount which exceeds their balance of earned vacation unless otherwise provided pursuant to this ordinance or pursuant to an applicable Memoranda of Understanding. (Ordinance CS 1172 §1, 2016; Ord CS 712 §2, 1999; Ord 598 §6, 1995)

**3.36.060      Repealed**

(Ordinance CS 598 § 7(part), 1995; Prior code § 2-205(e)).

**3.36.070      Repealed**

(Ordinance CS 598 § 7(part), 1995; Prior code § 2-205(f)).

**PAYMENT OF ACCRUED VACATION TIME UPON BECOMING AN ELECTED OFFICIAL**—County Counsel Opinion

County employees who become elected officials may choose to cash out their vacation prior to taking office. However, the newly elected official may choose to bank the time for future use. Any "banked" time that is subsequently cashed out, will be at the salary level in effect prior to assuming elective office.





**STANISLAUS COUNTY PERSONNEL MANUAL**  
**LEAVES OF ABSENCE**  
**Reviewed / Revised 10/17**

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A leave of absence is an excused absence due to medical, personal or other authorized reasons. A leave of absence will be granted, as required by law and/or at the discretion of management, to eligible employees who have the intent to return to work after a defined period of time. Leave time may be paid or unpaid depending upon the circumstances of the employee's request and the applicability of any available leave accruals.

To be considered for a leave of absence an employee will complete a Leave of Absence Request Form specifying the reason for the request, the requested begin date, the anticipated date of return and any other documentation the department may require. The employee will then follow the department policy for submitting the request. Requests should be received in advance when possible. The Department Head or designee shall grant, modify or deny the request. Requests to extend a leave must be submitted and approved prior to the ending date of the leave, except in the case of sudden illness or disability when such action is not possible. Failure of an employee to return to his/her position upon completion of an authorized leave of absence shall be grounds for termination from County service.

### **REASONS FOR LEAVE**

There are many types of leaves available to County employees that are protected by State and Federal Laws. Stanislaus County will comply with all applicable laws and it is recommended that each employee contact their appropriate Manager/Supervisor, Human Resources (HR) Manager or representative in regards to their leaves of absence. Departments may request supporting documentation substantiating the reasons for a leave of absence when appropriate.

Unless noted, this section applies to all classifications of County employment.

A leave of absence may be granted for any of the following reasons:

#### **A. Medical**

Please refer to guidelines on Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) for further information. If no applicable leave accruals are available, leave without pay must be granted for designated FMLA, CFRA, or Americans with Disabilities Act (ADA) leaves. Employees should request time off in advance whenever practicable.

#### **B. Pregnancy Disability**

Employees are eligible for up to four months (17.3 weeks) of continuous or intermittent leave due to a pregnancy related disability including: childbirth, doctor-ordered bed rest, severe morning sickness, prenatal or postnatal care, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, lactation related medical conditions, or

recovery from child birth or loss or end of pregnancy. Employees must have medical certification from a physician that states the disability is pregnancy related. If applicable leave accruals are not available, leave without pay must be granted for an approved designated Pregnancy Disability leave. Employees should request time off in advance whenever practicable. (California Labor Code Sec. § 12945(b)(1)).

#### C. Family Bonding Time

Qualifying employees are eligible to take up to 12 weeks of leave on a continuous or intermittent basis to bond with the employee's newborn baby, newly adopted child or placement of a foster child. Leave must be completed within the first twelve months of the birth or the placement of the child into the home. Employees may be eligible for up to 6 weeks of paid leave through the State under the Paid Family Leave law (administered through the state Employment Development Department). Employees may elect to supplement the paid family leave benefit with their available applicable leave accruals. If no applicable leave accruals are available, leave without pay must be granted. Employees should request leave 30 days in advance or as soon as practicable. Please refer to guidelines on Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) for further information.

#### D. Education

Educational leave is generally used to take a course of study, which will increase the employee's usefulness upon return to his/her position. The employee should submit their request on the Leave of Absence Request Form at least 30 days prior to the beginning of such a leave. The Supervisor/Manager may approve, modify or deny the request with approval from the Department Head or designee. The employee will be required to use and exhaust all vacation and compensatory time or other applicable accruals prior to going on unpaid status. Short-term training required for an employee's position is not considered a leave of absence for educational purposes. This benefit only applies to regular full-time County employees.

#### E. Personal

Employees should submit request for personal leave on the Leave of Absence Request Form at least 30 days prior to the beginning of the requested leave whenever possible. The Supervisor/Manager may approve, modify or deny the request with approval from the Department Head or designee. The employee will be required to use and exhaust all vacation and compensatory time or other available applicable accruals prior to going on unpaid status. This section only applies to regular full-time County employees. Refer to applicable MOU. Approval from Chief Executive Officer or designee is required for unpaid leave requests longer than 30 days.

#### F. Victims of Domestic Violence/Sexual Assault and or Stalking

Employees who are victims of domestic violence, sexual assault or stalking will be granted time off to obtain a temporary restraining order to protect their or their children's health, safety and welfare. Employees will also be granted time off to seek medical attention for injuries; obtain services from a shelter, program, or rape crisis center; obtain psychological treatment; participate in safety planning or to take other actions to increase safety including temporary or permanent relocation. Employees must request time off from their Supervisor/Manager and must notify them of the reason for time off. Employees may be required to provide a certification supporting the need for time off which may include the following: (1) a police report indicating that the employee was a domestic violence or sexual assault victim, (2) a court order regarding the domestic violence or sexual assault or other evidence from the court or prosecuting attorney verifying the employee's court appearance, or (3) documentation that the employee was undergoing treatment for physical or mental injuries resulting from domestic violence or sexual assault. The employee must use vacation and/or compensatory time off. If no applicable leave accruals are available, leave without pay must be taken. Employees should request time off in advance whenever possible. (California Labor Code Sec. § 230(c) and Sec. § 230.1)

#### G. Crime Victims or their Families

Employees who are victims of a violent or serious felony will be granted time off from work in order to attend judicial proceedings related to that crime. This right also exists where the crime victim is a spouse, registered domestic partner, child or other immediate family member of an employee. Employees must notify the Supervisor/Manager of the reason for time off and provide notification in advance of the need to be off work whenever possible. An employee may also be required to provide a copy of the notice of each scheduled judicial proceeding that is provided to the employee by the agency responsible for providing such notice. If no applicable leave accruals are available, leave without pay must be taken. (California Labor Code Sec. § 230.2).

#### H. Child's Suspension from School

Employees will be granted time off when their child is suspended from school and that school requests the employee to appear at school in connection with that suspension. The Supervisor/Manager may allow the employee to use vacation and/or compensatory time off. If no applicable leave accruals are available, leave without pay must be taken. Employees should request time off in advance whenever possible. Employees must notify the Supervisor/Manager of the reason for time off. (California Labor Code Sec. § 230.7).

#### I. Visiting a Child Care Facility or School

As required by law, employers must allow an employee who is a parent, guardian, or grandparent having custody of a child in a licensed child day care facility or in kindergarten or grades one (1) to twelve (12) to take off up to forty (40) hours each year for the purpose of participating in school or child related activities subject to specified conditions as identified

by State and Federal law. The employee shall utilize existing vacation, personal leave, compensatory time off, or time off without pay for purposes of this section. Existing law requires an employee to provide documentation regarding these activities upon request by an employer. Parents may use their paid sick days to care for a child during a child care emergency or school emergency. Employees must notify the Supervisor/Manager of the reason for time off. (California Labor Code Sec. § 230.8(a)(1)).

J. Jury Duty

If an employee is called to serve on jury duty, the employee must be allowed to miss time from work, when reasonable notice is given. (Employees also have the right to take leaves of absence to serve as jurors in Federal courts, under the Jury Systems Improvement Act.) (California Labor Code Sec. § 230 (a)). Refer to ordinance section 3.20.120 for more information on leave for jury duty.

K. Subpoenas and Serving as a Witness

Off duty employees who have been the victim of a crime, or have witnessed a crime, must be allowed time off to respond to a subpoena or serve as a witness in connection with that crime. When a subpoena is issued, or serving as a witness is within the scope of work, refer to applicable MOU for additional information. An employee may use vacation and/or compensatory time off that is otherwise available to the employee under the applicable terms of employment. See ordinance section 3.44.070 for more information on leave in response to a subpoena. (California Labor Code Sec. § 230 (b)).

L. Military Leave

Employees are entitled to take a leave of absence for military service for up to 5 years. An employee on military leave is entitled to up to 30 days of pay during any one fiscal year, and an employee may elect to use accrued vacation time or compensatory time off for otherwise unpaid military leave. An employee is required to provide 30 days' notice of the need for military leave whenever possible. See the County's Military Leave Policy for more information about reinstatement rights following military leave and continuation of benefits during leave.

M. Work Related Injury or Illness

Employees may be on leave for an injury arising out of and in the course of employment under Worker's Compensation laws. (California Labor Code Sec. § 3600 et seq.).

Public Safety employees who are injured on the job are entitled to leave of absence with pay in lieu of other disability payments, for a term of up to one year. (California Labor Code § 4850). This leave does not run concurrently with FMLA or CFRA leave.

N. Leave for Bone Marrow/Human Organ Donation

Per California Labor Code 1508-1513, employees who elect to donate bone marrow are entitled to five (5) business days for leave of absence. Employees are required to use any accrued sick or vacation leave accruals. Employees are entitled to thirty (30) business days of leave for the purposes of human organ donation. Employees are required to utilize two weeks of leave accruals during this period. The employee must provide written verification of the procedure. Additionally, for the purposes of determining seniority, pay, pay advancement, performance awards or for the receipt of any benefit that may be affected by a leave, the service of the employee shall be considered uninterrupted by the leave of absence. Employee's group health insurance will not be impacted during this period. This time will not be counted against the employee's FMLA or CFRA leave entitlement. Leave of absence must be requested in writing prior to leave commencement.

O. Civil Air Patrol Leave

An employee who has been employed by the County for at least 90 days and who is a volunteer member of the California Wing of the Civil Air Patrol, United States Air Force Auxiliary is entitled, except as noted below, to take up to 10 days of unpaid leave per calendar year to respond to an emergency operational mission. Leave for a single emergency operational mission cannot exceed 3 days, unless approved by the County. Employees who are required by the County to respond to either the same or other simultaneous emergencies as a first responder or disaster service worker are not entitled to Civil Air Patrol Leave. An employee must provide as much notice as possible of the intended dates upon which the Civil Air Patrol Leave will begin and end. The employee may be required to provide certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave requested or taken. (California Labor Code § 1503).

P. Leave for Volunteer Firefighters, Reserve Police Officers and Emergency Rescue Personnel

An employee may take time off to perform emergency duty as a registered volunteer firefighter, reserve police officer or emergency rescue personnel, but only so long as such leave would not hinder the County's ability to provide public safety or emergency medical services. An employee who is a registered volunteer firefighter may also take leave, not to exceed 14 days per year for fire or law enforcement training. An employee may use vacation or compensatory time off that is otherwise available to the employee under applicable terms of employment (California Labor Code § 230.3).

**3.44.010 Unpaid Leave of Absence – Use**

Any employee in the Classified Service who has permanent or probationary status may be granted a leave of absence without pay upon written request of the employee which is approved by his or her Department Head (*or designee*). Except in cases of leave without pay of thirty (30)

calendar days or more, the approval of the Chief Executive Officer or his or her designee shall be required.

Time worked during the probationary period will be counted toward permanent status even if the person has an intervening leave of absence during the probationary period.

### **3.44.020      Request and Approval**

Requests for leave of absence shall be made upon forms prescribed by the Chief Executive Officer and shall state specifically the reason for the request, the date when it is desired to begin the leave and the probable date of return. Forms may be in electronic format when approved by the Chief Executive Office. The request normally is initiated by the employee and shall be promptly transmitted by the employee or his or her designee to the Department Head (*or designee*). The Department Head (*or designee*) shall grant, modify or deny the request. The request for leave must be approved by the proper authority prior to the beginning date of the leave, except in the case of illness or disability when such action is impossible. The employee will be required to use and exhaust all vacation and compensatory time or other applicable accruals prior to transitioning to unpaid status. (Ordinance CS 557 § 52, 1994: prior code § 2-207(b)).

### **Care for Family Member**

Medical certifications for providing care for a qualified family member will vary based on the individual circumstance of the care and whether the care is being shared with others or performed solely by the employee. An employee may be required to provide a medical certification meeting the following requirements:

- 1) Certification should be from the family member's treating licensed healthcare provider;
- 2) If the employee is requesting the use of sick leave beyond California sick leave laws, medical certification should provide adequate information to demonstrate the type of care provided and/or the medical necessity for providing such care. Medical certification may not list the employee's name based on the circumstances of the request;
- 3) If the employee is requesting FMLA/CFRA, the County may also require information on the type of care being provided;
- 4) Provide specific dates the care will be needed; and
- 5) If the employee is sharing care responsibilities with other family members, the employee must provide the County with an anticipated schedule where the employee is needed to be away from work to provide care.

### **Request for Prognosis**

Departments may request an employee obtain a medical prognosis to include an expected date when the employee may be able to return to work with or without restrictions. If restrictions are anticipated, the doctor should describe the anticipated work restrictions.

Requests for prognosis are generally used in situations with long-term, chronic, recurring, or extended medical leave requests.

### **3.44.050      Return Before Expiration**

Whenever an employee who has been granted a leave desires to return before expiration of such leave, he/she shall notify his/her Department Head (*or designee*) as soon as possible in advance of his/her return. If the leave of absence was due to a medical condition, employee must submit a new medical certification releasing the employee to return to work. The Chief Executive Office shall be promptly notified of such return. (Ordinance CS 557 § 54, 1994: prior code § 2-207(e)).



**SICK LEAVE**

**3.40.010 Sick Leave Earning Rate and Use (revised 06/16)**

- A. While in the continuous service of the County, regular full-time County employees shall be entitled to 3.7 working hours or a proportionately equal number of hours as prescribed in Section 3.32.010 of sick leave pay for each bi-weekly pay period of actual hours worked.
- B. While in continuous service of the County, part-time extra help, and contract employees, shall be entitled to accrue paid sick leave at the rate of one (1) hour of paid sick leave for every thirty (30) hours worked beginning on the first day of employment. An employee is not eligible to begin using any accrued paid sick leave until after ninety (90) days of employment with the County. All employees other than full-time can only accrue paid sick leave up to a cap of six (6) days or forty-eight (48) hours. Any unused accrued paid sick leave up to the cap would carry over year to year while continuously employed.
- C. Paid sick leave may be used for the diagnosis, care or treatment of an existing health condition or preventive care of the employee or family member as defined in Labor Code section 245.5 (c) as may be amended from time to time. Paid leave may also be used for employees who are a victim of domestic violence, sexual assault, or stalking. If an employee returns to work for the County within one year the unused paid sick days shall be reinstated. Bona fide illness shall include pregnancy when the pregnancy incapacitates the employee to the extent that she cannot fully perform the duties of her job.
- D. Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified and required by State and Federal law. No employer shall deny an employee the right to use sick leave qualified under the law, or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use these protected hours.
- E. All employees are required to follow the daily sick leave call procedure for their department.



In the event of a death in the employee's immediate family, bereavement leave, not to exceed forty working hours or a proportionately equal number of hours as prescribed in Section 3.32.010, may be granted to the employee without charge to sick leave. For reasons held to be sufficient by the employee's Department Head (*or designee*) and approved by the Chief Executive Officer, this definition may be expanded to include other persons with whom the employee had enjoyed a parent or family-like relationship; this includes step-relationships and in-law relationships. (Ord. CS 1171 §1, 2016; Ord. CS 712 §3, 1999; Ord. CS 557 §47, 1994; Ord. NS 976 §1, 1981; prior code §2-206(a)).

### **3.40.020      Medical Certificate**

All employees who claim sick leave with pay, upon returning to work after an illness, shall complete a certificate of illness when submitting their time sheet. An employee may be required to furnish a medical certificate issued by a licensed physician or other satisfactory proof of illness upon the request of the Department Head (*or designee*) after the use of six (6) days or 48 hours whichever comes first per calendar year. The certificate of illness approved by the Department Head (*or designee*) shall accompany the payroll on which illness is shown. In the

Medical certificates submitted by employees for a medically related absence must certify that the employee is medically unable to perform the essential functions of his or her job, or a derivative of this language; and provide specific dates the employee will be unable to work. Medical certificates may be required anytime an employee is off work three (3) or more consecutive days after the use of six (6) days or 48 hours in any calendar year. Failure to provide a satisfactory medical certificate may result in the denial of a leave request or use of accruals and the inability to explore reasonable accommodations until the employee obtains the appropriate medical certificates. An employee's failure to provide the required certificate may be considered Insubordination according to County Ordinance 3.28.010.

### **3.40.050      Termination Payment**

Individual MOU may apply. Full-time employees whose service with the County is terminated after one year of continuous service shall be paid a sum of money equal to twenty-five percent of their hourly rate of pay at the time of their termination multiplied by their total number of accumulated and unused hours of sick leave. Termination of service shall include death, in which event payment shall be made to the person or persons entitled to succeed to the estate of the deceased employee. This section, as amended, shall include all accumulated or unused sick leave acquired while in the service of County. This provision does not apply to part-time, extra-help or personal service contact employees. (Prior code § 2-206(e)). See Tab 12 for specific cash-out provisions.

### **3.40.060      Elective Officers Exempt**

Elective officers shall not be subject to the provisions of this chapter. (Prior code § 2-206(f)).

### **Sick Leave Pay Upon Becoming Elected Official—County Counsel Opinion**

County employees who become elected officials may choose to cash out their sick leave prior to retirement at the applicable percentage cash out limitation in effect at the time of entering elective service. However, the newly elected official may choose to bank the time for future use. Any "banked" time that is subsequently cashed out, will be at the salary level in effect prior to assuming elective office.

**Management Employee Sick Leave Cash Out Upon Death While in Active Service**—County Counsel Opinion April 18, 2000

Management employees with at least a year of service with the County, who die while actively employed, should receive the 75% cash out amount for unused sick leave up to the cash out maximum.

**Transfer Accrued Sick Leave to Deferred Compensation**

See Tab 12 for specific provisions.

**BEREAVEMENT LEAVE**

In the event of a death in the employee's immediate family, bereavement leave, not to exceed forty working hours or a proportionately equal number of hours as prescribed in Section 3.32.010, may be granted the employee without charge to sick leave. (Ordinance CS 712 §§ 3, 1999; Ordinance CS 557 §47, 1994; Ordinance NS 976 §1, 1981: prior code §2-206(a)).

**BEREAVEMENT LEAVE**—Chief Executive Office Policy Memo dated August 13, 2001

County policy generally provides that in the event of a death in the employee's immediate family, the employee may be granted up to 40 working hours of bereavement leave, without charge to sick leave.

"Immediate family" normally means parent, spouse, registered domestic partner, children, siblings, grandparents including great grandparents, grandchildren including great grandchildren, step-relationships, and in-law relationships. However, for reasons held to be sufficient by the employee's Department Head or designee, this definition may be expanded to include other persons with whom the employee had enjoyed a parent or family-like relationship.

The Department Head or designee has the discretion to grant up to 40 hours of bereavement leave. Department Heads or designee are urged to use their best judgment, keeping in mind the unique composition of today's modern family. The amount of time granted may not exceed 40 hours. It is not automatic that employees are granted the full 40 hours.



STANISLAUS COUNTY PERSONNEL MANUAL  
WORKERS' COMPENSATION

Reviewed / Revised 10/17

**WORKERS' COMPENSATION**

**3.40.030 Injury Received in County Employment**

- A. Any County officer or employee, other than a temporary, part-time, seasonal or personal service contract employee, who is compelled to be absent from active service, as a result of sickness or injury arising out of and in the course of his employment, shall be entitled to receive full compensation during the first three calendar days of such absence without sick leave charge.
- B. Thereafter, during such absence, he/she shall be entitled to receive compensation equal to the difference between his/her base salary and the weekly compensation benefits received by the employee up to the amount of his/her accumulated sick leave time, vacation, holiday or compensatory time, on the basis of a pro rata charge to such leave based on the difference between the employee's base salary and benefits received.
- C. At such time as sick leave is exhausted, the employee shall be placed on leave of absence without pay until able to return to active service.
- D. Any employee compelled to be absent as provided in this section shall not lose any earned vacation, holiday or accumulated overtime, if not used, notwithstanding any limitations elsewhere in this title as to the time within which the same may be taken. Such accumulated vacation, holiday or overtime may be taken upon the employee's return to active service, or upon termination of employment, subject to other regulations provided for in this title. (Ordinance CS 557 § 49, 1994: prior code § 2-206(c)).

**BOARD OF SUPERVISORS RESOLUTION**—Adopted September 26, 2000/Resolution #2000-764

The Board of Supervisors recommended that the following provision apply to all employees. The change becomes effective June 1, 2000 to address the employees affected by this action:

Employees who are at work shall be granted **release time**\* when they are directed by the County to attend a medical-legal evaluation during the employee's regularly scheduled work time. No overtime liability shall be incurred by the County if the evaluation extends beyond the employee's normal work hours. The employee must notify his or her immediate supervisors of the evaluation.

\***Release time** is defined as granting an employee time off to attend a medical evaluation to determine if a Workers' Compensation claim should be accepted or not or to determine level of permanent disability. Release time **does not** apply to medical treatment visits. For any medical treatment visit the employee may use sick leave, vacation, comp time, flex his/her schedule with prior Department Head approval or take "approved time off" in an unpaid status.



**STANISLAUS COUNTY BOARD OF SUPERVISORS RESOLUTION  
ADOPTED SEPTEMBER 21, 2004/RESOLUTION # 2004-706  
AMENDED JANUARY 2008  
VOLUNTARY TIME BANK FOR CATASTROPHIC ILLNESS /  
INJURY LEAVE PROCEDURE**

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**Reviewed / Revised 10/17**

**A. PURPOSE**

The Voluntary Time Bank for Catastrophic Illness or Injury is designed to assist employees who have exhausted, or are about to exhaust, all accrued leave. This accrued leave includes sick leave, vacation, compensatory time, old holiday time and management or professional leave. This policy allows other employees the ability to donate vacation, holiday, compensatory, and sick time to an incapacitated or primary care giving employee so that she/he can remain in a paid status for a longer period of time, thus partially relieving the financial impact of the illness, injury or condition.

**B. STEPS FOR APPLYING TO RECEIVE DONATED TIME (each step is further explained below)**

1. Submit the "Employee/Physician Catastrophic Leave Application" to the Department's Human Resources Unit.
2. Department Human Resources will complete the Donated Time Eligibility form.
3. The Department Head, or designee, will review and approve the request for catastrophic leave if all eligibility criteria are met, and then forward the request to the Donated Time Review Board for consideration. If the Department Head, or designee, denies a request only on the basis of the catastrophic illness or injury, the request will be forwarded to the Donated Time Review Board for final consideration.
4. The Donated Time Review Board will convene and either approve or deny the request for Donated Time. If approved, the participating employee will be eligible to receive donated time as outlined below.

**C. CONDITIONS FOR RECEIVING EMPLOYEE**

Upon request of an employee, or an employee's family member or co-worker (with written concurrence of the employee, if he or she is able to provide such), and upon approval of the Donated Time Review Board, sick leave, vacation, holiday time or compensatory time may be transferred from one or more employees (donating employees) to another employee (receiving employee) on an hour-for-hour basis. The donating employees may be from County departments other than that of the receiving employee. The receiving employee may participate in the program under the following conditions:

1. The receiving employee has sustained a catastrophic illness or injury, or an immediate family member has sustained the illness, that has been confirmed by a medical doctor for medical leave. The Donated Time Bank Review Board, based on the information provided by the employee and medical doctor determine if the illness or injury meets the “catastrophic” definition.

Generally, a catastrophic illness is defined as cancer, heart attack, stroke, or serious injury resulting in the employee having to take an extended period of time off work to recuperate or requires their presence to care for an immediate family member. Extended period of time would generally be considered as thirty (30) calendar days or more. For this policy, the definition of immediate family member would typically include the employee’s spouse, registered domestic partner, or children or other family members.

“Other family member” typically means father, mother, sister, brother, grandparents, grandchildren, father-in-law or mother-in-law; however, for reasons held to be sufficient by the employee’s Department Head, this definition may be expanded to include the person with whom the employee has enjoyed a parent or family-like relationship. (refer to Ord. NS 976 Section 1, 1981: prior codes Section 2-206(a).

2. The receiving employee must be filling an authorized benefited County position and eligible to receive accrued leave time. The receiving employee must have been employed in the County for 12 months or achieved permanent status. (Extra-help/part-time employees and Personal Services Contractors are excluded from participation.) Absent extenuating circumstances, employees participating in the State Disability Insurance (SDI) program and who waive eligible SDI benefits are not eligible to participate in the Voluntary Time Bank for Catastrophic Illness or Injury. Donated time is supplemented with Workers Compensation pay, State Disability Insurance and any short term and/or long term disability programs.
3. The receiving employee is about to exhaust all accrued leave time, including vacation, sick leave, holiday time, compensatory time, and management or professional leave.
4. The receiving employee has completed the application form and Human Resources has verified that the criteria outlined in the Donated Time Bank Request Checklist has been met.
5. The Department Head or designee reviews the request and approves or denies checklist requirements to determine eligibility. If criteria other than nature of injury/illness is met, the Department Head or designee submits the application form and the completed checklist to the Donated Time Review Board.
6. The receiving employee is not eligible to participate in the Voluntary Time Bank for Catastrophic Illness or Injury if they have:

- a. had attendance problems in the previous twelve (12) months of their employment and are currently on a corrective action plan for attendance (not including approved leave time or attendance issues related to the injury or illness qualifying for donated time),
  - b. received formal discipline (suspension, demotion) for attendance in the previous twelve (12) months (not including disciplinary action under appeal),
  - c. currently on initial County probation, or
  - d. received donated time in the last twelve (12) consecutive months.
7. The receiving employee must be medically unable to return to work, or unable to return to work because he/she is required to care for an immediate family member suffering from a catastrophic illness or injury for a period of time confirmed by a physician. In addition, the employee would not have sufficient leave time, i.e. vacation, holiday, management leave, compensatory time, sick leave or professional leave of his/her own to cover the approved absence. The employee must request the donation of time to cover the unpaid leave from the Department Head or his or her designee, and the Donated Time Review Board in accordance with existing County and department policy. The Department Head or designee will require medical verification of the absence and/or periodic status reports.
  8. The time received may not exceed more than 1040 hours in a consecutive twelve (12) month period, and may only be utilized by the employee to cover the period of the absence approved for the catastrophic illness or injury. Every attempt shall be made by the department to ensure that no more than the amount of time necessary to cover the period of the absence is donated by employees. If time received is in excess of the needed time to cover the absences, it shall not be returned to the donating employee(s) nor shall the time be subject to cash-out, or used by the employee for purposes other than catastrophic illness/injury. This time shall not be included in any cash-out, as part of the survivor benefit, in the case of the death of the County employee. Any unused donated leave will be deleted from employee accrual balances upon their termination.
  9. An employee who is on unpaid status may return to paid status using donated time. Once the donated time is exhausted and the employee returns to unpaid status, the employee is no longer eligible to receive donated time and return to paid status. Employees are only eligible to return to paid status once using donated time. On an individual bases exceptions related to long-term disability being denied may be approved allowing an employee to return to paid status using donated time as approved by Human Resources Deputy Executive Officer.
  10. Time transferred shall be maintained as a separate category of leave time called “Donated Time” and recorded as such on the payroll record. It shall not be intermixed with sick leave or vacation accrual balances.
  11. A leave of absence without pay may be granted for a period not to exceed one (1) year. For this purpose, donated time is considered to be “unpaid leave” and is included in the one-year calculation. This does not preclude the granting of an unpaid leave of absence, if necessary, for absences extending beyond the one (1) year limitation. Exceptions to

this policy may be granted by the County Chief Executive Officer in the role as Director of Personnel.

12. During the leave period, the Department Head or designee may at any time make requests for updated physician verification and may request the Donated Time Review Board to re-evaluate the employee's continued eligibility if the circumstances change under which the leave was originally approved.
13. Employees shall continue to earn all benefits (i.e. vacation, sick leave, health insurance, retirement, seniority credit, etc.) while on catastrophic illness/injury leave, with donated time being utilized, in addition to any accrued time, during the period of absence. Additional compensation such as specialty pay, bilingual pay, out-of-class assignment pay, and shift differential will be stopped while the employee is absent from work on catastrophic illness/injury leave. Additional compensation identified under Memorandum of Understanding (MOU) will continue to be paid as provided by each applicable labor agreement.
14. Employees who have applied to participate in the Voluntary Time Bank program and have been determined to not be eligible will be informed of the decision in writing including the reason for the denied request.

#### **D. TRANSFERRING TIME**

The following applies when donations of time occur:

1. An employee may donate a minimum of four (4) hours of either vacation time or holiday time, compensatory or sick leave up to a maximum of forty (40) hours per donation per catastrophic illness/injury. If the receiving employee exhausts all donated time, employees may donate additional time, however, it may not exceed the forty (40) hour maximum per donating employee. The maximum amount of donated time cannot exceed 1040 hours for the receiving employee.
2. Exceptions to the forty (40) hour maximum may be allowed in cases where the donated time is being transferred between immediate family members. Immediate family members would include parent, spouse, sibling, and/or child (including step parents/children, etc.). The donating individual would still need to meet the minimum vacation and sick leave accruals before donating time.
3. The employee seeking to donate accrued sick leave time to a fellow employee will only be permitted to donate sick leave if they have a minimum of 160 hours of sick time or more left on the books after the transfer. Sick time leave donations are limited to a maximum of forty (40) hours per donating employee for each individual catastrophic leave time bank approval.

Employees seeking to donate accrued vacation time to a fellow employee will only be permitted to donate vacation time if after the transfer they have a minimum of forty (40)

hours of vacation remaining. Vacation time, holiday time, and/or compensatory time may not be combined at the time of each donation. At no time shall the donation of sick leave, vacation or holiday time be permitted which results in a negative balance.

4. Vacation, holiday time, compensatory and sick leave may be transferred by employees on an hour-for-hour basis regardless of relative salary in the current pay period. Management leave time may not be transferred.

#### **E. DONATED TIME REVIEW BOARD**

1. The Donated Time Review Board consists of four (4) members. The panel members will be two (2) management employees and two (2) members of the County labor work force. A County Registered Nurse will sit on the panel in an advisory capacity. Three (3) panel members will review each application. If the applicant and a panel member are from the same Department, the panel member will not be eligible to review. The Donated Time Review Board will meet in the Chief Executive Office whenever there is a request to consider.
2. The Donated Time Review Board is responsible for reviewing and making the final determination if the receiving employee meets the criteria set forth in the “Voluntary Time Bank for Catastrophic Illness or Injury” policy.
3. When necessary, the Registered Nurse will be responsible for obtaining any further medical information needed from the employee to make a decision whether an illness or injury meets the catastrophic definition. The Nurse will confirm consent to release medical information in compliance with medical confidentiality policies and regulations.
4. The decision will be based on the information provided by the receiving employee and the department. The majority vote rules the decision.
5. Members of the Donated Time Review Board will be chosen annually. Each represented bargaining unit will submit a potential member's name and Department Heads will submit manager's names. The Review Board will be chosen at random for the next year based upon the names submitted. The two labor representatives randomly selected may not be from the same association or union.

#### **F. ESTABLISHING THE LEAVE BANK**

1. The employee may request, or a family member or fellow employee may request on behalf of the employee with his or her written concurrence, establishment of a catastrophic illness/injury leave bank. The reason that the employee's written concurrence is necessary (if he or she is able to provide it) is that the nature of the illness may become public. It should be the affected employee's prerogative to what extent he or she may wish this information to be disseminated to others. Departments are sensitive to the confidentiality rights of their employees.



The "Employee/Physician Catastrophic Leave Application" form may be obtained from CEO/HR or departmental human resources/payroll.

If the employee meets all criteria outlined in "Part I" of the "Voluntary Time Bank for Catastrophic Illness or Injury Leave" eligibility application, the Department Head or designee will confirm eligibility for participation in the leave program and the application will be forwarded to the Donated Time Review Board for review.

If the Donated Time Review Board approves participation in the leave program, the Department Head or designee and receiving employee will be notified. In addition, a copy of the approved request will be forwarded to the Auditor-Controller for notification.

2. In order for the donated time to accrue to the receiving employee, Department Head or designee approval, with final approval by the Donated Time Review Board is required, including donations of time across department lines. In the case of donations across department lines, approval will be required by the Department Head or designee, of the employee wishing to donate the time to the receiving employee in the other department. While donation of time may be made across departmental lines, a transfer of funds to cover the cost of the donated time will not be made. The Department Head or designee will notify the employee if the request is denied. The Department Head's or designee's decision shall be final.

The Donated Time Review Board has sole authority to approve or deny the receiving employee's participation in the program.

3. Individual employee agreements to donate time shall be verified by the department coordinating the donation of leave time program (i.e. the department employing the receiving employee) to ensure that the minimum number of hours will be maintained by the donating employee. The department will submit the donation forms to the Auditor-Controller's Office for processing after approval from the Donated Time Review Board. Departments are to submit only enough hours, in four (4)-hour increments, for the current pay period.
4. The Auditor-Controller's Office will audit the individual leave time donations and make the adjustments to the donating and receiving employee's accrual balances. At the time the Auditor-Controller has credited the receiving employee with the donated time, the department may begin charging the absence to that time in order to compensate the receiving employee.

The Auditor-Controller will notify the department Payroll Clerk in writing of the total amount of time credited to the receiving employee's donated time leave accrual. The department payroll clerk or the department human resources staff will notify the employee if/when there is no more time left in the time bank.

5. Participation in the donation of leave program is voluntary and every effort should be made to ensure that employees are not pressured or coerced to participate in the voluntary program.
6. The Voluntary Time Bank for Catastrophic Illness or Injury to a County employee or immediate family member is a bona fide leave sharing arrangement for a “medical emergency” as defined in IRS Ruling 90-29. Pursuant to Ruling 90-29, leave transferred under such arrangement will not be considered wages for the employee who donated the leave and, therefore, will not be included in gross income or subject to withholding.
7. Participation or denial of donated time bank is a benefit, not a right. All actions of the Donated Time Review Board are final and binding. There is no appeal process and denial of benefits is not a grievable issue under any Memorandum of Understanding.



## MILITARY LEAVE

### **3.44.040**      Military Leave

Military leave shall be governed by provisions of the California Military and Veterans Code and Federal Uniformed Services Employment and Reemployment Rights Act (USERRA). (Prior code § 2-207(d)).

### Guidelines for Administering Military Leave

#### A. Categories of Military Orders

1. Active Duty—reservists called back to full time service.
2. Active Duty for Training (ADT)—which is two weeks per year.
3. Inactive Duty for Training (IDT)—which is historically on the weekend (a.k.a. weekend drills)

NOTE: For purposes of counting calendar days, the County will not count days that are employees' regularly scheduled days off directly prior to their return from duty.

EXAMPLE – Military leave begins on Monday and the orders return the employee to work the following Monday. The Saturday and Sunday of that time period are the employees regularly schedule days off and would not be counted toward their military leave time.

#### B. Pay and Benefits

A State Attorney General opinion provides that paid military leave is not to be authorized for what is described as "inactive military service." This refers mainly to the weekend drills associated with service in the National Guard or military reserve units. This "inactive military service" contrasts with "active service" which includes annual encampments such as guard or reserve two-week summer camps, active duty orders associated with special military schools, or active duty in time of national or State emergency.

Since the inactive military service associated with weekend drills is no longer to be authorized as paid military leave, please be guided by the following approach as you respond to employee requests for military leave:

1. Distinguish between whether the request involves inactive or active military services as defined above.
2. If the request involves inactive military service, bear in mind that the County is not authorized to grant paid military leave for weekend drills. We have an obligation as an

employer to allow employees to take time off to participate in National Guard or reserve service including weekend drills. Since paid time off to attend scheduled reserve drills is not authorized, the time off must be at the employee's expense (i.e., by the use of vacation time, holiday time, compensatory time or leave without pay).

Provided the employee gives five working days' notice, the employee may elect to use vacation time, holiday time or compensatory time. We are obligated to make every attempt to reschedule the work shift so the employee may attend the drill during his free time if he so desires. Rescheduling, however, cannot be forced. The rule is that an employee who is required to attend scheduled drills during a time when the employee ordinarily would be working is entitled to an unpaid leave of absence and cannot be required to use holiday, overtime or vacation time for such purposes.

3. If the request involves active military duty, the employee continues to be entitled to paid military leave of up to 30 days per fiscal year consistent with past practice. Please see the Enhanced Military Benefits Section of Tab 11 for exceptions to the 30-day limit.
4. An employee on a military leave of absence may elect to have his or her health care coverage continued for a period of up to 24 months while on leave. Depending on the length of an employee's leave, the County may require the employee to bear all or a portion of the cost of continuing health care coverage during the leave. If the employee performs military service for fewer than 31 days, he or she cannot be required to pay more than the regular employee share, if any, for health coverage. If the employee performs military service for 31 or more days, he or she may be required to pay no more than 102% of the full premium under the plan, which represents the employer's share plus the employee's share, plus 2% for administrative costs. If the health coverage lapses during the military leave, upon reemployment, the coverage must be reinstated to the same amount and level of coverage as if the employee had been continuously employed.

#### C. Notice of Need for Military Leave

If feasible, an employee should provide 30 days' notice of the need for military leave. If 30 days' notice is not possible, the employee shall provide notice as far in advance as is reasonable under the circumstances. The notice may be verbal or written.

#### D. Seniority as a Result of Military Leave

An employee returning from military leave is entitled to seniority-based and pension benefits as if continuously employed throughout the leave period. With respect to benefits other than seniority-based benefits, health coverage and pension benefits, employees taking military leave have the same rights and benefits as employees taking other leaves, where the other leaves are paid, unpaid, or determined by contract, policy, agreement, plan or informal County practice.

E. Leave Duration

An employee is entitled to take a leave of absence for military service for up to 5 years.

F. Reemployment Rights

An employee's right to reemployment after military leave shall be determined in accordance with the terms and conditions of State and Federal law.

Generally, an employee who has taken military leave is entitled to be reemployed on completion of the military service if the following prerequisites are satisfied: (1) the employee provided prior advance notice to the County of the need for military leave, (2) the cumulative leave did not exceed 5 years, and (3) the employee applies for reemployment within the time frame required by law. An employee is generally entitled to be placed in the position he or she would have attained if employment had not been interrupted by the employee's military service.

Reemployment is not required if: (1) it is impossible or unreasonable due to changed circumstances (e.g., reduction in force), (2) the employee has a disability that cannot be reasonably accommodated, or is no longer qualified for a position and reemployment would pose an undue hardship on the County, (3) the employee was originally hired for a brief, nonrecurring period with no reasonable expectation that employment would continue for a significant period or recur in the future (as in the case of a temporary employee), or (4) the employee was separated from military service by a disqualifying discharge or under other than honorable conditions.

G. Prohibition of Discrimination and Retaliation

Federal and State law prohibit discrimination or retaliation against an employee based on an employee's military service. An employee believing he or she has been discriminated or retaliated against for military service should report his or her concern to a supervisor, department director or Human Resources and the concern will be promptly investigated. An employee who complains of discrimination or retaliation is protected from retaliation for bringing the complaint to the County's attention.

H. Military Leave for Spouses/Domestic Partners

State law provides unpaid leave for a spouse or registered domestic partner of a qualifying member of the Armed Forces, National Guard and Reserves of up to 10 days during a qualified leave period. A qualified leave period is defined as a period of military conflict, a period of war, or deployment for which a member of a reserve component is ordered to active duty. An employee may use available accruals during this leave and must provide documentation of military orders and reasonable notification in advance of such request to a Department Head or designee. (California Military & Veterans Code section 395.10).

**3.44.060**      **Filling Vacancy Resulting from Leave**

A vacancy resulting from an approved leave of absence shall be filled by a temporary appointment and the person appointed to fill such a vacancy shall be informed by his or her Department Head (*or designee*) that his or her appointment is temporary. However, a position occupied by an employee on a military leave for in excess of thirty calendar days may be occupied simultaneously by another employee, but the employee on such military leave has an absolute right to return to the position following termination of his or her leave; provided, however, such person on military leave meets the requirements of the Military and Veterans Code pertaining to reinstatement rights. (Prior code § 2-207(f)).



**STANISLAUS COUNTY BOARD OF SUPERVISORS RESOLUTION  
ADOPTED OCTOBER 16, 2001/RESOLUTION # 2001-807  
ENHANCED MILITARY BENEFITS  
EXPAND ENHANCED MILITARY BENEFITS  
TO INCLUDE OPERATION IRAQI FREEDOM  
ADOPTED JANUARY 18, 2011/RESOLUTION #2011-050**

**Reviewed / Revised 10/17**

**ENHANCED MILITARY BENEFITS TO COUNTY EMPLOYEES CALLED BACK TO ACTIVE MILITARY SERVICE**

In 1991, the County implemented a program to assist those County employees who were reservists and were called to active duty during the Gulf War. In 2011 the Board of Supervisors adopted a resolution establishing a similar program for County employees who were called back to active military service as a result of the War On Terrorism—Operation Enduring Freedom.

Stanislaus County's Personnel Policies and Procedures currently provide that any employee who is on temporary military leave of absence and who has been in County service for a period of not less than one year immediately prior to the date on which the absence begins will be entitled to pay for up to 30 calendar days.

The Board of Supervisors authorized the payment after a 30-day minimum and up to 150 additional days of the difference between an employee's military pay and the employee's regular salary for employees called back to active military service in support of Operation Enduring Freedom. In addition, the Board of Supervisors authorized the employee's health benefits to be continued for the additional 150 days.

**POLICY**

1. Eligibility

- A. A County employee who is ordered to active military duty as a result of the War on Terrorism—Operation Enduring Freedom, which for purposes of this program commenced on September 11, 2001 and Operation Iraqi Freedom which began in March of 2003.
- B. National Guard or military reservists who are called back to active duty under Operation Noble Eagle, the official name given to homeland defense and civil support services.
- C. An employee qualifies for program benefits after all paid military leave has been exhausted.

## 2. Duration

- A. Supplemental pay shall cease on the date the employee officially is released from active military duty or at the end of six (6) months of military pay supplement, whichever occurs earlier.
- B. Supplemental pay may be extended beyond what is authorized here pursuant to the sole discretion of the Board of Supervisors.

## 3. Compensation and Benefits

- A. The amount paid to the employee will be the difference between the employee's base plus biweekly pay, including any special pays and other pay differentials, and the base military pay, excluding other allowances.
- B. If the employee's military base pay exceeds the County's base pay plus allowances, the employee will receive no additional pay allowances or paid leave benefits under this program.
- C. While eligible for a military pay supplement, the County will continue to pay its full-required contribution each pay period toward the County retirement program and the employee shall contribute the required employee contribution. Retirement contributions shall be made during this period only if the employee's military pay supplement is sufficient to cover the employee's contribution. Upon return from military leave, if there is no military pay supplement or the supplement is insufficient to make the full-required contributions, the County Auditor-Controller shall withhold contributions based on the member's salary at the time the leave commenced equal to the number of pay periods for which no retirement contributions were made. However, the employee may, within ninety (90) days of reinstatement, elect not to make the additional contributions nor receive the corresponding service credit.
- D. During the full period of active military duty leave, the County shall contribute the full premium for health insurance.
- E. The employee will continue to accrue vacation, sick or other leave benefits at their regular accrual rate.
- F. The employee will receive service credit for layoff purposes during the period of military leave.

## 4. Condition of Payment

- A. Prior to processing of any paycheck, the employee will be required to submit to the Auditor-Controller a copy of the orders to active duty and copies of his/her military pay stubs, for the sole purpose of determining amounts of supplemental pay.





## STANISLAUS COUNTY PERSONNEL MANUAL FAMILY MEDICAL LEAVE OF ABSENCE (FMLA)

Reviewed / Revised 10/17

### POLICY

Stanislaus County complies fully with all Federal and State leave laws. The following is a brief recap of the Family and Medical Leave Act (Federal) and the California Family Rights Act (State) and how these laws interact with each other and with County policies.

All employees of Stanislaus County, including personal service contractors (except elected officials and other key employees), are covered by this policy.

#### 1. Eligibility for Leave

An employee is eligible for leave under this policy if the employee: (1) has been employed by the County for at least 12 months or 52 weeks (need not be continuous); and (2) has worked at least 1,250 hours during the 12-month period immediately preceding commencement of the leave.

An employee who fraudulently obtains or uses FMLA/CFRA leave is not protected by FMLA/CFRA job restoration or maintenance of health benefits provisions.

#### 2. Reasons for Leave

The Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) allow an eligible employee to take a job-protected leave of absence for the following qualifying reasons:

- A. Birth of an employee's child to care for the newborn and to bond with the child (to be taken within one (1) year of the birth).
- B. Placement of a child with the employee for adoption or foster care. Leave must be completed within one year of placement.
- C. To care for an eligible family member (minor child, spouse, registered domestic partner (CFRA), parent, and in limited instances adult children (who are incapable of self-care) who have a "serious health condition."
- D. Employee's own "serious health condition" that makes the employee unable to perform the essential functions of his or her job.
- E. Qualifying Exigency related to the spouse, child, or parent of an employee who is a US military member on active duty or has been notified of an impending call or order to active duty related to an overseas deployment (FMLA).

- F. Military Caregiver Leave to care for an employee’s child, parent, spouse or “next of kin” who is a member of the Armed Forces (including a member of the National Guard or Reserves) or a veteran of the Armed Forces who is undergoing medical treatment related to injury or illness sustained while on active duty, recuperating, receiving therapy, is in outpatient status through the Armed Forces, or is otherwise on the military’s Temporary Disability Retired List for a serious injury or illness (FMLA).

### **3. Duration of Leave**

For all types of FMLA/CFRA leave, other than Military Caregiver Leave that is addressed below, eligible employees are entitled to up to 12 weeks of FMLA/CFRA leave during any 12-month period defined as a rolling year.

When combined with other FMLA-qualifying leave, Military Caregiver Leave allows an eligible employee up to 26 weeks of leave during a single 12-month period to care for a seriously injured or ill service member or veteran. The single 12-month period begins on the first day the employee takes Military Caregiver Leave and ends 12 months after that date and may not exceed 26 weeks in a single 12-month period.

Except as noted below, when leave is taken for a reason that qualifies as both FMLA and CFRA leave, the leaves will run concurrently.

FMLA and CFRA leave will not run concurrently under the following circumstances: (1) Care of a registered domestic partner (CFRA); (2) when an employee takes Pregnancy Disability Leave (see Pregnancy Disability Leave policy below for further information), and (3) when an employee takes Qualifying Exigency or Military Caregiver leave (FMLA).

### **4. Intermittent or Reduced Schedule Leave**

Leave may be taken intermittently or on a reduced leave schedule when necessary. Employees who take leave on an intermittent or reduced schedule must make a reasonable effort to schedule the intermittent leave so as not to unduly disrupt the County’s operations.

An employee requesting intermittent or reduced schedule leave for the employee’s or eligible family member’s “serious health condition” may be required to transfer temporarily to an available, alternative position when (1) the leave is due to planned medical treatment or the employee agrees, and (2) alternative position better accommodates recurring periods of leave, and (3) the employee is qualified for the alternative position, and (4) the alternative position has equivalent pay and benefits (equivalent duties are not required).

### **5. Employee Obligations**

- A. Provide 30-day advanced notice of the need for leave unless the need for leave is unforeseeable.

- B. Cooperate in scheduling of planned medical treatment so as not to unduly disrupt the County's operations. For reasons unrelated to medical treatment, the employee shall attempt to work out a leave schedule that meets the employee's needs without unduly disrupting the County's operation.
- C. Pay the employee's share of Health Insurance premiums should the leave be on an unpaid basis. If the employee is on paid leave, the County will continue to deduct health premiums from the employee's paycheck in the same manner as if the employee was actively working.
- D. Provide the County with appropriate certification to support leave.
- E. Submit to a second medical opinion at the County's expense should the County have a good faith, objective reason to doubt the validity of the first opinion. If the second opinion is different than the employee's physician, the employee may request a third medical opinion at the County's expense. The third opinion shall be binding.

## **6. Pay and Benefits**

FMLA/CFRA leave is an unpaid protected leave. The County requires employees to use available sick leave accruals for the employee's illness or vacation for other reasons in accordance with County policies except in the following instances: (1) an employee is receiving disability benefits from any source, or (2) an employee is on *leave restrictions* prior to the approval of FMLA/CFRA leave. Employees may request to use sick leave for care of an eligible family member. If an employee fails to comply with County policies that govern the use of paid leave accruals the use of paid leave accruals may be denied or delayed until the employee fully complies with County policy.

Applicable leave accruals may include sick leave for a medically related absence for the employee's own "serious health condition" or if the employee is needed to provide care for an eligible family member. Vacation accruals may be used for the purposes of bonding with the employee's newborn child or a child placed with the employee for adoption or foster care. With Department Head or designee approval, vacation may also be used in lieu of sick benefits if the employee has exhausted sick leave accruals. Compensatory time benefits may also be used at the employee's request.

California's Paid Family Leave provides for payments from the State Disability Fund to cover part of the wage loss suffered by employees who take time off work to care for a seriously ill child, spouse, domestic partner or parent or to bond with a newborn child. Employees should contact the State Employment Development Department for more information; the County does not determine eligibility of SDI or PFL. ([http://www.edd.ca.gov/Disability/More\\_PFL\\_information.htm](http://www.edd.ca.gov/Disability/More_PFL_information.htm))

While on FMLA/CFRA leave, an employee will continue to be covered by the County's group health insurance to the same extent that coverage is provided while the employee is working, which includes any applicable payroll deductions. If the employee is on an unpaid

leave the employee will be responsible for remitting their share of cost of benefits while on FMLA/CFRA leave.

## **7. Certification**

All leave requests must be submitted to the employee's Human Resources personnel. Employees must follow individual department policies and procedures related to leave requests, call-in procedures, and use of accruals.

### **A. Initial Certification**

Employees who request FMLA/CFRA leave under this policy must provide written certification supporting the need for leave. Applicable certification forms are available on line on the Risk Management page or from Department Human Resource personnel. Employees may submit alternate certification forms as long as the required information is provided. <http://www.stancounty.com/riskmgmt/risk-medical-leaves-sub-main.shtml>

The employee must provide the required certification within 15 days of being notified absent extenuating circumstances. Failure of an employee to provide adequate and timely certification in support of the leave request may result in delay or denial of the request. If additional time is needed to comply the employee should contact Risk Management to request an extension and explain why the additional time is needed.

The County may not contact the health care provider for any reason other than to authenticate a medical certification.

### **B. Recertification**

With the exceptions noted below, the County has the right to request an employee who is taking leave for the employee's own "serious health condition" or due to the "serious health condition" of a family member to provide a recertification of the need for leave every 30 days.

1. The County may not request a new certification for the purpose of FMLA/CFRA protected leave before the initial certification expires even if the initial certification included a "lifetime" condition.
2. The County may request recertification more frequently than once every 30 days if:
  - a. the employee requests a leave extension,
  - b. circumstances from the previous certification significantly change (e.g., a change in the duration of the leave or frequency of intermittent absences, a change in the nature or severity of the condition, or complications),

- c. the County receives information casting doubt on the validity of the certification or reason for leave (e.g., Monday/Friday absence pattern.) If the minimum duration of incapacity specified in the initial medical certification is more than 30 days, no recertification may be requested until that time has passed, unless one of the above-listed exceptions applies.

In all circumstances, the County may request recertification of a medical condition that extends beyond a FMLA/CFRA or PDL approved designated leave of absence.

## **8. Reinstatement Rights**

Upon expiration of FMLA/CFRA 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. However, employees have no greater right to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the period of leave.

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays in reinstatement when the employee is ready to return.

## **9. FMLA Definitions**

- A. **“Eligible Employee”** has worked for the County for 12 months (need not be continuous) and has worked 1250 hours in the 12 months preceding the leave date.
- B. **“Leave Year”** is the 12-month period measured forward from the date any employee’s first FLMA leave begins. For example, the employee begins leave on February 1st, the employee is eligible for 12 weeks of leave during the year and is eligible for a new FMLA/CFRA leave the following February 1<sup>st</sup>, etc.
- C. **“Child”** For purposes of FMLA/CFRA leave other than Qualifying Exigency and Military Caregiver Leave, “child” means a biological, adopted, foster child, stepchild, 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 due to a mental or physical disability. A child is **“incapable** of self-care if he or she requires **active** assistance or supervision to provide daily self-care in three or more of the activities of daily living such as, grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using a telephone, etc.

For purposes of Qualifying Exigency and Military Caregiver Leave, “child” means the employee’s biological, adopted, foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis who is of any age.

- D. **“Loco Parentis”** means in the place of a parent.

- E. **“Next of Kin,”** for purposes of Military Caregiver Leave, means the nearest blood relative, other than the service member’s spouse, parent, or child in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, siblings, grandparents, aunts, uncles, and first cousins, unless the service member has specifically designated in writing another blood relative as his nearest relative.
- F. **“Parent”** means a biological, adoptive, step or foster parent, or any other person who stood in loco parentis to the employee when the employee was a child.
- G. **“Qualifying Exigency Leave”** includes:
1. Short-notice deployment – Leave may be taken to address issues arising from an impending call or order to active duty 7 days or less before the date of deployment.
  2. Military events and related activities – Leave may be taken to attend an official military sponsored ceremony, program, or event relating to a service member’s active duty or call to active duty.
  3. Childcare and school activities – Leave may be taken to provide or arrange for childcare when a service member’s active duty or call to active duty requires a change in existing childcare arrangements.
  4. Financial and legal arrangements – Leave may be taken to make or update financial or legal arrangements to address a service member’s absence while on active duty.
  5. Family counseling – Leave may be taken to attend counseling where the employee, the service member, or the service member’s child needs counseling because of the active duty or call to active duty.
  6. Rest and recuperation – Up to 5 days may be taken to spend time with a service member who is on short-term leave from active duty for rest and recuperation.
  7. Post-deployment activities – Leave may be taken to attend arrival ceremonies, reintegration briefings and events, and any other official military sponsored ceremony or program for a period of 90 days after the termination of the service member’s active duty status, and to address issues that arise from death while on active duty, such as meeting and recovering the body and making funeral arrangements.
- H. **“Registered Domestic Partner”** means two adults who have chosen to share one another’s lives in an intimate and committed relationship and have filed a Declaration of Domestic Partnership with the California Secretary of State pursuant to Family Code §297 et seq.
- I. **“Serious health condition”** means an illness, injury, impairment, physical, or mental condition that involves:

1. Inpatient Care (i.e., an overnight stay or expectation of an overnight stay) in a hospital, hospice, or residential medical care facility; or
2. Continuing treatment by a health care provider. Including any one or more of the following:
  - a) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to a serious health condition of more than 3 consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
    - i. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider, where two of the physician's visits occur within 30 days beginning from the initial date of incapacity and the first physician visit occurs within the first 7 days of incapacity; or
    - ii. Treatment by a health care provider on at least one occasion, the first of which must occur within 7 days of incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider.
  - b) Any period of incapacity due to pregnancy or for prenatal care. (FMLA and Pregnancy Disability Leave (PDL)).
  - c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
    - i. Requires the employee to make at least two visits per year to a health care provider, a nurse, or physician's assistant under direct supervision of a health care provider for treatment;
    - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
  - d) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, or terminal stages of a disease). The employee or family member must be under the continuing supervision of a health care provider, but need not be receiving active treatment.
  - e) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care

services under orders of, or on referral by, a health care provider either for: (1) restorative surgery after an accident or other injury, or (2) for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment.

J. **“Health Care Provider”** means:

1. Individuals duly licensed as a physician, surgeon, osteopathic physician in the State or jurisdiction in which they practice, including another country, which directly treats or supervises treatment of a serious health condition;
2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) performing within the scope of their respective practice as defined law of the state or country in which they practice;
3. Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice and who are performing within the scope of their practice as defined under the law of the state or country in which they practice;
4. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
5. Any health care provider from whom the County or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

K. **“Serious injury or illness,”** for purposes of Military Caregiver Leave, means an injury or illness incurred in the line of duty while the individual is on active duty in the Armed Forces, that renders the individual unfit to perform the duties of his/her office, grade, rank, or rating.

L. **“Servicemember”** means a member of the Armed Forces, including a member of the National Guard or Reserves.

M. **“Spouse”** means an adult couple of the same or opposite sex recognized under state or federal law for purposes of marriage.





**STANISLAUS COUNTY PERSONNEL MANUAL  
PREGNANCY DISABILITY LEAVE  
AND PREGNANCY ACCOMMODATION POLICY**

**Reviewed / Revised 10/17**

## **POLICY STATEMENT**

The County provides Pregnancy Disability Leave as required by the California Pregnancy Disability Leave Law (PDL) and provides reasonable accommodation to employees disabled by pregnancy pursuant to state and federal law.

### **1. Duration of Leave**

An employee who is disabled due to pregnancy, childbirth, or related medical conditions (including doctor-ordered bed rest, severe morning sickness, prenatal or postnatal care, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, lactation-related medical conditions, or recovery from loss or end of pregnancy) is entitled to up to 4 months (17.3 weeks) of PDL. An employee need not have been employed by the County for a certain period of time to be eligible for PDL. The leave may be taken intermittently, or on a reduced work schedule, when medically necessary.

### **2. Pay and Benefits**

PDL is unpaid. However the County requires the use of available sick leave accruals unless the leave runs concurrently with FMLA and the employee is receiving disability payments from any source. Employees may elect to use accrued sick leave, may request the use of vacation leave, or other accrued time off during the otherwise unpaid PDL.

Employees may be eligible to receive State Disability Insurance during PDL and should contact the California Employment Development Department to determine eligibility (<http://www.edd.ca.gov/Disability/>).

While on FMLA/CFRA leave, an employee will continue to be covered by the County's group health insurance to the same extent that coverage is provided while the employee is working, which includes any applicable payroll deductions. If the employee is on an unpaid leave, the employee will be responsible for remitting their share of cost of disability benefits while on FMLA/CFRA leave. If the employee fails to return from FMLA/CFRA leave the County may, under certain circumstances, recover the premiums paid.

The County will maintain and pay for the employee's health care coverage during PDL. However, if the employee fails to return from PDL leave the County may, under certain circumstances, recover the premiums paid.

Seniority and other benefits continue to accrue on the same basis as during other leaves. PDL does not constitute a break in service for seniority purposes.

### **3. Transfer**

An employee disabled by pregnancy or a related medical condition may request a temporary transfer to less strenuous or hazardous positions or duties for the duration of the disability provided that: (1) the employee's request is based on the advice of her health care provider that a transfer is medically advisable, and (2) such transfer can be reasonably accommodated by the County. To provide a transfer, the County is not obligated to create additional employment that the County would not otherwise have created, to discharge another employee, violate the terms of a collective bargaining agreement, transfer another employee with more seniority, or promote or transfer any employee who is not qualified to perform the new job. An employee requesting a transfer will be required to provide a medical certification supporting the employee's need for transfer.

If the employee's health care provider certifies that an employee has a medical need to take intermittent leave or leave on a reduced work schedule because of pregnancy, the County may require the employee to transfer temporarily to an available alternative position that meets the medical needs of the employee and better accommodates the employee's leave requirements than her regular job. The alternative position will have the equivalent rate of pay and benefits but may not necessarily equivalent duties.

When the employee's health care provider certifies that there is no further medical need for the transfer, intermittent leave, or leave on a reduced work schedule, the employee will be reinstated to the same or comparable position held prior to the transfer.

### **4. Interaction of PDL and Reasonable Accommodation Leave**

If at the end of PDL an employee remains disabled from working, the County will engage in an Interactive Process with the employee to determine whether any additional leave of absence may be provided as a reasonable accommodation to the employee pursuant to the terms and conditions of state and federal disability accommodation laws.

### **5. Interaction of PDL and CFRA Leave**

PDL does not run concurrently with leave taken under the California Family Rights Act (CFRA). This means that an employee may be entitled to take up to four (4) months (17.3 weeks) of PDL and an additional twelve (12) weeks of CFRA leave so long as the employee is eligible for CFRA leave. If after the expiration of PDL an employee takes CFRA leave, the employee's right to reinstatement is governed by the terms of CFRA.

### **6. Accommodation of Pregnancy Disability**

An employee who is disabled by a pregnancy related medical condition may request an accommodation if the request is based on the advice of the employee's health care provider that accommodation is medically advisable and the requested accommodation is reasonable. Whether an accommodation is reasonable is a factual determination to be made on a case-by-case basis, taking into consideration such factors as: (1) the employee's medical needs, (2)

the duration of the needed accommodation, (3) the employer's past and current practices, and (4) other such factors, under the totality of the circumstances.

#### **7. Notice of Need for Leave, Transfer or Accommodation**

An employee shall provide at least 30 days advance notice of the need for PDL, transfer or other reasonable accommodation due to a pregnancy related disability. If such notice is not feasible, notice shall be given as soon as possible.

#### **8. Medical Certification**

An employee will be required to submit a medical certification from her health care provider to support any request for PDL, transfer or reasonable accommodation. An employee shall have 15 calendar days from receipt of the certification form to return the completed form to the Human Resources Department. If the employee fails to return the certification in a timely manner, the County may delay granting the request for PDL, transfer or accommodation so long as doing so would not endanger the employee's health or her pregnancy.

#### **9. Right to Reinstatement**

Generally, an employee has the right to be reinstated to the same position she held prior to taking PDL or being temporarily transferred to an alternate position due to pregnancy disability. However, an employee has no greater rights than she would have had if continuously employed during the PDL or transfer period. This means that there is no right to reinstatement to the same position if an employee would not otherwise have been employed in her same position at the time reinstatement is requested for legitimate business reasons unrelated to the PDL or transfer (e.g., layoff.)

If for the reason described above an employee returning from PDL cannot be reinstated to the same position, an employee generally has the right to be reinstated to an available comparable position (i.e., a position that is virtually identical to the employee's prior position in terms of pay, benefits, working conditions, and with substantially similar duties, in the same or geographically proximate worksite, and with the same or equivalent work schedule.) An exception to this general right exists if either of the following exist: (1) the County would not have offered a comparable position to the employee if she had been continuously at work during the PDL or transfer period, or (2) there is no comparable position available.

#### **10. Lactation Policy**

An employee shall be entitled to a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private.



## STANISLAUS COUNTY PERSONNEL MANUAL MANAGEMENT DISABILITY LEAVE

Reviewed / Revised 10/17

Stanislaus County managers do not participate in the State Disability Insurance (SDI) program. Stanislaus County provides a self-insured limited income protection plan providing a manager who is temporarily unable to work due to illness or injury (not work related) 50% of the managers salary in lieu of SDI for a period not to exceed twelve months beginning on the 8th consecutive calendar day of disability.

### **Eligibility Criteria**

- A. Managers must have been employed by the County for a minimum of twelve months to be eligible for benefit. During the seven (7) consecutive calendar day waiting period the employee will use all available leave accruals. Beginning on the 8th day, the manager will receive Management Disability Leave (MDL) benefits equal to 50% of their regular salary and are required to supplement this benefit with available leave accruals. Managers shall be placed on Family Medical Leave (FMLA)/California Family Rights Act Leave (CFRA) if eligible. While on FMLA/CFRA and MDL, a manager may elect not to supplement their MDL benefit with available leave accruals.
- B. Fully executed Management Disability Leave Claim form submitted to the CEO-Risk Management Division. If the employee is unable to complete claim form, the Department Head or designee may submit on the employee's behalf.
- C. Completed Management Disability Leave Medical Certification form submitted to the CEO-Risk Management Division. Certification must include a prognosis. Medical recertification will be required for any requested leave extensions.

Each new illness or injury requires the employee to meet a seven (7) consecutive calendar day waiting period and entitles the employee to maximum of fifty (50) weeks of benefits. If the manager returns to work and is taken off work again for the same injury or illness, the waiting period may be waived with Chief Executive Office approval. A manager will only be eligible to receive a total of fifty (50) weeks of benefit for the same injury or illness even if they have met the second seven (7) day waiting period. An employee receiving MDL for a pregnancy related disability will not be required to serve a second seven (7) day waiting period for the same pregnancy.

Employees requesting to work a temporarily reduced work schedule due to a leave of absence request with an appropriate medical certification will still be entitled to coordinate the use of their management leave benefits with their temporary reduced work shift. The County will coordinate the accruals similar to other short-term disability leave programs.

The County offers a fully insured management long-term disability (LTD) policy with a 360-day elimination period. LTD benefits begin the day after the elimination period has been met. For a copy of the Management LTD brochure, contact the CEO-Risk Management Division.

Managers who have voluntarily demoted or who have been demoted during a Reduction in Force may be eligible for MDL benefits should they become ill prior to becoming eligible for State Disability Leave Benefits. Contact the Chief Executive Office for consideration.



## STANISLAUS COUNTY PERSONNEL MANUAL WORKPLACE ACCOMMODATION POLICY

Reviewed / Revised 10/17

### **POLICY STATEMENT**

Stanislaus County is an equal opportunity employer, which includes a commitment to providing workplace accommodations for qualifying employees or applicants for employment who may require reasonable accommodations. The County shall comply with all State and Federally mandated disability and leave protection laws including, but not limited to, California Workers' Compensation (WC), Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), Pregnancy Disability Leave Act (PDL), Americans with Disabilities Act Amendments Act (ADAAA), California Fair Employment and Housing Act (FEHA) and all other laws and regulations applicable to disability and leave protection rights for current or prospective employees. Many of these laws will overlap and may apply concurrently based on the accommodation issues presented for each individual applicant or employee.

### **OBJECTIVE**

The objective of this policy is to provide direction and support to employees, supervisors and managers on the process and resources for promptly evaluating temporary and permanent medical work restrictions and reasonable workplace accommodations in compliance with all Federal and State requirements. The County recognizes the value workplace accommodations can provide to employees and the organization, as well as the requirement to maintain minimum employment standards necessary to ensure a safe workplace and the continuity of services provided to the community.

### **PROCEDURES**

The Chief Executive Office will maintain procedures to guide departments on the process for responding to employee medical work restrictions and requests for accommodation. Work restrictions shall be addressed using the procedures and documentation standards provided with the County's Medical Work Restriction Agreement (MWRA). The procedure will include guidance on conducting the Interactive Process (IAP) with employees, requiring departments and employees to engage in communication related to the employee's medical work restrictions and evaluating potential opportunities for reasonable accommodation including timely implementation and appropriate follow up.

### **DEFINITIONS**

- A. **Interactive Process** – The manner in which employees, supervisors, and their departments determine whether reasonable accommodation can be made to an employee. The interactive process may be conducted in person or in writing as appropriate. The interactive process is reciprocal; both the employee and the employer are required to engage, in good faith. The process needs to prompt, timely, and include appropriate follow up to ensure the

accommodation is working as intended. The process applies to both industrial and non-industrial injuries.

**B. Reasonable Accommodation** – Any effective measure that would enable an employee with a disability to perform the essential functions of his/her position. Effective measures defined by the ADA include:

1. Modifications/Adjustments to a job application process that enable a qualified candidate with a disability to be considered for the position such qualified applicant desires;
2. Modifications/Adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential job functions of that position; or,
3. Modifications/Adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment that are enjoyed by its other similarly situated employees without disabilities.

**C. Essential Functions** – the Equal Employment Opportunity Commission (EEOC) defines essential functions as:

1. Whether the reason for the position exists is to perform that function;
2. The number of other employees available to perform the function or among whom the performance of the function can be distributed; and,
3. The degree of expertise or skill required to perform the function.

### **PHYSICAL/MENTAL JOB FUNCTIONS**

All County employees are required to safely perform the required physical/mental functions of their assigned classification, with or without reasonable accommodation. Required job functions are identified within the individual Job Task Analysis (JTA) developed for each classification series. A complete list of all JTA's is available on the County's Risk Management website at [www.stancounty.com/riskmgmt](http://www.stancounty.com/riskmgmt), or by contacting the Risk Management office at (209) 525-5710.

CEO-Risk Management will work with individual departments as necessary to develop essential physical/mental functions for any position that does not have a Job Task Analysis in place or for which the essential physical/mental functions have not been identified. Certain County positions may also be subject to physical performance standards regulated by outside Federal or State programs, such as the California Commission on Peace Officer Standards and Training (POST).

## **MEDICAL WORK RESTRICTIONS/REQUESTS FOR ACCOMMODATIONS**

All County employees are required to inform their department (supervisor, manager department human resources, or Department Head) if they are aware of any condition, which impacts their ability to perform the required physical/mental functions of their position. This requirement also includes changes to existing conditions that have been previously communicated to the department.

The employee's department will request documentation to further understand the employee's specific medical work restrictions that may require a reasonable accommodation. Requests for medical work restrictions may include a prognosis for future changes in the employee's individual work restrictions, but will not include a request for a medical diagnosis. The Job Task Analysis (JTA) and Job Specification are available to assist the employee in communicating the required functions of their position with their healthcare provider.

County departments may also request an employee undergo a Fitness-for-Duty medical examination when necessary to determine the employee's medical work restrictions. The authority for requesting and approving a Fitness-for-Duty exam is provided in County Ordinance Code 3.08.050 located in Tab 7 of the County Personnel Manual, which reads in part:

### **Requests for Accommodation**

Medical certification that includes any temporary or permanent physical or psychological restrictions or need for accommodation must be clear enough to allow the County to explore reasonable accommodations with the employee to enable them to safely return to work.

Medical Certifications that include temporary work restrictions must be updated after each medical appointment or at a minimum every 90 days.

### **County Ordinance 3.08.050 Medical Examinations:**

- C. Any employee, upon the request of his Department Head and with the prior approval of the personnel officer and chief executive officer, may be required to undergo a further medical examination at any time after his employment for the purpose of ascertaining that he is physically and mentally able to perform the duties of his position. Such examinations, when authorized, will be performed by a licensed physician designated by the County and the cost of such examination shall be paid by the County. It is not the intent that examinations allowed under this section be authorized routinely, and they shall be approved only for reasons which will justify the expense thereof to the County. (Prior code §2-211)

## **RESOURCES**

Questions related to workplace accommodation issues should be forwarded to your designated department human resources representative, CEO Human Resources or CEO Risk Management.



## **PRIOR POLICIES**

This policy is intended to replace all prior Risk Management policies and procedures addressing workplace accommodations, including the Temporary Modified Return to Work Program, Qualified Injured Worker Placement Procedure and the Disability Management Program.



STANISLAUS COUNTY PERSONNEL MANUAL  
LEAVE TIME BENEFITS/SUBPOENA

Reviewed / Revised 10/17

**SUBPOENA**

**3.44.070 Absence to Appear in Court—Subpoena**

- A. An employee who is absent from work because of a subpoena to appear as a witness for the County shall not be entitled to witness fees or mileage from the County, but shall be deemed to be in County service and entitled to his usual compensation for the time spent in going to, attending and returning from court.
- B. An employee who is subpoenaed by a party other than the County in a matter in which he is not a party or called as an expert witness shall be deemed to be in the service of the County during the period of his absence. The employee under subpoena shall pay over to the County any and all fees, statutory and otherwise, received by reason of the subpoena, which sums shall be credited to the fund from which the employee's salary was paid. This subsection shall not be applicable to appearances for which the employee receives compensation in excess of his regular earnings.
- C. An employee who is subpoenaed as an expert witness in a matter other than one in which he is a party, by a party other than the County, may be deemed to be in the service of the County during the period of his absence. Such determination shall rest in the discretion of the employee's Department Head (*or designee*), according to such rules, policies, regulations or procedures as may be authorized in this section. When so deemed by his Department Head (*or designee*) to be in the service of the County, the employee under subpoena shall pay over to the County any and all fees, statutory and otherwise, received by reason of the subpoena or testimony, which sums shall be credited to the fund from which the employee's salary was paid.
- D. Except as otherwise provided in Subsections B and C of this section, an employee subpoenaed to appear on behalf of any party other than the County shall be deemed absent from County service and shall not be entitled to his usual compensation during the period of absence, unless the employee elects to apply accrued compensatory time and accrued vacation to the absence. An employee in such case should not absent himself without a subpoena. At the time of service of subpoena, the employee should demand the witness fee and mileage provided for by law, which the employee may retain. (Prior code § 2-217).



**3.20.120 Jury Duty Pay Remittance**

No deduction shall be made from the salary of full-time employee while on jury duty if he has waived or remitted to the County the fee for jury duty. If he has not so waived or remitted the jury fee, he shall be paid only for the time actually worked in his regular position. An employee accepted for jury duty shall immediately notify his Department Head (*or designee*), in writing, whether or not he waives or remits his jury fee to the County. (Ordinance CS 373 § 5, 1990: prior code § 2-209).

**See appropriate M.O.U. for exceptions/clarification.**

**JURY DUTY MILEAGE REIMBURSEMENT**—County Counsel Opinion

When County employees receive a check for jury duty, they will be able to keep the part of the payment related to mileage reimbursement and only have to remit the part of the reimbursement they received which was related to jury duty service. The standard departmental jury fee payment form should be utilized with the employee returning the amount related to jury duty service. Remittance may be made by personal check or cash, please contact your department's Auditor-Payroll Division contact for proper processing of remittance.

**CRIMINAL GRAND JURY REIMBURSEMENT**

The Criminal Grand Jury is selected periodically by the Presiding Judge of the Superior Court. Nineteen grand jurors are chosen and are required to serve for a maximum of six indictment hearings or one fiscal year, whichever comes first. Serving on a Criminal Grand Jury is mandatory if selected by the Presiding Judge. For this reason, reimbursement procedures are the same as regular jury duty.

**CIVIL GRAND JURY REIMBURSEMENT**

Serving on a Civil Grand Jury is voluntary and requires a time commitment of 20-30 hours a month. Civil grand jurors serve a term of one fiscal year. Being a civil grand juror requires numerous hours away from work. The County is not legally obligated to pay an employee while serving on the Civil Grand Jury. Please check with your Department Head, director, or manager for approval before accepting a position on the Civil Grand Jury.

**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of THE MODESTO BEE, printed in the City of MODESTO, County of STANISLAUS, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of STANISLAUS, State of California, Under the date of February 25, 1951, Action No. 46453; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Dec 11, 2018

STANISLAUS COUNTY  
ORDINANCE C.S. 1222

NOTICE IS HEREBY GIVEN that on December 18, 2018, at 6:30 p.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, 1010 10th St., Modesto, CA, to consider the adoption and the waiving of the second reading of Ordinance C.S. 1222. This ordinance is amending Stanislaus County Code: Section 3.36.030 related to payment for accrued vacation upon separation from County employment; Section 3.40.010 related to sick leave earning rate and use; Section 3.40.020 related to Medical Certificates; Section 3.44.010 related to leaves of absence; and, Section 3.44.020 related to request and approval for leaves of absence.

NOTICE IS FURTHER GIVEN that a full copy of the proposed ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Tamara Thomas, Director of the Human Resources for Stanislaus County at (209) 525-6333 or at 1010 10th Street, Suite 6800, Modesto, CA.

BY ORDER OF THE BOARD OF SUPERVISORS. DATED: December 4, 2018. ATTEST: ELIZABETH A. KING, Clerk of the Board of Supervisors of the County of Stanislaus, State of California. BY: Pam Villarreal, Assistant Clerk of the Board.

Pub Dates Dec. 11, 2018

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I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

December 11th, 2018

(By Electronic Facsimile Signature)

Cynthia A. Villarreal