

## **RULE FOURTEEN**

### **LEAVES OF ABSENCE**

1401. Military Leave of Absence. Military leaves of absence shall be granted in accordance with the provisions of the Military and Veterans Code of the State of California.
1402. Approval of Leave of Absence. A department head may authorize a leave of absence without pay for any permanent or probationary employee, for a period not to exceed thirty calendar days. A leave of absence without pay in excess of thirty calendar days must be approved by the Administrative Officer.
1403. Jury Duty or Witness Leave of Absence. A leave of absence with pay not chargeable to sick leave or vacation shall be granted to an employee who serves on a jury or who is subpoenaed as a non-party witness for a civil or criminal proceeding in a court or administrative tribunal. All fees and perquisites collected by any officer or employee as a juror or a non-party witness shall be paid into the County Treasury in accordance with the procedures prescribed by the County Auditor-Controller.
1404. Time Off to Compete in Examinations. Permanent and probationary employees shall be entitled to reasonable and necessary time off with pay to take examinations and to participate in departmental selection processes for movement to other positions in the Santa Barbara County service, if such appointments are scheduled during their regular working hours. This time off shall not include travel time or required paperwork; and the time must be pre-scheduled with the employee's department.
1405. Assignment on Leave With Pay Pending Investigation. An appointing authority may assign an employee to leave with pay for a period not to exceed 14 calendar days for reasons of investigation for disciplinary action. Written notice of such assignment shall be given the assigned employee as soon as possible but not later than 72 hours after such action is taken. Such assignment is not a disciplinary action and shall not be subject to appeal unless it or any portion of it subsequently becomes a disciplinary action.
1406. Continuous Service. Authorized leave of absence shall not be construed as a break in service or employment, and rights accrued at the time the leave is granted shall be retained by the employee; provided, however, vacation credits, sick leave credits, increases in salary, and other similar benefits shall not accrue to a person granted such leave during the period of absence. Time spent on such leave without pay shall not count toward service for increase within the salary range, and the employee's salary anniversary date shall be governed by the provisions of these Rules for compensation. This section shall not apply to military leaves of absence granted pursuant to the Military and Veterans Code, where the Code applies.

1407. Employee to Report Absence. An employee who is absent from duty for any reason shall report the reason therefor to his supervisor immediately on the first day of absence, or before if possible, and in any case at the earliest practicable time.
1408. Separation Due to Unauthorized Absence. Any employee who is absent from his position for more than five (5) consecutive working days without prior permission from his department head (or designee) shall be considered to have abandoned and constructively resigned his employment with the County, giving the County the authority to formally separate the employee from County service.

The appointing authority shall notify the employee that he or she will be separated from County service effective ten (10) calendar days from the date of notification. Such notification shall be given pursuant to Rule 1307. If service is by mail, then the date of notification is five (5) days after the date of mailing. Up to five (5) days before the effective date, the employee shall have the opportunity to provide evidence of the reason(s) for the unauthorized absence to the appointing authority. The appointing authority shall revoke the separation if the employee provides satisfactory evidence of the reason(s) for the unauthorized absence. If the appointing authority determines that the evidence is not satisfactory, the appointing authority shall notify the employee that the separation shall remain in effect.

In the event the appointing authority separates the employee from County service, the employee may, within fifteen (15) calendar days from the original date of notification, request a hearing with the County Administrator. Such hearing is limited to a determination of whether the Rule has been properly applied. In the event a hearing is not requested within the allotted time, or, after hearing, the County Administrator determines that the Rule has been properly applied, the employee's separation from County service shall remain in effect.

1409. Leave of Absence With Pay. The Board of Supervisors, by a four-fifths vote, may grant a leave of absence with pay when it first expressly finds that a leave of absence with pay is in the best interest of the County, and does not amount to a gift of public funds prohibited by the Constitution of the State of California.
1410. Medical Leave of Absence, Not Work Related. When a permanent or probationary employee has used all accumulated sick leave and compensatory time off and is unable to return to work because of disability resulting from injury, illness, pregnancy, childbirth or related medical conditions not arising out of or in the course of employment with the County, the department head shall place the employee on a medical leave of absence without pay. The employee shall submit satisfactory medical evidence to his or her department head, who shall place the employee on leave which shall not exceed four months. A permanent employee shall be entitled to utilize any accrued vacation during this time. If the employee is unable to return to work at the end of the medical leave of absence, the employee may request additional medical leaves of absence from the department head, the granting of which will be subject to the approval of the Administrative Officer.

A department head or the Administrative Officer may require medical evidence from the employee's physician or may request the employee be examined by the County's physician to determine that such leave of absence is medically necessary.

This provision shall have no effect on an employee's right to request disability retirement at any time.

1411. Medical Leave of Absence, Work Related. An employee who becomes disabled as a result of an accident or illness arising out of and in the course of employment with the County shall be eligible to receive a medical leave of absence without pay for the period following the employee's depletion of paid sick leave and compensatory time off. The employee shall be entitled to utilize any accrued vacation during this time. Eligibility for medical leave of absence without pay shall be granted upon submission of satisfactory medical evidence to the County or its insurance carrier or by a ruling by the Workers' Compensation Appeals Board that the employee is disabled. Such medical leave of absence without pay may be terminated after notice to the employee when application for disability compensation is concluded by an agreed settlement of the application or a permanent disability award by the Workers' Compensation Appeals Board.
1412. Compulsory Leave of Absence. The appointing authority may require an employee incapacitated from work due to illness, injury, or other cause to submit to a designated physician for examination at the County's expense, and may require the employee to take such leave of absence as will be necessary to enable the individual to again perform the required duties.
1413. Rights and Responsibilities Under Leave of Absence.
  - a. An employee shall not be entitled to a leave of absence as a matter of right but only upon approval as prescribed herein, except as provided in Section 1401.
  - b. A leave of absence may be revoked by the approving authority upon evidence that the cause for granting it was misrepresented or has ceased to exist.
  - c. Failure to report for duty after a leave of absence has not been granted, expired, been disapproved, revoked, or cancelled by the approving authority, or any other failure to report for duty as scheduled, after such leave of absence, shall be considered an abandonment and constructive resignation of employment as provided in section SB 1408.
  - d. When a leave of absence is granted a probationary employee, any period of such leave exceeding fifteen days shall not be credited toward the completion of the employee's probationary period.
  - e. The granting of a leave of absence gives to the employee the definite and absolute right to return to that position at the expiration of the leave time authorized provided that the position has not been abolished nor subjected to layoff. An employee may return prior to the expiration of the authorized leave time with the approval of the appointing authority. When a leave of absence is granted to accept a position in the unclassified service of the County, the

employee shall not have the absolute right to return to the former position but shall have the right to have his or her name placed on the appropriate reinstatement list. An employee who is granted a leave of absence from a position in the classified service for the purpose of accepting an appointment to fill the unexpired term of a vacant elective position shall have the right to return to the previous position at the end of such expired term, or before such date with the approval of the Board of Supervisors.

- f. Whenever an employee is absent due to illness or disability, the appointing authority may require that the employee qualify in a medical examination or evaluation prior to employee's returning to work. Failure to qualify in such an examination shall result, after expiration of the employee's accrued sick leave, in further leave of absence or separation of the employee, as may be authorized in accordance with these Rules.

1414. Appointment to Fill Vacancy During Leave of Absence. An appointment to a position vacated as a result of a leave of absence shall be made from names certified from an appropriate eligible list in the same manner as provided for permanent appointments, except that an individual appointed to such a position shall be notified, in writing, by the appointing authority that the duration of his employment shall be subject to the return of the individual who is on leave. This provision shall apply likewise to any successive appointments made to the same position.

The name of an individual appointed from an eligible list to fill a position vacated as a result of a leave of absence shall remain on that eligible list, and he shall be certified to future permanent positions in the same manner as if he had not been certified and appointed to the vacancy.

1415. Records. Each department head shall keep complete records of attendance and leave of absence, including a physician's certificate when required, and all such records shall be available to the Auditor, Administrative Officer, and the Board of Supervisors for the purpose of ascertaining and preparing payrolls.