



## SANTA BARBARA COUNTY

### FAMILY CARE AND MEDICAL LEAVE POLICY

#### I. STATEMENT OF POLICY

To the extent not already provided for under current leave policies and provisions, Santa Barbara County will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA") and any amendments or updates thereto. Unless otherwise provided by this article, "leave" under this article shall mean leave pursuant to the FMLA and CFRA.

The coordination of family leave with the other types of County leave is described under Section XI. Coordination of FMLA/CFRA Leave with Other County Policies. In cases of employee illness, a period of "family leave" is coded as a "medical" leave for payroll purposes under the County leave of absence policies and sick leave may be used. For leaves for other than an employee's own illness, see Section VI. Employee Benefits While on Leave" for information on how each type of leave should be designated on County time cards.

#### II. DEFINITIONS

- A. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. "Single 12-month period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
- C. "Child" means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or step-child.

A child is "incapable of self care" if he/she requires active assistance or supervision to provide daily self care in three or more activities of daily living or instrumental activities of daily living – such as, caring for grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

- D.** “Parent” means the biological, adoptive, step or foster parent of an employee, or an individual who stands or stood *in loco parentis* (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- E.** “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.
- F.** “Domestic Partner” as defined by Family Code §§ 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA Leave.
- G.** “Serious Health Condition” - means an illness, injury, impairment, or physical or mental condition that involves:
- 1.** Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery there from); or
  - 2.** Continuing Treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes 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 serious health condition of more than three full 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 within 30 days of the first day of incapacity, unless extenuating circumstances exist by a health care provider, by a nurse, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
      - ii) Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
    - b) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law an employee disabled by pregnancy is entitled to Pregnancy Disability Leave).

- 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 periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse;
  - 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.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
- 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 restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

**H. "Health Care Provider" means:**

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treat or supervise treatment of a serious health condition;
3. 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) authorized to practice in California and performing within the scope of their practice as defined under California State law;
4. Nurse practitioners and nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
6. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

- I. “Active Duty or Call to Active Duty Status” means a military assignment in response to a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation for members of the Reserve components, the National Guard, and certain retired members of the Regular Armed Forces and retired Reserve while serving on active duty status during a war or national emergency declared by the President or Congress.
- J. “Contingency Operation” means a military operation that is (1) designated by the Secretary of Defense as an operation in which members of the United States Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (2) that results in the call to order to, or retention on, active duty members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
- K. “Covered Servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.
- L. “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- M. “Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- N. “Serious Injury or Illness” means an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.

### **III. REASONS FOR LEAVE**

Family leave is only permitted for the following reasons:

1. The birth of a child or to care for a newborn child of an employee;
2. The placement of a child with an employee in connection with the adoption or foster care of a child;
3. Leave to care for a child, parent, spouse or domestic partner who has a serious health condition;
4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position, including both work-related and non-work-related illness or injury (Please note: employees in “safety classifications” cannot be placed on family leave while receiving disability pay in lieu of workers’ compensation temporary disability payments under provisions of California Labor Code Section 4850); or
5. Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (under the FMLA only, not the CFRA); or
6. Leave to care for a spouse, son, daughter, parent, or “next of kin” servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

#### **IV. EMPLOYEES ELIGIBLE FOR LEAVE**

An employee is eligible for family leave if the employee:

1. Has been employed for at least 12 months; and
2. Has worked for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. Please note: Time spent on paid leave (such as vacation or sick time) or unpaid leave (such as an authorized leave without pay) is not counted towards hours worked.

#### **V. AMOUNT OF LEAVE**

Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for a covered service member) of leave during any 12-month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first. For part-time employees, a workweek is defined as the employee’s regular schedule during that week. For example, if an employee only works 4 days during a regular workweek, those 4 days would constitute that employee’s regular workweek.

##### **A. Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

## **B. Spouses Both Employed By Santa Barbara County**

In any case in which a husband and wife both employed by Santa Barbara County are entitled to FMLA or CFRA protected leave, the aggregate number of workweeks of leave to which both may be entitled is 12 each, for an aggregate of 24 workweeks total during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). Any eligibility for FMLA and CFRA protected leave will run concurrently, but no more than 12 weeks aggregate will be charged against protected leave available under either statute.

In any case in which a husband and wife both employed by Santa Barbara County are entitled to FMLA or CFRA protected leave, the aggregate number of workweeks of leave to which both may be entitled is 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

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

Family leave may be taken intermittently or on a reduced leave schedule. "Intermittent Leave" is leave taken in separate blocks of time due to a single qualifying reason, rather than for one continuous period of time, and may include leave periods from one hour or more to several weeks. "Reduced leave schedule" means a leave schedule that reduces the employee's usual number of hours per workweek or workday, usually from full to part-time. The maximum amount of intermittent leave is prorated according to the number of hours in a work week. For a 40 hour per work week schedule, 12 weeks' leave equals 480 hours of leave (40 x 12). Leave hours taken during an employee's regular work schedule would be counted against this total. For a 30 hour per work week schedule, 12 weeks of leave equals 360 hours of leave (30 X 12).

Intermittent leave or leave on a reduced schedule taken for bonding with a child, whether after birth, adoption, or foster care placement of a child with the employee, shall be concluded within one year of the birth or placement of the

child. The usual minimum duration of the leave shall be two weeks. However, an employee may take a leave of less than two weeks' duration on any two occasions during the year.

However, where leave is taken to care for a sick family member or for the employee's own serious health condition, intermittent leave or leave on a reduced schedule may be taken when "medically necessary" and documented by a "Physician's Medical Statement (see FMLA forms). Employees must have a medical need for such leave and it must be that such medical need can be best accommodated through an intermittent leave or reduced leave schedule. Employees needing such leave must attempt to schedule their leave so as not to disrupt their department's operations. In this case, employees on a reduced or intermittent leave schedule may be assigned to an alternative position with equivalent pay and benefits that better accommodates the employee's needs.

## **VI. EMPLOYEE BENEFITS WHILE ON LEAVE**

### **A. Salary**

Leave provided under this policy is unpaid, however, an employee may elect to use accrued paid leave balances as described in Section VII, below.

### **B. Employee Benefits**

While on leave, an employee will continue to be covered by Santa Barbara County's group health insurance to the same extent that coverage is provided while the employee is on the job. An employee will also continue to be covered under Santa Barbara County's non-health benefit plans which are paid for by the County such as basic life and long term disability insurance under the terms of the respective policies. Other voluntary non-health plans, such as personal accident and optional life insurance plans, can also be continued in the same manner as health coverage.

If there is premium cost to the employee under the preceding health and non-health benefit plans while the employee is regularly at work, the employee must make the appropriate and timely premium payments for continued coverage by payroll deductions or direct payments for these plans to the Human Resources, Employee Benefits Division while on leave.

It is the employee's responsibility to notify their department of the need for family leave and to contact the Human Resources, Employee Benefits Division to make arrangements for payment of his/her premiums. For each benefit plan an employee is enrolled in, the Employee Benefits Division will inform the employee of the amount they owe to Santa Barbara County and the due dates to continue coverage. An employee's coverage on a particular plan may be dropped if he/she is more than 30 days late in making a premium payment. However, an employee will receive a notice at least 15 days before coverage is to cease, advising the

employee that he/she will be dropped if the employee is more than 30 days late in making a premium payment. The cancellation date will be retroactive to the last covered period for which the employee has paid. Employee contribution rates are subject to any change in premiums that occurs while the employee is on leave.

Payment of an employee's benefit cash allowance is prorated based on the amount of accrued paid leave balances used (ex. vacation & sick leave) and any hours worked each pay period. If an employee is in a paid leave status, accrued leave may be used to pay employee benefit premiums due as provided in County policies. In order to avoid loss of benefits, arrangements for direct payments to the Employee Benefits Division should be made as soon as the leave period is known.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, Santa Barbara County shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The County may recover its share of health plan premiums by initiating legal action or based upon the express written authorization of the employee.

### **C. Retirement**

Retirement contributions are paid on a pro-rated basis by Santa Barbara County during family leave only on vacation, holiday, sick, other paid leave hours used and any hours worked. No contributions are made on unpaid hours during the period of leave. Santa Barbara County Employees' Retirement System (SBCERS) should be consulted for specific information. Leave accruals, such as vacation and sick leave, do not continue during unpaid leave. Employees on family leave who may also be entitled to workers' compensation benefits must apply for and receive approval for these benefits from General Services, Risk Management Division.

## **VII. SUBSTITUTION OF ACCRUED PAID LEAVES**

While on leave under this Policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves such as sick, vacation, or accrued overtime as authorized in County policies. Similarly, Santa Barbara County *will* require an employee to use family care and medical leave concurrently with a non-FMLA/CFRA leave which would qualify as an FMLA/CFRA leave. In other words, even if an employee is not placed on an FMLA or CFRA leave, if the reason for that leave would otherwise qualify it as an FMLA or CFRA leave, the County may designate that leave as an FMLA or CFRA leave and reduce that leave entitlement as leave is used. This includes medical leaves which qualify for workers' compensation or state disability (SDI) and meet the

definition of a serious illness.

**A. Employee's Right to Use Accrued Paid Leaves Concurrently With Family Leave**

Where an employee has earned or accrued paid vacation or compensatory time or has rights to request administrative leave, that paid leave, if approved by their department, may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

1. The leave is for the employee's own serious health condition; or
2. The leave is needed to care for a parent, spouse or child with a serious health condition, and would be permitted as sick leave under the Santa Barbara County's sick leave policy. Up to 6 days (48 hours) may be used for this purpose (pro-rated for part-time employees)

Sick leave may not be used during the bonding period with an employee's newborn, adopted or foster child.

**B. Santa Barbara County's Right to Require an Employee to Use Paid Leave When Using FMLA or CFRA Leave**

1. Employees are required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
2. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

**C. Santa Barbara County's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently With Other Leaves**

If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying including leave for a work related injury or illness, Santa Barbara County may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code §4850, in which case, the County may begin running the employee's FMLA/CFRA entitlement after the Labor Code §4850 period has ended.

**D. Santa Barbara County and Employee's Rights If an Employee Requests Accrued Leave without Mentioning Either the FMLA or CFRA**

If an employee requests to utilize accrued vacation, sick leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, Santa Barbara County may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if Santa Barbara County denies the employee's request and the employee

provides information that the requested time off is for a FMLA/CFRA qualifying purpose, Santa Barbara County may inquire further into the reason for the absence. If the reason is FMLA/CFRA qualifying, Santa Barbara County may require the employee to exhaust accrued leave as described above.

## **VIII. MEDICAL CERTIFICATION**

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by Santa Barbara County. See Employee or Family Member Medical Certification forms.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

Employees who request leave to care for a covered service member who is a child, parent or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness.

The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

### **A. Time To Provide A Certification**

When an employee's leave is foreseeable and at least 30 days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to their supervisor within the time frame requested by their department (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

### **B. Consequences For Failure To Provide An Adequate Or Timely Certification**

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to provide the missing information.

However, if an employee fails to provide a medical certification within the time frame established by this policy, the employee's department may delay the taking

of FMLA/CFRA leave until the required certification is provided.

### **C. Second and Third Medical Opinions**

Consistent with applicable law, and only in the case of an employee's serious health condition, the County reserves the right, at the County's own expense, to require the employee to submit to an examination by a second health care provider selected by the County, but not employed on a regular basis by the County. Second opinions cannot be requested for the serious health condition of an employee's family member. If a third medical opinion is required a third health care provider shall be jointly selected and approved by the County and the employee, and this provider's opinion shall be binding.

If the employee's absence/leave has already begun during this medical review process, the employee may be considered to have provisionally taken FMLA and/or CFRA, pending the result of the examinations by the second, and if necessary, third health care provider.

### **D. Intermittent Leave Or Leave On A Reduced Leave Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

## **IX. EMPLOYEE NOTICE OF LEAVE**

Although Santa Barbara County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. The County will notify the employee of their eligibility to take FMLA/CFRA leave within the time period required by the applicable law. Except for qualifying exigency leave, where the employee's need for FMLA or CFRA leave is foreseeable, reasonable advance notice is required. Reasonable advance notice is defined as follows:

1. If the need for a leave becomes known more than 30 days before the leave is to begin, the employee must provide at least 30 days written advance notice to the County.
2. If the need for an FMLA or CFRA leave becomes known less than 30 days prior to the date the leave is to begin, the employee must provide written notice where possible to the County within five days of learning of the need for a leave.

In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the

employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the employee's department determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the department may delay the granting of the leave until it can, in its discretion; adequately cover the position with a substitute employee.

For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

## **X. REINSTATEMENT UPON RETURN FROM LEAVE**

### **A. Right to Reinstatement**

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and their department, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

### **B. Employee's Obligation to Periodically Report On His/Her Condition**

Employees *may* be required to periodically report on their intent to return to work. This obligation to periodically report does not refer to the Recertification Requirement as determined by applicable law and relates to the department's ability to adequately staff the vacancy and for the department to avoid any delays in reinstatement when the employee is ready to return.

### **C. Fitness for Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee may be required by their department to obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

### **D. Failure to Return from Approved Leave of Absence**

Failure to report for duty after the approved of leave of absence period has expired shall be considered an abandonment and constructive resignation of employment as

provided in Civil Service Rule 1408.

### **E. Reinstatement of “Key” Employees**

A "key employee" is a salaried FMLA/CFRA eligible County employee who is among the highest paid ten (10) percent of all County employees. The County may refuse to reinstate a key employee if the denial of reinstatement can prevent "substantial and grievous economic injury" to County operations. A "key employee" must be given a written notice of potential denial of reinstatement when the employee begins time off work under the FMLA/CFRA provisions.

If the County makes a good faith determination that substantial and grievous economic injury to County operations will result if a key employee who has begun his/her FMLA/CFRA leave is reinstated, the County must notify the "key employee" in writing of the intent to deny restoration. In such a case, a key employee's entitlement to group health plan benefits will continue until the twelve (12) week leave period ends, or until the date the employee advises his/her Department that he or she does not desire restoration to employment, at the end of the FMLA/CFRA period.

## **XI. COORDINATION OF FMLA/CFRA LEAVE WITH OTHER COUNTY POLICIES & STATUTES**

Both the FMLA and the CFRA provide for unpaid leave of absence entitlements to employees who meet the requirements described above. In addition, the County has additional leave policies that must be coordinated with these leave entitlements.

Where an employee meets the requirements for a non-work related medical leave (Civil Service Rule 1410) and the definition of serious illness above, County departments have the right to approve up to four months *medical* leave of absence. This leave runs concurrently with the FMLA/CFRA period so long as the department notifies the employee that their family leave entitlement will be used. Any leave beyond this four month period must be approved by the department with the concurrence of the County Executive Office. This leave period should be coded as an Illness/Accident (non-work related leave) for payroll purposes.

Where an employee meets the requirements for a work-related medical leave (Civil Service Rule 1411) and the definition of serious illness above, County departments should place the employee on a *medical* leave (Illness/Accident work related) and notify the employee that this leave will run concurrently with their family leave entitlement. If Risk Management has not accepted this illness/injury as work related, departments shall place the employee on a *non-work related medical leave* until this decision is made. If the employee's illness/injury is subsequently accepted as a workers' compensation illness/injury, the leave reason can then be changed to a *work-related medical leave*. Please note: Employees in "safety classifications" cannot be placed on family leave while receiving disability pay in lieu of workers' compensation temporary disability payments under provision of California Labor Code Section 4850.

Pregnancy Disability / Maternity Leave - Employees on leave for pregnancy and birth of a child are covered by the State Pregnancy Disability statute (Gov. Code Section 12945). This statute allows employers to authorize up to four months medical leave of absence if medically necessary. Employees are expected to provide a physician's certificate to determine the length of this medical disability period. The initial pregnancy disability leave period should be coded as a *maternity leave* and is treated the same as other medical leaves for benefit purposes. After this period, if the employee requests additional time off for bonding with the newborn child, this time off is authorized by the CFRA and can be up to 12 weeks in addition to the pregnancy disability period. This second leave period (for bonding) should be coded as *family leave*. Sick leave cannot be used during this second *family leave* period. In addition, *family leave* should also be coded for fathers who take time off to bond with their newborn child(ren) or for either parent to bond with newly adopted or foster children.

Employees taking time off to care for a seriously ill child, parent or spouse are entitled to family leave. This leave period should be coded as *family leave* and the employee is entitled to the same County health insurance contributions and benefit rights as other employees for family leave reasons. Use of sick leave during this period is restricted to six days per calendar year per family member.

Upon return to work, if an employee is on an unpaid leave of absence, their leave accrual date will need to be adjusted forward to reflect the number of days the employee was on unpaid leave (Civil Service Rule 1406). If the employee was on unpaid leave in excess of 30 days their salary anniversary dates will also need to be moved forward one month for each calendar month or major fraction thereof, of unpaid leave (Civil Service Rule 409(f)).

In the case of an employee's serious illness, if at any time during or at the conclusion of the employee's leave of absence it appears that an employee will be unable to return to work in the foreseeable future, the employee or their department should contact the Barbara County Employees' Retirement System (SBCERS) staff to request information about obtaining a disability retirement.

## **XII. REQUIRED FORMS**

Employees must fill out the following applicable forms in connection with leave under this policy:

1. "Employee Request For Family/Medical Leave" form" prepared by Santa Barbara County to be eligible for leave. **Note: Employees will receive a Notice of Eligibility and Rights & Responsibilities (FMLA/CFRA) response to their request which will set forth certain conditions of the leave.**
2. "Medical Certification – Employee's Serious Health Condition" form to be used for the employee's own serious health condition, or "Medical Certification – Employee's Family Member" form to be used for the serious health condition of a child, parent, spouse or domestic partner;

3. "Permission to Contact Personal Health Care Provider" form
4. "Fitness For Duty To Return From Leave Certification" form if required by employee's department.

Authority

State Code: Government Code Sections 12945.2 & 19702.3 State Regs: Title 2 CCR 7297 et seq Federal Code: 29 USC 2611 et seq. Federal Regs: 29 CFR Part 825