

## CHAPTER 14. LEAVES OF ABSENCE

### SECTION 14.1. LEAVES OF ABSENCE.

- A. A permanent employee may request a leave of absence of up to one year by submitting a written request for consideration to the appointing authority. Leaves of up to one year require approval of the appointing authority and the Personnel Director, or his/her designee. The Personnel Director, or his/her designee, may grant or deny the requested leave of absence for some or all of the requested period. Requests for leaves of absence shall not be unreasonably denied.
- B. With regard to an employee holding a position deemed by the Personnel Director, or his/her designee, to be a position that must be filled for legitimate business reasons, the absent employee's position may be filled if the Personnel Director, or his/her designee, creates a collateral position and the absent employee is moved into that collateral position. During the period of leave granted to the absent employee, the employee moved to the collateral position shall retain the right to return to an existing position in the employee's department in the class he occupied at the time the leave was granted in a manner otherwise consistent with the procedures set forth in Chapter 17.
- C. Such an appointment is either a provisional appointment or a probationary appointment as described in Chapter 6, depending on whether a complete eligible list exists.
- D. The appointing authority may require the returning employee to submit to a medical examination, if the leave of absence was due to health reasons, in order to demonstrate the employee's fitness to return to duty.

SECTION 14.2. INDUSTRIAL LEAVES OF ABSENCE. The County shall continue making its portion of Health Plan payments, including dependent premiums, for employees who are on medical leave without pay due to on-the-job disability for a maximum of 26 pay periods. If applicable, this benefit shall run concurrently with the provisions of the Federal Family and Medical Leave Act, the California Pregnancy Disability Leave Act, and the California Family Rights Act. Workers' Compensation benefits shall not be considered as pay when applied to this section.

### SECTION 14.3. RELEASE FROM DUTY.

- A. When the best interest of the County requires the immediate removal of the employee from his position, any employee may be released from regularly assigned duties with pay and benefits by the appointing authority for a period not to exceed 80 working hours upon the approval of the Personnel Director, or his/her designee. Upon showing of good cause by the appointing authority, such release from duty may be extended up to an additional 80 work hours by the

Personnel Director or his/her designee.

- B. When an employee who voluntarily participated in a smallpox vaccination or other bioterrorism response or preparedness program is unable to work for up to 24 hours or three work days as a result of the vaccination, the Public Health Director may recommend, subject to the approval of the Personnel Director, or his/her designee, that the employee be released from duty with pay for that period of time. Additional release from duty not to exceed a total of 160 hours may be approved by the Personnel Director, or his/her designee, for other compelling reasons related to bioterrorism preparedness or response.

SECTION 14.4. LEAVE AFFORDED UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA), INCLUDING SERVICEMEMBER FMLA AND THE CALIFORNIA FAMILY RIGHTS ACT (CFRA).

- A. Notices. Shasta County provides eligible employees with the leaves of absence identified in the Federal Family and Medical Leave Act (FMLA), including Servicemember FMLA, and the California Family Rights Act (CFRA). The rights and responsibilities for employers and employees in connection with these leaves are described in the following documents located online at the Shasta County Support Services, Personnel internet ([www.co.shasta.ca.us](http://www.co.shasta.ca.us)) and intranet (<http://intranet/shasta-county>) websites: Employee Rights and Responsibilities Under the Federal Family and Medical Leave Act; Employee Rights and Responsibilities Under the California Family Rights Act and/or Pregnancy Disability Leave Law.
- B. The Leave Policy. Under the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), eligible employees may take up to 12 weeks of unpaid Family and Medical Leave within a calendar year and, subject to any defense allowed under the law, be restored to the same or an equivalent position upon the employee's return from leave provided: (1) the employee has worked for the County for at least 12 months, and for at least 1,250 hours in the 12 months immediately preceding the commencement of the leave; and (2) the employee is employed at a worksite that has 50 or more employees within a 75-mile radius.

Except where prohibited by law, FMLA leave and CFRA leave will run concurrently.

- C. Reasons for Leave. An employee may take Family and Medical Leave for any of the following reasons:
  - 1. The birth of a child and to care for or bond with such child;

2. The placement of a child with the employee for adoption or foster care and to care for or bond with the newly-placed child;
3. To care for a spouse, registered domestic partner, child, or parent ("covered relation") with a serious health condition; or
4. Because of the employee's own serious health condition that renders the employee unable to perform an essential function of his/her position.

Leave because of reasons "1" or "2" must be completed within the 12-month period beginning on the date of birth, adoption, or placement. In addition, spouses employed by the County who request leave because of reasons "1" or "2" only may take a combined total of 12 weeks leave during any 12-month period.

- D. Notice of Leave. If an employee's need for Family and Medical Leave is foreseeable, he/she must give the County at least 30 days' prior notice of the need for leave, preferably in writing. If this is not possible or the need for leave is unforeseeable, the employee must at least give notice as soon as practicable (generally either the same day or the next business day after learning of the need for leave). Failure to provide such notice may be grounds for delay of leave. Additionally, if the employee is planning a medical treatment, he/she must consult with the County first regarding the dates of such treatment.
- E. Medical Certification and Recertification. If an employee is requesting leave because of his/her own or a covered relation's serious health condition, the employee must provide appropriate medical certification from the relevant health care provider within 15 calendar days after the request for leave, if practicable. Medical certification forms are located online at the Shasta County Support Services, Personnel internet ([www.co.shasta.ca.us](http://www.co.shasta.ca.us)) and intranet (<http://intranet/shasta-county>) websites. If the employee provides at least 30 days' notice before the commencement of the leave, he/she should provide the medical certification before leave begins. Failure to timely provide a complete and clear medical certification may be grounds for delay or denial of leave, or for non- designation of the leave as either FMLA or CFRA leave.

The County, at its expense, may require an examination by a second health care provider designated by the County, if it reasonably doubts the medical certification the employee initially provides for his or her own serious health condition. If the second health care provider's opinion conflicts with the original medical certification, the County, at its expense, may, but is not required to, retain a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

The County may require a new medical certification annually if a serious health condition continues beyond one calendar year. The County may also require recertification under certain circumstances, such as when a current certification expires, upon request for an extension of the leave, after the expiration of the anticipated minimum duration of the serious health condition, if circumstances have changed, at six (6) month intervals for certain conditions, or as the law may otherwise allow or require. Failure to timely provide (within 15 days if practicable) a complete and clear medical certification may be grounds for delay or denial of leave, or for non- designation of the leave as either FMLA or CFRA leave.

- F. Reporting While on Leave. If an employee takes leave because of his/her own serious health condition or to care for a covered family relation, the employee must contact the County as directed regarding the status of the condition and his/her intention to return to work. In addition, the employee must give reasonable notice (within two (2) business days if feasible) if the dates of leave change or are extended or initially were unknown.
- G. Pay Status. Family and Medical Leave is unpaid leave unless an employee has accrued leave balances (including compensatory time off, administrative leave, holiday credit, vacation, and sick leave). Where the employee has accrued leave balances, the following will apply:
  - 1. Where the leave is for Reasons (1) or (2) in Section 14.4(C), the employee must use accrued vacation, administrative leave, holiday credit, and/or compensatory time off prior to unpaid leave.
  - 2. Where the leave is for Reason (4) in Section 14.4(C), the employee must use accrued personal sick leave, vacation, administrative leave, holiday credit, and/or compensatory time off prior to unpaid leave.
  - 3. Where the leave is for Reason (3) in Section 14.4(C), the employee must use accrued vacation, administrative leave, holiday credit, and/or compensatory time off prior to unpaid leave. The employee also has the option, but is not required, to use accrued family sick leave.
  - 4. However, if an employee is receiving wage replacement benefits including, but not limited to, State Disability Insurance (SDI), Paid Family Leave (PFL) insurance, or workers' compensation payments, while taking FMLA/CFRA leave, the employee will not be required to coordinate accrued leave balances with these benefits unless he/she so chooses. An employee must notify Payroll immediately if/when he/she receives wage replacement benefits and if he/she wishes

accrued leave to be coordinated with these benefits.

The substitution of paid leave for unpaid leave does not extend the maximum 12-week leave period. Further, in no case may the substitution of paid leave for unpaid leave, or coordinating leave balances with wage replacement benefits, result in the employee receiving more than 100% of his/her salary. If the employee is not eligible to substitute paid leave, he/she may still be eligible for unpaid Family and Medical Leave. An employee will not earn any additional paid time off during the unpaid portion of his/her leave.

H. Medical and Other Benefits. The County will continue to make its normal premium contribution towards an employee's group health plan while he/she is on FMLA or CFRA leave for up to 12 weeks in a 12 month period.

1. The employee must pay his/her normal share of the premium, for himself/herself and his/her dependents, in order to maintain health benefits. If the employee is in a pay status, his/her portion of the premium will be deducted from his/her paycheck. If the employee is not in a pay status, his/her premium payment must reach the Payroll Division of the Auditor's Office by the first of the month.
2. After twelve weeks, if the employee is not in a pay status but has been granted additional leave, he/she may continue to participate in the group health plan, without interruption, by paying the full premium amount by the first of the month. The employee is responsible to contact the Auditor's Office to determine if payment must be paid directly to the Auditor's Office and/or directly to the insurance provider. An employee has a minimum 30-day grace period in which to make premium payments.
3. If payment is not made timely, the employee's group health insurance may be canceled, provided the employee is notified in writing at least 15 days before the date that his/her health coverage will lapse.
4. If an employee does not return to work following his/her leave for a reason other than the continuation, recurrence, or onset of a serious health condition which would entitle him/her to FMLA or CFRA leave, or other circumstances beyond the employee's control, he/she may be required to reimburse the County for its share of health insurance premiums paid on the employee's behalf during his/her FMLA/CFRA leave.

- a. With respect to CFRA leave, an employee is deemed to

have failed to return from leave if he/she works less than 30 days after returning from CFRA leave. An employee who retires during CFRA leave or during the first 30 days after returning is deemed to have returned from leave.

- I. Intermittent and Reduced Schedule Leave. Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the usual number of hours an employee works per workweek or workday) if there is a medical need for the leave, and if that need can be best accommodated through an intermittent or reduced leave schedule. Employees also may be eligible for certain intermittent leave or reduced schedule leave for birth or placement of a child if the County agrees to such leave.

For salaried employees the County may reduce an employee's salary based on the amount of time actually worked. An employee may use accrued leave balances to make up the difference.

In addition, if the employee needs leave intermittently or on a reduced schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the County's operations.

If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee, a family member, or a covered servicemember, or if the County agrees to permit intermittent or reduced schedule leave for the birth or placement of a child, the County may temporarily transfer him/her to an available alternative position for which the employee is qualified that better accommodates his/her recurring leave and has equivalent pay and benefits.

- J. Returning from Leave.

- 1. Return to Work Certification. If an employee takes leave because of his/her own serious health condition (except if the employee is taking intermittent or reduced schedule leave), he/she cannot return to work until the employee provides the County with a return-to-work medical certification form from his/her health care provider that states he/she is fit to return to work (and listing any limitations or restrictions on his/her ability to perform the essential functions of his/her former position). No employee will be permitted to resume work until a return-to-work medical certification is provided.
- 2. Return to Work Certification In Connection With Intermittent Leave or Reduced Schedule Leave. The County is entitled to a certification of

fitness to return to duty for absences taken on an intermittent or reduced leave schedule once every 30 days if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based on the serious health condition for which the employee took such leave. The term "reasonable safety concerns" means a reasonable belief of significant risk of harm to the individual employee or others.

3. Reinstatement. Under most circumstances, an employee who returns from a Family and Medical Leave will be reinstated to his or her original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if he/she had been continuously employed rather than on leave.

K. Servicemember Family and Medical Leave. The federal Family and Medical Leave Act provides eligible employees time off from work for a covered family member's service in the Armed Forces ("Servicemember FMLA"). This policy supplements the County's current FMLA policy and provides general notice of an employee's rights to Servicemember FMLA. Except as mentioned below, an employee's rights and obligations with respect to Servicemember FMLA are governed by the existing FMLA policy (as previously described) to the extent it is applicable.

1. Leave Entitlement. Servicemember FMLA provides eligible employees with unpaid leave for either of the following reasons:

- a. Qualifying Exigency. A "qualifying exigency" arising out of the fact that a spouse, parent or child of the employee is on covered active duty or has been notified of an impending call or order to covered active duty.

- i. The term "covered active duty" means either of the following:

- (1) If the spouse, parent or child is a member of the regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country;
- (2) If the spouse, parent, or child is a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country

under a call or order to active duty.

- ii. An eligible employee may take FMLA leave for any of the following "qualifying exigencies:"

- (1) Short notice deployment (fewer than seven (7) days' notice),

- (2) Military events and related activities,

- (3) Childcare and school activities,

- (4) Financial and legal arrangements,

- (5) Counseling,

- (6) Rest and recuperation,

- (7) Post-deployment activities, and

- (8) Other additional activities to address events that arise out of the covered military member's covered active duty or call to covered active duty.

- b. To Care for a Covered Servicemember. To care for an employee's spouse, parent, child or next of kin who is an ill or injured covered servicemember.

- i. The term "ill or injured covered servicemember" means either of the following:

- (1) A 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 an injury or illness that was incurred in the line of duty while on active duty in the Armed Forces (or existed before the beginning of active duty and was aggravated by service in the line of duty on active duty in the Armed Forces), and that may render the family member medically unfit to perform the duties of the member's



office, grade, rank or rating.

(2) A veteran who:

- a. Is undergoing medical treatment, recuperation, or therapy, for a qualifying (as determined by the U.S. Secretary of Labor) injury or illness that was incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran; and
- b. Was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy

2. Duration of Servicemember FMLA.

- a. Qualifying Exigency When leave is due to a “qualifying exigency,” an eligible employee may take up to 12 workweeks of leave during a calendar year. However, unless another covered reason applies, leave because of “short-notice” deployment may not exceed seven (7) calendar days, beginning on the date a covered military member is notified of an impending call or order to active duty in support of a contingency operation.
- b. To Care for a Covered Servicemember. When leave is to care for an injured or ill servicemember, an eligible employee may take up to 26 workweeks of leave during a single 12-month period for that purpose. The 12-month period is measured forward from the first day of leave.

Any portion of the 26 workweeks of leave remaining at the end of the single 12- month period is forfeited.

An eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered servicemembers or to care for the same servicemember with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any single 12-month period.

When an eligible employee takes leave to care for more than one covered servicemember or for a subsequent serious injury or illness of the same covered servicemember, and the “single 12-month periods” corresponding to the different leave entitlements overlap, the employee is limited to taking no more than 26 workweeks of leave in each “single 12-month period.”

An eligible employee may take leave to care for an injured or ill servicemember and may also take other Family and Medical-qualifying leave during a single 12-month period. However, the leave for other Family and Medical qualifying reasons cannot exceed 12 work weeks and the total amount of all leaves may not exceed 26 workweeks in a single 12-month period.

If an employee and his/her spouse both work for the County, their combined leave can be limited to 26 weeks in a single 12-month period if the leave is taken for (1) birth of the employee’s son or daughter or to care for the child after birth; (2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; (3) to care for the employee’s parent with a serious health condition; or (4) to care for a covered servicemember with a serious injury or illness.

Servicemember FMLA runs concurrent with other leave entitlements provided under federal, state and local law, including, but not limited to, CFRA leave and the leave described in Section 14.7 (Leave for Spouses and Registered Domestic Partners of Persons Serving in the Military).

If leave to care for a covered servicemember is taken concurrently with leave for another FMLA-qualifying reason, the leave will first be designated as servicemember leave.

Leave that qualifies under the FMLA as both (1) leave to care for a covered servicemember and (2) leave to care for a family member with a serious health condition during the single 12-month period will not be designated and counted as both FMLA leave to care for a covered servicemember and FMLA leave to care for a family member with a serious health condition. It will be designated as FMLA leave to care for a covered servicemember.

3. Notice of Need for Servicemember FMLA. An employee must provide as much advance notice as practicable of his/her need for Servicemember FMLA. If the leave is for the planned medical treatment of a covered servicemember, the employee must provide 30 days' advance notice, unless such notice is not practicable. If 30 days' notice is not practicable, the employee must provide notice as soon as is practicable.
4. Certification. If an employee is requesting leave for a "qualifying exigency," the County may require him/her to provide a copy of the covered servicemember's active duty orders or other documentation verifying the covered servicemember is on active duty or has been called to active duty to support a contingency operation, and the dates of active service. The County may also require the employee to provide a certification verifying eligibility for leave.

If an employee is requesting leave to care for a covered servicemember, the County may require him/her to provide a medical certification from an authorized health care provider verifying certain information regarding the covered servicemember and his or her injury or illness. For purposes of this certification, the term "health care provider" includes: (a) a United States Department of Defense health care provider; (b) a United States Department of Veterans Affairs health care provider; (c) a United States Department of Defense TRICARE network authorized private health care provider; or (d) a United States Department of Defense non-network TRICARE authorized health care provider.

5. Verification. If an employee requests leave because of a "qualifying exigency," the County may contact the Department of Defense to verify the covered servicemember is on or has been called to duty. Additionally, if the employee is taking leave to meet with a third party, the County may contact the third party to verify the meeting and its purpose.

6. Pay Status. Servicemember FMLA is unpaid leave unless an employee has accrued leave balances (including compensatory time off, administrative leave, holiday credit, vacation, and sick leave). Where the employee has accrued leave balances, the following will apply:
- a. Where the leave is for a qualifying exigency, the employee must use accrued vacation, administrative leave, holiday credit, and/or compensatory time off prior to unpaid leave.
  - b. Where the leave is to care for a covered servicemember, the employee must use accrued vacation, administrative leave, holiday credit, and/or compensatory time off prior to unpaid leave. The employee also has the option, but is not required, to use accrued family sick leave.
  - c. However, if an employee is receiving wage replacement benefits including, but not limited to, State Disability Insurance (SDI), Paid Family Leave (PFL) insurance, or workers' compensation payments, while taking Servicemember FMLA, the employee will not be required to coordinate accrued leave balances with these benefits unless he/she so chooses. An employee must notify Payroll immediately if/when he/she receives wage replacement benefits and if he/she wishes accrued leave to be coordinated with these benefits.

The substitution of paid leave for unpaid leave does not extend the maximum leave period. Further, in no case may the substitution of paid leave for unpaid leave, or coordinating leave balances with wage replacement benefits, result in the employee receiving more than 100% of his/her salary. If the employee is not eligible to substitute paid leave, he/she may still be eligible for unpaid Servicemember FMLA. An employee will not earn any additional paid time off during the unpaid portion of his/her leave.

7. Medical and Other Benefits. The County will continue to make its normal premium contribution towards an employee's group health plan while he/she is on Servicemember FMLA.

- a. The employee must pay his/her normal share of the

premium, for himself/herself and his/her dependents, in order to maintain health benefits. If the employee is in a pay status, his/her portion of the premium will be deducted from his/her paycheck. If the employee is not in a pay status, his/her premium payment must reach the Payroll Division of the Auditor's Office by the first of the month.

- b. After expiration of the FMLA leave entitlement, if the employee is not in a pay status but has been granted additional leave, he/she may continue to participate in the group health plan, without interruption, by paying the full premium amount by the first of the month. The employee is responsible to contact the Auditor's Office to determine if payment must be paid directly to the Auditor's Office and/or directly to the insurance provider. An employee has a minimum 30-day grace period in which to make premium payments.
- c. If payment is not made timely, the employee's group health insurance may be canceled, provided the employee is notified in writing at least 15 days before the date that his/her health coverage will lapse.
- d. If an employee does not return to work following his/her Servicemember FMLA leave for a reason other than the continuation, recurrence, or onset of a serious health condition which would entitle him/her to FMLA leave, or other circumstances beyond the employee's control, he/she may be required to reimburse the County for its share of health insurance premiums paid on the employee's behalf during his/her Servicemember FMLA leave.

#### SECTION 14.5 PREGNANCY DISABILITY LEAVE/REASONABLE ACCOMMODATION.

- A. Notice. Shasta County complies with the Pregnancy Disability Leave (PDL) and reasonable accommodation provisions of the California Fair Employment and Housing Act (FEHA). The rights and responsibilities for employers and employees in connection with PDL are described in the following document located online at the Shasta County Support Services, Personnel internet ([www.co.shasta.ca.us](http://www.co.shasta.ca.us)) and intranet (<http://intranet/shasta-county>) websites: Employee Rights and Responsibilities Under the California Family Rights Act, and/or Pregnancy Disability Leave Law.
- B. Pregnancy Disability Transfer & Reasonable Accommodations. The County will provide reasonable accommodations for a female employee for conditions related to pregnancy,

childbirth, or related medical conditions, if she so requests, with the advice of her health care provider. This includes, but is not limited to, temporarily transferring a pregnant female employee to a less strenuous or hazardous position or to less strenuous or hazardous duties for the duration of her pregnancy, if she so requests, with the advice of her physician, where that transfer can be reasonably accommodated.

C. Pregnancy Disability Leave. If a female employee is disabled by pregnancy, childbirth or related medical conditions, or needs to take time off for prenatal care, she is entitled to take an unpaid pregnancy disability leave of up to four months for the period of time she is actually disabled.

1. A “four month leave” means the number of days the employee would normally work within four months. For a full time employee who works five eight- hour days per week, “four months” means 88 eight-hour days of leave entitlement. For employees who work more or less than five days a week, or who work on alternative work schedules, the number of working days which constitutes “four months” is calculated on a pro rata or proportional basis.
2. Leave may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the employee’s health care provider.
3. A pregnancy disability leave contains a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under the law.

D. Notice. If an employee’s need for a pregnancy disability leave or transfer is foreseeable, she must give the County at least 30 days’ prior notice of the need for leave or transfer, preferably in writing. If this is not practicable or the need for leave is unforeseeable, the employee must at least give notice as soon as practicable (generally either the same day or the next business day after learning of the need for leave). Failure to provide such notice may be grounds for delay of leave. Additionally, the employee must consult with the county and make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption to County operations. Any such scheduling will be subject to the approval of the employee’s health care provider.

E. Medical Certification & Recertification. In connection with a request for a pregnancy disability leave or transfer, the employee must provide appropriate medical certification from the relevant health care provider within 15 calendar days after the request for leave, if practicable. A medical certification form is located online at the Shasta County Support Services, Personnel internet ([www.co.shasta.ca.us](http://www.co.shasta.ca.us)) and intranet (<http://intranet/shasta-county>) websites. If the employee provides at least 30 days' notice before the commencement of the leave, he/she should provide the medical certification before leave

begins. Failure to timely provide a complete and clear medical certification may be grounds for delay or denial of the leave or transfer, or for non-designation of the leave as Pregnancy Disability Leave.

1. The certification indicating disability necessitating a leave should contain:
  - a. The date on which the woman became disabled due to pregnancy.
  - b. The probable duration of the period or periods of disability, and
  - c. An explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.
2. The certification indicating the medical advisability of a transfer should contain:
  - a. The date on which the need to transfer became medically advisable,
  - b. The probable duration of the period or periods of the need to transfer, and
  - c. An explanatory statement that, due to the woman's pregnancy, the transfer is medically advisable.

Upon the expiration of the time period which the health care provider originally estimated that the employee needed, the County may require the employee to obtain recertification if additional time is requested by the employee.

F. Pay Status. Pregnancy Disability Leave is unpaid leave unless an employee has accrued leave balances (including compensatory time off, administrative leave, holiday credit, vacation, and sick leave). Where the employee has accrued leave balances, the following will apply:

1. The employee must use accrued sick leave. The employee also has the option, but is not required, to use vacation and other accrued leave balances.
2. However, if an employee is receiving wage replacement benefits including, but not limited to, State Disability Insurance (SDI), Paid

Family Leave (PFL) insurance, or workers' compensation payments, while taking Pregnancy Disability Leave, the employee will not be required to coordinate accrued leave balances with these benefits unless he/she so chooses. An employee must notify Payroll immediately if/when she receives wage replacement benefits and if she wishes accrued leave to be coordinated with these benefits.

The substitution of paid leave for unpaid leave does not extend the maximum leave period. Further, in no case may the substitution of paid leave for unpaid leave, or coordinating leave balances with wage replacement benefits, result in the employee receiving more than 100% of his/her salary. If the employee is not eligible to substitute paid leave, she may still be eligible for unpaid Pregnancy Disability Leave. An employee will not earn any additional paid time off during the unpaid portion of his/her leave.

- G. Relationship with CFRA Leave. If an employee is eligible for a Pregnancy Disability Leave and for a CFRA leave, the County will not run Pregnancy Disability Leave concurrently with a CFRA leave. An eligible employee may be able to take both a Pregnancy Disability Leave and a subsequent CFRA leave for the reason of the birth of her child.

However, if the employee is eligible for a Pregnancy Disability Leave and for an FMLA leave, the County will run the Pregnancy Disability Leave concurrently with the FMLA leave.

- H. Medical and Other Benefits. The County will maintain and pay for group health coverage for an employee on approved Pregnancy Disability Leave for up to four (4) months over the course of a 12-month period per pregnancy, beginning on the date that the leave begins and at the same level and under the same conditions as if the employee had not taken leave. To the maximum extent and period of time allowable by law, such Pregnancy Disability Leave shall be simultaneously designated as FMLA leave. The employee may receive up to an additional twelve weeks of this health insurance benefit during a subsequent CFRA leave for the reason of the birth of her child.

1. The employee must pay her normal share of the premium, for herself and her dependents, in order to maintain health benefits.
  - a. If the employee is in a pay status, her portion of the premium will be deducted from her paycheck.
  - b. If the employee is not in a pay status, the employee is responsible to contact the Auditor Controller's office to determine if payment must be made directly to the Auditor's Office by the first of the month and/or directly to the insurance provider per the provider's timeliness requirements.



2. After all eligible protected FMLA, Pregnancy Disability Leave, and CFRA leave has been exhausted, if the employee is not in a pay status, she may continue to participate in the group health plan, without interruption, by paying the full premium amount by the first of the month. The employee is responsible to contact the Auditor's Office to determine if payment must be paid directly to the Auditor's Office and/or directly to the insurance provider. An employee has a minimum 30-day grace period in which to make premium payments.
3. If payment is not made timely, the employee's group health insurance may be canceled, provided the employee is notified in writing at least 15 days before the date that his/her health coverage will lapse.
4. If an employee does not return to work following her leave for a reason other than the continuation, recurrence, or onset of a serious health condition which would entitle her to FMLA, CFRA, or Pregnancy Disability Leave, or other circumstances beyond the employee's control, she may be required to reimburse the County for its share of health insurance premiums paid on the employee's behalf during her FMLA, CFRA, or Pregnancy Disability Leave.
  - a. With respect to CFRA leave, an employee is deemed to have failed to return from leave if he/she works less than 30 days after returning from CFRA leave. An employee who retires during CFRA leave or during the first 30 days after returning is deemed to have returned from leave.]

SECTION 14.6. MILITARY LEAVE OF ABSENCE POLICY. This policy is a restatement of the provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) and the California Military and Veterans Code as they relate to leaves of absence for military duty. This policy is intended to describe in lay terms the conditions and benefits of military leaves of absence as prescribed by federal and state law. There is no intention to create any rights or benefits in addition to those in the law except as described in Section 14.6.1. There is also no intention to deprive the County of any defenses as allowed by state or federal law. Where there may be a conflict or question of interpretation or change, the actual language of the law applies.

- A. Definition of "Military Duty Leave of Absence": Except as otherwise noted in this section, the term "military duty leave of absence" is defined as a leave of absence from County employment to engage in the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty,

a period for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by federal law.

- B. Right of Reemployment from Military Duty Leave of Absence. An employee returning from a military duty leave of absence who is otherwise entitled to reemployment under state and federal law, shall be promptly reemployed as follows:

1. Service of less than 91 days in the uniformed services:

- a. Employee shall be reemployed in the position that he would have attained if he had been continuously employed, so long as he is qualified for the position or can become qualified after reasonable efforts by the County to qualify the person.
- b. If the employee is not qualified for the position mentioned in subsection 14.6.B.1.a above, the employee shall be reemployed in the position of employment in which the employee was employed on the date of the commencement of the service in the uniformed services.

2. Service for more than 90 days in the uniformed services:

- a. Employee shall be reemployed in the position that he would have attained if he had been continuously employed, or a position of like seniority, status and pay, so long as he is qualified for the position or can become qualified after reasonable efforts by the County to qualify the person.
- b. If the employee is not qualified for the position(s) mentioned in subsection 14.6.B.2.a above, the employee shall be reemployed in the position of employment in which the employee was employed, or, if such position has ceased to exist, a position of like seniority, status, and pay, the duties of which the employee is qualified to perform.

3. Employees With Disabilities

In the case of an employee who has a disability incurred in, or aggravated during service in the uniformed services and who (after reasonable efforts by the County to accommodate the disability) is not qualified due to such disability to be employed in the position that he or should would have attained if he had remained

continuously employed:

- a. The employee shall be reemployed in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the County; or
- b. If not employed under subsection 14.6.B.3.a above, in a position which is the nearest approximation to a position referred to in subsection 14.6.B.3.a above, in terms of seniority, status, and pay consistent with the circumstances of each person's case.

#### 4. Employees No Longer Qualified for Reemployment Positions

In the case of an employee who is not qualified for the employment positions stated under subsection 14.6.B.1 or subsection 14.6.B.2 above, and cannot become qualified with reasonable efforts by the County for such employment positions:

- a. The employee shall be reemployed in any other position which is the nearest approximation to, first, the position of employment that he would have attained if he had remained continuously employed, and then, to the position that he held at the time he commenced service in the uniformed services, which such employee is qualified to perform, with full seniority.

#### 5. Temporary or Seasonal Positions

As a general rule, the County is not required to reemploy an employee if the employment he left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period.

### C. Health Insurance Benefits

1. An employee on a military duty leave of absence for less than 31 days shall have his health insurance benefits continue with the County paying its regular share and the employee paying his regular share for such coverage.
2. An employee on a military duty leave of absence for 31 days or more may elect to continue coverage, including coverage for any dependents, for up to a 24 month period and may not be required to

pay more than 102% of the full premium.

#### D. Pension Benefits

An employee reemployed from a military duty leave of absence shall be credited with time spent on a military duty leave of absence for purposes of retirement (in accordance with the California Public Employees' Retirement System laws and policies.)

#### E. Accrual of Leaves and Use of Accrued Leaves

1. Except as otherwise provided in this Chapter, an employee shall not accrue vacation, sick leave, or other paid leaves, during the period he is on a military duty leave of absence.
2. An employee is permitted to use appropriate accrued leave balances while on a military duty leave of absence. However, the County does not require an employee to use accrued leave balances while on a military duty leave of absence.

#### F. Salary or Compensation While On a Military Duty Leave of Absence

Except as otherwise provided in this Chapter, the County shall not pay the employee his regular salary or compensation while on a military duty leave of absence.

#### G. Benefits and Obligations Upon Reemployment

1. An employee who is reemployed from a military duty leave of absence is entitled to the seniority and other rights and benefits determined by seniority that the employee had on the date he commenced service in the uniformed services, plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.
2. An employee who is reemployed from a military duty leave of absence is entitled to such other rights and benefits not determined by seniority as are generally provided by the County to employees having similar seniority, status, and pay who are on a comparable leave of absence under a County Personnel Rule or applicable provision of an MOU in effect at the commencement of such service in the uniformed services or established while such person performs such service. An employee shall not be entitled to any benefits under this subsection to which the employee would not otherwise be entitled if the employee had remained continuously employed.

- a. To the extent required by state and federal law, an employee shall be credited with time spent on a military duty leave of absence for purposes of promotion and merit salary increases.
    - b. To the extent required by state and federal law, the employee shall be placed on the step in the salary range that would have been attained had the employee not entered into military service.
  - 3. If an employee is serving a probationary period at the time he commences a military duty leave of absence, the employee's probationary period shall be extended by the length of the absence.
  - 4. USERRA provides that an employee who is reemployed from a military duty leave of absence shall not be discharged from such employment except for cause:
    - a. Within one year after the date of such reemployment, if the person's period of uniformed service before the reemployment was more than 180 days; or
    - b. Within 180 days after the date of such reemployment, if the person's period of uniformed service before the reemployment was more than 30 days but less than 181 days.
  - 5. Subsection 14.6.G.4 above serves only to provide notice of the USERRA provisions and does not confer any substantive rights on employees beyond what is provided for in USERRA. It does not create a "property interest" in employment and it does not confer any "due process" rights or appeal rights on employees.
- H. Paid Temporary Military Duty Leave of Absence - This is defined as a leave of absence from County employment to engage in ordered military duty (exclusive of inactive duty training, such as drills or regularly scheduled weekend meetings) for a period not to exceed 180 calendar days, including travel time, for purposes of active military training, encampment, naval cruises, special exercises, or like activity as a member of the reserve corps or Armed Forces of the United States, or the National Guard, or the Naval Militia.
- 1. The following shall apply to any Paid Temporary Military Duty Leave of Absence:
    - a. Eligibility-To be eligible for a Paid Temporary Military Duty leave of absence, employees must meet the following requirements:
      - i. Be a regular employee, occupying a regularly

budgeted position and working a minimum of 20 hours per week (extra help employees are not eligible for such leave).

- ii. Have been employed by the County for not less than one year immediately prior to the date upon which leave begins (time previously spent by the employee in recognized military service shall be used in computing the one year of employment).

b. Effect on Compensation/Benefits - During an approved Paid Temporary Military Duty Leave of Absence, employees shall:

- i. Be entitled to receive their regular salary and compensation as County employees for the first 30 calendar days of such leave in any one fiscal year.
- ii. Accrue the same vacation, sick leave and holiday privileges they would have enjoyed had they not been absent. The right to accrue vacation, sick leave, and holiday privileges will also apply to a period of ordered inactive duty training that does not exceed 180 calendar days.

I. Inactive Duty Training Such as Weekend Drills or Regularly Scheduled Meetings - Employees who are required to attend inactive duty training, such as monthly weekend drills and/or regularly scheduled meetings, that coincide with their regular working days, shall have the option of using any previously earned vacation or compensatory time, or being placed on voluntary time off without pay for such periods of time.

J. Paid Regular Active Military Duty Leave - This is defined as a leave of absence for full-time military service as a result of being ordered into active duty as a member of the Reserves, National Guard or Naval Militia or as a result of induction, enlistment or otherwise being ordered or called into active duty as a member of the Armed Forces of the United States. The following shall apply to any Paid Regular Active Military Duty Leave:

1. Eligibility - To be eligible for a Paid Regular Active Military Duty Leave of Absence, an employee must:

- a. Have been employed by the County for not less than one year immediately prior to the date upon which the leave begins (National Guard members called into service during a state of extreme emergency proclaimed by the Governor are not required to meet the one year service requirement).

2. Effect on Compensation/Benefits - During an approved Paid Regular Active Military Duty Leave, employees shall:

- a. Be entitled to receive their regular salary and compensation as County employees for the first 30 calendar days of such leave in any one fiscal year. However, National Guard members called into service during a state of extreme emergency proclaimed by the Governor may receive their regular salary and compensation for the first 30 calendar days of any declared emergency in the state regardless of the number of emergencies declared during a fiscal year.
- b. Not be entitled to sick leave, vacation or other salary and compensation during the period of active military service. However, National Guard members called into service during a state of extreme emergency proclaimed by the Governor shall be entitled to accrue vacation and holiday privileges, but not sick leave, for the first 30 calendar days of such leave.

K. Maximum Salary or Compensation Allowance

Except as otherwise provided in this Chapter, no more than the pay for a period of 30 calendar days shall be allowed under the provisions of subsections 14.6.H (Paid Temporary Military Duty Leave of Absence) and 14.6.J (Paid Regular Active Military Duty Leave) for any one military leave of absence or during any one fiscal year. However, National Guard members called into service during a state of extreme emergency proclaimed by the Governor may receive their regular salary and compensation for the first 30 calendar days of any declared emergency in the state regardless of the number of emergencies declared during a fiscal year.

- L. Military Duty Orders - It shall be the responsibility of the employee concerned to provide his immediate supervisor with a copy of the orders specifying a tour of military duty for the employee. These orders shall be presented in sufficient time, if possible, prior to the start of the military duty tour, to permit review for the eligibility, obtaining required approvals, and the processing of paperwork for a leave of absence. (See Jury Duty/Military Leave form online at the Shasta County Support Services, Personnel internet ([www.co.shasta.ca.us](http://www.co.shasta.ca.us)) and intranet (<http://intranet/shasta-county>) websites.)

SECTION 14.6.1. TEMPORARY AMENDMENT TO SECTION 14.6., MILITARY LEAVE OF ABSENCE POLICY.

On November 13, 2001, the Shasta County Board of Supervisors temporarily amended Section 14.6, MILITARY LEAVE OF ABSENCE POLICY, of the Shasta County Personnel Rules as

follows:

For regular County employees called to temporary or regular active military duty on or after September 11, 2001 in response to the acts of terrorism that were inflicted upon the United States that day or the war on global terrorism that have been proclaimed by the President of the United States, the requirement for one year of County service as referenced in 14.6 A 1 a (2) [Paid Temporary Military Duty Leave (See Now subsection 14.6.H.1.a.(2))] and 14.6 B 1 b [Paid Regular Active Military Duty Leave (See Now subsection 14.6.J.1.b)] is waived, and said employees will receive supplemental compensation equivalent to the difference between their regular County and military pay for up to 365 calendar days for qualified military service in addition to the 30 days of regular salary referenced in 14.6 A 1 b (1) [See Now subsection 14.6.H.1.b.(1)] and 14.6 B 2 a [See Now subsection 14.6.J.2.a].

This amendment does not bestow any additional benefits to qualified employees other than supplemental compensation as described herein. This supplemental compensation is not intended to be paid leave time, but rather a special stipend attached to military pay. PERS does not accept this supplemental compensation to be considered for contributions toward the PERS retirement plan. Payroll will develop procedures for employees to follow so they will receive special compensation concurrently with military pay. This temporary amendment does not affect any other benefits provided for under the Military Leave of Absence Policy or any requirements for receiving such benefits.

This temporary amendment (Section 14.6.1) will sunset as of July 1, 2003 unless the Board of Supervisors acts to suspend it earlier than that date or to extend it beyond that date. Employees on military leave subject to this amendment on or before June 30, 2003 will continue to receive supplemental compensation until their qualified military service ceases or they exhaust their 365 calendar days of supplemental compensation, whichever comes first.

On May 13, 2003, the Shasta County Board of Supervisors extended the term of this temporary amendment to July 1, 2004. On June 22, 2004, the Shasta County Board of Supervisors extended the term of this temporary amendment to July 1, 2007. On December 18, 2007, the Shasta County Board of Supervisors approved the continuation of this benefit retroactive to July 1, 2007, and extended the term of this temporary amendment to July 1, 2010. On November 9, 2010, the Board reauthorized this temporary amendment for the period July 1, 2010 up to July 1, 2012.

#### SECTION 14.7. LEAVE FOR SPOUSES AND REGISTERED DOMESTIC PARTNERS OF PERSONS SERVING IN THE MILITARY.

This policy is designed to implement California law providing that spouses and registered domestic partners of members of the Armed Forces, National Guard, or Reserves, be allowed to take up to 10 days of unpaid leave when their respective spouses and registered domestic partners are on leave from deployment during a period of military conflict.

A. Employees Qualified for Leave. To be qualified for leave, an employee must meet the



following criteria:

1. The employee must be the spouse or a registered domestic partner of a person who is any of the following:
  - a. A member of the Armed Forces of the United States who has been deployed during a period of military conflict in an area designated as a combat theater or combat zone by the President of the United States.
  - b. A member of the National Guard who has been deployed during a period of military conflict.
  - c. A member of the Reserves who has been deployed during a period of military conflict.
2. The employee must perform service for the County for an average of 20 or more hours per week.
3. The employee must provide his/her Department Head, or his/her designee, with notice, within two business days of receiving official notice that his spouse or registered domestic partners will be on leave from deployment, of his intention to take the leave provided for in this section.
4. The employee must submit written documentation to his/her Department Head, or his/her designee, certifying that his spouse or registered domestic partner will be on leave from deployment during the time off provided for in this section is requested.

#### B. Amount of Leave

1. A qualified employee shall be allowed to take up to ten days of unpaid leave during a period when his spouse or registered domestic partner is on leave from deployment during a period of military conflict.
2. This section shall not affect or prevent a qualified employee from taking a leave that he is otherwise entitled to take.
3. The employee may use appropriate accrued leave balances concurrently with the leave provided for in this section. The County may also require the employee to use appropriate accrued leave balances concurrently with the leave provided for in this section.

### C. No Retaliation

A qualified employee shall not be subject to retaliation for requesting or taking the leave provided for in this section.

SECTION 14.8. RETURN FROM LEAVE. An employee shall notify the Department Head, or his/her designee, as soon as possible in advance of an anticipated early return from leave. No employee shall be permitted to return from leave due to illness or injury without proper medical clearance. Written notification shall be made to the Personnel Director, or his/her designee, by the Department Head, or his/her designee, of return from leave or failure to return.