

1.0 PURPOSE

- 1.1 Military leave is governed by the provisions of the California Military and Veterans Code.

2.0 POLICY

- 2.1 The request of an employee who has permanent status for military leave of absence can be honored by the Director of Human Resources, only if the employee includes with their request a copy of their military orders.

3.0 PROCEDURE

- 3.1 This request is submitted not less than fifteen (15) days prior to the effective leave date unless an emergency arises preventing this.
- 3.2 A copy of the leave papers and the appropriate notification documents is submitted to the Director of Human Resources prior to the effective date of leave.
- 3.3 The granting of leave and payment therefore are not inseparable matters, but are mandatory under certain specific conditions specified by the Military and Veterans Code.
- 3.4 The Director of Human Resources will abide by the Military and Veterans Code in determining the appropriateness of leave and payment.
- 3.5 When the leave is to care for a covered military service member, second and third opinions shall not be required if the first certification was completed by:
 - 1) A United States Department of Defense (DOD) health care provider;
 - 2) A United States Department of Veterans Affairs (VA) health care provider;
 - 3) A DOD TRICARE network authorized private health care provider; or
 - 4) A DOD non-network TRICARE authorized private health care provider.
 - 5) However, second and third opinions may be required when the first certification was completed by a health care provider other than is provided herein.
 - 6) If the leave is requested to care for a covered service member who is a child, spouse, parent, or next of kin of the employee, the employee must provide written certification from the covered service member's health care provider regarding the service member's serious health condition.

7) The written certification required by this section shall be done on DOL forms WH-385 or WH385-V. These forms can be obtained from the Human Resources Department, local offices of the Wage and Hour Division of the Department of Labor, or the Internet at www.dol.gov.whd.

8) In lieu of the DOL forms WH-385 or WH385- V, the employee may submit invitational travel orders or invitational travel authorizations issued to the employee to join a covered military service member at their bedside.

9) Qualifying Exigency: The first time an employee requests leave because of a qualifying exigency, the employee shall provide a copy of the military member's active duty orders, or other documentation issued by the military, which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the Human Resources Department 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 military member.

10) If the leave is requested in cases of adoption or foster care placement, the employee must provide written verification, such as an adoptive home study, an adoption placement agreement, or a juvenile court order.

3.6 Benefits While on Leave: Leave under this rule is unpaid unless the employee is using their accrued paid leave concurrently with leave under this rule. While on unpaid leave, an employee will not accrue sick, vacation, or any other leave balances and will not be entitled to holiday or other similar compensation.

1) While on leave provided pursuant to this rule, and if the employee was enrolled in the County's group health insurance at the time the leave commences, the employee will continue to be covered by County's group health insurance for the duration of the leave. The employee is required however, to continue paying the employee's share of premium payments, if, any. Additionally, the County may be entitled to reimbursement of its share of premium payments, from the employee, should the employee fail to return from leave. Cash in-lieu will be paid only during paid status.

2) Any obligation the County may have to maintain health insurance coverage ceases if an employee's premium share is more than thirty (30) days late.

3.7 Return from Leave: Upon expiration of leave, the employee shall be returned 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.

1) As a condition of return to employment for an employee whose leave was due to the employee's own serious health condition which made the employee unable to perform the essential functions of their job, the employee must obtain, and present to the Human Resources Department, a fitness-for-duty certification from the health care provider stating the employee is able to perform the essential functions of their job, without restriction.

a) If the employee provides the County with certification that accommodations are required as a condition of the employee's return to work, the County will engage in a process with the employee to determine if the employee can be reasonably accommodated.

b) If, at the end of the leave provided for pursuant to these rules, the employee is unable to return to work with or without restrictions, the employee will be given an opportunity to engage in the interactive process with the Human Resources Department regarding the employee's options, if any.

3.8 Key Employees: The County may deny a Key Employee's Medical and Family Leave if:

1) The employee is a Key Employee; and

2) The denial is necessary to prevent substantial and grievous economic injury to the operations of the County; and

3) The County notifies the Key Employee of the intent to deny the Key Employee's request for leave at the time the County determines the denial is necessary; and

4) In the case the leave pursuant to these rules already commenced, the County shall give the Key Employee a reasonable opportunity to return to work following the notice.

3.9 Extension of Probationary Period: An eligible probationary employee who requests and receives leave under this rule shall have their probationary period extended for the full period of the leave taken.