



# County of Yolo

## Administrative Policies and Procedures Manual

TITLE: FAMILY & MEDICAL LEAVE ACT OF 1993	DEPARTMENT: HUMAN RESOURCES
TYPE: <b>POLICY</b>	DATE: JUNE 1994

### **A. GENERAL PURPOSE**

This policy describes the circumstances and conditions under which an employee may take family care and medical leave in accordance with the provisions of the Family and Medical Leave Act (FMLA). The policy is applicable to all County departments, and provides a uniform procedure for processing requests for leaves available under the FMLA to all eligible County employees. It is separate and distinct from any other leave policies, procedures, or memorandum of understanding provisions, which are available to Yolo County employees.

### **B. GENERAL APPLICATION**

The FMLA leave policy will not diminish the County's obligation to comply with any memorandum of understanding, County policy, or benefits plan that provides the greatest benefit to the employee. When applicable, this policy will supplement leaves available to employees through memorandums of understanding or other County leave policies and will represent the County's policy and guide for applying FMLA leaves when memorandums of understanding, County policies, and State leave laws are silent or less generous than the leaves available under the Federal Family and Medical Leave Act. This policy will be made available and shall apply equally to both male and female employees.

### **C. AVAILABLE LEAVE**

Eligible employees are entitled to take up to 12 workweeks of leave during the 12 months measured forward, beginning on the date qualifying leave is first taken for any of the following purposes:

#### 1. Child Care Leave

Child Care leave can be taken by an employee for the birth, adoption, or foster-care placement of a child in order to care for the child.

- a. Child Care leave must be concluded within 12 months from the date of the birth, adoption, or foster-care placement. Foster-care must require State action, rather than just an informal arrangement to take care of another person's child.
- b. Child Care leave may be taken intermittently if approved by the employing department head. If approved, such leave may be taken in increments of 8 hours or more.
- c. Spouses who are both employees of Yolo County and who are eligible to take leave are each individually entitled to 12 workweeks of FMLA leave to care for the birth, adoption, or foster care of a child.

“Spouses” means a husband and wife in marriage as defined in California Family Code Section 300.

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- d. Limits on both spouses taking FMLA leaves during the same time periods may be applied by the County (for Child-Care leave only) if both employees work in the same department, and their concurrent absences from work represents an undue hardship on the employing department. For purposes of FMLA leaves, an “undue hardship” will exist when the absence of both spouses will adversely affect that department’s ability to effectively and efficiently conduct its business, including the impact the absences will have on the ability of other employees to perform their duties.
- e. In order to provide departments sufficient time to accommodate requests for leave, employees who foresee taking leave for FLMA Child Care purposes are encouraged to provide notice at least 30 days prior to the date leave is anticipated to begin, or such notice as may be practicable if leave becomes necessary before a 30 day notice can be given. FMLA Child Care leaves will not be denied, but may be temporarily delayed if reasonable advanced notice is not provided to the employing department.

### 2. Family-Care Leave

Family-Care leave can be taken by an eligible employee for care of a family member (spouse, son, daughter, or parent) who has a serious health condition.

- a. For purposes of FMLA leave a “family member” is defined as:
  - (1.) The employee’s spouse as defined in California Family Code Section 300;
  - (2.) A child (under the age of 18) who may be biological, adopted, foster, stepchild, legal ward, or one whom the employee has day-to-day care and financial responsibilities;
  - (3.) A child (over the age of 18) who is incapable of self-care because of a mental or physical disability;
  - (4.) An employee’s parent means a biological, foster or adoptive parent, a stepparent, a legal guardian, or a person who acted in place of a parent (i.e., in loco parentis) in relation to an employee when the employee was a child. A County department or Human Resources may request that an employee, requesting FMLA leave, submit proof of a parent relationship.
- b. A “serious health condition” means an illness, injury, impairment, or physical or mental condition which involves either:
  - (1.) inpatient care in a hospital, hospice, or residential health care facility; or

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- (2.) continuing treatment or continuing supervision by a health care provider of more than 3 calendar days; or
  - (3.) continuing treatment or continuing supervision by a health care provider for a chronic or long term health condition that is incurable or so serious that, if not treated, would likely result in incapacity for more than 3 calendar days; or for prenatal care.
  - c. Employees requesting leave under Family-Care must present a certification from a health care provider containing the date on which the serious health condition commenced, the probable duration of the condition, a statement that the employee is needed to care for the family member, and an estimate of the amount of time such care will be required.
  - d. Employees taking leave under Family-Care may take leave intermittently upon production of a health care provider's certification that the intermittent leave is necessary for or will assist the care of the family member. To the extent possible, such certification should provide the dates and duration any treatment and leave is expected. Employees using leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be reassigned to an alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave.
  - e. Employees who anticipate taking Family-Care leave to care for a seriously ill family member are encouraged to provide advance notice to the department as may be practicable under the circumstance surrounding the health condition. FMLA Family-Care leaves will not be denied but may be temporarily delayed if reasonable advanced notice or required medical certifications are not provided to the employing department.
3. Self-Care

Self-Care leave can be taken when an employee is unable to perform the essential functions of the position that the employee holds because of a serious health condition.

- a. Employees seeking leave for Self-Care must have a serious health condition, as defined by paragraph C.b. (1b), above.
- b. Employees requesting leave under Self-Care must provide a certification from a health care provider containing the date the serious health condition commenced, the probable duration of the condition, and a statement that the employee is unable to perform the essential functions of the position. Employees seeking the certification must provide the health care provider with the County's written job description and/or list of essential functions of the position.

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- c. Employees taking leave under Self-Care may take the leave intermittently upon production of a health care provider's certification that the intermittent leave is medically necessary. The certification must indicate, if possible, the expected duration of the leave. Employees who elect to use the available leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be reassigned temporarily to an available alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave.
- d. Employees who anticipate taking Self-Care leave for a serious health condition are encouraged to provide advanced notice to the department as may be practicable under the circumstances surrounding the health condition.

#### 4. Required Qualifications

Failure to provide the required health care medical certifications may result in denial or postponement of the leave or request for leave. The County may request, at the County's expense, that an employee submit a second opinion from a health care provider designated and approved by the County. The County may require an employee to obtain subsequent medical re-certification, on a reasonable basis, as a requirement for continued leave approval. An employee who has been on leave for Self-Care will be required to present a certification of fitness for duty from a health care provider prior to commencement of work.

#### **D. VOLUNTARY USE OF ACCRUED PAID LEAVE**

Eligible employees taking leaves under the Family and Medical Leave Act will have the option to substitute any part of their accrued vacation, holiday, sick leave, compensatory time, or any other accrued personal leave for any part of the 12 workweek period of leave, as may be authorized by the employee's Memorandum of Understanding or County policy. However, the following conditions will apply to the use of accrued FMLA paid leave:

- 1. The County will require that an employee use accrued sick leave in instances where other County employees are required to also use sick leave. The County is not required under this policy to provide paid sick leave in any situation in which the County would not normally provide paid sick leave to other employees. Sick leave will only be approved for FMLA leaves to the extent and instances as may be authorized by applicable Memorandum of Understandings or County policy.
- 2. A department may require that an employee taking leave under this policy apply the excess amount of accumulated vacation of over 120 hours (three normal work weeks) toward the FLMA leave which is not covered by sick leave.

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### **E. BENEFITS WHILE ON LEAVE**

During any period of approved leave under this policy, an employee's group health insurance coverage will be maintained at the same level and under the same conditions as before the leave began.

1. Employees who normally make a contribution toward their health insurance coverage must continue to do so. If on paid leave, the employee's contribution will be collected in the same manner as if the employee were reporting to work. During periods of unpaid leave, the employee must arrange with the payroll section of the Auditor's Office prior to commencement of the leave, for payment of the employee's share of the insurance premium.
2. An employee who does not return to duty from an unpaid leave under this policy will be liable for the County's group health insurance premium contribution and any part of the employee's share paid by the County, unless the failure to return to duty is caused by continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave under this policy or for circumstances beyond the employee's control. Where recovery of premiums is permitted, the County shall be entitled to off-set the amount against any final pay or monetary benefit to which the employee would otherwise be entitled.
3. Employees will not accrue other benefits while in an unpaid leave status, including seniority rights, unless these benefits are authorized by an applicable Memorandum of Understanding, County Code provision, or any other applicable ordinance or statute.

### **F. RETURN TO DUTY**

Upon return to duty, an employee who has been on leave is entitled to restoration to the former position, or if that is not possible, to an equivalent position with equivalent pay and benefits.

1. An employee who has taken leave for Self-Care will be required to present a certification of fitness for duty from a health care provider prior to commencement of work. Failure to provide the certification may cause denial of reinstatement.

### **G. ROLE OF HUMAN RESOURCES**

Human Resources will be responsible for ensuring that this leave policy is uniformly and equitably applied throughout all County departments. Human Resources will provide information and assistance to County departments when reviewing employee requests for FLMA leaves. All requests for FMLA, required medical certifications, and related information will be submitted by departments and reviewed by the Affirmative Action Coordinator who will decide if the request for leave meets the leave requirements of the Family and Medical Leave Act and this policy. Leaves meeting the requirements of the Act will be approved for processing by the Assistant CA0-Human Resources.

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### **H. FORMS**

All applicable FMLA forms are available from Human Resources and may be obtained upon request. Forms include:

1. Family and Medical Leave Request Form
2. FMLA Medical Certification Form
3. Your Rights Under the Family and Medical Leave Act of 1993.

### **I. COUNTY COMPLAINT PROCEDURE**

Denials of a request of FMLA leave by a County department may be appealed by an employee with the Affirmative Action Coordinator. Final authority to approve or deny a leave for FMLA reasons will rest with the Assistant CAO-Human Resources.