

**SANTA CRUZ COUNTY
PERSONNEL ADMINISTRATIVE MANUAL**

Topic: INTERRELATIONSHIP OF LEAVE POLICIES	Date Issued: July 19, 1994
Section: LEAVES OF ABSENCE	Date Revised: 2/24/98
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PURPOSE:

To explain how the various County leave of absence policies interrelate for any period necessitating an extended leave, and the restrictions on use of voluntary time off (VTO) and voluntary reduction in work hours in lieu of leave of absence without pay.

LEGAL BASIS:

- Federal Family and Medical Leave of 1993, Final Rule, January 2009 (29 C.F.R. Part 825)
- Moore-Brown-Roberti California Family Rights Act of 1993 (CA Government Code Sections 12945.2 and 19702.3)
- California Fair Employment and Housing Act

CROSS REFERENCES:

PAM V.1.C.5 Voluntary Reduction of Work Hours

PAM XIII.1.B Family Medical Leave Act (FMLA) and CA Family Rights Act (CFRA)
Leaves of Absence

PAM XIII.1.C Pregnancy Disability Leave

PAM XIII.2.A Other Medical Leave of Absence Without Pay

PAM XIII.2.B Personal/Educational Leave of Absence Without Pay

PAM XIII.2.C Voluntary Time Off (VTO) Program

PAM XIII.4 Return from Leaves of Absence

POLICY:

County policies allow employees to request unpaid leaves of absence up to a maximum continuous leave period of one year. Since some employees may request approval for a leave of absence that falls within more than one type of leave, this policy will outline the interrelationship between the various types of leave and the approvals necessary to extend leaves of absence.

I. Approval of Leaves

- A. All types of leaves of absence require departmental approval PRIOR to the start of the leave.
- B. All types of leaves of absence without pay over 160 hours for full-time employees (prorated for part-time employees---e.g., 80 hours for half-time employee and 120 hours for three-quarter time employee) also requires Personnel Department approval PRIOR to the start of the leave. For leaves qualifying under the Family and Medical Leave Act (hereafter referred to as FMLA) and Moore-Brown-Roberti California Family Rights Act of 1993 (hereafter referred to as CFRA), the employee is required to give 30 days notice if the need for the leave is foreseeable. If the need for the leave is not foreseeable, the employee is required to request the leave as far in advance as possible.
- C. To monitor compliance with state and federal laws, a department must notify the Risk Division of the Personnel Department each time it intends to deny a Pregnancy Disability or FMLA/CFRA leave request.
- D. The granting of Other Medical Leave or Personal/Educational Leave is subject to the department's discretion.

II. Use Of More Than One Type Of Leave

Since some types of leave are only available for a specific purpose, like pregnancy leave, or for a set period of time, like FMLA/CFRA Leave, employees may request a leave for a period of time that encompasses two or more different types of leave. The circumstances under which such leaves may arise and the interrelationship of such leaves is discussed below.

For purposes of simplicity, each of the categories below assumes the employee is eligible for FMLA/CFRA Leave. Employees who are not eligible for FMLA/CFRA Leave may be eligible for Other Medical Leave or Personal/Educational Leave.

1. PREGNANCY AND CHILDBIRTH

- a. An employee disabled by pregnancy is entitled to up to four months disability leave, usually taken as Other Medical Leave. Leave can be taken before or after birth during any period of time the woman is physically unable to work because of pregnancy or a pregnancy-related condition. Leave for pregnancy/childbirth is available to birth mothers only, and only during the period of time that the employee is medically disabled as a result of the pregnancy. Employees are entitled to take Pregnancy Disability

Leave in addition to any leave entitlement they might have under FMLA/CFRA.

During the period of a pregnancy-related disability, the leave will be designated as Other Medical Leave.

2. CARE FOR NEW CHILD AFTER THE BIRTH, OR PLACEMENT FOR ADOPTION OR FOSTER CARE

- a. A birth-mother requesting leave to care (“Baby Bond”) for her newborn child after she is no longer disabled due to the pregnancy may request a leave of absence under FMLA/CFRA within one year of the child’s birth. If that is no longer available to the employee the leave to care for the newborn child should be requested as Personal/ Educational Leave.
- b. Parents who adopt a child or accept a foster child placement may, within one year of the date of adoption or placement, request leave under FMLA/CFRA . If such leave is not available to the employee, the employee may request leave to care for the child as Personal/Educational Leave.
- c. Parents (non birth-mother) of newborns may request leave to care (“Baby Bond”) under FMLA/CFRA within one year of the child's birth. If such leave is not available to the employee, the employee may request leave to care for the child as Personal/Educational Leave.

3. EMPLOYEE'S OWN MEDICAL CONDITION

- a. If a leave of absence is requested for the employee's own serious medical condition, the leave will be classified as FMLA/CFRA Leave. If the employee's inability to work due to the serious medical condition continues beyond the 12 workweeks authorized under FMLA/CFRA, the employee may request an Other Medical Leave of absence.
- b. If the employee's medical condition does not qualify as a "serious medical condition" for purposes of FMLA/CFRA Leave, or if the employee is not eligible for Family Care or Medical Leave, the employee may request a leave of absence under the Other Medical Leave policy.

4. TO CARE FOR A FAMILY MEMBER

- a. Employees are entitled to take up to 12 weeks of FMLA/CFRA leave to care for a family member with a serious health condition. Employees requesting further leave to care for a family member upon the conclusion of a 12 week FMLA/CFRA Leave may request additional leave under the Personal/Educational Leave policy. Employees may request Personal/Educational Leave to care for a family member not covered by FMLA/CFRA, as may employees who are not eligible for FMLA/CFRA .
- b. Employees are entitled to take up to 26 weeks of FMLA leave to care for a Seriously Injured or Ill Servicemember. Employees requesting further leave to care for a family member upon the conclusion of a 26- week FMLA Leave may request additional leave under the Personal/Educational Leave policy. Employees may request Personal/Educational Leave to care for a servicemember not covered by FMLA/CFRA, as may employees who are not eligible for FMLA/CFRA.
- c.

Maximum Period of Leave of Absence Without Pay

The maximum amount of continuous leave of absence without pay that may be approved is one year, regardless of the type(s) of leave without pay taken. An employee may have a combination of FMLA/CFRA Leave, Other Medical Leave and Personal/Educational Leave, but the maximum amount of leave of absence without pay remains one year.

Use of Paid and Unpaid Leave, Voluntary Time Off (VTO), and Voluntary Reduction in Hours Worked

A. Use of Paid and Unpaid Leave

1. Any accrued compensatory time must be used prior to the beginning of any leave of absence without pay.
2. Any accrued sick leave must be used prior to the beginning of any medical leave of absence without pay for the employee, including Family Care or Medical leave for the employee's own serious medical condition and Other Medical Leave.
3. Employees may elect to use accrued vacation or annual leave in lieu of leave of absence without pay for Family Care or Medical Leave.
4. As a condition of granting the time off, departments may require employees to use annual leave or vacation in lieu of Other Medical Leave of absence without pay and Personal/ Educational Leave of absence without pay.

5. Departments may not authorize employees to interspersed unpaid leave with paid leave during a period of absence from work. Any paid leave (e.g., vacation, annual leave, administrative leave) must be used continuously within the scheduled hours of the employee's position either at the beginning of any leave of absence or after the conclusion of any leave of absence without pay. (For example, an employee is absent for 15 weeks to care for a parent with a serious medical condition, has one week of accrued compensatory time, and elects to use two weeks of accrued vacation during the 15 week absence. The employee must use compensatory time off for the first week of the absence, and must use the two weeks of vacation either the second and third weeks of the absence or the last two weeks of the absence.)

B. Use of Voluntary Time Off (VTO)

Departments may not approve Voluntary Time Off (VTO) in lieu of any leave of absence without pay. VTO is to be granted only for the purpose of reducing County costs during a period of serious economic difficulties rather than making permanent cuts of budgeted County positions. On February 1, 1994, the Board of Supervisors directed departments to use VTO provisions only for the purposes of attaining budgetary savings and not in lieu of FMLA or other leave of absence without pay provisions.

C. Use of Advanced Voluntary Time Off (AVTO)

During periods when AVTO has been negotiated by applicable bargaining unit(s) and approved by the Board of Supervisors, the following applies: departments may not approve AVTO in lieu of any leave of absence without pay. AVTO is to be granted only for the purpose of reducing County costs during a period of serious economic difficulties rather than making permanent cuts of budgeted County positions.

D. Voluntary Reduction of Working Hours (Work Hours less than scheduled/authorized hours)

An employee may request a voluntary reduction in work hours for various reasons, including to provide care for a family member with a serious medical condition on an intermittent or reduced hour basis (e.g., taking one afternoon off a week to care for a parent receiving chemotherapy/radiation therapy over a period of time), or for the employee to obtain treatment for the employee's own serious medical condition. Such voluntary reductions in work hours may be granted as an alternative to FMLA/CFRA. However, the employee's reduced work hours must be reflected in the Payroll System. On February 1, 1994, the Board of Supervisors directed that the scheduled hours of work be identified for payroll purposes when the hours have been reduced below

the authorized hours for the employee's position. Voluntary reductions in work hours require the prior approval of the department head and the County Administrative Officer.

- E. The use of VTO or AVTO in lieu of leave of absence without pay, the interspersing of paid leave with unpaid leave, and the failure to show an employee's reduced work hours in the Payroll System can result in disparate treatment of employees with respect to seniority for layoff, insurance coverage and contributions, and/or pay for time not worked.

V. Continuation of Employee Insurances during periods of Paid and Unpaid Leave

- A. During Paid Leave: coverage in employee insurances is continued for employees on paid time off (e.g. compensatory time off, vacation, annual leave, sick leave, administrative leave).
- B. During FMLA/CFRA Leave without Pay: Coverage in employee insurances is continued for up to 12 weeks per calendar year while an employee is on an approved Family Care or Medical Leave with County and employee contributions as if the employee was continuing work with the County.
- C. During Other Medical Leave or Personal/Educational Leave without Pay: For coverage under and for County and employee contributions for employee group insurances during Other Medical Leave or Personal/Educational Leave, see the "Continuation of Insurances during Leave of Absence Without Pay" Article of applicable Memorandum of Understanding. (This Article in the Middle Management Unit MOU also applies to Executive Management employees and employees in the District Attorneys' Unit.)

B. Return from Leaves of Absence Without Pay.

For policies regarding return from leaves of absence without pay, see Personnel Administrative Manual Section XIII.4: "Return to Work Requirements from Leave of Absence."