

**SANTA CRUZ COUNTY  
PERSONNEL ADMINISTRATIVE MANUAL**

<b>Topic:</b> OTHER MEDICAL LEAVES OF ABSENCE WITHOUT PAY	<b>Date Issued:</b> 12/16/91
<b>Section:</b> LEAVES OF ABSENCE WITHOUT PAY	<b>Date Revised:</b> 2/5/94 2/24/98 2015
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**PURPOSE:**

To identify regulations and procedures concerning leaves of absence without pay for medical reasons, (excluding pregnancy, childbirth and related medical conditions) following the expiration of any medical leave granted under the Family Care or Medical Leave of Absence Policy, or prior to being eligible for Family Care or Medical Leave.

**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 Government Code Section 12945.2
- Family Care and Medical Leave
- California Fair Employment and Housing Act, California Government Code, Title 2, Division 3, Part 2.8 , Rev. 1/1/07
- Code of Regulations Title 2, 7297.0 et. seq.
- Federal FMLA Regulations, 29 C.F.R. Part 825
- Civil Service Rule XI.B. Leave of Absence Without Pay
- Civil Service Rule XI.C. Return from Leave Absence Without Pay
- Personnel Regulations, Section 168.1 Leave of Absence Without Pay
- Personnel Regulations, Section 168.2 Absence Without Leave
- Personnel Regulations, Section 168.4 Family Care and Medical Leave Act (FMLA) and California Family Rights Act (CFRA) Leaves of Absence

See provisions of the individual Memorandum of Understanding applicable to the employee regarding continuance of insurance during any leave of absence without pay.

**CROSS REFERENCE:**

- Personnel Administrative Manual Section V.1.B.3 Substitute Appointments, regarding hiring of replacement during period of leave of absence without pay.
- Personnel Regulation Section 150

- Personnel Administrative Manual Section XIII.1.B. Family Care Medical Act (FMLA) and California Family Rights Act (CFRA) Leaves of Absence.
- Personnel Administrative Manual Section XIII.1.C. Pregnancy Disability Leaves of Absence.
- Personnel Administrative Manual Section XIII.4 Return From Leaves of Absence.
- Personnel Administrative Manual Section II.13.A. Reasonable Accommodation Guidelines.
- Personnel Administrative Manual Section II.5. Reasonable Accommodation Policy.

**POLICY:**

The County provides Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA) leaves of absence pursuant to State and Federal law for up to 12 weeks in any calendar year to eligible employees who, for medical reasons, are unable to perform the essential functions of their position. Prior to meeting the eligibility criteria for Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA) (hereafter referred to as FMLA/CFRA) leave or following the conclusion of an approved FMLA/CFRA leave, the County may provide employees who continue to be medically unable to perform the essential functions of their positions the option of requesting “Other Medical” leave of absence without pay under this policy for a combined maximum of one year of unpaid leave.

**I. CONDITIONS UNDER WHICH LEAVE MAY BE APPROVED:**

- A. A leave of absence without pay for “Other Medical” reasons is available only in the situation where an employee is medically disabled due to illness or injury prior to eligibility for or beyond the period of leave authorized under the FMLA/CFRA Leave of Absence Policy. Other Medical leaves of absence only continue for the period of continued medical certification of the employee's own medical disability.
- B. The granting of Other Medical leave of absence without pay is discretionary and must be approved in advance by the appointing authority.
- C. Any leave of absence without pay which extends 160 or more consecutive hours for a full-time employee (and prorated for part-time employees, e.g. 80 hours for a half-time employee) must also be approved in advance by the Personnel Director.
- D. Employees must give thirty (30) days advance notice of the need to take Other Medical leave of absence without pay when it is foreseeable.
- E. In the case of an unforeseeable medical emergency, when it is not reasonable to provide such advance notice, notice must be given as soon as possible (i.e., within one or two business days of when the need for

leave becomes known to the employee) before the requested leave is to begin.

- F. No leave of absence shall be granted when an employee has indicated that s/he intends to terminate or is terminating from regular County service, or where the purpose of the leave of absence without pay is to seek alternative employment.
- G. The maximum of any period of leave of absence without pay is one year. The one year maximum applies to any type of absence or combination of types (e.g. FMLA/CFRA Leave, Other Medical Leave, or Personal/Educational Leave).

## II. DOCUMENTATION REQUIRED TO INITIATE LEAVE

- A. Any leave of absence without pay of less than 160 hours for a full time employee (prorated for part-time employees, e.g. less than 80 hours for a half-time employee) must be requested by the employee on a PER1082 form (Employee Request for Time Off-Departmental), showing beginning and ending dates of the leave. These dates should be consistent with the accompanying physician's statement(s). (See C, below.)
- B. Any period of leave of absence without pay of 160 or more hours (prorated for part-time) must be requested on a PER1083 form (Employee Request for Leave Without Pay Over 160 Consecutive Hours).
- C. Leave requests for an employee's own medical reasons MUST be accompanied by a PER1081A form (Physician's Certification for Medical Leave), completed in full, by each attending physician.
- D. While an employee may submit physician's statements or other information to Risk Management for forwarding to the County's Workers' Compensation administrator, or submit applications for Long Term Disability Insurance, this does not relieve the employee of the obligation under County regulations to request a leave of absence without pay through their department and to submit the documentation for the leaves as required in paragraphs A, B and C above.
- E. An employee granted a leave of absence without pay is obligated to immediately inform his/her department of any changes in circumstances which affect the purpose or the duration of the leave of absence without pay.

## III. RIGHT TO RETURN:

- A. The granting of a leave of absence without pay to an employee who has permanent status in his/her present class guarantees the right of his/her return to a position in that class in his/her Department at the expiration of

the leave of absence without pay, or at an earlier date mutually agreed to by the employee and the appointing authority.

- B. The granting of a leave of absence without pay to an employee who does not have permanent status in his/her current class does not guarantee the right of return from the leave of absence without pay.

IV. CONDITIONS/LIMITATIONS ON USE:

- A. All employees must use ALL accrued compensatory time prior to the effective date of any leave of absence without pay.
- B. Employees must use all earned sick leave prior to the effective date of any leave of absence without pay for medical reasons, including sick leave accrued by employees in the General Representation Unit prior to 7/20/79.
- C. Departments may establish conditions pertaining to the period of leave of absence without pay and requirements for return from such leave, which must be mutually agreed to before the leave is approved. These conditions should be specified on the PER1083 form and initialed by both the department and the employee.
- D. Specific beginning and ending dates must be identified on form PER1083 for any leave of absence without pay to be approved.

V. FAILURE TO RETURN:

Any employee who fails to return upon the expiration of any leave of absence without pay shall be considered to have abandoned his/her position and to have automatically resigned.

VI. REQUESTS FOR EXTENSIONS OF LEAVES OF ABSENCE WITHOUT PAY:

- A. Any request for an extension of a leave of absence without pay for medical reasons must meet the policy and documentation requirements stated in Section II above. Extension requests must be submitted at least one week PRIOR to the expiration date of the previous leave of absence without pay.
- B. Upon submittal of the required documentation and upon receipt of the required approval, a leave of absence without pay for Other Medical reasons (or in combination with any other type of leave without pay) may be extended to a maximum of one year.

VII. MEDICAL CERTIFICATION UPON RETURN FROM LEAVE OF ABSENCE WITHOUT PAY:

- A. Before returning from an Other Medical leave of absence without pay, a current PER1086 form (Physician's Certification for Return from Medical/Disability Leave) must be received from each treating physician, completed in full, and releasing the employee to return to work. The Department shall provide the employee a copy of his/her job description to provide the treating physician(s) (along with the PER1086) for purposes of aiding the treating physician's determination of whether the employee may be released for work. Departments should NEVER permit an employee to return to work based on a note from a doctor or other health practitioner that simply releases the employee to return to work.
- B. The employee should provide the completed PER1086 form(s) to the Department at least one week PRIOR to the expiration of the leave of absence without pay so that the Department has time to review the situation and determine what accommodations, if any, can be made if the employee has work limitations.
- C. If the physician(s) place(s) limitations on duties or tasks to be performed, or if there is a question concerning the condition of the employee to perform assigned duties, the Department MUST contact the Leaves of Absence Coordinator in the Risk Division of Personnel BEFORE allowing the employee to return to work. If the department is able to accommodate the restrictions indicated by the physician, a Temporary Modified Duty Agreement (TMDA) will be required prior to the employee being granted approval for return to work.
- D. If the department is unable to accommodate the restrictions, the Leaves of Absence Coordinator will direct the Department to provide a Reasonable Accommodation Packet. The EEO Officer will work with the Department to determine any reasonable accommodation requirements (Also see Reasonable Accommodation Policy, II.5. of this manual).

VIII. BENEFITS AND INSURANCES DURING LEAVE OF ABSENCE WITHOUT PAY:

- A. Group Health Insurance
  1. Requirements for continuation of insurances are specified under the Insurance Articles of each Memorandum of Understanding between the County and employee organizations. See the particular MOU applicable to the employee.
  2. It is important that employees contact the Benefits Division in the Personnel Department (454-2241) PRIOR to the leave of absence to make arrangements for insurance coverage for themselves and any dependents during the leave. Any leave of absence without pay

of one full pay period or longer leaves the employee and any dependents without coverage. Further, should an employee elect to drop coverage for him/herself or any dependents during a leave of absence without pay, certain re-enrollment provisions apply.

B. Service Hours

During any unpaid Other Medical leave of absence an employee will not accrue service hours for purposes of step advancement, probationary period or County service hours. Similarly, no paid leave (e.g. vacation, annual leave, sick leave, or administrative leave) will accrue during any leave of absence without pay.

IX. CONSISTENT APPLICATION OF POLICY:

- A. Departments must ensure that employees returning from medical leaves of absence are able to safely perform the essential functions of their position. (See Return to work Requirements PAM XIII.4).
- B. Departments must treat employees consistently, based on business necessity, in the granting and extending of leaves of absence and returning employees from leave.

**PROCEDURE:**

I. PROCEDURE FOR REQUESTING OR EXTENDING OTHER MEDICAL LEAVES OF ABSENCE WITHOUT PAY:

- A. Before requested period of leave begins employee contacts the Benefits Division of the Personnel Department at 454-2241 concerning continuance of insurances during leave of absence without pay.
- B. Thirty (30) days before requested period of foreseeable medical leave begins employee submits to appointing authority a PER1083 form (Employee Request for Leave of Absence Without Pay Over 160 Consecutive Hours) and PER1081A form (Physician's Certification for Medical Leave) from each treating physician, completed in full. In the case of an unforeseeable medical emergency, when it is not reasonable to provide such advance notice, notice must be given as soon as possible (i.e., within one or two business days of when the need for leave becomes known to the employee) before the requested leave is to begin.
  - 1. When providing employees with copies of the PER1081A form (Physician's Certification for Medical Leave) the Department must attach a job description which identifies the essential functions of the position.
  - 2. Timely submittal of complete paperwork for leaves of absence without pay and return from such leaves is important. A lack of timeliness in submittal of complete paperwork can result in: a loss

of insurance coverage for the employee and any dependents; significant liability to the operating department if employees are permitted to return to work when such return endangers the employee's health or safety or the safety of others.

- C. Appointing Authority reviews request and documentation and approves, disapproves, or asks for missing information. If disapproves, returns to employee. If additional conditions are to be placed on the leave, the Appointing Authority must specify the conditions on the PER1083 form and have the employee initial the conditions as accepted. If approved, the Appointing Authority forwards all paperwork to the departmental payroll clerk for processing.
- D. Departmental payroll clerk verifies that the employee has exhausted all accrued compensatory time and all sick leave prior to beginning date of the Other Medical leave of absence. The payroll clerk must also identify on the PER1083 form what paid leave will be used and prepare an action form showing the beginning and ending dates of leave of absence without pay. All paperwork must be forwarded to the Personnel Department.
- E. The Records Unit in Personnel Department will log paperwork and forward to the Leaves Coordinator in the Risk Division
- F. Risk Division staff reviews request for completeness and adherence to regulations. Any discrepancies or questions are discussed with the Department. If approved on behalf of Personnel Director, forwards all paperwork to Records Unit. Leaves of Absence requests of 160 or more hours which are not approved by the Personnel Director shall immediately be returned to the Appointing Authority.
- G. Records Unit inputs approved leave of absence without pay into payroll system, completes the log, and forwards the action form to Payroll Unit of the Auditor's Office.

## II. RETURN FROM LEAVES OF ABSENCE WITHOUT PAY FOR OTHER MEDICAL REASONS:

- A. Employee submits to the Appointing Authority a PER1086 from each treating physician, completed in full, at least one week PRIOR to the ending date of the leave of absence without pay.
- B. Appointing Authority reviews PER1086 form(s) to make an initial assessment as to whether there are any work limitations which would preclude the employee from returning to work or which might require reasonable accommodation. This may require that the employee obtain additional information or missing information from the treating physician. The Department MUST contact the

Leaves of Absence Coordinator in the Risk Division of Personnel for discussion of work limitations specified on the PER1086 form(s). If there are work limitations, see C. If no limitations, see D.

- C. The Appointing Authority, if there are work restrictions indicated by the employee's physician, makes a determination if the restrictions can be accommodated by the department. If they *can accommodate*, the Appointing Authority prepares a Temporary Modified Duty Agreement (TMDA) and forwards it with the Return to Work paperwork. If the department *cannot accommodate* the Appointing Authority directs departmental payroll clerk to provide employee with a Reasonable Accommodation packet.
- D. The Appointing Authority, if satisfied that the employee is able to perform the essential functions of his/her job, and can return to work without endangering his/her health or safety or the safety of others, forwards PER1086A forms to the departmental payroll clerk for preparation of paperwork to return the employee from the leave.
- E. If the employee will be returning to work, with or without accommodations, the departmental payroll clerk prepares action form for return from leave of absence without pay, attaches all documentation, and forwards to the Personnel Department.
- F. Records Unit logs paperwork and checks for completeness and forwards it to Risk Division staff.
- G. Risk Division staff reviews action forms and documentation and discusses any questions with the Department. If approved, forwards all paperwork to Records Unit.
- H. Records Unit inputs action into the Personnel/Payroll system, and forwards a copy of action form to the Payroll Unit in the Auditor's Office.