

# EMPLOYEE LEAVE

## **Sick Leave**

The County follows Montana law on the qualification, accrual, and use of sick leave. Sick leave is an authorized paid leave of absence from work when an eligible employee or immediate family member is sick or requires care. Accumulated sick leave credits are a valuable resource that maintains an employee's income during a period of personal illness or family emergency.

### **A. Qualification and Calculation**

Employees are not entitled to use paid sick leave until they have been continuously employed for 90 days. Permanent, temporary, and seasonal full-time employees earn sick leave credits from the first full day of employment at the rate of one working day per month without restriction as to the number of working days which may be accumulated. The provisions of MCA 2-18-618 govern sick leave for County employees. Short-term workers do not earn sick leave credits.

An employee must request to use sick leave by informing their supervisor of the need.

For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals one year. Sick leave credits shall be earned and credited at the end of each pay period. Prorated sick leave credits are calculated by multiplying .046 by the number of hours worked, excluding overtime. Employees may receive cash compensation (at 25% of the available balance) for sick leave credits upon termination of their employment. Credits are to be recorded by rounding to two digits beyond the decimal point and carried in each employee's account in that configuration.

### **B. Leave Without Pay, Holiday, or Vacation Stipulations**

Employees do not accrue sick leave credits during a leave of absence without pay. Sick leave taken on a legal holiday shall not be charged to an employee's sick leave for that day. With the department head's approval, an employee may substitute sick leave credits for annual vacation leave, if the employee becomes sick while on approved annual vacation leave. Advancing sick leave after an employee's earned sick leave credits have been exhausted is prohibited.

### **C. Payment Upon Termination.**

Upon termination, an employee who has worked the qualifying period shall be entitled to a lump sum payment in an amount equal to one-fourth (25%) of the amount attributed to accumulated sick leave, may be subject to the annual VEBA vote and other qualifying factors. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's salary or wage at the time the employee terminates employment with the County. Termination pay shall apply only to credits earned according to policy since July 1, 1971, per MCA 2-18-618.

## **D. Use of Sick Leave Pay**

Sick leave pay is granted for:

- time off when an employee is unable to perform job duties because of physical or mental illness, injury or disability;
- maternity-related disability, including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child;
- parental leave as provided in MCA 2-18-606;
- quarantine resulting from exposure to contagious disease;
- consultation, examination, or treatment by a licensed health care provider;
- short-term attendance to an immediate family member or, at an agency's discretion, another relative because of physical or mental illness, injury, disability, or examination or treatment until other care can reasonably be obtained;
- necessary care of a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; and
- death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

## **E. Reporting**

Absences which will necessitate use of sick leave shall be reported by the employee to the supervisor or department head as soon as it is practical. Failure to report such leave within two hours after the beginning of the employee's regularly scheduled reporting time may be considered absence without approved leave. Absences are grounds for disciplinary action.

## **F. Abuse**

Abuse of sick leave may be cause for dismissal, forfeiture of payment for accumulated sick leave, or other disciplinary action. The employee's supervisor may require an employee to submit a medical certification signed by a licensed physician to substantiate use of sick leave.

## **Medical Exam**

The employer may require a medical exam when an employee is returning to duty following an illness or absence due to injury and the County has a reasonable belief, based on objective evidence, that the employee's ability to perform the job is impaired by a medical condition or that the employee will pose a direct threat to self or others

**Relevant Information: MCA 2-18-618 and 2-18-1311**

## **Sick Leave Grant**

### **A. Eligibility to Make a Direct Grant**

1. To be eligible to make a direct grant of sick leave, an employee shall have completed the 90-day qualifying period to take sick leave [MCA 2-18-618(1)] and shall have a minimum balance of 40 hours of accrued sick leave credited to the employee's account. The minimum balance for a part-time employee shall be prorated.
2. An employee may directly grant a maximum of 40 hours of accrued personal sick leave in any continuous 12-month period to another employee. An employee may contribute no more than a combined total of 40 hours of sick leave to as direct grants in any 12-month period. The 12-month period is calculated from the first day an employee makes a direct grant. If the employee's leave balance falls below 40 hours, the employee shall not be eligible to make a direct grant. The employee may not reduce the leave balance below 40 hours by making direct grants.
3. An employee may make a direct grant of sick leave to an eligible employee in any County department.

### **B. Eligibility to Receive Direct Grants**

1. An employee may receive no more than a maximum of 160 hours of sick leave in any continuous 12-month period in direct grants. Leave granted to a part-time employee shall be prorated. The maximum allowable benefit in any 12-month period from either direct grant
2. The 12-month period is calculated from the first day the employee takes sick leave which is a direct grant.
3. No employee is eligible to receive direct grants of sick leave. If they have more than 40 hours of accrued sick leave.
4. If an employee is incapacitated and unable to apply for leave of absence or direct grants, another person may do so on behalf of the employee.

**Relevant Information: MCA 2-18-618 and 2-18-1311**

## Voluntary Employees Beneficiary Association (VEBA)

The County offers participation in a Voluntary Employees Beneficiary Association, which allows employees to contribute termination sick leave accrual. Participation and contributions are based on annual group elections. Please see the County Clerk and Recorder for more information.

**Relevant Information: MCA 2-18-1302, et seq.**

## Annual Leave / Vacation

Annual vacation leave or annual leave is an authorized paid absence from work. Permanent, seasonal, and temporary employees are eligible to earn annual leave. An employee begins earning annual leave on the first day of employment, and must complete six calendar months (180 days) of continuous employment to use annual leave or to cash it out upon termination.

### A. Procedures for Calculating Annual Leave, Accumulating Credits, Scheduling, and Termination

Annual leave is calculated and credited each pay period based on years of service as illustrated in the chart below, and an employee can use it only after earning it. If an employee is part-time, he/she earns annual leave on a prorated basis (for example, if an employee works 20 hours per week, or half-time, he/she will earn leave at half of the full-time rate). An employee does not accrue leave for hours in an unpaid status or based on hours in an overtime status.

Rate Earned Schedule	
Years of Employment*	Working Days Credit Per Year
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years or more	24

\*Years of service need not be consecutive, and prior public or military service may apply.

An employee must request to schedule annual leave. Approval or denial of leave is based on the department's and employee's interests, and management reserves the right to deny requests. Earned vacation time must be used before leave without pay unless approved by supervisor. The total number of annual leave hours approved may not exceed the number of hours in a regular workweek.

An employee may accumulate an annual leave balance of up to two times the eligible accrual rate per year. Balances exceeding this limit are "excess." Except as provided in this policy, excess annual

vacation leave may be forfeited unless used within 90 calendar days from the last day of the calendar year in which the excess leave was earned.

Department heads are responsible for actively managing annual vacation leave for employees by providing reasonable opportunity for an employee to use rather than forfeit accumulated annual vacation leave as provided in MCA 2-18-617. To avoid forfeiture of annual leave, management is encouraged to work with employees who have excess vacation leave balances as early as possible in the 90-day grace period or at an earlier time if the employee's leave balance is projected to exceed two times the annual vacation accrual rate.

Employees are responsible for making a reasonable written request to use excess annual leave during the 90-day grace period. Agency management may approve all, some, or none of the employee's request by written response. If the original request is not approved, management and the employee may negotiate alternate leave dates during the 90-day grace period. If management denies all or any portion of the written request, management and the employee must work together to ensure that the employee may use the excess annual leave before the end of the calendar year. Any excess annual leave not used by the end of the calendar year in which the grace period was extended must be forfeited.

If an employee terminates employment after the eligibility period, he/she can receive cash compensation at the regular rate, or can transfer or donate unused annual leave balance, unless the termination was for a reason reflecting discredit on the employee.

## **B. Permanent Full-time Employees**

Permanent full-time employees earn annual vacation leave credits from the first day of employment. They are not entitled to annual vacation leave with pay until they have been employed for six calendar months.

## **C. Permanent Part-time Employees**

Permanent part-time employees earn prorated annual vacation leave credits from the first day of employment. They are not entitled to annual vacation leave with pay until they have been employed for six calendar months. Prorated annual vacation leave credits are calculated using the following schedule multiplied by the hours in pay status in the pay period. Prorated annual vacation leave credits are to be reported by rounding to two digits beyond the decimal point and carried in each employee's account in that configuration.

Rate Earned Schedule	
Years of Employment	Hours in the Pay Status in the Pay Period
1 day through 10 years	.058 x # of hours
10 years through 15 years	.069 x # of hours
15 years through 20 years	.081 x # of hours
20 years or more	.092 x # of hours

#### D. Temporary Full-time Employees

Temporary full-time employees receive the same annual vacation leave credits as permanent full-time employees but cannot use them for six months.

#### E. Temporary Part-time Employees

Temporary part-time employees earn the same prorated annual vacation leave credits as permanent part-time employees, but may not use them until they have been employed for six qualifying months.

#### F. Seasonal Full-time Employees

Seasonal full-time employees receive the same annual vacation leave benefits as permanent full-time employees, but cannot use them until they have been employed for six months. In order to qualify, they must be recalled and immediately report back for work when operations resume in order to avoid a break in service.

#### G. Seasonal Part-time Employees

Seasonal part-time employees receive the same annual vacation leave benefits as permanent part-time employees, provided they work the qualifying six months. In order to qualify, they must be recalled and immediately report back to work when operations resume.

#### H. Short-term Employees

Short-term workers do not receive annual vacation leave credits.

**Relevant Information: MCA 2-18-611**

## Holidays

### A. Eligibility and Holiday Benefits Calculations

Holiday leave is a paid absence from work provided to eligible permanent, seasonal, and temporary employees on legal state holidays. If the observed holiday falls on a regularly scheduled day off, except Sunday, the employee is entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday, provided the employee is in a paid status on the last regularly scheduled working day immediately before or the first regularly scheduled working day immediately after the holiday.

An eligible employee shall receive holiday benefits for legal holidays. This benefit is paid time off or pay at the regular rate.

An employee shall not be eligible to receive holiday benefits if:

- the employee is a new employee to County government and begins work on the day after a holiday is observed; or
- the employee is reinstated or reemployed following a reduction in force, returns to work following a leave of absence without pay of more than one pay period or a disciplinary suspension, or is called back to seasonal or temporary employment on the day after a holiday is observed.

### B. The County Observes the Following Holidays:

- New Year's Day, January 1
- Martin Luther King Day, the third Monday in January
- Lincoln's and Washington's Birthday, the third Monday in February
- Memorial Day, the last Monday in May
- Independence Day, July 4
- Labor Day, the first Monday in September
- Columbus Day, the second Monday in October
- Veteran's Day, November 11
- Thanksgiving Day, the fourth Thursday in November
- Christmas Day, December 25
- State General Election Day, on even numbered years

### C. Holidays Falling on Weekends

If any holiday falls upon a Sunday, the Monday following is a holiday. When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday, except as provided for in the next paragraph.

The employee shall receive holiday benefits and pay for work performed on the day the holiday is observed, unless the employee is scheduled or required to work on the actual holiday. If the employee is scheduled or required to work on the actual holiday, the actual holiday shall be considered as the holiday for purposes of calculating holiday benefits and pay for work performed on a holiday. The employee shall

receive either holiday benefits for working on the day the holiday is observed or for working on the actual holiday, but not both.

#### **D. Full-time Benefits**

A permanent, temporary, or seasonal full-time employee, whose regular schedule calls for the employee to work on the day a holiday is observed, shall receive eight hours of holiday benefits. The employee usually receives the holiday off. However, the County reserves the right to require an employee to work on the day a holiday is observed. The employee shall be compensated for work performed on a holiday in addition to holiday benefits.

A permanent, temporary, or seasonal full-time employee, whose regular schedule calls for a day off on the day a holiday is observed, shall be entitled to receive a day off with pay on the day preceding the holiday, or on another day following the holiday in the same pay period, or as requested by the employee and approved by the supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off (MCA 2-18-603).

#### **E. Part-time Benefits**

Part-time permanent employees receive holiday benefits on a prorated basis (MCA 2-18-603).

Holiday benefits are based on an average of the employee's hours regularly scheduled to work in the pay period. To find the average, the number of hours regularly scheduled to work in a pay period in which the holiday falls shall be divided by ~~ten~~ (the number of working days in a pay period). Holiday benefits shall not exceed eight hours.

If the pay period in which the holiday falls is not characteristic of the employee's regular schedule, the County has the discretion to approximate the employee's schedule for purposes of determining holiday benefits.

If a part-time employee usually receives the holiday off but the County requires a part-time employee to work on the day a holiday is observed, the employee shall be compensated for all hours actually worked on a holiday and holiday benefits as provided in the next paragraph.

#### **F. Pay for Work Performed on a Holiday**

An employee who is designated as non-exempt under the Fair Labor Standards Act (FLSA) and who works on the day a holiday is observed shall be paid for all hours actually worked. In addition, under the benefit provided for in this policy, the employee shall receive either a paid day off at the regular rate or premium pay as described below, at the County's discretion.

- If the holiday benefit is a paid day off taken the same week as holiday, the employee shall receive pay at the regular rate for every hour worked on the holiday.
- If the holiday benefit is to be paid, but with no day off, the employee shall receive premium pay (regular rate x 1.5) for all hours worked on the holiday.

An employee shall not receive both premium pay and overtime pay for the hours worked on a holiday. An employee shall receive overtime for actual hours worked that exceed 40 in a workweek, in compliance with the overtime policy.

An employee who is exempt from the FLSA and who receives approval to work on the holiday shall receive paid time off equivalent to the number of hours worked.

Equivalent paid time off for work performed on a holiday may be taken at a later date upon request by the employee and approval of the supervisor. When an employee requests to take the hours off but the interest of the County requires the employee's attendance, the County's interest overrides that of the employee.

**Relevant Information: MCA 1-1-216 and 2-18-603; The Fair Labor Standards Act, U. S. Department of Labor**

## **Military Leave**

### **A. Procedures and the Montana Military Service Employment Rights Act**

The Montana Military Service Employment Rights Act (MMSERA) provides paid military leave for eligible County employees. This benefit supports employees in fulfilling military obligations and compensates employees for loss of income due to time spent performing military service.

Employees who are members of the organized militia of this state or the organized or unorganized reserve corps or military forces of the United States, and are permanent, temporary, or seasonal employees or student interns become eligible for paid military leave after *six continuous months* of employment. Time spent in a leave of absence without pay status does not count toward the six-month requirement.

"Militia" means all of the military forces of Montana, whether organized or unorganized. In Montana, the organized militia is the Montana Army and Air National Guard. The unorganized militia includes persons who are either active or inactive duty members of the Armed Forces Reserves.

Eligible full-time employees earn 120 hours of paid military leave each calendar year (prorated for part-time employees). Employees cannot earn more than 120 hours of paid military leave per calendar year, and cannot accrue more than 240 hours (prorated for part-time employees). Once employees reach the maximum, they do not accrue additional paid military leave until their balance drops below 240 hours (or the prorated limit for part-time employees). Employees do not accrue paid military leave during leaves of absence without pay unless the leave is for military duty. The County does not cash out unused military leave when employees terminate employment.

Employees must request military leave according to the policy or procedure established by their department. Employees must provide their supervisor with a copy of the orders that direct them to report for duty, and should give as much advance notice as possible (i.e., as soon as they learn of the need to take military leave).

Employees may request and supervisors may grant paid military leave in as few as one-hour increments. Employees may also use paid military leave intermittently with leave without pay while performing military service. Supervisors may grant paid military leave only for hours the employee normally works, and may deny paid military leave if it results in overtime. When employees are taking authorized paid military leave, they shall receive regular salary and benefits.

If active duty is more than 31 days, employees need to evaluate options regarding benefits and complete an Active Duty Benefits Election Form and an Active Duty Reinstatement Form.

## **B. Uniformed Services Employment and Reemployment Rights Act Procedures**

Reemployment guarantees for active duty service will follow the provisions of MCA 10-1-1007 and the Uniformed Services Employment and Reemployment Rights Act (USERRA). Employees have the right to be reemployed in their job if they:

- leave that job to perform service in the uniformed service and they provide advance written or verbal notice of the service;
- have five years or less of cumulative service in the uniformed services while with the County;
- return to work or apply for reemployment in a timely manner (within 40 days) after conclusion of service; and
- have not been separated from service with a disqualifying discharge or under other than honorable conditions.

Employees who are eligible to be reemployed must be restored to the job and benefits they would have attained if they had not been absent due to military service or a comparable job. Eligible employees shall be reemployed in the position they left or a similar position in order to perform such training or service unless:

- the member is no longer qualified to perform the duties of the position, subject to the provisions of MCA 49-2-303 prohibiting employment discrimination because of a physical or mental disability;
- the member's position was temporary and the temporary employment period has expired;
- the member's request to return to employment was not done in a timely manner;
- the employer's circumstances have changed so significantly that the member's continued employment with the employer cannot reasonably be expected; or
- the member's return to employment would cause the employer an undue hardship.

Members eligible for reemployment will be restored to their position or to a position of like seniority, status, and pay unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

**Relevant Information: MCA 10-1-1001, et seq., and 10-1-1007; Uniformed Services Employment and Reemployment Rights Act. (USERRA), U. S. Dept. of Labor Compliance Assistance**

## **Jury and Witness Duty Leave**

Jury and witness duty leave provide paid time off for permanent, seasonal, and temporary County employees who receive a legal summons or subpoena to serve on a jury or as a witness.

### **A. Notification and Leave Request**

An employee shall request leave using the request procedures established by their department. An employee must inform their supervisor of the date(s) and anticipated length of the absence as soon as possible after receiving a summons or subpoena, and provide a copy of the summons or subpoena with the leave request.

### **B. Pay Options**

If an employee is subpoenaed or summoned, they have two choices regarding pay and expenses:

- Use accrued annual leave for the time away from work, and keep the fees and allowances paid for service as a juror or witness; or
- Receive regular pay and benefits while on approved jury duty or witness leave, and remit the fees and allowances received for service as a juror or witness to the Clerk and Recorder within three days of receipt.

Employees must notify their supervisor of their choice upon requesting leave. A part-time employee shall receive prorated compensation for those hours the employee is scheduled to work.

### **C. Expense Claims and Return to Work**

Employees who serve as a juror may submit a claim for expenses. If they serve as a witness, they may submit a claim for expenses only if the appearance was for work-related reasons. Employees who receive payment from the court or a third party for the same expenses must return such dual payments to the County. If they use their personal vehicles and receive a mileage allowance from the court, they may keep the funds. If a County vehicle is used, they must return any mileage allowance to the County.

Employees who receive a subpoena to testify in connection with their official duties in a civil action where the County is not a party may be required by management to reimburse such funds for the compensation and benefits paid from the person or entity requesting issuance of the subpoena.

Employees who take leave to serve on a jury or as a witness must return to work on the next regularly scheduled shift upon release from duty. If the shift is in progress at the time of release, they must either return to work immediately or arrange with their supervisor to return at a later specified time.

**Relevant Information: MCA 2-18-619**

## **Maternity Leave and Parental Leave**

The maternity and parental leave policy provides for unpaid leave for eligible employees associated with the birth or placement of a child. It is unlawful for the County to terminate a woman's employment because of her pregnancy. Even if she is ineligible for sick leave or FMLA leave, a woman is still eligible for maternity leave; and she may also be eligible for parental leave, she must follow the FMLA Policy requirements.

Maternity or parental leave must be requested in accordance with the procedures established by the employee's department. Employees should give at least 30 days' advance oral or written notice of the need for leave, or as soon as practical when advance notice is not possible.

### **A. Maternity Leave**

Maternity leave is an unpaid leave of absence available to female employees for temporary disability because of pregnancy and delivery. Montana law requires female employees receive a reasonable leave of absence for maternity leave. "Reasonable leave" is determined case-by-case and is based upon the employee's ability to perform her job. The Montana Human Rights Bureau provides guidance regarding what is reasonable leave, stating that an employee is entitled to a reasonable leave of absence for the temporary disabilities associated with childbirth, delivery, and related medical conditions. The employer may not place restrictions on the leave which would not apply to leaves of absence for any other valid medical reason.

In the case of normal pregnancy and delivery, the state assumes a minimum of six calendar weeks after the birth of a child as a reasonable period for recovery. Leave may be longer if the employee is unable to perform her job prior to delivery or if additional leave after delivery related to the pregnancy is needed and reasonable. Employees are not required to obtain medical certification of temporary disability for the initial negotiated leave following the birth of a child. Employees may voluntarily return to work before their agreed-to maternity leave expires, if they desire and inform the County.

## **B. Parental Leave**

Parental leave applies to both male and female employees. If the employee has FMLA leave available, that leave shall be used instead of parental leave. However, if no FMLA leave is available, parental leave is an unpaid leave of absence for permanent, seasonal, and temporary employees not to exceed 15 working days immediately following the birth or placement of a child (e.g., if the employee is adopting a child or is a birth father). Department heads may approve less than 15 working days if they determine the length of leave requested is unreasonable. The department head must provide a written response explaining why the request is unreasonable, and include the length of leave considered reasonable and approved. Employees may be required to provide documentation for the use of parental leave.

Both maternity and parental leaves are unpaid. However, employees may request to use accrued paid leave concurrently with maternity or parental leave, according to County policy applicable to the type of leave requested.

For eligible employees, paid sick leave, vacation leave, and FMLA shall run concurrent with any maternity or parental leave.

**Relevant Information: Montana Human Rights Bureau: Rights of Pregnant Employees, MCA 49-2-310 and -311; Parental Leave for State Employees, MCA 2-18-606**

## **Leave of Absence without Pay**

A leave of absence without pay is a period of unpaid absence from employment provided by the County that does not result in a break in service. Typical requests for leave without pay are in situations where an employee has exhausted all applicable leave balances and needs to be absent from work for personal reasons. Leaves of absence without pay are contingent on the approval of the employee's department head on a case-by-case basis.

### **A. Requests, Qualifications, and Procedures**

Requests for leave of absence without pay shall be in writing and specifically state the reasons for the request, the date the employee wishes to begin the leave, and the return-to-work date. The request shall be submitted by the employee to the affected department head. The department head shall make a decision based upon the best interest of the County, giving due consideration to the reasons given by the employee and the requirements of any departmental procedures and applicable state and federal laws.

A department head may grant a permanent, temporary, or seasonal full-time or part-time employee a leave of absence without pay not to exceed 90 calendar days. An extension of the approved leave, not to exceed 90 calendar days, may be approved by the department head. No sick leave, holiday, annual vacation benefits, or any other fringe benefits shall accrue while an employee is on leave of absence without pay. An employee may continue to participate in the County insurance plan, but the employee

must pay 100% of the premiums in a manner prescribed by the Plan Administrator. Employees may be required to use all appropriate accrued leave or compensatory time before a leave of absence without pay. However, the County may not require an employee to exhaust annual leave balances for reasons of illness unless he/she agrees.

## **B. Returning to Work**

Upon expiration of the approved leave of absence, the employee is not guaranteed to be placed in the same position but shall be placed in a position at the needs of the County.

If an employee fails to comply with the return-to-work requirement and does not arrange for an approved extension of leave, he/she may lose reinstatement rights, and be subject to termination.

## **C. Other Leaves That Take Precedence Over Leave of Absence Without Pay**

Employees taking a leave of absence without pay shall have FMLA or military leaves taken concurrently. Those policies take precedence over this policy to the extent there are differences.

**Relevant Information: MCA 10.1.1006**

## **Family and Medical Leave Act (FMLA)**

The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 weeks of unpaid, job-protected leave for certain family and medical reasons, and up to 26 weeks to care for a covered service member with a serious injury or illness sustained in the line of duty.

### **A. Eligibility**

To be eligible for FMLA leave, the employee must have worked for the County for a total of 12 months minimum, and for at least 1,250 hours during the 12-month period immediately preceding the leave.

### **B. Duration**

Eligible employees may take up to 12 weeks of leave within a 12-month period. The 12 weeks of leave may be taken in a single block of time or, if medically necessary, on an intermittent basis or a reduced schedule. When the leave is taken for childbirth or placement of a child for adoption or foster care, intermittent or reduced leave schedules are subject to approval.

### **C. Qualifying Reasons for FMLA Leave**

Under the FMLA, the County must grant 12 weeks of unpaid leave, or paid contingent upon available leave balances and employee authorization to use that leave, for any of the following reasons:

- The birth of a son or daughter and to care for the newborn child.
- Placement with the employee of a son or daughter for adoption or foster care.
- To care for the employee's spouse, son, daughter, or parent with a serious health condition.
- A serious health condition that renders the employee unable to perform the functions of his/her job.
- Any qualifying exigency (e.g., short-notice deployment, military events, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and other events which arise out of the covered member's active duty or call to active duty status) arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
- To care for a covered service member with a serious injury or illness sustained in the line of duty on active duty if the employee is the spouse, son, daughter, parent, or next of kin of the service member. Eligible employees are entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

#### **D. Serious Health Condition Qualifications**

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or treatment by a health care provider. Serious health conditions include:

- An illness that requires the person to be hospitalized.
- An illness that keeps a person away from his/her normal activities for three consecutive days if treated at least twice by a health care professional during that period.
- An illness lasting three days or more that requires at least one visit to a physician and a regimen of continuing treatment.
- Any period of incapacity due to pregnancy or childbirth.
- A permanent or long-term problem supervised by a physician where there is no effective treatment, such as Alzheimer's Disease, severe stroke, terminal stages of disease, etc.
- Any period of incapacity due to a chronic and serious health condition (one that requires occasional visits for treatment by a health care provider, continues over an extended period of time, and may cause episodes of illness).

- Treatment for a condition that could result in an illness of more than three consecutive days in the absence of medical treatment, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy), or kidney disease (dialysis).

## **E. Notice and Certification**

- Employees are required to provide advance notice of leave requests whenever possible and may be required to provide medical certification. Taking of leave may be denied if requirements are not met. Employees ordinarily must provide 30 days' advance notice when the leave is "foreseeable". The County may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work. Thirty days' notice is required when the need for leave is foreseeable. When advance notice is not possible, the employee must provide notice as soon as practical. Requests for FMLA leave must be made in writing to the department head. The department head must promptly (within five business days, absent extenuating circumstances) notify the employee of the employer's response to the request for FMLA leave. If the request is approved, the County should formally designate the leave as FMLA. Sample designation and medical certificate forms are available on the FMLA website: <http://www.dol.gov/compliance/laws/comp-flsa.htm>

The County may contact the employee's health care provider for clarification and authentication of the medical certification (whether initial certification or recertification) after the employee has been given the opportunity to cure any deficiencies in the certification. Some examples of deficiencies might be when the certification does not provide necessary information such as the duration of the leave, the nature of the restrictions, or the medical necessity of the leave or restrictions. In these instances, correspondence with the employee and health care provider shall be coordinated through the Clerk & Recorder or the Commissioners and shall not be made by the direct supervisor.

## **F. Supervisor's Responsibilities**

If a department head or supervisor becomes aware of an employee taking leave for a potentially qualifying event (e.g., those described in the **Eligibility** paragraph above), or if the employee is absent from work on sick or unpaid leave for three days or more for reasons including health conditions, care of a family member, or in conjunction with a qualified military status, he/she will immediately notify Clerk & Recorder or Commissioners who will complete the FMLA Notice & Designation Form.

## **G. Use of Paid Leave**

Employees must use accrued sick leave concurrently with leave through the Family and Medical Leave Act, if the leave meets the conditions of the County Sick Leave Policy. Employees must also use accrued annual vacation leave concurrently with Family and Medical Leave Act leave. The hours used shall be counted against the employee's Family and Medical Leave Act entitlement.

## H. Reinstatement

An employee returning to work following a FMLA leave shall be returned to the same or equivalent position with equivalent pay as when the leave began. The use of FMLA leave shall not result in the loss of any employment benefit accrued prior to the start of an employee's leave.

# EMPLOYEE CONDUCT

## Prohibited Conduct and Guidelines for Appropriate Behavior

Standards of conduct provide ethical and behavioral guidance for public employees. As an integral member of the County team, employees are expected to accept certain responsibilities and adhere to acceptable conduct and business practices.

This not only involves demonstrating respect for the rights and feelings of others but also demands that employees refrain from any behavior that might be detrimental to themselves, their co-workers, and/or the County. Employee conduct reflects on the County. Consequently, employees are encouraged to observe the highest standards of professionalism at all times.

County employees are expected to accept certain responsibilities, protect the public from harm, adhere to acceptable principles in matters of personal conduct, and exhibit a high degree of personal integrity at all times.

### A. Prohibited Conduct

Listed below are types of prohibited workplace conduct and behavior. This list should not be viewed as being all-inclusive. Actions the County deems inappropriate and that will lead to disciplinary action include, but are not limited to:

1. Falsifying employment or other County records or making false statements.
2. Violating the County's policy on **Equal Employment Opportunity**, which prohibits refusing employment or discriminating in compensation or other terms, conditions, and privileges of employment based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, or ancestry.
3. Harassment of employees, or any person doing business or interacting with the County, because of a person's race, color, national origin, age, physical or mental disability, marital status, religion, creed, or political beliefs. (See **Preventing Harassment and Discrimination** herein.)
4. Sexual or other unlawful or unwelcome harassment. (See **Preventing Harassment and Discrimination** herein.)