

Report to Monterey County Board of Supervisors

<u>SUBJECT</u> APPROVE AND ADOPT COUNTY-WIDE LEAVE USAGE PROGRAM TO COMPLY WITH FEDERAL AND STATE LAWS REGARDING FAMILY AND MEDICAL LEAVES	<u>BOARD MEETING DATE</u> 7/11/95 <u>CONSENT</u>	<u>AGENDA NUMBER</u>
<u>DEPARTMENT</u> County Administrative Office		

RECOMMENDATION

It is recommended that the Board of Supervisors approve and adopt the attached policy establishing County-wide compliance with federal and state Family and Medical Leave laws.

SUMMARY

The Family and Medical Leave policy is intended to provide explicit guidance to employees concerning their rights under pertinent state and federal laws.

DISCUSSION

In 1993, Congress passed the Family and Medical Leave Act (FMLA), which became effective on February 5, 1994. The act granted employees up to twelve weeks off for the serious health condition of the employee, of identified members of his or her family and for the birth or adoption of a child. Following passage of the FMLA the state of California revised its Family Rights Act (FRA) in an attempt to bring about conformity with the federal law. In addition to these two laws a related California law addresses pregnancy disability and provides for up to four months off for pregnancy disability related illness separate from the FMLA or FRA.

The County-wide Family and Medical Leave policy follows the parameters established by the three laws for granting use of these leaves. An employee must have worked at least 1250 hours in the previous year to be eligible for such leave; the leave is available on a calendar year basis; and appropriate notification and documentation is required for approval of requests for time off under this policy.

The County has complied with these laws for the past year and has been able to work out operating procedures which can now be formalized as a County-wide policy. Attached is the proposed resolution establishing the County-wide Family and Medical Leave policy which in conjunction with leave request forms will provide employees with information on accessing this program when the need arises.

OTHER AGENCY INVOLVEMENT

The Auditor-Controller, County Counsel and the Unions concur with the recommendations of this report.

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. 95-300

A Resolution Establishing A)
County-Wide Family And Medical)
Leave Policy For Use By County)
Employees In Compliance With)
State And Federal Law.....)

The Board of Supervisors does hereby resolve as follows:

Section 1. Statement of Purpose

It is the purpose of this policy to establish a County-wide leave program that complies with the provisions of state and federal law.

In accordance with the Family and Medical Leave Policy, the County of Monterey will grant job-protected unpaid family and medical leave to eligible male or female employees for up to 12 weeks per 12-month period for any one or more of the following reasons:

- A. The birth of a child and care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the 12-month period following the child's birth or placement with the employee); or
- B. To care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or
- C. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

In addition female employees are entitled to four months leave without pay due to pregnancy related disability.

Section 2. Definitions

- A. "12-Month Period" - shall be administered so as to mean a calendar year.
- B. "Spouse" - as used in defining "Immediate Family Member" does not include unmarried domestic partner. If both spouses work for the County, their total leave in any 12-month period for either the birth or placement for adoption or foster care of a child or to care for a sick parent is limited to an aggregate of 12 weeks.
- C. "Child" - means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day

- B. With the County's consent an employee may take leave intermittently or on a reduced leave schedule for birth and care or placement for adoption or foster care of a child.
- C. For employees who do not work a standard 80 hours per pay period the family and medical leave entitlement is calculated on a pro rata basis.

Section 5. Substitution of Paid Leave Time

- A. An employee will first be required to use accrued paid leave time (sick leave, PTO, vacation, annual leave) for any part of a family/medical leave taken for any reason. Use of the County's catastrophic leave bank will also count as part of the FMLA entitlement.

Section 6. Notice Requirement

- A. An employee is required to give 30 days notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form should be completed by the employee and returned to the County. In unexpected or unforeseeable situations, an employee shall provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed "Request for Family/Medical Leave" form.
- B. If an employee fails to give 30 days notice for a foreseeable leave with no reasonable excuse for the delay, the leave may be denied until 30 days after the employee provides notice.

Section 7. Medical Certification

- A. For leaves taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form and return the certification to the County. This form may also suffice as documentation for requests to access the catastrophic leave bank. Medical certification must be provided at the time of the request by the employee but no later than 15 days after requested.
- B. In the case where an employee is out on family and medical leave, the County may require a second or third opinion (at County's expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.
- C. All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

Section 9. Job Protection

- A. If the employee returns to work within 12 weeks following a family/medical leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits and status.
- B. If the employee fails to return within 12 weeks following a family/medical leave, the employee will be reinstated to his/her same or similar position, only if available, in accordance with applicable laws and Monterey County ordinances and policies. If the employee's same or similar position is not available, the employee may be terminated.

Section 10. Forms to be Submitted by Employee

- 1. Request for Family/Medical Leave
- 2. Physician or Practitioner Certification:
Employee Family Member Serious Health Condition or Employee Serious Health Condition
- 3. Authorization for Payroll Deduction for Benefit Plan Coverage Continuation During a Family/Medical Leave of Absence
- 4. Medical Release to Return From Leave

PASSED AND ADOPTED on this 11th day of July, 1995, upon motion of Supervisor Johnsen, seconded by Supervisor Salinas by the following vote, to-wit:

AYES: Supervisors Salinas, Pennycook, Perkins, Johnsen, Karas
NOES: None
ABSENT: None

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board Supervisors duly made and entered in the minutes thereof at page of Minute Book 68, on July 11, 1995

Dated: July 11, 1995

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California.

By *Pamela Olivas* Deputy