

County of Sonoma

Military Leave Policy

I. INTRODUCTION	3
II. PURPOSE	3
III. POLICY	3
A. ELIGIBILITY FOR MILITARY LEAVE OF ABSENCE	4
B. DEFINITIONS OF MILITARY LEAVE	4
C. NOTIFICATION OF LEAVE	4
D. RIGHT TO REEMPLOYMENT	5
1. <i>Return to Work – Notice Provisions.....</i>	<i>5</i>
2. <i>Return to Work – Position Placement.....</i>	<i>6</i>
E. PAY, BENEFITS, AND OTHER PROVISIONS DURING MILITARY LEAVE	8
1. <i>Paid Leave.....</i>	<i>8</i>
2. <i>Leave Accrual</i>	<i>9</i>
3. <i>Health & Welfare Benefits</i>	<i>9</i>
F. BENEFITS GRANTED UNDER USERRA (APPLY TO ALL MILITARY LEAVE)	9
1. <i>Health & Welfare Coverage During Leave Without Pay (M-LWOP).....</i>	<i>9</i>
2. <i>Credit for Time Spent on Military Leave.....</i>	<i>9</i>
3. <i>Pension Benefits.....</i>	<i>9</i>
4. <i>Retiree Medical.....</i>	<i>10</i>
5. <i>Merit pay.....</i>	<i>10</i>
6. <i>Probationary Period.....</i>	<i>10</i>
IV. RESPONSIBILITIES.....	11
V. PROCEDURE	11
VI. MILITARY FMLA COVERAGE	11
GLOSSARY	15

County of Sonoma Military Leave Policy

Including Uniformed Services Employment & Reemployment Rights Act (USERRA) and
the California Military & Veterans Code (CMVA)

I. Introduction

This policy applies to employees of the County and County agencies and special districts. Where the policy uses terms such as “employed by the county”, “county employees”, “departments” or “department heads”, these include employees, executives, and officers of the Sonoma County Agricultural Preservation and Open Space District, the Sonoma County Community Development Commission, The Sonoma County Fair and Exposition, Inc., the Sonoma County Employees’ Retirement Association, the Sonoma County Water Agency, and the Northern Sonoma County Air Pollution Control District.

To assist in reading the policy, a glossary located at the end of this policy which contains key words applicable to state and/or federal law or statute, or terms more technical in nature. Each time one of these words or phrases is used in the policy, they will be shown in italicized text.

II. Purpose

The purpose of this policy is to provide a resource for County employees and departments/agencies for information on federal and state laws, local regulations, rules and agreements relating to *military leave* and re-employment rights. Should this policy be in conflict with applicable laws, rules, regulations or agreements, those laws, rules, regulations or agreements shall control.

The laws and agreements covered by this policy are the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA)¹, the California Military & Veterans Code², and the County of Sonoma Medical Leave Policy and procedures pertaining to leaves of absence, compensation, health insurance, reinstatement and pension benefits for employees requesting a *military leave* of absence. After reviewing the policy, if you have any questions concerning *military leave*, contact your department/agency designated representative (often the department’s human resources liaison or payroll professional) and/or bargaining unit representative.

III. Policy

It is the intent of the County to comply with federal and state laws and local regulations, rules and agreements that govern *military leave* and re-employment. To the extent

¹ Title 38, U.S. Code; Chapter 43

² California Military and Veterans Code, Section 395, et seq

applicable federal and state law differ, the County will afford covered employees the benefit of whichever standard is more generous to the employee.

A. Eligibility for Military Leave of Absence

Military Leave is available to all County employees including extra-help employees who perform service in the *uniformed services* (as defined by USERRA) for *active duty*, *active duty* for training, *initial active duty training*, and *inactive duty training*. This includes the National Guard or a reserve component of the Armed Forces of the United States.

In addition, employees whose spouses or *domestic partners* are qualified members of the Armed Forces, National Guard or Reserves and will be deployed to a scene of military conflict, are afforded up to ten (10) days' unpaid leave from work to be with their spouse, upon giving at least two (2) business days' notice. Employees may be eligible to use accrued vacation or compensatory time in accordance with their MOU and department policy. (California Military and Veterans Code section 395.10.)

Military Leave does not apply to service in the armed forces of another country.

B. Definitions of Military Leave³

- ♦ “*Military Leave*” is any military duty ordered for the purpose of military action, training, drills, encampments, naval cruises, special exercises or like activity. This includes both active and non-active (training, etc.) duty.
- ♦ “*Temporary Military Leave*” is a leave of absence from public employment to engage in ordered military duty for a period which by the order is not to exceed 180 *calendar days* (including travel time) for purposes of active military training, encampment, naval cruises, special exercises or like activity as a member of the reserve corps or force of the Armed Forces of the United States, or the National Guard, or the Naval Militia.

C. Notification of Leave

Employees requesting a *Military Leave of Absence* must provide advance notice of their intent to take *military leave* and provide copies of their orders (or provide other appropriate documentation to substantiate the need for military leave if orders are not available, ie Special Operations) to their supervisor (who will provide it to payroll for processing), unless doing so is unreasonable or is precluded by military necessity. This request must include the type of leave, anticipated dates of the leave, and a copy of the military orders. The type of leave and benefits accorded will vary depending upon the type of military duty or training. In an emergency situation, if orders are not available at the time of the ordered leave, oral notice should be given as soon as possible, with a copy of the order to be provided to the department as soon as it is available.

³ California Military and Veterans Code, Section 395

D. Right to Reemployment

Under USERRA⁴, employees returning from *military leave* shall have the right to reemployment if:

- ♦ The employee has given advance written or verbal notice of such military service to the County.
- ♦ The cumulative length of the absence and of all previous absences for a position of employment with the County by reason of military service does not exceed five years unless an exception has been approved (see “Length of Absence”).
- ♦ The employee was not separated from military service with a disqualifying discharge or under other than honorable conditions.
- ♦ The returning employee reports orally or in writing to the County, the employee’s intent to return. It is preferred that the employee do so by submitting a *reemployment application* to the County in accordance with the notice provisions listed below.

I. Return to Work – Notice Provisions⁵

- ♦ A person who fails to report to work or to apply for reemployment in accordance with the below shall forfeit any applicable legal protections and rights and shall be subject to the rules and procedures of the County regarding unexcused absences from work.
- ♦ A service member who is hospitalized or convalescing from an illness or injury incurred or aggravated during the performance of military service must submit an application for reemployment no later than two years following completion of service.

a) *Temporary Military Leave*

- ♦ A person whose military service lasted from 1 to 30 days must report to the County by the beginning of the first full regularly scheduled work day on the first full calendar day following the completion of the period of service and the expiration of eight hours after a time for the safe transportation back to the individual’s residence.
- ♦ A person whose military service lasts from 31 to 180 days must submit a *reemployment application* (verbally or in writing) with the County no later than 14 days after the completion of the period of service.

⁴ USERRA, Section 4312(a)

⁵ USERRA, Section 4312 et seq

b) *Military Leave*

- ♦ A person whose military service lasts more than 180 days must submit an *reemployment application* (verbally or in writing) with the County no later than 90 days after the completion of the period of service.

c) National Guard and Reserves

- ♦ Members of the National Guard ordered into service by the Governor or President, or a member of the United States Military reserve called to full-time *active duty* will be afforded up to 40 days after release from service in which to submit a *reemployment application*, regardless of the length of service. . To the extent federal law affords a greater length of time, the employee shall be afforded such greater time period.

2. Return to Work – Position Placement

a) California Military and Veterans Code Reemployment Rights⁶

Under state law, employees called to temporary military duty (180 days or less including time going to and returning from that duty) are entitled to be restored to their former position upon termination of military duty. If the position has been abolished or otherwise has ceased to exist during the employee's absence (i.e., work outsourced, layoffs, etc.) the employee shall be reinstated to a position of like *seniority*, status, and pay if a position exists. If no position exists, the employee will be granted the same rights and privileges that he/she would have had if they had occupied the position when it ceased to exist (see Civil Service Rule 11, Layoffs). Employees who served in a temporary capacity prior to leave, with no reasonable expectation that such employment will continue indefinitely or for a significant period (i.e., extra-help employees), do not necessarily have reemployment rights.

Employees returning from *military leave* will be afforded all available protections under state and/or federal law, whichever gives the employee the broadest protections.

b) USERRA Re-Employment Rights

An employee returning to County service is entitled to reemployment if the duty lasted less than five years (see "Length of Absence"), and he/she reports/applies for reemployment within the time frames specified under USERRA:

- ♦ Less than 91 days of military service - A person serving from 1 to 90 days⁷ will be reemployed in the position the person would have attained if employment had not been interrupted by military service, so as long as the person is qualified for the position or can become qualified after *reasonable efforts* by the supervisor to qualify

⁶ California Military and Veterans Code, Section 395(c)

⁷ USERRA, Section 4313

the person, or if found not qualified for such position after *reasonable efforts* by the County to qualify the person, in the position of employment in which the person had been employed on the date of the commencement of the service in the *uniformed services*. If the position has been abolished or otherwise has ceased to exist during the employee's absence, the employee shall be reinstated to a position of like *seniority*, status, and pay if a position exists. If no position exists, the employee will be granted the same rights and privileges that he/she would have had if they had occupied the position when it ceased to exist (see Civil Service Rule 11, Layoffs). Employees who served in a temporary capacity prior to leave, with no reasonable expectation that such employment will continue indefinitely or for a significant period (i.e., extra-help employees), do not necessarily have reemployment rights.

- ♦ More than 90 days and less than 5 years of military service - A person serving 91 days or more⁸ will be reemployed in the position the person would have attained had employment not been interrupted by military service, or a position of like *seniority*, status and pay, so long as the person is qualified for the position or can become qualified after *reasonable efforts* are made by the County to qualify the person. In the event an employee is not qualified to perform the duties of such position after *reasonable efforts* by the County to qualify the employee, then he/she will be reinstated to the position the employee left, or a position of like *seniority*, status and pay, the duties of which the person is qualified to perform.

Employee with a military service connected disability - For employees with disabilities incurred or aggravated while in military service, the County will make *reasonable efforts* to accommodate the employee's disability. If after reasonable accommodation efforts by the County an employee with a service-connected disability is not qualified for employment in the position he/she would have attained or in the position that he/she left, the employee will be employed in any other position of similar *seniority*, status and pay for which the employee is qualified or could become qualified with *reasonable efforts* by the County; or if no such comparable position exists, the employee will be employed in a position in the nearest approximation to the employee's position for which they are qualified or could become qualified with reasonable efforts by the County.

c) Length of Absence

The County will restore to employment, in accordance with USERRA provisions, employees returning from a leave of absence necessitated by military service, provided the length of absence does not exceed five (5) years (cumulative length). As provided by USERRA⁹, exceptions to the five year limit will be made for:

- ♦ Service required beyond five years to complete an initial period of obligated service.

⁸ USERRA, Section 4313

⁹ USERRA, Section 4312

- ♦ Service from which an employee, through no fault of the person, is unable to obtain a release within the five year period.
- ♦ Required training for members of the National Guard and Reserves.
- ♦ Service under an involuntary order to *active duty* or to be retained on *active duty*, during a domestic emergency or national security related situations.
- ♦ Service under an order to, or to remain on, *active duty*, because of a war or national emergency declared by the President or Congress.
- ♦ *Active duty* (other than for training) by volunteers supporting “operational missions” for which selective reservists have been ordered to *active duty* without their consent.
- ♦ Service by volunteers who are ordered to *active duty* in support of a critical mission or requirement in times other than war or national emergency when no involuntary call up is in effect.
- ♦ Federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion or to execute the laws of the United States.

E. Pay, Benefits, and Other Provisions During Military Leave

Under the California Military and Veterans Act, the following benefits apply to employees who have completed at least one year of County service, or combined military/County service, immediately prior to the commencement of the leave:

I. Paid Leave

The County will provide up to 30 *calendar days* of *paid military leave* for active military duty training, scheduled reserve drill periods, encampment, naval cruises, special exercises, or like activity. During leave under this provision, employees receive their normal County pay for up to 30 *calendar days* of qualifying leave. Employees on *inactive duty training* (i.e. drills) are not entitled to their salary, but may choose to use accrued vacation and compensatory time, or take leave without pay.

Employees may not receive more than 30 *calendar days* of paid leave for any one *military leave* of absence (including multiple orders extending the leave), or during any one *fiscal year* (County *fiscal year*: July 1st – June 30th). Exception: National Guard members are entitled to 30 *calendar days* of pay regardless of length of County service, and are not subject to a limit of 30 *calendar days* per *fiscal year*, provided the duty is during a state declared extreme emergency.

2. Leave Accrual

Employees on a temporary military leave (active duty leaves 180 days or less), will continue to accrue the same vacation, sick leave, holiday pay and employment rights as if they were not on a leave of absence (5 CFR §353.107). After 180 days, no sick leave or vacation is accrued.

3. Health & Welfare Benefits

The County will, at a minimum, maintain health benefits and other benefits for the first 30 *calendar days* of *military leave* as if the employee was actively employed (this applies to both *active duty* and *inactive duty training*).

F. Benefits Granted under USERRA (apply to all military leave)

1. Health & Welfare Coverage During Leave Without Pay (M-LWOP)

If an employee's *Military Leave* exceeds 30 days, the employee will have the option of using available vacation, compensatory time or *military leave without pay* (M-LWOP).

When paid leave is exhausted, or if the employee elects not to use available vacation or compensatory time to maintain pay status, the employee will be eligible for M-LWOP. For absences where the employee is on a M-LWOP (other than provided for under the California Military and Veterans Act above), health coverage stops unless the employee elects to continue health insurance, vision, dental and long term disability during an unpaid leave. The employee must make arrangements with the Auditor-Controller's Office to pay both the County and employee's share of the medical benefit premiums. An employee must submit payment within specified time frames to continue medical benefits. If the employee chooses to lapse health insurance coverage, when the employee returns to work his/her health insurance will be reinstated with no waiting period. If the County cannot immediately re-employ upon application, health insurance will be reinstated upon stated date of availability to return to County service.

2. Credit for Time Spent on Military Leave

Time spent on *military leave* counts as service credit for any calculation, determination or other decision that is dependent upon length of employment. This includes cost of living salary adjustment, vacation accrual rate and *seniority* ranking which would have occurred during the employee's military absence.

3. Pension Benefits

Upon an employee's return from service in the uniformed services as defined by USERRA (20 CFR §1002.6; see also Government Code §31649), the employee may

be able to purchase retirement service credit that would have been earned had the employee not been absent. The County will provide notice to the employee within 30 days after the date of reemployment of the right to purchase service credit (Government Code §31649.1).

If the employee is eligible to purchase service credit, catch up contributions will be automatically started as a pre-tax deduction from the employee's paycheck (per Government Code §31650). An employee may elect to stop the automatic catch up contributions anytime up to 90 days after return to pay status (per Government Code §31649), by contacting the Sonoma County Auditor Payroll Office.

The amount of the employee's catch up contributions is based on the amount that would have been contributed had they been working at the County. No interest is assessed. The returning employee is generally given up to three (3) times the length of the service in the uniformed services (up to a maximum of five (5) years) to make the retirement catch up contribution payments.

For additional information, contact the Sonoma County Employees' Retirement Association at (707) 565-8100.

4. Retiree Medical

Military Leave is not considered a break in employment for retiree medical eligibility calculation; however, service time credit purchased through SCERA (see Pension Benefits above) does not apply towards eligibility for retiree medical benefits. Military Service time prior to County employment or after separation does not count towards Retiree Medical Benefits. Employees should contact the Human Resources Benefits Unit regarding eligibility for Retiree Medical benefits.

5. Merit pay

Employees on military leave may receive the merit salary increases the employee would have been entitled to receive, if any, had the employee not left, and will not be delayed due to employee's military service. Merit pay is subject to MOU provisions.

6. Probationary Period and Performance Management

Employees who are re-employed following uniformed service or full recovery from compensable injury shall receive credit for the entire period of the absence, including the completion of probation. (5 CFR §353.107)

An employee may not be denied restoration rights because of poor performance or conduct that occurred prior to the employee's departure for compensable injury or uniformed service (5 CFR §353.108).

IV. Responsibilities

Human Resources is responsible for creating, enforcing and updating this policy, as well as educating County department heads, managers and supervisors regarding this policy. Each department head is responsible to insure that his/her Department is in compliance with the County of Sonoma's Military Leave Policy.

A notification of employee rights under USERRA shall be posted along with other employment-related posters in each building as required. Regardless of notification, an employee is still required to exercise due diligence in ascertaining his or her rights, and to seek reemployment within the time limits provided for restoration after uniformed service, or as soon as he or she is able after a compensable injury (5 CFR §353.104).

V. Procedure

Employees should contact their Departmental Human Resources Liaison or payroll representative for specific procedural information or if they have questions.

VI. Military FMLA Coverage

QUALIFYING EXIGENCY LEAVE

When a family member is deployed to a foreign country with the Armed Forces, your life can change very quickly. Many of these changes can require your prompt attention. Even though no one is ill or injured, you may need time away from work to address these issues.

If your spouse, domestic partner, *parent, son or daughter* is a military member who is deployed or has been notified of an impending deployment to a foreign country, and you work for a covered employer and are an eligible employee, you may be entitled to qualifying exigency leave. Qualifying exigency leave allows you to take up to a total of 12 workweeks of FMLA leave for the following qualifying exigencies:

- 1) To address any issues arising from the military member's short-notice deployment (i.e., deployment within seven or less days of notice). You may take leave for up to seven calendar days, beginning on the day the military member receives notice of deployment, to attend to any issue arising from the short-notice deployment.
- 2) To make or update financial and legal arrangements arising from the military member's covered active duty. This could include preparing and executing financial and healthcare powers of attorney, enrolling in the Defense Enrollment Eligibility Reporting System (DEERS), obtaining military identification cards, or acting as the military member's representative in arranging for military service benefits.
- 3) To attend counseling for yourself, the military member, or the child of the military member, when the need for that counseling arises from the military member's covered active duty and is provided by someone other than a health care provider.

4) To attend military events and related activities. These could include official military ceremonies, military programs, family support programs, and/or informational briefings sponsored or promoted by the military or military service organizations that are related to the military member's covered active duty.

5) To spend up to fifteen calendar days with a military member who is on Rest and Recuperation leave during covered active duty. (Note: You may only use this leave during the military member's R & R leave.)
The Employee's Guide to Military Family Leave 7

6) To address certain childcare and related activities concerning the military member's child that arise from the military member's covered active duty. These could include arranging for alternative childcare; providing childcare on a non-routine, urgent, immediate need basis; enrolling in or transferring a child to a new school or day care facility; and attending certain meetings at a school or a day care facility. This provision allows for the arrangement of alternative childcare. It does not allow you to take leave for routine childcare, such as to become the primary caregiver while the military member is on covered active duty.

Note: You do not need to be related to the military member's child. But,
(1) the military member must be your spouse, parent or child, and
(2) the child for whom you are taking leave must be the child of the military member.

7) To attend post-deployment activities for up to 90 days following the termination of the military member's covered active duty, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military, and to address issues arising from the death of a military member, including attending funeral services for the military member.

8) Any other event that you and your employer agree is a qualifying exigency and agree to the timing and duration of the leave.

9) To address certain activities related to the care of the military member's parent who is incapable of self-care. These could include arranging for alternative parental care; providing care on a non-routine, urgent, immediate need basis; admitting or transferring the parent to a new care facility; and attending certain meetings at a care facility or with hospice staff.

Note: You do not need to be related to the military member's parent. But,
(1) the military member must be your spouse, parent or child, and
(2) the parent for whom you are taking leave must be the parent of the military member.

Certification requirements: If you are requesting leave for a qualifying exigency, please provide:

1) a copy of the military member's active duty orders (or other official documentation issued by the military) which indicates the military member is on covered active duty or call to covered active duty status;

■ You only need to provide a copy of the active duty orders or other appropriate documentation once per deployment.

2) a statement or description of the appropriate facts regarding the qualifying exigency;

■ Facts may include information on the type of leave needed and any available written documentation (for example, copy of meeting announcement,

- appointment confirmation with counselor or school official, copy of bill for legal or financial arrangements, or R & R orders).
- 3) the approximate date on which the leave began (or will begin) and the estimated duration.
 - 4) the contact information for any third party you are meeting.

MILITARY CAREGIVER LEAVE

When faced with caring for an *injured or seriously ill servicemember or veteran*, the FMLA may be able to help ease the burden of worrying about your job during an already troubling time.

If you are the spouse, domestic partner, parent, *son, daughter, or next-of-kin* of a covered servicemember, you work for a covered employer, and are an eligible employee, you may be entitled to military caregiver leave. Military caregiver leave allows you to take up to a total of 26 workweeks of unpaid leave during a single 12-month period to take care of your military relative if he or she has a qualifying serious injury or illness.

The single 12-month period for leave to care for a covered servicemember (both current servicemembers and veterans) with a serious injury or illness begins on the first day you take leave for this reason and ends 12 months later, regardless of the 12-month period established by your employer for other types of FMLA leave. You are entitled to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the “single 12-month period.” (Up to 12 of the 26 weeks may be for an FMLA-qualifying reason other than to care for a covered servicemember. For example, if you use 10 weeks of FMLA leave for your own serious health condition, you still have up to 16 weeks of FMLA leave left to care for a covered servicemember.)

Military caregiver leave is available to you once per servicemember per serious injury or illness. However, if you take leave to care for your family member when he or she is a current servicemember, you may be able to take another 26 weeks of military caregiver leave, in a different 12-month period, to care for that same family member when he or she becomes a veteran, even if he or she continues to suffer from the same serious injury or illness.

You may take an additional 26 weeks of leave in a different 12-month period to care for the same servicemember if he or she subsequently has a different serious injury or illness. For example, if you take caregiver leave to care for a covered servicemember who sustained severe burns, you may be entitled to an additional 26 weeks of caregiver leave in a different 12-month period if the same servicemember is later diagnosed with a traumatic brain injury that was incurred in the same incident as the burns. It is possible for you to take military caregiver leave to care for more than one servicemember with a serious injury or illness at the same time. In any event you are limited to a total of 26 weeks of military caregiver leave in a 12-month period.

Certification requirements: If you request military caregiver leave, please provide:

- 1) contact information for the authorized health care provider completing the certification, the type of medical practice or specialty, and affiliation with the military, if any;
- 2) whether the injury or illness was incurred or aggravated by service in the line of duty on active duty, when it began or was aggravated, and its likely duration;
- 3) a statement of appropriate facts regarding the servicemember's health condition sufficient to support the need for FMLA leave;
- 4) information to show that the servicemember needs care and estimates for the period and dates of treatment or recovery needed;
- 5) if care is needed intermittently or on a reduced schedule, the schedule of treatments or appointments, or an estimate of the frequency and duration of periodic care;
- 6) your name, the name of the covered servicemember, and your relationship to the servicemember; and
- 7) information on the servicemember's branch, rank, and unit assignment or the veteran's date and type of separation.

If your family member is a current servicemember who needs care, you may present a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember's family for certification for the time specified on the ITO/ITA.

If your family member is a veteran with a serious injury or illness, you may provide a copy of a VASRD rating determination or the enrollment notice from the VA's Program for Comprehensive Assistance for Family Caregivers for certification of the veteran's serious injury or illness. The enrollment notice may be issued to any member of the veteran's family. However, you may need to provide additional information to support your leave request. An authorized health care provider may be a DOD, VA, TRICARE network, non-network TRICARE, or non-military-affiliated health care provider. An employer may request a second and third opinion of a covered servicemember's serious injury or illness only when a certification is provided by a non-military-affiliated health care provider. Recertification is not permitted for a certification for military caregiver leave

Additional rights and responsibilities regarding the FMLA can also be found in the County's Medical Leave Policy.

VII. Glossary

Active Duty: 10 USC Section 101 defines “active duty” as full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. An employee whose leave exceeds 180 days may remain on active duty as long as ordered and still be entitled to all restoration rights under the law.

Active Duty Training: A federally ordered exercise in which the participants receive official orders and are actually called to active duty and paid by the Federal Government.

Calendar Days: The number of working hours the employee would ordinarily work during 30 calendar days. These calendar days can be taken within each fiscal year (July 1- June 30). For example, the County uses a base of 2080 hours per year for a 1.0 FTE, which translates to 173 working hours in an average month (2080 divided by 12 months equals 173 working hours). The working hours are then converted to calendar days based on the employee’s work schedule; those calendar days, can be taken anytime during the fiscal year. The number of working hours would be prorated for employees working less than 1.0 FTE and then converted to calendar days based on the employee’s regular work schedule.

Calendar Days Calculation – Extra Help: To determine the number of calendar days for extra help employees, take the average number of hours worked during the past 12 pay-periods. If the employee has not worked for 12 pay-periods, then use the average from the number of pay-periods worked.

Calendar Days Calculation – Part-Time Employees: To determine the number of calendar days for part-time employees, use their allocated FTE. A 1.0 FTE is 2080 hours per year; prorate to the appropriate FTE and calculate. For example, a .5 FTE would be 1040 hours per year (2080 hours times .5 equals 1040 hours), which is 87 hours in an average month and then converted to calendar days based on the employee’s regular work schedule.

Domestic Partners: Shall exist between two persons, one of whom is an employee of the County, regardless of their gender and each of them shall be the “domestic partner” of the other if they both complete, sign, and cause to be filed with the County an “Affidavit of Domestic Partnership” attesting to the following:

- a. the two parties reside together and share the common necessities of life;
- b. the two parties are not married to anyone, eighteen years or older, not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contract and are not acting under fraud or duress;
- c. the two parties declare that they are each other’s sole domestic partner and they are responsible for their common welfare;
- d. the two parties agree to notify the County in writing if there is a change of circumstances attested to the affidavit; and

e. the two parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.

Fiscal Year: County's fiscal year is twelve months from July 1 through June 30.

Full Pay Status: Employee's regular rate, plus cash allowance and pay premiums normally received.

Inactive Duty Training: Training such as "weekend drills" where the employee is not ordered to active duty, or active duty training by the Federal Government. The term "inactive duty training" as defined by 37 USC Section 101 (22) means – (A) duty prescribed for members of a reserve component by the Secretary concerned under section 206 of this title or any other law; and (B) special additional duties authorized for members of a reserve component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but (except as provided in section 206(d)(2) of this title) does not include work or study in connection with a correspondence course of a uniformed service.

Injured or seriously ill service member or veteran: For a current servicemember, a serious injury or illness is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating. A serious injury or illness also includes injuries or illnesses that existed before the servicemember's active duty and that were aggravated by service in the line of duty on active duty.

For a veteran, a serious injury or illness is one that was incurred by the veteran in the line of duty on active duty in the Armed Forces or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty, and that is either:

- a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or
 - a physical or mental condition for which the veteran has received a Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater. (The rating may be based on multiple conditions).
 - a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; or
 - an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- Any one of these definitions meets the FMLA's definition of a serious injury or illness for a veteran regardless of whether the injury or illness manifested

before or after the individual became a veteran.

Military Leave: Military duty ordered for the purpose of military action, training, drills, encampments, naval cruises, special exercises or like activity.

Next of Kin: Next of kin is the nearest blood relative, other than the spouse, domestic partner, parent, son or daughter, in the following order of priority:

- 1) a blood relative who has been designated in writing by the servicemember for purposes of FMLA military caregiver leave
- 2) blood relatives who have been granted legal custody of the servicemember
- 3) brothers and Sisters
- 4) grandparents
- 5) aunts and uncles
- 6) first cousins

Paid Military Leave: Full pay and benefits including vacation and sick leave accruals. Limited to 30 calendar days in any one fiscal year. However, an employee is not eligible for this benefit in succeeding fiscal years when the active duty time continues into the next fiscal year.

Parent, son or daughter for purposes of Military FMLA: Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to you when you were a child. This term does not include parents “in law.” Son or daughter for qualifying exigency leave means your biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom you stood in loco parentis, and who is of any age.

Reasonable Efforts: Actions, including training provided by the County that do not place an *undue hardship* on the County.

Reemployment Application: Verbal or written notice to the County of an employee’s intent to return to work, including the employee’s date of return. In situations where the employee’s position is no longer available and the County must designate a “like” position. An employment application to determine appropriate classifications for placement may be necessary.

Seniority: Longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity.

Temporary Military Leave: A leave of absence from public employment to engage in ordered military duty for a period which by the order is not to exceed 180 calendar days, including travel time, for purposes of active military training, encampment, navel cruises, special exercises or like activity as a member of the reserve corps or force of the Armed Forces of the United States, or the National Guard, or the Navel Militia.

Undue Hardship: An action requiring significant difficulty or expense, when considered in light of such factors as (1) the nature and cost of the action and (2) the overall financial resources and size of the County; the number of County employees; the effect on expenses and resources or the impact of such action upon the County operations; and the type of operations of the County, etc.

Uniformed Services: The Armed Forces (Army, Navy, Marine Corp, Air Force, Coast Guard), the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.