



**BOARD OF SUPERVISORS**  
**COUNTY OF BUTTE, STATE OF CALIFORNIA**

*Resolution No.* 11-112

**RESOLUTION OF THE COUNTY OF BUTTE**  
**SALARY AND BENEFITS OF**  
**BUTTE COUNTY APPOINTED DEPARTMENT HEADS**

WHEREAS, Butte County appointed department heads are exempt from the Merit System and some employee benefits provisions of the Personnel Rules; and

WHEREAS, the Butte County Board of Supervisors grants benefits to appointed department heads that are the same as or similar to those provided to classified employees; and

WHEREAS, it is the intent of the Board of Supervisors that appointed department heads' benefits be standardized where allowed by law or this policy, unless otherwise provided for by individual contract; and

WHEREAS, resolution 09-171 has specified the salary and benefits entitled to appointed department heads since December 8, 2009;

WHEREAS, this resolution supercedes and replaces Resolution Number 09-171 by providing the benefits for appointed department heads effective the first full pay period following adoption of this resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors that, effective the first full pay period following adoption of this resolution, appointed department head benefits shall be as follows unless otherwise specifically provided for differently in an individual's contract:

**1. Vacation Leave Accrual and Use**

<u>Amount of Continuous County Service</u>	<u>Earned at the Rate of:</u>
Up to 5 years of service	15 days per year (120 hours)
Beginning of 6 <sup>th</sup> year through end of 10 <sup>th</sup> year of service	20 days per year (160 hours)
Beginning of 11 <sup>th</sup> year through end of 20 <sup>th</sup> year of service	25 days per year (200 hours)
21 years and over	27 days per year (216 hours)

- a. Appointed department heads (hereinafter “department heads”) shall accrue vacation leave at the rates set forth above and shall be allowed to accumulate years of service from any position of employment held in the County of Butte. Department head vacation accruals may not exceed twice the annual accrual at the start of the first pay period in a calendar year. If the department head is unable to take the scheduled vacation during a calendar year due to unusual circumstances which result in his/her accumulation limit being exceeded, or in the three month grace period following the beginning of the calendar year because of emergency needs of the County, the department head shall be paid for the excess vacation accrual upon the Board of Supervisor’s approval.
- b. All accumulated vacation on record shall be paid at the time of separation from employment.
- c. Once a year, concurrent with a vacation of at least forty hours, department heads may receive cash for an additional forty hours of vacation, subject to the availability of funds.
- d. If an employee of the County promotes from classified service to a department head position, and there is no break in service by so doing, the employee may opt to have their accrued vacation leave balance on record transfer with the employee into the department head position. Under this provision, the hours that are in excess of the maximum allowable may not be transferred, but instead shall be paid out. Vacation hours shall continue to accrue from the initial, continuous, date of hire.

**2. Sick Leave Accrual and Use**

- a. Department heads shall be credited with sick leave at the rate of one day per month without limit and may use it in case of sickness or disability or for critical illness of an immediate family member (3.6923 hours per biweekly pay period).
- b. On retirement or separation in good standing from County employment, the department head may be paid for any sick leave over 30 days at one-half the normal rate up to a maximum of \$3,000, or may apply the leave time to service credit for retirement purposes.

**3. Holiday Leave**

Department heads who are on compensated status both before and after a designated holiday shall receive compensation for the holiday.

4. **Family Care & Medical Leave**

Department heads are eligible for Family Medical Leave, California Family Rights Leave, and/or Pregnancy Disability Leave as provided for by law and as described in the attached policy: Butte County Family Care and Medical Leave.

5. **Administrative Leave**

Department heads accrue paid administrative leave at the rate of 10 days per year (3.0769 hours per biweekly pay period) to a maximum of 44 days.

6. **Bereavement Leave**

Whenever a department head believes it necessary to be absent from duty because of the death of a member of the individual's "immediate family" as defined in the Personnel Rules, the department head may be absent for five working days with pay for each occasion. Any time used in this manner shall not be charged to sick leave or vacation, but shall be documented and recorded as bereavement leave. In the case of the deaths of individuals other than those defined as immediate family who were living in the department head's household as family members, approval for the use of bereavement leave shall be on a case-by-case basis at the sole discretion of the Chief Administrative Officer.

7. **Retirement Plan**

a) Department heads are eligible to participate in the County retirement program as contracted through the California Public Employees' Retirement System ("CalPERS"). The retirement program is integrated with Social Security and the retirement benefit is based on the highest single year of salary and on the 2% @ 55 formula (2% @ 50 safety formula for the Chief Probation Officer).

b) **Retirement Contribution**

**Non-Safety Classifications:**

Effective the first full pay period following adoption of this resolution, appointed department heads will pay on a pre-tax basis two percent (2.0%) of salary for the employee share of his/her CalPERS pension and the County will pay the remaining five percent (5.0%) of salary.

Effective the first full pay period including January 1, 2012, appointed department heads will pay on a pre-tax basis four percent (4.0%) of salary for the employee share of his/her CalPERS pension and the County will pay the remaining three percent (3%) of salary.

Effective the first full pay period including January 1, 2013, appointed department heads will pay on a pre-tax basis all seven percent (7%) of salary for the employee share of his/her CalPERS pension.

**Safety Classifications:**

Effective the first full pay period following adoption of this resolution, the Chief Probation Officer will pay on a pre-tax basis two percent (2.0%) of salary for the employee share of his/her CalPERS pension and the County will pay the remaining seven percent (7.0%) of salary.

Effective the first full pay period including January 1, 2012, Chief Probation Officer will pay on a pre-tax basis five percent (5%) of salary for the employee share of his/her CalPERS pension and the County will pay the remaining four percent (4%) of salary.

Effective the pay period including January 1, 2013, Chief Probation Officer will pay on a pre-tax basis all nine percent (9%) of salary for the employee share of his/her CalPERS pension.

**8. Unemployment Insurance**

Unemployment insurance is provided according to State law. The Chief Administrative Officer is not covered by unemployment insurance.

**9. Health, Dental, Vision and Life Insurance**

a. Participation.

Department heads are entitled to participate in a County sponsored Health Plan under the County's CalPERS contract and including dental, vision, and life insurance elements. All Department heads assigned to a (1/2) one-half time or more position and the department heads' dependents shall be entitled to participate in the county-sponsored group health plan. Eligible department heads enrolling in the plan within (30) thirty days following their appointment will be covered subject to the provisions of this resolution and the contract limitations with the carrier. Department heads enrolling after the (30) thirty-day enrollment period will be approved only upon evidence of insurability.

b. Premium.

Unless provided otherwise by a department head's contract, department heads shall pay their share (as established annually by the Chief Administrative Officer) of the total monthly premium for employee and dependent coverage to be paid through a payroll deduction, unless otherwise specified in this section. To be eligible for premium sharing, an employee must have no less than the total of (10) ten days of compensated employment occurring within the (2) two regular pay periods immediately preceding the pay period from which the premium deduction is made. Department heads with less than the required compensated days of employment may continue coverage by advancing to

the Director-Human Resources the total premium amount for the month. For the purpose of this section only, a department head on an approved industrial disability leave of absence, who is receiving temporary disability payments from the compensation insurance fund, shall be considered in full-compensated employment status. A covered department head granted an approved non-compensated leave of absence may continue health insurance coverage by advising the Director-Human Resources and advancing to the Director-Human Resources each month the total monthly premium cost.

c. Description.

The Butte County Flexible Benefits Plan (hereafter "Cafeteria Plan") is available to all department heads. There will be two (2) participation levels, identified as Option "A" and Option "B" as per Section 9. d. below. Once the selection is made, it will remain in force until the next open enrollment period. The fee for a third party administrator will be paid by the County.

d. Participation Levels.

Option A - CORE PLAN

The County will pay the first \$101.00/month of the premium for the medical coverage elected through CalPERS. If the department head elects medical coverage, then the department head must participate in a dental plan option and the vision insurance (Core Plan). The County will pay to department heads' Flexible Benefit Account the following amounts:

	<u>January 2009</u>
Employee only	\$462.78
Employee plus one	\$921.30
Family	\$1,207.41

Department heads that have elected to participate in the "Core Plan" can also elect to participate in optional benefits. If the department head has any surplus Flexible Benefit Account credits after making all elections required to participate in the health insurance, the department head can use that surplus toward the Flexible Benefit Options. Department heads that wish to participate in the optional benefits in the plan, with the exception of the cash back option, but do not have any surplus credits, can elect to have pre-tax payroll deductions in an amount to cover the cost of their elections.

Option B - FLEXIBLE BENEFIT OPTIONS

Department heads who elect not to participate in Option A will be asked to sign a waiver and will be required to provide proof of medical insurance. They will have an opportunity to participate in the Flexible Benefit Options listed in the Flexible Benefit Options Exhibit.

Effective January 2009, the Employer Flex Credit amount will be Four hundred three and thirty-four cents (\$403.34) per month. Department heads can use this contribution toward

any of the Flexible Benefit Options listed in the Flexible Benefits Options Exhibit. Department heads that wish to participate in the Flexible Benefits Option, with the exception of the cash back option, but do not have sufficient flex credits, can elect to have pre-tax payroll deductions in an amount to cover the cost of their elections.

e. Administration.

- No benefits will be paid to department head in Option B until proof of insurance is on file in the Human Resources Department.
- All department heads and the department head's dependents including registered domestic partner (effective January 1, 2005) pursuant to Family Code Section 297.5 shall be entitled to participate in the County's Flexible Benefits Plan. If department head assumes a part-time schedule, such department head will receive proportional benefits. For purposes of benefit plan eligibility, any department head assigned to a one-half (1/2) time or more position, and the department head's dependents, shall be entitled to participate in the county's Flexible Benefits Plan. Department heads working less than full-time, shall receive prorated flex benefit contributions rounding to the nearest one-quarter time; i.e., either fifty percent (50%), for department heads working thirty-six (36) hours to forty-five (45) hours; seventy-five percent (75%), for department heads working forty-six (46) to sixty-four (64) hours; or one hundred percent (100%), for department heads working sixty-five (65) hours or more.
- Any money deposited in the Flexible Benefits Account of a department head must be used during the plan year; otherwise, the remaining balance reverts to the County.

f. Retired Employee Options.

Department heads initially appointed prior to December 8, 2009, retiring in good standing before age 65 from the County of Butte under the provisions of the county's contract with CalPERS may continue to cover themselves and eligible dependents under the health plan as provided in Personnel Rules section labeled Health Plan (currently section 12.9). The county shall pay the full premium for such coverage until the retiree becomes 65 years of age or is covered by another governmental or employer-paid health plan. Application for post-retirement health coverage shall be made to the Director-Human Resources, prior to the official termination date of county service, in a manner and form prescribed by the Director.

Department heads who are initially appointed December 8, 2009 or later, with five (5) years or more of cumulative service with Butte County, retiring in good standing before age 65 from the County of Butte under the provisions of the county's contract with the CalPERS may continue to cover themselves and eligible dependents under the health plan. The county shall pay a premium contribution at the rate of the HMO, Delta DPO, and Vision Service Plan premiums for such coverage until the retiree becomes 65 years of age or is covered by another governmental or employer-paid health plan. Application

for post-retirement health coverage shall be made to the Director-Human Resources, prior to the official termination date of county service, in a manner and form prescribed by the Director.

g. Life Insurance.

Life Insurance is provided for department heads in the amount of \$25,000. Purchase of supplemental life insurance is also available at group rates.

**10. Deferred Income Plan**

Department heads may participate in an IRS Section 457 Deferred Compensation Plan up to the maximum allowed by the law.

**11. Travel Allowance and Mileage Reimbursement**

- a. Monthly Mileage Allowance. Department heads shall be provided a monthly mileage allowance of six-hundred and twenty dollars (\$620.00) per month for all within-County travel. Additionally, all Department heads shall be reimbursed at the current IRS allowable rate for all work related travel in his or her private vehicle outside of the County. Department heads who have County assigned emergency vehicles which are available for their use during non-business hours are not eligible for this allowance.
- b. Travel Policy and Meal reimbursement. Department heads shall comply with the Travel Policy contained in the Personnel Rules and may be reimbursed for meal expenses incurred while traveling pursuant to Butte County policy, without receipts, up to the following maximums:

Breakfast	\$10.00
Lunch	\$15.00
Dinner	<u>\$25.00</u>
Daily total	\$50.00/day

**12. Cell Phone Allowance**

- a. Department heads may opt to be provided a County-owned cell phone for business purposes. Any personal charges incurred while using the County-provided cell phone must be reimbursed to the County Auditor-Controller on a monthly basis.

OR

- b. Department heads may opt to receive a monthly cell phone allowance of seventy dollars (\$70.00) for use of a privately owned cell phone to conduct County business.

**13. Reimbursement for Professional Designations**

- a. Department heads who are in one of the following groupings shall be eligible to be reimbursed for 100% of the professional license and certification fees required as a prerequisite to their position:
- Attorneys
  - Physicians
  - Psychiatrists
  - Registered Engineers
  - Registered Nurses
  - Microbiologists
  - Certified Public Accountant
- b. Dues for all Department heads to a local service club may be reimbursed 100% for said dues.

**14. Employee Assistance Program**

Department heads and eligible family members are entitled to receive up to eight (8) program visits per family unit per benefit year through the County's Employee Assistance Program, for such services as the following:

- Marital and family problems
- Alcohol Abuse
- Financial and credit concerns
- Child care
- Pre-retirement planning
- Legal issues and questions
- Relationship issues
- Drug dependency
- Emotional problems and stress
- Elder care
- Federal taxpayer problems
- Interpersonal conflicts

**15. Long Term Disability Insurance**

Department heads are covered by Long Term Disability Insurance, which provides for disability income protection with a guarantee replacement of 60% of the monthly earning up to a maximum of five thousand dollars (\$5,000) per month, beginning on the 91<sup>st</sup> day of disability with benefits payable for illness or accident to age 65. This policy provides for a ninety (90) day waiting period.

**16. Severance Pay**

The Board of Supervisors may unilaterally elect to terminate a department head's employment without cause and without reason at any time during the period of the individual's contract, unless otherwise provided for by statute or contract. Upon such election of the Board, the actual employment termination date shall not be effective for at least one hundred eighty (180) days after the date of written notice (unless a different

provision exists in an individual contract in which case the contract's provisions take precedence).

## **17. Pay, Renewal and Evaluation**

- a. All department heads except the Chief Administrative Officer and the County Counsel shall receive an annual performance evaluation by the Chief Administrative Officer, subject to ratification by the Board of Supervisors. The Chief Administrative Officer and County Counsel shall receive annual performance evaluations directly from the Board of Supervisors.
- b. Six months prior to the renewal or extension of an appointed department head's contract, the Board of Supervisors shall meet with the appointed department head to initiate discussions regarding the new contract.
- c. Upon renewal of a department head's contract, any change in salary shall be determined through negotiations between the department head and the Chief Administrative Officer, with concurrence of the Board of Supervisors. Such negotiations will take into consideration past performance and other factors which may include a market salary survey, the economic condition of the County, and the Western Cities Consumer Price Index (CPI).
- d. Upon the renewal of the Chief Administrative Officer's contract, and/or County Counsel's contract, any change in salary shall be determined through negotiations with the Board of Supervisors. Such negotiations will take into consideration past performance and other factors which may include a market salary survey, the economic condition of the County, and the Western Cities Consumer Price Index (CPI).

## **18. Salary**

### **Non-Safety Classifications**

Effective the pay period including January 1, 2012 a two percent (2%) wage increase will be applied to all non-safety department heads.

### **Safety Classifications**

Effective the pay period including January 1, 2012 a three percent (3%) wage increase will be applied to all safety department heads.

Effective the pay period including January 1, 2013 a one percent (1%) wage increase will be applied to all safety department heads.

PASSED AND ADOPTED by the Board of Supervisors of the County of Butte,  
State of California, on the 11<sup>th</sup> day of October, 2011 by the following votes:

AYES: Supervisors Wahl, Kirk, Yamaguchi and Chair Lambert

NOES: Supervisor Connelly

ABSENT: None

NOT VOTING: None

  
\_\_\_\_\_  
Steve Lambert, Chair - Butte County Board of  
Supervisors

ATTEST:

Paul Hahn  
Chief Administrative Officer  
and Clerk of the Board of Supervisors

By   
\_\_\_\_\_

## Attachment #1

### BUTTE COUNTY FAMILY CARE AND MEDICAL LEAVE

#### General Policy

Under provisions of the California Family Rights Act (CFRA), CCR Section 825 and the Federal Family and Medical Leave Act (FMLA), 29 U.S.C. Section 2601 et seq., Butte County may grant Family Care and Medical Leave (FCML) to a qualifying employee, provided the employee has worked for Butte County for a minimum of 12 months, and has worked at least 1,250 hours in the 12-month period immediately preceding the date the leave begins. Leave may be taken under this policy for up to 12 workweeks in a 12-month period (leave year) for family care and medical leave. Requests for leave in excess of 12 workweeks whether in a paid or unpaid status shall be reviewed on an individual basis relative to the needs of the employee and the needs of the department. The 12-week allowance provided per year is calculated on a calendar year basis commencing the first day that qualifying leave is taken. FMLA and CFRA run concurrently, except in the case of pregnancy disability (discussed further under coordination of PDL, FMLA AND CFRA leaves).

Under allowable circumstances, a department head may grant FMLA to a key employee but refuse reinstatement if it will cause the department substantial and grievous economic injury. In this situation, however, the department head must notify the employee in writing at the time he or she requests or commences the leave (whichever is earlier) that he or she qualifies as a key employee and what the potential consequences are with respect to reinstatement.

Except where the law authorizes a different result, an employee who complies with the provisions of this policy will be guaranteed reemployment upon expiration of an approved leave. The employee will be reemployed in the same or an equivalent position as that which he or she occupied when the leave commenced. An employee who takes a leave because of his or her own serious health condition must provide a medical certification prior to returning to work, which verifies that he or she is able to return to work in the same manner as employees who return from other types of medical leave. If an employee fails to return for work immediately after the expiration of the approved leave period, and unless an extension has been requested and granted, the employee may be considered to have voluntarily separated from the employer's employ. However, consideration may be given to sufficient documentation, which demonstrates both the employee's need for the extended leave and an inability by the employee to have properly notified the employer of the need.

Leave granted under this policy for part-time employees shall be calculated on a pro-rata basis in accordance with their regular work schedule. For those occupying positions with irregular hours, the average workweek shall be determined by taking an average of the hours worked per week over the previous three-month period.

Upon receipt of a request by an employee for FCML, the department head shall immediately forward such notice to the Director-Human Resources. The Director-Human Resources shall have full authority to approve such requests in accordance with the provisions of this policy.

## **Definitions**

For purposes of this policy, the following definitions shall apply:

1. “California Family Rights Act” (CFRA) means leave may be taken for any of the following reasons:
  - a. For the birth of a child for purposes of bonding;
  - b. For the placement of a child in the employee’s family for adoption or foster care;
  - c. To care for the serious health condition of the employee’s child, parent, or spouse;
  - d. For the employee’s own serious health condition.
2. “Certification” means a written communication from the health care provider verifying that the employee is unable to work due to his/her serious health condition or that of his/her immediate family member.
3. “Child” means a biological, adopted, or foster child, stepchild, or legal ward of the employee, or a child of a person standing in loco parentis who is either:
  - a. Under eighteen years of age;
  - b. 18 years or older who is incapable of self-care because of a mental or physical disability;
  - c. An adult child, as approved by the Human Resource Director with evidence provided by the employee that he or she is the only individual available to provide the required care.
4. “Employer” means the County of Butte.
5. “Family and Medical Leave Act” (FMLA) means leave may be taken for any of the following reasons:
  - a. To care for the employee’s child after birth, or placement 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);
  - b. To care for an immediate family member who has a serious health condition;
  - c. For a serious health condition of the employee which prevents him or her from being able to perform the essential functions of his or her position. This includes pregnancy, childbirth or a related medical condition, which are considered serious health conditions under FMLA.
6. “Employment in the same or an equivalent position” means employment in a position that has the same or similar duties and pay, which can be performed at the same or similar geographic location as the position held prior to the leave.
7. “Health care provider” means an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon who directly treats or supervises the treatment of the serious health condition, or any other person determined by 29 CFR 825.800 to be capable of providing health care services under the federal Family and Medical Leave Act.

8. "Immediate Family" means spouse; natural, step, or legal child or parent; brother sister; grandchild; grandparent; mother-in-law and father-in-law, brother-in-law, sister-in-law.
9. "Key Employee" means an employee whose salary is in the top 10% of paid employees, either at the work location or within a 75-mile radius of the work location.
10. "Leave Year" means 12 weeks of leave allowed under FMLA/CFRA and is calculated on the calendar year, January-December of each year.
11. "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.
12. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves provisions as set forth in 29 CFR 825.114 including either of the following:
  - a. Inpatient care in a hospital, hospice, or residential care facility;
  - b. Any period of incapacity requiring absence from work for more than three consecutive calendar days (including a subsequent treatment or incapacity relating to the same condition) that also involves:
    - 1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or
    - 2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

#### **Required Notice and Medical Certification**

When the Human Resources Department is notified by the employee's department that an employee has been absent for more than three consecutive calendar days, the employee shall be put on provisional FMLA/CFRA pending final determination of eligibility. Certification from the employee's treating medical care provider must be provided to the Human Resource Department within 15 days following notification of provisional FMLA/CFRA status, in order to continue to be covered under this provision.

If the employee's need for leave under this policy is foreseeable, the requesting employee shall provide his or her department head with reasonable advance notice at least 30 days advance notice in writing of the need for leave. If the employee's need for leave is foreseeable, reasonable effort should be made to schedule the treatment to avoid disruption to the operations of the employer. If the employee's need for leave is not foreseeable, the requesting employee must provide notice as soon as practicable.

An employee's request for leave to care for an immediate family member who has a serious health condition, shall be supported by a certification issued by the health care provider of the

individual requiring care. Failure to provide such certification shall result in the denial of the requested leave. Certification shall be considered sufficient if it includes all of the following:

- a. The date on which the serious health condition commenced,
- b. The probable duration of the condition,
- c. An estimate of the amount of time that the health care provider believes the employee needs to care for the individual requiring the care,
- d. A statement that the serious health condition warrants the participation of the employee to provide care during a period of the treatment or supervision of the individual requiring care.

If additional leave is required, on or before the expiration date of the time estimated by the health care provider, the employee shall be required to obtain recertification and shall be required to provide said recertification to the employer.

An employee's request for leave because of the employee's own serious health condition shall be supported by a certification issued by his or her health care provider. Failure to provide such certification shall result in the denial of the requested leave. Certification shall be considered sufficient if it includes all of the following (CFR 825.311):

- a. The date on which the serious health condition commenced.
- b. The probable duration of the condition.
- c. A statement that, due to the serious health condition, the employee is unable to perform the essential functions of his/her position.

If additional leave is required, on or before the expiration date of the time estimated by the health care provider, the employee shall be required to obtain recertification regarding the employee's serious health condition and to provide said recertification to the employer.

As a condition of the employee's return from leave taken because of the employee's own serious health condition, the employer shall require the employee to obtain a fitness for duty certification from his or her health care provider, at the employee's expense, that the employee is able to resume work (CFR 825.310).

In any case in which the employer has reason to doubt the validity of the medical certification provided by the employee for the employee's own serious health condition, the employer may require, at the employer's expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified. In any case in which the second opinion described above differs from the opinion in the original certification, the employer may require, at the employer's expense, that the employee obtain the opinion of a third health care provider. The third health care provider must be approved by the employer and the employee; the decision of the third health care provider shall be final and binding.

#### **Intermittent or Reduced Leave**

Leave may be taken intermittently or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of the employee's own serious health

condition when medically necessary, and will be counted towards the employee's 12 week FCML leave.

**Coordination of leave accruals while on FMLA/CFRA**

An employee taking leave under the FCML policy shall be required to exhaust all sick leave prior to being authorized to take unpaid leave. All leave taken in coordination with FCML is computed toward the total 12-week allowance per year under FCML.

**Effect on benefits while on FMLA/CFRA**

**Paid Leave**

During any period that the eligible employee takes paid leave under the provisions of this policy, the employer shall continue to pay the "employer" portion of the medical, dental, and vision insurance premiums; provided, however, that said employee was eligible for such county paid benefit prior to taking FCML. An employee shall continue to participate in and accrue benefits during any portion of the leave in which the employee remains in a paid status.

**Unpaid Leave**

During any period that an eligible employee takes unpaid leave under the provisions of this policy, the employer shall continue to pay the "employer" portion of the medical, dental, and vision insurance premiums; the employee, however, shall be responsible for continued payment of the employee portion of medical, dental and vision insurance premiums, provided that said employee was eligible for such benefits prior to taking FCML. Coordination of payment of the employee portion of the medical, dental and vision insurance payments is made through the Butte County Auditors office. The employee shall retain employee status with the employer, and the unpaid leave shall not constitute a break in service for purposes of longevity or seniority.

**Return to work from FMLA/CFRA**

The use of authorized FMLA/CFRA shall not result in the loss of any benefit accrued prior to the start of the FCML, with the exception of any accrued leave used in conjunction with the approved leave. During approved family care and medical leave, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or employee benefit plan.

If an employee qualifies for and takes unpaid leave in excess of two full and consecutive pay periods for a qualifying purpose under FCML, the anniversary date and any associated merit increase shall be extended by an amount which is equivalent to the total unpaid leave. Any increases to pay or change in benefits which are not dependent upon seniority accrual during the leave period will be made effective upon the employee's return to paid status.

## **Coordination of FMLA/CFRA/PDL**

### **FMLA and CFRA**

Leave provided under the County's FCML policy shall run concurrently with leave taken pursuant to the FMLA and the CFRA (including leave taken intermittently), except for any leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical leave exceeding twelve workweeks in a twelve month period.

### **FMLA, CFRA and Worker's Compensation Leave**

Leaves of absence taken due to a work related injury or illness qualify under this policy. The rules for coordination of benefits for leave of this nature is the same as that for other qualifying leaves under this policy.

### **PDL, FMLA and CFRA**

Leaves related to medical disability due to pregnancy, childbirth or other related medical conditions are governed by three separate laws.

- a. Under the California Fair Employment and Housing Act, if an employee is disabled due to pregnancy, childbirth or a related medical condition, she is eligible for Pregnancy Disability Leave (PDL). PDL provides up to four months of time off for a pregnancy related disability. Medically approved leave may be taken consecutively or intermittently for the four-month period. PDL provides job protection for the employee but does not pay medical benefits. An employee may be eligible for PDL even if she doesn't meet the qualifications for FMLA/CFRA.
- b. The Federal Family and Medical Leave Act (FMLA) regulations define pregnancy, childbirth and related medical conditions to be a "serious health condition." FMLA runs concurrently with the four months of PDL for up to 12 weeks if the pregnancy disability lasts for the full 12 weeks of allotted FMLA leave. During the FMLA the employer's portion of medical, dental and vision premium payments will continue to be made. The employee's portion of payments for medical benefits will be paid out of the employee's paycheck if the employee is in paid status. If the employee is in non-paid status, he/she will have to make arrangements to pay his/her portion of the premiums to the Auditor's office.

When an employee and his/her spouse are both employed by Butte County, a combined total of 12 workweeks is allowed for family leave for the birth or placement of a child for adoption or foster care under CFRA/FMLA.

- c. The California Family Rights Act (CFRA) eligibility provides for bonding after the birth of a baby. CFRA does not start until the mother is released from pregnancy disability by her doctor. If an employee has not used the full 12 weeks of FMLA, it will run concurrently with CFRA. An employee must qualify for FMLA when their pregnancy leave first begins in order to qualify for CFRA. CFRA also provides for continuation of the employer portion of the health, vision and dental benefits for the 12 week period. If an employee uses her full 12 week entitlement of continuation of health care benefits during the FMLA/PDL leave and then takes the CFRA after the birth of her child to bond, the County is not required to pay

her health benefits during the CFRA leave. If an employee has exhausted her PDL/FMLA leave prior to the birth of her baby then CFRA will be started on the date her PDL runs out.

The total amount of time available for coordination of PDL, FMLA and CFRA for pregnancy disability leave is four months and 12 weeks.

### **Medical Certification - Pregnancy Disability Leave**

“Certification” for this purpose means a written communication from the health care provider of the employee that either the employee is disabled due to pregnancy or that it is medically advisable for the employee to be transferred to less strenuous or hazardous duties (DFEH reg. Section 7291.2).

The certification indicating disability necessitating a leave should contain:

- a. The date on which the employee became disabled due to pregnancy;
- b. The probable duration of the period or periods of disability, and
- c. An explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

If an employee must cease work prior to delivery, a medical certification of disability is required at that time and after delivery. (A pre-delivery statement of disability does not apply once delivery has occurred since the medical circumstances have changed.) For employees on FMLA designated leave, the medical information is required in order to know when pregnancy disability has ended and the 12-week CRFA leave entitlement begins.

### **Provisions Not Addressed in This Policy**

For provisions not addressed herein, the provisions of FMLA, CFRA, PDL shall be controlling.

### **No Reprisal**

In any inquiry or proceeding related to rights guaranteed under this policy, Butte County shall not discharge, fine, suspend, expel, discriminate against, or refuse to hire, any individual because of an individual's sole exercise of the right to family care and medical leave; or for an individual's giving information or testimony as to his/her own family care and medical leave, or another person's family care and medical leave.

G:RESOLUTIONS/Appointed DH Resolution09.13.11