RESOLUTION No. 21-111

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION AMENDING NEVADA COUNTY PERSONNEL CODE

WHEREAS, the County adopted a comprehensive revised Personnel Code at their December 11, 2018 meeting, per Resolution 18-591; and

WHEREAS, the County adopted subsequent revisions to the Personnel Code by Resolutions 19-602 and 20-264; and

WHEREAS, the County is interested in maintaining effective human resources policies and procedures that comply with federal and state regulations that meet the service needs of the County; and

WHEREAS, the County is committed to providing employees with fair and understandable policies and rules; and

WHEREAS, employees and bargaining unit representatives have provided feedback through the meet and confer process to the updating of the Nevada County Personnel Code Section 3.5, Section 13.1, Section 18, Section P-3 and by adding Section 14.9 and Section P-15, thereby necessitating these revisions by way of Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada, State of California, that the revision to the Nevada County Personnel Code, effective April 14, 2021, is approved in substantially the same form as attached hereto in Exhibit A.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 13th day of April, 2021, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Hardy Bullock.
Noes: None.
Absent: None.
Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: _____

_____
Dan Miller, Chair

4/13/2021 cc: HR*
AC*
Dept. Heads*

3.5 UNSCHEDULED CLOSURE OF FACILITIES

Whenever, because of inclement weather, power outage or other cause beyond the control of the County, a County facility is declared unusable or unsuitable as a place in which to perform the normal service(s), the County Executive Officer or designee may order the temporary cessation of one or more such services regularly provided in or through the said facility, and may transfer affected employees to another location where productive work can be performed.

The County Executive Officer may order the cessation of a service or services by finding that (1) to permit the employees to access or to continue working at the facility would pose a hazard to their health and welfare, or (2) due to the circumstances, productive work could not be accomplished by the personnel assigned to the affected function or service, or (3) for other circumstances as deemed by the County Executive Officer.

In the event that the County Executive Officer orders the cessation of a service or services pursuant to the provisions of this Section, those employees who are directed to cease working, are directed not to report for work or who upon reporting for work are directed not to work, shall be paid their regular rate of pay for all time missed. Employees may only be directed not to report for work after the building has been officially closed by the County Executive Officer. Nothing in this policy changes the requirement specified above that certain positions are required to work as directed during facility closures.

In the event that an employee feels that their safety is at risk due to inclement weather, such as snow, the employee may, after meeting all departmental call-in requirements, request leave time rather than reporting to work. Employees who are on leave at the time of the facility closure (including leave for leaving early or not coming to work due to weather) shall remain on leave status (such as vacation, unpaid leave or comp time.)

In the event that a Public Safety Power Shutoff ("PSPS") closure occurs during COVID19, County requirements for social distancing may impact who will be able to continue to work in person at the County facilities. County employees who are set up to telework will be expected to telework in this situation unless otherwise directed. The County shall direct the work of other County employees consistent with safety protocols and the needs of the County.

If an employee is at home at the time of power loss and the employee's County office has not lost power, the employee shall contact their supervisor prior to the start of their shift so that the supervisor can advise regarding whether the employee should physically report to work, stay home and telework, or be placed on Building Closure leave.

SECTION 13 - PERFORMANCE EVALUATIONS AND SALARY INCREASES

13.1 PERFORMANCE EVALUATIONS

The Human Resources Director shall establish a performance management system. The standards shall have reference to the quality and quantity of work performed, the manner in which the service is rendered, and the responsibility of employees to their duties. Employee performance reports shall be developed so that they can be used as a guide in determining layoffs, transfers, and step advancements. The performance report of each employee shall be reviewed with the employee by the appointing authority as defined by this Code or supervisor in order that improvement may be recommended if required, and commendation provided when warranted. Performance reports, after filing, may be examined by the employee, by the employee's supervisor, by the Human Resources Director, and appointing authority, but shall not be open by any other person except for purposes of inquiry or review as approved by the Human Resources Director. As the appointing authority, the County Chief Executive Officer or designee reserves the right to provide input in and/or generate/complete and provide County performance evaluations for any County employee in accordance with this Code.

SECTION 14 - PAY DIFFERENTIALS

14.9 SPECIAL PROJECT PAY

1. An employee assigned a special project or set of duties and responsibilities substantially in excess of the normal or typical duties of the job may be eligible for additional compensation as authorized by the County Executive Officer (CEO).

2. Granting this additional pay shall be within the sole discretion of the CEO.

3. The CEO may authorize paying an employee Special Project Pay up to ten percent (10%) of the employee's base pay for the duration of the special project assignment or set of duties and responsibilities in excess of the employee's normal or typical duties. Such pay would not be reportable for PERS retirement calculation purposes.

18.3 DISCIPLINARY PROCEDURE

Except as distinguished by an applicable MOU or employment contract, the following disciplinary procedures apply to all regular, for-cause employees. All employees other than regular, for-cause employees (e.g. temporary, seasonal, at-will, and probationary, employees) may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

A. "*Skelly*" Notice of Proposed Disciplinary Action

A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:

(i) The level of the intended discipline;
(ii) The specific charges that support the intended discipline;
(iii) A summary of the facts that show the elements of each charge at issue in the intended discipline;
(iv) A copy of all materials upon which the intended discipline is based;
(v) Notice of the employee's right to respond to the appointing authority regarding the intended discipline within five days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
(vi) Notice of the employee's right to have a representative of their choice at the *Skelly* conference; and
(vii) Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

B. Employee Response to Notice of Proposed Disciplinary Action

The employee shall, within five (5) working days from the date of Notice of Proposed Disciplinary Action, have a right to respond orally and/or in writing to the proposed action. The employee's failure to respond orally and/or in writing within the five (5) working day period shall constitute a waiver of their right to respond.

If the employee requests a *Skelly* conference, the appointing authority or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to respond to the charges against them including rebutting the charges and presenting any mitigating circumstances. The appointing authority will consider the employee's presentation in determining the final recommendation on discipline. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

C. Final Notice of Discipline

After the *Skelly* conference and/or timely receipt of the employee's written response, the appointing authority shall decide whether the proposed disciplinary action should be taken, whether to modify the proposed disciplinary action, or whether to take no disciplinary action. In any case, the appointing authority will provide the employee with a notice that contains the following:

(i) The level of discipline, if any, to be imposed and the effective date of the discipline and the reasons for such action;
(ii) The code and ordinance sections which the employee is found to have violated;
(iii) A copy of materials upon which the discipline is based; and
(iv) Notice of the employee's appeal right and deadline to appeal.

On the effective date of the disciplinary action, the Final Notice of Discipline shall be filed with the Human Resources Director, and a copy thereof together with a copy of the code sections outlining the administrative review procedure, shall be served on the employee who is the subject of disciplinary action. If personal service upon the employee of the written notice or of the Order is impossible, a copy shall be sent by regular mail and certified mail return receipt requested to the employee at the last known address. If the notice is not deliverable because the employee has moved without notifying the County or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

D. Administrative Leave Pending Disciplinary Action

When the disciplinary action involves employee behavior, which threatens the County's operations or the safety of its employees and/or members of the public, or when otherwise determined by the Department Head, Human Resources Director and/or CEO to be in the best interests of the County, an employee may be placed on an immediate administrative leave with pay pending the outcome of any predisciplinary proceedings.

E. FLSA Compliance Regarding Application of Suspension to Exempt Employees

For compliance with the Fair Labor Standards Act as it pertains to salaried, exempt employees, and except for employees assigned to the Deputy District Attorneys' and Deputy Public Defenders' Unit, attorneys assigned to County Counsel's Office, and the County Executive Officer, an exempt employee who is to be suspended pursuant to this Section shall be suspended for periods consisting of one or more full workweeks, except that suspension for less than a full workweek may be imposed for infractions of safety rules of major significance.

18.4 POST-DISCIPLINARY RIGHT OF APPEAL

The following appeal procedures only apply to the County's for-cause employees. All employees other than for-cause employees, such as temporary, seasonal, extra-help, at-will, and probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. Any regular "for-cause" employee who is suspended for 6 (six) or more working days, demoted, reduced in pay, or dismissed, or any regular public safety officer who is disciplined by punitive actions

as outlined in the Public Safety Officer's Procedural Bill of Rights Act, may appeal such action by filing a Notice of Appeal with the County Human Resources Director. Such appeal must be filed within ten (10) working days after the effective date of the Final Notice of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Final Notice of Discipline shall constitute a waiver of the employee's right to any appeal and the imposed disciplinary action shall stand.

A. Request for Appeal

i. Suspension of 5 working days or less, or Reduction in Pay equivalent to a suspension of 5 working days or less.

Any regular employee who is suspended for **5 working days or less** may appeal such action by filing a Notice of Appeal, in writing, with the County Human Resources Director. Such appeal must be filed within ten (10) working days after the effective date of the Final Notice of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Final Notice of Discipline shall constitute a waiver of the employee's right to any appeal and the imposed disciplinary action shall stand.

The Human Resources Director shall review said Notice of Appeal and corresponding Final Notice of Discipline, and shall, within five (5) working days from the date of receipt of the Notice of Appeal, set a meeting to discuss the disciplinary action and appeal with the employee and/or their representative and with the appointing authority. In the event an agreement regarding disposition of the matter cannot be reached within five (5) working days after the meeting, the employee may submit an appeal to the County Executive Officer for final determination.

Should the employee desire to submit an appeal to the County Executive Officer, such appeal must be filed in writing, within ten (10) working days after the meeting with the Human Resources Director. Failure to submit a written appeal to the CEO within ten (10) working days after the meeting with the Human Resources Director shall constitute a waiver of the employee's right to such appeal and the imposed disciplinary action shall stand. The CEO shall, upon timely receipt of an appeal, review the written appeal, Notice of Appeal submitted to the Human Resources Officer and the Corresponding Final Notice of Discipline, and issue a Final Determination. Upon the issuance of the Final Determination, the employee shall have no further right of appeal.

The timelines above may be extended by mutual agreement of the parties.

ii. Suspension of 6 or more working days, Reduction in Pay equivalent to 6 or more working days' Suspension, Demotion or Termination

Any regular employee who is suspended for **6 or more working days**, demoted, reduced in pay, or dismissed, or any regular public safety officer who is disciplined by punitive actions as outlined in the Public Safety Officer's Procedural Bill of Rights Act, may appeal such action by filing a Notice of Appeal with the County Human Resources Director. Such appeal must be filed within ten (10) working days after the effective date of the Final Notice of Discipline. Failure to file Notice of Appeal within ten (10) working days after the effective date of the Final Notice of Discipline shall constitute a waiver of the employee's right to any appeal and the imposed disciplinary action shall stand.

The Human Resources Director shall review said Notice of Appeal and corresponding Final Notice of Discipline, and shall within five (5) working days from the date of receipt of the Notice of Appeal, set a meeting to discuss the disciplinary action and appeal with the employee and/or their representative and with the appointing authority. In the event an agreement regarding disposition of the matter cannot be reached within five (5) working days after the meeting, the employee may request to appeal the discipline to arbitration.

A request to appeal the discipline to arbitration must be made in writing, within ten (10) working days after the meeting with the Human Resources Director. Failure to submit a written request to the Human Resources Director within ten (10) working days after the meeting with the Director shall constitute a waiver of the employee's right to appeal and the imposed disciplinary action shall stand.

The Human Resources Director shall, upon timely receipt of a request to appeal to arbitration begin the process of selecting an arbitrator to hear the appeal as specified below.

B. Arbitration

The employee and the County shall attempt to agree upon an arbitrator. If no agreement can be reached, the Parties shall request a list of seven (7) arbitrators from the State Mediation and Conciliation Service (SMCS) – Public Employment Relations Board (PERB). The Parties will flip a coin. The winner shall choose the first name and so on until one name is left, who shall be the arbitrator. The arbitrator must decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. The Parties shall split the cost of all fees charged for such arbitration proceedings as permitted by law.

C. Record of the Arbitration Appeal Hearing

The arbitration hearing shall be recorded, either electronically or by a court reporter, at the option of the County. If the County orders a transcript or makes a transcript of the recording, the County will notify the employee within three days of ordering or making the transcript and will provide a copy of the transcript upon receipt of the costs of duplication.

D. Employee Appearance

The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person they may select.

18.5 HEARING PROCEDURE

The following rules shall apply to any hearing conducted under the provisions of the Section.

A. **Sworn Testimony**: All witnesses shall be sworn in prior to testifying. The arbitrator or court reporter shall request each witness to raise their hand and respond to the following: "Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?"

B. **Evidence**: Arbitration hearings need not be conducted according to technical rules relating to evidence and witnesses but shall be conducted in a manner that the arbitrator decides is the most conducive to determining the truth. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The arbitrator shall determine the relevance, weight and credibility of testimony and evidence.

C. **Exclusion of Witnesses**: During the examination of a witness, all other witnesses, except the parties, shall be excluded from the arbitration.

D. **Burden of Proof**: The County has the burden of proof by the preponderance of the evidence.

E. **Authority of Arbitrator**: The arbitrator shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.

F. **Professionalism**: All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity, or personal behavior of their adversaries or the arbitrator.

G. **Fees and Costs**: In accordance with applicable rules, collective bargaining agreements, and the law, each party shall bear equally the cost of facilities, fees and expenses of the Arbitrator, including transcripts. Each party shall bear its own witness and attorney fees.

If either party unilaterally cancels or postpones a scheduled arbitration, thereby resulting in a fee charged by the arbitrator, then the party responsible for the cancellation or postponement shall be solely responsible for the payment of that fee.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines
P-3

SUBJECT: FAMILY and MEDICAL CARE LEAVE

A. STATEMENT OF POLICY

To the extent not already provided for under current leave policies and provisions, the County will provide unpaid family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this article, "Leave" under this article shall mean leave pursuant to the FMLA and the CFRA.

B. DEFINITIONS

1) **"12-Month Period"** means a 12-month period measured forward from the day the leave begins.

2) **"Child"** means a son or daughter, such as a biological, adopted, or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis, and for entitlement to FMLA coverage, under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability.

   A child is "incapable of self-care" if they require active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

   Under CFRA regulation, beginning January 1, 2021, all "child" also includes individuals fitting the aforementioned categories over the age of 18.

3) **"County"** means the County of Nevada.

4) **"Parent"** means the biological, adoptive, step or foster parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

5) **"Spouse"** under the definition of FMLA means a husband or wife as defined or recognized under California State law for purposes of marriage. This includes same sex partners in marriage. Under CFRA regulation, registered domestic partners are also recognized as spouses.

6) **"Serious health condition"** means an illness, injury, impairment, or physical or mental condition that involves:

a. **Inpatient Care** treatment or anticipated treatment in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or

b. **Continuing treatment** by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

i.) A period of **incapacity** (i.e., inability to work, or perform other regular daily activities due to serious health condition) of more than three consecutive full calendar days; and

ii.) Any subsequent treatment or period of incapacity relating to the same condition that also involves:

(a) Treatment two or more times within 30 days from the first day of incapacity, by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; and the first medical visit must take place within seven days of the first day of incapacity; or

(b) 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 where the first medical visit must take place within seven days of the first day of incapacity. This includes for example; a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

c. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law

an employee disabled by pregnancy is entitled to pregnancy disability leave.)

d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

i.) Requires periodic visits for treatment by a health care provider, which consists of visiting a health care provider at least twice a year for the same condition, or by a nurse or physician's assistant under direct supervision of a health care provider;

ii.) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

iii.) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

e. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of but need not be receiving active treatment by a health care provider.

f. Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

7) **"Covered active duty"** means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

8) **"Covered Servicemember"** means (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding

the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

9) **"Outpatient Status"** means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

10) **"Next of Kin of a Covered Servicemember"** means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.

11) **"Serious Injury or Illness"** means (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

12) **"Qualifying Exigency"** includes (1) short notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; (8) parental care; and (9) additional activities that the County and employee may agree qualify as an exigency.

C. **"HEALTH CARE PROVIDER"** means:

1) A Doctor of Medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

2) An individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;

3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;

5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

6) Any health care provider from whom the County's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

D. REASONS FOR LEAVE

Leave is only permitted for the following reasons:

1) The birth of a child or to care for a newborn of an employee;

2) The placement of a child with an employee in connection with the adoption or foster care of a child;

3) To care for a child (employees are entitled to CFRA leave only for an adult child over 18 years of age), parent, grandparent (CFRA only), grandchild (CFRA only), sibling (CFRA only), spouse or registered domestic partner who has a serious health condition;

4) Because of a serious health condition that makes the employee unable to perform the functions of their position;

5) For a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, domestic partner (under CFRA only), child, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation; or

6) To care for a spouse, child, parent, or "next of kin" who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active

duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period (under the FMLA only, not the CFRA).

E. EMPLOYEES ELIGIBILE FOR LEAVE

An employee is eligible for leave if the employee:

1) Has been employed by the County for at least 12 months; and

2) Has at least 1,250 hours of County service during the 12-month period immediately preceding the commencement of the leave.

F. AMOUNT OF LEAVE

Eligible employees are entitled to a total of 12 workweeks (480 hours) (or 26 workweeks to care for a covered service member) of leave during any 12-month period, as that period is defined above. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

1) Minimum Duration of Leave

If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse, registered domestic partner or the employee themselves with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

2) Spouses Both Employed By the County

In any case in which spouses both employed by the County are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks (480 hours) during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave - CFRA). This limitation also applies to leave under the Family Medical Leave Act. If both parents of a covered service member are employed by the County and are entitled to leave to care for a covered service member, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy. For example, each employee is eligible for 12

workweeks (480 hours) of CFRA in a 12-month period, if the CFRA is needed to care for a child with a serious health condition.

G. EMPLOYEE BENEFITS WHILE ON LEAVE

While on leave, employees will continue to be covered by the County's health, dental, vision, and life insurance plans to the same extent that coverage is provided while the employee is on the job. Continuation of such coverage will end after 12 weeks or 480 hours of leave is taken in a 12-month period with one exception. If leave is due to pregnancy, pregnancy related disability and subsequent bonding time; the County will continue to contribute the County's share of health, dental and vision premiums to the same extent that coverage is provided while the employee is on the job. The maximum benefit entitlement period in any case is 29 1/3 weeks. Thereafter, the employee may continue coverage at their own expense.

Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the County will inform you whether the premiums should be paid to the carrier or to the County. Your coverage on a particular plan may be dropped if you are more than 30 days late in making a premium payment. However, you will receive a notice at least 15 days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after their leave entitlement has been exhausted or expires, the County shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or their family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The County shall have the right to recover premiums through deduction from any sums due the County (e.g., unpaid wages, vacation pay, etc.).

H. SUBSTITUTION OF PAID ACCRUED LEAVES

An employee may elect to concurrently use paid accrued leaves for all or any portion of unpaid family and medical care leave. Similarly, the County may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave and may also require an employee to use Family and Medical Care Leave concurrently with a nonFMLA/CFRA leave which is FMLA/CFRA-qualifying.

1) Employee's Right To Use Paid Accrued Leaves Concurrently With Family Leave

Where an employee has earned or accrued paid vacation, administrative leave, or compensatory time, that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

a. The leave is for the employee's own serious health condition; or

b. The leave is needed to attend to the illness of the employee's parent, spouse, domestic partner, child, or child of the employee's domestic partner.

2) County's Right To Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave with three exceptions:

a. Employees may choose not to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act;
b. Employees will only be required to use sick leave concurrently with FMLA leave if the leave is for the employee's own serious health condition unless they so choose;
c. Employees will not be required to use sick leave, unless they choose to as a supplement, while collecting SDI benefits during their CFRA leave;

3) County's Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the non-FMLA/CFRA paid leaves accrued by the employee will run concurrently with the employee's 12-week (480 hours) FMLA/CFRA leave entitlement. The only exception is for peace officers that are on leave pursuant to Labor Code § 4850.

4) County and Employee's Rights If An Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the County may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose.

However, if the County denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the County may inquire further into the reason for the absence. If the reason is FMLA/CFRA qualifying, the County will require the employee to exhaust accrued leave as described above.

I. MEDICAL CERTIFICATION

Employees who request protected leave for their own serious health condition or to care for a child, parent or a spouse or domestic partner who has a serious health condition, must provide written certification from the health care provider of the individual or employee requiring care.

Medical certification must contain all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and, if for the employee's own condition, a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of their position. If leave is requested to care for a child, parent, spouse or domestic partner, the certification must contain an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent or spouse. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care.

1) Time To Provide A Certification

When an employee's leave is foreseeable and at least 30 days' notice has been provided, the employee must provide medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the County within the time frame requested by the County (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

2) Consequences For Failure To Provide An Adequate Or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this Policy, the County may delay the taking of FMLA/CFRA leave until the required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

3) Recertification and Second Opinions

Under FMLA, recertification of a medical condition is allowable every six months, even for lifetime conditions.

Under CFRA, recertification is allowable only when the medical certificate has expired or the employee requests additional leave.

Upon expiration of the time period the health care provider originally estimated that the employee needed for their own serious health condition, and upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employee and County must obtain recertification if additional leave is requested.

If the County has a good faith, objective reason to doubt the validity of a certification for an employee's own serious health condition, the County may require a medical opinion of a second health care provider chosen and paid for by the County. If the second opinion is different from the first, the County may require the opinion of a third provider jointly approved by the County and the employee but paid for by the County. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

4) Intermittent Leave Or Leave On A Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. Employees who take intermittent leave for planned medical treatment must make a reasonable effort to schedule such treatment so as not to disrupt unduly the employer's operations.

J. EMPLOYEE NOTICE OF LEAVE

Although the County recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that they will need leave in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform their supervisor as soon as practicable that such leave will be needed. Such notice may be orally given. If an employee does not ask for foreseeable leave with at least 30 days' advance notice, Nevada County has the right to ask the employee why it was not possible to give a 30 day notice of the need for leave, to determine if the notice for leave was provided as soon as practicable. If the County determines that an employee's notice is inadequate or the employee did not provide notice of the leave as soon as practicable, the County may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

K. REINSTATEMENT UPON RETURN FROM LEAVE

1) Right To Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the County, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of their readiness to return.

2) Employee's Obligation To Periodically Report On Their Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

3) Fitness For Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

4) Reinstatement Of "Key Employees"

The County may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid ten percent (10%) of all employed by the County within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the County, and the employee is notified of the County's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

L. REQUIRED FORMS

Employees must fill out or submit the following applicable forms in connections with leave under this policy:

1) A written or verbal request for Family Medical Leave (FMLA), California Family Rights Act (CFRA) Bonding Time or Pregnancy Disability Leave (PDL). The County will respond in writing with conditions of the leave;

2) Medical certification for the employee's own serious health condition or for the serious health condition of a spouse, child, parent, or registered domestic partner;

3) Fitness for duty form to return to duty.

These forms are available through the County's Human Resources Department.

M. GENETIC INFORMATION NONDISCRIMINATION ACT

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the County will not ask any employee to provide genetic information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the manifestation of a disease or disorder in an individual's family members, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

N. MILITARY CARETAKER LEAVE

Effective January 16, 2009, the National Defense Authorization Act (NDAA) allows an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member to take twenty six (26) workweeks of leave during a single 12-month period to care for the service member. An eligible employee may take FMLA leave to care for a covered service member of the U.S. Armed Forces who has a serious injury or illness incurred in the line of duty on active duty, or existed before the beginning of the member's active duty but was aggravated by service in the line of duty on active duty in the Armed Forces, for which the service member is (1) undergoing medical treatment, recuperation, or therapy; or (2) otherwise in outpatient status; or (3) otherwise on the temporary disability retired list for a serious injury or illness. An employee on military caregiver leave is entitled to paid health benefits as if the employee continued to work. Military Caregiver Leave is unpaid. While on leave under this policy, as set forth herein, an employee may elect to concurrently use accrued leave balances.

1) Who is Entitled to Take Military Caregiver Leave:

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to take military caregiver leave. For the purposes of this leave, the following definitions and conditions apply:

a. Covered service member includes current members of the Regular Armed Forces, including current members of the National Guard or Reserves, and members of the Regular Armed Forces, the National Guard and the Reserves who are on the temporary disability retired list. Covered service members also include a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including National Guard or Reserve, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

b. An employee seeking to take military caregiver leave must obtain appropriate certification that a service member's serious injury or illness was incurred in the line of duty on active duty.

c. For purposes of military caregiver leave, a "son or daughter of a covered service member" is the covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood *in loco parentis,* and who is of any age.

d. Next of kin is the service member's nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under FMLA, in which case the designated individual shall be considered the covered service member's next of kin.

e. When proof of an individual's status as a covered service member's next of kin is needed, the employee must provide reasonable documentation of the familial relationship. If the service member has not designated a next of kin, a simple statement from the employee outlining the employee's familial relationship to the service member will suffice.

f. An employee's need to take leave to care for a covered service member with a serious injury or illness must be certified by an authorized health care provider. It will be the responsibility of the employee to provide all certification information as requested on the Certification of Serious Injury or Illness of Covered Service member for Military Family Leave.

2) Circumstances Under Which Military Caregiver Leave May be Taken

a. The 26-workweek entitlement is a one-time entitlement applied on a per-service member, per-injury basis, meaning that an eligible employee may

be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any single 12-month period.

b. Military caregiver leave is not a yearly entitlement that renews each year. An eligible employee who is caring for a covered service member, whose serious injury or illness extends beyond the employee's 26-workweek leave entitlement, is not eligible for an additional 26-workweek entitlement to continue to care for the covered service member.

c. After an employee has exhausted their military caregiver leave entitlement, the employee may be entitled to use their normal 12-week FMLA leave entitlement to provide care to the service member due to the same injury or illness. If an employee has not satisfied the 1,250 hour eligibility requirement for FMLA prior to using the military caregiver's leave, they will have satisfied the eligibility requirement if the eligibility requirement was met during the time the employee was taking military caregiver's leave for the same condition.

d. The single 12-month period for military caregiver leave begins on the first day the eligible employee takes the leave and ends 12 months after that date, regardless of the method used to determine the FMLA qualifying methods. The single 12-month period used for military caregiver leave need not be the same as other FMLA-qualifying leave. It may be possible that two different 12-month leave periods are in effect at the same time.

e. An eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other FMLA-qualifying reason in a single 12-month period, provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason.

f. In the case of leave that qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, Nevada County will designate such leave as military caregiver leave first. The employee will receive notice of the designation of leave.

O. QUALIFYING EXIGENCY LEAVE

The National Defense Authorization Act provides that eligible employees may take up to 12 weeks of FMLA leave for any qualifying exigency due to a spouse, son, daughter, or parent of the employee being on active duty or being notified of an impending call to active duty status. Qualifying exigency leave is available to employees who have a spouse, son, daughter, or parent called to active duty as part of the Reserve components of the Armed Forces, including the National Guard, Army Reserve, Navy Reserve, Marine Corps

Reserve, Air National Guard, Air Force Reserve and Coast Guard Reserve, or a retired member of the Regular Armed Forces or Reserve called in support of a contingency operation. Such leave is also available in the case of a deployment of a Regular Armed Forces member to a foreign country.

An employee requesting qualifying Exigency Leave must provide sufficient information that indicates that a family member is on active duty or call to active duty status, and that the requested leave is for one of the qualifying exigencies listed below, and the anticipated duration of the absence.

Nevada County may require an employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation, and the dates of the covered military member's active duty service.

1) Categories of Qualifying Exigencies:

a. Short-notice deployment: To address any issue that arises due to a covered military member being notified of an impending call or order to active duty seven or less calendar days prior to the date of deployment.

b. Military events and related activities: To attend any official ceremony, program, or event sponsored by the military and to attend family support and assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.

c. Childcare and school activities: To arrange childcare or attend certain school activities for a child of the covered military member, who is either under age 18, or age 18 or older and incapable of self-care. This leave may be taken to arrange for alternative childcare, to provide urgent, immediate, non-routine childcare, to enroll the child in a new school or day care facility, or to attend meetings with staff at a school or a day care facility.

d. Financial and legal arrangements: To make or update financial or legal arrangements to address the covered military member's absence while on active duty or call to active duty status, such as preparing and executing financial and healthcare powers of attorney, transferring bank account signature authority, obtaining military identification cards, or preparing or updating a will or living trust. The leave can also be used for acting as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status, and for the 90 days after the termination of the covered military member's active duty status.

e. Counseling: To attend counseling provided by someone other than a healthcare provider for oneself, for the covered military member, or for the child of the covered military member who is either under the age of 18 or age 18 or older and incapable of self-care, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member.

f. Rest and recuperation: To spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to fifteen (15) days of leave for each instance of rest and recuperation.

g. Post-Deployment activities: To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the covered military member's active duty and to address issues that arise from the death of a covered military member while on active duty status, such as meeting and recovering the body of the covered military member and making funeral arrangements.

h. Parental Care: To arrange for parental care for the parent of the military member if the parent is incapable of self-care and is the military member's biological, adoptive, step, or foster father or mother, or any individual who stood in loco parentis to the military member when the member was under 19 years of age. This leave may be taken to arrange for alternate care for the parent of the military member when the parent is incapable of self-care and the covered active duty or call to covered active duty status necessitates a change in existing care arrangements for the parent; to provide care for a parent on an urgent, immediate need basis (but not on a routine, regular, or everyday basis); to admit to or transfer to a care facility the parent of the military member; or to attend meetings with staff at a care facility.

i. Additional activities: To address other events which arise out of the covered military member's active duty or call to active duty status provided that Nevada County and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

NEVADA COUNTY, CALIFORNIA
Personnel Administrative Guidelines

P-15

SUBJECT: EMPLOYEE APPEARANCE STANDARDS – DRESS CODE

PURPOSE

These dress code appearance standards are designed to promote the County's legitimate and nondiscriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

POLICY

Employees are required to dress appropriately for the jobs they are performing. The following dress code regulations shall apply to all County employees. If an employee has questions about how these standards apply to them, the matter should be immediately raised with their supervisor for consideration and determination.

A. All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.

B. Prescribed uniforms and safety equipment must be worn.

C. Hair must be neat, clean, and well-groomed.

D. Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.

E. Good personal hygiene is required.

F. Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.

G. Employees whose work setting includes appearing in court must adhere to the dress code requirements of that court.