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Policy 225**

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## EMPLOYEE BENEFITS

### .1 POLICY

Fringe benefits are granted to regular employees as a part of total compensation. Eligible full-time employees shall accrue benefits based on the established hours for the workweek. Eligible part-time employees accrue benefits based on a percentage of a full time 40-hour position. Appointed Department Heads accrue benefits as specified in the individual employment agreement between the Department Head and the Board of County Commissioners. The Court Reporter, an exempt employee under the RCW and the charter, shall not accrue holiday, vacation, or sick leave benefits under this policy. For all other charter exempt, non-represented, and other employees unless otherwise specified by contract, the following benefits, rules, and procedures apply:

### .2 HOLIDAYS

#### 2.1 Standard County Holidays

The following days shall be recognized as the Standard County Holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth Day	June 19
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day following Thanksgiving	Friday following Thanksgiving
Christmas Day	December 25

Whenever a standard holiday falls on a Sunday, the succeeding Monday shall be observed as the holiday; and whenever a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday.

#### 2.2 Standard Floating Holidays

Unless otherwise provided by contract, benefited employees shall receive four (4) standard floating holidays earned on 1 January of each year (or after 180 days of employment for new employees). Use of floating holidays is selected by mutual agreement of the employee and supervisor.

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Floating holidays must be used by December 31 of each year or be lost. Employees who have not used their floating holidays and transfer to another department within the County are entitled to transfer their remaining floating holidays for use prior to the end of the calendar year. Employees may use floating holidays during their two (2) week notice of termination.

### 2.3 Unpaid Holidays for Reason of Faith or Conscience

Employees are entitled to two unpaid holidays per calendar year for a reason of faith or conscience, or for an organized activity conducted under the auspices of a religious denomination, church, or religious organization. The two unpaid holidays must be used in full day increments and if not taken within a calendar year do not carry over from one year to the next.

At least 14 calendar days in advance of the desired unpaid holiday(s), the employee must submit a written request to his or her supervisor to take the desired days(s) off. The employee will be allowed to take the two unpaid holidays on the days he or she has selected unless the employee's supervisor determines the absence would unduly disrupt operations, impose an undue hardship, or the employee is necessary to maintain public safety. The term "undue hardship" is defined in WAC 82-56-020). If more than one employee per department or division submits a request for the same date(s), requests will be granted, to the extent possible, in order of submission.

### 2.4 Eligibility for Holiday Benefits

Benefit eligible employees who have completed one week of continuous employment shall be eligible for holiday benefit. Eligible part-time employees, regardless of their daily schedule, will receive pro-rated holiday pay off based on their regular weekly hours. If the holiday falls on an employee's regularly scheduled day off, they must take their next actual workday off.

Holiday pay shall not be authorized if an employee has previously resigned, has been laid off, discharged or suspended prior to the holiday.

### 2.5 Holiday during Leave

Should an employee be on authorized paid leave when a holiday occurs, such holidays shall not be charged against such leave.

## 2.6 Work Performed on Holidays

If an FLSA exempt employee taking standard county holidays works on any of the holidays listed above, he/she shall, in addition to his/her pay for the hours worked, be entitled to administrative leave on an hour-for-hour basis.

## .3 VACATION LEAVE

### 3.1 Vacation Leave Accrual

Unless otherwise provided by contract, all regular full-time employees shall accrue vacation leave monthly based upon the following schedule:

Months of Service	Hours per Month	Days per Year
0 thru 48	8	12
49 thru 108	10	15
109 thru 168	12	18
169 thru 204	14	21
Over 204	16.666	25

Benefit eligible employees working less than 40 hours per week accrue vacation leave prorated based upon the fixed percentage of a full time equivalent. (For example, an employee designated at 60 percent FTE works 24 hours per week and receives 60 percent of a full time employee accrual rate. One FTE = 40-hours.

Vacation accrual is represented as hours earned, not days, nor dollars. The current wage rate will be used for purposes of vacation accrual transfer or payoff.

Total years of continuous County service in benefit eligible positions adjusted by any leave without pay shall be used for calculating vacation leave accrual.

### 3.2 Eligibility for Vacation Benefit

Benefit eligible employees earn vacation benefits. Employees may use only what has been accrued through the end of the month prior to the month when vacation is taken.

### 3.3 Maximum Accrual

Accrued vacation time for non-represented employees shall be limited to a maximum of 480 hours based on the employee's scheduled hours. The employee may only be paid for a maximum of 400 hours upon separation.

Maximum accrual of vacation time for employees represented by collective bargaining is governed by their respective collective bargaining agreement.

#### 3.4 Accrual Over Maximum Not Allowed

Accrual beyond the maximum rate shall be forfeited at the end of each month the employee is at or above the maximum vacation accrual at the end of the last working day of the month.

#### 3.5 Vacation Transfer

When an employee transfers from a department in one budget fund to a department in another budget fund, the transferring department shall calculate the value of the vacation accrual owed to the employee and deposit that amount with the receiving department. The rate of pay used for calculation shall be the employee's rate of pay in the transferring department.

#### 3.6 Call Back During Vacation Period

An employee who is called back to work during a scheduled vacation period shall be paid for regular hours worked at double the normal hourly rate and for any overtime hours worked at triple the normal hourly rate. Employees called back from vacation shall be guaranteed a minimum of two hours' pay. PROVIDED, HOWEVER; if an employee is called back to work because of emergency beyond the County's control, the above-described increased rates of compensation do not apply. Under these circumstances, employee will receive a guaranteed minimum of two hours at the regular rate of pay.

#### 3.7 Canceling Vacation

Once approved, an employee's vacation period should be respected unless an unforeseeable emergency exists that requires the employee's presence. If the employee's vacation should be so canceled, the employee may reschedule vacation to a future date, and such schedule shall be given priority by the County Official, provided it does not cause a conflict with other scheduled vacations. Cancellation of vacation shall not be done in a capricious or arbitrary manner.

#### 3.8 Use of Vacation Leave upon Resignation or Retirement

An employee who resigns or retires from the County's service may only use vacation leave to complete the month of service in which resignation or retirement occurs.

### 3.9 Use of Vacation

Employees are encouraged to schedule vacation annually. A minimum 2-week vacation from employment with the County is recommended.

Employees shall request their vacation time between January 1 and the last working day in March of each year. If in the opinion of the County Official, too many requests are received for the same time period, seniority by unit shall prevail. Any requests received after the last working day in March shall be considered on a first-come, first-served basis.

Use of vacation leave in less than full day increments is discouraged; however, such leave may be granted by the County Official with a minimum notice of 2-working days. Granting of such leave shall be subject to operational needs.

### 3.10 Extended Vacation

An employee who intends to use extended vacation (a period exceeding 4 weeks) shall make a request for vacation leave in writing to the County Official a minimum of 3 months in advance of the anticipated departure time. The purpose of the 3-month lead-time is to give the County Official sufficient notice to properly schedule and distribute the workload within the department. Conflicts in scheduling shall be resolved by the County Official, usually using seniority by unit as the determining factor.

### 3.11 Transferring Vacation to another Employee

Employees may donate accrued vacation leave to another employee when that employee is on Family Medical Leave (FMLA) and does not have sufficient accrued leave to remain in paid status. The employee donating leave may only do so on the form provided by the County. It is not subject to any grievance or appeal procedure, up to and including arbitration, or legal action in any court of competent jurisdiction.

Donated leave shall be subject to the following guidelines:

- a. Employees may only donate vacation leave already accrued. No other leave is allowed to be donated.
- b. Leave donation may only occur if the receiving employee is on Family Medical Leave due to his or her own serious health condition, or due to the need to care for a family member's serious health condition, as defined under the Family Medical Leave Act of 1993 and subsequent case law or an ADA accommodated leave that is granted contiguous with the Family Medical Leave, or Pregnancy Disability Leave as defined under the Washington State Family Leave Act (RCW Chapter 49) preventing the employee's return to work and that employee has exhausted all accumulated vacation time, sick time or other leave with pay to

- which the employee is entitled; leave donation may not be made to employees who are on Workers Compensation time loss benefit.
- c. Employees who do not qualify for Family Medical Leave and have less than one year of service may receive up to 6 weeks donated leave;
  - d. Donated leave shall be credited to the receiving employee's sick leave account in increments equal to the total number of hours in the workday of the recipient employee; i.e., 7.5, 8, 9.5, 10 and will be used on an "as needed" basis in the order donation forms are received by the County.
  - e. Donated leave shall only be used for purposes of designated Family Medical Leave, or in the event the full 12 weeks of FMLA has been exhausted, then only for a continued ADA accommodated leave of absence for a terminally ill employee or the continued care of an employee's terminally ill family member; provided such leave has been applied for and designated prior to the expiration of the 12 weeks of designated FMLA.
  - f. Donated leave shall be applied in the same date order that it is received.
  - g. Donated Leave is not subject to cash payment upon separation nor shall leave be credited beyond that necessary for return of the employee to work. Unused donated leave shall be returned to the donor.

### 3.12 Maximum Donated Leave

The maximum donated leave an employee may receive during a consecutive five-year period shall not exceed 12-weeks, based upon the employee's normal workweek. Five-year period means a rolling five-year period measured backward from the date donated leave is used and continuous with each additional day of donated leave used. If the employee is terminally ill or the employee is caring for a family member (as defined by the FMLA) who is terminally ill, the maximum donated leave provision shall not apply (see 3.11 e. above).

### 3.13 Forfeiture of Donated Leave

In the event an employee is found to have abused this donation policy by using accrued vacation for vacation purposes during any period of authorized Family Medical Leave, all remaining donated leave shall be forfeited and returned to the donor.

### 3.14 Cash out of Vacation Accrual

Cash out of accrued vacation is not normally allowed except subject to policy upon separation. An employee with extreme hardship as defined in the Internal Revenue Code may make application to the Administrator to cash out up to 300 hours of accrued vacation leave. If approved, the employee's maximum accrual will be permanently reduced by the amount of leave cashed out.

#### .4 SICK LEAVE

It is the policy of the County to provide employees with sick leave as a financial protection against illness, injury, or temporary disability. Temporary disability is defined as the inability to perform assigned duties due to physical impairment, whether caused by pregnancy, accident, disease or other related factors.

##### 4.1 Sick Leave Accrual

Full time benefitted employees accrue sick leave at the rate of 8-hours per month. Unless otherwise stated in a collective bargaining agreement, benefit eligible employees working less than 40-hour workweeks accrue based upon the fixed percentage of a full time equivalent. (For example, an employee designated at a 60 percent FTE works 24-hours per week and receives 60 percent of a full time employee accrual rate. One FTE = 37.5 hours or more.)

Non-benefitted employees shall accrue sick leave at the rate of one hour per 40 hours actually worked.

Sick leave may be accrued without limit. All unused accrued sick leave shall carry over to the following year.

##### 4.2 Eligibility for Sick Leave

Eligibility for use of sick leave is established after one month of continuous employment. Employees may use only what has been accrued through the end of the month prior to the month when sick leave is taken.

##### 4.3 Use of Sick Leave

Accumulated sick leave may be used for the following purposes:

- a. An employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventative medical care.
- b. To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventative medical care. Family member means any of the following: child, parent, spouse, registered domestic partner, parent of employee's spouse or registered domestic partner, grandparent, grandchild, or sibling.

- c. When the employee's place of business has been closed by order of a public health official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.
- d. For absences that qualify for leave under the Domestic Violence Leave Act.

If an employee uses paid sick leave under circumstances that do not qualify as FMLA Leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition that is not a serious health condition or a condition lasting under 3 days does not count toward the 12 weeks of FMLA leave entitlement.

The Family Medical Leave Act, Washington Family Care Act, and Pregnancy Disability under Washington Family Leave are all administered differently. Employees should refer to each section later in this policy for details.

#### 4.4 Use of Other Accrued Leave for Sickness

Employees who have insufficient sick leave accrued for a period of illness or temporary disability shall use all accrued vacation and comp time. Unpaid absence for sickness or injury not qualifying for Family Medical Leave or other statutory leave will be evaluated on a case-by-case basis and such employees may be subject to termination.

#### 4.5 Extended Medical Leave

An extended medical leave is defined as an absence from work in excess of 3-workdays. An extended medical leave shall be subject to the County's rules in applying the Family and Medical Leave Act and Pregnancy Disability Leave.

##### (1) Unanticipated Extended Medical Leave

Where an employee has been absent from work for more than 3-workdays due to an unanticipated illness or disability, a physician's statement or other verification may be required to verify the employee's condition and prognosis.

##### (2) Anticipated Leave of Absence

Employees anticipating a leave for surgery, pregnancy disability, or any other anticipated disability are required to notify their County Official of the start date and the expected date of return to work. Any employee who desires an extended medical leave for other than pregnancy disability must submit a request, in writing, at least 10 days prior to the beginning of leave. In the event the employee has less than 10 days' notice of an extended medical leave, notice shall be given to the County Official as soon as possible. A request for an extended medical leave must be accompanied by a physician's statement,

including the anticipated beginning and length of disability, as well as a confirmation that the employee is unable to work during the leave period.

(3) Reports Required for Continued Disability

Updated physicians' reports shall be required for persons who have been on leave for 30-days, and shall be required every 30-days thereafter, unless otherwise specified in writing by the Director.

(4) Release to Return to Work Required

Prior to return to work, employees who have been on extended medical leave for their own health condition for 30 days or more shall submit a physician's statement certifying their ability to return to their normal duties and indicating any restrictions. In the event the employee is released to work with restrictions that impact the employee's ability to perform the essential functions, the County reserves the right to require additional medical opinion(s) to determine fitness for duty and make determinations concerning reasonable accommodation.

(5) Effect of Sick/Medical Leave on Other Benefits

Employee's seniority, benefit accruals, and retirement benefits will not be affected by a paid extended medical leave. An employee's adjusted hire date, adjusted classification date and retirement credit will be adjusted for any periods of unpaid leave of absence.

Employees on workers compensation leave have the right by statute to purchase retirement service credit.

(6) Verification Alternatives

When verification is required, employees may assert that verification results in an unreasonable burden or expense.

(a) The employee may provide an oral or written explanation which asserts that the use of paid sick leave was for an authorized purpose and explains how the verification requirement creates an unreasonable burden or expense.

(b) Within 10 days of receiving the employee's explanation, the County must consider the explanation and make a reasonable effort to identify and provide alternatives.

(c) If the County and employee disagree that the County's verification requirement results in an unreasonable burden or expense, the employee may file a complaint with the Department of Labor and Industries.

#### 4.6 Illness during Vacation

Should an employee become ill while on vacation and require medical attention or hospitalization, the time ill may be charged to accumulated sick leave, provided the employee furnishes a certificate issued by a licensed physician or practitioner or other satisfactory evidence of illness.

#### 4.7 Sick Employees Required to Notify Supervisor

An employee who cannot report to work due to illness or injury shall notify his supervisor or County Official according to departmental procedures no later than 30 minutes into the employee's regular shift. Notification of a co-worker is acceptable only after reasonable attempts to contact a supervisor and leaving a voice mail or other message for such supervisor. In the event of a continuing illness, the employee shall continue to notify his County Official daily of his inability to report to work or supply a doctor's statement of expected return date.

Scheduling of anticipated use of sick leave shall require a minimum of 2-day notice.

Emergency use of sick leave shall require a minimum of verbal notice to the immediate supervisor. Leaving the job without appropriate verbal notice shall result in an unexcused absence and denial of sick leave.

#### 4.8 Abuse of Sick Leave

Abuse of sick leave is not tolerated by the County. Supervisors shall investigate suspected cases of sick leave abuse when they have reasonable suspicion to believe an employee may be misusing such leave.

4.9 An employee may file a complaint with the Department of Labor & Industry for reasons set forth in WAC 296-128, including the following:

- a. If an employer withholds payment for the use of paid sick leave due to use of sick leave for an unauthorized purpose, but the employee maintains that the use of paid sick leave was for an authorized purpose; or
- b. If an employee believes they were subject of retaliation for use of paid sick leave; or
- c. If an employee and employer disagree as to whether obtaining verification results in an unreasonable burden or expense on the employee;

## .5 EMPLOYEE LEAVE USAGE DURING EMERGENCIES

### 5.1 Employee Initiated Absences Due to Inclement Weather

An employee who is unable to work, is late to work, or leaves work early because of unusual/inclement weather conditions may use a floating holiday, vacation leave, sick leave, or leave without pay. Subject to approval of their supervisor, the employee may also be authorized to work from home.

It is the responsibility of the employee to contact the employee's supervisor for approval of the anticipated absence from work due to weather conditions.

### 5.2 Closure of County Facilities

Partial day closure – When the determination is made to close County facilities due to inclement weather or other unusual circumstances, employees on duty who leave work due to the closure will be paid for the remainder of their scheduled shift and paid leave need not be charged.

When County facilities are closed, employees who were off duty at the time for other reasons, such as a scheduled vacation or previously approved sick leave, must use paid leave for the full shift as originally planned.

Full day closure – If closure of County facilities is announced in advance of employees' scheduled shift, employees may report to work with supervisor approval, work from home with supervisor approval, or use a floating holiday, vacation leave, sick leave, or leave without pay.

Essential employees and other employees who report to work, remain at work, or work from home during closures shall receive their normal rate of pay for the period worked (regular rate or overtime as appropriate) without additional compensation.

### 5.3 Leave in an Evacuation

In the event of an evacuation, employees must check in with the employees' supervisors after reaching a designated gathering point or safe location. If the Incident Commander or County Administrator determine that returning to the County facility will be delayed or time consuming, it will be at the discretion of each department head/supervisor whether to release department employees for the remainder of the day.

If released by a department head, employees may work from home with supervisor approval, or use a floating holiday, vacation leave, sick leave, or leave without pay. If following the evacuation the determination is made that County facilities should be closed, leave use will be governed by 5.2.

## .6 LEAVE OF ABSENCE

Leave of absence may be granted to employees by the County Official subject to the following policies. Leave of absence for Sheriff's employees subject to Civil Service is granted according to Civil Service Rules.

### 6.1 Authorization for Leave – Requests to be in Writing

All requests for leave of absence, paid or unpaid, shall be submitted by the employee to the County Official in writing prior to the anticipated beginning of the leave period. Approval of leave of absence shall be in writing. Approval of unpaid leaves will be documented on a Personnel Action Form. No employee shall receive compensation for a period of absence unless leave is authorized. No leave of absence with or without pay shall be granted unless a request is submitted by the employee and approved in accordance with these rules. All leave shall be reported on the employee's payroll form.

### 6.2 Leave of Absence with Pay

Leave of absence with pay may be granted to benefit eligible employees for the following reasons and subject to the following conditions:

- a. Statutory leave – Including Family Medical Leave, Washington Family Care Leave, and Washington Pregnancy Disability Leave according to Section 6 of this policy.
- b. Jury duty – Employees required to appear for jury duty are expected to utilize telephone and other systems designed to minimize their work absence. Any per diem received while on leave with pay status must be reimbursed to the County. The County will not reimburse employees for travel while on jury duty. Any mileage or payment for other expenses may be retained by the employee.
- c. Bereavement leave – In the event of the death of an immediate family member, a benefit eligible employee shall, upon written request, be granted up to 3-working days leave of absence with pay to make household arrangements and to arrange for and attend the funeral. Employees may request additional leave if necessary to exceed this 3-day period. All such additional leave shall be charged to accrued vacation and accumulated comp time; or to leave without pay in the event the employee has no accruals available to draw from.

- d. Military leave – As required by statute and in accordance with section 12.1 of this policy.
- e. Administrative leave – As detailed in County Policy 235, Investigation of Complaints and Discipline

Workers who are not benefit eligible shall not be granted leaves with pay under the above or any circumstances. Such employees shall be compensated for only those actual hours worked in County service.

### 6.3 Leave of Absence without Pay

Leave without pay may be granted to employees who have no accrued paid leave subject to the following conditions. It is the policy of Clallam County that leave without pay be granted only in unusual or emergency circumstances or as required by statute. Employees who routinely use all other accrued leave do not have a right to leave without pay. County Officials should evaluate the ability of the employee to perform his/her essential job duties prior to granting leave without pay. Leave without pay may be granted for the following:

- a. Emergency absence necessary because of illness as stated in Family Medical Leave Act of 1993 (FMLA); or, Pregnancy Disability under Washington Family Leave Law.
- b. Disciplinary Suspension.
- c. Other emergency or unusual circumstance as approved by the County Official and Administrator.

### 6.4 Working While on Leave of Absence

Employees on authorized Family Medical Leave, Pregnancy Disability Leave, ADA, Workers Compensation, or accrued sick leave may accept other employment or engage in self-employment or business only with prior written authorization of the County Official and Director.

### 6.5 Effect of Leave on Benefits

Employees shall continue to accrue benefits during leave with pay. Benefit accruals shall be proportionately reduced for periods of leave without pay and except as specifically noted employees on leave of absence without pay shall not accumulate vacation, sick, or other leave during any month in which they actually work less than 80 hours. In addition, the Adjusted Date of Hire and the Adjusted Date of Classification shall be modified by the amount of leave for employees on unpaid leave of absence.

## .7 STATUTORY LEAVE

### 7.1 Military Leave

Employees and County Officials who are members of the reserve components of the Armed Forces of the United States or the State of Washington will be accorded all rights to which they are entitled under Washington and federal law, as may be amended periodically. Military leave shall be without loss of benefits or seniority for up to a total of 21-workdays during each year beginning October 1<sup>st</sup> and ending September 30<sup>th</sup>, and the County will maintain insurance benefits ordinarily provided by the County to the employee during any military leave period which does not exceed 21 continuous days in a single calendar year.

Reservists activated beyond 21 days per year shall be placed on unpaid leave of absence as provided by law for the period of their activation. Activated reservists may elect to use accrued vacation leave in lieu of leave without pay. Upon involuntary activation during an armed conflict, an employee or County Official who enrolls in COBRA to continue medical benefits shall be entitled to receive reimbursement for the County's contribution to health care up to a maximum of six months. Contributions beyond six months must be requested in writing prior to the end of the six-month period and will be considered at the discretion of the Board of Commissioners.

### 7.2 Spousal Military Deployment Leave

An employee who works an average of 20 or more hours a week and who is a spouse or registered domestic partner of a military service member may take up to 15-days of unpaid leave while the military service member is on leave from deployment, or before and up to deployment, during times of military conflict declared by the President or Congress. The employee must provide their County Official and Human Resources with notice of intent to take leave within 5-business days of receiving official notice that the employees' spouse will be on a leave or of an impending call to duty.

### 7.3 Washington Family Care Act

The Washington Family Care Act allows benefit-eligible employees who have unused accrued leave to take such leave subject to the following conditions.

#### (1) Reasons for leave under the Washington Family Care Act

An employee may use paid sick leave or other accrued leave to care for the following:

- a. A child of the employee whose health condition requires treatment or supervision

- b. A spouse, registered domestic partner, parent, parent-in-law, or grandparent with a serious health condition or emergency condition

(2) Definitions for Purposes of this Section

**"Child"** means biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is (a) under 18 years of age, or b) 18 years of age or older and incapable of self-care because of a mental or physical disability.

**"Domestic Partner"** as used in the Revised Code of Washington is defined to mean "state registered domestic partner."

**"Emergency Condition"** is defined as a "health condition that is a sudden, generally unexpected occurrence or set of circumstances demanding immediate action and is typically very short-term in nature."

**"Grandparent"** means a parent of a parent of an employee.

**"Health Condition that requires treatment or supervision"** includes:

- a. Any medical condition requiring treatment or medication that the child cannot self-administer;
- b. Any medical or mental health condition which would endanger the child's safety or recovery without the presence of a parent or guardian; or
- c. Any condition warranting treatment or preventative health care such as physical, dental, optical or immunization services, when parent must be present to authorize and when sick leave may otherwise be used for the preventative health care.

**"Incapable of self-care"** means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

**"Parent"** means a biological or adoptive parent of an employee or an individual who stood *in loco parentis* to an employee as a child.

**"Parent-in-law"** means a parent of the spouse of an employee.

**"Physical or mental disability"** means a physical or mental impairment that limits one or more activities of daily living or instrumental activities of daily living.

**"Serious Health Condition"** means an illness, injury, impairment, or physical or mental condition that involves any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment or recovery in connection with such inpatient care; or that involves continuing treatment by or under the supervision of a health care provider or a provider of health care services and which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities).

**"Sick leave or other paid time off"** means time allowed under the terms of an appropriate collective bargaining agreement or employer policy, as applicable, to an employee for illness, vacation, and personal holiday.

**"Spouse"** means a husband or wife, as the case may be.

(3) Employee Required to Notify County

Employees are required to follow procedures detailed in section 4.7 of the policy in order to provide notice under the Washington Family Care Act.

7.4 Family and Medical Leave Act (FMLA)

It is the policy of Clallam County to grant up to 12 weeks of FMLA during any 12-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA) and/or 26 weeks under the provisions of the National Defense Authorization Act for FY 2008. Sick and disability leaves including pregnancy-related disability may run concurrently with FMLA. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy. Rights under the Family and Medical Leave Act may not be utilized to pursue other gainful employment.

(1) Reasons FMLA may be Granted

Leave may be granted for the following reasons:

- a. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the 12-month period following the child's birth or placement with the employee).
- b. In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition.

- c. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.
- d. For the care of a spouse, parent, child, or "next of kin" who is a member of the Armed Forces, including a member of the National Guard or Reserves, and certain veterans 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.
- e. For "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces, National Guard or Reserves in support of a contingency operation."

(2) Definitions

For purposes of this section, the following definitions apply:

**"12-Month Period"** means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

**"Spouse"** means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized. Spouse does not include unmarried domestic partners. If both spouses work for Clallam County their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent.

**"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or is age 18 or older and is "incapable of self-care and has a mental or physical disability."

**"Incapable of self-care"** means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living (ADL) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

**"Physical or mental disability"** means a physical or mental impairment that substantially limits one or more of the major life activities of an individual.

**"Persons who are 'in loco parentis'"** include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary. For purposes of confirmation of family relationship, the County may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a single statement from the employee, or a child's birth certificate, a court document, etc. The County is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.

**"Parent"** means a biological parent or individual who stands or stood in loco parentis to an employee when the employee was a child. It does not include parents "in-law."

**"Any qualifying exigency"** to be defined by the Secretary of Labor in the issuance of final regulations.

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

- a. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from), or any subsequent treatment in connection with such inpatient care; 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:
  - A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
    - 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, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; OR
    - 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.

- Any period of incapacity due to pregnancy, or for prenatal care.
- Any period of incapacity or treatment for such incapacity due to a chronic serious health condition.
- A chronic serious health condition is one which:
  - Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider.
  - Continues over an extended period of time (including recurring episodes of a single underlying condition); AND
  - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
- A period of incapacity that 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. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- 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, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), kidney disease (dialysis).
- Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.
- Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers,

headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths is serious health conditions providing all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

- Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider for health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.
- Absences attributable to incapacity may qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

**"Employee is unable to perform the functions of the position of the employee"** means when the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential function of the employee's position within the meaning of the Americans with Disabilities Act. An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. The County has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review.

**"Health care provider"** includes doctors of medicine or osteopathy authorized to practice in the state in which the doctor practices, any other person determined by the Secretary of Labor to be capable of providing health care services such as podiatrists, dentist, clinical psychologist, optometrists, chiropractors, nurse practitioners and nurse mid-wives. Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts are also health care providers. Where an employee or family

member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from the County that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner.

**"Needed to care for a family member"** encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The terms also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care. The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home. An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently -- such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

**"Intermittent FMLA leave or leave on a reduced leave schedule"** for intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished for voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the County's operations. As an alternative, the County may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule. For example:

- a. When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule for parental bonding only if there are extenuating circumstances that require the leave and provided the County agrees. Such a schedule reduction might occur where an employee, with the County's agreement, works part-time after the birth of a child, or takes leave in several segments. The County's agreement is not required, however, for leave during which the mother has a serious health

- condition in connection with the birth of her child or if the newborn child has a serious health condition.
- b. Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own conditions, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.
  - c. Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule.

**"Other circumstances beyond the employee's control"** includes spouse's unexpected transfer to a job more than 75 miles from the employee's work site, a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care, the employee is laid off while on leave; or the employee is a key employee who decides not to return to work after being notified of the County's intention to deny restoration of the position. A parent's decision not to return to work after the birth or adoption of a child is not a condition beyond the employee's control.

**"Key employee"** means the top 10 percent highly compensated employees.

### (3) Coverage and Eligibility

To be eligible for family/medical leave an employee must:

- a. Work at a work site which has 50 or more employees or be within 75 miles of a work site that has 50 or more employees;
- b. Have worked for Clallam County in a regularly benefited position for at least 12 months; and

- c. Have worked at least 1250 hours over the previous 12-month period. For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a pro rata basis. A weekly average of the hours worked over the 12 weeks prior to the beginning of the leave should be used for calculating the employee's normal workweek.

(4) Use of Accrued Paid Leave Required

An employee will be required to exhaust accrued sick leave first, followed by accrued vacation leave, floating holidays or earned compensatory time in any order for any part of FMLA taken for any reason. When an employee has exhausted all accrued paid leave while on FMLA, they may request the remainder of their FMLA as unpaid leave to be granted so that the total of paid and unpaid leave equals no more than 12 weeks in a 12-month period.

(5) Leave to Run Concurrently

Work Related Disability Leave (Workers Compensation) may run concurrently with leaves of absence granted under FMLA leave when the injury is one that meets the criteria for a serious health condition. The Human Resource Department is responsible to assist employees in coordinating concurrent leaves.

(6) Notice Requirements

An employee is required to give a 30-day notice in the event of a foreseeable leave under FMLA. A "Request for Family/Medical Leave" form shall be completed by the employee and returned, through the County Official, to the Human Resource Department. In unforeseeable or emergency situations, notice requirements are those for use of sick leave, followed by a completed "Request for Family/Medical Leave" form.

If an employee fails to provide 30-day notice of foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer receives notice. While on leave, employees are requested to report periodically to the County regarding the status of the medical condition, and their intent to return to work.

(7) Medical Certification Required

For leave requests for an employee's or a covered family member's serious health condition, the employee must submit a completed "Certification of Health Care Provider" form to the Human Resource Department. This medical

certification must be provided by the employee within 15-days after requested, or as soon as reasonably possible.

Clallam County may require a second or third medical opinion (at its own expense), periodic medical certifications, periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.

All documents related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file.

(8) Effect of FMLA on Benefits

An employee granted a leave under this policy will continue to be covered under Clallam County group health insurance plan and life insurance plan under the same conditions as coverage would be provided if they had been continuously employed during the leave period.

Employee contributions will be required either through payroll deduction or by direct payment to Clallam County. Direct payment of employee out-of-pocket contribution must be received by Human Resources no later than the first business day of the month. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occur while the employee is on leave.

If an employee's contribution is late, Clallam County may terminate the employee's insurance coverage for non-payment.

If Clallam County pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the County for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee shall be required to sign and return to the County, a "Self-pay Medical Benefits Election Form" at the beginning of the leave period authorizing the payroll deduction for delinquent payments.

If the employee fails to return from unpaid family/medical leave for any reason other than the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond the employee's control, Clallam County may seek reimbursement from the employee for the portion of premiums paid by Clallam County on behalf of the employee (also known as the employer contribution) during the period of leave and the health care premiums owed to the County become a debt, which is legally collectible.

An employee is not entitled to seniority or other employment benefit accrual during periods of unpaid leave but will not lose anything accrued prior to the leave.

An employee who fails to return from unpaid FMLA shall be entitled to continue health care benefits as set forth under COBRA.

(9) Job Protection

If the employee returns to work within 12-weeks following a family/medical leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status, and authority.

The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

(10) Non-Application to "Key Employees"

Highly compensated (top 10 percent) employees can be denied reinstatement if necessary to prevent substantial and grievous economic injury to the operation of the County. The County shall give written notice to such "key employees" and inform them of their risks when leave is requested, or at such time when the County determines that it will sustain substantial and grievous economic injury.

If the employee fails to return within 12-weeks following a family/medical leave, the employee may be reinstated to his/her same or similar position, only if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be terminated.

An employee found to have been otherwise gainfully employed during authorized FMLA may be denied reinstatement and be terminated from County employment.

(11) Appeal Procedure

Clallam County has adopted an internal appeal procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Family and Medical Leave Act. Employees are encouraged to seek dispute resolution under the provisions of the County's Appeal, Grievance, and Fair Treatment Policy as set forth in these Administrative Policies and Procedures Policy 235.50. Employees who do not wish to utilize the Appeal, Grievance, and

Fair Treatment Policy may contact the U.S. Department of Labor, Wage, and Hour Division.

#### 7.5 Vacation Leave Donations for Employee on FMLA

When an employee has exhausted all paid leave, the employee may be eligible to receive vacation leave donations from other County employees for continued leave which has been medically certified under FMLA. However, County employees may collectively donate only sufficient leave to allow the affected employee to maintain paid status for designated FMLA or ADA accommodation, or any combination thereof, as defined under the federal statutes. No more than 12 weeks may be donated to any single employee during any consecutive five-year period measured backward from the date donated leave is used and continuous with each additional day of donated leave used, unless the employee or employee's family member (as defined by the FMLA) has been medically certified as terminally ill (see 3.11 e).

#### 7.6 Washington State Family Leave (FLA)

The Washington State Family Leave Act builds on the existing similar benefits found in the federal Family and Medical Leave Act (FMLA) by providing additional benefits for women who are pregnant (RCW 49.78.220). Women employees who take leave from work for pregnancy-related conditions or childbirth and who qualify for leave under the federal Family and Medical Leave Act (FMLA) are entitled to take up to an additional 12-weeks of leave under the Washington State Family Leave Act (FLA). Washington Family Leave may run concurrently with FMLA, but Washington Family Leave must begin after the employee's pregnancy disability (see 12.7) has ended, which date is determined by the employee's health care provider, and must be taken within 12-months of the child's birth or adoption placement.

Registered domestic partners who qualify for FMLA and FLA may use their FLA leave to care for a registered domestic partner who has a serious medical condition. In this case the employee will qualify for the state family leave (FLA) but not for federal FMLA.

#### 7.7 Pregnancy Disability Leave

It is the policy of the County to grant paid or unpaid, leave of absence for pregnancy disability under the provisions of Washington Family Leave Act, RCW Chapter 49. Such leave of absence shall be for sickness or temporary disability because of pregnancy or childbirth.

##### (1) Notice Required

An employee planning to take pregnancy disability leave shall provide the County with written notice at least 30-days in advance of the anticipated disability,

stating the dates during which the employee intends to take leave. The employee shall adhere to the dates stated in the notice unless:

- a. Birth is premature
- b. Employee is incapacitated due to birth or complications related to the pregnancy; or
- c. Employer and employee agree to alter the dates of leave stated in the notice

In cases of premature birth or pregnancy disability, the employee must give notice of the revised dates as soon as possible, but at least within one (1) working day of the disability or birth.

If the leave is foreseeable, the employee shall make a reasonable effort to schedule the leave so as not to unduly disrupt the operation of the department. If the leave is not foreseeable 30 or more days before the leave is to take place, the employee shall notify the County of the expected leave as soon as possible.

#### (2) Medical Certification

For leaves requested because of pregnancy disability other than normal childbirth, the employee must submit a completed "Certification of Health Care Provider for Employee's Serious Medical Condition" to the Human Resource Department. This medical certification must be provided by the employee within 15 days after the request, or as soon as reasonably possible.

All documents related to the employee's medical condition will be held in strict confidence and maintained in the employee's medical file.

#### (3) Second Opinions

Clallam County may require, at the County's expense that the employee obtain the opinion of a second health care provider selected by the County concerning the information required under this section. If the health care providers disagree on any factor, which is determinative of the employee's eligibility for leave, the two health care providers shall select a third health care provider, whose opinion, obtained at the County's expense, shall be conclusive.

In the event of any dispute regarding premature birth, incapacitation of the mother, or maternity disability, the County may require confirmation by a health care provider of the date of the birth, and the date on which incapacity because of childbirth or disability because of pregnancy commenced or will probably commence, and its probable duration.

(4) Use of Accrued Sick and Vacation Leave; Leave Donation

An employee will be required to use accrued sick leave, vacation leave, floating holidays and accrued compensatory time, for any part of a pregnancy disability leave prior to being placed on leave without pay.

(5) Concurrent Leave

Pregnancy Disability Leave may run concurrently with a leave of absence granted under FMLA.

(6) Effects on Benefits

An employee granted leave of absence under this policy shall be subject to the same benefit eligibility as any other employee placed on leave with or without pay status.

7.8 Leave for Victims of Domestic Violence

Washington Leave for Victims of Domestic Violence Act provides job protections for victims of domestic violence, sexual assault, or stalking by allowing for recovery from and coping with the effects of such violence including participation in the criminal and civil justice processes without fear of adverse economic consequences.

(1) Eligibility for Leave

An employee who is a victim of domestic violence, sexual assault, or stalking, or an employee whose family member is a victim, is eligible to take leave from work due to injuries, court proceedings or safety concerns requiring legal protection. Family member is defined as child, spouse, parent, parent-in-law, grandparent, or person with whom the employee is dating.

(2) Terms of Leave

An employee may take "reasonable" leave from work, with or without pay, on an intermittent or reduced schedule.

An employee may use sick, vacation, compensatory time, or unpaid leave on an intermittent or reduced schedule. Such leave may be used to seek legal or law enforcement assistance; treatment by a health care provider; to obtain services from domestic violence shelter or other social services program; obtain mental health counseling; or to participate in safety planning.

(3) Notice Required

An employee who cannot report to work for reasons related to the Washington Domestic Violence Leave Act shall notify their supervisor or County Official in accordance with departmental procedures no later than one-half hour (30-minutes) into the employee's regular shift. Notification of a co-worker is acceptable only after reasonable attempts to contact a supervisor and leaving a voice mail or other message for such supervisor.

In the event of an emergency that prevents the employee and/or their family from notifying the County of an absence, notification shall be made no later than the close of business on the first day of leave.

(4) Verification of Leave

Verification that the employee or a family member is a victim of domestic violence, sexual assault, or stalking must be provided within a reasonable time during or immediately after the leave. Verification may be in the form of a police report, court order, documentation from an advocate, attorney, clergy, medical or other professional; or an employee's written statement. In the event leave is taken on behalf of an eligible family member, the County reserves the right to require verification of the familial relationship.

(5) Confidentiality

Records relating to Domestic Violence Leaves shall be placed into the employee's confidential medical file subject only to disclosure based upon employee consent; Court or administrative agency order; or as otherwise provided by law.

(6) Job Restoration, Other Rights

Upon returning from Domestic Violence Leave, eligible employees normally will be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

Exceptions are permitted when the original position is abolished during the leave due to reduction in force, reorganization, or if the employee would not otherwise have been employed even if leave had not been taken. Job restoration shall be subject to the terms and conditions of any applicable collective bargaining agreement or other employment contract.

(7) Effects on Benefits

An employee granted leave of absence under this policy shall be subject to the same benefit eligibility as any other employee placed on leave with or without pay status.

(8) Protection against Retaliatory Actions

Clallam County officials and employees are prohibited from taking retaliatory action against an employee because he or she has in good faith taken leave under this Act.

Employees who believe that they have been retaliated against should advise their supervisor, the Human Resources Director, or any designee so named by the County Administrator who shall take appropriate action to investigate and address complaints of retaliation. Retaliatory action is strictly prohibited by law; and will lead to disciplinary action up to and including dismissal.

.8 RETIREMENT

8.1 Membership Required

Membership in Public Employees Retirement System (PERS) or the Law Enforcement Officers and Firefighters (LEOFF) system is required by all employees at the completion of the qualification period. Employees who have been previously enrolled in the retirement system at the time of appointment must commence making retirement contributions immediately.

8.2 Employee Contribution

The employee contribution to retirement is based upon actuarial calculations as determined by the State.

8.3 County Contribution

The County also contributes a substantial share of the cost of retirement. The County contributions are based on State actuarial calculations in order that PERS and LEOFF benefits can continue to be provided on a sound basis.

8.4 Excess Compensation for PERS 1 Plan Participants

Unless otherwise provided by contract, Clallam County does not pay excess compensation as defined in RCW Title 41 for PERS 1 employees hired after January 1,

1996. Upon retirement, eligible employees shall be paid for no more than 240 hours of accrued vacation and sick leave credit.

## .9 SOCIAL SECURITY

County employees are also covered by the Federal Social Security Act. Social Security benefits are totally supplementary to PERS and LEOFF allowances.

### Social Security Contributions:

#### 9.1 Employee Contribution

Employee contributions are deducted from gross monthly wages less sick pay based on a percentage and amount as is established by the Federal Government.

#### 9.2 County Contribution

The County contributes a percentage amount of those wages as established by the Federal Government.

## .10 DEFERRED COMPENSATION

Benefit eligible employees may elect to participate in the County Deferred Compensation Plans under IRC 457 and 401(a). Plan details may be obtained from the Human Resource Department.

## .11 MEDICAL, DENTAL AND VISION INSURANCE

### 11.1 Eligibility

Benefit eligible employees are eligible for medical, dental and vision insurance. Plan selection and design are functions of collective bargaining and may vary dependent upon union membership. Coverage is as described in the group benefit plan pamphlets available from the Human Resource Department.

### 11.2 Coverage during Leaves of Absence

Employees on paid leave of absence will have their medical and health benefits continued.

An employee on an approved leave of absence without pay may continue enrollment through COBRA provided the employee pays the entire medical and health insurance premium pursuant to the County's agreement with the participating provider.

Employees on Family Medical Leave of absence shall be entitled to continue health care benefits as specified under the provisions of these Policies.

Employees on an unpaid leave of absence for a disability exceeding the length of medical leave protected by federal or state statute shall be eligible for COBRA.

### 11.3 Termination of County Paid Coverage

Coverage is terminated at the end of the payment period in which the employee becomes ineligible for benefits by reason of termination of employment, retirement, expiration of authorized leave of absence, layoff, or upon change in employment status making the employee ineligible for benefits. Dependent coverage terminates at the same time the employee's coverage terminates.

### 11.4 COBRA Option

Employees and their families are eligible to continue insurance under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) by self-paying the premiums. Details may be obtained from the Personnel Department.

### 11.5 Coverage Conversion

Employees who have exhausted their COBRA option have the right to convert to individual policies of coverage and should contact the carrier directly.

### 11.6 Public Employer Retiree Health Plan

Employees are eligible to continue medical coverage throughout post retirement under the terms and conditions established by the Washington Teamsters Welfare Trust and the Retiree's Welfare Trust. Benefits are funded entirely through retiree self-payments.

### 11.7 Health Care Fraud

Health care plan fraud is a felony that can be prosecuted. Any employee who willfully and knowingly engages in an activity intended to defraud the County's health care plans will face disciplinary action that will include the termination of employment and may result in prosecution.

## .12 VOLUNTARY AND OPTIONAL INSURANCE

The County has a number of optional insurance plans available for purchase by employees. These include term life, accidental death and dismemberment, cancer and catastrophic health coverage and short and long-term disability. Premiums for optional plans are typically

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employee paid unless otherwise specified by contract. Additional detailed information concerning benefits and coverage can be obtained from the Human Resources Department.

#### .13 FLEXIBLE BENEFITS

The County has an IRC Section 125 flexible benefit plan available to benefit eligible employees. The plan consists of Insurance Premium, Health Care Expense Reimbursement, and Dependent Care Plans. Plan administration is performed by a third party administrator. The Plan Summary document may be obtained from the Human Resources Department.

#### .14 HRA VEBA

The County has established a HRA VEBA Plan for the benefit of employee groups who elect to participate. The HRA VEBA is subject to the provisions of IRC Section 501(c) (9) and allows participants to reimburse eligible out-of-pocket medical expenses in a tax-free status. Subject to the Voluntary Employees' Beneficiary Association for Public Employees in the Northwest funds are held in Trust for participants and each participating employee group establishes the perimeters of their group plan.

#### .15 RETIREMENT HEALTH SAVINGS PROGRAM

The County's Retirement Health Savings Program with the ICMA Retirement Corporation's VantageCare Retirement Savings Plan is no longer available for employee election. Effective December 31, 2007, the Internal Revenue Service will no longer permit pre-tax contributions made to the Plan. Withdrawal of Plan assets may begin at age 55 years. Details may be obtained from the Human Resources Department.

#### .16 UNEMPLOYMENT INSURANCE

Unemployment insurance provides benefits to insured workers who are unemployed through no fault of their own. The cost of the unemployment insurance is borne entirely by the County and is based upon the number of claims filed by former employees. Additional information about unemployment insurance benefits and regulations should be directed to the Employment Security Division of the State of Washington.

#### .17 WORKERS COMPENSATION

The County is a Self-Insured Employer under the provisions of Chapter 51 of the Revised Code of Washington. Worker's Compensation coverage provides medical benefits and disability income payments to employees who suffer from properly reported work-related injuries or illnesses as specified in section 60.10. The County pays the majority of the cost of Worker's Compensation Insurance. A small deduction is made from each employee's paycheck to cover part of the cost of the medical premium and the supplemental pension assessment portions of the coverage.

### 17.1 Time Loss Compensation

Occupationally injured or ill employees who are off work for less than 14-days immediately following an injury or illness do not receive compensation for the first three days of time lost from work (eligible employees may use sick leave benefits on these days). Workers disabled 14 consecutive calendar days or more immediately following an injury receive time-loss compensation from the first day off work. (Day of injury is considered a regular workday.) The percentage of an employee's normal gross wages (not including overtime or on-call compensation) paid varies depending upon the worker's marital status and the number of minor dependents at the time of injury.

### 17.2 Worker's Compensation Supplement

An employee who is collecting Workers' Compensation temporary disability benefits shall make an election as to one of three options relative to the receipt of temporary disability benefits and the use of benefit accruals from their account with the County. This election is a one-time only irrevocable decision. Complete details of the options are spelled out in the Workers Compensation Time Loss Decision form that is signed by the injured worker at the time of the claim filing.

In brief, the options are:

To receive a tax-free Workers' Compensation time-loss benefit and also use accrued leave (sick, vacation, general leave or compensatory time) for the time they are unable to work. This method is commonly referred to as "double-dipping."

To receive time loss benefit and supplement that benefit by using benefit accruals in order to receive the difference between what is provided by Workers' Compensation and the employee's gross salary and "buy-back" sick leave credit by a delayed off-set through payroll.

To receive only the tax-free time-loss checks and no pay from the County.

Under each of these options are specific details concerning future accruals, the continuation of health insurance benefits, retirement, and other optional deductions which are explained in specific detail in the "Workers' Compensation Time Loss Decision" form.

### 17.3 Benefit Accruals during Leaves of Absence for Disabilities in Excess of Federal Medical Leave or the Pregnancy Disability Act

Sick, vacation, and general leave shall not continue to accrue during unpaid leaves of absence for disability unless specifically provided by statute.

Employees who receive provisional time loss payments shall not accrue leave credit until the claim is determined to be valid at which time leave will be posted to the employee's account.

#### 17.4 Provisional Time Loss

Provisional time loss is compensation paid to the employee pending a determination by the Department of Labor & Industries on acceptance of the claim. In the event the claim is determined to be non-work related, the employee shall make immediate arrangements for repayment of provisional time loss compensation.

#### 17.5 Third Party Administrator

The County utilizes a third party administrator (TPA) for the purpose of administering the day-to-day functions for individual Workers Compensation claims. Claims are administered by TPA in accordance with the RCW and WAC with oversight by the Department of Labor and Industries and Clallam County.

#### 17.6 Concurrent Leave

Time spent on work related disability shall run concurrent with leave taken under Family Medical Leave.

#### 17.7 Time Loss – Transitional Employment

The County encourages injured/ill workers to consider transitional employment at such time as their doctor determines them sufficiently well enough to return to meaningful employment. In the event the employee is unable to return to their own job, the County will attempt to assign the employee to other work deemed appropriate by the doctor. However, in the event there is no appropriate available work, the employee will remain on time loss until they are released to full duty.

Transitional work assignments will be limited to 12 weeks during which the recovery process will be closely monitored. If the injured worker is not making sufficient progress in returning to the job of injury, transitional work will no longer be offered and the employee will be returned to time loss status.

Examples of insufficient progress are:

- a. Restrictions are not lessening
- b. The condition has a plateau
- c. The attending physician notifies the County that the employee will not be returning to the job of injury

- d. The 12-weeks have expired. Decisions to terminate transitional work shall be made on case-by-case basis.

In no event shall the decision to provide transitional work prevent the County from filling the vacant position either on a temporary or permanent basis.

#### 17.8 Retirement Service Credit

Employees who are members of PERS 1, 2 or 3 or LEOFF 2 may exercise their right under RCW Chapter 41 to pay for retirement service credit for up to 24 consecutive months of their disability. Retirement contributions shall be based upon the gross salary received prior to the injury.

#### 17.9 Incident/Accident Injury Reporting Requirements

Employees shall report all personal injury incidents/accidents immediately to their supervisor and in no event later than the close of the work shift. In the event there is no supervisor available on shift, the employee shall report the incident/accident by the close of business on the following business day.

In addition, **all** accidents that result in personal injury requiring medical care shall be reported on the Self-Insured Accident Report (SIF-2) Form and submitted to the Human Resources Department immediately and in no event later than 48 hours following the decision to seek medical care for the injury. The supervisor shall complete a "Supervisor's Report of Accident" form, and the physician shall complete the "Physician's Initial Report" form and submit both to the county's Third Party Administrator for Worker's Compensation or to the Human Resources Department within 48 hours. In addition, each visit to a treating physician requires a "Physician's Report" form be completed by the physician, whether or not the employee is released for work, and returned to Human Resources after employee and supervisor have signed it.

If it is impossible for the employee involved in the accident to complete the form(s), another person may fill out the form(s), but he/she shall indicate why the employee did not complete it.

#### 17.10 Giving of False Information a Felony

Any person who knowingly gives false information in a claim or application for industrial insurance benefits shall be guilty of a Class C felony when the claim involves \$400 or more. If the claim involves less than \$500, the person shall be guilty of a gross misdemeanor (RCW 51.48.020).

Giving of false information in a claim or application for industrial insurance shall be grounds for immediate termination from County employment.

.18 BENEFITS FOR JOB SHARE POSITIONS

The following rules apply to benefits for Job Share Positions unless otherwise approved in writing by the Director:

- a. The County contributes to the cost of health benefits for one full-time equivalent position. Accordingly, if a 40-hour position is job-shared and each partner works 20-hours per week, each partner would be eligible to receive health benefits receiving one-half of the County contribution and paying the other half, plus the employee contribution. However, if one partner chooses to waive all coverage, then the other partner may receive the benefit of the full County contribution. Once established, changes can be made only with the approval of the County Official and Director.
- b. Job share partners share the benefits of the regular full-time position. The decision on how hours of work are split shall be the result of an agreement between the two parties involved at the time the job share is established or if an employee in the job share changes. Once established, changes can be made only with the approval of the County Official and Director.
- c. Vacation, sick leave and holiday benefits will be pro-rated on the basis of hours worked.
- d. PERS (Public Employees' Retirement System) benefits will be provided to job share partners based on salary received. Retirement eligibility shall be in accordance with the PERS rules. Job share partners have the same rights and privileges under PERS as regular full-time employees.
- e. If a job share partner, normally scheduled to work less than the hours necessary to become benefit eligible, is required to work excess hours in the absence of the other partner, the employee does not become benefit eligible.

.19 BENEFITS FOR COUNTY OFFICIALS, CHARTER EXEMPT AND NON-REPRESENTED EMPLOYEES

Unless otherwise provided by employment contract, the following applies.

19.1 Medical Benefits

County Officials, Charter Exempt including the Court Reporter and all Non-represented employees shall receive the medical benefit plan consisting of medical, dental and vision insurance as may be selected and approved by the County Commissioners, in addition to life/accidental death and dismemberment insurance in the amount of \$50,000 or in an amount consistent with the mortality reduction schedule set forth in the insuring agreement and long-term disability insurance provided by a carrier of the County's selection. The County's maximum monthly medical benefit premium contribution for the above-described employees shall be the same as the Management and Professional Employees labor contract.

## 19.2 Deferred Compensation

County Officials, Charter Exempt, and Non-represented employees shall receive a 2 percent 401(a) plan match and/or contribution unless otherwise provided by contract.

## 19.3 Other Benefits

County Officials, Charter Exempt, and Non-represented employees shall receive earned leave maximums, retirement contributions, and education program benefits at the same level as those provided to 1619MP. Charter Exempt and Non-represented employees shall receive four (4) floating holidays in addition to the County's standard ten (10) adopted holidays on which the Courthouse is closed.

In the event a Charter Exempt employee involuntarily separates from employment with Clallam County, the County shall offer the employee a severance agreement that is equal to that provided for in the current Clallam County Deputy Prosecutors' employment agreement. As part of this severance agreement, a broad release of liability must be signed by the Charter Exempt employee upon separation. Charter Exempt employees may accept or reject the severance agreement at their sole discretion.

## 19.4 Leave Benefits for Court Commissioners

Leave benefits for eligible Court Commissioner positions shall be as follows:

- a. Vacation leave shall be accrued at the rate of 25 days per calendar year, calculated at the rate of 16.67 hours per month. Maximum accumulation of leave shall be 500 hours.
- b. Sick leave shall be provided for, accrued, used, and subject to payoff, in accordance with Section .4 of this policy. Maximum sick leave accrual shall be 960 hours.
- c. Floating holidays shall be four (4) per calendar year taken subject to the provisions of Section .2 hereof.

## 19.5 Provisions should no Labor Agreement be in Place

In the event agreement has not been reached between the County and 1619MP prior to the expiration of the then existing agreement, County Officials, Charter Exempt, and Non-represented employees shall be compensated at their previous rate plus the last County offered COLA, if any. In addition, County Officials, Charter Exempt, and Non-represented employees shall receive the last County offered increase in County contribution to medical/dental/vision, if any. Any increases awarded under this section shall be effective until settlement by 1619MP. Wages and benefits shall be adjusted at

such time as the 1619 MP agreement is settled, including any settlement for retroactive payment of wages or benefits not already paid.

.20 LEOFF 1 RETIREE MEDICAL INSURANCE

The County provides LEOFF I retirees with fully paid, retiree only, medical benefit premiums consistent with the established Washington Teamster Welfare Trust guidelines. Dependent insurance premiums may be paid by the retiree if permitted by the Washington Teamsters Welfare Trust or other applicable insurance carrier.

.21 TUITION REIMBURSEMENT PROGRAM

To promote the continued education and professional growth of County employees for courses directly related to improving job performance, a limited tuition reimbursement program is available to regular, benefit eligible employees with 12 months of County service. This policy is in no way intended to contribute to or fund courses intended to obtain a college or university degree.

The following regulations and guidelines apply to tuition reimbursement unless otherwise approved in writing by the Director:

- a. Eligibility and participation must be approved, in writing, by the County Official and Administrator prior to registration or other commitment to attend a course.
- b. Approval is required for each individual course.
- c. Funding to tuition reimbursement is paid from department's existing budget allocation.
- d. Only courses directly related to an employee's job, or that will have significant effect on the ability of the employee to perform essential work functions will be approved.
- e. No payment will be made until the employee has provided proof of successful completion (grade "C" or better) of an approved course.
- f. Reimbursement is for tuition only. Cost of books, Lab fees, travel, or other costs associated with the course does not qualify for payment.

In the case where limited funds prevent the County from reimbursing all eligible employees, the following criteria will be considered in determining which applicants shall receive reimbursement:

- a. Length of service with the County
- b. The County's need for the particular knowledge, skill, or training
- c. How the course work relates to the employees' current job or a future promotional position