Memo

To: Commissioners, First 5 Ventura County

From: Lauren Arzu, on behalf of the Administration Finance Committee

Date: January 16, 2025

Re: **Recommendation to Modify Family and Medical Leave Section of the Employee Handbook**

Background

First 5 Ventura County's current policy outlined in the Employee Handbook allows employees to retain up to 80 hours of sick/vacation leave when on an otherwise unpaid Family and Medical Leave Act (FMLA) leave. When there is a leave of absence not governed by FMLA, employees are required to use all available and eligible paid leave benefits before an unpaid leave of absence may be granted.

The Family and Medical Leave Act (FMLA) allows an employee to elect, or an employer to require the employee, to substitute accrued paid leave for FMLA leave. Employers are not legally required to mandate employees to substitute paid leave for FMLA leave or non-FMLA leave. When an employee elects partial wage replacement when on leave through state disability insurance (SDI) or paid family leave (PFL), the Commission's practice is to coordinate/integrate benefits with SDI or PFL so that the employee receives their normal wages by using applicable paid leave until it is depleted.

There are two recent changes to the Paid Family Leave program: employees may receive up to 90% of their pay while on leave, and employees cannot be required to use accrued vacation *before* accessing paid leave. Since employees are earning a higher portion of their regular wages while on leave, they may prefer to preserve their sick/vacation time for when they return to work. This will help employees to avoid taking unpaid leave when they return from an FMLA leave for follow-up medical appointments or other necessary time off.

Allowing employees on a leave of absence to retain **up to 120 hours** of sick and/or vacation leave instead of the 80 hours currently allowed per the employee handbook would increase the safety net when time off is necessary for employees recovering from an illness/health condition, caring for a family member with an illness/health condition, or new parents attending well-child visits or caring for a sick infant.

The following recommendation has been reviewed and approved by legal counsel.

Recommendation

The recommendation is to revise the requirement for use of accrued leave benefits when on leave outlined in the Employee Handbook allowing employees to retain up to 120 total hours of sick and/or vacation leave as proposed:

Family and Medical Leave

The purpose of this policy is to provide leaves of absence to eligible staff members in accordance with the Family Medical Leave Act ("FMLA") of 1993 and the California Family Rights Act ("CFRA").

This policy applies to all staff members who have worked at the Commission for at least twelve months (either consecutively or non-consecutively) at the time the leave is requested and have completed at least 1,250 hours of service during the 12-month period preceding the leave request.

Eligible employees may be granted up to 12 weeks unpaid leave in the 12-month period beginning on their anniversary date.

- For the birth of an employee's child, or upon placement of a child with an employee for adoption or foster care. This leave will normally be taken in one block of time unless special arrangements for "intermittent" or "reduced work schedule" are approved by the Executive Director's office.
- When the employee is needed to care for a child, spouse, parent, or designated person who has a serious health condition.
- When the employee is unable to perform the essential functions of their due to a serious health condition.

Applicable accrued paid leave benefits, including sick and vacation leave, must be substituted for all or part of any otherwise unpaid FMLA/CFRA leave, unless the employee elects in writing to maintain a balance of up to ~~80~~ 120 hours of accrued paid sick and/or vacation leave. The total of paid and unpaid leave under this policy is not to exceed 12 weeks.