

LEAVE OF ABSENCE POLICY

A. Leave Of Absence Without Pay

1. Medical Leave Of Absence Without Pay

a. Policy Statement

It is the policy of Itasca County to grant a medical leave of absence for personal physical or mental illness, maternity, or chemical dependency treatment if such a request is accompanied by a physician's written statement documenting the inability of the employee to work.

b. Eligibility

Any employee must be employed in a regular full time or regular part time position.

c. Authorization

1) The employee shall submit a written request for a medical leave of absence to the department head at the earliest possible date.

2) The County Administrator shall be responsible for approving requests for medical leaves of absence.

i) An employee who is granted a medical leave of absence shall use all accumulated sick leave and vacation credit before unpaid leave begins. Arrangements for the sequence of unpaid, sick and vacation leave must be made prior to beginning the leave, when possible.

ii) The employee shall submit a physician's written statement citing that the employee is unable to work due to a personal physical or mental illness or injury or treatment of a chemical dependency, and the projected date of return to work.

iii) At any time during the leave, the department head may request an updated physician's statement.

3) Authorized requests and medical statements shall be placed in the employee's personnel file.

d. Length Of Leave

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1) After an employee has used all of his/her accumulated sick leave and vacation credit, he/she shall be granted a leave of absence without pay not to exceed six (6) months.

2) An extension may be granted at the discretion of the department head, with the approval of the County Administrator, not to exceed two (2) years and subject to a doctor's report for each six months.

e. **Effect On Service Credit**

Service credit shall be frozen as of any leave of 30 days or more.

f. **Reinstatement And Termination After A Medical Leave Of Absence**

1) Prior to returning to work from a medical leave of absence, the employee shall provide a physician's statement that the employee is able to return to work.

2) An employee returning to work within the authorized 6-month leave period shall be reinstated to the original position in the same classification in the same department, with the same hours and the same rate of pay, subject to employee rights by collective bargaining standards. No position shall be held open beyond the maximum 6-month period, except when an extension is granted by the department head and approved by the County Administrator.

3) An employee giving proper termination notice within the authorized leave period shall be eligible for separation benefits.

2. Parenting Leave Of Absence Without Pay

a. **Policy Statement**

Per M.S. 181.941, Itasca County will grant an unpaid leave of absence to an employee who is a natural or adoptive parent in conjunction with the birth or adoption of a child.

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b. Eligibility

An employee must have performed services for at least 12 months preceding the request for leave. The employee will have to work for an average number of hours per week equal to at least one-half of the full-time equivalent position in the employee's same job classification in order to qualify.

The leave may begin not more than six weeks after the birth or adoption; except that as of 1 August 90, in the case where the child must remain in the hospital longer than the mother, the leave may not begin more than six weeks after the child leaves the hospital.

c. Authorization

The employee shall submit a written request for parenting leave of absence 30 working days PRIOR to the first day of requested leave. Such request is to be in writing and presented to the immediate supervisor. Such request shall designate the date the leave is to commence and further shall state the length of the leave of absence.

d. Length Of Leave

Total leave shall not exceed six weeks unless agreed to by the County Administrator. The length of leave provided may be reduced by any period of paid disability leave, but not accrued sick leave, provided by employer so that the total leave does not exceed six (6) weeks, unless agreed to by the employer.

e. Effect On Service Credit

1) The employee returning from the leave shall retain all accrued pre-leave benefits of employment and seniority as if there had been no interruption in service. However, said benefits and seniority shall not accrue during an unpaid leave of absence of 30 days or more.

f. Return From Leave

1) Notice by Employee: An employee returning from a parenting leave of absence longer than one month must

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notify a supervisor at least two weeks prior to return from leave.

2) **Comparable Position:** An employee returning from a parenting leave of absence shall be entitled to return to employment in the employee's former position or in a position of comparable duties, number of hours and pay.

3) **Lay-off Period:** If, during the leave, the employer experiences a lay-off and the employee would have lost a position had the employee not been on leave, pursuant to the good faith operation of a bona fide lay-off and recall system, the employee is not entitled to reinstatement in the former or comparable position. In such circumstances, the employee retains all rights under the lay-off and recall system as if the employee had not taken the leave.

4) **Part-time Return:** As provided in the Minnesota Parenting Leave Statute, an employee, by agreement with the County Administrator, may return to work part time during the leave period without forfeiting the right to return to employment at the end of the leave.

3. Personal Leave Of Absence Without Pay

a. Policy Statement

It is the policy of Itasca County to consider requests for personal leaves of absence for personal matter or importance or necessity.

b. Eligibility

An Employee must be employed full time or part time in a regular position.

c. Authorization

1) A leave of absence without pay may be granted by the department head using his/her discretion and in consideration of departmental need, for a period not to exceed ten (10) days in each calendar year. The employee shall submit a written request to the department head at the earliest possible date.

2) A leave of absence in excess of ten (10) working

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days may be granted by the County Administrator for good and sufficient reason given department head approval in consideration of department need.

3) No leaves of absence shall be granted for an employee to engage in other employment.

4) Authorized requests shall be filed in the employee's personnel file.

d. **Effect On Service Credit**

Service credit shall be frozen as of the beginning of any leave of 30 days or more.

4. Leave Of Absence Without Pay During Candidacy

a. **Policy Statement**

Appointed employees declaring candidacy for partisan or non-partisan public office for the positions of County Commissioner, County Attorney, County Auditor, County Recorder, County Sheriff, County Treasurer or for State and/or Federal positions shall take a mandatory leave of absence, without pay, to commence upon the date of filing for candidacy and to terminate upon the time it has been determined that the employee is no longer a candidate.

b. **Effect On Service Credit**

Service Credit shall be frozen as of the beginning of any leave of 30 days or more.

5. School Conference and Activities Leave

a. **Policy Statement**

Effective 1 August 1990, M.S. 181.9412, stipulates Itasca County must grant an employee leave of up to a total of 16 hours during any school year to attend school conferences or classroom activities including child care, nursery schools, day care and extended school day programs, related to the employee's child, provided the conferences or classroom activities cannot be scheduled during non-work hours.

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b. Authorization

When the leave cannot be scheduled during non-work hours and the need for the leave is foreseeable, the employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt unduly the operation of Itasca County.

An employee may substitute any accrued paid vacation leave or other appropriate paid leave for any part of the leave under this section.

c. Effect On Service Credit

Service credit shall be frozen as of the beginning of any leave of 30 days or more.

6. Civil Air Patrol Leave

a. Policy Statement

Effective 1 August 1991, Minnesota Statute 181.946, or as amended, permits that unless a leave would unduly disrupt the operations of the employer, employees shall be granted unpaid leave of absence for time spent rendering service as a member of the civil air patrol on the request and under the authority of the state or any of its political subdivisions.

b. Authorization

1) As defined in MS 181.946, Subdivision 1, or as amended, the terms "employee" and "employer" have the meanings given them in MS 181.945.

2) As defined in MS 181.945, or as amended, employee means a person who performs services for hire for an employer, for an average of 20 or more hours per week, and includes all individuals employed at any site owned or operated by an employer. Employee does not include an independent contractor.

3) As defined in MS 181.945, or as amended, employer means a person or entity that employs 20 or more employees at at least one site and includes an individual, corporation, partnership, association,

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nonprofit organization, group of persons, state, county, town, city, school district or other governmental subdivision.

7. Family and Medical Leave Act of 1993; Amended By Updated Rule Which Became Effective 01/2009

a. Policy Statement

This policy is to implement the Federal Family and Medical Leave Act ("FMLA"). Updated Department of Labor rules regarding FMLA went into effect 01/16/2009 and add leave entitlements to family members of military service personnel.

Employees also may have rights under State of Minnesota statutes, including the Minnesota Parental leave statute (see Parenting Leave of Absence Without Pay policy). The County will comply with those laws in addition to the FMLA.

b. Purpose

The purpose of this policy is to provide guidelines for implementation of the FMLA. Terms used in this policy are intended to have meaning set forth in the FMLA and accompanying U.S. Department of Labor regulations.

c. Definitions

FMLA Leave: A "FMLA leave" is a leave governed by this policy, and includes family care leaves, military caregiver leaves, qualifying exigency leaves and medical care leaves.

Family Care Leave: A "family care leave" is a leave for reason of (a) the birth of a son or daughter of the employee; (b) the placement of a son or daughter with an employee in connection with the adoption or state approved foster care of the son or daughter by the employee; or (c) the serious health condition of a son or daughter, parent, or spouse. Eligible employees will be able to take up to 12 weeks of FMLA leave in a 12-month period (measured forward from the first date any FMLA leave is used) for family care leave. An employee entitlement to a leave for a birth or placement of a son or daughter shall expire at the end

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of the 12-month period beginning on the date of such birth or placement.

Military Caregiver Leave: A "military caregiver leave" is a leave to care for a "covered service member" with a "serious illness or injury" incurred in the line of active duty. Eligible employees who are family members (spouse, son, daughter, parent or next of kin) of covered service members will be able to take up to 26 weeks of FMLA leave in a 12-month period (measured forward from the first date leave is used for this purpose) for military caregiver leave.

Qualifying Exigency Leave: A "qualifying exigency leave" is a leave for any qualifying urgent situation due to the fact that a covered family member is on active duty or called to active duty status in support of contingency operation. Eligible employees with a spouse, son, daughter or parent serving in the National Guard or Reserves may be able to take up to 12 weeks of FMLA leave in a 12-month period (measured forward from the first date any FMLA leave is used) for qualifying exigency leave.

Son or Daughter: For purposes of this policy, "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 (a) under 18 years old; or (b) a dependent adult (child 18 years of age or older but incapable of self-care because of a mental or physical disability).

Parent: "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or an individual who stood in loco parentis to the employee. Parent does not include a parent-in-law or grandparent.

Spouse: "Spouse" means husband or wife as defined or recognized under state law for purposes of marriage.

Next of Kin: "Next of kin" means the nearest blood relative other than the covered servicemember's spouse, parent, son or daughter, in the following order of priority: 1) Blood relatives granted legal custody of the servicemember; 2) Brothers and Sisters; 3) Grandparents 4) Aunts and Uncles; 5) First Cousins; unless the servicemember specifically designated in

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writing another blood relative as his/her nearest blood relative.

Serious Health Condition: "Serious health condition" means an illness, injury, impairment or physical or mental condition that involves either (1) an overnight stay in a medical care facility or (ii) continuing treatment by a health care provider for a condition that prevents the employee from performing the functions of the employee's job or a family member from participating in work, school or other daily activities. Generally, a condition involves continuing treatment if there is (i) a period of incapacity of more than 3 consecutive calendar days combined with at least 2 visits to a health care provider or 1 visit and a regimen of continuing treatment; (ii) incapacity due to pregnancy or prenatal care; (iii) incapacity, or treatment for incapacity, due to certain chronic conditions; (iv) incapacity that is permanent or long-term due to a condition for which treatment may not be effective, provided the individual is under the supervision of a health care provider; and (v) multiple treatments by a health care provider for restorative surgery or a condition that would likely result in a period of incapacity of more than 3 consecutive days in the absence of medical intervention or treatment.

Medical Care Leave: A "medical care leave" is a leave taken when the employee is unable to perform the essential functions of the employee's job because of a serious health condition, and the leave is supported by a health care provider's statement. Eligible employees may be able to take up to 12 weeks of FMLA leave in a 12-month period (measured forward from the first date any FMLA leave is used) for medical care leave.

Qualifying Exigency: A "qualifying exigency" includes 1) a short-term deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post-deployment activities; and 8) additional activities that arise out of the active duty or call to active duty when the employer and employee agree to the leave.

Health Care Provider: "Health care provider" is defined as:

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A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices.

Others capable of providing health care services, as prescribed by statute, include, but are not limited to:

- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the state.
- Nurse practitioners, nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under state law and are performing within the scope of their practice.
- Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts.

Covered Service Member: A "covered service member" is a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or the Reserves who is on the temporary disability retired list, who:

- is the employee's spouse, son, daughter, or parent or is an individual for whom the employee is next of kin,
- has a serious illness or injury incurred in the line of duty, and
- is undergoing medical treatment, recuperation or therapy for such serious illness or injury, is in outpatient status or is on the temporary disability retired list.

Serious Illness or Injury: A "serious illness or injury" means an illness or injury that may render the covered service member medically unfit to perform his/her duties.

d. Substitution of Other Paid Leave

The Family and Medical Leave Act provides for unpaid leave time. The County requires the employee to substitute and run concurrently accumulated earned leave, (i.e. vacation, sick leave, comp time, floating holiday) for the FMLA leave in any situation where the employee would normally be allowed to use the earned

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leave.

Minnesota law allows for unpaid parental leave of up to six weeks and for use of paid sick leave to care for dependent family members under certain circumstances. These leaves remain available under FMLA but do not extend the maximum FMLA leave for which the employee is eligible.

e. Eligibility

An employee must meet the following requirements to be eligible for FMLA leave:

- 1) The employee must have worked for the County for at least 12 months; and
- 2) The employee must have worked at least 1,250 hours during the 12 months immediately preceding the request.

f. Length of Leave

Except for military caregiver leave, the maximum length of FMLA leave shall be 12 weeks per applicable 12-month period.

In the case of military caregiver leave, the maximum length of FMLA leave shall be 26 weeks per applicable 12-month period but that requirement is per service member and per injury or illness (so an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness). The 26-week maximum is a combined total for any type of FMLA leave. For example, an employee may, during the applicable 12-month period, take 16 weeks of FMLA leave to care for a covered service member with a serious illness or injury and 10 weeks of FMLA leave following the birth of a child. However, the employee could not take more than 12 weeks of FMLA leave due to the birth of a child during the applicable 12-month period, even if the employee takes fewer than 14 weeks of FMLA leave to care for a covered service member.

g. Intermittent or Reduced Schedule Leave

An employee is eligible for intermittent or reduced

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schedule FMLA leave under any of the following conditions:

When Medically Necessary: An employee may take leave intermittently (a few days at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, because of a serious health condition of the employee, or to care for a covered service member with a serious illness or injury when "medically necessary". "Medically necessary" means there must be a medical need for the leave and the leave can best be accomplished through an intermittent or reduced leave schedule. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment in a manner that does not unduly disrupt the County's operations.

For a Qualifying Exigency: An employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule for any qualifying exigency.

For Birth or Placement for Adoption or Foster Care: An employee may take FMLA leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the supervisor(s) and department head's consent.

Special Conditions for Regular Part-time Employees: For regular part-time employees, the FMLA leave entitlement is calculated on a prorated basis by comparing the reduced schedule with the employee's normal schedule. For example, if an employee who would otherwise work 30 hours per week takes 10 hours of intermittent or reduced schedule leave during a week, the employee's 10 hours of leave would constitute one-third (1/3) of a week of FMLA leave for each week the employee works the reduced schedule.

The employee requesting intermittent or reduced leave may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment. When the leave ends, the employee will be reinstated in the

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same or an equivalent job as the job the employee left when the intermittent or reduced schedule leave began.

h. Status of Employee Benefits During Leave of Absence

Employees who are granted an approved FMLA leave may continue their group health plan coverages, including dental insurance, by arranging to pay their portion of the premium contributions during the period of unpaid FMLA leave. Employees on unpaid FMLA leave must immediately contact Payroll to make arrangements to continue to make the employee's share of premium payments and maintain the health benefits while on unpaid leave. Payroll procedures will be followed regarding late payment and if payment is not made, the County may terminate coverage back to the date the unpaid premium was initially due.

Employees who are granted an approved FMLA leave may choose not to continue their group health plan coverages, including dental insurance during the period of unpaid FMLA leave. In that case, upon the employee's return from leave, the employee is entitled to be reinstated in the health plans on the same terms as prior to taking the unpaid FMLA leave.

Employees who are substituting and running eligible earned leave (i.e. vacation, sick leave, comp time, floating holiday) concurrently with the FMLA leave will continue their group health plan coverages, including dental insurance, in the same manner as if working.

If an employee elects not to return to work upon completion of an approved unpaid FMLA leave, the County may recover from the employee the County's share of any premiums paid to maintain the employee's coverage, unless the failure to return to work was for reasons beyond the employee's control, i.e.

- the continuation, recurrent, or onset of a serious health condition that entitles the employee to the leave to care for a child, parent or spouse with a serious health condition; or if the employee is unable to perform the essential functions of the position due to his/her own serious health condition; or

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-other conditions beyond the employee's control that prevent the employee from returning to work as determined by the County.

Benefits other than group health plan coverage will continue to be in force only if employees pay the full amount of the premium during the leave. If such benefits are not continued, upon the employee's return from leave, the employee is entitled to be reinstated in such plans on the same terms as prior to taking the FMLA leave.

Earned leave benefits (i.e. sick leave, vacation, etc.) will not accumulate during any unpaid FMLA leave. Earned leave benefits will accumulate as per normal payroll practices and collective bargaining agreement provisions during paid FMLA leave where earned leave benefits are run concurrently with the FMLA leave.

If an employee needs less than a full week of FMLA leave and a holiday falls within that partial week, the holiday cannot be counted against the employee's FMLA leave if the employee would not otherwise have been required to report for work that day. County-recognized holidays which fall during full weeks of FMLA leave will be counted as FMLA leave. To be paid for a holiday during FMLA leave, the employee must be using earned leave concurrently with the FMLA leave as per normal payroll practices and collective bargaining agreement provisions.

Questions related to PERA retirement benefits resulting from an FMLA leave should be directed to PERA.

i. Employee Responsibilities - Notification and Reporting Requirements

Employees must provide sufficient information for the County to determine if a leave may qualify for FMLA protection. An eligible employee must ordinarily provide the County with 30 days advance notice when the FMLA leave is foreseeable (except in cases of qualifying exigency leave). If 30 days advance notice is not possible, the employee will be required to give the County notice as soon as practicable which shall normally be within 2 business days after the employee

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learns of the need for the leave. The County reserves the right to deny a leave request absent timely advance notice. The employee must attempt to schedule foreseeable FMLA leave so as not to unduly disrupt the County's operations.

When leave is needed for a qualifying exigency--whether foreseeable or not--, an employee should provide as much notice as is practicable.

j. Certification of Need for Leave

1. The County will require medical certification from a health care provider or the employee may provide the data to support a request for medical care leave or for family care leave to care for a seriously ill child, spouse or parent.

- For medical care leave, the certification must state that the employee is unable to perform the essential functions of the employee's position because of a serious health condition, the date of onset and the health care provider's appropriate medical facts concerning the condition. Chronic illnesses which may have individual episodes of incapacity that are not more than 3 days are also included and would be considered as intermittent leave time. Appropriate medical facts are those facts which are directly relevant to these factors and do not include medical information which involves matters irrelevant to the leave.
- For family care leave to care for a seriously ill child, spouse or parent, the certification must state that the employee is needed to provide care for a family member and an estimate of the amount of time needed, including health care provider's statement if there is a need of an intermittent or reduced work schedule.

At its discretion, the County may require a second medical opinion at its own expense. If the first and second medical opinions differ, the County, at its own

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expense, may require the opinion of a third health care provider. If the employee unreasonably, in the opinion of the County, refuses to agree on a third health care provider, the County may designate the provider. This third opinion is binding on the County and the employee for purpose of the FMLA policy.

The County reserves the right to require the employee to provide re-certification of the need for the leave every 30 days unless circumstances described by the previous certification have changed significantly or the County receives information casting doubt on the employee's stated reason for leave. If the minimum duration of the employee's incapacity specified on a medical certification is more than 30 days, the County will not request recertification until that minimum time has passed unless circumstances change or the County has reason to doubt the employee's stated reason for leave or the employee requests an extension of leave.

2. If military caregiver leave is needed, the County will require a medical certification by the United States Department of Defense ("DOD") health care provider or a health care provider who is either:
1) a United States Department of Veterans Affairs ("VA") health care provider; 2) a DOD Tricare network authorized private health care provider; or 3) a DOD non-network Tricare authorized private health care provider.
3. If qualifying exigency leave is needed, the County will require certification and written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation.
4. If a certification is required, the employee must provide it within 30 calendar days of the County's request unless it is not practicable to do so despite the employee's diligent, good faith efforts. The certification must be complete and sufficient. If a certification is not complete or sufficient, the County will notify the employee of the additional information necessary to make it complete and sufficient and give the employee a period of time (at least seven calendar days) to

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cure any such deficiency. If a complete and sufficient certification is not provided in a timely manner, the County may deny the taking of FMLA leave or may declare a preliminary designation of FMLA leave until the requisite information from the employee or health care provider is received to determine whether the leave is FMLA qualified or not.

The County may contact a health care provider who has provided a medical certification for purposes of clarifying and/or authenticating a certification in accordance with the procedures provided in the FMLA. The County may also verify information contained in a certification provided in support of a request for a qualifying exigency leave.

k. Supervisor and/or Payroll Responsibilities - Notification and Reporting Requirements

In all circumstances, it is the County's responsibility to designate leave, paid or unpaid, as FMLA qualifying, and to give notice of the designation to the employee. The County's designation must be based only on information received from the employee or the employee's spokesperson.

Supervisors and/or payroll are responsible to inform Human Resources as soon as it is known that 5 days of consecutive or non-consecutive earned leave (i.e. vacation, sick leave, floating holiday, comp time, etc.) or workers compensation will or has been taken by an employee for the same potentially qualifying FMLA condition. Human Resources will put the employee on notice of potentially qualifying for FMLA and ask the employee or his/her representative to respond within 30 calendar days to inform the County whether or not the condition is FMLA qualifying.

l. Employment Restoration

Any eligible employee who takes FMLA leave authorized by this policy is entitled upon return from FMLA leave to be restored in the same position of employment as held when the leave began or to be restored to an equivalent position with no adjustment to seniority

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dates and with equivalent employment benefits, pay, and other terms and conditions of employment.

An exception to the employment restoration provisions of this policy may be made if the employee on leave is a "key employee" that is a salaried employee and is among the highest paid ten percent of the County's employees, and restoring employment of the key employee would result in substantial and grievous economic injury to the County. In this situation the key employee will be notified of the County's intent to deny restoration and the key employee will be given an opportunity to return to work.

A fitness for duty certificate will be required if the employee is returning from a medical care leave.

In the event of a layoff during the employee's leave, the employee shall be treated as a regular employee of record during the leave and shall be afforded all of the rights as governed by the appropriate bargaining agreement or County Policies governing matters involved with a layoff.

m. Cancellation of FMLA Leave

The County may cancel a leave of absence at any time the employee uses the leave for purposes other than stated when the leave was granted. An employee may cancel an approved FMLA leave and return to work by providing reasonable notice to the immediate supervisor. If the leave was for a serious health condition of the employee, the employee may return to work upon providing a fitness for duty certificate.

n. Change in Method for Determining the "12-Month Period" Leave Entitlement

The County will change from a rolling 12-month period measured backward from the date an employee uses any FMLA leave to a 12-month period measured forward from the date any employee's first FMLA leave begins.

The FMLA regulations require Itasca County give a 60 days notice to all employees and the transition must take place in such a way that the

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employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee.

o. Effective Date

The FMLA policy as amended is effective on 04/27/2010.

8. Leave for Immediate Family Members of Military Personnel Injured or Killed in Active Service

a. Policy Statement

Minnesota Statute 181.947, or as amended, permits employees to receive an unpaid leave of absence up to ten working days to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service.

b. Authorization

1) Itasca County must grant up to 10 working days to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service.

2) The employee must give as much notice to Itasca County as practicable of the employee's intent to exercise this leave.

3) The length of leave will be reduced by any period of paid leave provided by Itasca County.

4) As defined in MS 181.947, Subdivision 1, or as amended, employee means a person, independent contractor or person working for an independent contractor who performs services for compensation, in whatever for, for an employer.

5) As defined in MS 181.947, Subdivision 1, or as amended, employer means a person or entity located or doing business in Minnesota and having one or more employees, and includes the state and all political or other governmental subdivisions.

6) As defined in MS 181.947, Subdivision 1, or as

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amended, immediate family member means a person's parent, child, grandparents, siblings or spouse.

7) As defined in MS 190.05, Subdivision 5, or as amended, active service means either state active service, federally funded state active service, or federal active service.

9. Leave to Attend Military Ceremonies

a. Policy Statement

Minnesota Statute 181.948, or as amended, permits that unless leave would unduly disrupt the operations of an employer, the employer shall grant a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been ordered into active service in support of a war or other national emergency.

b. Authorization

1) Itasca County may limit the amount of leave provided to the actual time necessary for the employee to attend send-off or homecoming ceremony for the mobilized service members, not to exceed one day's duration in any calendar year.

2) As defined in MS 181.948, Subdivision 1, or as amended, employee means a person who performs services for compensation, in whatever form, for an employer. Employee does not include an independent contractor.

3) As defined in MS 181.948, Subdivision 1, or as amended, employer means a person or entity located or doing business in Minnesota and having one or more employees, and includes the state and all political or other governmental subdivisions.

4) As defined in MS 181.948, Subdivision 1, or as amended, immediate family member means a person's grandparent, parent, legal guardian, sibling, child, grandchild, spouse, fiancé, or fiancée.

5) As defined in MS 190.05, Subdivision 5, or as amended, active service means either state active

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service, federally funded state active service, or federal active service.

10. Leave to Obtain Restraining Orders

a. Policy Statement and Authorization

Employees may have reasonable time off from work to obtain or attempt to obtain relief under the Domestic Arrest Statute, MS 518B.01, Subdivision 23, or as amended. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the supervisor.

B. Leave Of Absence With Pay

1. Jury Duty

a. Policy Statement

It is the policy of Itasca County to grant employees a leave of absence with pay for required jury duty (M.S. 593.50).

b. Authorization

1) An employee shall submit a written request for leave of absence due to jury duty to the department head at the earliest possible date.

2) The department head shall be responsible for authorizing leave of absence.

3) The authorized written request shall be filed in the employee's personnel file.

4) The employee shall return to work if excused or released from jury duty during regular working hours.

c. Compensation

1) The compensation for jury duty shall be paid to the fund from which the employee is paid, except for mileage and any hours incurred prior to or after employee's regular working hours.

LEAVE OF ABSENCE POLICY

2) If a holiday occurs during jury duty, the employee shall be paid at straight time for the holiday, or may have another day off, with the supervisor's permission, in lieu of the holiday worked on jury time.

2. Voting In National And State Elections

a. Policy Statement

Time off for voting will be as per MS 204C.04 or as amended.

b. Authorization

The employee shall inform the supervisor of absence during work time to vote prior to taking the time off to vote.

3. Appearance at Government Proceedings

a. Policy Statement

It is the policy of Itasca County to grant employees a leave of absence with pay for a subpoenaed appearance before a court, legislative committee, or other body as a witness in a proceeding involving the Federal government, State of Minnesota, or one of its political subdivisions, if the appearance is in connection with the employee's official duties, in accordance with M.S. 210A.09.

b. Authorization

1) The employee shall submit a written request for a leave of absence due to a subpoenaed appearance at a government proceeding to the department head at the earliest possible date.

2) The authorized written request shall be filed in the employee's personnel file.

4. Military Leave With Pay

a. Policy Statement

LEAVE OF ABSENCE POLICY

It is the policy of Itasca County to grant employees a maximum of fifteen (15) calendar days off with pay during any calendar year for National Guard, Reserve Duty, or military duty as outlined in M.S. 192.26.

b. Authorization

1) The employee shall submit a written request for a leave of absence due to military duty to the department head at the earliest possible date. A copy of the orders shall be presented to the department head if possible.

2) The department head shall be responsible for authorizing leaves of absence.

3) The authorized written request shall be filed in the employee's personnel file.

5. Bereavement Leave

a. Policy Statement

Employees shall be allowed to use 24 hours of bereavement leave time in case of death in the immediate family.

Sixteen additional hours of bereavement leave time may be used in the event that travel is necessary to a point outside a radius of one hundred fifty (150) miles from the employee's home or for other personal reasons related to the death such as for funeral arrangements. Immediate family is defined as:

- Spouse, and parents, thereof,
- Children, including adopted and stepchildren, and spouses thereof,
- Parents, grandparents and grandchildren of the employee and/or the spouse,
- Brothers and sisters, and spouses thereof,
- Any individual related by blood or affinity whose close association with the employee is the equivalent to a family relationship.

LEAVE OF ABSENCE POLICY

b. Authorization

1) The employee shall submit a written request for a leave of absence due to death in the immediate family to the department head at the earliest possible date. If circumstances prevent submission of a written request, the employee shall contact the department head as soon as possible.

2) The department head shall be responsible for authorizing leaves of absence.

3) The authorized written request or a notation of the verbal request shall be filed in the employee's personnel file.

6. Personal Day Of Leave

a. Policy Statement

It is the policy of Itasca County to grant an employee one personal day of leave per calendar year.

b. Authorization

Upon the successful completion of the probationary period, eight hours of paid absence from work at the employee's designation and appointing authority's approval will be granted each calendar year. A personal day of leave cannot be carried over into the following year or paid upon separation.

7. Sick Child Care Leave

a. Policy Statement

Effective 1 August 1990, Minnesota Statutes 181.9413 permit employees to use personal sick leave benefits for absences due to illness or injury of the employee's child for reasonable periods in which the employee's attendance with the child may be necessary.

b. Authorization

The same terms apply to this leave as apply to the

LEAVE OF ABSENCE POLICY

employee's use of sick leave benefits for the employee's own illness. This applies to sick leave benefits payable to the employee from the employer's general assets.

8. Bone Marrow Donor Leave

a. Policy Statement

Effective 1 August 1990, Minnesota Statute 181.945, or as amended, permits employees to receive a paid leave of absence to undergo a medical procedure to donate bone marrow.

b. Authorization

1) An employer must grant paid leave of absence to an employee who seeks to undergo a medical procedure to donate bone marrow. The combined length of the leaves shall be determined by the employee, but may not exceed 40 work hours, unless agreed to by the employer. The employer may require verification by a physician of the purpose and length of each leave requested by the employee to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

2) An employer shall not retaliate against an employee for requesting or obtaining a leave of absence to donate bone marrow.

3) The Bone Marrow Donor Leave Law does not prevent an employer from providing leave for bone marrow donations in addition to leave allowed under MS 181.945, or as amended. The Bone Marrow Donor Leave Law does not affect an employee's rights with respect to any other employment benefit.

4) MS 181.945, or as amended, defines employee as Aa person who performs services for hire for an employer, for an average of 20 or more hours per week, and includes all individuals employed at any site owned or operated by an employer. Employee does not include an independent contractor.@

LEAVE OF ABSENCE POLICY

5) MS 181.945, or as amended, defines employer as Aa person or entity that employs 20 or more employees at least one site and includes an individual, corporation, partnership, association, nonprofit organization, group of persons, states, county, town, city, school district, or other governmental subdivision.@

9. Organ Donation Leave

a. Policy Statement

Effective 1 August 2006, Minnesota Statute 181.9456, or as amended, permits employees to receive a paid leave of absence to donate an organ or partial organ to another person.

b. Authorization

1) An employer must grant paid leave of absence to an employee who seeks to undergo a medical procedure to donate an organ or partial organ to another person. The combined length of the leaves shall be determined by the employee, but may not exceed 40 work hours for each donation, unless agreed to by the employer. The employer may require verification by a physician of the purpose and length of each leave requested by the employee for organ donation. If there is a medical determination that the employee does not qualify as an organ donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

2) An employer shall not retaliate against an employee for requesting or obtaining a leave of absence to donate bone marrow.

3) Organ Donation Leave Law does not prevent an employer from providing for organ donations in addition to leave allowed under MS 181.9456, or as amended. Organ Donation Leave Law does not affect an employee's rights with respect to any other employment benefit.

3) MS 181.9456, or as amended, defines employee as Aa person who performs services for hire for an employer, for an average of 20 or more hours per week, and includes all individuals employed at any site owned or operated by a public employer. Employee does not

LEAVE OF ABSENCE POLICY

include an independent contractor.@

4) MS 181.9456, or as amended, defines employer as Aa state, county, city, town, school district, or other governmental subdivision that employs 20 or more employees.@

10. Missed Work Due to Own Health Condition

This policy provides supervisors and managers with written information which will allow them to perform their functions of appropriately assigning work activities and authorizing payroll.

1) ALL employees who are absent for their own health condition due to an overnight stay in a medical care facility or who use five (5) or more days of earned or unpaid leave for the same health condition including time run in conjunction with FMLA for serious health condition, must provide to the supervisor and Risk Manager/Safety Officer prior to returning to work a return to work authorization form which identifies work related restrictions or no restrictions from the health care provider.

2) The Report of Workability shall be given to the supervisor and then forwarded by the supervisor to the personnel record. This report can then be utilized by Human Resources to determine if an application for FMLA should be initiated.

3) With receipt of the Report of Workability, the supervisor can appropriately assign work activities and authorize payment of sick pay.

4) In case of need for accommodations to perform the job, consultation from the Risk Manager is available.

C. Unauthorized Leave Of Absence

Any such absence shall be without pay and may be grounds for disciplinary action. In the absence of such disciplinary action, any employee who is absent for three consecutive work days without leave shall be deemed to have resigned.

County Board action date: 07/08/1986; 05/12/1987; 02/09/1988;

LEAVE OF ABSENCE POLICY

06/14/1988; 05/08/1990; 07/10/1990; 12/11/1990; 08/27/1991;
08/25/1992; 09/28/1993; 12/22/1998; 01/09/2001; 09/23/2003;
08/25/2009; 04/27/2010; 05/24/2011; 4/23/2013

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EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.

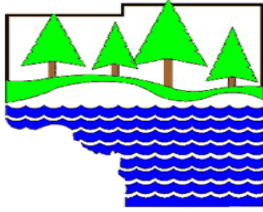


For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 · Revised February 2013



**ITASCA COUNTY
BOARD OF COMMISSIONERS**
Itasca County Courthouse
123 NE 4th Street
Grand Rapids, MN 55744

April 23, 2013
Regular Meeting

REQUEST FOR BOARD ACTION RBA-2013-137

DEPARTMENT: Administrative Services

PRESENTER: Lynn Hart

TIME REQUIRED: < 5 minutes

AGENDA ITEM:

Updated Leave of Absence Policy

BOARD ACTION REQUESTED:

Approve the updated Leave of Absence Policy

BACKGROUND:

Bereavement Leave has been updated to reflect the 2013-2015 bargaining unit language. Voting in National and State Elections has been updated to comply with M.S. 204C.04. The County Administrator will approve all leaves of absence in place of the County Board.

ITEM HISTORY:

History:

04/16/13 COUNTY BOARD
NEXT: 04/23/13

RECOMMENDED FOR CONSENT

COUNTY ATTORNEY REVIEW: N/A

SUPPORTING DOCUMENTATION:

- leave of absence 04232013 (DOC)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Leo Trunt, District #3
SECONDER:	Terry Snyder, District #2
AYES:	Tinquist, Snyder, Trunt, Eichorn, Mandich