

4.8 Leaves of Absence

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Policy

Eligible employees may apply for the following types of leaves of absences:

- A. Family Medical Leave (FMLA)
- B. Extended Medical Leave
- C. Temporary Personal Leave
- D. School Visits
- E. Victim's Economic Security and Safety Act (VESSA)

Procedures

A. FAMILY MEDICAL LEAVE (FMLA)

1. Eligibility Requirements:

An employee who has been employed for a total of twelve (12) months (which need not be consecutive), and has worked for the County for at least 1,250 hours during the preceding 12-month period, is eligible for up to twelve weeks of FMLA leave per twelve month period if the employee is unable to work due to a serious health condition or if the employee needs leave for any of the following reasons:

- (a) For the birth of the employee's child and in order to care for the newborn child;
- (b) For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- (c) To provide care for an immediate family member (spouse, child, or parent but not "parent in-law") who has a serious health condition. (Note: the term "child" means a son or daughter under the age of 18. Adult children are not included unless the adult child is incapable of self-care due to a physical or mental disability.) (The terms "parent", "son" and "daughter" will be as defined by federal regulations at 29 CFR 825.122)
- (d) For qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. (The term "Covered active duty" will be as defined in 29 USC §2611 and the term "qualifying exigency" will be as defined in federal regulation 29 CFR 825.126).

- (e) To provide care for a covered service member, including veterans, with a serious injury or illness by an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member shall be entitled to a total of 26 weeks of leave during a 12-month period to care for the service member. (The term “Covered Service member” will be as defined in 29 USC §2611 and the term “next of kin” will be as defined in federal regulation 29 CFR 825.122).

The entitlement to leave for a birth or placement of a child for adoption or foster care expires twelve (12) months from the date of the child's birth or placement. Any such FMLA leave must be concluded within this one-year period. Such leave may not be taken in segments or intermittently.

The 1,250 hours required for eligibility includes only those hours actually worked for the County and does not include time spent on paid leave, unpaid leave, IMRF disability leave, or FMLA leave.

Eligibility for FMLA leave will be determined in accordance with the definitions set forth in the FMLA and the applicable FMLA regulations in effect at the time the employee's eligibility for leave is being determined. For purposes of the FMLA, a "**serious health condition**" means an illness, injury, impairment, or physical or mental condition that involves:

- (a) Inpatient care (i.e. overnight stay) in a hospital, hospice, or residential medical facility or any period of incapacity or subsequent treatment in connection with such inpatient care; or
- (b) Any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities due to the condition, treatment for the condition, or recovery from treatment), that:
 - 1. Lasts more than three consecutive calendar days and involves one in-person treatment by a health care provider, a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider that occurs (absent extenuating circumstances) within seven days of the first day of incapacity, ***and*** either:
 - i. involves a second in-person treatment that occurs (absent extenuating circumstances) within 30 days of the first day of incapacity; or
 - ii. results in a continuing regimen of continuing treatment under the supervision of a health care provider; or
- (c) Any period of incapacity due to pregnancy or prenatal care that involves continuing treatment by a health care provider; or

- (d) Any period of incapacity or treatment for incapacity due to a "chronic serious health condition" that continues over an extended period of time (including recurring episodes of a single underlying condition), requires periodic visits (as defined as at least twice a year) for treatment by a health care provider and may cause episodic rather than continuing periods of incapacity; or
- (e) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
- (f) Any period of absence to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider either for restorative surgery after accident or injury or for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

For purposes of this policy, the determination of whether an employee qualifies for FMLA leave will be based on the definition of "serious health condition" contained in federal regulations at 29 CFR 825.113. Pursuant to those regulations, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease do not meet the definition of a serious health condition and do not qualify for FMLA leave.

With regard to substance abuse (including alcohol abuse), FMLA leave may be taken only for treatment of substance abuse by or on referral from a health care provider. Absences caused by the employee's use of the substance, rather than for treatment, do not qualify for FMLA leave.

2. Placement of Employees on Family Medical Leave:

An employee who is eligible or who appears to be eligible for FMLA leave may be placed on FMLA leave by Human Resources if it appears that the employee has a serious health condition even if the employee has not applied for such leave. Examples of situations where an employee may be placed on FMLA leave include, but are not limited to, the following:

- (a) The employee appears to have a serious health condition involving inpatient care at a hospital, hospice, or residential medical facility.
- (b) The employee has missed more than three (3) consecutive calendar days from work due to an illness or injury (including a workplace injury) that appears to qualify as a serious health condition as defined above.

- (c) The employee appears to have a serious health condition that makes the employee unable to work at all or unable to perform any one of the essential functions of the employee's position.
- (d) The employee has been approved for IMRF disability leave, worker's compensation payments or has requested a leave of absence for medical reasons, and the absence otherwise qualifies under the FMLA.

Employees who are placed on FMLA leave will have their time off counted against the twelve weeks of leave entitlement even if they are using paid benefit time or are receiving worker's compensation payments or IMRF disability payments during their absence from work. The start date of the employee's FMLA leave may be retroactive to the first workday missed due to the serious health condition. If the employee is on an IMRF disability leave, a medical leave of absence or on leave due to an occupational injury, that leave will run concurrently with the employee's FMLA leave until the FMLA leave is exhausted.

If Human Resources determines that an absence may qualify as FMLA leave, the employee will be required to submit documentation and a completed medical certification within a specified time period as defined in Section 5(b) (Application for Leave and Medical Certification). If an employee fails to submit the documentation and/or certification within that designated time period or submits incomplete documentation and/or certification and does not cure this deficiency, the employee may be subjected to discipline and/or denied the use of paid benefit time.

3. Length of Family Medical Leave:

An employee who is eligible for FMLA leave may receive up to a total of twelve weeks of FMLA leave per a 12-month rolling time period. The 12-month rolling time period is determined by measuring backwards from the date the employee is placed on FMLA leave. In determining eligibility and how much FMLA leave an employee may be entitled to, Human Resources will subtract any FMLA time that the employee used during that preceding twelve month time period. For employees who are placed on FMLA leave, the start date of their FMLA leave may be retroactive to the first workday that the employee missed due to their serious health condition.

An employee who is eligible for FMLA Military Caregiver Leave may receive up to a total of 26 weeks in a single 12-month time period. The single 12-month period is determined by the first day the employee takes leave and ends 12 months after that date regardless of the method used to determine leave for other FMLA-qualifying reasons. If the entire 26 weeks are not used in that 12-month period, it is forfeited.

As provided under federal regulation 29 CFR 825.205, an employee's normal "workweek" prior to the start of FMLA leave is the controlling factor for determining how much FMLA time an employee uses when on leave. Employees will be able to use their

FMLA time in no less than fifteen (15) minute increments and in fifteen (15) minute increments based on the employees scheduled hours.

If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave will be used for calculating the employee's normal workweek.

Where both spouses work for the County, they may, at Human Resources discretion, be limited to a combined total of 12 weeks of FMLA leave if they are seeking leave for: (1) the birth and care of a child; or (2) for the placement of a child for adoption or foster care, and to care for the newly placed child; and (3) a combined total of 26 weeks of FMLA leave if both spouses are requesting to take Military Caregiver Leave.

4. Use of Paid Benefit Time While on Family Medical Leave:

Time off under the Family Medical Leave Act is unpaid unless the employee has benefit time available or is receiving worker's compensation or IMRF benefits. However, if the employee has any accrued, unused sick leave, floating/holiday hours, general leave time, compensation time and personal time, this paid time off must be used concurrently with the employee's FMLA leave, and must be exhausted before the unpaid portion of the employee's FMLA leave commences. If an employee has benefit time available, the employee will be required to use their accrued sick leave, floating/holiday hours, general leave time, compensation time and personal time, in that order. However, if an employee qualifies for IMRF disability payments, the employee will not be required to use their paid benefit time once they satisfy IMRF's waiting period. If the employee stops receiving IMRF disability payments or worker's compensation payments while the employee is still on FMLA leave, the employee will then be required to use any available paid benefit time for the remainder of the leave.

Employees on FMLA leave will not accrue benefit time or seniority during the time the employee is on unpaid status or is receiving IMRF disability payments.

5. Applying for FMLA Leave:

If an employee needs to take time off for reasons that the employee believes may qualify for FMLA leave, the employee must comply with the County's usual and customary policies and procedures for reporting absences, including submitting a completed and signed application for leave. If necessary, the third party designee may contact the employee to request additional information or documentation regarding the absence. Failure to comply with the County's absence reporting policies and procedures or to provide documentation or information requested by a third party designee may result in delay or denial of requested time off, and/or disciplinary action.

(a) Notice of Leave:

An employee intending to take FMLA leave because of an expected birth or placement of a child, or because of a planned medical

treatment, must submit an application for leave at least thirty (30) calendar days before the leave is to begin. If the employee provides less than 30 days' notice of the time off, the employee may be required to explain, in writing, why it was not practicable for the employee to provide 30 days' notice.

If the need for leave was not foreseeable and the leave is to begin less than thirty (30) calendar days from the date of application for such leave, the employee must give notice to their immediate supervisor and third party designee as soon as the employee learns of the need to take FMLA leave.

Failure to give timely notice may delay the start of leave and it may result in the denial of paid benefit time and/or disciplinary action.

When scheduling time off, the employee will be expected to consult with the employee's supervisor to work out a schedule for leave that, to the extent possible, meets the employee's needs without unduly disrupting the County's operations.

The employee must follow the above procedure *each day they are absent*, unless the absence for that day has been scheduled and approved in advance. Note that this procedure applies to **all unscheduled absences**, not merely absences for which the employee seeks FMLA leave.

(b) Application for Leave and Medical Certification:

An employee requesting leave must complete the necessary family medical leave paperwork and submit a completed medical certification, by the employee's (or family member's) health care provider confirming the existence of a serious health condition and the duration of the expected leave. All paperwork should be submitted within 15 days, directly to the third party designee. Employees taking Military Exigency Leave must provide written documentation confirming a covered military member's active duty or call to active duty in support of a contingency operation. The FMLA application must be approved by the third party designee and the department will be notified of the status.

(c) Medical Certification

It is the employee's responsibility to provide the third party designee with any information needed as contained in the medical certification form, at the employee's expense, to determine whether the requested leave qualifies as FMLA leave. The FMLA requires the employee to respond to reasonable requests for information

regarding the leave request, and the employee's failure to do so may result in delay or denial of the requested leave.

When the leave is foreseeable and 30 day notice has been provided, the employee is expected to submit the medical certification to the third party designee before their leave begins. For all other cases, the employee must submit a completed copy of the medical certification form to the third party designee within fifteen (15) calendar days of receiving the medical certification form. If it is not practicable for the employee to provide a completed, sufficient certification form within 15 days despite a diligent, good faith effort to do so, the third party designee must be contacted to explain the situation.

If the application and certification forms are mailed to the employee's address on file, they will be presumed to have been received by the employee within three days of being mailed.

If the employee returns a certification form but it is incomplete (i.e., one or more items are left blank) or insufficient (i.e., responses are vague, illegible, ambiguous, or non-responsive), the third party designee will notify the employee of the deficiency. The employee will then have seven (7) calendar days to provide a complete, sufficient certification. If it is not practicable for the employee to provide a completed, sufficient certification form within seven days despite their diligent, good-faith efforts to do so, the employee must contact the third party designee to explain the situation.

(e) Authentication and Clarification

A third party designee may contact the health care provider to authenticate a completed certification form by providing the health care provider a copy of the form and requesting verification that the information contained on the form was written or authorized by the health care provider who signed the document.

Additionally, if the employee does not cure any discrepancy as outlined above, the third party designee may request clarification of information on the certification form, and may ask the employee to sign, or have the employee's family member sign, a release form authorizing the health care provider to communicate with the third party designee for the purpose of clarifying the certification. If the certification is unclear and the employee fails to provide a signed authorization or otherwise clarify the certification, the third party designee may deny the request for FMLA leave.

(f) Second and Third Opinions

Human Resources may require an employee to obtain a second certification at the County's expense from a health care provider

designated by Human Resources. If the second health care provider's certification differs from the employee's health care provider's certification, Human Resources may require the employee to obtain certification from a third health care provider, again at the County's expense. The third health care provider will be designated or approved jointly by the employee and Human Resources. The employee and Human Resources are required to act in good faith to attempt to reach agreement on a third health care provider. The third opinion will be final and binding.

(g) **Recertification**

If the employee takes leave due to the employee's own or a family member's serious health condition, the employee may be required to submit a complete and sufficient recertification from a health care provider as often as every 30 days in conjunction with an absence. If the employee's health care provider's initial certification specifies that the minimum duration of the condition for which the employee is taking leave is longer than 30 days, the employee may be required to submit a recertification in conjunction with an absence when the minimum duration expires, or every six months, whichever is less. The employee also may be required to provide a recertification if they request an extension of leave, the circumstances described in the original certification have changed significantly, or the County receives information raising doubt as to the stated reason for the leave or the continuing validity of the previously-provided certification. A third party designee will provide the employee the required recertification form when a recertification is required.

This entire section ("applying for FMLA leave") also applies to those employees who are placed on a designated FMLA leave by Human Resources.

6. Intermittent Leave:

FMLA permits employees to take leave on an intermittent basis (not all at one time) or on a reduced schedule basis when medically necessary to care for a seriously ill family member, because of the employee's own serious health condition, or due to the serious health condition of a covered servicemember or because of a qualifying exigency.

For an employee to be eligible for intermittent FMLA leave, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent leave schedule. The treatment regimen and the information contained in the medical certification of serious health condition must meet the requirements for certification of the medical necessity of intermittent FMLA leave. For an on-going serious health condition, employees will be required to provide periodic recertification of the medical necessity of intermittent FMLA

leave. Requests for intermittent FMLA leave must be approved by the third party designee.

Employees needing intermittent leave have an obligation to make a reasonable effort to schedule such treatment so as to not disrupt unduly the County's operations. If the employee has foreseeable planned medical treatment, Human Resources may temporarily assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent schedule. If the employee has accrued benefit time available, they will be required to use their sick leave, floating/holiday hours, general leave time, compensation time and personal time, in that order, to cover their absences. After their accrued benefit time is exhausted, the remainder of their FMLA leave will be unpaid.

Intermittent leave will only reduce the amount of allotted Family Medical Leave time by the amount of time actually taken. See Section 3 "Length of Family Medical Leave" for further information regarding how the use of time will be calculated when the employee is on intermittent leave.

Intermittent leave may not be taken to care for a newborn or newly adopted or foster care child.

7. Benefits Coverage During Leave:

While on FMLA leave, the employee will remain on the County's health plan, under the same conditions that applied before the employee went on FMLA leave. To continue health coverage, the employee must continue to make any contributions that they made to the plan before taking leave. Failure of the employee to pay their share of the health insurance premium may result in loss of coverage.

The County's obligation to maintain health benefits under FMLA stops if and when an employee informs the County that they do not intend to return to work at the end of leave period, or if the employee fails to return to work at the end of their approved leave.

The County reserves the right to require the employee to reimburse the County for health insurance premiums that the County paid during the employee's leave if the County finds evidence that the employee misrepresented the need for leave or otherwise obtained the leave through fraud. Employees on FMLA leave will not accrue benefit time or seniority once the employee exhausts their accrued benefit time or starts receiving payments from IMRF or the worker's compensation program. However, employees on FMLA leave will not lose any length of service benefits that accrued before the employee went on unpaid status.

8. Notice of Return From Leave:

(a) Early Return from Leave:

If the circumstances of the leave change and the employee is able to return to work earlier than the date indicated on the employee's FMLA application and medical certification, the employee must notify the third party designee at least two (2) working days prior to the date the employee intends to report to work.

(b) Confirmation of Return to Work Date:

With the exception of employees who return to work prior to their expected return to work date, employees must notify the third party designee at least seven (7) working days prior to their originally scheduled return to work date and confirm their return to work status. If this is not possible due to an unforeseen change in circumstances, you must notify the third party designee of the change as soon as practicable under the circumstances.

If an employee's own medical condition prevents them from returning to work at the end of their FMLA leave, the employee must notify the third party designee at least seven (7) working days before their return to work date and either request additional FMLA leave time (if the employee has not exhausted their annual entitlement and is still eligible for FMLA leave) or apply for an extended medical leave by submitting an "Application for Extended Medical Leave" and a medical certification, completed by the employee's treating physician. (See section on Extended Medical Leave for further details.) If the employee is requesting additional FMLA leave, the employee will be required to submit a recertification from their health care provider. If the employee is not approved for additional FMLA leave or an extended medical leave and the employee fails to return to work on their originally scheduled return to work date, the employee may be discharged from employment.

If an employee is unable to return from FMLA leave for a reason other than their own serious health condition, the employee must notify the third party designee and their Department Head at least seven (7) working days before their original return to work date and either request additional FMLA leave time (if the employee has not exhausted their annual entitlement and is still eligible for FMLA leave) or apply for a personal leave of absence. (See section on Temporary Personal Leave for further details.) If either request is denied or if no request is made, the employee will be expected to return to work on their originally scheduled return to work date. If the employee does not return to work on their original return to work date, the employee may be discharged from employment.

9. Fitness for Duty Certification:

If an employee is returning from a FMLA leave that was due to their own serious health condition, they must submit the following documentation to the third party designee at least seven (7) working days before their return to work date:

- (1) A statement from their treating physician certifying that they are fit to return to duty and that they can perform the essential functions of their job

with or without a reasonable accommodation (or to the position restored to, if different);

- (2) If the employee's physician has given the employee work restrictions, the employee must provide a statement from their physician detailing those restrictions, the reason for those restrictions and whether the restrictions are permanent or temporary; and
- (3) If the employee is requesting a reasonable accommodation for an ADA qualifying disability, the employee must provide documentation detailing the accommodation being requested and how the request will enable the employee to perform the essential functions of their position. An employee may also be required to provide medical documentation to substantiate that they have an ADA disability and needs the reasonable accommodation being requested.

The employee must submit the fitness for duty certification before they will be permitted to return to work.

10. **Reinstatement:**

Upon return from FMLA leave, an employee will either be restored to their position or to a position with equivalent pay, benefits, and other terms and conditions of employment so long as there is not a basis to deny reinstatement. Situations where an employee may be denied reinstatement include, but are not limited to, the following:

- the employee gave unequivocal notice that they did not intend to return to work at the end of their leave;
- the employee qualifies as a "key" employee under FMLA regulations (29 CFR 825.217) and is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all County employees and the restoration of their employment would cause substantial and grievous economic injury to the County's operations;
- the employee's leave was obtained by fraud or misrepresentation;
- the employee was hired for a specific term or for a specific project/grant that has since been completed;
- the employee was subject to a reduction in force;
- the employee is unable to perform the essential functions of their job, with or without reasonable accommodation of a qualifying disability;
- the employee would not otherwise have been employed at the time of reinstatement if the employee had not been on FMLA leave; or
- the employee failed to provide required notices or certifications while on leave and/or failed to provide a fitness for duty certification from a health care provider at the end of the leave.

If an employee was on probationary status or a plan for improvement for disciplinary and/or performance related issues at the time they went on FMLA leave, upon their return

to work, their probationary period or plan for improvement will resume at the same point as it was on the day the employee's leave began. Likewise, if discipline was pending prior to their FMLA leave, the supervisor may proceed with that discipline upon the employee's return to work.

The County cannot guarantee that employees will be returned to their original position and reserves the right to place employees in the same or an equivalent position. The determination as to whether a position qualifies as "equivalent" will be made by Human Resources. Employees returning from FMLA leave may submit a written request for a different shift, schedule or position but the decision to grant such a request will be within the discretion of the employee's Department Head.

B. EXTENDED MEDICAL LEAVE OF ABSENCE

An extended medical leave of absence is available to those non-introductory employees who have already exhausted their annual twelve (12) week entitlement of FMLA leave but due to their own serious health condition are still unable to perform the essential functions of their position. Requests for an extended medical leave must be approved by the Human Resources in consultation with the employee's Department Head. Employees will not be approved for an extended medical leave of absence unless the employee was previously approved for and has already exhausted their annual twelve (12) week FMLA entitlement. Employees who are approved for an extended medical leave of absence may receive up to three (3) months of leave time. In providing leave under this provision, Human Resources will make reasonable accommodations for qualified individuals with known disabilities to the extent required by applicable law, unless doing so would result in an undue hardship.

In determining whether to approve a request for leave (including the length of leave) consideration should be given to, among other criteria, the employee's employment record (including the employee's attendance and disciplinary record, length of employment and performance history) as well as the staffing needs of the department.

- (1) An extended medical leave of absence is an unpaid leave of absence unless the employee is using available benefit time or the employee is receiving payments through IMRF or the worker's compensation program.

Employees who are not receiving IMRF or worker's compensation payments must exhaust all accrued paid benefit time (sick leave, floating/holiday hours, general leave time compensatory time, and personal time) before they will be placed on unpaid status.

- (2) To apply for an extended medical leave, the employee must submit an "Application for Extended Medical Leave" and a medical certification completed by the employee's treating physician certifying the nature and extent of the employee's medical condition and stating an expected return to work date. For an extended medical leave, the medical certification must be completed by any health care provider that is a doctor of medicine. If the employee does not provide

sufficient information supporting the need for an extended medical leave of absence upon request from Human Resources, subject to the approval of Human Resources, Human Resources may require, at the County's expense, that the employee submit to a medical examination by a physician (chosen by Human Resources) to determine the need for leave, whether the employee is able to perform the essential functions of their position after an additional period of leave is provided, and what, if any, reasonable accommodations are available to allow the employee to perform these functions.

- (3) During an extended medical leave, employees may be required by Human Resources to provide recertification of the need for leave and/or periodic reports on the employee's return to work status. The employee must forward this documentation directly to Human Resources.
- (4) To continue health coverage, the employee must continue to make any contributions that they made to the plan before taking leave. Failure of the employee to pay their share of the health insurance premium may result in loss of coverage.
- (5) Employees on an extended medical leave of absence do not accrue general leave credit or sick leave credit during the time that the employee is receiving payments from IMRF, worker's compensation or is on unpaid status.
- (6) Employees on an extended medical leave must notify Human Resources in writing at least seven (7) working days prior to the employee's scheduled return to work date and either confirm their return to work date or request additional leave time. If this is not possible due to an unforeseen change in circumstances, you must notify Human Resources as soon as practicable under the circumstances. At that time, the employee must provide Human Resources an update on their ability to return to work upon expiration of current leave, and if the employee is able to return, the employee will be required to provide a fitness for duty certification. If the employee's physician has given the employee work restrictions, those restrictions, the reasons for those restrictions and whether the restrictions are permanent or temporary must be clearly stated in the physician's statement. Likewise, if the employee is requesting a reasonable accommodation for an ADA qualifying disability, the employee should provide a statement detailing the accommodation being requested and how the accommodation will enable the employee to perform the essential functions of their position.
- (7) Before an employee is allowed to return to work, Human Resources may require that an employee provide additional medical information from their physician so that Human Resources can determine whether the employee is able to perform the essential functions of the position with or without an accommodation. If the employee does not provide sufficient information upon request from Human Resources, then Human Resources reserves the right to require the employee to submit to a fitness for duty examination (conducted by a physician of Human

Resources choosing and at the County's expense). Human Resources may delay the employee's return to work date if additional time is needed to clarify the employee's return to work status or if Human Resources has scheduled or is awaiting the results of a fitness for duty examination. If the employee does not have benefit time available, this additional time off will be unpaid.

- (8) An employee returning from leave may be denied reinstatement altogether under the following circumstances: (1) the employee is unable to perform the essential functions of their job, with or without a reasonable accommodation of a qualifying disability under the ADA; (2) the employee's position was eliminated due to a reduction in force; (3) the employee was hired for a specific term or a specific project /grant that has since been completed; (4) the employee failed to provide required notices or certifications while on leave and/or failed to provide a fitness for duty certification from their physician or failed to submit to a requested fitness for duty examination, if requested by Human Resources; (5) the employee's leave was obtained by fraud or misrepresentation; (6) the employee's employment would otherwise have been terminated if the employee had not been on leave and; (7) the employee failed to return to work upon the expiration of their extended medical leave of absence. If an employee is denied re-instatement for one of these reasons, their discharge from employment may not be grieved under the Lake County Grievance Procedure.

If an employee was on probationary status or a plan for improvement at the time they went on leave, upon their return to work, their probationary period or plan for improvement will resume at the same point as it was on the day the employee's leave began unless the probationary status was due to a promotion and the employee no longer holds that position. If progressive discipline had been pending prior to the employee's leave, the supervisor may proceed with that discipline upon the employee's return to work.

- (9) An extended medical leave of absence typically may not exceed three (3) months, except where additional leave is necessary as a reasonable accommodation under the ADA and such leave does not create an undue hardship on the County. However, an employee may request up to an additional three months of leave by submitting an application to Human Resources. If this request is granted by Human Resources, the employee may receive additional leave time but the employee will not be guaranteed reemployment at the end of this additional leave period, except where the position is required to be kept open pursuant to the ADA and/or other applicable law.

A request for additional leave time must contain a "Certification of Health Care Provider" completed by the employee's treating physician stating the reasons why additional time is needed and the employee's expected return to work date. This request should be made as soon as the employee realizes that they will not be able to return at the expiration of the extended medical leave period but, at a minimum, the request must be received by Human Resources no later than seven (7) working

days before the employee's current medical leave is set to expire. If this is not possible due to an unforeseen change in circumstances, you must notify Human Resources as soon as practicable under the circumstances.

If an employee fails to return to work upon the expiration of their extended medical leave of absence, their employment may be terminated unless Human Resources has approved an extension of leave.

If an employee has exhausted their annual FMLA leave entitlement but still requires additional time off from work in order to provide care for an immediate family member (as defined by FMLA policy), the employee may apply for a temporary personal leave of absence. (See section on Temporary Personal Leave of Absence for further information.)

C. TEMPORARY PERSONAL LEAVE

Personal leave is granted at the discretion of Human Resources. Personal leave may be granted for a maximum of three (3) months.

- (1) Personal leave may be requested for educational or family purposes or for a purpose that is approved by Human Resources. In determining whether to approve a request for leave (including the length of leave), consideration should be given to the employee's employment record (including the employee's attendance and disciplinary record, length of employment and performance history) as well as the staffing needs of the department. Personal leave may not be used in conjunction with or in lieu of an extended medical leave of absence.
- (2) Personal leave is unpaid unless the employee has accrued benefit time (general leave, compensatory time, floating/holiday hours, personal time or if applicable, sick time) that can be applied to the leave time. If such benefit time is available, the employee will be required to exhaust that time before going on unpaid status.
- (3) The employee must request personal leave on a Leave of Absence Request for personal leave.
- (4) An employee on personal leave does not accrue general leave credit or sick leave credit for the period of the unpaid leave of absence. Such employees may continue medical and dental group insurance coverage and life insurance coverage, but only where the employee pays the total cost of such participation while on unpaid leave of absence. Such employees continue IMRF participation according to rules and requirements established by IMRF.
- (5) If an employee fails to return to work upon the expiration of their personal leave of absence, their employment may be terminated unless Human Resources has approved an extension of leave. If the employee is terminated from employment

for failing to return to work on their originally scheduled return to work date, the termination may not be grieved under the Lake County Grievance Procedure.

D. SCHOOL VISITS

As of July 1, 1993, all Illinois employers of 50 or more must allow employees up to eight hours leave to visit their children's schools during the school year. An employee of Lake County may not take more than four hours of school visitation leave in one day, and the leave may not be taken if the employee has not exhausted all accrued vacation leave, personal leave or any other type of leave (except sick or disability leave). The employee may use their accrued compensatory time to compensate for this absence. An employee of Lake County wishing to take leave to visit a child's school must notify their supervisor in advance and in accordance with departmental procedures.. Upon completion of the school visitation, the employee must obtain documentation of the visit from the school administrator and provide a copy to their supervisor. If the employee does not provide the documentation of the school visit within two working days of the visit, the employee may be disciplined, up to and including termination.

E. VICTIM'S ECONOMIC SECURITY and SAFETY ACT (VESSA) LEAVE:

VESSA allows employees who are victims of domestic or sexual violence, or who are family or household members of victims of abuse, to take up to 12 weeks of unpaid leave in any 12-month period to seek medical attention, legal assistance, and counseling for the following reasons:

- (1) To seek medical attention for, or recover from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- (2) To obtain victim services for the employee or employee's family or household member;
- (3) To obtain psychological or other counseling for the employee or the employee's family or household member;
- (4) To participate in safety planning, including temporary or permanent relocation or other actions to increase the safety of the victim from future domestic or sexual violence; or
- (5) To seek legal assistance to ensure the health and safety of the victim, including participating in court proceedings related to the violence.

1. Eligibility Requirements

To demonstrate eligibility for VESSA leave, the employee must provide Human Resources with certification that (1) the employee or the employee's family or household member is a victim of domestic or sexual violence and (2) that the leave is for one of the reasons permitted under VESSA (see preceding paragraph). Such certification shall include a sworn statement from the employee and one of the following:

- (a) Documentation from a victim services organization, attorney, member of the clergy, or medical or other professional from whom the employee or the employee's family or household member has sought assistance, or
- (b) police or court record, or
- (c) other corroborating evidence.

All such documentation received shall be retained in the strictest confidence.

All Lake County employees are eligible to apply for VESSA leave, including part-time and introductory employees.

The definition of "family or household member" means a spouse, parent, son, daughter, other persons related by blood or by present or prior marriage, other persons who share a relationship through a son or daughter, and persons jointly residing in the same household, including same-sex domestic partners. "Parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. "Son" or "daughter" means a biological, adopted, or foster child, stepchild, a legal ward, or a child of person standing in loco parentis, who is under 18 years of age, or is 18 years of age or older but incapable of self-care due to a mental or physical disability.

As provided under the Victim's Economic Security and Safety Act, employees may receive up to a total of twelve (12) weeks of VESSA leave per 12-month period.

If the reason for the employee's VESSA leave also qualifies as a reason for FMLA leave and the employee is eligible for FMLA leave, the employee's VESSA leave will be designated as a joint FMLA/VESSA leave. In those situations, the employee will not receive 24 weeks of leave time but rather, the employee's VESSA and FMLA leave will run concurrently for up to a maximum of twelve weeks of leave per 12-month period.

2. Applying for VESSA Leave

The employee must provide Human Resources with at least 48 hours advance notice of the employee's intent to take VESSA leave except in such cases where it is not practicable to provide such notice.

To apply for VESSA leave, the employee should bring their sworn statement and certifying documents (documentation from a victim services organization, attorney, member of the clergy, or medical or other professional from whom the employee or the

employee's family or household member has sought assistance; a police or court record; or other corroborating evidence) to Human Resources and request an Application for Leave of Absence. In the application for leave, the employee must state the length of leave being requested, why leave is being requested, and the date the employee expects to return to work.

If the employee does not provide advance notice, the employee must provide Human Resources with their sworn statement and application for VESSA leave within five (5) calendar days after leave is requested or the employee is tentatively placed on VESSA leave. The remaining certifying documents must be provided to Human Resources within fifteen (15) calendar days after leave is requested or the employee is tentatively placed on VESSA leave whichever occurs first.

An employee who is eligible or who appears to be eligible for VESSA leave may be placed on VESSA leave by Human Resources even if the employee has not applied for such leave.

3. Use of Paid Benefit Time While on VESSA Leave

Time off under the Victim's Economic Security and Safety Act is unpaid unless the employee has benefit time available and is eligible to use that benefit time during their VESSA leave. If an employee has benefit time available, the employee may use all of their accrued sick, general leave, floating/holiday, compensation and personal hours before going on unpaid status. If the reason for the VESSA leave meets the eligibility requirements for sick leave, the employee may use their accrued sick leave before going on unpaid status unless the employee qualifies for IMRF disability payments. If the employee qualifies for IMRF disability payments, the employee will not be required to use their paid benefit time once they satisfy IMRF's waiting period. If the employee stops receiving IMRF disability payments while the employee is still on VESSA leave, the employee may use any available paid benefit time for the remainder of the leave.

If the employee does not have benefit time available, the leave will be unpaid.

Personal leave time under Section 4.7 may be used for VESSA leave.

Consistent with other forms of leave, employees on VESSA leave will not accrue benefit time or seniority during the time the employee is on unpaid status.

4. Intermittent VESSA Leave

Employees may take VESSA leave on an intermittent basis or on a reduced work schedule. Employees needing intermittent leave must attempt to schedule their leave so as to not disrupt the County's operations. The employee's Department Head may temporarily assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent schedule. If the employee has accrued benefit time available and is eligible to use that time, they may use that time to

cover their absences. After accrued benefit time is exhausted, the remainder of the employee's intermittent VESSA leave will be unpaid. Personal leave time may be used for intermittent VESSA leave.

5. Benefits Coverage During Leave

While on VESSA leave, the employees who are on the County's health plan will remain on that plan, under the same conditions that applied before the employee went on leave. To continue health coverage, the employee must continue to make any contributions that they made to the plan before taking leave. Failure of the employee to pay their share of the health insurance premiums may result in loss of coverage.

The County's obligation to maintain health benefits under VESSA stops if and when an employee informs Human Resources that they do not intend to return to work at the end of the leave period, or if the employee fails to return to work at the end of their approved leave.

The County reserves the right to require the employee to reimburse the County for health insurance premiums that the County paid during the employee's leave if the County finds evidence that the employee misrepresented the need for leave or otherwise obtained the leave through fraud.

An employee on VESSA leave will not accrue benefit time or seniority once the employee exhausts their accrued benefit time and goes on unpaid status. However, an employee on VESSA leave will not lose length of service benefits that accrued before they went on unpaid status.

Holiday pay will not be paid during VESSA leave, except in those instances where the employee is on an intermittent or reduced schedule that makes the employee eligible for holiday pay or where the employee is on a paid leave at the time of the holiday and qualifies for holiday pay.

6. Notice of Return From Leave

An employee must complete a "Notice of Intention to Return From Leave" at the time the employee submits their application for leave. The application for leave should state the date the employee is expected to return to work. Once on leave, the employee is expected to remain in regular contact with Human Resources and give periodic updates. If the employee has been on leave for more than two weeks, the employee will be expected to notify Human Resources at least five (5) working days prior to their return to work date and confirm that they will be returning to work on that date or request additional leave time. If the employee has been on leave for less than two weeks, the employee is expected to notify Human Resources at least two (2) working days prior to their return to work date. At that same time, if the employee has concerns about the safety or security of their worksite, the employee should contact Risk Management directly at 377-2241 to report those concerns.

If an employee is returning from a VESSA leave that has been jointly designated as FMLA leave, the employee must comply with the return to work and notice requirements contained in the County's FMLA policy in addition to the VESSA requirement.

7. Reinstatement

Upon return from VESSA leave, an employee will either be restored to their position or to a position with equivalent pay, benefits, and other terms and conditions of employment so long as there is not a basis to deny reinstatement. Situations where an employee may be denied reinstatement include, but are not limited to, the following:

- the employee gave unequivocal notice that they did not intend to return to work at the end of their leave;
- the employee's leave was obtained by fraud or misrepresentation;
- the employee was hired for a specific term or for a specific project/grant that has since been completed;
- the employee was subject to a reduction in force;
- the employee is unable to perform the essential functions of their job, with or without reasonable accommodation of a qualifying disability;
- the employee would not otherwise have been employed at the time of reinstatement if the employee had not been on VESSA leave; or
- the employee failed to provide required notices or certifications while on leave.

If an employee was on introductory status or on a plan for improvement at the time they went on VESSA leave, upon their return to work, their introductory period or plan for improvement will resume at the same point as it was on the day the employee's leave began. Likewise, if progressive discipline was pending prior to an employee's VESSA leave, the supervisor may proceed with that discipline upon the employee's return to work.

Human Resources cannot guarantee that an employee will be returned to their original position and reserves the right to place an employee in the same or an equivalent position. The determination as to whether a position qualifies as "equivalent" will be made by Human Resources or their designee. Employees returning from VESSA leave may submit a written request for a different shift, schedule or position but the decision to grant such a request will be within the discretion of the employee's Department Head.

8. Requests for Accommodation

If an employee requires a reasonable accommodation in the workplace due to circumstances relating to the employee, or the employee's family or household member being a victim of domestic or sexual violence, the employee should submit that request to their immediate supervisor, Department Head or to the Director of Human Resources. Safety and security concerns involving the workplace should also be reported directly to Risk Management.

9. Retaliation, Discrimination Prohibited

Employees who feel that they have been wrongly denied VESSA leave or a reasonable accommodation should report their concerns immediately to their Department Head or to the Director of Human Resources. Employees should also notify their Department Head and/or the Director of Human Resources if (1) the employee believes that they have been subjected to discrimination because they are or are perceived to be a victim of domestic or sexual violence or; (2) if the employee believes that they have been subjected to retaliation for taking VESSA leave or otherwise exercising their rights under VESSA.

10. Policy subject to Change

As the purpose of this policy is to comply with the Victim's Economic Security and Safety Act, 820 ILCS 180 et seq., any changes to state law or regulations regarding this Act will be reflected accordingly in this policy.

F. OUTSIDE EMPLOYMENT WHILE ON LEAVE:

You may not work for another employer while on family or medical leave. Such outside employment is grounds for immediate termination.