

8.00 LEAVE TIME

8.01 DEFINITIONS.

Leave Time. Leave time is the time during regular working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid.

Holidays. Holidays are days designated by the commissioners' court when county offices are closed on what otherwise would be regular business days.

Unauthorized Absence. An unauthorized absence is one in which the employee is absent from regular duty without permission of the supervisor or appropriate elected official or department head. Employees are not paid for unauthorized absences, and such absences may lead to disciplinary action.

8.02 APPROVAL OF LEAVE. All leave taken by county employees must be approved by the employee's supervisor and the appropriate elected official or department head. Department heads appointed by the Commissioners Court shall submit their request for leave approval to the County Judge. Copies of signed leave forms must be sent to the Human Resources office for documentation on the central leave records. County payroll records are verified against these leave records.

Elected officials and department heads are responsible for determining that leave has been accrued and is available for use in the amounts requested by an employee. In addition, they are responsible for ensuring that all vacation and sick leave usage is recorded on the timesheet or in ESS and sent to the County Treasurer and the Human Resources Supervisor for payroll purposes, as well as being recorded in the individual's department.

8.03 VACATION LEAVE. All regular full-time county employees are eligible to accrue paid vacation leave. County employees are encouraged to take regular vacations at least annually. New county employees are not eligible for vacation leave benefits during their first six months of employment.

After six months of continuous employment, five days (40 hours) of vacation leave are credited to the employee's leave balance. On the anniversary date of each full year of employment thereafter, the appropriate amount of vacation leave is credited to the employee's leave balance. Vacation leave will not be paid upon separation during the first full year of employment.

Regular, full-time employees earn vacation leave as follows:

<u>Length of Service</u>	<u>Vacation Leave Earned</u>
<i>Completion of first 6 months:</i>	<i>5 days</i>
<i>Completion of 1 through 4:</i>	<i>10 days</i>
<i>Completion of years 5 through 9:</i>	<i>12 days</i>
<i>Completion of 10 through 14:</i>	<i>15 days</i>
<i>Completion of 15 through 19:</i>	<i>17 days</i>
<i>Completion of 20 or more years:</i>	<i>20 days</i>

Temporary employees (full-time or part-time), regular part-time employees, and labor pool employees do not earn vacation leave.

Accumulation of Vacation Leave. Employees are encouraged to use their accrued vacation leave each year. Carryover of unused vacation beyond the employee’s anniversary date is not permitted, and any vacation leave balance is eliminated without compensation at that time. Under extraordinary circumstances beyond the control of the employee, which prevent the use of all vacation leave within the period required, one extension not to exceed 60 days may be authorized by the employee’s supervising Elected Official or Department Head.

Payment for Unused Vacation Leave Upon Termination. When an employee leaves the service of the county, he or she will be paid for his or her accrued but unused vacation leave balance not to exceed 80 hours. The rate of pay will be determined by the salary rate in effect at the time of termination. Any employee who leaves county employment for any reason during the first full year of employment will not be paid for vacation leave.

Scheduling Vacation Leave. Elected officials and department heads should encourage their employees to schedule vacations and request leave well in advance. Vacation schedules must accommodate the county’s work schedule. Provided departmental workloads permit, employees should be allowed to select their desired vacation periods. If there is a conflict in vacation schedules involving two or more employees, employees are granted their preference on a “first come, first served” basis. If two requests are received at approximately the same time and cover the same requested vacation period, the employees will be granted their preference in accordance with their seniority. If the desired leave schedules conflict with county requirements, the county’s requirements are given first consideration.

An employee may take earned vacation leave in increments of one full hour or more.

8.04 COMPENSATORY LEAVE. See the section of this manual under the main heading **Work Schedule and Time Reporting**, specifically the section on “Overtime Compensation,” for information about earning compensatory time and using compensatory leave credits.

8.05 SICK LEAVE. An employee with accrued sick leave may use it if the employee is absent from work due to:

1. Personal illness or physical or mental incapacity;
2. Medical, dental, or optical examinations or treatments;
3. Medical quarantine resulting from exposure to a contagious disease; or
4. Illness of a member of the employee's immediate family who requires the employee's personal care and attention. For this purpose, immediate family is defined as the employee's spouse, child(ren), parent, or relative of the employee who resides in the employee's household and is dependent on the employee for care.

Accrual of Sick Leave. Regular full-time employees are entitled to paid sick leave after the completion of one full month of employment. After the first month, 8 hours of sick leave are credited to an employee's account on the first day of each month.

Use of Sick Leave. Accrued sick leave can be used by regular full-time employees only after completion of the employee's first month of employment. If an employee is absent with permission because of illness during the first month of employment, the missed number of hours' pay will be subtracted from the employee's regular pay before a paycheck is issued. Sick leave may be taken in increments of one hour or more.

Notification Requirements. Approval of sick leave for non-emergency medical, dental, or optical appointments must be secured at least one day in advance. In all other instances of the use of sick leave, the employee must notify his or her supervisor or the appropriate elected official or department head not less than 30 minutes before the scheduled work request that approval of sick leave is granted. Some departments may require earlier advance notification. The employee also must call the supervisor each subsequent day he or she will be out on sick leave unless other arrangements are made.

Failure to provide the required notice may result in the employee's being placed on leave-without-pay status and could result in disciplinary action against the employee. Employees are expected to return to work as soon as their reasons for leaving have been fulfilled.

Medical Statement. An elected official or department head may request an employee to furnish, and the employee must provide upon request, written verification by a physician of medical disability precluding availability for duty.

Accumulation of Sick Leave. Sick leave not used by regular employees during the year in which it accrues accumulates and is available for use in succeeding years up to a maximum allowable accumulation of 480 hours (60 days). Any time an employee's sick leave balance reaches 480 hours, further sick leave will be credited to that employee's account unless or until the use of sick leave causes the account to fall below the 480-hour maximum.

Exhaustion of Sick Leave. An employee who has exhausted earned sick leave benefits may request to use accumulated vacation or other paid leave or may request a leave of absence without pay. No advance of unearned sick leave benefits will be made for any reason.

Illness While on Vacation Leave. When an illness or physical incapacity occurs during the time an employee is on vacation leave, accrued sick leave may be granted to cover the period of illness or incapacity, and the charge against vacation leave is reduced accordingly. A medical certificate or other acceptable evidence must support application for such substitution.

Cancellation Upon Termination. Unused sick leave is canceled upon termination of employment without compensation to the employee, but the employee may elect to donate up to ten days of accrued sick leave to the Sick Leave Pool upon separation.

8.06 SICK LEAVE POOL. Polk County has established a Sick Leave Pool Program for the benefit of Polk County employees.. Regular, full-time employees with 12 or more months of continuous employment with the county may elect to transfer earned sick leave time to the County Sick Leave Pool. The leave time in this pool may then be used by eligible employees for catastrophic illness or injury, as defined and under the terms and conditions set by the Commissioners Court and described within this policy. Participation in the County Sick Leave Pool is entirely voluntary, but an employee must contribute at least one day per fiscal year in order to be eligible to receive time from the County Sick Leave Pool in that fiscal year.

Administration of the County Sick Leave Pool. The Human Resources office shall be responsible for administering the Sick Leave Pool. Responsibilities include:

Development and maintenance of the County Sick Leave Pool policy;

Development and maintenance of the Sick Leave Pool procedures, forms, and other materials;

Interpretation of the policy and procedures regarding employee contributions and request for leave from the County Sick Leave Pool;

Maintenance of the County Sick Leave Pool balance;

Serving as the Sick Leave Pool Administrator.

County Sick Leave Pool. The County Sick Leave Pool is administered by the Sick Leave Pool Administrator appointed by the Commissioner’s Court.

The Pool Administrator shall be responsible for reviewing all requests for pool leave and for

approving all or part of the request or denying the request. The Pool Administrator may return any request to the employee for clarification or challenge through any other grievance or appeal process.

Eligibility of Employee Contributions to Sick Leave Pool. An employee is required to enroll in the county sick leave pool as a condition for eligibility and transfer at least one day (8 hours) of accrued sick leave earned by the employee as a condition of enrollment. Regular, full-time employees with 12 or more months of continuous employment with the county may contribute a minimum of one day or eight hours and up to a maximum of five days or 40 hours of accrued sick leave to the pool each fiscal year in increments of eight hours. Employees may contribute to the pool at any time during the current fiscal year and as many times as they choose, so long as the total contribution in any fiscal year does not exceed 40 hours.

Procedure for Employee Contributions to Sick Leave Pool. To contribute to the pool, an employee (or the employee's representative) must complete a County Sick Leave Pool Contribution form and have his/her supervisor verify eligibility by signing the contribution form. The contribution form is then forwarded to the Pool Administrator. Upon Pool Administrator approval and verification of the eligibility of the contribution, the employee's sick leave account will be decreased by the amount of the contribution and the County Sick Leave Pool will be credited with the corresponding amount of pool leave. The Pool Administrator will maintain the original contribution form on file. The employee will be notified if there is a modification in the approved donation amount. Otherwise, contributions should be considered approved as donated. An employee who is terminated or retires may donate not more than ten (10) days of accrued sick leave to take effect immediately before the effective date of termination, resignation, or retirement.

Employees who elect to donate paid leave to the County Sick Leave Pool Program may not stipulate who is to receive their contribution. Sick leave donated to the County Sick Leave Pool becomes property of the county and can only be withdrawn by eligible employees for catastrophic purposes as defined in this policy.

Eligibility of Employee Withdrawals from Sick Leave Pool. To be eligible for a transfer of time from the County Sick Leave Pool, an employee must have suffered a verifiable catastrophic illness or injury, must have 12 or more months of continuous employment with the county, and must have exhausted all accrued paid leave and compensatory time. An employee is required to contribute to the pool before requesting pool leave, but employees using pool leave are not required to pay back any leave used.

Catastrophic illness or injury is considered to be any personal illness, injury or physical or mental condition suffered by the employee or a member of the employee's immediate family that involves continued treatment by a medical care provider for chronic or long-term medical conditions that are incurable or so serious that the employee has been absent from his or her place of work on paid leave, accrued compensatory time, or leave without pay for a period of 10 consecutive calendar days due to the catastrophic illness or injury. Immediate family is defined as the employee's spouse, mother, father, brother, sister, son,

daughter, or any other relative who is living with the employee and is dependent upon the employee for supervision and care.

A catastrophic illness, injury, or physical or mental condition may include complications involving one or more of the following:

Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such care;

Incapacity due to complications from pregnancy or childbirth;

Permanent/long-term incapacity requiring supervision due to a condition for which treatment may not be effective (Alzheimer's disease, a severe stroke, the terminal stages of a disease);

Multiple treatments by a medical care provider for non-chronic conditions (including recovery therefrom), such as cancer (chemotherapy, radiation) or organ transplant.

For the purposes of this policy, the following are not classified as catastrophic injury or illness:

Elective surgery;

Injuries or illnesses which are 1) sustained while in the course of employment with an organization other than Polk County; 2) a result of or acquired in the commission of a felony, while participating in a riot, or an act of war; or 3) voluntarily self-inflicted.

Employees injured in the course of Polk County employment who are not currently receiving Workers' Compensation benefits may apply for pool leave.

The illness or injury must be verified by a currently licensed medical care provider, defined as a doctor of medicine, osteopathy, or psychology, who is licensed to practice medicine or surgery in the State of Texas.

Procedure for Employee Withdrawals from Sick Leave Pool. To request a transfer from the County Sick Leave Pool, an employee (or his or her representative) must complete the Request for County Sick Leave Pool Leave form and obtain certification of catastrophic illness or injury from a medical care provider utilizing the Medical Certification Form. If the employee has a current medical certification which covers the period of requested pool leave, a copy of the current certification may be used.

Requests for pool leave forms and medical certification forms will be forwarded to the Pool Administrator through the appropriate supervisory channel and will be considered

on a first-come, first-served basis.

The Pool Administrator will notify the employee in writing within five days as to whether or not the use of pool leave has been approved. If disapproved, the reasons for disapproval will be included. Reasons why the use of County Sick Leave Pool leave may be denied may include one or more of the following:

The employee has not been continuously employed with Polk County for at least 12 months;

The employee has not been absent for a period of 10 consecutive calendar days due to the catastrophic event;

The employee still has accrued time in his or her paid leave and compensatory time balance;

The employee has not suffered a catastrophic injury or illness as specified in this policy;

The employee has already used the maximum County Sick Leave Pool leave allowable for the current fiscal year;

The injury, illness, or condition was obtained in the course of employment with an organization other than Polk County;

The employee was injured in the course of Polk County employment and is currently receiving workers' compensation benefits;

An individual other than the employee suffering the catastrophic event is not a member of the employee's immediate family, as defined within this policy; or

Insufficient leave time is available in the County Sick Leave Pool.

Upon approval of the request, the employee's sick leave balance will be increased by the amount approved by the Review Committee, and the County Sick Leave Pool balance will be decreased by the corresponding amount. The Pool Administrator will keep the original request forms on file.

The maximum amount of pool leave that can be given to and used by an individual employee per request shall not exceed one-third of the balance of hours in the pool or 90 working days (720 hours), whichever is less. The maximum amount of pool leave that can be given to and used by an individual employee per fiscal year shall not exceed 90 working days (720 hours). An employee may request pool leave only once per fiscal year, per catastrophic event, unless the employee does not use the maximum leave granted on the first request.

Any granted, unused County Sick Leave Pool leave will revert to the pool in the event of:

Employee's return to work in a full-duty status;

Employee's return to work in a light-duty, modified-duty, or alternate-duty status;

Employee's non-disability or disability retirement; or

Employee's death.

Use of pool leave is not intended for postponing retirement or separation from county employment.

An employee absent on pool leave is treated for all purposes as if the employee were absent on earned sick leave and will continue to accrue vacation leave, sick leave, and longevity, provided the employee returns to work following the pool leave.

The estate of a deceased employee is not entitled to payment for unused pool leave transferred to the employee from the County Sick Leave Pool.

The Commissioners Court may terminate the County Sick Leave Pool Program at any time for any reason.

(Legal Reference: Local Government Code, Chapter 157, Subchapter E, as amended, with locally specific alterations.)

8.07 MILITARY LEAVE. Regular employees who are members of the United States Army, Navy Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard, Air National Guard, the commissioned corps of the Public Health Service, or any other category of persons designated by the President in time of war or emergency are eligible for military leave for active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, or absence to determine the employee's fitness to serve in the Armed Forces.

Leave of Absence: Employees must provide advance written or verbal notice to his/her immediate supervisor that the employee will be leaving the job for military service or training. Notice may also be provided by an appropriate officer of the uniformed service in which military service is performed.

Extent of Leave: Employees will be granted leave as required to fulfill their military obligations. In general, military leave shall be limited to a cumulative period of five (5) years, which may be extended as required by law.

County employees who are members of the National Guard or active reserve components of the United States Armed Forces, or a member of the stated or federally authorized Urban Search and Rescue Team is entitled up to fifteen (15) working days off per year

with pay to attend authorized training sessions and exercises. The fifteen (15) working days paid military leave shall apply to the calendar year and any unused balance at the end of the year shall not be carried forward into the next calendar year. Pay for attendance at Reserve or National Guard training sessions or exercises shall be authorized only for periods which fall within the employee's normal work schedule. An employee may use annual leave, earned compensatory time, or leave without pay if he/she must attend Reserve or National Guard Training sessions or exercises in excess of the 15-day maximum.

Health Benefits While on Leave: Employees on leave for military service are eligible for continued coverage for themselves and their dependents under Polk County's health plan for up to 24 months. This continuation coverage will be discontinued if the employee fails to apply for or return to employment. The employee must pay the premiums for this coverage if he/she chooses to continue coverage under the County's group health plan while on military leave. If the employee is in military service for less than 31 days, he/she is only required to pay the same employee share of the premium, if any, that he/she paid as an active employee. If the employee is in military service for more than 31 days, he/she must pay 102 percent of the full premium under the plan, the same premium that would be paid for COBRA coverage.

Other Benefits While on Leave: An employee who is absent for military service is entitled to participate in any rights or benefits, not based on seniority, which are provided to other County employees on paid or unpaid leave-of-absence. The returning employee shall be entitled not only to non-seniority rights and benefits available at the time he/she left for military service, but also to those that became effective during his/her military service. Employees must pay the employee cost of benefits provided while he/she is on military leave to the same extent that other employees on leave-of-absence are required to pay. Employees who fail to pay the employee cost may not be provided with benefits.

Return from Military Service: Polk County will restore an employee who returns from military leave to the position he/she would have attained if continuously employed or a position of like seniority, status, and pay, the duties of which the employee is qualified to perform, provided the employee receives a satisfactory discharge and returns to or reapplies for work within the time period required by law. For periods of military leave of less than 31 days, the employee must report for work at the beginning of the first full regularly scheduled shift on the first full calendar day following his/her completion of military service and expiration of time for safe transportation back to his/her residence plus eight hours. If the period of military service is more than 30 days but less than 181 days, the employee must submit an application for re-employment no later than 14 days following completion of military service, or as soon as possible, if the failure to make timely application is through no fault of the returning employee. If the period of military service was for more than 180 days, the employee must submit an application for reemployment not later than 90 days after the completion of military service. All of the above limits must be extended by a period of up to two years if an employee is hospitalized or convalescing from an illness or injury incurred in, or aggravated during, the performance of military service.

Benefits on Re-employment: An employee is entitled to maintain seniority and other benefits determined by seniority that the employee would have attained had he/she remained continuously employed upon re-employment.

Forfeiture of Rights: (Sec. 4316 (b)(2)(A)(ii). If prior to leaving for military service an employee knowingly provides clear written notice of an intent not to return to work after military service, the employee waives entitlement to leave-of-absence rights and benefits not based on seniority. Notice of intent waives all leave-of-absence rights and benefits. They cannot surrender other rights and benefits that an employee would be entitled to under USERRA, particularly employment rights.

8.08 CIVIL LEAVE. Employees are granted civil leave with pay for jury duty, for serving as a subpoenaed witness in an official proceeding, and for the purpose of voting.

When an employee has completed civil leave, he or she must report to the county for duty for the remainder of the workday. If the employee will be absent from work for more than one workday on civil leave, he or she must notify the appropriate supervisor daily at the beginning of the workday.

8.10 FAMILY AND MEDICAL LEAVE.

Eligible Employees. To be eligible for family leave, an employee must:

- Have worked for Polk County for a total of 12 months. While the 12 months of employment need not be consecutive, employment periods prior to a break in service of 7 years or more need not be counted unless certain conditions are present; and
- Have worked at least 1,250 hours over the previous 12 months.

Leave Entitlement. The County will grant an eligible employee up to a total of **12 weeks** of paid, if leave has been accrued, or unpaid leave during any “rolling” 12-month period measured backward from the date an employee uses any FMLA leave. The employee must exhaust all leave balances before being eligible for unpaid family leave. During the unpaid portion of an employee’s FMLA leave period, the employee accrues no vacation, holiday, sick leave, or any other type of leave. In addition, any workers compensation injury or illness will run concurrently with FMLA if the employee is eligible for FMLA. The following are reasons for leave entitlement:

- 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 a spouse, son, daughter, or parent with a serious health condition;
- To take medical leave when the employee is unable to work because of a serious health condition.

When both spouses are employed by Polk County the employees are limited in the amount of family leave they may take to a combined total of 12 weeks (or 26 weeks if leave is to care for a covered service member).

Under some circumstances, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee’s usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer’s operation. If FMLA leave is for birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer’s approval. All work time missed as the result of intermittent leave or a reduced work schedule shall be deducted from the employee’s leave eligibility.

Military Leave Entitlements. Polk County will grant an eligible employee who is a 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 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 service member during a single 12-month period. A covered service member 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. (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. A serious injury or illness is one that was incurred by a service member, in the line of duty or on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. As well as an injury or illness that existed before the member’s active duty began and was aggravated by service in the line of duty on active duty in the Armed Forces. The “single 12-month period” for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12-month period established by Polk County. An eligible employee is limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the “single 12-month period.” Only 12 of the 26 weeks total may be for an FMLA-qualifying reason other than to care for a covered service member.

Serious Health Condition. This means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (an overnight stay) in a hospital hospice, or residential medical-care facility, including any period of incapacity (inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with

such inpatient care, or

- Continuing treatment by a health care provider, which includes: a period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes: treatment two or more times by or under the supervision of a health care provider (in-person visits, the first 7 days within and both within 30 days of the first day of incapacity); or one treatment by a health care provider (an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment); or
- Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
- Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasion episodes of incapacity. A visit to a health care provider is not necessary for each absence;
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

Insurance. While on leave under this policy, the County shall continue to pay the employee's medical insurance premium at the same rate, as if the employee had been actively at work. The employee shall be required to pay for dependent coverage, and for any other insurance coverage for which the employee would normally pay. If applicable, arrangements will need to be made for employees to pay their share of premiums while on leave. Payment for applicable coverage(s) shall be made through regular payroll deduction while the employee is on paid leave. At the end of the 12 weeks' leave, all eligible employees will be offered COBRA if they are unable to return to work, except for the care of an injured covered military member, where the eligible employee will be offered COBRA at the end of 26 weeks in a single 12-month period. Except in situations where the employee is unable to return to work because of the serious medical condition of the employee or an eligible family member, or other situations beyond the control of the employee, an employee who does not return to work after using the maximum leave allowed under this policy, shall be required to reimburse the County for all medical premiums paid by the County while the employee was on leave without pay.

Temporary Transfer. If the employee's request for intermittent leave is foreseeable based on planned medical treatment, the county may require the employee to transfer temporarily to an alternative position, with equivalent pay and benefits that better accommodates recurring periods of leave.

Job Restoration. Upon return from FMLA leave, an employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment unless denial of restoration is determined and

authorized under FMLA. An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no-fault" attendance policy. An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed. An employee does not earn leave credit, longevity, or other benefits during the unpaid portion of the leave. After returning to work from FMLA, an employee will receive an adjusted vacation accrual date for the period of time the employee was on unpaid family leave. The adjusted date will be used for the purpose of calculating leave accrual.

Employee Notice. Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable, and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable – generally, either the same or the next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the case. Employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for Polk County to reasonably determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

Employer Notice. When an employee request FMLA leave or Polk County acquires knowledge that leave may be for a FMLA purpose, Polk County will notify the employee of his/her eligibility to take leave, including a reason for non-eligibility if the employee is determined not to be eligible, and inform the employee of their rights and responsibilities under FMLA. When Polk County has enough information to determine that leave is being taken for an FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave. Such eligibility notice may be oral or written and should, generally, be given within five business days of the request for FMLA leave. Subsequent eligibility notice in the same 12-month leave period may be required when an employee's eligibility status changes. When the leave is for Military Family Leave Entitlements, Polk County will designate leave that qualifies as both leave to care for a covered service member with a serious injury or illness and leave to care for a qualifying family member with a serious health condition as leave to care for a covered service member in the first instance. This designation will be in writing and, generally, will be given within five business days of the determination. Polk County will also notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA entitlement.

Certification. Polk County will require that an employee's request for leave due to a serious health condition affecting an employee or a covered family member be supported by a certification from a healthcare provider as defined by the Family Medical Leave Act.

The employee must have his/her healthcare provider complete the certification, and the employee must return the certification within 15 days of receipt to be eligible for FMLA. If the certification is not returned within 15 days or a reasonable explanation is provided, leave may be denied, and the employee may incur the loss of possible benefits provided by FMLA. Polk County may require a second or third medical opinion (at the expense of Polk County) and periodic recertification of a serious health condition. Polk County may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee’s direct supervisor – to authenticate or clarify a medical certification of a serious health condition. Polk County has a uniformly applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. Employees will be required to provide a Fitness-for-Duty certification prior to returning to work.

Intention to Return. The employee must also provide the appropriate elected official or department head with a written statement from the employee concerning his or her intentions about returning to work at the county. An employee on FMLA must contact the appropriate elected official or department head at least once each workweek to report on his or her condition unless a different schedule is established. Failure to provide required medical status reports or to contact the office on the schedule required by the department head or elected official is grounds for disciplinary action.

Qualifying Exigency Leave. Polk County will grant an eligible employee up to a total of 12 workweeks of leave during a “rolling” 12-month period, as designated above, for qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on covered active duty, or call to covered active-duty status, in support of a contingency operation. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces. Qualifying exigencies include:

- Issues arising from a covered military member’s short notice deployment (deployment on seven or less days of notice) for a period of seven days from the date of notification.
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility, if they are necessary due to the circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military

- member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active-duty status of the covered military member;
 - Taking up to fifteen days of leave to spend time with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
 - Attending certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active-duty status, and addressing issues arising from the death of a covered military member; and
 - Any other event that the employee and employer agree is a qualifying exigency.

Military Certification Requirements. Polk County will require that an employee's request for military leave be supported by an appropriate certification. Certification requirements include:

- Leave for a qualifying exigency be supported by a copy of the covered military member's active-duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party;
- Leave to care for a service member with a serious injury or illness be supported by a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family.

Second and third opinions and recertification are not permitted for certification of a covered service member's serious injury or illness or of a qualifying exigency. Additionally, Polk County may contact the individual or entity named in the certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

Other Issues. Any area or issue regarding family and medical leave which is not addressed in the policy shall be subject to the basic requirements of the Federal Family and Medical Leave Act (FMLA) and the regulations issued to implement it. The county has posted a summary of the Family and Medical Leave Act on its central bulletin board locations for employee information.

8.11 OTHER LEAVES OF ABSENCE WITHOUT PAY. Leave of absence without pay is an approved absence from duty in a non-pay status for not more than six months unless the appropriate elected official or department head approves an extension. Extensions of leave, including using this type of leave to extend family and medical leave beyond the 12-week limit, *or 26-week limit if applicable*, may be authorized by the elected officials or department head in no more than one-week intervals, and a careful review must be conducted prior to authorizing any extension. The reason(s) for granting the extension must

be documented in writing in the employee's personnel or medical file, as appropriate.

Granting a leave of absence without pay is at the discretion of the elected or appointed official. Such leave is not authorized unless there is a reasonable expectation that the employee will return to employment with the county at the end of the approved period; approval of the leave must be documented with a copy of the documentation to be placed in the employee's personnel or medical file, as appropriate. Employees on leave of absence without pay receive no compensation and accrue no benefits. However, previously accrued leave balances, benefits, and seniority are retained during leaves of absence unless otherwise prohibited by the terms or provisions of the benefits programs or by these policies. Medical insurance can be continued if the employee pays the premiums (including the county's portion) in full, in a timely manner. The county's insurance company may limit the length of time the medical benefits may be continued.

Revocation of Leave Without Pay. A leave of absence without pay may be revoked upon receipt of evidence submitted that the cause for granting the leave was misrepresented, or has ceased to exist.

Authorized Reasons for Leave Without Pay. A leave of absence without pay may be appropriate for the following reasons:

Military service (see also section on this type of leave);

Recovery from extended illness or temporary disability beyond the 12 weeks, *or 26 weeks if applicable*, allowable under the family leave section of these policies (see also section on **Family and Medical Leave**);

Educational purposes, when successful completion will benefit the county;

Public service assignments;

Personnel exchange programs that emphasize intergovernmental relations; or

Any other reason which, in the judgment of the commissioner's court, merits a leave of absence without pay.

Conditions. An employee requesting an unpaid leave of absence must provide the elected official or department head with a statement from an appropriate third party as to the date upon which the employee is no longer able to perform his or her duties and the expected length of time needed. In addition, the employee must furnish the county Human Resources Office with a written statement from the employee concerning his or her intentions about returning to work at the county.

Maximum Length of Time. The length of time approved for this type of leave will depend upon the nature of the illness or disability and expected recuperation period, the employee's length of service with the county and past attendance record, the department's needs, and

the prospect for temporary replacement of the employee or reassignment of the employee's duties. In any case, the leave of absence may not exceed six months.

Reporting Requirements. An employee on extended leave must contact the appropriate elected official or department head at least once each week to report on his or her status. Failure to provide required medical status reports or to contact the office on the schedule required by the elected official or department head is grounds for revoking the leave and taking disciplinary action up to and including dismissal.

Documentation. A summary of the basis for the decision to grant or deny an unpaid leave of absence and the terms of the leave will be prepared by the appropriate elected officials department head and placed in the employee's personnel or medical file, as appropriate.

Return to Work After Leave Without Pay. Upon returning to work after an authorized leave of absence without pay, an employee receives an adjusted employment date and adjusted anniversary date, which reflect the period of time the employee used for leave of absence. This adjusted date will be used for the purpose of calculating vacation leave accrual and any other benefits that may be based on longevity.

At the expiration of an authorized leave of absence without pay, every effort will be made to reinstate the employee in the same or a comparable position. However, if no vacancy exists and a reasonable effort to place the employee in another position has been unsuccessful, the employee will be separated. (See also section on **Military Leave** for specific provisions relating to leave of absence without pay for military service.)

8.12 EMERGENCY LEAVE. Up to three days (24 hours) per year of emergency leave with pay may be granted to regular employees by an elected official or department head in the event of (1) a death in an employee's immediate family or (2) a life-threatening illness of a member of the employee's immediate family, who requires the employee's personal care and attention if sick leave is not available or if the employee elects not to use it for this purpose. For purposes of emergency leave, family includes spouse, child, parent, brother, sister, grandparents, or grandchildren of an employee or an employee's spouse. It also includes any relative living in the employee's household who is dependent on the employee for care. The length of time granted for a specific emergency leave must be approved by the appropriate elected official or department head in advance and will depend on the circumstances; and the terms of the reasons for the leave must be documented and filed in the employee's personnel file.

Emergency Leave may not be used for an employee's own personal illness, injury, or circumstance. Unused Emergency Leave is **not** payable upon separation from county employment and cannot be carried forward into another year.

8.13 INJURY LEAVE. For information on occupational disability or injury leave for bona fide, on-the-job, or work-related injuries, please see the sections in this manual under the main heading 10.04 **Health and Safety**.

8.14 USING LEAVE IN COMBINATION. A regular employee, who is requesting extended leave, including leave to extend family and medical leave beyond the 12-week limit, *or 26 weeks if applicable*, must exhaust all of his or her available accrued leave in order to be eligible for leave without pay. A request for this type of leave without pay must be approved in advance by the Elected Official or Department Head.

If an employee is sick or temporarily disabled for non-work-related reasons, and he or she exhausts accrued sick leave, the county will automatically begin applying any available accrued leave. In addition, sick leave cannot be used for vacation purposes when vacation leave is exhausted.

With the approval of the appropriate elected official or department head, other types of leave may be used in combination with holidays if it is determined to be in the best interests of the county and the employee.

8.15 ABANDONMENT OF POSITION. The elected official or department head will consider unauthorized absence from work for a period of three consecutive working days as a resignation. Unless the county official determines otherwise, the resignation is not in good standing, and the employee is not eligible for re-employment.

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