

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 the birth and care of a newborn child of the employee;
- For placement with the employee of a son or daughter 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; or
- For a qualifying exigencies arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

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, parent, or next of kin of a covered service member with a serious injury or illness up to a total of 26 workweeks of paid, if leave has been accrued, or unpaid, to care for the service member. A covered service member is 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. A serious injury or illness is one that was incurred by a service member, in the line of duty, on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. 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 a 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 period 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 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 particular 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 a 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 health care provider as defined by the Family Medical Leave Act. The employee must have his/her health care provider to 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 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 active duty, or has been notified of an impending call or order to active duty, 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 five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to 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 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's 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 an extension is approved by the appropriate elected official or department head. 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 which emphasize intergovernmental relations; or

Any other reason which, in the judgment of the commissioners 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 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 or 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 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) 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, work-related injuries, please see the sections in this manual under the main heading **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 week 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 or coupled with holidays if it is determined to be in the best interests of the county and the employee.

8.15 ABANDONMENT OF POSITION. Unauthorized absence from work for a period of three consecutive working days will be considered by the elected official or department head 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.