

RESOLUTION 18 - 81

RESOLUTION AMENDING THE PERSONNEL POLICY

WHEREAS, the Employee Policy Manual was adopted Nov. 13, 2001 and last updated Dec. 14, 2015; and

AND WHEREAS, the Employee Policy Manual may be amended by the County Board, at its discretion, at any duly constituted regular County Board Meeting; and

BE IT HEREBY RESOLVED, Section 601 and Section 603 will be abolished, and Section 602 shall be amended in its entirety, as follows:

Volunteer Emergency Worker Job Protection Act

This County fully complies with all the regulations of the Volunteer Emergency Worker Job Protection Act. The definition of a "volunteer emergency worker" is a firefighter, licensed EMT, ambulance driver or attendant, or "First Responder" per the EMT System's Act who provides services to a fire department, fire protection district, or other governmental entity without receiving compensation. If you are an employee who is involved in such a role you must supply verification of that role per the employer's request. If you are going to be absent or late for your assigned shift due to volunteer emergency duties, it is your responsibility to make a reasonable effort to notify your supervisor. The employee will be asked to provide documentation of service. They will not be subject to discipline for absence or tardiness due to their service but their time off the job will not be paid.

Disability Leave

Disability is defined as a physical or mental condition that incapacitates an employee to a point that he/she is unable to perform their job requirements. Disability may be work or non-work related, and must be certified by a licensed physician. It is the responsibility of the employee or his/her representative to contact the Department Head to keep him/her advised of the extent of the disability and contact the Treasurer's Office for a disability application as soon as it is anticipated that the employee may go on disability. Employees with a disability may qualify for IMRF or workman's compensation disability benefits; however, IMRF disability benefits are not paid for the first 30 days of disability. An employee may also be eligible for leave under the Family and Medical Leave Act (FMLA) policy, if the employee meets certain eligibility requirements and the employee's disability qualifies as a serious health condition. In such cases, disability leave will run concurrently with FMLA leave and the terms of the FMLA policy will control to the extent such terms conflict with the provisions of this disability policy, until the employee's FMLA leave rights are exhausted.

- Employees requesting a disability leave must submit a request for leave in writing, stating the reason for the leave, at least thirty (30) days in advance to his or her supervisor. In emergencies, written notice must be provided as soon as possible under the circumstances.

The employee must also submit certification from his or her physician stating the diagnosis and nature of the disability, why the disability will preclude the employee from working and the recommended course of treatment, and the estimated length of time that the employee will be out of work because of the disability. This medical certification generally must be provided at the time of the request of the leave, but no later than fifteen (15) days after the request for leave is made. The County reserves the right to require a second medical opinion by another physician at its designation.

- Employees must use all accrued sick days in conjunction with a disability leave. Employees may (but are not required to) use vacation and personal days during a disability leave to continue their salary, after sick days are exhausted. Sick leave, vacation and personal time will continue to be accrued only during the period when the employee is being paid by the County. Otherwise, sick leave, vacation, or personal days will not be accrued while the employee is on disability.
- Disability beyond 30 calendar days may be covered by the Illinois Municipal Retirement Fund (IMRF). The County Treasurer's Office will prepare the required forms to request IMRF disability coverage and forward them to the disabled employee. It is the employee's responsibility to sign the forms as required, provide the necessary physician's statement or other proof of disability, and return all forms to the County Clerk's Office for processing. The amount of IMRF disability benefits is 50% of the employee's average monthly earnings for the 12 calendar months prior to the date he or she is disabled.
- An employee will be returned to his or her former position if the employee returns from a sick/disability leave within 30 calendar days after the first day of absence, provided that the employee is able to perform the essential job functions of the position. Employees who are unable or unwilling to resume their duties on the same schedule to which they were assigned immediately prior to the period of disability within the thirty days are not guaranteed reemployment. For example, a full-time staff member is not guaranteed the right to demand rehire on a part-time basis.
 - Health Insurance will be paid by **[County Name]** County only while on paid absence, unless otherwise required by applicable law. Continued participation by the employee in the Group Life and Health Insurance program during unpaid disability leave will be at the employee's expense of paying the premium for continued coverage.
 - During a disability leave, the County may require the employee to periodically report on his or her status and intent to return to work. The County may also periodically require certification of the employee's medical condition.

- Unused vacation, and personal time will be held pending the employee's return. In the event the employee does not return to work; unused benefits will be paid in accordance with the County's separation policy.
- In any event, if after six months of a disability leave the employee is unable or unwilling to perform the normal job functions of their position, the employee will be separated and all unused benefits paid in accordance with routine separation policy.
- If the employee's disability continues beyond the original requested and approved leave time but the employee has not yet used the maximum six months allowed for a disability leave, the County may extend the disability leave for up to the maximum leave available upon written request for an extension and presentation of a statement from the employee's physician stating the reason why the employee cannot report back to work and the estimated additional time that will be required for the employee to recover from the disability.
- Failure to return from a disability leave upon the expiration of the approved leave period will be considered a voluntary resignation.
- When an employee returns from a disability leave, the employee must provide a statement of disability from his or her physician stating that the employee is medically fit to return to work and further stating any limitations that may be imposed by the physician on the employee's ability to work. The County, in its sole discretion, may require an employee to be examined by a physician designated by the County before the employee is permitted to return to work from a disability leave. The final decision on whether an employee is ready to return to work rests with the County.

Family and Medical Leave Act

Upon hire, [County Name] County provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employees Rights and Responsibilities under the Family and Medical Leave Act.

The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns or disputes with this policy, you must contact your manager in writing.

General Provisions

Under this policy, [County Name] County will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

Eligibility

To qualify to take family or medical leave under this policy, the employee must meet the following conditions:

- The employee must have worked for the county for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, if the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
- The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours' eligibility test for an employee under FMLA.
- The employee must work in a work site where 50 or more employees are employed by the county within 75 miles of that office or work site. The distance is to be calculated by using available transportation by the most direct route.

Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide the Department Head with verbal or written notice of the need for the leave. Within five business days after the employee has provided this notice, the Department Head will provide the employee with the DOL Notice of Eligibility and Rights.

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the county's usual and customary notice and procedural requirements for requesting leave.

Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the Department Head will provide the employee with a written response to the employee's request for FMLA leave.

Amount of Leave

An eligible employee may take up to 12 weeks for the first five FMLA circumstances above (under heading "Type of Leave Covered") under this policy during any 12-month period. The county will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the county will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount of time the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA military caregiver leave circumstance above during a single 12-month period. For this military caregiver leave, the county will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If spouses both work for the county and each wish to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the spouses may only take a combined total of 12 weeks of leave. If spouses both work for the county and each wish to take leave to care for a covered injured or ill service member, the spouses may only take a combined total of 26 weeks of leave.

Types of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

- The birth of a child and to care for that child.
- The placement of a child for adoption or foster care and to care for a newly placed child.
- To care for a spouse, child or parent with a serious health condition.
- The serious health condition (described below) of the employee.
 - An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.
 - A serious health condition as defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any subsequent treatment about such inpatient care or as a condition that requires continuing care by a licensed health care provider.

- This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care visits for treatment, such visits must take place at least twice a year.
 - Employees with questions about what illnesses are covered under this FMLA policy or under the county's sick leave policy are encouraged to consult with management.
 - If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the county may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.
- Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty.

An employee whose spouse, son, daughter or parent has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: a) short-notice deployment, b) military events and activities, c) child care and school activities, d) financial and legal arrangements, e) counseling, f) rest and recuperation, g) post-deployment activities, and h) additional activities that arise out of active duty, if the employer and employee agree, including agreement on timing and duration of the leave.

Covered active duty means:

- In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country.
- In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in Title 10 U.S.C. §101(a) (13) (B).

The leave may commence as soon as the individual receives the call-up notice. (*Son* or *daughter* for this type of FMLA leave is defined the same as for *child* for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

- Military caregiver leave (also known as covered service member leave) to care for an injured or ill service member or veteran.

An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to care for that service member.

Next of kin is defined as the closest blood relative of the injured or recovering service member.

The term *covered service member* means:

- A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation or therapy or is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
- A veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

The term *serious injury or illness* means:

- In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or that existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.
- In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on an active duty in the Armed Forces (or that existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced-hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

Employee Status and Benefits During Leave

While an employee is on leave, the county will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider.

Use of Paid and Unpaid Leave

All paid vacation, personal and sick leave runs concurrently with FMLA leave.

Disability leave for the birth of a child and for an employee's serious health condition, including workers' compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA.

Certification for the Employee's Serious Health Condition

The county will require certification for the employee's serious health condition. The employee must respond to such a request within 15 business days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Certification for the Family Member's Serious Health Condition

The county will require certification for the family member's serious health condition. The employee must respond to such a request within 15 business days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Certification of Qualifying Exigency for Military Family Leave

The county will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 business days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave

The county will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 business days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

Recertification

The county may request recertification for the serious health condition of the employee or the employee's family member when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the county may request recertification for the serious health condition of the employee or the employee's family member every six months about an FMLA absence.

Intent to Return to Work from FMLA Leave

The County may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

NOW THEREFORE BE IT RESOLVED, that the Ford County Board has reviewed the amendment to Section 602 and that the Ford County Board adopt the amendment as of the following date.

Date: October 8, 2018



Randy Berger
Ford County Chairman

ATTEST: _____



Amy Frederick
Ford County County Clerk & Recorder

