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LEAVE POLICY (continued)

**BREVARD COUNTY
MERIT SYSTEM POLICIES
POLICY IX**

Title: **LEAVE**

I. OBJECTIVE

To provide a standardized system for employees to earn and utilize leave.

II. DIRECTIVES

A. ACCRUAL OF ANNUAL LEAVE

1. All full time and part time employees who are filling established positions in the Career Service shall be entitled to earn annual leave with pay. Part time employees shall earn such leave on a pro rata basis, but under no circumstances shall temporary, substitute, contractual, emergency, seasonal, or similar non-permanent employees be entitled to annual leave benefits.
2. Annual leave for full time permanent employees shall be earned in accordance with the following schedule:

Years of Permanent Service	Hours Per Pay Period (24/Year)	Work days Per Year
01 thru 05	4	12
06 thru 10	5	15
11 thru 15	6	18
16 thru 19	7	21
20 and over	8	24

3. Annual leave for part time permanent employees shall be earned based on actual number of paid hours for the pay period. This shall only include actual hours worked, paid absence hours and paid holiday hours; it shall not include hours that are paid at an overtime rate.
 - Bi-weekly leave accruals shall be based on the part-time employee's number of hours worked each pay period, not to exceed full-time leave accrual amounts.
 - Leave shall accrue over 26 pay periods. The formula to be applied for each biweekly period shall be: (number of actual hours worked + paid absence hours + paid holiday hours) ÷ (80 hours x fulltime leave accrual hours based on year of service).
4. Employees working schedules of 24 hours on duty and 48 hours off duty shall accrue annual leave at a rate of 1.4 times the normal amount.

LEAVE POLICY (continued)

5. An employee shall not be entitled to earn or accrue annual leave while in a non-pay status of thirty (30) calendar days or longer.
6. Annual leave earned in excess of 240 hours must be used in the calendar year it is earned. Any excess above 240 hours:
 - a. shall be paid during the first pay period of the new calendar year where the employer has prevented the employee from utilizing such leave. All such payments are subject to the approval of the County Manager, or the appointing authority for those employees who do not report to the County Manager.
 - b. where special circumstances exist; such as, but not limited to, excess leave where the employer has prevented the employee from utilizing such leave or the employee has been on extended leave, the County Manager, or the appointing authority for those employees who do not report to the County Manager, may approve the leave to be carried over from one calendar year to the next.
 - c. at the end of the calendar year may be donated by the employee for use by another employee approved for donated time during the following year.
7. An employee who submits written notice of his/her intention to enter the Florida Retirement System (FRS) Deferred Retirement Option Program (DROP) during the two year period prior to his/her entering the DROP program or who submits written notice of his/her retirement during the two year period prior to his/her retirement date, will be allowed to continue to accrue annual leave in excess of the limits outlined above up to the FRS maximum accrual limit of 500 hours.

B. USE / PAYMENT OF ANNUAL LEAVE

1. Annual leave may not be used until after the completion of six (6) months of permanent service except as a continuation of authorized sick leave substantiated by a physician's statement.
2. In the event an employee becomes ill or suffers an injury or disability while on an approved vacation, at the option of the employee, the time off may be charged to any available sick leave upon furnishing appropriate evidence as to the illness or disability. An employee shall not be paid in lieu of taking a vacation unless such payment has been recommended by the appointing authority and approved by the County Manager.
3. Employees who resign, are laid off, or otherwise separate from the County Service in good standing shall be entitled to be paid for any unused annual leave balance earned by them as of the date of

LEAVE POLICY (continued)

termination. An employee who abandons a position, is dismissed for good cause, fails to give reasonable notice, or otherwise fails to leave the County Service in good standing, shall not be entitled to annual leave pay upon termination.

C. ACCRUAL OF SICK LEAVE

1. Employees entitled to earn annual leave benefits under this policy shall also be entitled to earn sick leave as provided herein.
2. Sick leave for full time permanent employees shall be earned in accordance with the following schedule:

<u>Years of Permanent Service</u>	<u>Hours Per Pay Period (24/Year)</u>	<u>Work days Per Year</u>
01 thru 10	4	12
11 and over	5	15

3. Sick leave for part time permanent employees shall be earned based on actual number of paid hours for the pay period. This shall only include actual hours worked, paid absence hours and paid holiday hours; it shall not include hours that are paid at an overtime rate.
 - Bi-weekly leave accruals shall be based on the part-time employee's number of hours worked each pay period, not to exceed full-time leave accrual amounts.
 - Leave shall accrue over 26 pay periods. The formula to be applied for each biweekly period shall be: (number of actual hours worked + paid absence hours + paid holiday hours) ÷ (80 hours x fulltime leave accrual hours based on year of service).
4. Employees working schedules of 24 hours on duty and 48 hours off duty shall accrue sick leave at a rate of 1.4 times the normal amount.
5. An employee shall be eligible to earn and accrue sick leave while on officially approved leave with pay.
6. Sick leave shall not be earned while an employee is in a non-pay status of thirty (30) days or longer.
7. Sick leave as earned may be carried forward and accumulated with no limit.

LEAVE POLICY (continued)

D. USE / TRANSFER / PAYMENT OF SICK LEAVE

1. New employees may not use any accrued sick leave during their first six (6) months of service, unless the necessity for the absence has been verified by a physician's statement.
2. Sick leave use may be authorized as earned only for the following purposes:
 - An actual legitimate personal illness or injury which incapacitates and causes the employee to be unable to come to work.
 - Appointments with medical, dental, or other recognized practitioners for consultation or treatment of the employee only.
 - Officially approved professional counseling for the employee's health or emotional well being.
 - As provided in the policy on emergency leave.
 - Illness or injury of a non-critical nature of a member of the employee's immediate family which requires the personal care and attention of the employee. For the purpose of this subsection, immediate family means only members of the employee's household and natural or adopted children of non-custodial parents or an employee's non-household parents.

In the case of such non-household immediate family members, a maximum of forty (40) hours of sick leave may be utilized under this provision annually.
3. Should an official holiday occur when an employee has been authorized sick leave, the holiday shall not be charged against the employee's sick leave balance.
4. An individual who was the immediate former employee of another jurisdiction subject to the Florida Retirement System, and who becomes an employee of the County Service, may receive credit for fifty (50%) percent of any unused and unpaid sick leave accrued in the prior employment.
5. Employees who terminate during their first nine (9) months of permanent employment or who do not separate in good standing shall not be eligible for payment of unused sick leave.
6. Career service employees on the first pay period in January may "Trade Back" up to eighty (80) hours of sick leave for additional annual leave on a pro rata basis as follows, as long as the employee keeps a

LEAVE POLICY (continued)

minimum of two hundred (200) hours of sick leave on his/her sick leave balance.

Sick Leave	Annual Leave
1 hour	.5 hour

7. Career Service employees who properly resign, are laid off, or otherwise separate from County Service in good standing shall be entitled to receive twenty (20%) percent of their net unused sick leave, not to exceed 230 hours pay.
8. In the event a Career Service employee is separated from County Service due to death, twenty (20%) percent of any unused sick leave, not to exceed 230 hours pay, shall be paid in accordance with Policy II, section II.M "Wages Due Deceased Employee." If the employee was vested in the retirement system, fifty (50%) percent of any unused sick leave shall be paid in accordance with the above mentioned policy.
9. Employees who resign, or are otherwise separated in good standing and are vested under the Florida Retirement system shall be paid thirty (30%) percent of any unused sick leave, not to exceed 346 hours pay.
10. Employees who meet the requirements for retirement under the Florida Retirement System and retire from County Service in good standing shall receive pay for fifty (50%) percent of their unused sick leave balance.

For employees hired after October 1, 2011:

Employees who meet the requirements for retirement under the Florida Retirement System and who retire from the County in good standing, shall receive thirty percent (30%) of their unused sick leave balance.

E. DONATIONS TO SICK LEAVE

1. Sick leave may be donated to a needy employee from another employee's annual leave or compensatory leave on a day for day basis; or from another employee's sick leave on a prorated 50% of time donated basis.
2. Donations may be made under the following conditions:
 - The employee in need of sick time has not abused sick leave in the past, evidenced by adherence to the County's sick leave policies.
 - The illness or injury must be documented.
 - All paid leave of employee receiving the donation has been exhausted.

LEAVE POLICY (continued)

- Only the amount of sick leave time which is expressly needed will be donated to the employee in need.

3. Sick leave donations by an employee shall not negatively affect that employee's performance evaluation.

F. SICK LEAVE INCENTIVE

An employee who does not use any sick leave during any twelve consecutive month period, except for the employee's own hospitalization or for physician's appointments which are pre-approved by the employee's supervisor at least one week in advance, will be awarded eight (8) hours of annual leave. It is the employee's responsibility to notify his/her supervisor of eligibility within sixty (60) days of becoming eligible for the award to receive this incentive. Award for part-time permanent employees shall be on a pro-rata basis. Probationary employees and employees taking a leave of absence during the period shall not be eligible.

G. WORKERS' COMPENSATION AND WORK RELATED DISABILITY

County Service employees disabled as a result of an injury arising out of and in the course of employment, compensable under the provisions of the Workers' Compensation Law shall continue to be entitled to receive Board provided life insurance and group medical insurance coverage. Employees who are on Workers' Compensation leave shall not earn annual or sick leave benefits when such leave extends thirty (30) days or longer.

Employees may elect to use accrued sick, compensatory or annual leave for the second (2nd) through seventh (7th) days of the injury or illness. Employees receiving 66-2/3 percent of their wage benefits in conformance with the Workers' Compensation law are authorized to utilize accrued sick, compensatory, or annual leave in an amount necessary to receive a combined payment with workers' compensation benefits equal to 85% of the salary received prior to the occurrence of the disability. Under no circumstances shall any combination of Workers' Compensation and leave benefits exceed 100% of the employee's salary.

H. NON-WORK RELATED SHORT TERM DISABILITY INSURANCE PROGRAM

County Service employees disabled as the result of a non-work related injury or illness and who are eligible to receive a benefit from the Board's employee paid Short Term Disability Insurance Program are authorized to utilize accrued sick, compensatory and/or annual leave in an amount necessary to receive a combined payment with Short Term Disability benefits equal to 80% of the salary received prior to the occurrence of the disability.

LEAVE POLICY (continued)

I. MATERNITY LEAVE

A pregnant employee who wishes to request maternity leave shall, within a reasonable period of time, normally at least two (2) weeks prior to anticipated date of delivery, notify her supervisor whether a maternity leave is to be requested. A Career or Appointive Service employee may secure a maternity or paternity leave of absence without pay for childbirth, recovery, and/or child rearing following birth or adoption for a period of up to six (6) months.

An employee approved for maternity or paternity leave shall be eligible to return to work at any time during the leave of absence upon the presentation of medical certification (if applicable) indicating that she/he is able to satisfactorily perform her/his original duties. An employee returning from an approved maternity or paternity leave shall resume her/his duties in the position held prior to the leave or a similar position with like pay.

J. EMERGENCY LEAVE

1. In the event of a death or critical illness of a member of an employee's or an employee's spouse's immediate family, an employee may be granted emergency leave upon request, in accordance with the following guidelines:
 - Employees whose workday normally consists of shifts of twelve (12) hours or less may be granted up to three (3) working days paid emergency leave. In case of the death of the employee's spouse, parent, grandparent or child, up to five (5) days emergency leave may be granted.
 - Employees whose workday normally consists of shifts of more than twelve (12) hours may be granted up to one and one-half (1-1/2) workdays paid emergency leave. In case of the death of the employee's spouse, parent, grandparent or child, up to two and one-half (2-1/2) days of emergency leave may be granted.
 - For the purposes of the above segments the term "parent, grandparent or child" includes parents, grandparents or children who raised or were raised by the employee.
 - Permanent employees may be authorized additional days to be charged against the employee's accrued sick leave balance, if needed to cope with the emergency. Employees whose workday normally consists of shifts of twelve (12) hours or less may have four (4) workdays of sick leave authorized. Employees whose workday normally consists of shifts of more than twelve (12) hours may have two (2) workdays of sick leave authorized. If additional

LEAVE POLICY (continued)

time is needed, sick leave may be granted on a case-by-case basis.

2. Use of emergency leave or sick leave for emergency leave purposes is not a matter of right. An appointing authority may deny leave or grant less than the maximums.

K. TYPES OF ADMINISTRATIVE LEAVE

1. Jury and Court Leave

A permanent employee who is called for jury duty on a regularly scheduled workday, shall be granted time off with pay upon the presentation of a summons. Any fees received for jury duty shall be retained by the employee. The employee shall not be eligible for reimbursement by the County for any meals, lodging, travel, or other expenses incurred while serving as a juror.

A permanent employee, who is subpoenaed as a witness on a regularly scheduled workday, not on behalf of the County and not involving the employee's personal litigation, shall be granted time off with pay and any witness fees awarded shall be retained by the employee. The employee shall not be eligible for reimbursement by the County for any meals, lodging, travel, or other expenses which may be incurred while serving as a witness.

An employee subpoenaed as a witness or defendant in behalf of the County shall be considered to be on duty, paid accordingly, and be entitled to be paid per diem and/or travel expenses in accordance with the provisions of the County's travel policy and procedure. Any fees awarded shall be returned to the County.

Employees required to attend Court while on scheduled vacation leave may be allowed to substitute administrative leave for that Court time upon presentation of required documentation. Employees required to attend Court or participate in a related activity on their day off shall not receive an extra day off.

Employees who attend Court or participate in a related activity, including jury duty, for only a portion of a regularly scheduled work day are expected to report to their supervisor after being excused or released by the Court.

An employee who appears in Court or participates in a related activity as a witness, plaintiff or defendant due to personal litigation or criminal charges or whose appearance is voluntary shall be required to use annual leave or leave without pay for any such absence from work.

LEAVE POLICY (continued)

2. Reserve and National Guard Training Leave

An employee of the County Service who is a member of the United States Armed Forces Reserve or the National Guard and who is ordered to engage in annual field training exercise, or other temporary active duty, shall upon presentation of a copy of his official orders be granted leave with pay. Such leave with pay shall be consistent with Florida Statute §115.07.

3. Leave for Job Interviews or Brevard County Service Employment Tests

An employee may be granted administrative leave in order to be interviewed for another position in the County Service or to take a test required for a County position.

L. LEAVES OF ABSENCES WITHOUT PAY

A leave of absence without pay is a privilege and may be granted by the appointing authority where one of the following benefits will result: increased job knowledge; restoration of the employee's health; retention of a desirable employee; or an interest of the County is served. Leave without pay is a matter of right for members of the National Guard or the U.S. Armed Forces Reserve requesting leave without pay for military duties and employees who are eligible under the provisions of Section 9, Family & Medical Leave Act of 1993.

Should an employee become unable to perform normal duties in a safe and satisfactory manner because of an illness or injury, the appointing authority may place the employee on a medical leave of absence without pay for a period not exceeding six (6) months once sick and annual leave benefits have been exhausted, or after sick leave benefits have been exhausted, if the employee elects to have annual leave benefits frozen.

An employee shall not be eligible to accrue or use annual or sick leave while on leave of absence without pay. An employee on an approved leave of absence without pay may have paid whatever portion of the premium for group health insurance necessary to cover the first full month that starts during the first thirty (30) days of the leave of absence. However, the cost of premiums for optional coverage must be borne by the employee. Group health and optional coverage may be continued beyond the thirty (30) day period provided all premium payments are kept current by the employee, except in the case of an approved medical leave of absence during which the County will continue to pay premiums for the employee's health and life insurance (see IX.M of this Policy, Family & Medical Leave Act of 1993, for additional

LEAVE POLICY (continued)

provisions). No leave of absence without pay shall exceed six (6) months unless a longer period of time or an extension has been authorized by the County Manager.

M. FLSA OVERTIME-EXEMPT EMPLOYEES

When accrued leave is not available, unpaid leave deductions may be made from exempt employees for partial day absences for personal reasons. Any leave granted under the Family Medical Leave Act may be unpaid leave.

N. FAMILY & MEDICAL LEAVE ACT OF 1993

1. DEFINITIONS

EMPLOYMENT BENEFITS -The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

HEALTH CARE PROVIDER - The term "health care provider" means

- a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
- any other person determined by the Secretary to be capable of providing health care services.

PARENT -The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

SERIOUS HEALTH CONDITION - The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves

- inpatient care in a hospital, hospice, or residential medical care facility; or
- continuing treatment by a health care provider.

SON OR DAUGHTER - The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is

LEAVE POLICY (continued)

- under 18 years of age; or
- 18 years of age or older and incapable of self-care because of a mental or physical disability.

SPOUSE - The term "spouse" means a husband or wife, as the case may be.

ACTIVE DUTY - The term "active duty" means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

CONTINGENCY OPERATION - The term "contingency operation" has the same meaning given such term in section 101(a)(13) of title 10, United States Code.

COVERED SERVICEMEMBER - The term "covered servicemember" means a 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.

COVERED VETERAN - The term "covered veteran" means 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 five (5) years preceding the date of treatment, recuperation or therapy.

OUTPATIENT STATUS - The term "outpatient status", with respect to a covered servicemember, means the status of a member of the Armed Forces assigned to

- a military medical treatment facility as an outpatient; or
- a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

NEXT OF KIN - The term "next of kin", used with respect to an individual, means the nearest blood relative of that individual.

QUALIFYING EXIGENCY LEAVE – The term "qualifying exigency leave" means leaves for short-notice deployment, military events and related activities, financial and legal matters, child care and school activities, rest and recuperation, post-deployment activities and additional activities agreed upon by the employer and the employee.

LEAVE POLICY (continued)

SERIOUS INJURY OR ILLNESS - The term “serious injury or illness”, in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

2. ENTITLEMENT TO LEAVE

- a. An eligible employee has been employed for at least 12 months by the Board of County Commissioners and has at least 1,250 hours of service during the previous 12-month period. An eligible employee is entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:
 - The birth of a son or daughter of the employee in order to care for such son or daughter. The entitlement to leave for the birth of a son or daughter expires at the end of the 12-month period beginning on the date of birth. This leave may not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise.
 - The placement of a son or daughter with the employee for adoption or foster care. The entitlement to leave for the placement of a son or daughter expires at the end of the 12-month period beginning on the date of placement. This leave will not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise.
 - In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition. Leave may be taken intermittently or on a reduced leave schedule when medically necessary, subject to proper certification.
 - A serious health condition that makes the employee unable to perform the functions of the position of such employee. Leave may be taken intermittently or on a reduced leave schedule when medically necessary, subject to proper certification.
 - Any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call

LEAVE POLICY (continued)

or order to active duty) in the Armed Forces in support of a contingency operation.

- b. Service Member Caregiver Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember or a covered veteran is entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph is only available during a single 12-month period. Leave may be taken intermittently or on a reduced leave schedule when medically necessary, subject to proper certification.
- c. Combined Leave Total - During the single 12-month period described in paragraph (b), an eligible employee is entitled to a combined total of 26 workweeks of leave under paragraphs (a) and (b). However, this does not limit the availability of leave under paragraph (a) during any other 12-month period.

3. SUBSTITUTION OF PAID LEAVE

An eligible employee may elect, or the employer may require the employee, to substitute any accrued annual leave or sick leave for any part of the 12-week or 26-week period of FMLA leave. The employer is not required to provide paid sick leave in any situation in which the employer would not normally provide any such paid leave.

4. REQUIREMENT OF NOTICE

When the necessity for leave is foreseeable based on an expected birth or placement, the employee will provide not less than 30 days' notice before the date the leave is to begin. If the date of the birth or placement requires leave to begin in less than 30 days, the employee will provide such notice as is practicable.

When the necessity for leave is foreseeable based on planned medical treatment, the employee will make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate; and if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

When the necessity for leave is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide such notice to the employer as is reasonable and practicable.

LEAVE POLICY (continued)

5. CONDITIONS AND LIMITATIONS

Employees who are eligible for paid leave may be required to utilize such paid benefits prior to taking leave without pay. Such paid benefits would be included in the calculation of twelve (12) work weeks leave within a twelve (12) month period.

No accrual of leave benefits and/or seniority, except as may be provided elsewhere in these policies, shall occur during any unpaid portion of such leave.

O. **DOMESTIC VIOLENCE LEAVE**

1. Definitions

Domestic Violence – means domestic violence as defined in Florida Statutes, Section 741.28, or any crime the underlying factual basis of which has been found by a court to include an act of domestic violence.

Victim - means an individual who has been subjected to domestic violence.

2. Eligibility

An employee shall be eligible for Domestic Violence Leave after three (3) months of employment and may request and take up to three (3) unpaid working days of leave from work in any twelve (12) month period if the employee or a family or household member of an employee is the victim of domestic violence. An employee may be required to utilize accumulated annual, compensatory or sick leave, if applicable, at the discretion of the appointing authority, prior to receiving domestic violence leave.

3. Conditions and Limitations

Except in cases of imminent danger to the health or safety of the employee, or to the health and safety of a family or household member, an employee seeking domestic violence leave from work must provide appropriate advance notice of the leave as well as reasonably sufficient documentation as required by the appointing authority to verify entitlement to this leave.

Requests for domestic violence leave must be approved and maintained by the appointing authority. Each appointing authority shall maintain personal identifying information that is contained in any records documenting an act of domestic violence including any use of domestic violence leave as confidential and exempt from disclosure to the extent authorized by statute.

LEAVE POLICY (continued)

The use of Domestic Violence Leave is limited to the following activities:

- a) Seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence;
- b) Obtain medical care or mental health counseling, or both, for the employee or a family or household member to address physical or psychological injuries resulting from the act of domestic violence;
- c) Obtain services from a victim services organization, including but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of domestic violence;
- d) Make the employee's home more secure from the perpetrator of the domestic violence or to seek new housing to escape the perpetrator; or
- e) Seek legal assistance in addressing issues arising from the act of domestic violence or to attend and prepare for court-related proceedings arising from the act of domestic violence.