

**BREVARD COUNTY
MERIT SYSTEM PROCEDURES
PROCEDURE IX**

Title: **LEAVE**

I. PURPOSE AND SCOPE

To implement the Leave Policy.

II. DEFINITIONS AND REFERENCES

Merit System Policy IX, Leave

Family and Medical Leave Act of 1993

III. ANNUAL AND SICK LEAVE ACCRUAL

FULL-TIME EMPLOYEES:

- A.** Annual and sick leave accrual shall occur on a bi-monthly basis. Accruals will occur at the end of those pay periods that include the 15th of the month and the end of the month, for 24 pay periods per year.
- B.** For purposes of calculation, new employees shall begin to earn both annual and sick leave as of their first full pay period that includes the 15th or end of the month.
- C.** In the event of separation from the County Service, the employee must be in a pay status on the last regularly scheduled working day in order to receive credit for that bimonthly accrual period.

PART-TIME EMPLOYEES:

- A.** Annual and sick leave accrual shall occur each pay period based on the actual hours for which the employee is paid (i.e., hours worked, leave hours and holiday hours).

IV. USE/PAYMENT OF ANNUAL LEAVE

- A.** All requests for annual leave must be approved in advance by the employee's supervisor unless such advance notice is waived by the supervisor. Supervisors will notify the employee well in advance of the date in which the employee intends to start leave as to whether or not the leave is authorized.
- B.** The appointing authority may deny use of annual leave if advance notice has not been received or when such absence would interfere with the work schedule. (See Policy IX.II.M; Family & Medical Leave Act of 1993, for exceptions to this part.)

- C. Employees shall have their annual leave charges based upon hours absent from their regular work schedule.
- D. Periods of annual leave may be charged in minimum units of one-quarter (1/4) hour. A period of leave is defined as a time frame in which the employee does not return to work.
- E. An appointing authority may, upon reasonable notice, require an employee to schedule and use any part of his/her accrued annual leave for vacation purposes at the convenience of, and the effective operation of, the unit.
- F. In the event an employee is prevented from performing his/her regular duties for short periods of time due to break down of equipment, power failure, or other non-disciplinary reasons beyond the control of the employee and when there is no other work the employee can be assigned to temporarily, such employee may, upon request, use any unused annual leave for the period of such absence, unless placed on layoff.
- G. Should an official holiday occur while an employee is on approved annual leave, the holiday shall not be charged against the employee's leave balance.
- H. Terminal annual leave pay shall not exceed the maximum accrual carried over from the prior year plus any annual leave earned and accrued during the calendar year in which the termination occurs.

V. USE/TRANSFER/PAYMENT OF SICK LEAVE

- A. Periods of sick leave may be charged in minimum units of one-quarter (1/4) hour. A period of leave is defined as a time frame in which the employee does not return to work.
- B. Sick leave may not be authorized or used for the following purposes:
 - 1. Vacation, personal business, or in place of annual leave.
 - 2. Child care or housekeeping services.
- C. Notification and Proof of Illness:
 - 1. The employee or his/her representative shall be responsible for notifying his/her supervisor as early as possible on the first day of absence and subsequent days for continued absences. Failure to provide timely notice may be cause for denial of sick leave pay for the period of time.
 - 2. The appointing authority is responsible for determining that sick leave is properly authorized and used in accordance with these rules. (See Policy IX.II.M, Family & Medical Leave Act of 1993, for special provisions.)
 - 3. The employee may be required to furnish written medical certification, authorize the release of medical information, or submit to a physical examination when;

- a. the illness of the employee necessitates an absence of four (4) or more consecutive workdays,
 - b. requested by the appointing authority to verify the need to use sick leave, or
 - c. there is reason to doubt the employee is able to perform all of the duties of the position.
4. Use of sick leave for false claims of illness, injury or exposure to contagious disease; or falsification of proof to justify payment of sick leave shall be cause for denial of sick leave pay and/or disciplinary action, including dismissal.
- D.** Sick leave may be restricted when use of sick leave is for an extended period of time or appears to be abused due to any of the following;
1. an employee being absent due to illness of four (4) or more consecutive days,
 2. the taking of sick leave as soon as it is earned,
 3. by repeated absences the day before or the day after a holiday or the employee's scheduled day off,
 4. use of sick leave on a day or days for which annual leave was requested and denied, or
 5. when an employee who has had at least six (6) periods of leave usage in the preceding twelve (12) months is absent for one (1) or more days. Sick leave usage for which competent proof of necessity is provided or where the supervisor has actual knowledge that the employee was injured or sick, will not be considered in the accumulation of six (6) periods. A period of sick leave usage shall be defined as one (or a portion thereof) or more consecutive days in which an employee is in paid sick leave status or leave without pay status due to an injury or illness.
- E.** During sick leave restriction, an employee may be required to furnish competent proof of the necessity of such absence and/or may, at the County's expense, be required to be examined by a County designated physician or nurse practitioner. If an employee fails to provide competent proof when requested, or fails to submit to an examination when requested, the employee may be charged leave without pay and may be disciplined.

VI. DONATIONS TO SICK LEAVE

- A.** Sick time usage by the employee in need will be monitored at the end of each pay period so a surplus of donated time is not accrued. All surplus donated time not used will be returned to the donating employee(s).

- B. The supervisor of the employee in need is responsible for maintaining the necessary sick time donation log to prevent a surplus of donated time.
- C. The supervisor of the employee in need is also responsible for certifying to the Office of Human Resources that the conditions of Policy IX.II.E, Donations to Sick Leave, have been met as well as the names, social security numbers and amounts to be donated by each employee donating annual leave to the disabled employee.

VII. SICK LEAVE INCENTIVE

Each Director will provide the Office of Human Resources with the names of those employees entitled to an award of annual leave for meeting sick incentive requirements.

VIII. EMERGENCY LEAVE

A. Proof of Emergency:

Each employee requesting and receiving paid emergency leave shall be required to furnish evidence of the nature of the emergency leave and the name and relationship of the immediate family member who might be involved. Such evidence includes a physician's statement, death certificate, newspaper report, or any other document establishing the relationship and nature of the emergency. If none of these documents is available the Director may submit to Finance a memorandum attesting to the circumstances.

- B. Emergency leave shall not be accumulated, carried over, or paid to any employee upon termination from the County Service.

IX. ADMINISTRATIVE LEAVE

A. Jury and Court Leave:

If a required Court appearance interrupts the employee's normal sleep period, the appointing authority may grant the employee administrative leave equal to the loss but not to exceed eight (8) hours. Any such leave must be taken immediately after the employee is released by the Court.

- B. Leave for Job Interviews or Brevard County Service Employment Tests:
Any such leave shall be scheduled at the convenience of the employee's work unit.

X. MATERNITY LEAVE

- A. Disabilities arising out of pregnancy, childbirth, and recovery therefrom shall be treated the same as other non-job-connected disabilities in terms of eligibility for sick leave or leave of absence.

- B.** Absences during pregnancy and following childbirth may be charged to annual leave whether the employee is disabled or not.
- C.** Absences during pregnancy and following childbirth shall not be charged to sick leave unless the employee has been certified by a physician as being medically unable to perform her duties and then only for the period she continues to be disabled.
- D.** A Career or Appointive Service employee who requests a maternity or paternity leave of absence without pay for a period of up to six (6) months for childbirth, recovery, and/or child rearing following birth or adoption must do so in advance and be approved by the appointing authority. (See Policy IX.II.M; Family & Medical Leave Act of 1993 for special provisions.)
- E.** An employee who fails to return from an approved maternity or paternity leave of absence shall be considered to have abandoned his/her position and shall be terminated from the County Service.

XI. LEAVES OF ABSENCE WITHOUT PAY

A. Authorization:

1. Upon receipt of the written request of a County Service employee on a form prescribed by the Office of Human Resources Director, the appointing authority may authorize a leave of absence without pay for up to six (6) months subject to the limitations and conditions provided herein.
2. Normally leaves of absence will not be granted to an employee who has not completed a probationary period, however, an exception may be considered to meet extraordinary situations where it appears to be for the good of the service.

B. Employee Rights:

1. Once a leave of absence has been granted the employee shall be entitled to return to his/her former position or similar position with like pay provided the employee can meet current qualification standards, is able to perform all of the required duties, and provided the position has not been abolished.
2. If the position has been abolished and no similar position is available under the same appointing authority, a Career Service employee shall be placed on an eligible register for a similar position for a period of up to one (1) year. (See Policy IX.II.M, Family & Medical Leave Act of 1993, for exceptions to this part.)

C. Limitations and Conditions:

1. Except for medical leaves of absence any unused annual and sick leave shall remain on deposit and credited to the employee upon return to work. If the employee fails to return to work following a leave

of absence, payments for unused annual and sick leave shall be made in accordance with Policy IX.II.B and Policy IX.II.D.

2. All leaves of absence without pay, exceeding thirty (30) days, shall be deducted from the employee's length of service record for pay and leave accrual purposes.
3. Employees may not use a leave of absence to try out for another position outside the County Service.
4. An employee who fails to return to work following the expiration date of a leave of absence may be dismissed from his/her position.
5. Employees on Military Leave of Absence shall have their benefits and conditions of employment adjusted in accordance with applicable, state and federal laws.

D. Medical Leave of Absence:

1. Should an employee become unable to perform normal duties because of an illness or injury the appointing authority may require the employee to furnish a medical report describing the nature of the disabling condition and probable date the employee can resume normal duties. In the absence of such a report the employee may be required to submit to a medical examination by a physician named and paid for by the Department or Office. Failure to provide the requested information or refusal to submit to a medical examination or treatment may be grounds for dismissal.

E. Leave Without Pay of Less Than 31 Calendar Days:

1. Any leave without pay of less than 31 calendar days may be granted or denied at the unilateral discretion of the appointing authority to any employee of the County Service. (See Policy IX.II.M, Family & Medical Leave Act of 1993, for exceptions to this part.)
2. All other conditions of this section (Leaves of Absence Without Pay) shall apply except that:
 - a. Leaves without pay (of less than 31 calendar days) will not be deducted from the employee's length of service record for pay and leave accrual purposes.
 - b. If an employee has appropriate paid leave balances available the appointing authority may require the employee to use such paid leave before entering leave without pay status.

XII. FAMILY & MEDICAL LEAVE ACT (FMLA) OF 1993

A. Employee Responsibilities

1. When the necessity for leave under this section is due to the serious health condition of the employee or eligible family member and is foreseeable based on planned medical treatment, the employee shall:
 - a. Make a reasonable effort to schedule the treatment so as not to unduly disrupt work operations.
 - b. Provide the appointing authority at least thirty (30) days notice before the leave is to begin, except that if the date treatment is to begin requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.
2. In any case where the necessity for the leave is foreseeable based on an expected birth or placement of a child with the employee, the employee shall provide the appointing authority with at least thirty (30) days notice before the leave is to begin. If the birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.
3. When the necessity for leave under this section is due to a qualifying exigency arising out of the fact that the employee's spouse, child or parent is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of contingency operations, the employee shall give reasonable and practicable notice.

B. Conditions and limitations

1. The employee may not take leave on an intermittent or on a reduced leave schedule unless the employee and the appointing authority agree otherwise or unless certified as medically necessary.
2. When leave is to be taken due to the serious health condition of the employee or an eligible family member or when leave is to be taken on a intermittent or reduced leave schedule due to medical necessity, certification of the health care provider will be required. The County reserves the right to require, at the County's expense, the opinion of a second health care provider designated or approved by the County. Should the first and second opinions conflict, the County reserves the right to require, at the County's expense, the opinion of a third health care provider designated or approved jointly by the County and the employee. The opinion of the third health care provider shall be final.
3. To be sufficient the certification must state;
 - a. the date on which the serious health condition commenced,
 - b. the probable duration of the condition, and
 - c. the appropriate medical facts within the knowledge of the health care provider regarding the condition.
 - d. When leave is to be taken related to an impending call to active duty or order to active duty, the employee shall provide certification

that the servicemember is on active duty or has been called to active duty. When leave is taken for the purpose of caring for an injured servicemember, qualifying certification shall also be provided.

4. If an employee requests leave on a intermittent or reduced leave schedule, the appointing authority may require the employee to transfer to an available equivalent alternative position which better accommodates such schedule.
5. When determining an employee's entitlement to a total of twelve weeks of FMLA leave during any twelve (12) month period, a "rolling" 12-month period measured backward from the date the employee uses any FMLA leave shall be utilized.
6. An employee's entitlement of up to twenty six (26) weeks of FMLA Leave during a single twelve (12) month period for the employee, who is the spouse, child, parent or "next of kin" to care for an injured servicemember includes any other FMLA leave taken during the (12) month period.

XIII. TIME RECORDING ADJUSTMENTS

Where the employee records sick leave, but sufficient accrued sick leave is not available, such time will be charged first to accrued compensatory leave if available, then accrued annual leave if available, and finally leave without pay. Where the employee records annual leave, but sufficient accrued annual leave is not available, such time will be charged first to accrued compensatory leave if available, and then as leave without pay.

XIV. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Procedure is reserved to the County Manager.

Effective 12/16/09