

<b>CHAPTER:</b>	<b>6 - LEAVE TIME</b>	<b>ADOPTED: 3/7/06</b>
<b>SECTION:</b>	<b>11 - UNPAID LEAVE</b>	<b>REVISED: 7/24/19</b>

### **EXHIBIT R – FAMILY AND MEDICAL LEAVES OF ABSENCE**

The purpose of this policy is to clarify employees’ rights and obligations under state and federal law regarding family and medical leaves of absence.

Full-time employees (and some part-time employees) may be eligible for family or medical leave under state or federal law, after they have worked for the County for at least one year. Because eligibility requirements differ under state and federal law, employees should consult with Human Resources prior to requesting leave to determine if they are eligible for leave.

Please refer to HR 6.11 Exhibit R-1 for “Employee Rights and Responsibilities under the FMLA.” Under the federal Family and Medical Leave Act (“FMLA”), any County employee who is eligible under the Act may receive up to twelve (12) weeks of unpaid leave in a twelve (12) month period, for any of the following reasons:

1. Birth of your child, and to care for your newborn child (within twelve (12) months of birth);
2. Placement of a child with you for adoption or foster care (within twelve (12) months of placement);
3. Care for an immediate family member (defined under FMLA as your spouse, child or parent) with a serious health condition; or
4. A personal, serious health condition that leaves you unable to perform the essential functions of your job.

To be eligible under the FMLA, an employee must have, on the date the leave begins:

1. Worked for the County for at least twelve (12) months; and
2. Worked at least 1,250 hours (including only those hours actually worked) for the County during the twelve (12) months immediately preceding the leave.

Under the New Jersey Family Leave Act (“NJFLA”), any County employee who is eligible under the NJFLA may receive up to twelve (12) weeks of unpaid leave in a twenty-four (24) month period, for any of the following reasons:

1. Birth of your child, and to care for your newborn child (within twelve (12) months of birth);

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2. Placement of a child with you for adoption or foster care (within twelve (12) months of placement); or
3. Care for a family member (defined under NJFLA as your child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood to the employee, and any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship) with a serious health condition.

To be eligible under the NJFLA, an employee must have, on the date the leave begins:

1. Worked for the County for at least twelve (12) months; and
2. Worked at least 1,000 hours (including those hours actually worked, not including overtime) for the County during the twelve (12) months immediately preceding the leave.

A serious health condition is defined as a condition that involves: (1) in-patient care in a hospital, hospice or residential care facility; or (2) any period of incapacity requiring absence from work of more than three calendar days that also involves continuing treatment by a health care provider; or (3) continuing care by a health care provider for a chronic condition; or (4) prenatal care. Employees with questions about whether specific illnesses are covered under this policy or under the County's sick leave policy are encouraged to make the appropriate inquiry of the County Administrator/Human Resources Director/designees.

**Notice of Leave:** Where the necessity for leave is foreseeable, requests for leave under this policy should be submitted to the County in writing at least thirty (30) days prior to the date on which an employee wishes to commence leave. If it is not possible to give thirty (30) days notice, then the employee must provide as much notice as possible. Where the necessity for leave is not foreseeable, an employee should notify the County of the need to take leave as soon as possible.

An employee's request for leave and/or the taking of leave will not negatively affect an employee's employment or standing with the County.

HR 6.11 Exhibit S titled "Family/Medical Leave Notification" has been provided for employees to use in notifying the County of requests for such leave. In turn, the County utilizes the US Department of Labor (DOL) "Notice of Eligibility and Rights & Responsibilities," to acknowledge the employee request. Furthermore, the County utilizes the US DOL "Designation Notice" to notify the employee of approval or need for additional information.

**Certification Requirements:** Where leave is taken for the employee's own serious health condition or to care for the immediate family member suffering from a serious

health condition, employees will be required to submit a medical certification from a health care provider documenting the employee's or the immediate family member's serious health condition. If deemed necessary, the County may require that the employee obtain the opinion of a second health care provider designated by the County, which will be paid for by the County. If there is a conflict between the original medical opinion and the second opinion, the County may require a third opinion by a health care provider jointly selected by the County and the employee and paid for by the County. The third opinion will be considered final and binding.

The County provides employees with the US DOL "Certification of Health Care Provider" forms, one that applies to an employee's medical condition and one that applies to a family member's medical condition. One of these forms, as applicable, should be utilized to satisfy this requirement.

The County may require an employee who takes leave for the employee's own serious health condition or to care for an immediate family member suffering from a serious health condition to obtain subsequent recertification's on a reasonable basis. The County also may require an employee returning from leave due to the employee's own serious health condition to submit a medical certification of fitness-for-duty.

## **RIGHTS UNDER FAMILY AND MEDICAL LEAVE**

An employee taking an approved family or medical leave of absence will be entitled to reinstatement to his or her former position, or to another position of substantially equivalent compensation, benefits, status and responsibility, if he or she returns from the leave on the agreed upon date (including any approved extensions), and the entire leave lasts no more than twelve (12) weeks, provided that the County may choose to deny job restoration to certain highly compensated "key" employees. The County will endeavor to advise key employees who may be denied job restoration of this status at the time they request leave.

However, if the County deems it necessary to deny job restoration to a key employee who already is out on a leave of absence, the County will inform the employee of its intention to do so and will offer the employee the opportunity to return to work immediately.

Throughout an approved family or medical leave of absence, employees may continue their medical coverage under the same terms which the medical insurance coverage was offered prior to the leave, provided that the employee makes timely payment to the County of the employee's share of the premium cost. To maintain uninterrupted coverage, the employee will have to continue to pay his/her share of insurance premium payments. This payment shall be made either in person or by mail to the County of Gloucester, Department of Human Resources (Mailing address is P.O. Box 337, Woodbury, NJ 08096 and location is 2 South Broad Street, Woodbury, NJ 08096) by the 1<sup>st</sup> day of each month that the employee is on leave. If an employee's payment becomes

more than thirty (30) days overdue at any time during the leave, coverage will be terminated by the County.

If an employee fails to return to work upon the scheduled expiration of the leave of absence without obtaining an extension, for reasons other than a documented continuous serious health condition, the County will exercise its right to recover from the employee the premium cost which the County paid for the employees health insurance coverage during the term of the leave. Employees seeking an extension of an approved leave must submit their request to Human Resources at least one (1) week prior to expiration of the approved portion of the leave.

An employee may not work full-time for another employer or be self-employed during any leave under the NJFLA unless the employee was providing those services immediately prior to the commencement of the leave. An employee's leave may be canceled and disciplinary action may be taken, including immediate termination, prior to the expiration of the leave period, if this policy is violated. In addition, any employee who willfully misleads the employer regarding the nature of or the need for FMLA or NJFLA leave, or who falsifies documents related to the employee's request for FMLA or NJFLA leave may be subject to disciplinary action, including immediate termination from his/her employment prior to the expiration of the leave period.

### **PERSONAL LEAVE**

Non-represented employees who desire an unpaid leave of absence for reasons which do not qualify under the provisions of FMLA may request up to six (6) months of unpaid leave.

County employees who are members of collective bargaining units may submit requests as provided under the terms of their respective collective bargaining agreements.