

County of Gloucester
Human Resources Manual

CHAPTER:	6 – LEAVE TIME	ADOPTED: 3/7/06
SECTION:	12 – UNPAID LEAVE	REVISED: 5/22/24

A leave of absence without pay may be granted for but is not limited to the following:

1. Any applicable provision of the New Jersey Family Leave Act (NJFLA) and/or the federal Family and Medical Leave Act (FMLA), including but not limited to: care for a newborn child, a newly adopted child, or a newly placed foster child, as well as care for a parent, child, civil union partner, or spouse with a serious health condition. (Please refer to HR 6.12 Exhibits A and A1 for more details).
2. Serious health condition on the part of the employee which extends beyond accumulated sick, vacation or other paid leave as provided by the FMLA (NJFLA does not provide leave for one's own health condition). (Please refer to HR 6.12 Exhibits A and A1 for more details).
3. Other circumstances warranting such a leave (solely granted at the discretion of the Board of County Commissioners).
4. Promotions to another job within the jurisdiction.

FMLA Eligibility – To be eligible for FMLA leave, an employee must have: (i) worked for the County for at least twelve (12) months; (ii) worked at least 1,250 hours in the twelve (12) months immediately preceding commencement of the leave; and (iii) be employed at a worksite where the employer has at least fifty (50) employees within seventy-five (75) miles. The twelve (12) months the staff member must have been employed need not be consecutive months pursuant to 29 CFR §825.110(b). The minimum 1,250 hours worked shall be determined according to the principles established under the Fair Labor Standards Act (“FLSA”) for determining compensable hours of work pursuant to 29 CFR §785. Entitlement to FMLA leave taken for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

Pursuant to 29 CFR §825.201(b), married couples both employed by the County are limited to a combined total of twelve (12) weeks of leave during the applicable twelve (12) month period if the leave is taken for the birth of a child, or to care for such child after birth; for placement of a child with the staff member for adoption or foster care or in order to care for the child after placement; or to care for the staff member's parent with a serious health condition.

Returning from FMLA Leave – Upon return from FMLA leave, an employee shall be entitled to the position he/she held when the FMLA leave commenced, or to an equivalent position of like seniority, status, employment benefits, pay, and other

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conditions of employment. If the County experiences a reduction in force or layoff and the employee would have lost his/her position had the staff member not been on family leave as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system, including a system under any collective bargaining agreement, the employee shall be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes, and laws.

Certification of Health Care Provider – The County expects that requests for FMLA leave for the purposes of the employee’s own serious health condition, or to care for a family member with a serious health condition, shall be accompanied by a completed Certification of Health Care Provider (attached). Notwithstanding, following submission of a request for FMLA leave, an employee shall have up to fifteen (15) calendar days to provide the Employer with a completed Certification.

Prior to designating an employee for FMLA leave, he/she shall be required to provide the County with the attached FMLA Certification of Health Care Provider form, completed by the employee’s and/or employee’s family member’s health care provider. The information contained in the completed Certification shall guide the County in appropriate designation of the employee’s leave of absence. The County reserves the right to seek additional documentation necessary to initiate/continue an employee’s FMLA leave, in accordance with applicable FMLA regulations. Knowingly provided false information or other abuse of protected leave will lead to discipline up to and including termination.

FMLA Entitlement Period – The method to determine the twelve (12) month period in which the twelve (12) weeks of FMLA leave entitlement occurs will be a “rolling” twelve (12) month period measured backward from the date an employee uses any family leave.

Employment While on FMLA Leave – An employee designated for FMLA leave is prohibited from performing any services on a full-time basis for any person for whom the employee did not provide services immediately prior to commencement of the leave. An employee using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the County. The employee may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

NJFLA Leave – The NJFLA entitles eligible employees with up to twelve (12) weeks of unpaid, job-protected leave in a defined twenty-four (24) month period for the following reasons:

- a. the birth of a child and in order to care for such child;
- b. the placement of a child with the employee for adoption or foster care;

- c. in order to care for the family member of the employee who is suffering from a serious health condition;
- d. because of any qualifying exigency arising out of the fact that the employee's family member is a military member on active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty); or
- e. In the event of a state of emergency declared by the Governor, or when indicated to be needed by the Commissioner of Health or other public health authority, an epidemic of a communicable disease, a known or suspected exposure to the communicable disease, or efforts to prevent spread of a communicable disease, which:
 - a. requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official due to the epidemic or other public health emergency;
 - b. prompts the issuance by a public health authority of a determination, including by mandatory quarantine, requiring or imposing responsive or prophylactic measures as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or
 - c. results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

NJFLA Eligibility – To be eligible for NJFLA leave, an employee must have: (i) worked for the County for at least twelve (12) months; and (ii) worked at least 1,000 hours in the twelve (12) months immediately preceding commencement of the leave. The calculation of the twelve-month period to determine eligibility shall commence with the commencement of the NJFLA leave. NJFLA leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.

Employment While on NJFLA Leave – An employee designated for NJFLA leave is prohibited from performing any services on a full-time basis for any person for whom the employee did not provide services immediately prior to commencement of the leave. An employee on NJFLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the County. The employee may continue the part-time employment that commenced prior to the NJFLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

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NJFLA Entitlement Period – The method to determine the twenty-four (24) month period in which the twelve (12) weeks of NJFLA leave entitlement occurs will be a “rolling” twenty-four (24) month period measured backward from the date an employee uses any leave.

Intermittent and/or Reduced Schedule Leave – Requests for intermittent and/or reduced schedule leave under both the FMLA and the NJFLA shall be reviewed by the Employer on a case-by-case basis and in accordance with the federal and State laws and regulations promulgated thereto.

Relationship to Other Laws – If the employee is eligible for leave for reasons provided under both the FMLA and NJFLA, then the leave time taken shall be concurrent and be applied to both laws. In the event the reason for the family leave is recognized under one law and not the other law, the employee is eligible for each law’s leave entitlements within one twelve (12) month period. For example, an employee may use his/her FMLA leave for a twelve (12) week family leave for their own pregnancy, which is considered a “serious health condition” under FMLA, and upon conclusion of the twelve (12) weeks of FMLA leave, the employee would be eligible for a twelve (12) week NJFLA leave to care for their newborn or any other reasons pursuant to the NJFLA.

Following exhaustion and/or termination of the FMLA/NJFLA leave period, the Employer may continue an employee’s group health benefits, at the employee’s request. In the event that the employee determines to continue his/her group health benefits following a period of designated FMLA/NJFLA leave, he/she shall be solely responsible for the full premium amount due.

Family Temporary Disability. During a period of unpaid leave to care for a family member with a serious health condition or a newborn or adopted child or child placed into foster care with the employee, the employee may be eligible for up to twelve (12) weeks of Family Leave Insurance (“FLI”) payments through the State in a twelve (12) month period. FLI is a monetary benefit paid by the State and not a separate leave entitlement, and will thus run concurrently with FMLA and/or FLA leaves.

Leaves of absence will NOT be granted for temporary family moves to another location, the acceptance of a job outside the County government, and/or other reasons that are unacceptable to the employer.

Permanent employees may be granted leaves of absence without pay for a period not to exceed one year. For exceptional circumstances, such leave may be extended beyond one year, subject to written approval by the New Jersey Department of Personnel. (4A:6-1.1(a)2).

For more information on family and medical leaves, see Chapter 6, Section 12 Exhibits A and A1, and the US Department of Labor (DOL) "Notice of Eligibility and Rights & Responsibilities" and "Certification of Health Care Provider for Employee's Serious Health Condition" and/or "Certification of Health Care Provider for Family Member's

"Serious Health Condition" and "Designation Notice". These US DOL notices and forms are available on the Human Resources (HR) webpage at www.goucestercountyuj.gov as well as by request to HR.

Any employee taking an unpaid leave of absence shall be permitted to continue his/her health benefit coverage after the employer-paid coverage ends by paying the monthly premiums prior to the coverage month. Concurrently, an eligible employee who takes leave qualifying under NJFLA, the FMLA, or other leave protected by statute may have coverage continued by the Employer during such leave. The FMLA requires that the employer maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Thus, as stated in HR 5.1 titled "Health Benefits," employees receiving health benefits pay a contribution towards the cost of health benefits (Chapter 78, P.L. 2011). Therefore, the employee contribution will remain in effect during an unpaid leave.

Temporary Disability Leave

Program Governed by State Law - The Temporary Disability Benefits Ordinance adopted by the County shall be governed by N.J.S.A. 43:21-25 et seq. of the laws of the State of New Jersey, and any inconsistencies existing between this and state laws shall be governed by state law.

Voluntary Participation – The temporary disability plan shall be voluntary for all eligible employees. All full-time employees wishing to participate must advise the Human Resource/Payroll Department at initial hire date or during open enrollment period of each calendar year. Employees wishing to terminate their coverage may do so at any time by notifying the Human Resource/Payroll Office in writing.

Annual Contribution – The annual contribution by each employee shall be the maximum amount permitted under the state plan.

Benefits and Limits – The maximum benefits paid to any employee shall be determined and promulgated to match the state plan, but not to exceed the maximum weekly benefit as determined by the state plan disability insurance. "Average weekly wage" shall be defined as the amount derived by dividing the wages earned during the eight (8) calendar weeks immediately preceding the calendar week in which the disability commenced by the number of said weeks. The limit payable to any employee shall be the maximum benefit as determined and promulgated under the state plan (by the Commissioner of Labor and Industry in accordance with N.J.S.A. 43:21-3(c)).

Eligibility – Employees participating in the disability plan shall be eligible for benefits immediately upon the occurrence of an accident provided the employee is absent from work at least five (5) consecutive work days because of the accident. In the event of sickness, participating employees shall be eligible for benefits on the

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expiration of a “waiting week” consisting of the first seven (7) consecutive days of each period of disability. However, if eligible for benefits in each of the three (3) consecutive weeks next following the waiting week, benefits shall also be payable retroactively with respect to the waiting week. Employee’s participating in the County Disability Plan will be required to complete and submit all County provided forms.

In order to be eligible, an employee must have worked at least twenty weeks earning at least a minimum set annually by the State in each of those weeks, or have earned at least a minimum set annually by the State in earnings during the fifty-two calendar weeks prior to the week in which his/her disability commenced. Call the Payroll Office for the current year’s minimums.

Before an employee is eligible for benefits, he or she must use up to two (2) work weeks of accrued sick time before receiving temporary disability benefits, however an employee shall not be required to use their last work week of accrued sick time before receiving benefits.

Childbirth – Female employees participating in the disability plan shall be entitled to disability benefits for pregnancy, childbirth or related medical conditions for a period commencing four (4) weeks prior to the expected date of confinement and continuing until six (6) weeks (in the case of a normal delivery) or eight (8) weeks (if complications or Caesarian section delivery) after the expected date of confinement. If, however, there are complications, employee shall be entitled to disability benefits for up to a period of twenty-six (26) weeks, including the weeks prior to the expected date of confinement.

Physical Examination – Employees may be required to submit to a physical examination by a medical professional to support their disability claim at no cost to the employee. Failure to submit to an examination is cause for the denial of further benefits.

Return to Work – Employees qualifying for disability must submit a medical certificate in order to return to work. The medical certificate must state that the employee’s disability no longer inhibits the employee’s ability to perform the essential functions of the job. The employee will not be permitted to return to work without the medical certificate. The County reserves the right to have an independent medical evaluation performed by a professional chosen by the County at the County’s expense.

An employer may also grant an unpaid union leave pursuant to N.J.A.C. 4A:6-1.16.

Documents related to an employee's leave of absence shall be placed in his/her personnel file. However, any medical information shall be maintained in a separate file.

Paid sick days shall not accrue during a leave of absence without pay (4A:6-1.3, 2, c).

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An employee who goes on a leave of absence without pay before the end of the calendar year shall have his or her leave prorated based on time earned. An employee who is on the payroll for greater than 23 days shall earn a full month's allowance, and earn one-half month's allowance if he or she is on the payroll from the 9th through the 23rd day of the month (4A:6-1.5, b).

Intermittent days off without pay shall be aggregated and considered as a continuous leave without pay for calculation of reduced vacation and sick leave credits, when intermittent days off without pay other than voluntary furlough or furlough extension days equal 11 working days, the employee's vacation and sick leave credit shall be reduced by one-half of one month's entitlement (4A:6-1.5, c).

If a holiday occurs on a regular workday of an employee and the employee does not report for duty, he or she shall not be eligible for overtime compensation or an alternate day off for that holiday (4A:3-5.8, c, 3).

Employees are liable for vacation and sick leave days taken in excess of their entitlements (4A:6-1.5, a).

An employee shall reimburse the appointing authority for paid working days used in excess of his or her prorated and accumulated entitlements (4A:6-1.5, b, 1),

An employee who returns to work from a leave of absence shall not be credited with paid vacation or sick leave until the amount of leave used in excess of the prorated entitlement has been reimbursed (4A:6-1.5, b, 2).

Employee:

Should submit a written request for a leave of absence to Human Resources stating the reason for and the inclusive dates of the leave (utilizing HR 6.12 Exhibits A and A1 as applicable). Requests for FMLA or NJFLA should be submitted as soon as possible (at least 30 days in advance of the birth or adoption of a child or 15 days in advance if caring for a seriously ill family member.) (Please note that this time requirement may be waived in emergency situations by the County Administrator/Designee).

If a request is denied, the employee may appeal the County Administrator/Designee's decision to the County Administrator and/or Designee.

Should contact the County Administrator/Designee to discuss the possible continuation of benefits since leaves of absence may affect certain employee benefits.

Employees granted leaves of absence without pay must, in writing, either confirm the date of return or request an extension.

For leaves of six months or more in duration, written notification of intent to return should be submitted four weeks before the leave expires.

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For leaves of six months or less, written notification of intent to return should be submitted at least one week before the leave expires.

If an employee wishes to extend a leave without pay beyond one year, submits a written request to his/her department head stating the reason for the extension and the inclusive dates of the additional leave.

Department Head/Designee:

If any request is received at the department level, forwards the request to the County Administration within two days with a recommendation to approve or deny the request. Department Heads should also contact administration is an employee appears to meet the criteria for a protected leave.