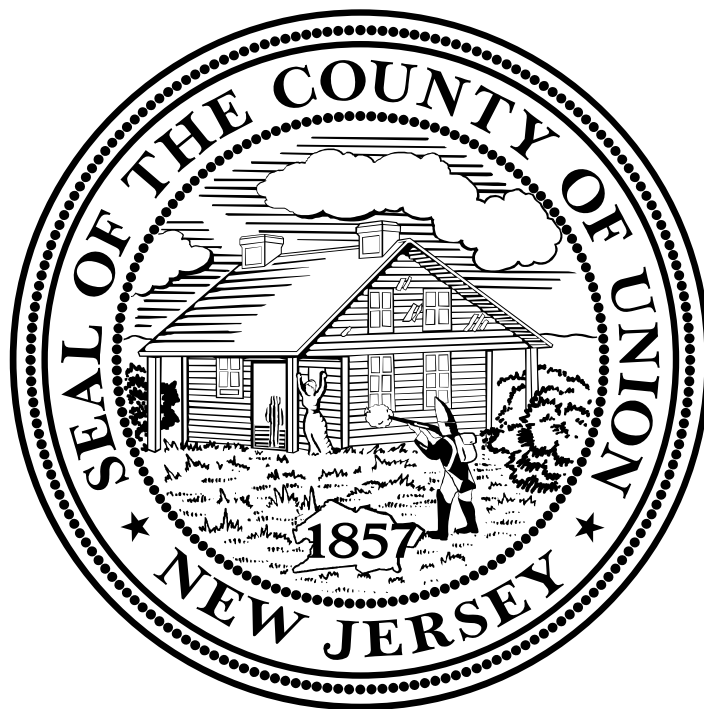


COUNTY OF UNION

FAMILY LEAVE AND MEDICAL LEAVE ACT POLICY



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COUNTY MANAGER

2018

UNION COUNTY
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BOARD OF CHOSEN FREEHOLDERS



THE COUNTY OF UNION

FAMILY LEAVE AND MEDICAL LEAVE ACT POLICY

I. **STATEMENT OF PURPOSE:** It is the policy of the County of Union to protect and to promote the stability and economic security of families by providing family and medical leaves of absence to eligible employees. The Family and Medical Leave Act of 1993, 29 U.S.C. §2611 et seq., (the "FMLA") and the New Jersey Family Leave Act, N.J.S.A. 34:1113-1 et seq. (the "FLA") provide that eligible employees may take an unpaid leave of absence due to certain qualifying events. All requests for a family or medical leave of absence under either the FMLA or the FLA or both are subject to this policy.

II. **SCOPE AND EFFECTIVE DATE:** This policy applies to all Union County employees who have worked for the County for at least 12 consecutive months and applies to all applications for a family or medical leave of absence made on or after the date of adoption. Employees who have not been employed by the County for at least 12 consecutive months are not eligible for family or medical leave.

III. **ELIGIBILITY AND QUALIFYING EVENTS:** You must be an eligible employee (employed by the County for at least 12 consecutive months), have worked a sufficient number of hours, and request to take a leave of absence because of one or more of the qualifying events described below. Generally, temporary and provisional employees will not be eligible for family or medical leave because they will not have completed 12 months of employment or will not have worked a sufficient number of hours in the prior 12 month period.

<u>REASON FOR LEAVE</u> (Qualifying Events)	<u>ELIGIBILITY REQUIREMENTS</u>	<u>STATUTE</u>
<p align="center">MEDICAL LEAVE</p> <p>Your own serious health condition that prevents you from performing the essential functions of your job.</p>	<p>You must be employed by the County for at least 12 consecutive months and have worked at least 1250 hours during the 12 months immediately prior to starting your leave.</p>	<p align="center">Family and Medical Leave Act ("FMLA")</p>
<p align="center">FAMILY LEAVE ¹</p> <ol style="list-style-type: none"> 1. The birth of your child. 2. The placement of a child with you for adoption or foster care. 3. To care for a spouse, parent or dependent child who has a serious health condition that leaves them unable to work or attend school. 	<p>You must be employed by the County for at least 12 consecutive months and have worked at least 1250 hours (FMLA) or 1000 hours (FLA) during the 12 months immediately prior to starting your leave.</p>	<p>Family and Medical Leave Act ("FMLA") and Family Leave Act ("FLA")</p>
<p align="center">FAMILY LEAVE ²</p> <p>To care for a parent in-law who has a serious health condition that leaves them unable to work or attend school.</p>	<p>You must be employed by the County for at least 12 consecutive months and have worked at least 1000 hours during the 12 months immediately prior to starting your leave.</p>	<p>Family Leave Act ("FLA")</p>

¹ Leave taken for the birth, adoption or placement of a child in foster care may only be taken within 12 months of the birth, adoption or placement. Under the FMLA, leave must be completed within the first twelve months, whereas, under the FLA, leave must start within the first twelve months following birth, adoption or foster care placement.

² Leave to care for a parent in-law is available only under the FLA.

IV. **DURATION OF LEAVE:** Employees can take up to 12 weeks of either family or medical leave, or a combination of each, in any 12 month period. Under the FMLA, eligible employees with qualifying circumstances can take up to 12 weeks of either family or medical leave or some of each, in any 12 month period. Under the FLA, eligible employees with qualifying circumstances can take up to 12 weeks of family leave in any 24 month period. Family leave will run simultaneously under both laws, so employees can take no more than a maximum of 12 weeks of family leave in any twelve month period. Because the FLA does not include medical leave, use of medical leave under the FMLA will not impact the right to take family leave under the FLA.

The 12 month (FMLA) or 24 month (FLA) period begins as of the first day of leave and continues forward for 12 or 24 months. For example, if an employee took 4 weeks of medical leave starting on June 1, 2000, he/she could take up to an additional 8 weeks of medical leave during the remainder of the 12 months through May 31, 2001.

V. **DEFINITION OF "SERIOUS HEALTH CONDITION":** A "serious health condition" is defined as an illness, injury, impairment or physical or mental condition that leaves the individual unable to perform the essential functions of his/her job (or leaves a child unable to attend school) and involves one of the

- Hospital Care - inpatient care (e.g., overnight stay) in a hospital or other medical care facility including any period of incapacity or treatment in connection with the inpatient care;
- Absence Plus Treatment - a period of incapacity of more than three consecutive calendar days that involves either treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment, such as physical therapy or a medication regimen;
- Pregnancy- any period of incapacity due to pregnancy or for prenatal care;
- Chronic Conditions Requiring Treatment - a chronic condition which requires periodic visits for treatment by a health care provider that continues over an extended period and may cause episodic periods of incapacity, such as asthma, diabetes, epilepsy or clinical depression;

- Permanent Long-Term Condition Requiring Supervision - a period of incapacity which is permanent or long-term for which treatment may not be effective, such as strokes or terminal cancer; or
- Multiple Treatments (Non-Chronic Conditions) - a period of absence to receive multiple treatments from a health care provider for restorative surgery after an accident or injury, such as chemotherapy for cancer or dialysis for kidney disease.

"Serious health condition" may include treatment for substance abuse but does not include absences due to an employee's use or abuse of alcohol or other controlled substances.

"Serious health condition" does not include routine physical, eye, or dental examinations.

VI. **ADVANCE NOTICE:** In all cases, an employee requesting a family or medical leave must complete a Request for Leave of Absence form, which should be submitted to the County Human Resources Department at least 30 days before the date you want to start your leave. If the need for the leave of absence is unforeseeable (such as a medical emergency), you must notify the County Human Resources Department as soon as possible. If you do not complete and submit the required forms or if you fail to give advanced notice, the County may deny your leave request or delay the commencement of the leave. Any employee who takes a leave of absence without authorization may be considered to have voluntarily quit his/her job through job abandonment.

The County will respond in writing to all requests for leave by completing the Response to Request for Leave of Absence form.

VII. **HOW LEAVE MAY BE TAKEN:** Generally, leave is taken in consecutive days and/or weeks. Under certain circumstances, however, leave may be taken intermittently or on a reduced leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single qualifying event, such as taking off a ½ day every Thursday to receive chemotherapy treatments. A reduced leave schedule is a leave schedule that reduces your usual number of working hours per workweek or per workday, such as changing from a full time to a part-time schedule to care for a child recovering from surgery.

If a leave of absence is requested due to the birth or adoption of a child, intermittent or reduced leave only can be taken with the approval of your Department Head. If a leave is requested due to the serious health condition of the employee or an immediate family member, intermittent or reduced leave will be approved only if a health care provider states that the leave is medically necessary, meaning that the proposed intermittent or reduced leave schedule is the best way to accommodate the

particular medical condition. Employees requesting an intermittent or reduced leave of absence for a planned medical treatment must work cooperatively with their supervisor and make efforts to schedule the leave and any corresponding treatment to minimize the disruption to County operations.

VIII. **MEDICAL CERTIFICATION:** If you are requesting a Leave of Absence due to your own serious health condition or the serious health condition of your spouse, parent, parent-in-law, or child, you must submit a Medical Certification form completed and signed by a health care provider. If you do not submit the Medical Certification Form prior to starting a foreseeable leave (or as soon as possible after starting an unforeseen leave), the County will delay or deny the leave. The County may require periodic recertifications from the health care provider. The County also may require, at its own expense, that you submit to a medical examination by a health care provider designated by the County concerning the information stated in the Medical Certification.

IX. **SUBSTITUTION OF PAID LEAVE:** Under the FMLA and the FLA, leaves of absence are unpaid. However, under both statutes, an employee may choose to use accrued time off during a period of medical or family leave. When the leave is planned, the employee must inform the County in writing in advance of the leave and specify that they wish to use accrued time off and which type of accrued time off they choose to use. In addition, employees may choose to be paid for their accrued vacation and personal/religious leave following exhaustion of sick leave benefits (or at the start of leave when sick leave benefits are exhausted or not available, such as family leave for birth or adoption).

Once all time off benefits are exhausted, leave will be unpaid. Employees on medical leave for their own serious health condition, however, may be eligible for temporary disability benefits, if covered, or workers' compensation (depending on the cause of the serious health condition). Temporary disability benefits and workers' compensation are not available to employees absent on family leave.

Employees do not earn/accrue additional sick leave, personal time and vacation time during an unpaid family or medical leave. If, prior to your leave, you used more paid time off than you accrued as of that time, your negative balance will remain until after you return from your leave and again begin accruing time off benefits. The first benefits you accrue upon return from leave will be credited against your negative balance. Once you pay back any excess vacation or sick time, you will resume accruing sick and vacation time benefits. For example, if you used 12 sick days prior to starting a medical leave of absence, but had only 10 days available (including sick days earned that year and

accrued from prior years), you will not be paid for any sick days and will not earn any additional sick days during your medical leave. The first two sick days you earn upon returning from medical leave will be used to pay back the extra two days you took before starting your leave.

Employees will not be paid for holidays occurring during a family or medical leave of absence.

X. **CONTINUATION OF BENEFITS:** During family or medical leave, the County will continue your group health care benefits at the level and under the conditions that coverage was provided prior to you starting your leave, subject to any benefit changes affecting other employees in similar positions. This means that to the extent you contribute to the cost of your health insurance, you must make arrangements and make timely payment of your share of the premium cost while on leave. If you fail to make timely payments, your health care benefits may be terminated.

Seniority rights will accrue for up to twelve weeks of family leave and/or medical leave, provided you return to work for the County at the scheduled end of the leave. If you do not return, seniority accruals will stop as of your last day of active (paid) employment prior to starting leave.

XI. **SPOUSES EMPLOYED BY THE COUNTY:** If both spouses are employed by the County family leave for the birth, adoption or foster care placement of a child, or to care for a parent who has a serious health condition, will be limited to a total of 12 weeks between them. The 12 weeks can be taken entirely by either spouse or split between the two spouses.

XII. **RETURN FROM LEAVE:** Employees are expected to return to work on their scheduled return to work date. If you need to extend your leave you must submit a written request to your Supervisor or the County Division of Personnel Management at least 7 calendar days before your scheduled return to work date. Employees should use a Request for Leave of Absence form to request an extension.

If you wish to return to work prior to the expiration of your approved leave, you must give written notice at least 5 working days prior to your planned return, by submitting a Notice of Intention to Return from Leave form to your Supervisor or the County Division of Personnel Management. Before permitting employees to return to work following a medical leave of absence due to their own serious health condition, the County may require that you provide a certificate from your treating health care provider. The certificate must state that you are able to resume working without restrictions or must list any restrictions your health care provider finds relative to your ability to

perform the essential functions of the position. If you do not return to work at the expiration of an approved leave, you will be considered to have voluntarily resigned your employment with the County.

XIII. RESTORATION TO POSITION: For most employees, when you return from leave, you will be restored to your prior position. If that position was filled during your leave, you will be assigned to an equivalent job, with equivalent pay, benefits, status, and other terms and conditions of employment. If the position was eliminated during your leave and you would have been laid off had you been working, then you will not be eligible for reinstatement upon completion of your leave of absence.

An additional exception exists for certain "key" employees of the County who may not be guaranteed reinstatement if their absence will cause grievous economic harm to the County. Under the FMLA, you are a "key" employee if you are among the highest paid 10% of County employees. Under the FLA, you are a "key" employee if you are among the highest paid 5% of County employees. If you are a "key" employee, the County will notify you of that fact at the time you request leave.

XIV. COORDINATION OF FMLA AND FLA LEAVES: If your leave qualifies under both the FMLA and the FLA, the leave will run simultaneously under both laws. Family leave due to the birth or adoption of a child or to care for a parent, child or spouse with a serious medical condition will be limited to 12 weeks because the time off will qualify simultaneously as both FMLA and FLA family leave. Employees should speak to a Human Resources representative to understand how much leave they are eligible to request.

XV. OUTSIDE EMPLOYMENT: Employees are prohibited from accepting new full time employment while absent on an approved family or medical leave of absence. This requirement does not preclude an employee who had a full time job outside of the County prior to starting his/her leave of absence from continuing that employment.

XVI. NON-RETALIATION: No employee will be subject to retaliation or any negative employment action as a result of requesting family or medical leave under this policy or as a result of testifying or reporting any actual violation of this policy or the law.

Resolution No: 2018-993

Adopted: November 28, 2018