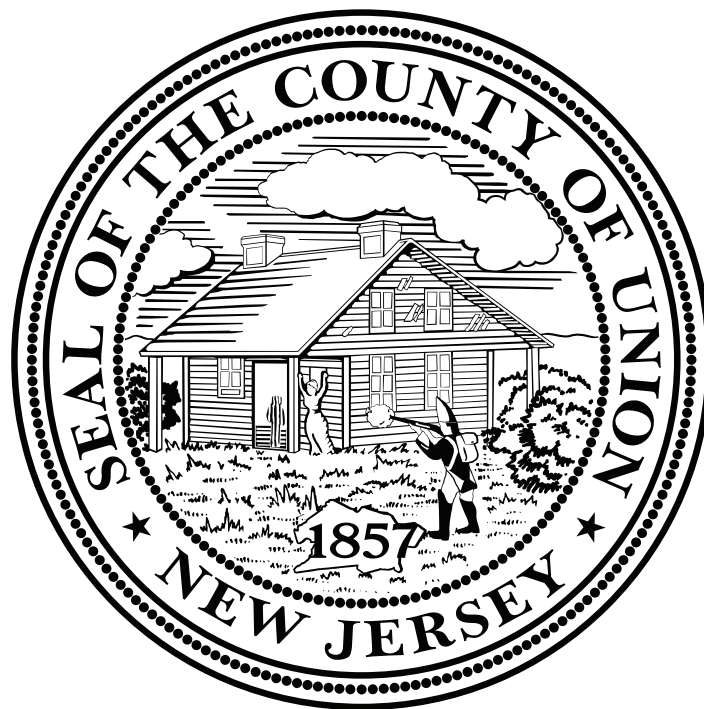


COUNTY OF UNION

Military Family Leave Policy



Union County
We're Connected to You

A service of the
UNION COUNTY BOARD OF
CHOSEN FREEHOLDERS



THE COUNTY OF UNION

MILITARY FAMILY LEAVE POLICY

I. MILITARY FAMILY LEAVE: The military family leave provisions of the Family and Medical Leave Act of 1993 (the "FMLA") entitle eligible County employees (those who have worked for the County for at least twelve (12) months and have worked at least 1,250 hours in the twelve (12) period prior to the leave request), to take FMLA leave for any "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter or parent with the Armed Forces or to care for a covered servicemember with a serious injury or illness if the employee is the servicemember's spouse, son, daughter, parent or next of kin.

II. SCOPE AND EFFECTIVE DATE: This policy applies to all Union County employees who have worked for the County for at least twelve (12) months. Employees who have not been employed by the County for at least twelve (12) months are not eligible for military family leave. Generally, temporary and provisional employees will not be eligible for military family leave because they will not have completed twelve (12) months of employment or will not have worked a sufficient number of hours in the prior twelve (12) month period.

III. MILITARY CAREGIVER LEAVE: The County provides an eligible employee who is a spouse, son, daughter, parent or next of kin of a covered servicemember with a serious injury or illness with up to twenty-six (26) workweeks of unpaid leave during a "single 12-month period" to care for a covered servicemember

A covered servicemember is either:

- A current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation or therapy, is in outpatient status, or is on the temporary disability retired list for a serious injury or illness; or
- A veteran of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered servicemember.

For a current servicemember, a serious injury or illness is one that may render the servicemember medically unfit to perform his or her military duties.

For a veteran, a serious injury or illness means an injury or illness that was incurred by the veteran in the line of duty on active duty in the Armed Forces or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty and that is either:

1. A continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank or rating; or
2. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50% or greater, and the need for military caregiver leave is related to that condition; or
3. A physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service or would do so absent treatment; or
4. An injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Any *one* of these definitions meets the FMLA's definitions of a serious injury or illness for a covered veteran regardless of whether the injury or illness manifested before or after the individual became a veteran.

The "single 12-month period" for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends twelve (12) months later, regardless of the twelve (12)- month period established by the County for other types of FMLA leave.

An eligible employee is limited to a combined total of twenty-six (26) workweeks of leave for any FMLA-qualifying reason during the "single 12-month period." Up to twelve (12) of the twelve (26) weeks may be for a FMLA-qualifying reason other than military caregiver leave.

Military caregiver leave is available to an eligible employee once per servicemember, per serious injury or illness. However, an eligible employee may take an additional twenty-six (26) weeks of leave in a different 12-month period to care for the same servicemember if she or she has another serious injury or illness.

An eligible employee may also take military caregiver leave to care for more than one current servicemember or covered veteran with a serious injury or illness at the same time, but the employee is limited to a total of twenty-six (26) weeks of military caregiver leave in any single 12-month period. Additionally, an eligible employee may be able to take military caregiver leave for the same family member with the same serious injury or illness both when the family member is a current servicemember and when the family member is a veteran.

IV. QUALIFYING EXIGENCY LEAVE: The County grants an eligible employee up to a total of twelve (12) workweeks of unpaid leave during a 12-month period for a "qualifying exigency" arising out of the foreign deployment of the employee's spouse, son, daughter or parent. Qualifying exigencies may arise when the employee's spouse, son, daughter or parent who is a member of the Armed Forces (including the National Guard and Reserves) and who is on covered active duty or has been notified of an impending call or order to covered active duty. For purposes of qualifying exigency leave, an employee's son or daughter on covered active duty refers to a child of any age.

Covered active duty: Eligible employees may take FMLA leave for a qualifying exigency while the military member is on covered active duty, call to covered active duty status or has been notified of an impending call or order to covered active duty.

For members of the Regular Armed Forces, covered active duty is duty during deployment of the member with the Armed Forces to a foreign country.

For members of the Reserve components of the Armed Forces (National Guard and Reserves), covered active duty is duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation.

“Deployment to a foreign country” means deployment to areas outside of the United States, the District of Columbia or any Territory or possession of the United States, including deployment to international waters.

When a military member is on covered active duty, qualifying exigencies include:

- Issues arising from a covered military member’s short notice deployment (i.e., deployment within seven (7) or less days of notice). For a period of up to seven (7) days from the day the military member receives notice of deployment, an employee may take qualifying exigency leave to address any issue that arises from the short-notice deployment;;
- Attending military events and related activities, such as official ceremonies, programs, events and informational briefings or family support or assistance programs sponsored by the military, military service organizations, or the American Red Cross that are related to the member’s deployment;
- Certain childcare and related activities arising from the military member’s covered active duty including arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility;
- Certain activities arising from the military member’s covered active duty related to care of the military member’s parent who is incapable of self-care, such as arranging for alternative care, providing care on a non-routine, urgent, immediate need basis, admitting or transferring a parent to a new care facility and attending certain meetings with staff at a care facility, such as meetings with hospice or social service providers;
- Making or updating financial and legal arrangements to address a military member’s absence while on covered active duty, including preparing and executing financial and healthcare powers of attorney, enrolling in the Defense Enrollment Eligibility Reporting System or obtaining military identification cards;
- Attending counseling for the employee, the military member or the child of the military member when the need for that counseling arises from the covered active duty of the military member and is provided by someone other than a health care provider;;

- Taking up to fifteen (15) calendar days of leave to spend time with a military member who is on short-term temporary rest and recuperation leave during deployment. The employee's leave must be taken while the military member is on Rest and Recuperation leave;
- Certain post-deployment activities within ninety (90) days of the end of the military member's covered active duty, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military and addressing issues arising from the death of a military member, including attending the funeral;
- Any other event that the employee and the County agree is a qualifying exigency.

V. ADVANCE NOTICE: In all cases, an employee requesting a military family leave must complete the Request for Leave of Absence form which should be submitted to the County Division of Personnel Management and Labor Relations at least thirty (30) days prior to the date you want to start your leave. If the need for the leave of absence is unforeseeable, you must notify the Division of Personnel Management and Labor Relations 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.

VI. 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 for planned medical treatment. 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 covered servicemember recovering from surgery.

Eligible employees may take military caregiver leave on an intermittent or reduced schedule basis when medically necessary due to serious injury or illness of a covered servicemember. Eligible employees may also take military family leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the County's operations.

VII. CERTIFICATION: The County requires that your request for military family leave be supported by an appropriate certification.

For military caregiver leave for a current servicemember, the County requires the provision of a certification completed by an authorized health care provider or by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember's family.

For military caregiver leave for a veteran, the County requires the provision of a certification completed by an authorized health care provider, or by submission of a copy of a VASRD rating determination or enrollment documentation from the VA Program of Comprehensive Assistance for Family Caregivers, including providing confirmation of family relationship and documentation of discharge date and status.

An authorized health care provider may be a:

1. U.S. Department of Defense ("DOD") health care provider;
2. U.S. Department of Veterans Affairs ("VA") health care provider;
3. DOD TRICARE network authorized private health care provider;
4. DOD non-network TRICARE authorized private health care provider; or
5. Non-military affiliated health care provider.

For leave due to a qualifying exigency, the County requires the provision of the military member's active duty orders, Rest and Recuperation Orders and/or the submission of a certification providing the appropriate facts related to the particular qualifying exigency for which the leave is sought, including the provision of contact information of the third party with whom the employee is meeting.

If you do not submit the appropriate Certification prior to starting a foreseeable leave (or as soon as possible after starting an unforeseen leave), the County may delay or deny the leave.

VIII. SUBSTITUTION OF PAID LEAVE: Military family leaves of absence are unpaid. The County permits employees to use their accrued but unused leave time toward military family leaves. The accrued leave which may be applied depends upon the reason for the military family leave. Specifically, you may use your accrued vacation and personal time, in that order, toward military qualifying exigency FMLA leave. You may use your accrued sick, vacation and personal time, in that order, toward military caregiver FMLA leave. The use of paid leave, if applicable, will start from the first day of absence and continue until either the employee returns or exhausts his/her accrued time. Once all time off benefits are exhausted, leave will be unpaid.

Employees do not earn/accrue additional sick leave, personal time and vacation time during an unpaid military family 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 twelve (12) sick days prior to starting a military family leave of absence, but had only ten (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 military family leave. The first two (2) sick days you earn upon returning from military family leave will be used to pay back the extra two (2) days you took before starting your leave.

Employees will not be paid for holidays occurring during an unpaid military family leave of absence.

IX. CONTINUATION OF BENEFITS: During military family 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, arrangements will be made for you to 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 and/or you may be subject to COBRA.

X. SPOUSES EMPLOYED BY THE COUNTY: If a husband and wife are both employed by the County, they are limited to a combined total of twenty-six (26) workweeks for military FMLA leave. The twenty-six (26) weeks can be taken entirely by either spouse or split between the two spouses.

XI. 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 and Labor Relations at least seven (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 five (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 and Labor Relations.

XII. 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.

Restoration to employment after FMLA leave can be denied to “key” employees, defined as salaried, eligible employees who are among a company’s highest paid 10% of all workers. This determination will be made at the time the employee requests FMLA leave. The County may deny such employees restoration to their jobs if restoration would cause substantial and grievous economic injury to the County.

XIII. FAILURE TO RETURN TO WORK UPON EXPIRATION OF LEAVE: Unless the County grants an extension, an employee who fails to return to work upon the expiration of military FMLA leave will be subject to termination. Upon exhaustion of the FMLA leave, employees will immediately lose health insurance coverage. Please note that a thirty-day grace period does not exist. Employees who do not continue their employment may continue their health insurance coverage pursuant to COBRA at their own expense. If an employee does not return to work following leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle the employee to FMLA leave; (2) a serious injury or illness of a covered servicemember, or (3) other circumstances beyond the employee’s control, the employee may be required to reimburse the County for its share of health insurance

premiums paid on the employee's behalf during the leave. If an employee fails to return to work within five (5) consecutive working days following the expiration of the leave, the employee shall be considered to have abandoned his or her position and voluntarily resigned.

XIV. OUTSIDE EMPLOYMENT: Employees are prohibited from accepting new full time employment while absent on an approved military family 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.

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

I:\ACR\Union County\CBA's, Handbooks and Policies\Military leave\Military family leave policy revised 9.27.13.doc

Resolution No. 2013-815

Adopted: October 10, 2013