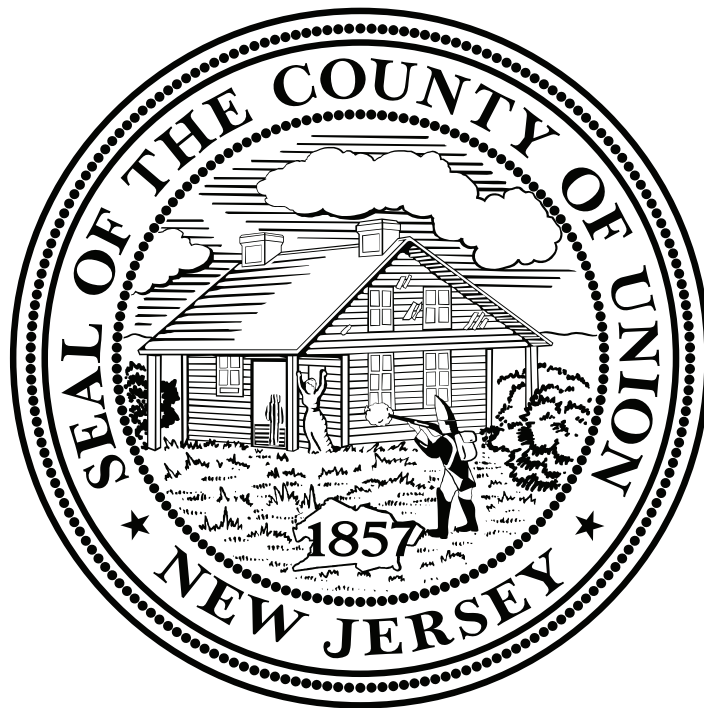


COUNTY OF UNION

FAMILY LEAVE AND MEDICAL LEAVE ACT POLICY



EDWARD T. OATMAN
COUNTY MANAGER
2024

UNION COUNTY
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BOARD OF COUNTY COMMISSIONERS



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 "NJFLA") 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 have worked at least 1,000 hours for NJFLA in the preceding 12 months (or 1,250 hours for FMLA leave). This policy 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 or have not worked the requisite number of hours 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>
MEDICAL LEAVE Your own serious health condition that prevents you from performing the essential functions of your job.	You must be employed by the County for at least 12 consecutive months and have worked at least 1,250 hours during the 12 months immediately prior to starting your leave.	Family and Medical Leave Act (“FMLA”)
FAMILY LEAVE ¹ 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.	You must be employed by the County for at least 12 consecutive months and have worked at least 1,250 hours (FMLA) or 1,000 hours (NJFLA) during the 12 months immediately prior to starting your leave.	Family and Medical Leave Act (“FMLA”) and New Jersey Family Leave Act (“NJFLA”)
FAMILY LEAVE 1. Care for a family member ² who has been isolated or quarantined because of suspected exposure to a communicable disease during a state of emergency. 2. To provide care for your child during a state emergency if the child’s school/childcare center is closed due to epidemic or other public health emergency. 3. To care for a family member, or someone who is the equivalent of family, with a serious health condition that leaves them unable to work or attend school.	You must be employed by the County for at least 12 consecutive months and have worked at least 1,000 hours during the 12 months immediately prior to starting your leave.	New Jersey Family Leave Act (“NJFLA”)

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 NJFLA, leave must start within the first twelve months following birth, adoption or foster care placement.

² Under NJFLA, family member includes a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, 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.

IV. DURATION OF LEAVE: Employees can take up to 12 weeks of either FMLA or NJFLA, 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 FMLA leave in any 12-month period. Under the NJFLA, eligible employees with qualifying circumstances can take up to 12 weeks of leave in any 24-month period. Leave will run concurrently under both laws when an employee takes leave for a reason that qualifies under both NJFLA and FMLA, so employees can take no more than a maximum of 12 weeks of family leave in any twelve-month period. Because the NJFLA does not include medical leave for one's own health condition, use of medical leave under the FMLA will not impact the right to take family leave under the NJFLA.

The 12-month (FMLA) or 24-month (NJFLA) period begins the first day of leave and continues forward for 12 or 24 months. For example, if an employee took 4 weeks of medical leave under FMLA starting on June 1, 2022, they will have an additional 8 weeks of medical leave during the remainder of the 12 months through May 31, 2023.

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 work or unable to perform other regular daily activities (or leaves a child unable to attend school) and involves one of the following:

- 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, which also involves (a) two or more treatments by a health care provider or (b) one treatment followed by regimen of continuing treatment;
- 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 (e.g. diabetes, epilepsy, etc.);
- Permanent Long-Term Condition Requiring Supervision - a period of incapacity which is permanent or long-term for which treatment may not be effective (e.g., strokes, Alzheimer's or terminal stages of a disease); 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 (e.g., chemotherapy for cancer, dialysis for kidney disease, etc.).

"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" generally does not include the common cold, sore throat, seasonal Flu, COVID-19 (unless extenuating circumstances), or routine medical or dental visits.

VI. **ADVANCE NOTICE:** All employees requesting FMLA or NJFLA leave must provide written notice of the need for leave to the Department/Division Head. When the need for the leave is foreseeable, the employee must provide the Department/Division at least 30 days' notice. When an employee becomes aware of a need for FMLA or NJFLA leave fewer than 30 days in advance, the employee must provide notice of the need for the leave either the same day the need is discovered or the next business day. 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 their job through job abandonment.

The County will respond in writing to all requests for leave.

VII. **REPORTING FMLA/NJFLA TIME:** The employee will be responsible to report time off as absences that are related to the FMLA/NJFLA qualifying event to FMLA Source and to their Department/Division. If the employee fails to report the absence as a qualifying event, the absence will not be designated as a FMLA/NJFLA leave and it will not be protected under the law. Unprotected absences can lead to disciplinary action up to and including termination. Further, employees may not use FMLA/NJFLA leave for any absence other than those caused by the qualifying event.

VIII. **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 half (1/2) day every Thursday to receive treatments. A reduced leave schedule is a leave schedule that reduces your usual number of working hours per workweek or per workday, to attend weekly medical appointments and/or treatments.

For intermittent or reduced leave due to the birth or adoption of a child, the employee must make reasonable effort to schedule leave so that it does not unduly disrupt operations and provide not less than 15 days' notice. 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. 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.

IX. MEDICAL CERTIFICATION: If you are requesting a leave of absence due to your own serious health condition or the serious health condition of a family member, 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 re-certifications 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.

X. USE OF BENEFIT TIME AND UNPAID LEAVE: Under FMLA and NJFLA, leaves of absence are 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). Employees may also be eligible for Family Leave Insurance benefits if taking family leave.

An employee who is taking FMLA due to their own serious health condition must use accrued sick leave and with an option to save two weeks of sick time before being eligible for unpaid leave. An employee who is taking FMLA and/or NJFLA due to the birth, placement or adoption of a child, or caring for a family member must use accrued sick leave with an option to save two weeks of sick time before being eligible for unpaid leave. In addition, employees may choose to be paid with use of their accrued vacation, personal/religious leave or compensatory time following exhaustion of sick leave. Employees may, but are not required to, use accrued time off if taking leave under NJFLA.

Employees do not earn/accrue sick leave, personal time and vacation time during an unpaid family or medical leave. Employees who have exhausted all of their available time do not accrue leave time during unpaid leave. An employee on leave without pay for a full calendar month will not accrue any sick, vacation, or other leave time for that month. Employees who maintain paid status for some portion of a calendar month will receive prorated paid time for that month. If you used more paid time off than you accrued, your negative balance will remain until you return from your leave. The first paid

time off you earn will be credited against your negative balance. Employees will not be paid for holidays occurring during a family or medical leave of absence.

<u>Unpaid Workdays in Month</u>	<u>Accrued for Month</u>
Up to 6	1 month
7 to 16	½ month
>17	0

**The same proration will be applied for employees on an intermittent unpaid status.*

XI. CONTINUATION OF BENEFITS: During FMLA/NJFLA leave, the County will maintain health insurance and other group benefits on the same condition as if the employee was working, subject to any benefit changes affecting other employees in similar positions. An employee must pay the same contribution rate as if they were an active employee to continue benefits. If any portion of the leave is paid, the employee's share of the benefit premiums will be paid through automatic payroll deductions. During unpaid leave, the employee will be billed by the Division of Personnel and Labor Relations and must make payment for their share of the premiums monthly. The County's obligation to maintain health benefits ceases if an employee fails to pay their share of premiums.

Seniority rights will accrue for up to twelve weeks of family leave and/or medical leave, provided you return to work 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.

XII. SPOUSES EMPLOYED BY THE COUNTY: If both spouses are employed by the County, family leave for bonding with 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.

XIII. 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 Department/Division Head at least 7 calendar days before your scheduled return to work date.

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 written request to your Department/Division Head. Employees on a leave of absence for their own serious health condition will need to submit a return to work medical certification before you are permitted to return. The certificate must state the date 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.

XIV. 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 NJFLA, 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.

XV. COORDINATION OF FMLA AND NJFLA LEAVES: If your leave qualifies under both the FMLA and the NJFLA, 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 NJFLA family leave. Employees should speak to their Department/Division’s Personnel Liaison to understand how much leave they are eligible to request.

XVI. OUTSIDE EMPLOYMENT: Employees are prohibited from accepting employment while absent on an approved FMLA or NJFLA. Employees may not use FMLA/NJFLA to perform work for another employer. Employees who are on an approved leave of absence may not engage in any form of self-employment or perform work for any other employer during that leave, except when the leave is for military or public service or when the employment has been approved by the County under its Outside Employment policy and the employee’s reason for leave does not prevent the outside employment.

XVII. 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: 2024-44

Adopted: January 4, 2024

THE UNION COUNTY BOARD OF COUNTY COMMISSIONERS



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