

**CHAPTER 6**

**BENEFITS AND LEAVE**

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## CHAPTER 6

### BENEFITS AND LEAVE

**Purpose:** The purpose of this Chapter is to describe the coverage of, and eligibility for, Loudoun County's benefit plans and related forms of leave, as provided to County employees in classified positions and others as designated by the Board of Supervisors.

**Intent:** Loudoun's benefit plan, including provision of leave, is intended to be provided on an equitable, uniform and non-discriminatory basis and to be competitive with the labor market and other public and private sector employers.

#### 6.0 ADMINISTRATION<sup>1</sup>

The County Administrator is authorized to administer the benefits plan as established by the Board of Supervisors, and is authorized to make exceptions to leave policies on a case-by-case basis. Recommended amendments to the benefits plan may be made to the Board of Supervisors in order to remain competitive in the labor market or for other appropriate reasons. All amendments to the benefits plan must be approved by the Board of Supervisors.

#### 6.01 DEFINITIONS<sup>2/3/4</sup>

Anniversary Date: The date an employee is appointed to a position that is eligible to accrue paid leave benefits. Anniversary dates shall be adjusted for breaks in service or for loss of eligibility due to transfer to a position that is not eligible to accrue leave benefits.

Extended Family: The employee's spouse, and either the employee's or employee's spouse's son, daughter, grandchild, brother, sister, parent, grandparent, or guardian and any of the above relations as a step.

Immediate Family: The employee's spouse, son, daughter, or parent and any of these relations as a step.

Leave Year: Generally a calendar year, but administered in respect to County pay periods. The leave year begins with the first day of the first pay period in the calendar year, and ends with the last day of the last pay period of the calendar year.

Senior Staff: Employees who are full-time, FLSA exempt and classified as Specialist IV, Advisor/Managers or Executives.<sup>3</sup>

Value of a Day: 1/10<sup>th</sup> of the employee's regular bi-weekly scheduled hours, rounded up to the nearest quarter hour. For half-day holidays, the value of a day shall be 1/20<sup>th</sup> of the employee's regular bi-weekly scheduled hours, rounded up to the next quarter hour.

<sup>1</sup>Revised effective July 24, 2000

<sup>2</sup>Administrative revision effective August 14, 2003

<sup>3</sup>Revised effective December 4, 2003

<sup>4</sup>Revised October 21, 2008

## **6.1 ELIGIBILITY AND COVERAGE**<sup>5/6/7/8/9</sup>

### **6.1 ELIGIBILITY AND COVERAGE**

- (A) Applicability: Unless otherwise stated, the policies in this Chapter pertaining to paid holidays and leave benefits shall apply to all regular employees who are scheduled to work 20 or more hours per week, and long-term full-time temporary employees.
- (B) Benefits Subject to Change: Benefits, including eligibility criteria, accrual rates and employee/employer cost sharing formulas, shall be subject to periodic review and change. Benefits are provided as approved by the Board of Supervisors and are subject to appropriation of funds.
- (C) Eligibility:
  - (1) Full-time regular employees<sup>8/9</sup>: (including employees who are still serving their probationary period) are eligible for County benefits as depicted in the Benefits Eligibility Summary in Appendix A.
    - a. Membership in the Virginia Retirement System (VRS) is mandatory for all regular full-time employees who are authorized to work 30 or more hours per week in a VRS covered position. Employees rehired on or after July 1, 2010 are subject to membership criteria as outlined in amended VA Code §51.1-144.
  - (2) Part-time regular employees: are eligible for partial benefits as illustrated in Appendix A.
  - (3) Temporary employees: are provided with limited benefits as illustrated in Appendix A only if the employee is appointed to work in a continuous full-time capacity for one year or longer.
  - (4) Cooperative Agreements: Any cooperative agreement provisions related to benefits coverage are effective only for employees subject to the agreement. Otherwise, the provisions of this chapter shall apply.

<sup>5</sup> Revised March 17, 2003

<sup>6</sup> Administrative Revision, Effective August 14, 2003

<sup>7</sup> Revised July 20, 2010

<sup>8</sup> Revised July 6, 2011

<sup>9</sup> Revised June 5, 2012; Effective July 1, 2012

- (5) Members of Boards and Commissions:
- i. Members of the Board of Supervisors are eligible for County health insurance benefits at the rates assessed for full-time employees. Former members of the Board of Supervisors are eligible to retain health insurance benefits if, at the time they leave office, they would have met the age and service requirements for retirement under VRS. Cost sharing formulas will be determined based on years of service as a member of the Board of Supervisors.
  - ii. Members of Board-appointed committees, commissions and advisory boards are not eligible for health insurance or other County benefits, unless required by State or Federal law or unless employed in another position which is eligible for County benefits.
- (6) Grandfathering Clause: Employees appointed to a regular part-time position prior to 3/17/92 are eligible for coverage under County group health insurance if working 20.0 hours or more per week. Contribution rates shall be the same as full-time employees. Employees who voluntarily change their employment status after 3/17/92 will be subject to the benefits and contribution rates of the status to which they transfer.
- (7) Reduction in Force: Employees whose hours are involuntarily reduced by Board of Supervisors action are eligible to retain group health insurance based on his/her scheduled hours prior to the reduction, provided that the reduction does not go under 20 hours per week and the employee has been a full-time regular employee for more than one year. All other benefits will be subject to the eligibility and cost sharing formulas consistent with the employee's new status/scheduled hours.
- (D) <sup>10/11</sup>Reinstatement: If an employee terminates employment with the County and is reinstated to any regular County employment within 26 weeks of separation, unpaid annual and/or sick leave balances (including longevity days with an adjusted anniversary date) will be restored. All other conditions in HR policy 5.6.04 apply.

<sup>10</sup> Revised effective November 18, 2002

<sup>11</sup> Revised effective June 6, 2006

## **6.2 LEAVE AUTHORIZATION AND REPORTING**

### **6.2.01 Approval and Reporting<sup>12</sup>**

- (A) Leave must be pre-approved by the supervisor (at the limited supervision level or above) using procedures established by the department. It is intended that leave (other than sick leave) will be scheduled at a time that is mutually agreeable to the employee and the County. However, the supervisor does have the authority to deny leave requests for service or programmatic reasons. If an emergency or unforeseen circumstance occurs requiring an absence from work, the employee must notify his/her supervisor and obtain approval as soon as reasonably possible. A supervisor's signature on a timesheet will be interpreted as approval, unless the supervisor includes the comment "paid but unapproved" on the timesheet. This is a method for the supervisor to allow the employee to be paid for leave, but document that he/she did not approve the use of leave.
- (B) Various types of leave are intended to be approved only for their intended use (i.e. sick leave for an illness, etc.) However, it is acceptable for an employee to use other leave balances to cover sick leave absences, if necessary. It is the supervisor's decision as to what form of leave should be used if a conflict occurs (e.g., an employee who is on scheduled annual leave and becomes ill).<sup>13</sup>
- (C) Managers may place employees who are absent from duty without approval in an unpaid status (Absence Without Authorization) or in a paid status (enforced Annual Leave or enforced Exchange Time) for the duration of the absence. These categories do not constitute approved leave and may be used as documentation for disciplinary actions based on absenteeism. Absences recorded in these categories may be converted to approved leave if the employee ultimately provides adequate justification for the absences.
- (D) Absences for Senior Staff employees must be charged in increments of full days.
- (E) Unless otherwise stated, all leave for exempt non-Senior Staff and non-exempt employees shall be reported in 15-minute increments. However, leave without pay for exempt non-Senior Staff must be charged in full day increments.

### **6.2.02 Abuse of Leave**

- (A) False or fraudulent use of leave, or failure to follow leave policy, may be cause for disciplinary action. A Department Head (or his/her designee) has the authority to require doctor certification of illness in any situation when there is a suspected abuse of sick leave.
- (B) Failure to obtain supervisory approval for leave will result in no payment for the absence, will be considered as unauthorized leave, and may be cause for disciplinary action.

<sup>12</sup> Revised March 20, 2007

<sup>13</sup> Revised December 2, 2015, Effective December 17, 2015

**6.3 PAID HOLIDAYS<sup>14/15</sup>**

(A) The County recognizes 12 and 1/2 paid holidays per year including one (1) floating holiday. Paid holidays are listed below:

New Year's Day	Veteran's Day
Martin Luther King Jr. Day	Thanksgiving Day
Presidents Day	Thanksgiving (day after)
Memorial Day	Christmas Eve (1/2 day)
Independence Day	Christmas Day
Labor Day	Floating Holiday
Columbus Day	

(B) Ten-month employees, such as pre-school teachers and aides, CASA supervisors and aides, and crossing guards who are eligible for paid holidays will receive the Value of a Day (6.01 Definitions) for the following 11 and 1/2 paid holidays per year including one (1) floating holiday. (*Independence Day excluded*)

New Year's Day	Veteran's Day
Martin Luther King Jr. Day	Thanksgiving Day
Presidents Day	Thanksgiving (day after)
Memorial Day	Christmas Eve (1/2 day)
Labor Day	Christmas Day
Columbus Day	Floating Holiday

(C) Actual dates that these holidays are observed will be designated annually by Human Resources in accordance with federal guidelines.

(D) An employee may not earn paid holidays while on unauthorized leave, leave without pay, or if working less than their scheduled hours. Employees must be in a paid status the day before and the day after a holiday in order to receive pay for the holiday. Ten-month employees must be in a paid status their last regularly scheduled work day before the holiday and their first regularly scheduled work day after the holiday in order to receive pay for the holiday. Employees who are eligible for paid holidays shall receive the Value of a Day for each designated holiday declared by the Board of Supervisors, County Administrator, or his/her designee.

(E) Employees eligible for paid holidays will receive one (1) floating holiday per calendar year. The day must be requested in advance and in accordance with department protocol and is subject to supervisor's approval.

(1) Required Use Per Year: If an employee fails to take their floating holiday each calendar year, it is automatically forfeited at the end of the calendar year.

(2) Payment Upon Separation: An unused floating holiday is not paid at the time of separation.

**6.4 TYPES OF LEAVE**

6.4.01 Annual Leave<sup>16</sup>

- (A) Purpose: Annual leave is provided to foster periodic changes of pace and rest for employees. The use of annual leave may be approved for any purpose, i.e. sick leave, bereavement leave, etc.
- (B) Leave Advance<sup>17</sup>: Annual leave equivalent to five days accrual (based on the employee's Value of a Day) will be advanced to all new hires in regular full time positions on the date of hire. Annual leave accrual will begin on the 12<sup>th</sup> pay period. If an employee leaves County employment during the first year of employment, the leave will be reconciled as outlined in Section F.
- (C) Accrual Rates<sup>17</sup>: After the first 11 pay periods, annual leave is accumulated on a pay period by pay period basis. The amount accrued is based on the number of hours authorized for the position, as shown in the following schedule:

<u>Weekly Regularly Scheduled Hours</u>	<u>Bi-Weekly Regularly Scheduled Hours</u>	<u>Leave Hours Accumulated Per Pay Period</u>
40.5-42.0	81-84	4.00
38-40	76-80	3.75
35-37.5	70-75	3.50
32.5-34.5	65-69	3.25
30-32	60-64	3.00
27.5-29.5	55-59	2.75
25-27	50-54	2.50
22.5-24.5	45-49	2.25
20-22	40-44	2.00
Less than 20 hours	Less than 40 hours	0.00

- (D) Longevity Leave: Longevity leave (based on length of County service) is factored into annual leave accumulation, providing leave days in addition to those described above. The following chart depicts the number of days of longevity leave that are earned each year based upon years of service. The number of hours of longevity leave awarded are calculated based upon the Value of a Day and the employee's Anniversary Date.

<u>Completion of Service Year</u>	<u>Longevity Days</u>
2	1
3	2
4	3
5	4
6	5
7	6
8	7
9	8
10	9
11	10
12	11
13	12

<sup>16</sup> Revised March 20, 2007, Effective April 5, 2007  
<sup>17</sup> Revised July 7, 2009

(E) Annual Leave Balances: Any annual leave balance above 364 hours is forfeited at the end of the Leave Year.<sup>18</sup>

(F) <sup>19</sup>Payment Upon Separation: Upon separation from County employment, an employee shall be paid for the unused balance of his/her annual leave, not to exceed 364 hours. The hourly rate used to calculate payment of annual leave will be the rate of pay at time of separation.

If an employee separates from County employment during the 11 pay periods, annual leave payment will be prorated based on the length of employment. If an employee has used more annual leave than the prorated accrual, the employee will be required to pay the excess advanced annual leave used. Conversely, if the employee has used less annual leave than the prorated accrual, the employee will be paid the difference between the prorated and the actual amount of leave used.

(G) <sup>19</sup>Mandatory Leave for Positions of Trust: All regular employees in full-time or part-time positions of trust are required to take five (5) consecutive work days of leave each calendar year during the second and subsequent full calendar years of employment. Positions of trust are defined as positions of fiscal responsibility including, but not limited to, positions requiring employees to receipt or disburse monies, to reconcile or journalize accounts, to process payroll transactions, to purchase goods and services, to process cash or credit card transactions, and/or to be responsible for the management of county funds. Human Resources maintains a list of approved positions of trust. All positions of trust are approved by the County Administrator or his/her designee. Employees in positions of trust required to take five (5) consecutive work days of leave are expected to use their accrued annual leave. If an employee does not have sufficient accrued annual leave, then he/she may use personal leave or a floating holiday and/or may be required to take leave without pay. Failure to take the required leave may result in disciplinary action. (Refer to Chapter 6.2 for county leave approval and reporting policies.)

#### **6.4.02 Family and Medical Leave<sup>18</sup>**

(A) Purpose: To establish the conditions and criteria under which an employee may qualify for leave under the amended Family and Medical Leave Act of 1993 and rules for administering the Act. It is the policy of Loudoun County Government (“Loudoun County” or “the County”) to grant up to 12 work weeks of family and medical leave (which may be extended for up to 26 work weeks in the case of Military Care Giver Leave) during any 12 month period to eligible employees. The leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy. Employees may be eligible for additional job protected leave as defined by the state or local jurisdiction in which they work.

<sup>18</sup>Revised December 2, 2015, Effective December 17, 2015

<sup>19</sup>Revised and Effective June 7, 2011



Family/Medical leave of absence (“FMLA leave”) is defined as an approved absence available to eligible employees for up to 12 work weeks of unpaid leave per each 12 month period for the following reasons:

- (1) Birth of the employee’s child or placement of a child with the employee for adoption or foster care
  - (2) For the employee to care for an immediate family member (spouse, son, daughter or parent) with a serious health condition
  - (3) To take medical leave when the employee is unable to work because of his or her own serious health condition
  - (4) Because of a “qualifying exigency” arising out of the fact that an employee’s spouse, son, daughter or parent is on active duty or called to active duty status as a member of the National Guard or Reserves. A “qualifying exigency” leave is also available to family members (spouse, son, daughter, or parent) of active duty military members who are or have been deployed to active duty in a foreign country. Qualifying exigencies may include:
    - (a) Short-notice deployment
    - (b) Military events and related activities
    - (c) Childcare and school activities
    - (d) Financial and legal arrangements
    - (e) Counseling
    - (f) Rest and recuperation
    - (g) Post-deployment activities
    - (h) Additional activities to address other events which arise out of the covered military member’s active duty or call to active duty status.
- (B) Eligibility: In order to qualify to take FMLA leave under this policy, the employee must meet all of the following conditions:
- (1) The employee must have worked for Loudoun County for at least 12 months. The twelve months need not have been consecutive. For the purposes of determining 12 months of employment, the prior seven years will be considered.
  - (2) The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave, holidays or vacation as hours worked. Consequently, these hours of leave are not counted in determining the 1,250 hours eligibility test.

- (3) Loudoun County provides FMLA leave to otherwise eligible employees that have a physical work location within a radius of 75 miles to the employee's designated County worksite. Employees that telework full-time and are outside of this 75-mile radius are not eligible for FMLA leave.
- (4) Loudoun County reserves the right to deny requests for a FMLA leave where such a denial would be appropriate and authorized under federal law and any applicable state law

(C) Length of Leave

- (1) Regular Leave: If eligible for FMLA leave, an employee may take up to 12 calendar work weeks of Family and Medical Leave within a 12 month period. The 12 work week period is based on the employee's authorized work week. The 12 work week maximum will be reduced by time spent on FMLA leave in the past 12 month period preceding the leave request. The 12 month period begins on the first day of approved FMLA Leave.
- (2) If both the employee and spouse work for the County, both may only take a combined total of 12 work weeks in any 12 month period for the birth or placement of a child. Each employee is entitled to leave of up to 12 work weeks to care for a child or the employee's spouse with a serious health condition, for the employee's own serious health condition, or to care for the employee's parent (but not a parent in-law) with a serious medical condition.

(D) Measurement Period: Loudoun County will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the County will compute the amount of leave the employee has taken under this policy and subtract it from the 12 work weeks of available leave. The balance represents the remaining time available under FMLA leave job protection.

(E) Conditions for Taking Leave: An employee may take leave because of a serious health condition which is as defined as:

- (1) A condition which requires inpatient care at a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
- (2) A condition which requires continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition which, if left untreated, would result in a period of

incapacity of more than three days, would be considered a serious health condition. Employees are required to provide a doctor's certification of the serious health condition. The certification process is outlined in the section below entitled "Certification of the Serious Health Condition". If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests leave as provided under this policy, the County may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications. An eligible employee can take up to 12 work weeks of leave under this policy during any 12 month period.

- (3) The employee must give the County 30 calendar days advance notice. If it is not possible to give 30 calendar days advance notice, the employee must give as much notice as is practicable. If an employee fails to provide 30 days advance notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer receives notice if the need for the leave and the approximate date leave would be taken were clearly foreseeable to the employee 30 days in advance of the leave.

(F) Certification of Family and Medical Leave and Leave for Exigency

- (1) To support the need for Family Medical Leave for the employee or eligible family member, the requesting employee must submit certification providing the appropriate facts related to the reason leave is being sought.
- (2) To support the need for Exigency Leave under the FMLA, the requesting employee must submit certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought. The appropriate documents may include, but are not limited to, a copy of the military member's active duty orders. Failure to provide certification may result in a denial of continuation of leave.

(G) Use of Paid or Unpaid Leave:<sup>34</sup>

Employees must use accrued leave to cover any unpaid periods. The employee must use accrued leave before being eligible for unpaid leave for what remains of the FMLA entitlements. Leave for an employee's serious health condition including for the birth of a child and workers' compensation leave (to the extent that it qualifies), will run concurrently with FMLA leave.

- (H) Continuation of Benefits: Loudoun County will continue an employee's group health plan benefits during an approved FMLA leave at the same level and under the same conditions as if the employee was continuing to work. The employee is responsible for making the employee's contribution toward his/her portion of benefit premiums.

If the employee chooses not to return to work for reasons other than a continued serious health condition or other circumstances beyond the employee's control, the County will request the employee to reimburse the County the amount paid for the employer's share of the cost of the employee's group health plan benefits during the FMLA leave period.

- (I) Intermittent or Reduced Schedule Leave: An employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year), or under certain circumstances may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks over a 12 month period. If the leave is foreseeable based on planned medical treatment, including recovery from a serious health condition, the County may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule. If an accommodation for an intermittent leave cannot be met, the County may require the employee to take the time as a continuous leave.

The minimum period of time that can be taken is 15 minutes. Time attributed to FMLA leave will be in increments of a quarter of an hour (15 minutes / .25).

Eligible employees may take intermittent leave following the birth, adoption or foster care of a child under the following conditions:

- (1) Leave must be taken within one (1) year of the birth or placement of the child. This leave may only be taken on a consistently applied schedule, consisting of continuous leave in segments of one (1) week or more (no more than three (3) segments of time) to minimize disruptions to Loudoun County operations.
  - (2) While on leave, an employee may be permitted to attend classes or court appearances related to his/her job when the leave is not for the employee's own serious health condition and/or the employee's medical provider provides a medical release for the employee to attend.
- (J) Return to Work Certification: Department Heads may require a fitness for duty exam from an employee's health care provider to certify that the employee is able to resume work providing the employee has taken leave for their own serious health condition. If limitations are placed on the return to work by your health care provider, these limitations must be clearly stated.
- (K) Restoration to Former or Equivalent Position: Loudoun County will make no distinction as it relates to Key Employees as defined under the FMLA.<sup>1</sup> All employees are granted equal job restoration rights, regardless of his/her position.

Upon return to work from an approved leave, the County will make every effort to place an employee in his/her former position or a position of equivalent to the one held before the start of the leave, subject to any extenuating circumstances which may occur to the County's operations during the leave which would have affected the employee had he/she not been on leave. The position will be the same or one which is equivalent in terms of pay, benefits, and working conditions.

- (L) Military Care Giver Leave: An eligible employee who is a spouse, son, daughter, parent or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness that was incurred in the line of active duty may be granted up to 26 work weeks of unpaid leave, calculated on a rolling forward basis, during a single 12 month period to care for the service member. If both employee and spouse work for the County, both are entitled to a combined total of 26 work weeks.

Military Care Giver Leave applies to veterans on the temporary disability retired list who are undergoing medical treatment, recuperating, or are in therapy for a serious injury or illness incurred in the line of active duty, if the treatment, recuperation or therapy is occurring within 5 years of the veteran's military service. Serious injury or illness includes injuries or illnesses that existed prior to the military service, if they were aggravated by the service.

- (1) Certification of Military Care Giver Leave: To support the need for Military Care Giver Leave, the requesting employee must submit certification providing the appropriate facts related to the reason leave is being sought. The appropriate documentation may include, but are not limited to, the nature of the service member's injury or illness, a statement that the injury or illness was incurred while the service member was on active duty and a brief statement of treatment.

**To the extent that any federal, state, or local law contains leave requirements that differ in any way from those stated in this policy, Loudoun County will satisfy the federal, state, or local requirements.**

**Refer to the Administrative Policy and Procedure HR-18 and HR-18(a) for additional information and procedures regarding this FMLA and Military Care Giver Leave.**

**6.4.03 Sick Leave<sup>20</sup>**

- (A) Purpose: Sick leave is intended to be used when an employee is incapacitated by physical or mental disability, sickness, or injury: for medical, dental or optical diagnosis or treatment of the employee or a member of the employee's Immediate Family; childbirth; necessary care and attendance of a member of the employee's Immediate Family; exposure to a contagious disease when the employee's attendance at duty jeopardizes the health of others. Sick leave accruals are not an entitlement to use beyond 26 weeks within a 12 month period (38 weeks if on approved leave extension) and are coordinated with other HR policies (i.e. HR 6.4.07, HR 9.2).
- (B) Accrual Rates: Sick leave is accumulated each pay period. The amount accrued is based on the number of hours authorized for the position, as shown in the following schedule:

<b>Weekly Regularly Scheduled Hours</b>	<b>Bi-Weekly Regularly Scheduled Hours</b>	<b>Leave Hours Accumulated Per Pay Period</b>
40.5-42.0	81-84	4.00
38-40	76-80	3.75
35-37.5	70-75	3.50
32.5-34.5	65-69	3.25
30-32	60-64	3.00
27.5-29.5	55-59	2.75
25-27	50-54	2.50
22.5-24.5	45-49	2.25
20-22	40-44	2.00
Less than 20 hours	Less than 40 hours	0.00

<sup>20</sup>Revised effective June 6, 2006

- (C) Limitations on Accrual: There is no limit as to the number of sick leave hours which can be accumulated, maintained and carried over from one calendar year to the next.
- (D) FMLA: See Family and Medical Leave Policy and Procedures if condition lasts more than three calendar days and requires continued treatment by a health care provider.
- (E) Use of Other Leave Types: Sick leave used may not exceed the total amount accrued by the employee, although annual or exchange time leave may be used (at the employee's discretion) for sick leave purposes.
- (F) Documentation & Medical Examination: The employee's Department Head (or his/her designee) may require an employee to submit a written doctor's verification for any sick leave absence(s) or in the case of suspected fraudulent use of sick leave. The Department Head may require an employee to take a medical examination from a licensed physician or the County Health Department, at County expense, on returning from sick leave or on such other occasions that he/she deems it in the best interest of the County in order to determine that the employee is physically or mentally able to perform job duties.
- (G) <sup>21</sup>Payment Upon Separation: An employee who terminates employment with 10 or more years of County service in a leave eligible position shall receive a cash payment that is equal to 25% of the value of their unused sick leave. The amount shall be calculated based on the rate of pay in effect at the time of separation. The maximum payout that any one employee can receive is \$10,000 per lifetime.

#### **6.4.04 Leave Donations<sup>22</sup>**

- (A) If an employee or a member of the employee's Extended Family is suffering from an illness or injury that is prolonged, disabling, incapacitating or life-threatening as determined by a physician and all leave balances have been exhausted by the employee, additional leave may be available through leave donations.
- (B) All employees who accrue leave benefits are eligible to receive leave donations.
- (C) The employee (or his/her personal representative or physician) must submit a request for donated leave to their Department Head or the Department Head may initiate the request. The request must be initiated prior to the employee exhausting leave balances, unless mitigating circumstances are present. All requests for donated leave must be resolved within 30 days of initiation of request.

<sup>21</sup>Revised effective July 1, 2001

<sup>22</sup>Revised effective July 1, 2015

- (D) Department Heads are responsible for forwarding a request for leave donations to Human Resources for processing.
- (E) Donations may be solicited Countywide, and the employee, Department Head, and/or Human Resources can initiate the request for donated leave by Countywide email upon initiation and processing of said request by Human Resources.
- (F) Leave donations may be used to supplement disability benefits (unless the employee is receiving Injury Leave benefits). The combination of disability benefits and leave donations may not exceed the employee's authorized regular bi-weekly salary.
- (G) Leave donations are leave hours solicited from other employees. Employees are not required to pay back leave donations. Hours of donated leave are taxable income to the recipient.
- (H) Employees may donate accrued annual leave, sick leave, personal leave or exchange time leave. In order to donate leave, employees must maintain an annual leave balance equivalent to their bi-weekly authorized hours. In order to donate sick leave, employees must maintain a sick leave balance equivalent to their bi-weekly authorized hours. Employees may donate all personal leave and exchange time balances.
- (I) An employee may not donate hours if he/she has given notice of intent to leave County employment, as long as the employee maintains leave balances per subsection (H) above.
- (J) Leave donations may be used anytime within a 12 month leave period.

#### **6.4.05 Exchange Time Leave<sup>23</sup>**

- (A) Purpose: Exchange time leave is earned only by certain employees in specific circumstances (refer to 5.6.05 (E)). The use of exchange time leave may be approved for any leave purpose, i.e. annual leave, bereavement leave, sick leave, etc.

<sup>23</sup>Revised effective January 1, 2004



- (B) Required Use Per Year: Generally, exchange time should be used within the same Leave Year earned, with the exception of exchange time earned during the last two pay periods of the Leave Year, which should be used by the end of the following Leave Year.<sup>24</sup>
- (C) Payment, Carryover, and Conversion of Exchange Time Leave Balances: Non-exempt employees will receive payment at year end for unused exchange time, with the exception of exchange time earned during the last two full pay periods of the Leave Year, which will carryover to the following year. Non-exempt employees will receive payment of all exchange time leave balances upon separation from County employment.<sup>23/24</sup>

Exempt, non-Senior Staff employees will carry over exchange time hours not to exceed their regular biweekly scheduled hours and exchange time earned during the last two full pay periods of the Leave Year. Exchange time hours in excess of this will convert to sick leave at year end. Exempt, non-Senior Staff employees will receive payment of exchange time hours not to exceed their regular bi-weekly scheduled hours upon separation from County employment.<sup>24</sup>

(D)<sup>24</sup>

- (E) Effect of Transfer to Exempt Position: Non-exempt employees who have earned exchange time and who transfer to an exempt position shall be paid any exchange time balances that exist at the time of transfer. The amount shall be calculated using the last rate of pay in effect as a non-exempt employee.

#### **6.4.06 Personal Leave**

- (A) Purpose: Personal Leave is provided to exempt Senior Staff in recognition of additional hours worked that are not compensated. The use of personal leave may be approved for any leave purpose, i.e. annual leave, bereavement leave, sick leave, etc.
- (B) Accrual Rates: Senior Staff earn three days of Personal Leave at the beginning of each calendar year. Employees who are appointed on an acting basis to a Senior Staff position shall earn one day of Personal Leave for each four completed months of acting appointment.

<sup>24</sup> Revised effective January 1, 2004

- (C) Limitations on Balances: Personal leave days may be carried over from one calendar or fiscal year to the next, with no limit on the number of days accumulated.
- (D) Effect of Separation: There is no payment of personal leave balances upon separation from County employment.
- (E) Effect of Transfer to Non-Senior Staff Position: Employees who have earned Personal Leave and who transfer to a position that is not eligible for Personal Leave may retain and use Personal Leave balances that were previously earned.

#### **6.4.07 Injury Leave as Supplement to Workers' Compensation<sup>25/26</sup>**

- (A) Purpose: Injury Leave is provided as a supplement to Workers' Compensation for employees who are injured while on duty without fault or negligence on his/her part. In order to receive Injury Leave benefits, an employee's claim must be compensable under Workers' Compensation.
- (B) Benefit Amount: Injury Leave is paid as the difference between the employee's annual salary level and the amount awarded through Workers' Compensation that is required to maintain, but not exceed, the same level of income. Financial Services will determine the most appropriate method to administer this policy in conjunction with Workers' Compensation payments.
- (C) Limitations: Injury Leave benefits are provided for a maximum of 26 calendar weeks within a 12 month period from the date of initial injury or when lost work time begins, whichever is the later of the two. Once Injury Leave benefits are exhausted and the employee is unable to return to work, the employee is entitled to income replacement benefits provided by Workers' Compensation and long-term disability (LTD). The employee is required to file for LTD within the elimination period of 60 days and provide any information required for a claims determination in order to maintain eligibility for Injury Leave. Income replacement from any/all sources may not exceed 100% of employee's pre-disability earnings. An extension may be requested – see 6.4.13.
- (D) Benefit Commencement: Injury Leave begins at the date of initial injury. If the injury is determined to be non-compensable, the employee will be required to use any accumulated leave and repay any advanced injury leave provided to the employee. Injury leave benefits would be offset if the employee is released to a return-to-work status on a reduced schedule.
- (E) Length of Leave: An employee may request a leave extension of up to 12 weeks, providing the employee cannot physically return to full duty. The use of accrued leave balances is permitted during the approved extension. Refer to HR Policy Chapter 9.2.03 (B) for conditions and eligibility.

- (F) Documentation Requirements: During the period of Injury Leave, the County reserves the right to require the employee to provide supportive documentation from his/her treating physician. The County may obtain an independent medical evaluation conducted at County expense.
- (G) Effect on Other Leave Types: While on Injury Leave, paid leave will not accrue and an employee on Injury Leave is not eligible to receive any form of leave donation.

#### **6.4.08 Bereavement Leave**

- (A) Up to five (5) workdays of bereavement leave may be provided upon the death of a member of the employee's Extended Family. The five days provided are per incident.
- (B) There is no accumulation of bereavement leave days and no payment upon separation from County employment.

#### **6.4.09 Administrative Leave<sup>27</sup>**

- (A) Administrative leave at full pay may be authorized for the purpose of investigating or resolving work related complaints, allegations, offenses, charges or disciplinary action, or for providing paid leave prior to a dismissal from employment, or for testifying at work related judicial proceedings. The employee must be informed in writing of the administrative leave period and the general reason why he/she is being placed on administrative leave. While on administrative leave, the employee may be required to make himself/herself available during working hours. Department Heads may authorize up to ten (10) working days and the County Administrator may authorize additional days of administrative leave as required for these purposes.
- (B) Department Heads may authorize up to one day of administrative leave for emergency, work-related reasons and may be required to account for the number of and reasons for days authorized. Emergency is defined as a work-related incident that results in a short-term need to remove the employee(s) from the worksite for the benefit of the organization in that their continued presence could be detrimental to the employee(s), services or facility.
- (C) Administrative Leave does not affect other accrued leave balances and employees continue to accumulate annual and sick leave while on administrative leave.

<sup>27</sup>Revised effective November 18, 2002

**6.4.10 Court Leave<sup>29</sup>**

- (A) Court Leave is provided if an absence from work is necessary to accomplish a civic responsibility, such as jury duty, or in a non-work related capacity as a required witness. The maximum amount of leave that may be approved under this provision is the time required to be available to the Court (plus necessary travel time to or from work), not to exceed scheduled hours. No person who is summoned and appears for jury duty for four or more hours, including travel time, in one day shall be required to start any work shift that begins on or after 5:00 pm on the day of his/her appearance for jury duty or begins before 3:00 am on the day following the day of his appearance. Employees appearing in court either as defendant or plaintiff in a non-work related case are not eligible for Court Leave.
- (B) Employees who are requesting Court Leave will be required to furnish a copy of the official summons for jury duty or witness service when seeking approval. Employees are not required to reimburse the County for any court-provided compensation while on Court Leave.

**6.4.11 Military Leave**

- (A) Military Leave with Pay: Up to 15 workdays of military leave at full pay per Federal fiscal year is provided to regular employees who are ordered to active duty or training as a member of the National Guard, U.S. military retirees or United States Armed Forces Reserves. Military leave is prorated for those employees who work less than 7.5 hours per day.
- (B) Military Leave Bank: If an employee has been called to active military duty and has exhausted all annual leave and exchange time leave, the employee may use additional annual leave donated by other County employees to a military leave bank for use by employees on active duty. Donated leave shall not be used for military training purposes unless the training precedes or is otherwise scheduled in conjunction with the active duty.
- (C) <sup>28</sup>Military Leave Pay Supplement: If an employee has been called to active duty and is absent beyond fifteen (15) working days per Federal fiscal year and the employee has exhausted all annual leave, exchange time leave, and donated annual leave to the military leave bank, there will be no loss of pay if military pay is less than authorized County pay. The pay supplement shall be calculated based on the difference between the employee's County pay and the employee's authorized military pay. There shall be no pay supplement if military pay exceeds County pay. The Military Leave Pay Supplement shall not exceed twelve (12) months unless authorized by the Board of Supervisors. This type of military leave with pay will end upon the date of discharge.

<sup>28</sup>Revised effective April 7, 2003  
<sup>29</sup>Revised October 4, 2005

- (D) Use of Accrued Leave: The employee may voluntarily use accrued annual leave beyond paid military leave, or sick leave for any period hospitalized, or for other authorized purpose while on duty.
- (E) Military Leave Without Pay: Military Leave Without Pay is governed by these regulations and not those indicated in other policies pertaining to leave without pay. Military Leave Without Pay will be approved, in accordance with Federal and State law, for any regular employee who enlists, is inducted directly from County service into the Army, Navy, Marine Corp, Air Force, Coast Guard or Public Health Service, is ordered to active duty or training as a member of the Reserves or National Guardsmen.
- (F) Seniority Retained: All County pay and benefits that are calculated based on length of service shall continue without a break in service during periods of Military Leave or Military Leave Without Pay. An employee on military leave without pay is entitled to accrue subsequent paid leave at a rate as if no break in County service had occurred, and the employee's eligibility for retirement benefits may not be adversely affected if the employee applies to the retirement system for credit. All other County provisions for benefits apply as they would apply to any other employee on leave without pay.
- (G) Compliance with Federal and State Law: All provisions related to military leave, military leave without pay, salary and benefits, and reinstatement to position after completion of military service shall comply with State and Federal law. In the event of a conflict between County policy and Federal or State law, the latter shall prevail.

#### **6.4.12 Unscheduled Leave<sup>30</sup>**

Unscheduled leave is a term used in the context of severe weather situations or other severe unforeseen circumstances which prevents normal County operations and refers to a liberal use and approval of leave or leave without pay on such days, in that prior supervisory approval is not required. If an employee is scheduled to work on a day that is declared unscheduled leave and does not report to work that day, the employee shall decide whether to use accrued leave benefits (consistent with the leave usage requirements in this Chapter) or leave without pay. Employees in essential positions or public safety positions may be required to report to work on unscheduled leave days.

#### **6.4.13 Leave With/Without Pay<sup>31</sup>**

- (A) Leave without pay is an absence from work that is not covered by any form of paid leave. Leave without pay may be needed for (but is not limited to) absences due to health conditions; educational purposes; and personal, family, and child care issues.

<sup>30</sup>Revised June 1, 2004

<sup>31</sup>Revised effective June 6, 2006

- (B) If it is suspected that the situation may be covered by the Family Medical and Leave Act (FMLA), the employee and Department Head should request a FMLA determination. If it is determined that the leave without pay is covered by FMLA, all provisions of FMLA regulations must apply during the period of FMLA coverage.
- (C) If the leave without pay is not covered by FMLA, the following policies apply:
  - (1) Extended Leave With Pay / Leave Without Pay
    - i. All employees are eligible for leave without pay, subject to managerial approval.
    - ii. Department Heads may approve leave up to and including 13 consecutive calendar weeks. Only the County Administrator in coordination with the Department Head may approve leave that exceeds 13 consecutive calendar weeks.
    - iii. An employee on extended leave with pay may be placed on a leave without pay status at the end of 26 weeks within a 12 month period if they are unable to return to work.
    - iv. Any additional request beyond the 26-week period may be granted through an extension of up to 12 weeks based on operational need and is approved by the County Administrator. An employee may not exceed 38 weeks within a 12-month period in an inactive employment status / leave with or without pay under any circumstances.
      - 1. Employee may continue to use accrued leave during the approved extension, not to exceed 38 weeks.
  - (2) With consideration of the length of leave requested, leave without pay/extended leave results in a temporary vacancy that may reduce services. Managers must consider that extended leave should be in the best interest of the County in that the investment in the employee or the potential benefit to the County outweighs potential service reduction.
  - (3) If leave without pay / extended leave is approved, the employee is returned to the job or the employee may be reinstated to any other vacant position in the same department for which the employee is qualified at the expiration of the leave.
  - (4) If leave without pay / extended leave is not approved, the employee is considered absent without authorization and is subject to termination.
  - (5) Employment will terminate if the employee does not return to work at the end of 38 weeks.
- (D) An employee's benefits (health insurance, retirement, life insurance, accrual rates, etc.) may be reduced or eliminated when on leave with or without pay. Employees should contact Benefits staff in Human Resources for an evaluation of their specific situation and any resulting impact on benefits.

**6.4.14 Exceptional Performance/Recognition Leave<sup>32</sup>**

Department Heads may provide up to six full days of paid leave per employee per fiscal year. Leave may be granted by the Department Head in full day increments based on the Value of a Day for the employee's position. This leave can be used as a reward for exceptional job performance or as recognition for other work related accomplishments. All regular full-time, part-time and full-time long-term (longer than 1 year) temporary employees are eligible to receive exceptional performance/recognition leave (including employees who are still serving their probationary period). The County Administrator has discretion to approve additional days of paid leave. (See also 7.10)

**6.5 SCHOOL TO COUNTY TRANSFERS<sup>33</sup>**

Individuals who have terminated employment with Loudoun County Public Schools (LCPS) and are subsequently hired by the County, within 26 weeks of separation, into a leave eligible position will be treated as a reinstatement into a new position as outlined in 5.6.04. The value of the employee's new leave balances with the County will be based upon the "value of a day" for the new position.

<sup>32</sup>Revised October 16, 2007

<sup>33</sup>Revised effective June 6, 2006

**BENEFITS ELIGIBILITY SUMMARY**

**NOTE: THE BENEFITS ELIGIBILITY SUMMARY, “Appendix A” is a separate document, updated frequently, and maintained by Benefits.**

**Obtain the most recent update of the BENEFITS ELIBIGILITY SUMMARY from the Benefits portal on the County intranet.**