

Agenda Item # 34 DISTRIBUTION
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 Human Resources (2)

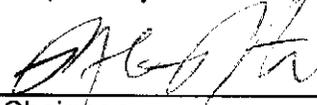
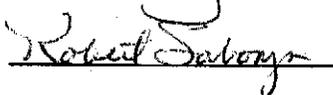
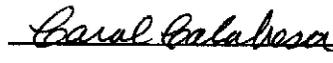
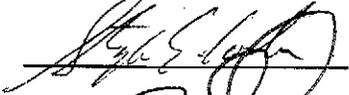
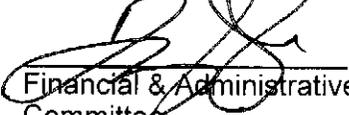
STATE OF ILLINOIS)
) SS
 COUNTY OF LAKE)

COUNTY BOARD, LAKE COUNTY, ILLINOIS
 ADJOURNED REGULAR SEPTEMBER, A.D., 2005 SESSION
 FEBRUARY 14, A.D., 2006

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Financial and Administrative Committee presents herewith an ordinance amending Section 4.8 Leave Absence of the Lake County Employee Policies and Procedures Ordinance and requests its adoption.

Respectfully submitted,

	Aye	Nay
Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<hr/>		
Vice-Chairman		
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Financial & Administrative Committee		

ORDINANCE

WHEREAS, the County of Lake established the Employee Policies and Procedures Ordinance to serve as a clear policy statement, providing for the equitable treatment of employees as well as the terms, conditions and benefits of the Lake County employment relationship; and

WHEREAS, the County of Lake establishes policies and procedures to ensure its compliance with the relevant County Board Rules and State and Federal laws concerning leaves of absences; and

WHEREAS, the County of Lake is committed to maintaining its leave of absence policies and thus subjects said practices to clarification and modification in order to be responsive to changes in the employment population and federal regulations; and

WHEREAS, the Finance and Administrative Committee of the County Board has reviewed the recommended amendments and adoption by the County Administrator and the Director of Human Resources.

NOW, THEREFORE, BE IT ORDAINED, by this the County Board of Lake County, Illinois, that the Lake County Employee Policies and Procedures Ordinance is hereby amended to include revised Section 4.8 as attached hereto and made part of this ordinance.

DATED, at WAUKEGAN, LAKE COUNTY, ILLINOIS, on this 14th day of February, A.D., 2006.

4.8 Leaves of Absence

Revision Date: August 5, 1993 and February 11, 1997

Revision Date: March 9, 2004

Revision Date: February 8, 2005

Revision Date: February 14, 2006

Policy

Lake County allows regular full time and part time Eligible employees to may apply for the following types of leaves of absences:

- A. Family Medical Leave (FMLA)
- B. Extended Medical Leave
- C. Temporary Personal Leave
- D. School Visits
- E. Victim's Economic Security and Safety Act (VESSA)

Procedures

A. FAMILY MEDICAL LEAVE (FMLA)

1. Eligibility Requirements:

An employee who has been employed for ~~at least one (1) year~~ a total of twelve (12) months (which need not be consecutive), and has worked for the County for at least 1,250 hours during the preceding 12-month period, is eligible for up to twelve weeks of FMLA leave per twelve month period if the employee is unable to work due to a serious health condition or if the employee needs leave for any of the following reasons:

- (a) For the birth of the employee's child and in order to care for the newborn child;
- (b) For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- (c) To provide care for an immediate family member (spouse, child, or parent but not "parent in-law") who has a serious health condition. (Note: the term "child" means a son or daughter under the age of 18. Adult children are not included unless the adult child is incapable of self-care due to a physical or mental disability.) (The terms "parent", "son" and "daughter" will be as defined by federal regulations at 29 CFR 825.113)

The entitlement to leave for a birth or placement of a child for adoption or foster care expires twelve (12) months from the date of the child's birth or placement. Any such FMLA leave must be concluded within this one-year period. Unless medically necessary,

such leave may not be taken in segments or intermittently without the written approval of the employee's Department Head.

The 1,250 hours required for eligibility includes only those hours actually worked for the County and does not include time spent on paid leave, unpaid leave, IMRF disability leave, or FMLA leave.

A "**serious health condition**" means an illness, injury, impairment, or physical or mental condition that involves:

- (a) Inpatient care (i.e. overnight stay) in a hospital, hospice, or residential medical facility or any period of incapacity or subsequent treatment in connection with such inpatient care; or
- (b) Any period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to such condition, that also involves either (1) treatment for two or more times by a health care provider, nurse or physician's assistant or by a provider of health care services under orders from, or on referral by a health care provider; or (2) treatment by a health care provider on one occasion that results in a regimen of continuing treatment under the supervision of a health care provider; or
- (c) Any period of incapacity due to pregnancy or prenatal care that involves continuing treatment by a health care provider; or
- (d) Any period of incapacity or treatment for incapacity due to a "chronic serious health condition" that continues over an extended period of time, requires periodic visits to a health care provider and may cause episodic rather than continuing periods of incapacity; or
- (e) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or
- (f) Any period of absence to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider either for restorative surgery after accident or injury or for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

~~The 1,250 hours required for eligibility includes only those hours actually worked for the County and does not include time spent on paid leave, unpaid leave, IMRF disability leave, or FMLA leave.~~

For purposes of this policy, the determination of whether an employee qualifies for FMLA leave will be based on the definition of "serious health condition" contained in federal regulations at 29 CFR 825.114. Pursuant to those regulations, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease do not meet the definition of a serious health condition and do not qualify for FMLA leave.

2. Placement of Employees on Family Medical Leave:

An employee who is eligible or who appears to be eligible for FMLA leave may be placed on FMLA leave by the County if it appears that the employee has a serious health condition even if the employee has not applied for such leave. Examples of situations where an employee may be placed on FMLA leave include, but are not limited to, the following:

- (a) The employee appears to have a serious health condition involving inpatient care at a hospital, hospice, or residential medical facility.
- (b) The employee has missed more than three (3) consecutive calendar days from work due to an illness or injury (including a workplace injury) that appears to qualify as a serious health condition as defined above.
- (c) ~~The employee has provided the County with work or light duty restrictions that prevent the employee from performing~~ The employee appears to have a serious health condition that makes the employee unable to work at all or unable to perform any one of the essential functions of the employee's position.
- (d) The employee has been approved for IMRF disability leave, worker's compensation payments or has requested a leave of absence for medical reasons.

Employees who are placed on FMLA leave will have their time off counted against their twelve weeks of leave entitlement even if they are using paid benefit time or are receiving worker's compensation payments or IMRF disability payments during their absence from work. The start date of the employee's FMLA leave may be retroactive to the first workday missed due to the serious health condition. If the employee is on an IMRF disability leave, a medical leave of absence or on leave due to an occupational injury, that leave will run concurrently with the employee's FMLA leave until the FMLA leave is exhausted.

If the County designates missed time as FMLA leave, the employee will be required to submit documentation and a completed medical certification within a specified time period as defined in Section 5(b) (Application for Leave and Medical Certification). If an

employee fails to submit the documentation and/or certification within that designated time period or submits incomplete documentation and/or certification and does not provide an acceptable explanation, the employee may be subjected to discipline, denied further leave and/or denied the use of paid benefit time.

3. **Length of Family Medical Leave:**

An employee who is eligible for FMLA leave may receive up to a total of twelve weeks of FMLA leave per a 12-month rolling time period. The 12-month rolling time period is determined by measuring backwards from the date the employee is placed on FMLA leave. In determining eligibility and how much FMLA leave an employee may be entitled to, the County will subtract any FMLA time that the employee used during that preceding twelve month time period. For employees who are placed on FMLA leave, the start date of their FMLA leave may be retroactive to the first workday that the employee missed due to their serious health condition.

As provided under federal regulation 29 CFR 825.205, an employee's normal "workweek" prior to the start of FMLA leave is the controlling factor for determining how much FMLA time an employee uses when on leave. For example, if an employee who normally works five days a week uses one day of FMLA leave, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under an intermittent FMLA leave schedule, the employee would use 1/2 week of FMLA leave each week. If an employee's normal workweek exceeds 40 hours, the calculation of total FMLA leave available for pro rata reduction of total leave entitlement during an intermittent FMLA leave will be based on the employee's normal work week—even if it exceeds 40 hours. Where an employee normally works a part-time schedule or variable hours, the amount of FMLA leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week while on intermittent leave, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the intermittent leave schedule.

If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave will be used for calculating the employee's normal workweek.

Where both spouses work for the County, they may, at the County's discretion, be limited to a combined total of 12 weeks of FMLA leave if they are seeking leave for (1) the birth and care of a child; or (2) for the placement of a child for adoption or foster care, and to care for the newly placed child.

4. Use of Paid Benefit Time While on Family Medical Leave:

Time off under the Family Medical Leave Act is unpaid unless the employee has benefit time available or is receiving worker's compensation or IMRF benefits. If an employee has benefit time available, the employee will be required to use his or her accrued sick leave, floating/ holiday hours, ~~compensatory time~~ and general leave time, in that order. However, if an employee qualifies for IMRF disability payments, the employee will not be required to use his paid benefit time once he satisfies IMRF's waiting period. If the employee stops receiving IMRF disability payments or worker's compensation payments while the employee is still on FMLA leave, the employee will then be required to use any available paid benefit time for the remainder of the leave.

An employee may elect to use compensatory time for FMLA leave but is not required to do so. Personal leave time under Section 4.7 may not be used for FMLA leave. Employees on FMLA leave will not accrue benefit time or seniority during the time the employee is on unpaid status or is receiving IMRF disability payments.

5. Applying for FMLA Leave:

(a) Notice of Leave:

An employee intending to take FMLA leave because of an expected birth or placement of a child, or because of a planned medical treatment, must submit an application for leave at least thirty (30) calendar days before the leave is to begin.

If the need for leave was not foreseeable and the leave is to begin less than thirty (30) calendar days from the date of application for such leave, the employee must give notice to his immediate supervisor and Human Resources as soon as the employee learns of the need to take FMLA leave.

Failure to give timely notice may delay the start of leave and it may result in the denial of paid benefit time and/or disciplinary action.

(b) Application for Leave and Medical Certification:

An employee requesting leave must complete the prescribed "Application for Family and Medical Leave" and submit a medical certification, the "Certification of Health Care Provider", completed by the employee's (or family member's) health care provider confirming the existence of a serious health condition and the duration of the expected leave. Both the application and the

medical certification should be submitted directly to Human Resources. Copies of the application will then be forwarded to the Department Head's attention for approval. The FMLA application must be approved by the Department Head and Human Resources.

The application for leave must state the date the employee is expected to return to work. The expected return to work date may not be more than twelve weeks from the start of the FMLA leave.

The medical certification for the employee's own serious health condition must state the following:

- the date on which the serious health condition began, the probable duration of the serious health condition and the date the employee can be expected to return to work;
- the appropriate medical facts regarding the condition;
- if additional treatments will be required for the condition, an estimate of the probable number, frequency and duration of such treatments;
- whether the employee is unable to perform any one or more of the essential functions of his job, including any specific functions that the employee is unable to perform
- if the certification is for intermittent leave for planned medical treatment, the certification must also state the dates on which such treatment is expected to be given and the duration of such treatment.

An application for leave based on the serious health condition of the employee's spouse, child or parent must also be accompanied by a "~~Medical Certification Statement~~" "Certification of Health Care Provider", completed by the applicable health care provider. The certification must state the following:

- the date on which the serious health condition commenced, the probable duration of the serious health condition and the date the employee can be expected to return to work;
- the appropriate medical facts regarding the condition;
- whether the patient requires assistance and how the employee's presence would be beneficial;
- an estimate of the amount of time (frequency and duration) that the employee is needed to care for the family member.

When the leave is foreseeable and 30 days notice has been provided, the employee is expected to submit the medical certification to Human Resources before his leave begins. For all other cases, Within fifteen (15) calendar days of

~~receiving the medical certification form from Human Resources~~, the employee must submit a completed copy of the medical certification form to Human Resources within fifteen (15) calendar days of receiving the form from Human Resources. If the certification form does not state an actual or estimated return to work date, the form will be returned to the employee as incomplete. The employee may also be required to complete and submit the "Application for Family and Medical Leave" within five (5) calendar days from the date that the employee receives the form from Human Resources.

If the application and certification forms are mailed to the employee's address on file, they will be presumed to have been received by the employee within three days of being mailed by Human Resources.

If an employee fails to complete the application or medical certification in full or fails to submit the application or medical certification within the designated time frames, the employee may be treated as absent without approved leave and the employee's leave may be delayed or denied. The employee may also be subjected to disciplinary action and/or denied the use of paid benefit time.

The County may, at its own expense, require an employee to obtain a second medical opinion from a health care provider chosen by the County to confirm the existence of a serious health condition. The County further reserves the right to require recertification of the serious health condition during the employee's leave and/or to require periodic reports on the employee's return to work status.

This entire section ("applying for FMLA leave") also applies to those employees who are placed on a designated FMLA leave by the County.

6. Intermittent Leave:

FMLA permits employees to take leave on an intermittent basis (not all at one time) when medically necessary to care for a seriously ill family member, or because of the employee's own serious health condition.

For an employee to be eligible for intermittent FMLA leave, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent leave schedule. The treatment regimen and the information contained in the medical certification of serious health condition must meet the requirements for certification of the medical necessity of intermittent FMLA leave. For an on-going serious health condition, employees will be required to provide periodic recertification of the medical necessity of intermittent FMLA leave. Requests for intermittent FMLA leave must be approved by the employee's Department Head and Human Resources.

Employees needing intermittent leave must attempt to schedule their leave so as not to disrupt the County's operations. If the employee has foreseeable planned medical

treatment, a Department Head may temporarily assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent schedule. If the employee has accrued benefit time available, he or she will be required to use their sick leave, floating holiday hours, ~~compensatory time~~ and general leave time, in that order, to cover their absences. After their accrued benefit time is exhausted, the remainder of their FMLA leave will be unpaid. Personal leave time may not be used for intermittent family medical leave.

Intermittent leave will only reduce the amount of allotted Family Medical Leave time by the amount of time actually taken. ~~(for example, if an employee takes four (4) hours of leave, he has only used four hours of the sixty work days allowed.)~~ See Section 3 "Length of Family Medical Leave" for further information regarding how the use of time will be calculated when the employee is on intermittent leave.

Intermittent leave may not be taken to care for a newborn or newly adopted or foster care child unless the employee receives the express written approval of his Department Head. If this approval is given, the leave must be taken and completed during the first twelve months of the child's birth or placement and the Department Head may rescind approval at any time.

By agreement between the employee and the Department Head, an employee may choose to take medical leave on a reduced leave schedule. This may involve reducing the employee's work hours per workday or workweek during the leave.

7. Benefits Coverage During Leave:

While on FMLA leave, the employee will remain on the County's health plan, under the same conditions that applied before the employee went on FMLA leave. To continue health coverage, the employee must continue to make any contributions that he made to the plan before taking leave. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage.

The County's obligation to maintain health benefits under FMLA stops if and when an employee informs the County that he or she does not intend to return to work at the end of leave period, or if the employee fails to return to work at the end of his approved leave.

The County reserves the right to require the employee to reimburse the County for health insurance premiums that the County paid during the employee's leave if the County finds evidence that the employee misrepresented the need for leave or otherwise obtained the leave through fraud. Employees on FMLA leave will not accrue benefit time or seniority once the employee exhausts their accrued benefit time or starts receiving payments from IMRF or the worker's compensation program. However, employees on FMLA leave will not lose any length of service benefits that accrued before the employee went on unpaid status.

8. Notice of Return From Leave:

An employee must complete a "Notice of Intention to Return From Family or Medical Leave" at the time the employee submits his application for leave. The application for leave must state the date the employee is expected to return to work. The expected return to work date may not be more than twelve weeks from the start of the FMLA leave.

(a) Early Return from Leave:

If the circumstances of the leave change and the employee is able to return to work earlier than the date indicated on the employee's FMLA application and medical certification, the employee must notify Human Resources and his Department Head at least two (2) working days prior to the date the employee intends to report to work.

(b) Confirmation of Return to Work Date:

With the exception of employees who return to work prior to their expected return to work date, employees must notify Human Resources and their respective Department Head at least seven (7) working days prior to their originally scheduled return to work date and either confirm that he will be returning to work on that date or request additional leave time confirm their return to work status.

If an employee's own medical condition prevents him from returning to work at the end of his FMLA leave, the employee must notify Human Resources and his Department Head no later than seven (7) business days before his return to work date and either request additional FMLA leave time (if the employee has not exhausted his annual entitlement and is still eligible for FMLA leave) or apply for an extended medical leave by submitting an "Application for Extended Medical Leave" and a medical certification, the "Certification of Health Care Provider", completed by the employee's employee's treating physician. (See section on Extended Medical Leave for further details.) ~~A request for an extended medical leave must contain a statement from the employee's doctor stating the amount of additional leave time being requested and the reason(s) for the extended leave. Requests for an extended medical leave of absence must be approved by both the employee's Department Head and the Lake County Director of Human Resources.~~ If the employee is requesting additional FMLA leave, the employee will be required to submit a recertification from his health care provider. If the employee is not approved for additional FMLA leave or an extended medical leave and the employee fails to return to work on his originally scheduled return to work date, the employee may be discharged from employment.

If an employee is unable to return from FMLA leave for a reason other than his own serious health condition, the employee must notify Human Resources and his Department Head no later than seven (7) business days before his original return to work date and either request additional FMLA leave time (if the employee has

not exhausted his annual entitlement and is still eligible for FMLA leave) or apply for a personal leave of absence. (See section on Temporary Personal Leave for further details.) (~~A request for a personal leave of absence must be approved by both the employee's Department Head and the Lake County Director of Human Resources.~~) If either request is denied or if no request is made, the employee will be expected to return to work on his originally scheduled return to work date. If the employee does not return to work on his original return to work date, the employee may be discharged from employment.

9. Fitness for Duty Certification:

If an employee is returning from a FMLA leave that was due to his own serious health condition, he must submit the following documentation to Human Resources and his Department Head at least two (2) ~~three (3)~~ working days before his return to work date:

- (1) a statement from his treating physician certifying that he is fit to return to duty ~~with or without a reasonable accommodation~~ and that he can perform the essential functions of his job with or without a reasonable accommodation (or to the position restored to, if different);
- (2) If the employee's physician has given the employee work restrictions, the employee must provide a statement from his physician detailing those restrictions, the reason for those restrictions and whether the restrictions are permanent or temporary; and
- (3) If the employee is requesting a reasonable accommodation for an ADA qualifying disability, the employee ~~should~~ must provide a statement documentation detailing the accommodation being requested and how the request will enable the employee to perform the essential functions of his position. An employee may also be required to provide medical documentation to substantiate that he has an ADA disability and needs the reasonable accommodation being requested.

The employee must submit the fitness for duty certification before he will be permitted to return to work.

~~Under limited circumstances, the Lake County Director of Human Resources may require that an employee submit to, and successfully complete, a fitness for duty examination before the employee is permitted to return to work.~~

10. Reinstatement:

Upon return from FMLA leave, an employee will either be restored to his position or to a position with equivalent pay, benefits, and other terms and conditions of employment so

long as there is not a basis to deny reinstatement. Situations where an employee may be denied reinstatement include, but are not limited to, the following:

- the employee gave unequivocal notice that he did not intend to return to work at the end of his leave
- the employee qualifies as a "key" employee under FMLA regulations (29 CFR 825.217) and is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all County employees and the restoration of his employment would cause substantial and grievous economic injury to the County's operations;
- the employee's leave was obtained by fraud or misrepresentation;
- the employee was hired for a specific term or for a specific project/grant that has since been completed;
- the employee was subject to a reduction in force;
- the employee is unable to perform the essential functions of his job, with or without reasonable accommodation of a qualifying disability;
- the employee would not otherwise have been employed at the time of reinstatement if the employee had not been on FMLA leave;
- the employee failed to provide required notices or certifications while on leave and/or failed to provide a fitness for duty certification from a health care provider at the end of the leave.

If an employee was on probationary status or a plan for improvement for disciplinary and/or performance related issues at the time he went on FMLA leave, upon his return to work, his probationary period or plan for improvement will resume at the same point as it was on the day the employee's leave began. Likewise, if ~~progressive~~ discipline was pending prior to his FMLA leave, the supervisor may proceed with that discipline upon the employee's return to work.

The County cannot guarantee that employees will be returned to their original position and reserves the right to place employees in equivalent positions. The determination as to whether a position qualifies as "equivalent" will be made by the Lake County Director of Human Resources or his designee. Employees returning from FMLA leave may submit a written request for a different shift, schedule or position but the decision to grant such a request will be within the discretion of the employee's Department Head.

B. EXTENDED MEDICAL LEAVE OF ABSENCE

An extended medical leave of absence is available to those non-introductory employees who have already exhausted their annual twelve (12) week entitlement of FMLA leave but due to their own serious health condition are still unable to perform the essential functions of their position. Requests for an extended medical leave must be approved by the employee's Department Head and the Lake County Director of Human Resources or designee. Employees will not be approved for an extended medical leave of absence unless the employee was previously approved for and has already exhausted his annual twelve (12) week FMLA entitlement. Employees who are approved for an extended

medical leave of absence may receive up to three (3) months of leave time. In determining whether to approve a request for leave (including the length of leave) consideration should be given to the employee's employment record (including the employee's attendance and disciplinary record, length of employment and performance history) as well as the staffing needs of the department.

~~If a non-introductory employee has exhausted his annual FMLA leave entitlement but still requires additional time off from work in order to provide care for an immediate family member (as defined by FMLA policy), the employee may apply for a temporary personal leave of absence. (See section on Temporary Personal Leave of Absence for further information.)~~

~~If an employee is not eligible for FMLA leave but is a qualified individual with a disability (as defined by the Americans with Disabilities Act) and wishes to request a temporary leave of absence as a reasonable accommodation, the employee may apply for a temporary personal leave of absence. (See section on Temporary Personal Leave of Absence for further information.)~~

- (1) An extended medical leave of absence is an unpaid leave of absence unless the employee is using available benefit time or the employee is receiving payments through IMRF or the worker's compensation program.

Employees who are not receiving IMRF or worker's compensation payments must exhaust all accrued paid benefit time (sick leave, floating/holiday hours, compensatory time and general leave time) before they will be placed on unpaid status.

- (2) ~~To apply for an extended medical leave, the employee must request an extended medical leave on a Leave of Absence Request (PF-05). The employee must submit an "Application for Extended Medical Leave" and a medical certification, the "Certification of Health Care Provider", completed by the employee's treating physician certifying the nature and extent of the employee's medical condition and stating an expected return to work date. For an extended medical leave, the medical certification must be completed by any health care provider that is a doctor of medicine.~~ Subject to the approval of the Lake County Director of Human Resources, the County may require, at the County's expense, that the employee submit to a medical examination by a physician (chosen by the County) to determine the need for leave and/or whether the employee is able to return to work and perform the essential functions of his position.

- (3) During an extended medical leave, employees may be required by the Lake County Human Resources to provide recertification of the need for leave and/or periodic reports on the employee's return to work status. The employee must forward this documentation directly to the Lake County Director of Human Resources.

- (4) As soon as leave is granted (or where it is extended), the Department Head should forward a Personnel Action Form (PF-04) to Human Resources noting that the employee is on leave.
- (5) To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage.
- (6) Employees on an extended medical leave of absence do not accrue general leave credit or sick leave credit during the time that the employee is receiving payments from IMRF, worker's compensation or is on unpaid status.
- (7) Employees on an extended medical leave must notify Lake County Human Resources and their Department Head in writing at least ten (10) working days prior to the employee's scheduled return to work date and either confirm their return to work date or request additional leave time. At that time, the employee must provide Human Resources with a fitness for duty ~~medical~~ certification from his treating physician certifying that he is fit to return to duty and that he is able to perform the essential functions of his job with or without a reasonable accommodation. If the physician has given the employee work restrictions, those restrictions, the reasons for those restrictions and whether the restrictions are permanent or temporary must be clearly stated in the physician's statement. Likewise, if the employee is requesting a reasonable accommodation for an ADA qualifying disability, the employee should provide a statement detailing the accommodation being requested and how the accommodation will enable the employee to perform the essential functions of his position.
- (8) Before an employee is allowed to return to work, the Lake County Director of Human Resources may require that an employee provide further medical information from his physician and/or submit to a fitness for duty examination (conducted by a physician of the County's choosing and at the County's expense). Lake County Human Resources may delay the employee's return to work date if additional time is needed to clarify the employee's return to work status or if Human Resources has scheduled or is awaiting the results of a fitness for duty examination. If the employee does not have benefit time available, this additional time off will be unpaid.
- (9) Upon return from an extended medical leave of absence that lasted three months or less, the employee may be returned to his original position, if available, or to an open position in the employee's department that the employee is qualified for and the best candidate to perform. If the employee's original position was filled while the employee was on leave and a comparable position in the same department (that the employee is qualified for and the best candidate to perform) is not available, the employee may be placed in a position (that the employee is

qualified for and the best candidate to perform) with a lower grade level and lower rate of pay. If no such position is available in the employee's department, the employee may be discharged from employment. In such cases, neither a reduction in pay and/or grade or a discharge from employment may be grieved under the Lake County Grievance Procedure.

An employee returning from leave may be denied reinstatement altogether under the following circumstances: (1) the employee is unable to perform the essential functions of his job, with or without a reasonable accommodation of a qualifying disability under the ADA; (2) the employee's position was eliminated due to a reduction in force; (3) the employee was hired for a specific term or a specific project /grant that has since been completed; (4) the employee failed to provide required notices or certifications while on leave and/or failed to provide a fitness for duty certification from his physician or failed to submit to a requested fitness for duty examination; (5) the employee's leave was obtained by fraud or misrepresentation; (6) the employee's employment would otherwise have been terminated if the employee had not been on leave and; (7) the employee failed to return to work upon the expiration of his extended medical leave of absence. If an employee is denied re-instatement for one of these reasons, his discharge from employment may not be grieved under the Lake County Grievance Procedure.

If an employee was on probationary status or a plan for improvement at the time he went on leave, upon his return to work, his probationary period or plan for improvement will resume at the same point as it was on the day the employee's leave began unless the probationary status was due to a promotion and the employee no longer holds that position. If progressive discipline had been pending prior to the employee's leave, the supervisor may proceed with that discipline upon the employee's return to work.

- (10) An extended medical leave of absence may not exceed three (3) months. However, an employee may request up to an additional three months of leave by submitting a written appeal to the Lake County Director of Human Resources. If this appeal is granted by Human Resources and the employee's Department Head, the employee may receive additional leave time but the employee will not be guaranteed reemployment at the end of this additional leave period. In determining whether to approve a request for leave (including the length of leave) consideration should be given to the employee's employment record (including the employee's attendance and disciplinary record, length of employment and performance history) as well as the staffing needs of the department.

A written appeal for additional leave time must contain a "Certification of Health Care Provider" ~~a statement from~~ completed by the employee's treating physician stating the reasons why additional time is needed and the employee's expected return to work date. This written appeal should be made as soon as the employee realizes that he will not be able to return at the expiration of the extended medical leave period but at a minimum, the appeal must be received by the Director of

Human Resources no later than ten (10) business days before the employee's current medical leave is set to expire.

If an employee fails to return to work upon the expiration of his extended medical leave of absence, his employment may be terminated unless the Lake County Director of Human Resources and the employee's Department Head have approved an extension of leave.

If a non-introductory employee has exhausted his annual FMLA leave entitlement but still requires additional time off from work in order to provide care for an immediate family member (as defined by FMLA policy), the employee may apply for a temporary personal leave of absence. (See section on Temporary Personal Leave of Absence for further information.)

If an employee is not eligible for FMLA leave but is a qualified individual with a disability (as defined by the Americans with Disabilities Act) and wishes to request a temporary leave of absence as a reasonable accommodation, the employee may apply for a temporary personal leave of absence. (See section on Temporary Personal Leave of Absence for further information.)

C. TEMPORARY PERSONAL LEAVE:

Personal leave is granted at the discretion of the employee's Department Head and the Lake County Director of Human Resources. Personal leave may be granted for a maximum of three (3) months.

- (1) Personal leave may be requested for educational or family purposes or for a purpose that is approved by the employee's Department Head and the Lake County Director of Human Resources. In determining whether to approve a request for leave (including the length of leave) consideration should be given to the employee's employment record (including the employee's attendance and disciplinary record, length of employment and performance history) as well as the staffing needs of the department. Personal leave may not be used in conjunction with or in lieu of an extended medical leave of absence.
- (2) Personal leave is unpaid unless the employee has accrued benefit time (general leave, compensatory time, floating/holiday hours or if applicable, sick time) that can be applied to the leave time. If such benefit time is available, the employee will be required to exhaust that time before going on unpaid status.
- (3) The employee must request personal leave on a Leave of Absence Request (PF-05) for personal leave. If the leave is granted, the Department Head should forward a Personnel Action Form (PF-04) to Human Resources noting that the employee is on leave.

- (4) An employee on personal leave does not accrue general leave credit or sick leave credit for the period of the unpaid leave of absence. Such employees may continue medical and dental group insurance coverage and life insurance coverage, but only where the employee pays the total cost of such participation while on unpaid leave of absence. Such employees continue IMRF participation according to rules and requirements established by IMRF.
- (5) If an employee fails to return to work upon the expiration of his personal leave of absence, his employment may be terminated unless the Lake County Director of Human Resources and the employee's Department Head have approved an extension of leave. If the employee is terminated from employment for failing to return to work on his originally scheduled return to work date, the termination may not be grieved under the Lake County Grievance Procedure.

D. SCHOOL VISITS:

As of July 1, 1993, all Illinois employers of 50 or more must allow employees up to eight hours leave to visit their children's schools during the school year. An employee of Lake County may not take more than four hours of school visitation leave in one day, and the leave may not be taken if the employee has not exhausted all accrued vacation leave, personal leave or any other type of leave (except sick or disability leave). The employee ~~will be required to~~ may use his or her ~~floating holiday hours, accrued~~ compensatory time ~~or general leave~~ to compensate for this absence. An employee of Lake County wishing to take leave to visit a child's school must make a written request to his Department Head or designee at least seven calendar days in advance.

E. VICTIM'S ECONOMIC SECURITY and SAFETY ACT (VESSA) LEAVE:

An employee who is a victim of domestic violence or sexual assault, or who has a family or household member who is a victim of domestic violence or sexual assault, may receive up to twelve (12) weeks of unpaid leave per twelve (12) month rolling time period for the following reasons:

- (1) To seek medical attention for, or recovery from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;
- (2) To obtain victim services for the employee or employee's family or household member;
- (3) To obtain psychological or other counseling for the employee or the employee's family or household member;

- (4) To participate in safety planning, including temporary or permanent relocation or other actions to increase the safety of the victim from future domestic or sexual violence; or
- (5) To seek legal assistance to ensure the health and safety of the victim, including participating in court proceedings related to the violence.

1. Eligibility Requirements

To demonstrate eligibility for VESSA leave, the employee must provide Human Resources with certification that (1) the employee or the employee's family or household member is a victim of domestic or sexual violence and (2) that the leave is for one of the reasons permitted under VESSA (see preceding paragraph). Such certification shall include a sworn statement from the employee and the following:

- (a) Documentation from a victim services organization, attorney, member of the clergy, or medical or other professional from whom the employee or the employee's family or household member has sought assistance or;
- (b) police or court record or;
- (c) other corroborating evidence.

All Lake County employees are eligible to apply for VESSA leave, including part-time and introductory employees.

The definition of "family or household member" means a spouse, parent, son, daughter, and persons jointly residing in the same household, including same-sex domestic partners. "Parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. "Son" or "daughter" means a biological, adopted, or foster child, stepchild, a legal ward, or a child of person standing in loco parentis, who is under 18 years of age, or is 18 years of age or older but incapable of self-care due to a mental or physical disability.

As provided under the Victim's Economic Security and Safety Act, employees may receive up to a total of twelve (12) weeks of VESSA leave per 12-month rolling time period. The 12-month "rolling" time period is determined by measuring backwards from the date the employee is placed on leave. In determining eligibility and how much VESSA leave an employee may be entitled to, the County will subtract any VESSA time that the employee used during the preceding twelve months from the 12- week entitlement.

If the reason for the employee's VESSA leave also qualifies as a reason for FMLA leave and the employee is eligible for FMLA leave, the employee's VESSA leave will be designated as a joint FMLA /VESSA leave. In those situations, the employee will not

receive 24 weeks of leave time but rather, the employee's VESSA and FMLA leave will run concurrently for up to a maximum of twelve weeks of leave per rolling twelve month period.

2. Applying for VESSA Leave

The employee must provide his Department Head and Human Resources with at least 48 hours advance notice of the employee's intent to take VESSA leave except in such cases where it is not practicable to provide such notice.

To apply for VESSA leave, the employee should bring his or her sworn statement and certifying documents (documentation from a victim services organization, attorney, member of the clergy, or medical or other professional from whom the employee or the employee's family or household member has sought assistance; a police or court record; or other corroborating evidence) to Human Resources and request an application for leave. In the application for leave, the employee must state the length of leave being requested, why leave is being requested, and the date the employee expects to return to work.

If the employee does not provide advance notice, the employee must provide Human Resources with his sworn statement and application for VESSA leave within five (5) calendar days after leave is requested or the employee is tentatively placed on VESSA leave. The remaining certifying documents must be provided to Human Resources within fifteen (15) calendar days after leave is requested or the employee is tentatively placed on VESSA leave whichever occurs first.

An employee who is eligible or who appears to be eligible for VESSA leave may be placed on VESSA leave by the County even if the employee has not applied for such leave.

3. Use of Paid Benefit Time While on VESSA Leave

Time off under the Victim's Economic Security and Safety Act is unpaid unless the employee has benefit time available and is eligible to use that benefit time during his VESSA leave. If an employee has benefit time available, the employee will be required to use all of his accrued general leave and floating/holiday hours before going on unpaid status. If the reason for the VESSA leave meets the eligibility requirements for sick leave, the employee will also be required to exhaust all of his accrued sick leave before going on unpaid status unless the employee qualifies for IMRF disability payments. If the employee qualifies for IMRF disability payments, the employee will not be required to use his paid benefit time once he satisfies IMRF's waiting period. If the employee stops receiving IMRF disability payments while the employee is still on VESSA leave, the employee will then be required to use any available paid benefit time for the remainder of the leave.

If the employee does not have benefit time available, the leave will be unpaid.

Personal leave time under Section 4.7 may be used for VESSA leave.

Employees on VESSA leave will not accrue benefit time or seniority during the time the employee is on unpaid status.

4. Intermittent VESSA Leave

Employees may take VESSA leave on an intermittent basis or on a reduced work schedule. Employees needing intermittent leave must attempt to schedule their leave so as to not disrupt the County's operations. The employee's Department Head may temporarily assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent schedule. If the employee has accrued benefit time available and is eligible to use that time, he will be required to use that time to cover his absences. After accrued benefit time is exhausted, the remainder of the employee's intermittent VESSA leave will be unpaid. Personal leave time may be used for intermittent VESSA leave.

5. Benefits Coverage During Leave

While on VESSA leave, the employees who are on the County's health plan will remain on that plan, under the same conditions that applied before the employee went on leave. To continue health coverage, the employee must continue to make any contributions that he made to the plan before taking leave. Failure of the employee to pay his share of the health insurance premiums may result in loss of coverage.

The County's obligation to maintain health benefits under VESSA stops if and when an employee informs the County that he does not intend to return to work at the end of the leave period, or if the employee fails to return to work at the end of his approved leave.

The County reserves the right to require the employee to reimburse the County for health insurance premiums that the County paid during the employee's leave if the County finds evidence that the employee misrepresented the need for leave or otherwise obtained the leave through fraud.

An employee on VESSA leave will not accrue benefit time or seniority once the employee exhausts his accrued benefit time and goes on unpaid status. However, an employee on VESSA leave will not lose length of service benefits that accrued before he went on unpaid status.

Holiday pay will not be paid during VESSA leave, except in those instances where the employee is on an intermittent or reduced schedule that makes the employee eligible for holiday pay or where the employee is on a paid leave at the time of the holiday and qualifies for holiday pay.

6. Notice of Return From Leave

An employee must complete a "Notice of Intention to Return From Leave" at the time the employee submits his application for leave. The application for leave should state the date the employee is expected to return to work. Once on leave, the employee is expected to remain in regular contact with Human Resources and his Department Head and give periodic updates. If the employee has been on leave for more than two weeks, the employee will be expected to notify Human Resources and his Department Head at least five (5) working days prior to his return to work date and confirm that he will be returning to work on that date or request additional leave time. If the employee has been on leave for less than two weeks, the employee is expected to notify Human Resources and his Department Head and least two (2) working days prior to his return to work date. At that same time, if the employee has concerns about the safety or security of his worksite, the employee should contact Risk Management directly at 377-2241 to report those concerns.

If an employee is returning from a VESSA leave that has been jointly designated as FMLA leave, the employee must comply with the return to work and notice requirements contained in the County's FMLA policy in addition to the VESSA requirement.

7. Reinstatement

Upon return from VESSA leave, an employee will either be restored to his position or to a position with equivalent pay, benefits, and other terms and conditions of employment so long as there is not a basis to deny reinstatement. Situations where an employee may be denied reinstatement include, but are not limited to, the following:

- the employee gave unequivocal notice that he did not intend to return to work at the end of his leave;
- the employee's leave was obtained by fraud or misrepresentation;
- the employee was hired for a specific term or for a specific project/grant that has since been completed;
- the employee was subject to a reduction in force;
- the employee is unable to perform the essential functions of his job, with or without reasonable accommodation of a qualifying disability;
- the employee would not otherwise have been employed at the time of reinstatement if the employee had not been on VESSA leave;
- the employee failed to provide required notices or certifications while on leave.

If an employee was on introductory status or on a plan for improvement at the time he went on VESSA leave, upon his return to work, his introductory period or plan for improvement will resume at the same point as it was on the day the employee's leave began. Likewise, if progressive discipline was pending prior to an employee's VESSA leave, the supervisor may proceed with that discipline upon the employee's return to work.

The County cannot guarantee that an employee will be returned to his original position and reserves the right to place an employee in an equivalent position. The determination as to whether a position qualifies as "equivalent" will be made by the Lake County Director of Human Resources or his designee. Employees returning from VESSA leave may submit a written request for a different shift, schedule or position but the decision to grant such a request will be within the discretion of the employee's Department Head.

8. Requests for Accommodation

If an employee requires a reasonable accommodation in the workplace due to circumstances relating to the employee, or the employee's family or household member being a victim of domestic or sexual violence, the employee should submit that request to his immediate supervisor, Department Head or to the Director of Human Resources. Safety and security concerns involving the workplace should also be reported directly to Risk Management.

9. Retaliation, Discrimination Prohibited

Employees who feel that they have been wrongly denied VESSA leave or a reasonable accommodation should report their concerns immediately to their Department Head or to the Director of Human Resources. Employees should also notify their Department Head and/or the Director of Human Resources if (1) the employee believes that he has been subjected to discrimination because he is or is perceived to be a victim of domestic or sexual violence or; (2) if the employee believes that he has been subjected to retaliation for taking VESSA leave or otherwise exercising his rights under VESSA.

10. Policy subject to Change

As the purpose of this policy is to comply with the Victim's Economic Security and Safety Act, 820 ILCS 180 et seq., any changes to state law or regulations regarding this Act will be reflected accordingly in this policy.