

# Leave of Absence Policy

---

*Effective Date: Adopted 8/65; Revised 4/72, 6/92, 12/93, 8/95, 4/06, 03/10*

## **§-I. PURPOSE**

To outline the availability of leaves of absence for health-related situations, childbirth and care, military service needs, personal reasons, and other good cause.

## **§-II. SCOPE**

All employees who have worked at least 12 months and at least 1250 hours.

## **§-III. POLICY**

An employee may be granted a leave of absence to help alleviate personal/family situations that may arise during the course of his/her employment or to allow the employee to pursue educational opportunities for an initial period of up to six (6) months.

All requests for leave of absence must be submitted to and approved by the employee's Department Head/Agency Head/Elected Official. Requests for leave of absence beyond FMLA requirements must be approved by the County Manager.

Leaves of absence, for reasons other than those covered under the FMLA, will not be granted automatically, but authorization will be based upon the employee's showing of "good cause" for the request. Such leave is only granted with the recommendation of the Human Resources Director, and the approval of the County Manager. In determining whether to grant a request, the County Manager may consider not only the merits of the request, but the needs of the County, the employee's record and other relevant factors.

Employees will be required to provide timely and appropriate verification to initiate or continue a leave of absence.

After an approved leave of absence, if the employee is able to perform the essential functions of his/her position, the employee generally will be reinstated to the original position or a comparable position with equivalent pay.

After the initial six (6) months of leave, an employee may be granted an extension of leave, up to an additional six (6) months, only for his/her "serious health condition."

An employee who is granted leave beyond the initial period of six (6) months may be eligible for reinstatement at the discretion of the Department Head/Agency Head/Elected Official.

If an employee is granted leave for 12 months and has an accrued leave balance (sick and/or annual leave) at the expiration of that period, then the employee may request additional leave, which can be approved only by the County Manager. The additional leave cannot exceed the amount of the employee's accrued leave balance.

## **§IV. PROCEDURES**

### **A. Leave Requests & Certification**

An employee seeking a Leave of Absence for any reason should complete a Leave of Absence Request Form, stating the reasons for the absence and providing documentation supporting the request. The form should be submitted to the employee's supervisor. Written authorization from the Department Head/Agency Head/Elected Official is required for final approval.

Employees who are self-employed or who hold any other secondary employment position prior to or at the time of requesting leave, must obtain written permission to continue such employment during a leave of absence.

An employee should submit the request for leave at least 30 days in advance of the anticipated leave where the leave is foreseeable. When the leave is not foreseeable, an employee should submit the request form within two (2) days of the time the need for leave becomes known to the employee.

When leave is requested for a serious health condition of the employee or of a spouse, child, or parent which requires the employee's attention, the employee must submit a health provider's certification of the need for leave. The employee may also be required to submit recertification of the need for continuing leave every 30 days.

The County may require that the employee undergo an examination by a physician of the County's choice prior to determining whether leave or an extension of leave will be granted.

### **B. Requests for Extension of Leave Beyond Six (6) Months**

An employee who has been on leave for six (6) months may request an extension of a leave of absence not to exceed an additional six (6) months (12 months total) for the employee's own serious health condition. Such request should be submitted on the Leave of Absence Request Form, stating the reasons for the absence and furnishing a health care provider's certification of the necessity of leave. The form should be submitted to the employee's supervisor. Written authorization from the Department Head/Agency Head/Elected Official is required for final approval.

### **C. Conditions of Leave**

Employees may not take a leave of absence to pursue, accept or work another job.

A leave of absence may be paid or unpaid, depending on the employee's leave accrual. While on an approved leave of absence, an employee must use annual or sick leave, in accordance with the *Annual Leave Policy* and/or the *Sick Leave Policy*.

### **D. Benefits Coverage**

Employees taking an unpaid leave of absence are responsible for contacting the Human Resources Department to arrange for the payment of benefit plans.

During an employee's leave of absence, benefits will be administered in accordance with the benefits policies. Eligibility for continued benefits is not dependent on the employee's pay status. **To ensure there is no disruption or discontinuance of benefits, an employee who is out of the workplace on an approved leave of absence should contact the Human Resources Benefits Division for information about protecting and maintaining his/her benefits.**

## IMPORTANT NOTICE

**EMPLOYEES TAKING AN UNPAID LEAVE OF ABSENCE MUST CONTACT THE HUMAN RESOURCES DEPARTMENT TO ARRANGE FOR THE PAYMENT OF BENEFIT PLANS DURING THEIR LEAVE. FAILURE TO MAKE THE REQUIRED PAYMENTS WILL RESULT IN THE TERMINATION OF PLAN COVERAGE.**

### **E. Reinstatement Procedures**

An employee who has been on a leave of absence for a period of 30 calendar days or longer shall notify the Department Head/Agency Head/Elected Official of his/her intention of returning at least 10 calendar days prior to returning from leave. Failure to file such notice, or failure on the part of the employee to report promptly at the expiration of the leave of absence, except for satisfactory reasons submitted in advance, shall be a cause for dismissal.

For leaves of absence of six (6) months or less, upon the expiration of the leave of absence, if an employee reports to work and is able to perform the essential functions of his/her original position, then the employee shall be reinstated to the original position or a comparable position with equivalent pay.

When an employee has been on leave of absence for more than six (6) months, upon the expiration of the leave of absence, if the employee is able to perform the essential functions of his/her original position, the employee may be reinstated at the discretion of the Department Head/Agency Head/Elected Official. If the employee has accrued leave available when the leave of absence is ended, the employee shall be entitled to utilize such leave.

For leaves of absence involving a health condition, the Department Head/Agency Head/Elected Official may require health care certification of the employee's fitness to return to work and/or may require a fitness for duty evaluation by the County physician before permitting the employee to return to work.

### **§V. Types of Leave Available**

#### **A. Leave Under the Family & Medical Leave Act (FMLA Leave)**

Eligible employees may take up to 12 workweeks of unpaid, job-protected leave under the Family and Medical Leave Act ("FMLA") in a rolling 12-month period for specified family and medical reasons. In addition, eligible employees may qualify for up to 26 workweeks of unpaid job-protected leave under the FMLA in certain situations related to a covered family member's service in the Armed Forces.

## 1. Eligibility

To be eligible for FMLA leave, an employee must:

- Have worked at least 12 months for Cobb County (need not be consecutive);
- Have worked at least 1,250 hours for Cobb County over the preceding 12 months (these hours must be actual hours worked, not to include holidays, sick leave and vacation leave); and
- Work at a location where there are at least 50 Cobb County employees within 75 miles.

## 2. Reasons for Leave

FMLA leave may be taken for the following reasons:

- Birth of the employee's child, or to care for the employee's newborn child;
- Placement of a child with the employee for adoption or foster care;
- To care for an immediate family member (employee's spouse, child, or parent) with a serious health condition; or
- Because of the employee's serious health condition which makes the employee unable to perform the functions of the employee's job.
- To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin (i.e., nearest blood relative; generally applies to sibling, uncle, aunt, first cousin) of the service member who has a serious injury or illness incurred in the line of duty on active duty or has a pre-existing injury or illness aggravated by active duty for which he/she is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list or is a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including the National Guard and Reserves, at any time during the five-year period preceding the date on which the veteran undergoes medical treatment, recuperation or therapy.
- A qualifying need arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) to a foreign county for one or more of the following situations:

(i) short-notice deployment; (ii) military events and related activities; (iii) financial and legal arrangements; (iv) counseling; (v) rest and recuperation; (vi) attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member; and (vii) additional activities (including the timing and duration thereof) as agreed upon by the County and the employee.

**NOTE:** If the employee is on FMLA leave to care for a family member with a serious health condition and the family member dies during the FMLA leave, the FMLA leave ends at that time. Under such circumstances, additional leave may be requested under this policy.

### **3. Duration of Leave**

Eligible employees may receive up to 12 workweeks of unpaid leave or paid leave depending upon the employee's leave balance, during any "rolling" 12- month period, measured backward from the date that any FMLA leave is to be used. FMLA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

When leave is to care for an injured or ill service member, an eligible employee may take up to 26 work weeks of leave during a single 12-month period to care for that service member. Leave to care for an injured or ill service member when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period during which the 26 weeks of military caregiver leave is available begins on the first day that an employee takes military caregiver leave and ends twelve months after that date, regardless of the rolling 12-month period that Cobb County utilizes for determining available leave for other FMLA-qualifying reasons.

### **4. Intermittent Leave**

Eligible employees may take FMLA leave intermittently (in blocks of time), or by reducing their normal weekly or daily work schedule, when medically necessary for their own or an immediate family member's serious health condition. Intermittent or reduced schedule leave is not permitted for birth of a child, to care for a newborn child, or for placement of a child for adoption or foster care. Employees who require intermittent leave or reduced-schedule leave must try to schedule their leave so that it will not disrupt the department's operations.

### **5. Use of Accrued Leave**

Employees who are granted FMLA leave must use any accrued paid leave beginning with the effective date of the leave. Upon exhaustion of any paid leave, the remainder of any FMLA leave will be unpaid. For FMLA leaves other than those taken to care for a service member with a serious injury or illness, the combination of paid and unpaid FMLA leave will not exceed 12 workweeks in any 12-month period. If the employee is taking FMLA leave because of his or her own serious health condition and continues to be medically unable to work beyond the 12 weeks allowed by FMLA, the employee may request and may be approved for medical leave and allowed to continue using accrued leave. However this extension will not be counted as FMLA leave. Employees do not accrue leave while in an unpaid status.

### **6. Job Restoration**

Upon returning from FMLA leave, eligible employees normally will be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

Exceptions are permitted when the original position is abolished during the FMLA leave due to reduction in force, reorganization, or if the employee would not otherwise have been employed even if leave had not been taken.

## **7. Notice & Medical Certification**

When seeking FMLA leave, employees may be required to provide:

- Thirty (30) days advance notice of the need to take FMLA leave, if the need is foreseeable, or notice as soon as practicable in the case of leave that is not foreseeable 30 days in advance;
- Medical, military circumstance or other certification supporting the need for leave must be returned before the employee's leave begins, or if not possible, within 15 days of the department's request to provide the certification. If the employee fails to do so, Cobb County may delay the commencement of the employee's leave or withdraw any designation of FMLA leave, in which case the employee's leave of absence would be unauthorized and would subject the employee to discipline up to and including dismissal;
- Second or third medical opinions and periodic re-certifications may also be required;
- Periodic reports as deemed appropriate during the leave regarding the employee's status and intent to return to work;
- Additional medical documentation to support extensions of leave beyond the original certification period; and
- Medical documentation of fitness for duty before returning to work, if the leave was due to the employee's serious health condition.

Failure to comply with the foregoing requirements may result in delay or denial of leave or reinstatement from leave.

## **8. Failure to Return After FMLA Leave**

Any employee who fails to return to work as scheduled after FMLA leave may be subject to dismissal from employment. Employees who exceed their FMLA entitlement without extension(s) of their leave approved under other appropriate leave provisions may be subject to dismissal from employment.

## **9. FMLA Designation Notice**

If an employee meets the FMLA eligibility requirements, they will be notified by their department whether or not the leave is designated as FMLA leave within 5 business days of receipt of the health care provider, exigency or other certification. Leaves will be designated as 'approved', 'not approved', or 'additional information needed.' Employees will be notified when additional information is needed and will have 7 calendar days to remedy the deficiency.

## **B. Leave Other Than FMLA Leave**

Employees may be granted leaves of absence for serious health or other conditions where FMLA leave is not applicable or has expired, for job-related educational or professional development, and for the employee's demonstrated personal necessity (to handle personal or family crises or for bereavement).