



Policy #3242 Leaves of Absence

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Board or Administrative: Board

Policy Statement

It is the policy of Dakota County to provide employees temporary leaves of absence for a variety reasons. This policy is designed to offer reasonable flexibility during these times, while also ensuring continuity of operations and compliance with all applicable federal, state, and local laws and regulations. ~~from work without severing the employment relationship. Because these leaves are typically provided as a convenience to employees at some additional expense and inconvenience to the employer, employees, except where otherwise provided by law, assume any and all risks related to such leaves. These risks include the elimination, reallocation or reassignment of their duties which may result in employees being reassigned, demoted or terminated upon completion of their leaves.~~

Definitions

- "The County" refers to the officers, employees, agencies, and facilities of Dakota County government.
- "Paid leave" refers to time away from work during which the employee uses paid time off, or other form of paid leave as defined in this policy. ~~Employees on paid leaves of absence receive the same compensation and benefits they would receive if the leave day(s) had been covered by accrued paid time off.~~
- "Unpaid Leave" refers to any unpaid time away from work. For purposes of this policy, employees receiving wage replacement benefits will be regarded as being on an unpaid leave. For Non-FMLA leaves, employees must use all accrued paid time off before unpaid time off will be approved. Employees on a continuous unpaid leave of absence are not compensated for any workday which occurs during their leave of absence, nor do they earn any other benefit, privilege, or right on an unpaid leave day.
- "Paid time off" refers to flex leave, observed holidays, floating holidays, extended sick leave, and comp time.

Source

Minn. Stat. § 192.26 and Minn. Stat. § 192.261, State and Municipal Officers and Employees not Lose Pay while on Authorized Leave for Military Duty

Minn. Stat. § 204B.195, Time off from work to serve as election judge

Minn. Stat. § 204C.04, Employees; time off to vote

[Minn. Stat. § 203B.081, Locations and Methods for Absentee Voting in Person](#)

Minn. Stat. § 593.50, Protection of Jurors' Employment

Minn. Stat. § 181.9456, Leave for Organ Donation

[Minn. Stat. § 268B, MN Paid Leave Law](#)

[Minn. Stat. § 181.941, Pregnancy and Parenting Leave](#)

[29 CFR Part 825, The Family Medical Leave Act of 1993](#)

[20 CFR Part 1002 Uniformed Services Employment and Reemployment Rights Act](#)

General

All requests for leaves of absence are granted or denied on the basis of the following factors:

1. Applicable state and federal laws and regulations.
- ~~2. The County will not approve any leave of absence in excess of 12 months unless required by law (for example USERRA 38 U.S.C. 4301-4335).~~
- ~~3.~~2. The current and projected workload of the affected department.
- ~~4.~~3. The expense and availability of required replacement.
- ~~5.~~4. Any other legitimate business needs of the County, including, but not limited to, whether the requested leave would cause an undue hardship to the County

If, after a consideration of the above factors, the County grants a leave, except where otherwise controlled by state or federal laws or regulations, the following stipulations apply:

- Whenever possible, employees return to their previous positions upon completion of their leaves. If their positions are no longer available, the County offers any other available positions for which they are eligible.
- If, during a leave of absence, permanent replacements are needed, the County notifies the employees on leave and gives them the opportunity to return early if they are able to do so.

NOTICE REQUIREMENTS

A formal leave of absence request must be submitted to the Human Resources Department for any reason covered under this policy. Employees are required to provide timely notice when requesting leave:

- Foreseeable Leave: If the need for leave is foreseeable, employees must provide at least 30 days' advance notice before leave is required to begin. In those cases where the employee is required to provide at least 30 days' notice of foreseeable leave and does not do so, the employee must explain the reasons why notice was not practicable upon request from the County.
- Unforeseeable Leave: If 30 days' notice is not practicable because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. "As soon as practicable" means as soon as both possible and practical, considering all the facts and circumstances in the individual case. When an employee becomes aware of a need for leave under this chapter less than 30 days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next day, unless the need for leave is based on a medical emergency.

Employees must follow established leave request and call-in or notification procedures.

Failure to provide timely notice may result in a delay or denial of leave, unless the delay is due to circumstances beyond the employee's control.

PAID TIME OFF USAGE

Once an employee transitions to unpaid leave, they may not interrupt that period by using paid time off, unless otherwise required by this policy or the law. Additionally, employees are not permitted to use paid time off to supplement wage replacement benefits, such as disability insurance and/or Minnesota Paid Leave (MNPL).

UNPAID LEAVE

~~Documentation of an approved unpaid leave of absence exceeding five days must be forwarded to the Employee Relations Director in advance of such unpaid leave.~~

~~Employees may request a combination of leaves, including use of accrued paid time off and/or unpaid time off. However, any approved pay time must be used first and concurrently before unpaid leave.~~

BENEFIT ACCRUAL WHILE ON UNPAID LEAVE

Paid time off does not accumulate during any unpaid leave of absence, ~~but previously accrued balances remain~~except when otherwise provided by law. Accrual resumes upon the return of the

employee. ~~Except when otherwise provided by law T,~~ the County's contribution towards an employee's benefits ends at the end of the month that an unpaid leave of absence begins, except when otherwise provided by law. If an unpaid leave of absence continues into the following calendar month the employee will not receive the County's contribution while on unpaid leave status. Upon return to paid status the ~~e~~Employer contribution will resume and is prorated for unpaid time. If the unpaid leave of absence is greater than one month, employees may elect to continue their benefits by paying the total cost of their coverages. Benefits ~~s~~ coverage~~s~~, which have lapsed during an unpaid leave of absence, are reinstated on the first day of return to work with the ~~—~~exception of supplemental life and long-term disability coverage which may require evidence of insurability prior to reinstatement.

RETURN-TO-WORK REQUIREMENTS

Employees returning from medical leave due to their own disability/medical condition must submit medical documentation to the Human Resources Department at least two (2) business days prior to their anticipated return date. The medical documentation should specify the date the employee is cleared to return as well as any work restrictions and their duration. The County reserves the right to require that employees returning from disability leaves submit additional medical documentation or undergo a medical examination by a physician selected by the County (at the County's expense).

TYPES OF ~~PAID AND UNPAID~~ LEAVES

MINNESOTA PAID LEAVE (MNPL) LAW

Eligible employees may qualify for leave under the MNPL, Minnesota Statutes Chapter 268B, which is administered by the State.

An employee may choose to use available paid time off hours as substitution for MNPL wage replacement during a leave, including while waiting for adjudication of their claim by the State. Use of paid time off hours as substitution will reduce or eliminate MNPL wage replacement benefit for such leave periods but will not delay the start of the leave timeframe. ~~Employees may choose to use accrued paid time off in lieu of receiving wage replacement benefits through MNPL. However, If the leave qualifies under MNPL and the employee is eligible for job protection, the leave will be designated as MNPL-covered and will run concurrently with the paid time off and. In such cases, the paid time used will count against the employee's total MNPL entitlement.~~

The County may require that an employee taking MNPL to provide a copy of any required certification under MNPL.

MILITARY LEAVE ~~(paid and unpaid)~~

Employees who are members of any military reserve or National Guard component of the military forces of the United States are granted military leave to go on active duty. The County provides 15-days of paid military leave per cannot exceed 15 days in one calendar year. Additional unpaid military leave is granted for the duration provided under law. Employees may ~~also~~ choose to use accrued paid time off for military leaves.

All requests for military leave require four weeks' notice, unless military necessity prevents the giving of notice or is otherwise impossible or unreasonable. Copies of military orders and approved Military Leave Request Form are submitted to the Human Resources Department~~Employee Relations Director~~ prior to commenced leave.

All existing state and federal statutes pertaining to the rights of employees on leaves of absence for military service are applicable under this policy~~manual~~.

ELECTION JUDGE LEAVE ~~(paid)~~

Employees who are selected to serve as an election judge, after giving at least 20 days written notice, are granted paid election judge leave. Employees must remit to the County compensation received for election judge service. The employee keeps pay for expenses.

COURT DUTY LEAVE ~~(paid)~~

Employees subpoenaed as witnesses arising from the performance of official duties or called and selected for jury duty are granted paid court duty leave. Employees must remit to the County compensation received for jury or such witness duty. The employee keeps reimbursement for expenses.

ELECTION DAY LEAVE ~~(paid)~~

Employees may be absent from work without a deduction in pay for the time necessary to vote in a State ~~or~~ Federal, or regularly scheduled local election during the day of the election or during the time allowed under Minn. Stat. § 203.B.081 for voting in person before election day-election during the day of the election. The employee must make prior arrangements for the absence with their immediate supervisor.

ORGAN DONATION LEAVE ~~(paid)~~

Employees who seek to undergo a medical procedure to donate an organ or partial organ to another person are granted forty (40) hours of paid leave. Dakota County requires verification by

a physician of the purpose and length of the request leave. If there is medical determination that the employee does not qualify as an organ donor, the paid leave of absence granted to the employee prior to the medical determination is not forfeited.

LEAVE UNDER THE AMERICANS WITH DISABILITIES ACT (ADA) MEDICAL LEAVE (unpaid)

An employee with a qualifying disability may be entitled to leave as a reasonable accommodation under the ADA.

The County will not provide indefinite leave, meaning an employee cannot say whether or when they will be able to return to work.

Employees are required to use any accrued paid time off for approved leave under the ADA, unless the employee is receiving wage replacement benefits.

~~Employees may request medical leaves if any mental or physical illness, injury or condition (including pregnancy) renders them disabled and unable to safely perform their normal duties. Requests must be accompanied by a physician's statement which:~~

~~Identifies the disability;~~

~~Indicates the date on which the employee will become or became unable to perform regular duties; and~~

~~The date on which the employee will be able to return to work. The County reserves the right to require that employees on or requesting a medical leave submit additional medical documentation or undergo a medical examination by a physician selected by the County (at the County's expense).~~

~~Except in unusual circumstances, medical leaves may not extend beyond the period of an employee's actual disability or the maximum of 12 months, whichever is less. Employees must regularly advise their supervisor of their status and expected return to work date. Failure to return to work following the actual time of medical disability will be considered a voluntary resignation.~~

~~Employees returning from medical leaves must submit a physician's statement establishing the duties they are safely able to perform. The County reserves the right to require that employees returning from disability leaves submit additional medical documentation or undergo a medical examination by a physician selected by the County (at the County's expense).~~

~~For the purposes of this policy, employees receiving disability-related compensation will be regarded as being on an unpaid leave.~~

PERSONAL LEAVE ~~(unpaid)~~

~~Employees may request personal leaves subject to approval by the responsible authority. The County may provide employees who do not qualify for other forms of leave personal leave for a period generally not to exceed 12 months to allow employees to take time away from work for personal reasons that are not covered under other types of leave. Documentation may be required to support a request for personal leave. The County reserves the right to deny, postpone, or cancel approved personal leave if unforeseen operational needs arise or if staffing levels cannot support the absence.~~

~~Employees are required to use any accrued paid time off for approved personal leave.~~

FAMILY AND MEDICAL LEAVE ACT (FMLA) ~~(unpaid)~~

~~An employee who meets the requirements of eligibility under the FMLA has been employed for at least one (1) year and who has worked at least 1,250 hours during that time may be eligible for unpaid mandatory job-protected a leave of absence under pursuant to the FMLA. The terms regarding such leave are governed by the provisions of the County's FMLA Plan.~~

~~FMLA leave maybe paid and/or unpaid leave. FMLA leave whether paid or unpaid is a way to designate qualifying leaves protected under the law. FMLA is not a separate bank of leave for employees to use. An Employees on FMLA leave may choose to use utilize accrued paid time off, unless they are receiving wage replacement benefits, such as MNPL and/or disability insurance. Flex Leave, vacation, or sick leave. FMLA Leave will run concurrently with all available paid time and unpaid time including short term or long-term disability.~~

MINNESOTA PREGNANCY AND PARENTING LEAVE

Under the MN Pregnancy and Parenting Leave Act, eligible employees may take mandatory job-protected unpaid leave if they qualify under the law. This leave runs concurrently with all other paid and unpaid family or parenting leave to which employees are entitled under the

law or County policy.

Employees may choose to use accrued paid time off, unless they are receiving wage replacement benefits, such as MNPL and/or disability insurance.

PARENTAL LEAVE ~~(paid)~~

The County provides eligible employees paid parental leave following a qualifying event, to allow parents time to bond with a child. A qualifying event is the live birth of an employee's child, the placement of a child in the employee's home for adoption, or the placement of a child in the employee's home (in cases of surrogacy) to adjudicate parentage when the employee is intended to be the permanent legal parent of the child. For purposes of this policy, the birth of multiples (twins, triplets, etc.) or the concurrent placement of more than one child constitutes a single qualifying event.

To be eligible for paid parental leave, an employee must: (1) hold a position with a full-time equivalent (FTE) of .5 or greater; (2) have been continuously employed with the County for at least six consecutive months; and (3) experience a qualifying event after six consecutive months of employment with the County. Paid parental leave is available to both parents if each meets these eligibility criteria.

Eligible full-time employees are entitled to up to three consecutive weeks (120 hours) of paid parental leave for one qualifying event per calendar year. Eligible part-time employees are entitled to a prorated amount of consecutive paid parental leave based on their FTE status for one qualifying event per calendar year (i.e., an eligible employee who holds a .5 FTE position is entitled to 60 consecutive hours of paid parental leave). In no event will an employee be eligible for multiple paid parental leaves in the same calendar year.

Paid parental leave must be taken consecutively (i.e., in one continuous block) within 12 weeks after a qualifying event, including when the employee is receiving MNPL. In instances where an employee is receiving MNPL, the County's paid Parental Leave will supplement the employees' MNPL wage replacement benefit. Employees not receiving MNPL wage replacement benefits may still receive the full County-provided parental leave benefit. When an employee is receiving MNPL wage replacement, the County's paid parental leave will provide the difference between the MNPL benefit and the employee's base pay to ensure the employee receives 100% of their base pay. If an employee is not receiving MNPL wage replacement, they may still receive the full County-paid parental leave benefit at 100% of their base pay.

It cannot be used prior to a qualifying event. Any unused paid parental leave will be forfeited. Paid parental leave runs concurrently with all other ~~paid and unpaid~~ family or parenting leave to which employees are entitled under ~~the law or County policy~~ federal or state law or is otherwise required by the County.

~~In instances where an employee intends to apply for or is receiving MNPL, the County's paid Parental Leave will supplement the employees' MNPL wage replacement benefit. Employees not receiving MNPL wage replacement~~

~~benefits may still receive the full County provided parental leave benefit.~~

~~Employees must submit a request for paid parental leave at least 30 days before the qualifying event for which leave is requested, unless 30 day notice is not possible, in which case a request must be submitted as soon as practical.~~ The County may require an employee requesting paid parental leave to provide documentation substantiating a qualifying event. ~~Paid parental leave is treated like other forms of paid leave for Flex Leave accrual and benefits purposes.~~

INVOLUNTARY UNPAID LEAVE OF ABSENCE DUE TO EMERGENCY CIRCUMSTANCES

In the event of unforeseen emergency circumstances adversely impacting the County's budget, funding, or ability to provide County services the County, the County may need to temporarily reduce employees' work hours. In such an event, affected employees may be placed on an involuntary leave of absence for up to sixty (60) days. Employees shall be given advance notice of not less than five (5) days of such action. Such a leave may be extended for additional sixty (60) day periods as needed.

In implementing such an involuntary leave of absence, seniority within the employee's current classification will govern. Due to the exigent circumstances involved, the employee will not be permitted to bump another employee in a prior job classification in which the employee previously worked.

Affected employees may use accumulated Flex Leave, compensatory time, or vacation hours to replace lost income.

Employees who are placed on an involuntary unpaid leave of absence will continue to receive the Employer contribution toward insurance benefits. The employee portion of insurance contributions shall be repaid through payroll deduction upon return to regular pay status. If an employee on an involuntary unpaid leave of absence chooses not to return to County employment when notified to do so, the employee portion of insurance contributions during the period of the unpaid leave will be deducted from the severance benefits to be received upon termination of employment. If such employee has insufficient severance funds for this purpose, the employee will be responsible to pay back to the County within three (3) months the employee's portion of insurance contributions paid during the period of unpaid leave.

Procedures

Procedures will be maintained by [the Human Resources Department.](#)

History

Version	Revision Date
1.0	Second Result
1.1	Sixth Result
1.2	Tenth Result
2.0	Fourteenth Result

Related Policies

- [Policy 3241 Flex Leave](#)
- [Policy 3243 Workplace Accommodations/Americans with Disabilities Act](#)

Contact

[Andy Benish, Human Resources Director](#)

Approval

Resolution No. and Date (Board Policies)

OR

/s/ County Manager Name and Date (Administrative Policies)