

CHAPTER 7
LEAVE

(amended by Resolution #53 of 2020)

(amended by Resolution #13 of 2021)

(amended by Resolution #00 of 2023)

7.01 General Policy

All paid and unpaid leave must be reported and recorded for regularly scheduled work hours when actual work is not performed by an employee, regardless of the reason. All paid and unpaid leave is taken and charged in fifteen (15) minute increments.

All requests for leave shall be made in advance of the beginning date and time, except requests for sick leave, jury duty and administrative leave, which shall be made as soon as possible. However, failure to request leave in advance does not eliminate the requirement for all paid and unpaid leave to be properly reported and recorded on the employees' electronic time sheet.

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The Elected Official or Department Head shall schedule and approve vacation leave to ensure employees have an opportunity to use their earned vacation leave while retaining a sufficient work force to efficiently operate. Elected Officials and Department Heads will make every reasonable effort to allow the use of earned vacation leave upon request so employees are not in a position to lose accrual of leave time.

All paid and unpaid leave will be recorded on each employee's electronic time sheet submission and approved by the designated supervisor every two weeks. The Tyler Computer system, or any other system designated by the County, will be the official record keeping system for pay and leave submissions.

Employees who experience a serious illness or injury, lasting three (3) or more days, are required to submit a leave request under the Family and Medical Leave Act. All paid and unpaid leave will be used concurrently with the FMLA requirements and the rolling 12-month period, including workers compensation cases if the employee is expected to be off duty for more than fourteen (14) days. Refer to the individual leave category Policies below for further details.

Periods of unpaid status will result in a pro-ration of accrued leave categories.

7.02 Administrative Leave; Paid and Unpaid

Administrative leave is a general term for temporary removal from performing job duties. Administrative leave, with or without pay, can be ordered for an employee who is to leave the worksite and not return for a specified period of time, for a specific reason and when it is in the best interests of the County. Time designated as paid Administrative Leave will not be charged against the employee's paid leave.

When an employee is absent from work on administrative leave for investigation of misconduct, the job position will be held open, until it is determined through the process of investigation or disciplinary action, the employee will be separated from employment. The employee will return to the same job position if the employee is cleared of allegations after investigation. A temporary employee may be used while an employee is on administrative leave.

It is within the discretion of the Elected Official or County Manager to approve or deny Administrative Leave. Department Heads may not approve or deny Administrative Leave.

Administrative Leave, paid or unpaid, may be granted for the following reasons, this list is not all inclusive:

- 1) Closing of one or more County buildings due to inclement weather, threat of hazard or other dangerous conditions;
- 2) Allowance of time off for an employee exempt from overtime accrual and compensation, when such employee has worked hours in excess of the normal 40 hour work-week;
- 3) Situations when the employee has exhausted available and appropriate paid leave, but additional leave time is necessary due to exceptional, emergency or extraordinary circumstances;
- 4) During an investigation for allegations of misconduct, misbehavior, poor work performance, any other action or activity which may warrant disciplinary action;
- 5) During an investigation for allegation of policy or law violations;
- 6) During an investigation for allegations of engaging in distracting or disruptive behavior toward other employees; or
- 7) An employee who has been the recipient of physical or emotional distress by another employee(s) while a solution is sought.

Employees placed on paid, or unpaid administrative leave for #4, 5 or 6 above, shall remain available to cooperate in the investigation by responding to requests for information and questions

arising during the investigation. Failure of the employee to remain available or cooperate may result in termination for failure to cooperate.

Employees placed on paid administrative leave during an internal investigation into allegations of misconduct, violations of law or engaging in distracting/disruptive behavior is limited to 160 hours. If the investigation is being conducted by an outside agency, paid administrative leave is also limited to 160 hours. If the investigation is incomplete following the 160 hour limit, the employee will be placed on unpaid administrative leave not to exceed 480 hours at which time the Elected Official or County Manager must make an employment decision on the employee.

Employees placed on unpaid administrative leave are responsible for making arrangements to pay the employee's share of premiums for health, dental, life and other benefits which normally are deducted from regular pay. All employee premium payments are due by the end of each month of unpaid status. Employees may opt to temporarily cancel benefits while in an unpaid status. The effective date of said election will be the end of the month. The effective date of reinstatement of benefits will be the 1st of the month following return to paid status.

Although administrative leave may be imposed in situations involving alleged employee misconduct and investigation of the same, the imposition of administrative leave is not a disciplinary action. Employees who are terminated from employment due to exceeding the 480 hour limit and are subsequently cleared of all wrong doing may apply for reinstatement but will not receive back pay compensation.

In extraordinary, emergency or exceptional circumstances unique to an employee and not related to workplace performance or conduct, an Elected Official or the County Manager may elect to grant unpaid administrative leave, up to 160 hours per calendar year.

7.03 Bereavement Leave

Regular full-time employees may take bereavement leave for the loss of an immediate family member. Immediate family member is defined as a spouse, civil union partner, child, parent, sibling, grandparent and grandchild. Special consideration may be given for the death of a person whose close association with the employee was similar to any of the immediate family relationships specified above.

Bereavement leave may be used to plan and attend the funeral, or for estate business prior to and following the funeral. Employees are eligible for a maximum of 40 hours for each immediate family member. Bereavement leave, of up to 4 hours, may be granted to attend the funeral of a co-worker. Bereavement leave of one (1) work day, may be granted to act as a pallbearer at a funeral.

Should an employee require additional leave beyond the 40 hours, they may request use of accrued vacation leave and compensatory time. Sick leave and unpaid leave may be requested if all other accrued vacation leave has been exhausted. Use of vacation, compensatory, sick and unpaid leave shall be granted at the discretion of the Supervisor.

7.04 Family and Medical Leave Act (FMLA)

Employees who experience a serious illness or injury, or one of a family member (as defined), requiring an extended or intermittent absence from performing their duties are entitled to unpaid leave not to exceed 12 workweeks in a twelve (12) month period. The employee must meet all required criteria and submit the appropriate request with a medical certification to the Human Resource Department prior to the beginning date of the leave. However, if an employee fails to submit the appropriate request prior to the beginning date of the leave, a request must be presented as soon as practicable and the leave already taken will be reflected as FMLA if meeting all criteria.

Any employee who anticipates the need for leave under the FMLA should submit the appropriate leave request and medical certification form to the Elected Official, Department Head and the Human Resource Department. All requests and medical certifications, as well as any provided updates will be confidentially maintained solely by the Human Resource Department.

The County requires employees who are projected to be absent for more than three (3) days due to a serious illness or injury, or one of a family member, to submit an FMLA request with supporting medical certification. This requirement includes workers compensation if the employee is expected to be absent for more than fourteen (14) days. All leave taken runs concurrently with FMLA, not to exceed 480 hours.

A.) Eligibility:

To be eligible under FMLA, an employee must have been employed by the County for at least twelve (12) months and performed at least 1,250 hours of work during the 12-month period immediately preceding the start of the leave.

B.) Qualified Leave Reasons:

The County will grant FMLA leave to eligible employees for the following reasons:

- 1) The employee's serious health condition;
- 2) The birth and care of the employee's child;
- 3) Placement with the employee of a child for adoption or foster care;
- 4) Care of the employee's spouse, domestic or civil union partner, child or parent with a serious health condition;
- 5) Qualifying exigencies arising from the employee's spouse, domestic or civil union partner, child or parent's active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation; or
- 6) Care of the employee's spouse, domestic or civil union partner, child or parent who is an active member of the Armed Forces (including National Guard or Reserves) when

the person has a serious injury or illness, , limited to a total of 26 workweeks of unpaid leave during a “single 12-month period.”

Leave for the birth and care, or placement and care of a child must conclude within 12 months of the birth or placement of the child.

C.) Definitions

- 1) Serious Health Condition: An illness, injury, impairment or physical/ mental condition requiring:
 - a) Inpatient care in a hospital, hospice or residential medical care facility; or
 - b) Continuing treatment by a health care provider.
- 2) Continuing treatment, in broad terms:
 - a) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment thereof, or recovery there from) of more than three consecutive calendar days (and any subsequent treatment period of incapacity involving the same condition) OR involving treatment two or more times by a health care provider or treatment by a health care provider on at least one occasion resulting in a regimen of continuing treatment under the health care provider’s supervision;
 - b) A period of incapacity due to pregnancy or prenatal care;
 - c) A period of incapacity or treatment for such incapacity due to a chronic serious health condition requiring periodic visits for treatment by a health care provider; continues over an extended period of time; and may cause episodic rather than continuing incapacity (i.e., asthma, diabetes, epilepsy, etc.);
 - d) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (i.e., Alzheimer’s, severe stroke, terminal stages of a disease); or
 - e) A period of absence to receive multiple treatments by a health care provider either for restorative surgery after an accident or injury or for a condition resulting in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment (i.e., chemotherapy, physical therapy or dialysis).
- 3) Parent: The biological parent of an employee or an individual who stands or stood in the place of a parent to an employee when the employee was a child.
- 4) Child: A biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in the place of a parent, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

- 5) Health Care Provider: A physician, dentist, podiatrist, clinical psychologist, optometrist or other similar medical professional who is authorized to practice medicine or surgery in the state in which the individual practices his/her profession and who is authorized to treat the condition for which the employee is being treated. In cases limited to treatment consisting of manual manipulation of the spine to correct a subluxation, medical certification may be provided by a chiropractor.
- 6) Medical Certification Form is defined as the Department of Labor Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act), WH-380-E, form; or the Department of Labor Certification of Health Care Provider for Family Member's Serious Health Condition (Family and Medical Leave Act), WH-380-F, form.

D.) Notice Requirements

Employees seeking FMLA leave are required to submit their request and medical certification forms to the Human Resource Department at least 30 days prior to the requested period of leave. Where advance notice is not possible, such as a medical emergency, notice should be given as soon as practicable. Failure to give advance notice where foreseeable may delay or postpone the commencement of the leave.

E.) Notice to the Employee and Elected Official or Department Head

When an employee has properly submitted their request and medical certification, the Human Resource Department will provide a response using designated FMLA forms within five days of receiving the written request.

The Human Resource Department will provide written notification to the Elected Official or Department Head of the approved FMLA request and the procedures to be followed during the approved FMLA time frame.

F.) Certification of a Serious Health Condition

Medical certification on the established Department of Labor FMLA form from a health care provider is required, whether the serious health condition is the employee's or an eligible family member's. Failure to provide a signed certification may result in a delay or denial of the employee's leave. The medical certification must be provided within fifteen (15) calendar days of the County's request, but preferably at the same time the employee requests leave under FMLA. The County may, under certain circumstances require recertification of a medical condition, generally for leave which is expected to extend beyond thirty (30) days. The employee is responsible for providing updates to the Human Resource Department while on FMLA Leave.

G.) Length of Leave

Eligible employees who have submitted a properly completed FMLA request with associated documentation are entitled to a maximum of twelve (12) weeks of unpaid leave during any 12-month period. The county uses the "rolling" 12-month period measured backward from the date an employee first uses FMLA leave. Employees who meet the criteria under FMLA, may use additional hours gained due to the passage of time. Each time an employee takes FMLA leave, the remaining leave entitlement equals the balance of the twelve (12) workweeks, or 480 hours, which was not used during the rolling 12-month period.

Where both spouses, domestic or civil union partners are employed by the County, they are entitled to a combined total of 12 workweeks of FMLA for the birth and care of their newborn child, or care and placement of a child for adoption or foster care.

In limited circumstances and with a properly submitted and approved request for FMLA, including medical certification, employees may take intermittent leave or leave based on a reduced work schedule. Intermittent leave or leave for a reduced schedule may be taken whenever medically necessary to care for a seriously ill family member or for the employee's own serious health condition.

H.) Substituting Paid Leave

An employee who takes FMLA leave for any authorized reason, is required to use accrued paid leave, including vacation, sick leave, compensatory time, floating holiday (as available) and wellness day (as available) concurrently with FMLA leave. Employees who meet the criteria for the sick leave bank (Policy 7.13) may use the allotted hours from the bank following separate application and approval. The County will designate an employee's use of accrued leave as FMLA leave based on the information provided by the employee. Should the employee have a need for unpaid leave under FMLA it will be designated as FMLA and counted towards the 12 work week period, or 480 hours.

I.) Benefits during Leave

The County will maintain the employee's health and life insurance coverage and the employee shall continue to pay their portion of the benefit costs. The County may recover, on a pro rata basis, premiums it paid to maintain health coverage for an employee who fails to return to work following FMLA leave. Should an employee be placed in an unpaid FMLA status, the employee is responsible for contacting payroll to establish a payment method for the employee's share of all benefits premiums, including health, dental, voluntary life, and accident plans. The premiums must be paid by the end of the month of coverage.

All leave will continue to accrue during any period of paid FMLA leave. If unpaid FMLA is used, leave will not accrue or will be pro-rated. Accrued leave will resume when the employee returns to a paid status. If FMLA leave is taken on an intermittent basis, leave will continue to accrue on a pro rata basis for actual time worked.

J.) Return to Work

Employees returning from FMLA leave will be reinstated to the same or equivalent position, with equivalent pay, benefits and other terms and conditions of employment. Failure to return to work at the end of the leave may result in termination of employment.

Employees returning to work who experienced a serious health condition may be required to provide a medical certification from a health care provider documenting their fitness to return to work. Employees who are unable to return to work at the end of the leave should notify the Human Resource Department. Supervisors should contact the Human Resource Department to discuss alternatives prior to taking any action if an employee is unable to return to work. Except as provided in this policy, an employee's use of FMLA leave will not result in the loss of any employment benefit the employee earned before using FMLA leave.

K.) Other Leave Arrangements

If an employee is ineligible for leave under FMLA, the employee may be eligible for other leave categories as discussed in this Chapter. The determination of whether an employee qualifies for FMLA leave will be made at the time leave is requested and a medical certification form is provided.

L.) For More Information

Information can be obtained by contacting the Human Resource Department. In addition, a poster is on the Human Resource bulletin board which includes details regarding eligibility and other requirements of the law. Questions of interpretation under this policy will be resolved by reference to the FMLA and regulations issued by the United States Department of Labor. Employee's rights under this policy shall in no case be less than those afforded by the FMLA.

7.05 Holidays, Observance of

Each year the Board of County Commissioners designates observed holidays for all County employees. The holiday schedule may vary each year as deemed appropriate, or as limited by the County budget.

The following holidays generally will be observed:

- New Year's Day
- Martin Luther King Day (DHS)
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Day after Thanksgiving (DHS)
- Christmas Day

The Board of County Commissioners may provide additional holiday leave as a “Floating Holiday” to all County employees which can be used upon request of the employee and approval by the Elected Official or Department Head. It must be used by the designated date within the year. If employees fail to use the “Floating Holiday” they will lose it and not receive compensation for the lost hours.

Regular part-time employees will receive an equivalent amount of holiday time based on their work schedule (75%, 60%, 50%).

Temporary employees will not receive or be eligible for holiday pay or floating holiday, as designated by the Board of County Commissioners.

Newly hired employees will receive a “pro-rata” number of “Floating Holiday” hours for the balance of the calendar year. Examples: 10 hours of “Floating Holiday” approved for the calendar year. New employee begins work on July 1. Employee will receive 5 hours of “Floating Holiday” for the 6 months remaining in the year. New employee who begins work on or after October 1 would receive 3 hours (one-fourth) of “Floating Holiday” hours.

All employees who separate from the County without using the designated “Floating Holiday” hours will lose the hours without compensation. Should the same employee return to the County within the same year, they will not be eligible for floating holiday hours for the remainder of the year.

Employees of the Sheriff’s Office, the Department of Human Services and the Department of Transportation may be required to work on designated holidays. An Employee working on a designated holiday shall receive additional hour-for-hour compensation (double time) for holiday pay, up to a maximum of 8 hours or 10 hours based on the designated holiday schedule for their assigned department unless paid leave is requested and approved during the pay period. All employees must be in a paid status on the day immediately preceding or following the designated holiday to be eligible to receive holiday pay.

7.06 Job Related Injury Leave Unpaid Workers Compensation Leave

An employee who suffers an on-the-job injury must complete the “Employee Notice of Injury Report”, the Medical Release form, the designated medical provider form and provide it to the supervisor. The supervisor must complete the “Supervisor Accident Report” and provide the employee with a copy of the “first fill card” which gives direction to the pharmacy should the employee need a prescription filled. All completed forms shall be submitted to the Human Resource Department for processing.

An employee on injury leave or unpaid workers compensation shall receive the statutory benefits available under the Colorado Worker’s Compensation Act, Colorado Revised Statute Title 8 and Fremont County Personnel Policies and Procedures.

An employee who is incapacitated from an on-the-job injury and cannot perform their assigned job functions for more than three (3) days will be placed on unpaid workers compensation leave. Incapacitation must be supported by a physician's statement.

The Colorado Worker's Compensation Act requires temporary total disability (TTD) benefits paid to employees when they are unable to perform their job functions due to an on-the-job injury or illness. TTD is payable following a three (3) regular working day waiting period (which does not begin until the day AFTER the injury occurred). TTD is not payable for the waiting period unless the period of incapacitation lasts longer than fourteen (14) calendar days from the date of injury, beginning with the day after the injury.

An employee who sustains an incapacitating on-the-job injury and as a result cannot perform job functions, may use accrued paid leave for the three (3) working day waiting period. If incapacitation exceeds fourteen (14) days the employee may request restoration of leave for the three (3) working day waiting period in exchange for payment to the County of the Worker's Compensation benefits paid to the Employee for the waiting period. A request for restoration of leave must be in writing and accompanied with payment to the County within 30 days from the date of injury.

Unpaid Workers Compensation Leave is granted when:

- 1) A report of accident form has been initiated by the employee and provided to the supervisor.
- 2) The injured employee or Human Resources has a physician's report from the County's Designated Workers Compensation Physician concerning their medical condition or treatment.
- 3) Determination of accommodation based on the physician's report has been made by the Elected Official, Department Head or supervisor, in conjunction with Human Resources. Unpaid workers compensation leave is authorized if the employee cannot be accommodated in the workplace consistent with their medical restrictions.
- 4) Periodic reviews of physician's reports of the injured worker's status are received, reviewed and discussed.
- 5) When an injured employee is incapacitated, based on the physician's report and expected to remain off work for more than three (3) days.
- 6) Workers Compensation will pay the employee TTD while in an unpaid status.
- 7) An injured employee may opt to use accrued paid leave (vacation, sick, holiday, compensatory time) for up to 1/3 of their time off while in this status to cover the cost of benefits.

During the time an injured employee is incapacitated the County will continue to contribute the County share of the health and life insurance premium for a maximum of twelve weeks in any twelve (12) month rolling period.

The employee is responsible for making premium payments to the County for the employee's share of health insurance premiums if paid compensation is insufficient to cover the cost (as stated in #7 above). If an injured employee has voluntary benefits (dental insurance, voluntary life insurance,

or any other optional benefits) the employee is responsible for making premium payments to the County for these benefits to continue. Payment is due no later than the last working day of the month of coverage. If the employee fails to make the premium payment(s) when due, the County may exercise its right to cancel benefits for non-payment of premium(s).

An injured employee shall not accrue vacation or sick leave while on injury leave or unpaid workers compensation. If the employee is released to return to modified duty, if available, whether on a full time or part time basis, the employee is required to comply with the requirements of the offered modified duties. If the injured employee returns to work on a part-time basis leave will accrue on a pro-rated basis.

The injured employee must provide any assistance requested for completion of the necessary forms needed by the County or its insurance carrier.

During the period an employee is on unpaid workers compensation leave, the employee must keep the Human Resource Department informed of medical status at least once per week.

The County will make every effort to return injured employees or those suffering from a work related illness, to full or partial duty as soon as possible. Modified duty, if available, may be used to accommodate work restrictions as listed on a physician's report. When necessary or possible an injured employee may be placed in a position in a different department of the County on a temporary basis. All offers of modified duty will be provided in writing by the County and either accepted or declined by the employee.

An injured employee will be entitled to return to the employee's former position when released to full duty within the time limits prescribed. The period while an employee is on injury leave, or unpaid workers compensation, shall not constitute a break in service for the employee. Any appointment made to a position vacated by an injured employee shall be temporary.

An employee on unpaid workers compensation leave who is not released by the physician to return to work, for any reason, within a rolling twelve week period (as calculated under FMLA) will be terminated from employment with Fremont County as prescribed in Chapter 11. Termination of service under this provision will in no way affect continuation of payments under the Worker's Compensation Act, or eligibility for future re-employment with the County.

If an injured employee is expected to be incapacitated for more than 14 days, due to their injury or illness, the employee is required to complete the "Employee Request for Leave under FMLA" form and provide the WH-380-E, Employee Medical Certification" form to the Human Resource Department. The employee's time records will reflect an FMLA identifier for all leave taken, whether paid or unpaid.

7.07 Jury Duty and Court Leave

Regular full-time and part-time employees shall receive their regular hourly rate of pay, not to exceed their normal work day hours, while serving as a juror or responding to a jury summons, or

while placed on court leave to serve as a witness in their official capacity.

Jury Duty: The employee is required to provide a copy of the jury summons to the Elected Official or Department Head upon receipt. If the employee is required to report to the courthouse on the designated date and time indicated on the jury summons they will be placed on jury duty leave. If the employee is released from the court after reporting, the employee will provide the Elected Official or Department Head a form provided by the court stating the time released from the jury summons for proper recording on the employee's payroll record.

If the employee is selected as a juror they shall notify the Elected Official or Department Head as soon as possible. The employee will be placed on jury duty leave for the time served as a juror. Should there be a break in the trial, the employee is required to return to work during any breaks.

Court Leave: If an employee is served a subpoena, or receives a written directive by a proper authority, to appear in an official capacity as a party or witness in a case involving Fremont County, the employee will be placed on court leave for the time spent away from work. The employee must notify the Elected Official or Department Head immediately upon becoming aware of the required court appearance and provide a copy of the written documentation to support such an appearance.

An employee involved in litigation, whether as a party or witness for their own case or for another proceeding is ineligible for court leave and shall use accrued vacation leave, compensatory time, holiday float leave (if available), wellness leave (if available) or unpaid leave for such required appearances. The employee must notify the Elected Official or Department Head immediately upon becoming aware of the required court appearance and provide a copy of the written documentation to support such an appearance.

7.08 Sick Leave

Sick leave for regular full-time employees shall accrue four (4) hours per pay period.

Sick leave for regular part-time employees shall accrue on a pro-rated basis in conjunction with their regularly scheduled part-time schedule.

Sick leave shall be granted to an employee for illness or injury which incapacitates them for duty, for the illness or injury of an immediate family member which requires the employee's presence for care, or to travel to and from, within reason, a medical appointment and specified purposes found in the Healthy Families and Workplaces Act, §§8-13.3-401, et seq. C.R.S. Within reason is defined as a reasonable amount of time to drive to, attend and return from a medical appointment.

In cases of illness or injury which prevent an employee from reporting for duty as assigned the employee is required to make notification to the supervisor prior to the beginning of their shift. This notification can be made in any means identified by the supervisor and will be confirmed by the supervisor. Any means can be by telephone, email or text as directed by the department.

Employees may be required to present a release to duty from a medical provider following an

illness or injury. Should an employee fail to provide the requested release the sick leave may be charged to vacation leave or unpaid leave.

Immediate family member is defined as the employee's spouse, domestic or civil union partner, child or parent. Parent is defined as the biological parent of an employee or an individual who stands or stood in the place of a parent to an employee when the employee was a child. Child is defined as a biological, adopted, foster or step child, a legal ward or a child for whom the employee stood in the place of a parent, who is under 18 years of age; or 18 years of age or older and incapable of self-care because of a mental or physical disability. Special consideration for use of sick leave will also be given to any other person whose close association with the employee was similar to any of the immediate family relationships defined within this section.

At the discretion of the Elected Official, Department Head or Supervisor, sick leave claimed for either the day or days immediately preceding or immediately following scheduled days off, or sick leave used for three (3) consecutive days, shall be supported with an acceptable medical certification of illness or injury and signed by a physician or medical professional. The medical certification should not include a diagnosis of an illness, but must clearly state the employee's illness prevented the employee from performing their assigned duties. Should an employee be requested and fail to provide medical certification the absence shall be charged against the employee's accrued vacation leave, compensatory time or unpaid leave.

Should an Elected Official, Department Head or supervisor determine an employee is abusing sick leave through a pattern of usage (including, but not limited to, sick leave regularly requested in conjunction with weekends or holidays, same day of week repetitively without explanation, too many days taken in a short period of time or sick leave taken without indication of illness or injury) the employee may be required to submit medical certification for all sick leave used, regardless of duration or be subject to disciplinary action.

Sick leave accrues at the end of the pay period and is available to an employee to use immediately upon accrual.

Sick leave will not accrue when an employee is on unpaid leave, whether for an entire pay period or portion thereof; if an employee is on unpaid leave for a portion of a pay period, sick leave accrual will be pro-rated. Sick leave will not accrue for the first pay period if the employee works only a portion of such pay period. There will be no restriction on the use of sick leave upon accrual of such.

Elected Officials and Department Heads shall ensure all sick leave taken is properly documented when approving time worked for employees. All County employees have access to their pay and leave information through Employee Self Service (ESS). It is the employee's responsibility to review pay and leave information for accuracy. Should a discrepancy exist, the employee shall notify the Elected Official, Department Head or Supervisor within fourteen (14) days. If the employee fails to notify the County of any alleged discrepancy, payroll records shall be presumed correct, conclusive and binding for all purposes.

Any appointment made to a position vacated by an employee on sick leave shall be temporary.

The employee will be entitled to reinstatement in the position upon return to work within the time limits established by County policy. A period of extended sick leave shall not constitute a break in service for the employee. If, an employee is unable to return to work, for any reason, after twelve work weeks as calculated under FMLA, employment will be terminated.

The maximum accrual of sick leave shall not exceed 500 hours. Employees who reach the maximum limit of 500 hours in a given pay period will not accrue any additional sick leave. Accrued sick leave is not compensable to the employee at the time of separation from employment. Employees who separate from service with a sick leave balance and return to employment within six (6) months will have the balance restored.

Seasonal or temporary employees will not accrue sick leave.

7.09 Sick Leave Bank

The Sick Leave Bank is established to assist Fremont County employees who have exhausted their available accrued paid leave time, including compensatory, sick leave, vacation leave or other available options, during the course of an illness or injury supported by medical certification. The policy is established specifically for the use of Fremont County employees and is based on the donation of sick leave hours by Fremont County employees.

The Sick Leave Bank is based on a voluntary contribution of eight (8) hours per member, per year. Employees who do not contribute to the Bank are not participants in the Bank and are ineligible for Sick Leave Bank hours.

A.) Open enrollment for new employees will be during the first month of employment, eligibility and eight (8) hour contribution occurring after six (6) months of employment.

B.) Open enrollment for existing employees will be held in December each year with the required eight (8) hours contribution being deducted in January.

New enrollees must complete an enrollment form and contribute eight (8) hours of sick leave.

Existing members will not be required to contribute an additional eight (8) hours if the Sick Leave Banks' hours exceed 5,000.

If an enrollee does not have the required contribution available at the time the contribution is due, the employee's enrollment will be deemed invalid. If there are extenuating circumstances which are supported by medical certification, the contribution may be delayed.

A.) Program Requirements

- 1) The Sick Leave Bank is funded initially by an enrollee's contribution of eight (8) hours of accrued sick leave, which is deducted from the enrollee's accrued balance and credited to the Bank.

- 2) No participant has a vested right to sick leave days based solely on the contribution. A participant wishing to apply for hours from the Bank must complete an application and provide a medical certification to the Human Resource Department. The number of hours granted will be determined on a case-by-case basis after a review of the application, medical certification and the employee's available accrued leave balances.

B.) Eligibility

Sick Leave Bank hours can be requested and approved for an extended or catastrophic illness, surgery or injury of the employee, which shall include incapacitation due to childbirth or high risk pregnancies supported by medical certification. Pregnancies without extended inpatient care, routine surgeries, common illnesses (cold, flu), cosmetic procedures, sprains, strains or tears, or other common conditions shall not be a qualifying medical necessity for hours to be granted under this program except in cases of critical or serious complications. It is not available for a "bonding" period between an employee and a newborn child or adopted child unless a medical necessity is demonstrated through medical certification. However, up to 80 hours can be requested and granted as supported by medical certification for maternity leave. The medical certification must establish the employee is incapacitated to perform their duties.

C.) Medical Certification

Defined as a written document signed by a medical professional which provides specifics on the medical condition and the employee's incapacitation to perform work duties. A properly completed FMLA Medical Certification may be substituted.

D.) Criteria

- 1) Sick Bank hours may not be granted for elective surgery or illness of any member of the employee's family or during any period an individual is receiving disability benefits from Social Security, a retirement plan, long or short term disability or during any period of time an individual is receiving workers compensation wage benefits.
- 2) Sick Bank hours must be used on a continuous basis after all other accrued leave has been exhausted. Any hours granted may be applied retroactively from the time the employee entered a unpaid status. Intermittent use may be appropriate based on medical certification and the circumstances surrounding the approval but cannot exceed a 60 day time period.
- 3) At the discretion of the Elected Official or Department Head, Sick Bank hours may be denied if the requesting employee has been counseled, warned or reprimanded for their excessive use or misuse of accrued sick leave in the previous twelve months.
- 4) Bank hours are carried over from year to year. Information for the annual open enrollment will contain instructions on how to remain an active participant, such as making an additional contribution. All new enrollees during open enrollment are required to

contribute eight (8) hours of accrued sick leave. To be eligible for participation, an employee must make the required contribution in January or the enrollment will be invalid.

- 5) Contributed hours to the Sick Leave Bank are not refundable. If the program is terminated at any time, any hours remaining in the bank shall be equally divided among the participants as of the time of termination, taking into consideration the maximum number of sick leave an employee can accrue.
- 6) Upon separation from the County, a Sick Bank participant will no longer be eligible for sick leave from the Bank.

E.) Conditions governing the granting of sick leave hours from the Bank:

- 1) The application and medical certification forms are available through the Human Resource Department or on the Employee Self Service site and are separate from requests for FMLA. However if an employee has requested, provided the required FMLA medical certification form and been approved, they do not have to provide a separate medical certification.
- 2) If a member is unable to make application the application may be filled out by a representative designated by the member.
- 3) A written and signed medical certification statement which specifies the nature of illness or injury, including incapacitation for work, is required.
- 4) The Elected Official or Department Head must grant approval for time off and may meet with the employee to discuss any problems with the request.
- 5) Sick Bank hours will not be granted until a member has used all accrued paid leave. Employees using Sick Bank hours for an entire pay period will not accrue vacation or sick leave; if using for a portion of any pay period, accrual will be pro-rated.
- 6) Sick Bank hours may not be used to extend or increase the amount of paid sick leave past the maximum amount of leave allowable under the Family and Medical Leave Act.
- 7) The maximum number of hours which may be granted to an individual member is 160 in any twelve-month period.
- 8) The employee or supervisor must inform the Human Resource Department when the member returns to work. Any unused Bank hours will be returned to the Bank.

7.10 Unauthorized Leave

County employees shall obtain prior approval from their supervisor for all absences. If an employee is absent for more than one-half of the scheduled work day without supervisor-approved paid or unpaid leave or other proper authorization, the employee may be terminated for job abandonment. The Elected Official or Department Head may excuse unauthorized leave if unusual, emergency, unexpected or unforeseen circumstances exist and justify the absence.

7.11 Uniformed Service (Military) Leave

The County recognizes service with the Uniformed Services is critical and warranted. Employees who are uniformed members of any of the branches listed below may, from time to time, be required to or have a situation requiring their absence from work for an extended period of time to meet Uniformed Service obligations or to respond to a call to active duty. The County complies with the Uniformed Services Employment and Reemployment Rights Act of 1994 and subsequent amendments, concerning this type of leave. The "uniformed services" consist of the following:

- 1) Army, Navy, Marine Corps, Air Force, or Coast Guard;
- 2) Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve;
- 3) Army National Guard or Air National Guard;
- 4) Commissioned Corps of the Public Health Service.; or
- 5) Any other category of persons designated by the President in time of war or emergency.

The employee is required to provide notice (copy of orders or training schedule) to the Elected Official or Department Head as soon as possible after becoming aware of the requirement or need for Military Leave, unless military necessity prevents the giving of notice; or the giving of notice is otherwise impossible or unreasonable. All employees, other than those whose preservice positions are brief or non-recurrent and who cannot be reasonably expected to continue employment indefinitely or for a significant period, who are called into Uniformed Service, Training or Active Duty will be granted fifteen (15) days, not to exceed 120 hours, per calendar year, of paid military leave and reemployment rights in accordance with applicable federal law. Should the orders or training schedule exceed the paid military leave hours the employee will be granted unpaid military leave.

The County respects the requirements of uniformed service obligation and recognizes the above named military authorities have the sole right to determine the amount of training needed to meet mission or duty requirements. The County reserves the right to work with the employee and their military superiors in complying with the provisions of the Act and other applicable statutes.

7.12 Unpaid Leave

Unpaid leave may be granted to an employee within the discretion of the Elected Official or Department Head. An employee may be granted up to 480 hours of unpaid leave in any twelve month period. Granting of unpaid leave during the probationary period should be limited based on the individual circumstance(s). An employee approved for unpaid leave may be required to use all accrued leave (vacation, compensatory time earned, floating holiday, wellness day (as available)) prior to using any unpaid leave. Sick leave must be used if the request is for medical reasons or otherwise qualifies for use of sick leave.

The employee request and approval of unpaid leave will be for a specific period of time and reason. Upon expiration of the time granted, the employee must return to duty or request an extension. Failure to do so, shall be considered job abandonment, resulting in termination from employment. Documentation of the employee request(s) and approval will be maintained by the employee's department for a period of three (3) years. Notification is required to the Human Resource Department so proper pay codes can be added to an employee's electronic time keeping system.

Should an employee need to request an extended leave of absence without pay, the employee must submit a detailed written request to the Elected Official, County Manager or Department Head at least ten (10) calendar days before the effective date, except in emergency situations. If an employee fails to request and be approved for unpaid leave in advance, the employee may be subject to disciplinary action, up to and including termination.

All requests will be considered on a case-by-case basis taking into consideration the needs of the department, needs of the employee and current employment status such as probationary period and performance.

An employee on unpaid leave will not accrue paid leave or receive County retirement contributions. Payment of the employer's share of health insurance premiums will discontinue or terminate after 40 hours of unpaid leave. Employees may opt to continue coverage by making arrangements to pay both the employee and County share of premiums.

Employees must pre-arrange payment of the employee's share of health, dental and vision insurance, as well as the employer share of such premiums, if applicable. Employees must also pre-arrange for payment of optional deductions for voluntary life insurance premiums, loan payments and other automatic withdrawals from the employee's compensation. Pre-arrangements can be made through the Human Resource Department or payroll. Premiums must be made by the due dates or benefits will be temporarily terminated. Employees may have the option of temporarily cancelling benefits while on unpaid status. Terminated or cancelled plans will begin immediately upon returning to paid status.

An employee who takes approved unpaid leave shall be reinstated to the same pay grade upon return to employment. Any appointment made to a position temporarily vacated by an employee on unpaid leave shall be temporary. Properly authorized unpaid leave shall not constitute a break in employment service with Fremont County.

7.13 Vacation Leave

Vacation leave for regular full-time employees shall accrue as follows:

0 to 60 months: 4 hours each pay period = 104 hours per year

61 months to 120 months: 6 hours each pay period = 156 hours per year

121 months and above: 8 hours each pay period = 208 hours per year

All employees are limited to a maximum vacation leave carryover of 240 hours.

Vacation leave for regular part-time employees shall accrue on a pro-rated basis in conjunction with their regularly scheduled part-time schedule with a maximum limit of 240 hours.

Vacation leave will not accrue when an employee is on unpaid status. Should an employee be approved to use a portion of unpaid status during a pay period, vacation leave will accrue on a pro-rated basis. Employees who are placed on administrative leave – unpaid for the entire pay period, or a portion thereof, will not accrue leave or it will be pro-rated based on the number of paid hours.

Vacation leave accrues at the end of the pay period and is available for use immediately upon accrual. Employees who reach the maximum limit of 240 hours in a given pay period will continue to accrue throughout the calendar year, however any leave not taken, in excess of 240 hours, prior to December 31 will be lost when the carryover process is completed January 1.

Use of vacation leave shall be governed by departmental or office policy and subject to approval of the employee's Elected Official, Department Head or Supervisor. Every reasonable effort should be made to allow employees who are projected to lose vacation leave to use it prior to December 31.

All County employees have access to their pay and leave information through Employee Self Service (ESS). It is the employee's responsibility to review pay and leave information for accuracy. Should a discrepancy exist, the employee shall notify the Elected Official, Department Head or Supervisor within fourteen (14) days. If the employee fails to notify the County of any discrepancy, payroll records shall be presumed correct, conclusive and binding for all purposes.

Employees shall be entitled to full compensation for a maximum of 240 hours of accrued vacation leave at the time of separation from employment.

Seasonal or temporary employees will not accrue vacation leave.

