



Kent County Personnel Office

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Office Hours: 8:00am-5:00pm Monday-Friday

Kent County FMLA Policy

Kent County Levy Court strongly supports the Department of Labor's position that a direct correlation exist between stability in the family and productivity in the workplace. This Policy has been developed to ensure compliance with the Family and Medical Leave Act of 1993 (FMLA) and to promote a positive balance between family and work lives for all Kent County employees.

A. Eligibility. Full-time permanent employees who have at least 12 months of service with Kent County and have worked for the County at least 1,250 hours during the preceding 12 months are eligible for family and medical leave.

B. Entitlement. Kent County employees meeting the eligibility requirements indicated above are entitled to a maximum of 12 weeks (except in the case of leave to care for a covered servicemember with a serious illness or injury) of unpaid leave or a combination of paid and unpaid leave per rolling twelve-month period measured backward from the date an employee uses any eligible leave as provided in the Federal Family and Medical Leave Act of 1993 (FMLA), as amended, when taken as follows:

- (1) For the birth of the employee's son or daughter, and to care for the newborn child;
- (2) For the placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;
- (3) To care for the employee's spouse, son, daughter, or parent with a serious health condition;
- (4) For a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job; and,
- (5) For any qualifying exigency 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) in support of a contingency operation.

A serious health condition is an incapacity or treatment, including prenatal care, that involves in-patient care or continuing treatment by a health-care provider, not short-term conditions for which treatment and recovery are very brief and for which regular sick leave would ordinarily be used.

C. Spouses employed. Spouses employed full-time by Kent County are jointly entitled to a combined total of 12 weeks of family leave during any twelve-month period for the birth or placement of a child for adoption or foster care, and to care for a child or parent (but not a parent "in-law") who has a serious health condition.

D. Advance notice and medical certification.

(1) The employee will provide 30 days' advance notice to the department head when the need for leave is foreseeable. If, because of extenuating circumstances, the employee is unable to provide 30 days' notice, the employee will provide notice as soon as practicable. Notice will immediately be forwarded to the Personnel Director via the department head.

(2) The employee will provide timely medical certification to the department head to support a request for leave because of a serious health condition of the employee's or the employee's spouse, son or daughter, or parent. Certification will be forwarded to the Personnel Director for approval. Medical

recertification will be required every 30 days. In certain cases, the County may require a second or third opinion at County expense. U.S. Department of Labor (DOL) form "CERTIFICATION OF PHYSICIAN OR PRACTITIONER," is the preferred format for medical certification; copies are available in the Personnel Department. All information requested on the DOL form must be supplied regardless of the format utilized by the health-care provider.

(3) If leave is taken due to a serious health condition of the employee, a fitness-for-duty certification must be provided to the employee's department head and the Personnel Director prior to the employee's return to work.

E. Administration. The Kent County Levy Court's policy is to integrate the provisions of the FMLA with existing County leave policies, as defined in the Kent County Personnel Ordinance, wherever possible. Therefore, an employee requesting FMLA leave for a reason which would be allowable under another County leave policy must first exhaust all applicable accrued sick leave during the initial portion of the FMLA leave period. (At employee's option, he or she may retain one week of sick leave.)

(1) Eligible classified or unclassified employees are entitled to use 12 workweeks of unpaid leave for FMLA-qualifying purposes during a rolling twelve-month period measured backwards from when any FMLA leave is taken. If the employee has a bank of accrued sick leave, vacation, or other leave, it must be used concurrently and the total of combined paid and/or unpaid FMLA leave will not exceed 12 weeks. "Workweek" is defined as seven consecutive twenty-four-hour periods designated as a workweek by the department in which an employee works. As an alternative to 12 consecutive weeks of unpaid leave, an employee may request an intermittent leave or a reduced leave schedule.

(2) Employees requesting intermittent or reduced leave schedules may be required to transfer temporarily to an available alternative position with equivalent pay and benefits. The employee must be fully qualified to perform the duties of the alternative position. All alternative assignments must be approved by the Personnel Director.

(3) The amount of leave used on an intermittent or reduced leave schedule will be determined by counting only the amount of leave time actually taken

(4) Leave without pay of less than one full day for documented FMLA-qualifying purposes will not affect an employee's Fair Labor Standards Act exempt status.

(5) When an employee requests leave of any kind or is absent for more than three (3) days, the Personnel Director will, upon notification, determine if the leave is FMLA-qualifying. The employee will be promptly notified of the determination and the employee shall promptly submit all FMLA forms as requested.

(6) If a request for leave qualifies under the tenets of FMLA, the employee will be provided with a copy of the Kent County Levy Court Family and Medical Leave Policy, along with an Employee Request for Medical/Leave Form. The Personnel Department staff will be available if an employee requests assistance completing the form. The completed Employee Request for Medical/Leave Form must be returned to the Personnel Department within five days of issuance.

(7) All leave (paid or unpaid) taken for FMLA reasons will count against the employee's annual FMLA leave entitlement.

(8) While on FMLA leave, an employee must contact his or her supervisor at least once per month and indicate his or her intention to return to work as scheduled.

F. Health insurance and employee benefits.

(1) Kent County will maintain the employee's health and dental insurance, life insurance, and long-term disability insurance coverage for the duration of the FMLA leave period. The County will continue to pay the full cost of the County's share of the employee's insurance coverage; additional eligible dependent coverage must continue to be paid by the employee. Normal payroll deductions will be made for the eligible dependent and other coverage during any period of paid leave. The employee is

responsible for paying the premiums for eligible dependent and other coverage during periods of unpaid leave. Employee payments are due in the Personnel Department by the 20th of each month.

(2) Upon the employee's return from FMLA leave, any unpaid employee insurance premiums will be deducted from the employee's pay.

(3) If an employee does not return to work at the end of the FMLA leave period, the employee will reimburse the County for all insurance premiums paid by the County on the employee's behalf during the unpaid portion of the FMLA leave. As mandated in the Family and Medical Leave Act of 1993, the employee will not be liable to reimburse the County if the reason the employee does not return to work is due to the continuation, recurrence or onset of a serious health condition (either affecting the employee or an immediate family member) that would entitle the employee to FMLA leave or does not return to work due to other circumstances beyond the employee's control.

(4) FMLA leave will not be treated as a break in service for purposes of pension vesting and participation eligibility. However, the County will not make pension contributions during FMLA leave.

(5) An employee will continue to accrue vacation and sick leave time at his or her appropriate rates while on unpaid FMLA leave.

(6) No part of FMLA leave will be considered a break in employment.

G. Job restoration.

(1) Upon return from FMLA leave, the employee will be restored to his or her original position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

(2) Kent County may deny restoration of employment to a key employee if restoration of the employee to employment will cause substantial and grievous economic injury to the operations of Kent County. A "key employee" is defined as a salaried FMLA-eligible employee who is among the highest paid 10% of all employees employed by Kent County.

(a) Written notice will be given to any key employee at the time FMLA leave is requested or when FMLA leave commences, if earlier, if the County intends to deny restoration to employment on completion of the FMLA leave. The notice will be served either in person or by certified mail and will explain the basis for the finding that substantial and grievous economic injury will result. The notice will provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as length of leave and the urgency of the need for the employee to return.

(b) If a key employee does not return to work in response to the notification of intent to deny restoration, the employee is still entitled to all rights under FMLA. These rights will cease when the employee gives notice of intent not to return to work or at the conclusion of the leave period.

H. General. A copy of the Family and Medical Leave Act of 1993 is available to all employees through the Personnel Department.

DONATED LEAVE

(Kent County Levy Court Policy 11-2)

This Policy establishes a donated leave program for County employees, whereby employees may donate vacation leave, limited sick leave or both to other specified employees eligible for leave under the Family and Medical Leave Act Policy.

A. Any employee of Kent County government may donate equal amounts of accrued sick and vacation leave (one vacation day for each sick day donated), vacation leave only, or up to three days of sick leave per calendar year (up to a total annual maximum value of \$20,000) to other donor-designated employees eligible for leave under the Family and Medical Leave Act (FMLA) policy. The donated leave will be converted into cash value at the donor's rate of pay and reconverted to equivalent hours of leave at the recipient's rate of pay and credited to the recipient's sick leave account. Sick leave may not be donated within three months of retirement.

B. Donated leave may be used by a recipient only for a FMLA-qualifying event, which is diagnosed and certified by a physician as rendering the employee unable to work or an eligible family member

requiring the employee's personal care for a period greater than five calendar weeks. Separate periods of need resulting from the same or a related FMLA-qualifying event occurring within any 12 consecutive months shall be considered the same period of eligibility. No employee may receive more than seven months of donated leave during any twelve-month period.

C. Before receiving donated leave time, an employee shall have:

- (1) Been a County employee for at least six months prior to the need;
- (2) Used all of his or her sick leave and accrued vacation time (except that one week may be retained, if the employee chooses); and
- (3) Established FMLA-qualifying justification for such receipt, which must be reviewed every 30 days.

D. The donated leave program shall be administered by the Personnel Director, and any disputes regarding eligibility shall be resolved by the Personnel Administration Board.