

13.1.13

Mayor's Office: Council Agenda Item Request Form

This form and supporting documents (if applicable) are due the Wednesday before the COW meeting by noon.

Date Received (office use)	
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Date of Request	7.11.17
Requesting Staff Member	Michael Ongkiko
Requested Council Date	7.18.17
Topic/Discussion Title	HR Policy Amendments - 4-200 Leave Practices - 4-600 FMLA
Description	- 4-200 Leave Practices amendments to vacation and addition of parental leave - 4-600 FMLA amendments to run FMLA concurrently with paid leave
Requested Action¹	Information, discussion and approval for amendments to policy
Presenter(s)	Michael Ongkiko, Human Resources Director
Time Needed²	20-25 minutes
Time Sensitive³	
Specific Time(s)⁴	
Contact Name & Phone	Michael Ongkiko x80575
Please attach the supporting documentation you plan to provide for the packets to this form. While not ideal, if supporting documents are not yet ready, you can still submit them by 10 am the Friday morning prior to the COW agenda. Items without documentation may be taken off for consideration at that COW meeting.	Will send by end of week.

Mayor or Designee approval: Kim Ferrin

¹ What you will ask the Council to do (e.g., discussion only, appropriate money, adopt policy/ordinance) – in specific terms.
² Assumed to be 10 minutes unless otherwise specified.
³ Urgency that the topic to scheduled on the requested date.
⁴ If important to schedule at a specific time, list a few preferred times.

4-200 Leave Practices/4-600 FMLA Policy Amendments

4-200 Leave Practices

Purpose/Policy of Revising

- Inserts 80 hours of administrative leave as an optional recruitment incentive for hiring managers that was inadvertently eliminated from the policy end of last year (2016).
- Enhances vacation accruals; adds tiers (utilized Hay Group Recommendation).
- New and existing employees will have vacation accrual rates adjusted per the employee's related work experience. For existing employees, vacation accrual rates will be adjusted after the relevant work experience project is complete (October 2107). Vacation accrual rates will be adjusted retroactively to the date when the policy is approved.

Summary of Proposed Vacation Accrual and Cost

Years of Service	Current County Vacation Accrual Rates	Proposed Vacation Days By Years of Service	Employee Count	Additional Days	Average Additional Days	Cost for Additional Days
0 to 2	12	12	911	0	0.0	0
3 to 5	12	15	507	766	1.5	\$129,530
6 to 10	12 to 18	18	627	890	1.4	\$163,631
11 to 15	18	21	389	417	1.1	\$80,235
More than 15	18 to 24	24	1,121	284	0.3	\$58,050
Grand Total			3,555	2,357	0.7	\$431,446

- No new budget request is needed.
- Adds Parental Leave to policy.

Parental Leave

- Parental leave may be used for an employee's absence from work due to the birth or adoption of a child.
- Employees approved for FMLA leave are also eligible for six weeks (240 hours) of consecutive paid Parental Leave

- Birth mothers that are eligible for FMLA are entitled to an additional six weeks (240 hours) of consecutive paid leave immediately after the birth to recover from the physical and medical effects of pregnancy and childbirth.
- Proposed that parental leave be applied retroactively back to April 18, 2107 (three (3) months)

4-600 FMLA

Purpose/Policy of Revising

- FMLA will now run concurrently with other leave-worker's compensation, STDi, LTD, sick leave when it is a certified medical condition, maternity and paternity leave.
- Paid leave shall be exhausted in the following order: 1) Parental leave; 2) personal preference day; 3) administrative leave; 4) compensatory time; 5) sick leave; and 6) vacation.

Salt Lake County Human Resources Policy 4-200: Leave Practices

Purpose

This policy explains the circumstances under which an eligible employee may use the various types of paid and unpaid leave provided by Salt Lake County.

I. Policy

Salt Lake County provides various types of paid and unpaid leave for an employee's absence from work for personal and professional reasons. Documentation supporting a request may be required at any time (i.e. military orders; funeral program for funeral leave). Leave under the [Family and Medical Leave Act \(FMLA\)](#), [Americans with Disabilities Act as Amended \(ADAA\)](#), Worker's Compensation and Long Term Disability are covered under separate policies.

II. Procedures

A. Administrative Leave (~~Paid~~)

~~1. Administrative leave may be paid or unpaid.~~

~~2. An employee may be placed on ~~paid~~ administrative leave for an investigation or other organizational needs, the following purposes:~~

~~a. An employee will be placed on administrative leave for the minimum time necessary to complete the investigation or satisfy organizational needs.~~

~~3. An employee may receive a bonus award in the form of paid administrative leave.~~

~~a. The total amount of all bonus awards of paid administrative leave may not exceed five working days in aggregate over a calendar year.~~ ~~investigation, disciplinary, or organization needs~~

~~a-b. A bonus award in the form of paid administrative leave must be used within a year of the date granted.~~

~~i. employees will be placed on administrative leave for no longer than is necessary for the agency to determine the employee's status~~

~~b. as a bonus reward to the employee~~

~~i. A bonus award in the form of paid leave may not exceed five working days in aggregate over a calendar year.~~

~~ii. Any administrative leave awarded must be used within a year of the date granted.~~

~~B. If an employee has their service date adjusted to account for prior service, the adjusted service date shall be used for the purpose of determining vacation accrual.~~

~~4. A hiring official may grant an award of eighty (80) hours of paid administrative leave as a recruitment incentive to a new hire who is an eligible employee. This award must be used within a year of the new hire's start date.~~

~~C. B. Compensatory time will be granted in accordance with [HR Policy 5-300, Payroll](#).~~

~~D. C. Funeral Leave~~

1. Employees in the following employment statuses are eligible for a paid funeral leave: 02 regular, 03 probationary, 04 provisional, 08 permanent part-time with benefits and 12 time limited appointed.

Salt Lake County Human Resources Policy 4-200: Leave Practices

2. At the discretion of the administrator, funeral leave may be granted to make funeral arrangements, settle family affairs, attend the funeral or memorial service and for bereavement.
3. The amount of funeral leave granted is at the discretion of the administrator based upon the employee's individual circumstances and the needs of the agency. The maximum time off for funeral leave is as follows:
 - a. Up to 40 work hours for immediate family which includes spouse, adult designee, child, ward, dependent child of an adult designee, parent, legal guardian, brother, sister, grandparent, grandchild, mother-in-law, father-in-law and step-relatives of the same order.
 - b. Up to 24 work hours that may be extended to 40 work hours for other family members who include uncle, aunt, nephew, niece, brother-in-law, sister-in-law, son-in-law and daughter-in-law.
 - c. Up to ten hours per calendar year for other relatives and friends. Hours not used in the calendar year will not to be carried forward to the next year.
 - d. If additional time off is needed, an employee may request to use vacation, compensatory time or leave without pay.
 - e. In the event of a family member's death while an employee is on vacation, the employee's time off may be extended by the amount of funeral leave permitted by this policy if approved by the administrator.

E.D. Holiday Leave

1. Employees in the following employment statuses are eligible for paid leave on holidays: 02 regular, 03 probationary, 04 provisional and 12 time limited appointed.
2. Employees in the following employment statuses are eligible for pro-rated paid leave on holidays based on the number of hours the employee is normally scheduled to work weekly (i.e. 20 hours per week = 4 hours paid leave; 30 hours per week = 6 hours paid leave): 04 provisional, and 08 permanent part-time with benefits.
3. A benefits eligible employee who works an alternative schedule is eligible for holiday pay based on the FTE held.
4. Employees in 05 temporary status are not eligible for paid leave on holidays.
5. To be eligible for holiday pay, an employee must be in an eligible pay status the last scheduled work day before the holiday is observed.
6. The following days are defined as legal holidays when most County government offices are closed:
 - a. The 1st day of January New Year's Day
 - b. The 3rd Monday of January Martin Luther King Day
 - c. The 3rd Monday of February- President's Day
 - d. The last Monday in May Memorial Day
 - e. The 4th day of July Independence Day
 - f. The 24th day of July Pioneer Day
 - g. The 1st Monday of September Labor Day
 - h. The 11th day of November Veterans Day
 - i. The 4th Thursday of November Thanksgiving Day

Salt Lake County Human Resources Policy 4-200: Leave Practices

- j. The 4th Friday of November Day after Thanksgiving
- k. The 25th day of December Christmas Day
- 7. A holiday that falls on a Sunday will be observed on the following Monday. A holiday that falls on a Saturday will be observed on the preceding Friday.
- 8. Employees required to work on holidays are paid in accordance with [HR Policy 5-100 Pay Practices](#).
- 9. As holidays occur, the eligible employee will receive either a cash payment based on the FTE held or leave added to their holiday bank based on the FTE held.
- 10. When employees record holiday on their time card, the hours will be deducted from the holiday bank.
- 11. Employees may accrue up to 24 hours of holiday leave. Holiday leave will be audited annually at the conclusion of each employee's last full work cycle in July. Holiday leave exceeding 24 hours will be forfeited on August 1 of each year.
- 12. Hours remaining in the holiday bank will be cashed out upon separation.

F-E Holiday Leave – Sheriff's Office Sworn Employees

- 1. Employees in the following employment statuses are eligible for 96 hours of holiday leave per calendar year: 02 regular and 03 probationary. The 96 hours of holiday leave is in lieu of the holidays listed in 4-200-II-D-6 and the personal preference holiday.
- 2. The 96 hours of holiday leave will be divided equally between the 12 calendar months of the year. Employees are eligible to use eight hours of holiday leave at the beginning of each month.
- 3. Employees who take 80 hours or more of leave without pay (LWOP) in one month will not be awarded holiday leave for the following month.
- 4. Holiday hours will be prorated based on the number of months worked by an employee entering the Deputy Sheriff's Merit Commission (DSMC) system during the calendar year.
- 5. Employees entering the DSMC system from the Career Service system will be awarded unused hours in the former position for the calendar year.
- 6. Employees who work on holidays will be paid at straight time unless the requirements for overtime are met.
- 7. Supervisors should allow for the scheduling of eight holiday hours off per month. Due to the difficulty in maintaining shift schedules for 24 hour coverage, holiday leave may be scheduled by the Sheriff's Office Divisions.
- 8. Employees may accrue up to 24 hours of holiday leave. Holiday leave will be audited annually at the conclusion of each employee's last full work cycle in July. Holiday leave exceeding 24 hours will be forfeited on August 1 of each year.

G-F Jury and Witness Leave

- 1. Employees in the following employment statuses are eligible for a paid leave of absence for jury or witness duty in response to a subpoena or directive by the Federal Government, State of Utah or its political subdivisions: 02 regular, 03 probationary, 04 provisional, 08 permanent part-time, 09 part-time and 12 time limited appointed.
 - a. Sheriff's Office sworn employees in employment status 02 regular.
- 2. Jury duty is an approved absence.
 - a. An employee will be granted paid time off for jury duty.

Salt Lake County Human Resources Policy 4-200: Leave Practices

- b. Scheduled work time may be spent traveling to and from jury duty.
- c. An employee may keep income received from jury duty.
3. Witness duty may be an approved absence if related to employment.
 - a. Traveling to and from employment-related witness duty.
 - b. An employee may keep income received from witness duty.
4. An employee subpoenaed for private litigation or by a party other than the Federal Government, State of Utah or its political subdivisions, to testify as an individual and not in a work-related official capacity, may request to use vacation or leave without pay.

H.G. Leave Without Pay (Excluding Long Term Disability Applicants, Workers Compensation, Military Leave and Family and Medical Leave (FMLA))

1. Employees in the following employment statuses may submit a written request for an unpaid leave of absence not to exceed 180 consecutive days in a 12 month period to the employee's supervisor: 02 regular, 08 permanent part-time and 09 part-time. The supervisor will submit a recommendation for approval of a request for leave without pay of more than 2 calendar days to their department director or elected official.
2. An employee on leave without pay for more than a cumulative 30 calendar days does not accumulate retirement benefits and contributions to the employee's state Retirement Fund will not be made during the period of leave.
3. An employee on leave without pay does not accrue sick or vacation leave.
4. Insurance benefits for leave without pay of 30 or more consecutive days will be handled in accordance with [HR Policy 4-300 Insurance and Retirement Programs](#) and [HR Policy 4-900 Retirement Policy](#).
5. An employee returning from leave without pay status will be reinstated in accordance with [HR Policy 2-700 Employment Practices](#).

H.H. Military Leave

1. Employees in the following employment statuses are eligible for a paid leave of absence for military duty: 02 regular, 03 probationary, 04 provisional, 08 permanent part-time and 12 time limited appointed.
2. The employee may be granted up to a maximum of 15 working days (120 hours) per calendar year.
3. If additional time off is required, the employee may use vacation or leave without pay.
4. A copy of the military orders supporting the leave request will be submitted to the employee's Administrator before beginning leave. The agency will forward a copy of the military orders to the Human Resources Division for placement in the employee's official personnel file.
5. Employees activated for military duty under the [Uniformed Services Employment and Re-Employment Rights Act \(USERRA\)](#) may be absent from employment for the period required by the official orders and as prescribed in the Act.
6. An employee returning from active duty will be reinstated in accordance with [Uniformed Services Employment and Re-Employment Rights Act \(USERRA\)](#) and [HR Policy 4-300 Insurance and Retirement Programs](#) and [HR Policy 4-900 Retirement Policy](#).

H.I. Sick Leave

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1. Employees in employment statuses 02 regular, 03 probationary, 04 provisional, 08 permanent part-time and 12 time limited appointed will accumulate sick leave according to the following formula:
 - a. $\text{Accrual} = \text{regular hours worked} \times (\text{times}) .04615$
 - b. A Multiple Jobs Employee accrues sick leave based upon the hours worked in the Primary Position and not the hours worked in a Subordinate Position or the hours worked for a Subordinate Agency.
2. There is no limit on the amount of sick leave that may be accrued and carried forward to succeeding years.
3. Sick leave may be used for an employee's absence from work due to illness, injury, medical appointments and to care for an ill or injured immediate family member.
4. Sick leave may be used after the employee has completed one month of employment.
5. Sick leave may be used in increments of one quarter hour or more.
6. Employees are not allowed to use sick leave for any period of time beyond or in advance of time already accrued.
7. Holidays occurring while an employee is on sick leave are not deducted from accrued leave.
8. Employees will report an intended absence to their supervisor prior to the beginning of their scheduled work day or following normal agency call-in procedures.
9. Administrators are responsible for approving or denying sick leave requests and may require medical clarification of illness. Employees using five or more consecutive days of sick leave will be required to provide a note from a health care provider documenting the medical need for the absence.
10. Employees who use little or no accrued sick leave during the calendar year will automatically have a portion of the unused sick leave converted to vacation in January of each year according to the following formula:
 - a. $\text{Accrued Credit} - (\text{minus}) \text{Used Credit} - (\text{minus}) 64 \text{ Hours} = \text{Converted Credit}$
 - i. Employees may waive conversion of sick leave by submitting a written request to the Human Resources Division no later than December 15 of each year.
11. Sick leave is not accrued when an employee is on leave without pay.
12. When an employee transfers from one Agency to another, accrued sick leave will be transferred to the new Agency.
13. Employees terminating County employment, for reasons other than retirement, will not be compensated for unused sick leave accumulated prior to the termination date.
14. An employee may not donate sick leave to another employee
15. Agencies may not require a minimum balance of accrued sick leave.

K.J. Vacation and Personal Preference Day

1. Employees in statuses 02 regular, 03 probationary, 04 provisional, 08 permanent part-time and 12 time limited appointed will accrue vacation according to the following schedule:

COUNTY YEARS OF SERVICE	ACCRUAL
Service date through completion of the 8 th year 0 to 2	Full-time: 12 days (96 hours) Part-time: Hours paid x .04615 Regular hours worked x (times) .04615

Salt Lake County Human Resources Policy 4-200: Leave Practices

<u>3 to 5</u> After completion of the 8 th year through completion of the 16 th year	<u>Full-time: Regular hours worked x (times) .0692315 days (120 hours)</u> <u>Part-time: Hours paid x .057690</u>
<u>6 to 10</u>	<u>Full-time: 18 days (144 hours)</u> <u>Part-time: Hours paid x .069228</u>
<u>11 to 15</u>	<u>Full-time: 21 days (168 hours)</u> <u>Part-time: Hours paid x .080766</u>
<u>More than 15</u> After completion of 16 th year through end of employment	<u>Full-time: 24 days (192 hours)</u> <u>Part-time: Hours paid x .09231 Regular hours worked x (times) .09231</u>

- a. For purposes of leave accrual, Human Resources shall establish an employee's service date based upon prior relevant experience. Prior relevant experience also includes any service in a comparable public merit system.
- a-b. A Multiple Jobs Employee accrues vacation leave based upon the hours worked in the Primary Position and not the hours worked in a Subordinate Position or for a Subordinate Agency.
2. Vacation and the personal preference day may be used after the employee has completed one month of employment.
3. Vacation may be used in increments of one quarter hour or more.
4. Personal Preference Day
 - a. Employees eligible to accrue and use vacation are eligible to use a personal preference day based on FTE.
 - i. Employees may take the Personal Preference Day at their discretion with supervisor approval.
 - ii. The Personal Preference Day may not be taken in increments (i.e., a .75 FTE may take one 6 hour Preference Day, not two 3-hour Preference Days).
 - b. Preference days are not cumulative and will be forfeited if not used within the calendar year.
5. Employees must request approval to use accrued vacation from their supervisor prior to scheduling.
6. Administrators will encourage employees to use accrued vacation and to arrange work schedules so that employees may take vacations at times convenient for them as well as for the County.
7. Holidays occurring while an employee is on vacation are not deducted from accrued vacation.
8. Employees are not allowed to use vacation for any period of time not currently documented in the payroll system.
9. No more than 40 days (320 hours) of unused accrued vacation will be carried from one year to the succeeding year (use or lose).
10. Vacation is not accrued when an employee is in leave without pay status.
11. An employee may not receive cash payment of vacation accruals until separation from employment.

Salt Lake County Human Resources Policy 4-200: Leave Practices

12. Vacation accrued at the time an employee terminates will be paid in accordance with HR Policies [2-800 Resignation and Exit Interviews](#); [4-300 Insurance and Retirement Programs](#); and [4-900 Retirement Policy](#).
13. Agencies may not require a minimum balance of accrued vacation leave.

K. Parental Leave

1. Employees that are eligible for FMLA are entitled to receive six weeks (240 hours) of consecutive paid leave due to the birth or adoption of a child. Birth mothers that are eligible for FMLA are entitled to an additional 6 weeks (240 hours) of consecutive paid leave immediately after the birth to recover from the physical and medical effects of pregnancy and childbirth.
2. Employees will report the pending birth or adoption of a child to their supervisor as soon as practicable.
3. Administrators are responsible for approving parental leave requests and shall require documentation verifying the birth or adoption.
4. Parental leave must commence within six months of the birth or adoption of the child.
5. Parental leave shall be applied retroactively back to April 18, 2017.

L. Voluntary Furlough

1. Employees in the following employment statuses are eligible to participate in the voluntary furlough program: 02 regular, 03 probationary, 04 provisional, 08 permanent part-time, 09 part time, 12 time limited appointed and 95 appointed.
2. The Voluntary Furlough Program is available only when authorized for budget-required reasons by the County Council.
3. Employees in the following employment statuses must have a combination of 80 hours of accrued vacation and sick leave before the voluntary furlough is approved and taken: 02 regular, 03 probationary, 04 provisional and 08 permanent part-time.
4. Voluntary furlough leave is approved in the same manner as vacation and sick time.
5. An employee may take no more than 30 voluntary furlough days per calendar year and no more than ten consecutive voluntary furlough days at a time.
6. Voluntary furlough leave is recorded as leave without pay.
7. Employees designated as Fair Labor Standards Act (FLSA) non-exempt may take furlough as a normal scheduled work day or partial day; a partial day is considered to be one-half the employee's normally scheduled work day.
8. Employees designated as FLSA exempt may take furlough in full day increments and do not lose their exempt status except for the workweek in which the furlough occurs.
 - a. An FLSA exempt employee will not perform any work related tasks while on furlough.
 - b. An FLSA exempt employee will not work more than 40 total hours including regular hours and furloughed hours during a workweek.
9. Employees cannot use leave time or work extra hours during a work week to cover furlough time.
10. Employees cannot use furlough time as part of an approved leave without pay or for a disciplinary suspension.
11. An employee who elects to include a legal holiday as part of the Voluntary Furlough Program will not be paid for the designated legal holiday(s).

Salt Lake County Human Resources Policy 4-200: Leave Practices

12. Employees approved for furlough receive the same benefits available under this policy, HR Policy [4-300 Insurance and Retirement Programs](#), and HR Policy [4-900 Retirement Policy](#) at a reduced rate.
 13. Voluntary furlough is not considered a break in service requiring a service date adjustment.
 14. No overtime costs or the use of temporary employees will be used or incurred as a result of granting a furlough.
 15. The Human Resources Division will develop and distribute a [form](#) for participating agencies to document the terms of the voluntary furlough program.
 16. Employees paid by a funding source other than the County will only be granted furlough time consistent with the terms and conditions of the funding source.
- M. Unauthorized Leave
1. Any other absence not covered above and approved by the agency may be designated as unauthorized leave without pay and could result in discipline.
- N. Intra-County Transfer
1. A transferred employee keeps all accrued annual and sick leave.
 2. A non-exempt transferred employee shall have their accrued compensatory time either cashed out prior to the transfer or transferred with the employee if approved by the receiving agency's discretion.
- ~~O. Inter-Jurisdictional Transfer~~
- ~~1. An employee directly transferred from a comparable public merit system without a competitive process automatically have their service date adjusted to reflect all previous comparable public merit service.~~
- ~~P. Prior Public Merit Employee~~
- ~~1. An employee of who was previous employed by a comparable public merit system may apply to have their service date adjusted to reflect all previous comparable public merit system employment.~~

III. References

- A. Utah Code 63.13.2 as amended, 2000
- B. Uniformed Services Employment & Re-employment Rights Act, 1994; 38 U.S.C.; 4301-4333
- C. Utah Code 39.1.36 as amended, 1989
- D. Human Resources Policy:
 1. 1-200, General Definitions
 2. 2-100, Employment Status
 3. 2-800, Resignation
 4. 4-400, Workers' Compensation
 5. 4-600, Family and Medical Leave (FMLA)
 6. 4-800, Service Awards
 7. 5-100, Pay and Employment Practices

Salt Lake County Human Resources Policy 4-200: Leave Practices

APPROVED and ADOPTED this ____ day of _____, 2017.

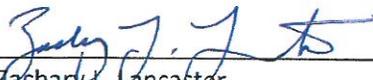
SALT LAKE COUNTY COUNCIL

By _____
Steve Debry, Chair

ATTEST:

Sherrie Swensen
County Clerk

Approved as to form and legality:



Zachary L. Lancaster
Deputy District Attorney
Date: 7-14-17

Voting:

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____

Salt Lake County Human Resources Policy 4-600: Family and Medical Leave Act (FMLA)

Purpose

This policy explains the circumstances under which an employee may take time off from work for family care, medical care, covered service member care, or due to a qualifying event.

I. Policy

It is the policy of Salt Lake County to provide employees with a general description of their rights under the [Family and Medical Leave Act](#) and implementing regulations. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

II. Procedures

A. General Provisions

1. Eligibility - To qualify for family or medical leave the employee must meet all of the following conditions:
 - a. The employee must have worked for Salt Lake County for 12 months or 52 weeks (2080 hours). The 12 months or 52 weeks (2080 hours) need not have been consecutive.
 - b. Separate periods of employment will be counted if the employee's break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service.
 - c. The employee must have worked at least 1,250 actual hours during the 12-month period immediately prior to the requested leave date.
 - d. Military Leave Eligibility is outlined in 4-600-II-A-10.
2. Type of Leave Covered - The employee must be taking leave for one of the reasons listed below:
 - a. the birth of a child and in order to care for that child.
 - b. the placement of a child for adoption or foster care and to care for the newly placed child.
 - c. the employee's serious health condition.
 - d. to care for a spouse, adult designee, child, dependent child of an adult designee or parent with a serious health condition (defined in section 3).
3. FMLA Leave and Other Leave Usage
 - a. Salt Lake County will grant up to 12 weeks (480 hours) of family and medical leave during any 12-month period after the requested leave date.
 - i. Each time an employee takes leave; Salt Lake County will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave. The balance remaining is the remaining amount the employee is entitled to take.
 - ii. If ~~a husband and wifespouses~~ both work for Salt Lake County and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for

Salt Lake County Human Resources Policy 4-600: Family and Medical Leave Act (FMLA)

- a parent (but not a parent "in-law") with a serious health condition, the spouses husband and wife may only take a combined total of 12 weeks of leave.
 - b. Salt Lake County will grant military caregiver leave for up to 26 weeks (1,040 hours) during any 12-month period after the requested leave date.
 - c. The leave is unpaid but may be combined with sick time for paid and unpaid leave, depending on the circumstances of the leave specified in this policy.
 - d. To the degree that the underlying condition for which the employee is receiving workers' compensation, short term disability, long term disability or using sick leave is a serious health condition, the County shall designate the employee's FMLA leave to run concurrently. The County shall designate the employee's use of maternity and paternity leave to run concurrently with the employee's use of FMLA leave.
 - i. The County shall notify the employee in writing that the leave has been designated and will be counted as FMLA leave within 5 business days upon receipt of sufficient information that the leave is being taken for a FMLA-qualifying reason.
4. Serious Health Condition Defined
- a. A serious health condition is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.
 - b. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition.
 - c. Other conditions may meet the definition of continuing treatment.
 - i. If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, Salt Lake County may designate all or some portion of related leave taken under this policy, to the extent that the earlier leave meets the necessary qualifications.
5. Procedure
- a. An employee may request leave without pay for a foreseeable event by submitting a completed Certification of Health Care Provider form to the administrator at least 30 days in advance of taking leave. The Certification of Health Care Provider form must contain the following:
 - i. A statement that the employee intends to take leave;
 - ii. The date leave will commence;
 - iii. The reason(s) for taking leave;
 - iv. The anticipated length of the leave; and
 - v. Whether the leave will be taken consecutively or intermittently.
 - b. An employee may take leave without pay for an unforeseeable event if verbal or other notice is given in a timely manner.

Salt Lake County Human Resources Policy 4-600: Family and Medical Leave Act (FMLA)

- c. Notice may be given by the employee's spokesperson (e.g. spouse, adult designee, adult family member, or other responsible party) if the employee is unable to do so personally.
- d. An employee requesting leave due to the employee's own serious health condition or to care for the employee's immediate family member, as defined, will be required to submit a [Certification of Health Care Provider form](#) within 15 calendar days.
 - i. To determine whether the leave qualifies for FMLA, an administrator may require the employee to submit additional information to clarify the medical certification within 15 calendar days of the administrator's request.
 - ii. After the employee has provided additional information, if further clarification and authentication is needed, the administrator must contact the Human Resources Division for assistance with contacting the health care provider.
 - iii. An administrator may require the employee to provide reasonable documentation or statements verifying family relationship within 15 calendar days of the request.
 - iv. Employees will not be required to furnish medical information beyond that set out in the [Certification of Health Care Provider form](#).
 - v. An employee who fails to provide required medical documentation will not be entitled to leave under this policy.
 - vi. Employees may be required to submit periodic reports while on leave regarding their status and intent to return to work.
- e. Employees may be required to obtain a second medical opinion, at the county's expense including reimbursement for reasonable out of pocket travel expenses in accordance with Internal Revenue Service medical mileage rate guidelines.
 - i. If the first and second medical opinions differ, the employee may request a third medical opinion at the County's expense.
 - ii. The third health care provider must be approved jointly by the administrator and the employee.
 - iii. If the employee does not act in good faith in reaching agreement for the third opinion, the second medical opinion will be binding.
 - iv. If the administrator does not act in good faith in reaching agreement for the third opinion, the first medical opinion will be binding.
 - v. If both parties act in good faith, the third medical opinion will be binding.
- f. An administrator will provide written notice of an employee's eligibility for FMLA leave within five calendar days from receipt of an employee's request to take FMLA leave or upon determining the employee's leave may be for a FMLA-qualifying reason. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.
 - i. As part of the Eligibility Notice, an administrator will provide written notice to an employee qualifying for FMLA leave detailing the specific expectations and obligations of the employee and explaining the consequences of failure to meet these obligations.

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- ii. After an administrator receives documentation of the need for leave, the administrator will notify the employee in writing within five calendar days whether the requested leave qualifies for FMLA and, if qualified, indicate the leave will be deducted from the employee's FMLA leave entitlement.
 - iii. Return to Work Certification. In cases where an employee's own serious health condition affects the ability to perform the duties of the position, an administrator may require as a condition of reinstatement, a certification that the employee is able to perform the essential functions of the job. The Designation Notice will include a list of the essential functions of the position.
 - iv. Retroactive Designation. If an administrator does not designate FMLA leave as required, the administrator may retroactively designate leave as FMLA with notice to the employee provided the failure to timely designate the leave does not harm or injure the employee. In all cases where leave would qualify for FMLA, the administrator and employee may mutually agree to retroactively designate FMLA leave.
 - v. Administrators who grant FMLA leave will document it as such in the payroll system.
 - vi. Recertification of Medical Conditions can occur in the following circumstances:
 - a. Less than 30-Day Rule. An administrator may request recertification in less than 30 days if the employee requests an extension of leave, the circumstances described by the certification have changed significantly (e.g. the duration or frequency of the absence, the nature or severity of the illness) or the administrator receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.
 - b. 30-Day Rule. An administrator may request recertification no more than every 30 days and only in connection with an employee's use of FMLA leave.
 - c. More than 30-Day Rule. If the medical certification indicates the minimum duration of the condition will be no more than 30 days, recertification cannot be requested until the minimum duration expires. In all cases, recertification may be requested every six months in connection with an employee's absence.
 - d. Annual Medical Certification. When the need for leave exceeds a single leave year, an administrator may require the employee to provide a new medical certification in each subsequent leave year.
 - e. An administrator may provide the health care provider with a record of the employee's absence pattern and ask if the serious health condition and need for leave is consistent with such a pattern.
 - f. An employee will provide the requested recertification within 15 calendar days from receipt of the request.
 - g. No second or third opinion may be required on recertification.
6. Intermittent or Reduced Schedule Leave
- a. Intermittent leave or leave on a reduced schedule is available for the care of an immediate family member, as defined, with a serious health condition or for the employee's own serious health condition. The following conditions apply:

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- i. Only the actual amount of leave taken on an intermittent or reduced schedule may be counted towards an employee's FMLA leave entitlement.
 - ii. Intermittent leave or leave on a reduced work schedule is not available for the birth or placement of a child unless approved by the administrator.
 - iii. Administrators may temporarily reassign an employee who has requested leave on an intermittent or reduced work schedule when the leave is foreseeable and for planned medical treatment including recovery from a serious health condition or to care for a child after birth or placement for adoption or foster care. The employee will receive the pay and benefits of the regular position for the hours of work performed. The employee may be reassigned to a part-time position with the same rate of pay provided the employee is not required to take more leave than is medically necessary.
7. Insurance/Benefits while on Family and Medical Care Leave
 - a. An employee on family or medical care leave who wants to maintain health, dental, 125 pre-tax cafeteria deductions or life insurance will be required to pay the same premium or cafeteria payroll deduction normally paid.
 - b. An employee who fails to submit the required premium payment will be notified in writing and given 15 calendar days after the notification before coverage is canceled.
 - c. If upon the expiration of a family or medical leave, the employee chooses not to return to work, the employee will be required to reimburse the county for premiums paid by the county.
 - d. If the employee does not return to work due to a medical circumstance that would entitle the employee to leave under FMLA the employee is not required to reimburse premiums paid by the county.
 - e. Employees who fail to return to work at the end of the leave period will be required to furnish medical certification to support the employee's claim. Employees who fail to furnish the requested information within 30 days of the request will be required to reimburse the County for insurance premiums paid during the unpaid leave.
 - f. An employee who returns to work for at least 30 calendar days is considered to have returned to work.
 - g. An employee who transfers directly from taking FMLA leave to retirement or who retires during the first 30 days after returning to work is deemed to have returned to work.
 - h. Premiums owed to the county may be deducted from any sums owed by the County to the employee.
 - i. If an employee elects to discontinue insurance coverage while on leave without pay, upon return to work, the employee may reinstate the same insurance coverage without pre-existing conditions or re-enrollment requirements.
 - j. Employees who are on leave during open enrollment will be provided with the same options as active employees.
 - k. While on leave without pay an employee is not eligible for accumulation of sick leave, vacation, or retirement benefits as provided by State law.

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8. Reinstatement from Leave

- a. Upon return from leave without pay under the provisions of this policy, the employee will return to the former position or an equivalent position in terms of pay, benefits and working conditions within the department or elected office from which the leave was granted. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.
- b. If the administrator determines the employee will not be reinstated to the former position, but to an equivalent position, written notice will be provided to the employee.
- c. If, during the period of leave, the payroll unit where the employee worked undergoes a reduction-in-force and there is no vacant allocation to which the employee may be reinstated, normal reduction-in-force (RIF) procedures will be followed:
 - i. If the position the employee formerly encumbered was abolished during the period of leave for purposes of a RIF, the employee will be considered as having encumbered the position at the time the position was abolished.
 - ii. Upon return from leave in excess of 30 cumulative days in a twelve-month period, the employee's service date will be adjusted to reflect a reduction in service time.
 - a. The adjusted service date is used to determine the rate of vacation accrual, awards for years of service, and to calculate RIF points.

9. ~~Use of~~ Exhaustion of Paid Leave and Prior to the Use of Unpaid FMLA Leave

- a. -Employees are ~~not~~ required to exhaust ~~sick leave or vacation~~ paid leave balances including, but not limited to, maternity and paternity leave, personal preference day, administrative leave, compensatory time, sick leave, and vacation prior to being eligible for unpaid FMLA leave ~~applying for FMLA~~. Paid leave shall be exhausted in the following order: 1) paternal; 2) personal preference day; 3) administrative leave; 4) compensatory time; 5) sick leave; and 6) vacation.

10. Military Family Leave

- a. Eligibility, procedures, certification intermittent leave, insurance benefits are consistent for Military Family Leave as non-military except for the following:
 - i. Qualifying event leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.
 - ii. An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:
 - a. short-notice deployment;
 - b. military events and activities;
 - c. child care and school activities;
 - d. financial and legal arrangements;
 - e. counseling;
 - f. rest and recuperation;
 - g. post-deployment activities; or

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- h. additional activities that arise out of active duty, provided that the administrator and the employee agree, including agreement on timing and duration of the leave.
 - iii. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is the same as other types of FMLA leave except the son or daughter does not have to be a minor (see Immediate Family (FMLA – Military Caregiver Leave). This type of leave is counted toward the employee’s 12-week maximum of FMLA leave in a 12-month period.
 - iv. Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member. This leave may extend to up to 26 weeks in a single 12-month period for an employee to care for a spouse, adult designee, child of any age, a dependent child of an adult designee, parent or next of kin covered service member with a serious illness or injury incurred or exacerbated within five years of active duty in the Armed Forces. Next of kin is defined as the closest blood relative of the injured or recovering service member.
 - v. An eligible employee can take up to 26 weeks for a FMLA circumstance (military caregiver leave) during a single 12-month period. For this military caregiver leave, Salt Lake County will measure the 12-month period as a rolling 12-month period measured forward from the date leave is taken. FMLA leave taken during the 12-month period for other FMLA circumstances will be deducted from the total of 26 weeks available.
 - vi. If a husband and wife both work for Salt Lake County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.
- b. The employee’s administrator will require certification of the qualifying event for military family leave. The employee must respond to such a request within 15 calendar days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided on the [Qualifying Event for Military Family Leave Certification form](#).
 - c. The employee’s administrator will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 calendar days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the [Serious Injury or Illness of Covered Service Member Certification of Health Care Provider form](#).

III. References

- A. Americans with Disabilities Act of 1990, as amended
- B. Family and Medical Leave Care Act of 1993, as amended
- C. National Defense Authorization Act for FY 2008 (NDAA), Pub. L 100-181, § 585
- D. Armed Forces, Definitions, Contingency Operation, 10 U.S.C. 101(a)(13)

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- E. Human Resources Policy:
1. 1-200, General Definitions
 2. 4-200, Leave Practices
 3. 4-400, Worker's Compensation

APPROVED and ADOPTED this ____ day of _____, 2017.

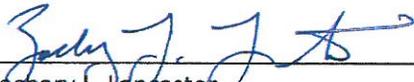
SALT LAKE COUNTY COUNCIL

By _____
Steve Debry, Chair

ATTEST:

Sherrie Swensen
County Clerk

Approved as to form and legality:



Zachary L. Lancaster
Deputy District Attorney
Date: 7-14-17

Voting:

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____