



County Technical Assistance Service

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Sample Leave Policies

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Table of Contents

| | |
|--|---|
| Sample Leave Policies..... | 3 |
| Sample Policy - Holidays..... | 3 |
| Sample Policy - Sick Leave..... | 3 |
| Sample Policy - Vacation/Annual Leave..... | 4 |
| Sample Policy - Personal Leave..... | 4 |
| Sample Policy - Pregnancy Leave..... | 5 |
| Sample Policy - Family and Medical Leave..... | 6 |
| Sample Policy - Bereavement/Funeral Leave..... | 7 |
| Sample Policy - Voting Leave..... | 8 |
| Sample Policy - Jury and Court Duty..... | 8 |
| Sample Policy - In Line of Duty Injury Leave (for counties covered by Workers' Compensation)..... | 8 |
| Sample Policy - In Line of Duty Injury Leave (for counties not covered by Workers' Compensation)..... | 8 |
| Sample Policy - Administrative Leave with Pay..... | 9 |
| Sample Policy - Administrative Leave without Pay..... | 9 |
| Sample Policy - Military Leave..... | 9 |

Sample Leave Policies

Reference Number: CTAS-1116

Following are some examples of policies that you may use as guides to help you define the leave that employees receive in your particular county.

Sample Policy - Holidays

Reference Number: CTAS-1117

Sample Holiday Policy:

1. Holidays - On the following legal holidays, county offices will be closed and employees will be excused from work without charge to leave:

| | |
|-------------------------------------|---------------------------------|
| <i>New Year's Day</i> | <i>January 1st</i> |
| <i>Martin Luther King, Jr. Day-</i> | <i>3rd Monday in January</i> |
| <i>Presidents' Day</i> | <i>3rd Monday in February</i> |
| <i>Good Friday</i> | <i>Friday before Easter</i> |
| <i>Memorial Day</i> | <i>Last Monday in May</i> |
| <i>Independence Day</i> | <i>July 4th</i> |
| <i>Labor Day</i> | <i>1st Monday in Sept.</i> |
| <i>Thanksgiving Day</i> | <i>4th Thursday in November</i> |
| <i>Christmas Day</i> | <i>December 25th</i> |

When a holiday falls on Saturday, the Friday prior to the holiday is substituted. When a holiday falls on Sunday, the Monday following the holiday is substituted.

2. Election days - County offices will be closed and employees excused from work without charge to leave on all days established by law for holding county, state or national elections throughout the state.

3. Special Pay Provisions - Every effort will be made to allow all employees off on each designated holiday and Election Day. If it is necessary for an employee to work on any of these days, the employee will be compensated at the employee's regular rate of pay, and the employee will receive one and one-half hours of vacation time for each hour actually worked during the holiday.

Sample Policy - Sick Leave

Reference Number: CTAS-1118

Sample Sick Leave Policy:

A. Earning and Accumulating Sick Days

Sick leave shall be considered a benefit and privilege and not a right. Full time employees will receive full pay during incapacity caused by illness if sick leave is taken. Sick leave is earned at the rate of one day per month (12 days per year). There is no maximum accumulation of sick leave credits. Accumulated sick leave has no value except for the purpose granted, and in the event of retirement or separation, all unused sick leave shall be forfeited.

If an employee is in a paid status for one-half of the month or more, he or she will be credited with one day of sick leave for the month. Otherwise, the employee will not accrue any time for the month.

B. General Sick Leave Rules and Procedures

1. *Use of Sick Leave - An employee may use sick leave allowance for absence due to the employee's own illness or injury. Sick leave also may be used for appointments with a licensed doctor, dentist or recognized practitioners. When appropriate, a partial sick day may be used rather than a full day. Employees who become ill during the period of their vacation may request that their vacation be temporarily terminated and the time changed to sick leave. However, such request must be justified by means of a doctor's statement upon return to work. No employee may give or loan sick leave time to another employee.*
2. *Documentation of Sick Leave - Employees are required to notify the employer as early as possible on the first day of their sick leave absence, and shall notify the employer in advance whenever the need for leave is foreseeable. Employees shall document their use of paid sick leave on leave request forms provided by the Employer for this purpose. Such forms shall be completed by the employee and approved by the employer in advance of the leave when the need for sick leave is foreseeable, and in all other instances as soon as possible after the employee's return to work. An employee who claims sick leave may, at the discretion of the employer, be required to furnish a certificate from a physician stating that the employee was incapacitated from work for the period of absence as a result of sickness or injury, and that the employee is again physically able to perform his or her duties.*
3. *Exhaustion of Sick Leave - Employees who have used all of their accumulated sick leave will not receive financial compensation for additional days needed due to illness or injury. For any additional time needed, the employee will be considered on a leave without pay status unless the employee has accumulated vacation time or comp time remaining and the employee requests such leave.*

Sample Policy - Vacation/Annual Leave

Reference Number: CTAS-1119

Sample Vacation/Annual Leave Policy:

Qualification for Vacation Time - Full time employees (those who work more than 35 hours per week) will earn twelve (12) days of paid vacation per year. Employees begin accruing vacation time as of the date of their employment, but an employee is not eligible to use vacation time until the employee has completed six months of service, at which time six (6) days of vacation will be available. Thereafter, employees will accrue vacation days at the rate of one day per month of service. Part-time employees do not qualify for vacation leave.

Accumulation of Vacation Time - Vacation time may be accumulated and carried forward to the next year in an amount not to exceed 24 days. Any days exceeding the 24-day limit will be lost if not used prior to the end of the current employment year.

Use of Vacation Time - Vacation leave may be used only at times approved in advance by the employer. Requests for vacation leave shall be made using leave request forms provided by the employer for this purpose. Reasonable vacation requests will be honored to the extent possible. If two or more employees request vacation for the same period of time, the employer will determine whether this will create a hardship upon the department. If it is determined that it is not possible for both employees to be on vacation at the same time, the request of the employee who first asked for vacation time will be honored. No employee may give or loan vacation time to another employee.

Termination of Employment - Upon the termination of employment, an employee shall be entitled to payment for any unused vacation time which has accrued, up to the 24-day limit. Payment shall be made based upon the employee's daily rate of compensation at the time of termination.

Sample Policy - Personal Leave

Reference Number: CTAS-1120

"Personal Leave" is an example of a combination leave which is sometimes given by employers *instead* of sick leave, vacations, personal days, and other kinds of leave. It is said to result in lower absenteeism.

Sample Personal Leave Policy:

In lieu of sick leave, vacation leave and other types of leave for specific reasons, employees receive paid personal leave which may be used for any reason. The amount of personal leave to which you are entitled depends on your status as an exempt or non-exempt employee, as defined in these policies, and on your length of service with the county, as follows:

Full-Time Regular Non-exempt Employees

| Years Service of as of July 1 | Annual Leave Allowance | Personal Allowance | Monthly Accrual |
|--|-----------------------------------|-------------------------------|----------------------------|
| ___ years | ___ day | | ___ day |
| ___ years | ___ days | | ___ days |
| ___ or more | ___ days | | ___ days |

Full-Time Regular Exempt Employees

| Years Service of as of July 1 | Annual Leave Allowance | Personal Allowance | Monthly Accrual |
|--|-----------------------------------|-------------------------------|----------------------------|
| ___ years | ___ day | | ___ day |
| ___ years | ___ days | | ___ days |
| ___ or more | ___ days | | ___ days |

Part-time regular employees accrue personal leave on schedules proportionate to the above, but one day of leave will be equal to the number of hours the employee is regularly to work per day, so that when taking leave these employees will be paid only for the number of hours they would normally be scheduled to work during that period.

Newly hired regular employees do not accrue any personal leave until they have successfully completed six months of continuous employment, at which time one-half their first year's personal leave will accrue. The balance of the first year's personal leave will accrue upon successful completion of one year of continuous employment.

Temporary employees do not accrue personal leave or any other type of leave except to the extent required by applicable law or as may be specified in such employee's written contract with the county.

Employees will not be paid for unused personal leave.

Sample Policy - Pregnancy Leave

Reference Number: CTAS-1121

Sample Pregnancy Leave Policy:

Pregnancy, childbirth and related conditions will be treated the same as any other temporary medical disability with regard to leave policies. Leave is available under the same terms and conditions as for other similar purposes. In addition to sick leave and annual leave, leave related to pregnancy and childbirth also may be available to eligible employees under the federal Family and Medical Leave Act and/or Tennessee's law governing adoption, pregnancy, childbirth and nursing.

Tennessee law requires that the following provisions be included in these personnel policies; the provisions may or may not apply, depending upon the circumstances:

T.C.A. 4-21-408. Leave for adoption, pregnancy, childbirth and infant nursing

(a) Employees who have been employed by the same employer for at least twelve (12) consecutive months as full-time employees, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable, referred to as "leave" in this sec-

tion. With regard to adoption, the four-month period shall begin at the time an employee receives custody of the child.

(b)(1) Employees who give at least three (3) months' advance notice to their employer of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(2) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice.

(3) Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(c)(1) Leave may be with or without pay at the discretion of the employer. Such leave shall not affect the employees' right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees' employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the period of such leave, unless such employer so provides for all employees on leaves of absence.

(2) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave period.

(3) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of the leave.

(4) Whenever the employer shall determine that the employee will not be reinstated at the end of the leave because the employee's position cannot be filled temporarily or because the employee has used the leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

(d) Nothing contained within the provisions of this section shall be construed to:

(1) Affect any bargaining agreement or company policy that provides for greater or additional benefits than those required under this section;

(2) Apply to any employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or

(3) Diminish or restrict the rights of teachers to leave pursuant to title 49, chapter 5, part 7, or to return or to be reinstated after leave.

(e) The provisions of this section shall be included in the next employee handbook published by the employer after May 27, 2005.

Sample Policy - Family and Medical Leave

Reference Number: CTAS-1122

Sample FMLA Policy:

Under the federal Family and Medical Leave Act of 1993 (FMLA), eligible county employees are entitled to take up to twelve (12) workweeks of unpaid leave during each 12-month period beginning insert one of the four 12-month periods chosen in accordance with the FMLA: the fiscal year, the calendar year, a "rolling" 12-month period measured backward from the date of the leave.

or the 12-month period measured forward from the date of the leave] for the birth of a child, the placement of a child for adoption or foster care, a serious health condition of the employee that makes the employee unable to perform the functions of his or her job, or the serious health condition of a spouse, son, daughter or parent that requires the employee's presence. Both male and female employees are eligible for leave in connection with the birth or placement of a child or a family illness, but special rules may apply if both husband and wife are county employees. Accrued paid leave may be substituted for unpaid FMLA leave in accordance with the county's paid leave policies. Employees may be required to use their accrued paid leave prior to taking unpaid leave under the FMLA.

Eligible employees are those who have been employed by the county for at least 12 months, and who have worked at least 1,250 hours during the 12-month period immediately before leave is requested.

An employee must provide at least thirty (30) days advance notice of the need to take FMLA leave under normal circumstances. Medical certification also may be required.

Employees returning to work from FMLA leave will be restored to the same position or one with equivalent pay and benefits. Returning employees may be required to provide a certification of fitness for duty prior to being reinstated.

The FMLA also allows eligible employees to take up to twelve (12) workweeks of job-protected leave in the applicable 12-month period for a "qualifying exigency" arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent, and up to 26 workweeks of job-protected leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. Advance notice is required – at least thirty (30) days for foreseeable planned medical treatment and otherwise as soon as practicable. Certification of the need for leave may be required.

It is the policy of _____ County to grant its employees leave in accordance with the requirements of the Family and Medical Leave Act. A copy of the FMLA Fact Sheet #28 setting out the employee's rights under the FMLA and Fact Sheet #28A setting out the employee's rights to military family leave are attached [attach copies of both FMLA Fact Sheets] to these policies, and employees may obtain additional copies of these documents as well as additional information about the FMLA and their rights and obligations under that law from their supervisor, or by contacting _____ at (____) _____ [insert contact information for county attorney or some other knowledgeable person].

In addition to the FMLA, Tennessee has a leave law for adoption, pregnancy, childbirth and nursing an infant (T.C.A. § 4-21-408) which applies to all employers who employ 100 or more full-time employees at a job site or location. This state law allows employees who have been employed for twelve (12) months to take up to four (4) months of unpaid leave for adoption, pregnancy, childbirth and nursing the infant. To be eligible for this leave, the employee must give at least three (3) months advance notice, except in cases of medical emergency. This leave will run concurrently with any leave to which the employee may be entitled under the FMLA or otherwise. Subject to certain conditions, accrued paid leave may be substituted for the unpaid leave. Employees may obtain a copy of the Tennessee leave statute by contacting _____ at (____) _____ [insert contact information for county attorney or some other knowledgeable person].

Sample Policy - Bereavement/Funeral Leave

Reference Number: CTAS-1123

Sample Bereavement Leave Policy:

In the case of death in the employee's immediate family, the employee will be given three (3) working days paid leave which will not be charged to vacation leave. Immediate family is defined as the employee's spouse, parent, child, brother, sister, mother-in-law, father-in-law, grandparent, grandchild, legal guardian or legal dependent.

Sample Policy - Voting Leave

Reference Number: CTAS-1124

Sample Voting Leave Policy:

Any person entitled to vote in an election in this state may be absent from work for a reasonable period of time, not to exceed three hours, necessary to vote while the polls are open in the county where the employee resides. The employer may specify the time the employee may be absent. The employee will receive regular compensation during this period and leave time will not be affected. Voting time shall not be counted as working time for overtime computation.

Sample Policy - Jury and Court Duty

Reference Number: CTAS-1125

Sample Jury/Court Duty Policy:

The employer encourages all employees to fulfill their duty to serve as members of juries or to testify when called in both Federal and State courts. The following procedures shall apply when an employee is called for jury duty or subpoenaed to court:

- 1. The employee will be granted a leave of absence when the employee is subpoenaed or directed by proper authority to appear in Federal or State court as a juror or a witness.*
- 2. The employee will receive his or her regular compensation for the time actually spent serving as a juror or witness and traveling to and from court.*
- 3. The employee may retain all compensation or fees received for serving as a juror or as a witness.*
- 4. If the employee serves as a witness or juror for more than three hours during the day, the employee will be excused from work for the entire day. Otherwise, the employee must report back to the employer at the conclusion of service.*
- 5. The above provisions concerning compensation for time in court do not apply if the employee is involved as a party in private litigation. On these occasions the employee must take vacation leave, comp time or leave without pay.*

Sample Policy - In Line of Duty Injury Leave (for counties covered by Workers' Compensation)

Reference Number: CTAS-1126

Sample Workers' Compensation Policy:

Any employee sustaining an injury or an illness during the course and scope of his or her employment which is determined to be compensable under the provisions of the Workers' Compensation Law shall be entitled to receive in-line-of-duty injury leave. This leave shall not be counted against any accrued sick leave that the employee has accumulated. The employee is not permitted to substitute any other paid leave. Benefits that are receivable by the employee will be determined by the provisions of the Workers' Compensation Law.

Sample Policy - In Line of Duty Injury Leave (for counties not covered by Workers' Compensation)

Reference Number: CTAS-1127

Sample In-Line-of-Duty Injury Policy:

Notice of Injury - Every injured employee or his or her representative shall, immediately upon the occurrence of an injury, however minor, give or cause to be given to the employer written notice of the injury. The employee shall not be entitled to benefits hereunder from the date of the accident to the giving of such notice, unless it can be shown that the employer had actual knowledge of the accident.

Injuries Not Covered - No benefits shall be allowed for an injury due to the employee's willful misconduct or intentional, self-inflicted injury, or due to intoxication, or sports-related injury unless participation in sports activities is required by the job description, or willful failure or refusal to use a safety appliance or perform a duty required by law. This exclusion does not apply to mandatory physical fitness programs as developed and mandated by the employer.

Period of Compensation - Injury leave shall extend for such time as the injured employee is unable to return to work, but in no event beyond six months for the same or recurring injury.

Compensation Received - During the period of time that the injured employee is on injury leave, he or she will be entitled to receive full pay, subject to all other provisions and qualifications set out herein. The employee will continue to earn vacation and sick leave.

Use of Sick Leave - An employee who is injured in the course of employment will be granted injury leave, and such leave will not be charged against the employee's sick leave nor may an employee use sick leave for in-line-of-duty injuries.

Role of Employer's Medical Examiner - The determination of character, degree and duration of occupational disability is the responsibility of the Medical Examiner for the employer. Employees will be required to return to work after the approval of the Employer's Medical Examiner, in consultation with the injured employee's attending physician. If there are conflicting opinions from the Employer's Medical Examiner and the injured employee's attending physician, the final determination shall be left to the employer's governing body.

Extended Injury Leave - Whenever an employee is on extended leave due to a work related injury or illness, the employee must provide the employer with an update of the employee's medical condition every 30 calendar days. The employer has the right to instruct the employee to be evaluated by the employer's medical examiner. The employer shall be responsible for placing the employee back to work as soon as he or she is physically capable of resuming employment. If at any time it is medically indicated that the employee will not be able to return to work prior to the expiration of six months, the employee, or the employer on behalf of the employee, shall file an application for a disability pension.

Sample Policy - Administrative Leave with Pay

Reference Number: CTAS-1128

Sample Administrative Leave with Pay Policy:

Absence with pay for administrative purposes may be granted by the employer. Such leave must be for a good cause as determined by the employer. This leave shall not exceed five (5) working days per year unless exceptional circumstances exist.

Sample Policy - Administrative Leave without Pay

Reference Number: CTAS-1129

Sample Administrative Leave without Pay Policy:

Any employee, at the discretion of the employer, may be granted leave without pay for sufficient reason as determined by the employer. During the period of absence, the employee will not accrue vacation, sick leave or other benefits. The absence without pay leave shall not extend for a period in excess of one year.

Sample Policy - Military Leave

Reference Number: CTAS-1130

Sample Military Leave Policy:

Regular employees who are members of any military reserve component, including the Tennessee army and the air national guard, will be granted a leave of absence for all periods of military service during which they are engaged in the performance of duty or training for this state or for the United States under competent orders. While on leave, the employee will receive his or

her regular compensation for a period not exceeding twenty (20) working days per calendar year, plus any additional days that may result from a call to active state duty by the Governor. Such requested leave shall be supported with copies of the armed forces orders.

Regular employees will be granted a leave of absence without pay for the purpose of being inducted into or otherwise entering military duty. If not accepted, the employee will be reinstated at the same rate of pay and without loss of seniority, benefits or status. If accepted for service, the employee may be eligible for reinstatement upon being released from active duty upon meeting the conditions set out in T.C.A. Title 8, Chapter 33, relative to employees in military service, and in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. §§ 4301 - 4333.

Employees in military service shall be governed by the requirements of, and shall have all of the rights and benefits conferred upon such persons by state law found in T.C.A. Title 8, Chapter 33, and under USERRA.

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