

RESOLUTION 2008-06

A RESOLUTION AMENDING PERSONNEL POLICIES AND PROCEDURES SECTION 15, LEAVE

WHEREAS, the county commission finds it necessary to revise Personnel Policies and Procedures Section 15, Leave, to ensure consistency and compliance with state law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE COUNTY COMMISSION that Personnel Policies and Procedures Section 15, Leave, is hereby amended to read as attached hereto, which attachment is, by this reference, made a part hereof.

EFFECTIVE DATE: This resolution shall take effect immediately upon passage.

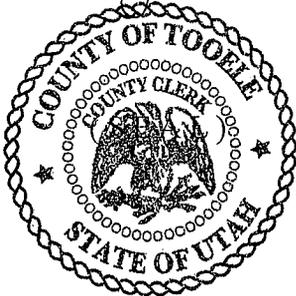
DATED this 6th day of May 2008.

ATTEST:

TOOELE COUNTY COMMISSION:


MARILYN K. GILLETTE, Clerk


COLLEEN S. JOHNSON, Chairman



Commissioner Johnson voted aye
Commissioner Clegg voted aye
Commissioner Hurst voted aye

APPROVED AS TO FORM:


DOUG HOGAN
Tooele County Attorney

SECTION 15
LEAVE

A. ANNUAL LEAVE:

1. Annual leave is intended to benefit the employee. Employees are encouraged to take annual leave in the year in which it is earned. Annual leave will not be advanced to employees.
2. An employee may accumulate up to 320 hours of annual leave to add to the regular annual leave to be taken the following year. Any annual leave in excess of 320 hours, not taken during the year in which it is earned, will be forfeited. For the purpose of this subsection, "during the year" shall extend through and include the last day of the first pay period following December 31.
3. Annual leave will be scheduled so as to meet the operating requirements of the county, and insofar as possible, the preference of employees. Seniority within the various departments shall apply in case of conflict of leave schedules.
4. A county holiday shall not constitute a day of annual leave. When an authorized holiday falls within the time period of employees' annual leave, the employee will be entitled to one additional day beyond the specified annual leave period.
5. Each department shall maintain records of annual leave used by each employee. Time cards for each pay period will serve this purpose.
6. Employees who have terminated or who give notice of intent to terminate their employment and who will not actually work after giving such notice shall not be allowed to continue or retain their status as an employee by electing to take accrued annual or sick leave. Employees that have given notice of intent to terminate or retire, but will continue to actually work after giving such notice, shall not be allowed to use accrued annual or sick leave unless approved by their Department Head or Elected Official. Employees terminating or retiring will be cashed out in a lump sum for all annual leave and converted sick leave credits that do not exceed 320 hours.
7. Full-time employees accrue four hours of annual leave per pay period from the date of appointment. Employees on annual leave continue to accrue annual and sick leave.
8. Full-time employees with at least five years and through their ninth year of service accrue five hours of annual leave per pay period, from their anniversary date.
9. Full-time employees with at least ten years through their fourteenth year of service accrue six hours of annual leave per pay period, from their anniversary date.
10. Full-time employees with 15 years of service accrue seven hours of annual leave per pay period from their anniversary date.

11. Employees accrue annual leave on a prorated basis as follows:
 - a. Employees working 20 hours or more per week and less than 30 hours accrue annual leave on a half-time basis.
 - b. Employees working 30 hours or more per week and less than 40 hours accrue annual leave on a three-quarter time basis.
12. Probationary employees accrue annual leave from the date of their initial appointment. However, probationary employees are not entitled to use accrued annual leave during the first six months of their probationary period. They forfeit all accrued annual leave if terminated during their probationary status. This subsection applies only to newly hired probationary employees, not to employees who are on probation as a result of a promotion and who have previously completed a new-hire probationary period.
13. Annual leave is not earned by part-time employees working less than 20 hours per week or by temporary or seasonal employees, or employees on leave without pay status.
14. For departments that have approved a flexible work schedule:
 - a. For each full day of leave taken, the total daily scheduled hours shall be deducted from accumulated leave.
 - b. If less than a full day of leave is taken, then each hour of leave taken shall be deducted from accumulated leave.

B. SICK LEAVE:

1. Sick leave begins accruing upon an eligible employee's starting date, but is not available for use until the employee completes two full pay periods of employment. Each full-time or eligible employee accrues sick leave at the rate of four hours per pay period. Holidays which fall on a regular working day within a period when sick leave is being taken shall be credited as holiday and not as a day of leave. Employees on sick leave continue to accrue both annual and sick leave. Sick leave accrues without limit. Accumulated sick leave is not paid upon termination. For purposes of this subsection, days not included in a scheduled 40 hour work week shall not be considered regular working days. Sick leave shall not accrue during time spent on leave absence without pay.
2. Sick leave may be granted for preventive health and dental care or for absence from duty because of illness, injury or temporary disability of the employee, a spouse or dependents living in the employee's home, with an exception granted for divorced parents. Sick leave may also be granted for the following qualifying events under the Family and Medical Leave Act of 1993, as amended:
 - a. Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

- b. Because of the placement of a son or daughter with the employee for adoption or foster care.
 - c. In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.
 - d. Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
3. Sick leave may be used only when the employee or a member of the employee's immediate family notifies the supervisor or other designated person of the employee's absence prior to or within one hour after the scheduled reporting time. The department head shall use discretion in approving sick leave. Employees who abuse this sick leave policy may be denied sick leave.
4. Any application for sick leave to cover an absence which exceeds three successive working days shall be supported by a medical certificate or other evidence administratively acceptable. When excessive sick leave is being taken, a doctor's diagnosis or other evidence of illness may be required for absences of less than three days.
5. As an incentive to reduce the use of sick leave, an employee who has accrued 144 hours of sick leave will become eligible in the next calendar year to convert unused sick leave in excess of 64 hours accrued during that year. The excess converted hours will be carried as "converted sick leave." The employee may elect at any date to use the converted sick leave as annual leave or sick leave. A maximum of 320 hours converted sick leave may be accrued. Thereafter, excess days may be left as regular sick leave or converted to annual leave. If converted to annual leave, they must be used within the year when accrued annual leave exceeds 320 hours. Each eligible employee must make a written election to convert accrued sick leave to "converted sick leave" within the month of January following each year when the excess sick leave was accrued. Converted sick leave shall not be construed as compensatory time.
6. Any absence for illness beyond the accrued sick leave credit may be continued either in a leave-without-pay status not to exceed twelve months or in an annual leave status. Additional sick leave with pay may be granted by the county commission, at its discretion upon sufficient proof from the appropriate elected official or department head that the department has sufficient funds to continue the sick leave with pay for the employee and still efficiently operate its offices. The commission must find it is in the best interest of Tooele County that the employee's sick leave be continued with pay. The primary basis for granting additional sick leave shall be:
- a. absence due to injury;
 - b. extended absence due to major illness or surgery;
 - c. short-term absence within the 12-month period following an illness where the entire accrual of sick leave has been depleted; or

- d. other reasonable absences due to sickness or injury where no pattern of abuse of sick leave privileges has been demonstrated.
7. An employee separating from county service will not be compensated for unused sick leave except that accrued sick leave available to an employee at the time of separation shall again become available to him or her upon reinstatement from a leave of absence without pay, or upon rehiring, if such return to service occurs within twelve months of separation from service, and upon approval of the department head and county commission.
8. Sick leave is not earned by temporary or seasonal employees, or part-time employees working less than 20 hours per week.
9. For departments that have approved a flexible work schedule:
 - a. For each full day of leave taken, the total daily scheduled hours shall be deducted from accumulated leave.
 - b. If less than a full day of leave is taken, then each hour of leave taken shall be deducted from accumulated leave.
10. Employees who have accrued annual leave, sick leave, or compensatory time may donate all or a part of the leave or time to another county employee, which leave may then be used by the donee as sick leave, upon compliance with the following conditions:
 - a. The department heads of both the donor and the donee must approve of the donation of leave.
 - b. The donee must have exhausted all annual leave, sick leave, and compensatory time and need additional sick leave to avoid taking leave without pay.
 - c. The donee must comply with all of the policies and procedures regarding the use of sick leave.
 - d. Donated leave shall be documented on a form supplied by the Human Resource Department and shall contain the signatures of the department heads, the donor, and the donee. Donated leave shall be administered under the direction of the county auditor.

C. HOLIDAYS:

1. The following days are designated as legal paid county holidays:

New Year's Day	-	January 1
Human Rights Day	-	Third Monday of January
Presidents' Day	-	Third Monday of February
Memorial Day	-	Last Monday of May
Independence Day	-	July 4
Pioneer Day	-	July 24
Labor Day	-	First Monday of September
Columbus Day	-	Second Monday of October
Veterans' Day	-	November 11
Thanksgiving Day	-	Fourth Thursday of November
Fourth Friday of November	-	Day After Thanksgiving
Christmas Day	-	December 25

2. Full-time employees shall accrue eight hours of paid holiday leave on holidays, not to exceed 96 hours per calendar year, with the following exceptions:

a. Employees working in half-time or three-quarter time positions will receive paid holiday leave equal to the employees regular daily scheduled hours.

b. Employees working a flexible work schedule mandated by their Department Head or Elected Official and approved by the county commission shall receive paid holiday leave equal to the employees regular daily scheduled hours. If the holiday falls on a regularly scheduled day off, such employees shall receive an equivalent workday off equal to the employee's regular scheduled hours.

3. No holiday leave is paid to temporary, seasonal, on-call, or part-time employees working less than 20 hours per week

D. EMERGENCY LEAVE: Emergency leave with pay may be authorized by the department head in the case of a death in the immediate family for a period not to exceed four working days. "Immediate family" shall mean wife, husband, children, daughter-in-law, son-in-law, parents, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparents, spouse's grandparents, brothers, and sisters of the employee. In the event of the death of other family members, an employee may be authorized up to eight hours of emergency leave to attend the funeral for such persons. "Other family members" means relatives other than immediate family members, within and including the fifth degree of consanguinity, computed according to the rules of civil law, and also include the spouses of such relatives.

E. COURT LEAVE: An employee who, in obedience to a subpoena or direction by proper authority appears during a regularly scheduled work shift as a juror in any court case or as a witness in his official capacity for the federal government, the State of Utah or a political subdivision thereof, shall be paid that employee's regular compensation for the time taken off work. The employee shall immediately pay over to Tooele County any compensation or fees, except mileage, received

from the court. Time absent by reason of a subpoena in private litigation or by some party other than the federal government, state government, or a political subdivision thereof, or to testify as an individual and not in an official capacity for the county, shall be taken as annual leave or leave without pay.

F. MATERNITY LEAVE: An employee who becomes pregnant may continue working until such time she can no longer satisfactorily perform her duties or her physical condition is such that her continued employment may be injurious to her health. An employee shall, upon request, present medical certification from her doctor of fitness to continue or resume work. Sick leave which is regularly available to cover the time for physical examinations and periods of incapacitation will be available to the pregnant employee for the same purpose. Maternity leave shall be granted on the same basis as any other temporary disability or illness.

G. MILITARY LEAVE:

1. Leave may be granted for a period of active military service. Military leave of less than six months is known as short-term leave. Leave of six months or more is known as extended leave.
2. Short-term military leave is authorized pursuant to the following:
 - a. Employees are entitled to eleven working days military leave per year without loss of compensation or other fringe benefits, subject to Subsection b. Any employee requesting military leave must provide the county commission or a designated administrator with a copy of the military orders placing the employee on active duty status.
 - b. Employees who are members of reserve units of the military shall notify their immediate supervisor at least four weeks in advance unless prevented by military necessity and shall indicate in writing their intention and anticipation with regard to participating in periods of active duty. Such written notification shall be made a part of the employee's personnel file.
3. Extended military leave without pay may be granted to full-time or part-time employees who enlist, are drafted, or are called to active service in the armed forces of the United States in accordance with the Universal Military Training and Service Act.
4. Former employees shall be permitted to return to county employment pursuant to the following conditions:
 - a. The leave of absence may not exceed five years from the date of entry into the military service, unless the employee is involuntarily retained longer.
 - b. The employee must have satisfactorily completed the period of active duty and furnish a certificate to that effect.
 - c. Any employee leaving active military duty is authorized days from the active duty release date in which to request reinstatement to a position of comparable status and compensation.

If gone 30 days or less, the employee must request reinstatement the next business day. If gone 31 to 180 days, the employee must request reinstatement within 14 days after military release. If gone 181 or more days, the employee must request reinstatement within 90 days after military release.

- d. If the employee declines two consecutive offers for position vacancies, reinstatement rights may be canceled.
- e. If an employee is not qualified to perform all the duties of the employee's former position due to a disability incurred or aggravated while in military service, reasonable efforts will be made to accommodate the disability so the employee can perform the position the employee would have held if the employee had remained continuously employed. If, despite reasonable accommodation efforts, the person is not qualified for the position due to the disability, the employee will be employed in a position of equivalent seniority, status, and pay, so long as the employee is qualified to perform the duties of the position or could be qualified to perform them with reasonable efforts by the county. If the employee does not become qualified for this second position, the employee will be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the second position in terms of seniority, status, and pay.

H. ADMINISTRATIVE LEAVE:

- 1. Full-time or probationary employees may, upon approval of the department head, be granted administrative leave with pay to perform legitimate duties in connection with county business, to attend trade or professional meetings which relate to official duties, or to participate in recognized or authorized training programs.
- 2. Employees may be allowed administrative leave with pay for conducting or participating in trade or professional organizations as follows:
 - a. Employees serving as organization officers may receive up to five hours administrative leave per month.
 - b. Employees may attend local employee organization-sponsored meetings or functions during normal working hours, but not to exceed five hours per month.
- 3. Administrative leave shall be granted at the discretion of the department head or elected official. Under no circumstances shall the accrual of overtime hours be permitted for such participation.

I. LEAVE OF ABSENCE:

- 1. Leave of absence without pay may be granted or directed for periods not to exceed one year to employees because of illness, for education purposes, for disciplinary reasons, or for other appropriate reasons. It shall be granted only when all other leave is used, but may be directed at any time. Such leave shall not be regarded as an acquired right by employees and shall be granted only when the county will not be adversely affected thereby. Leave of absence

without pay for illness may be approved by the department head or elected official for periods less than 40 hours per week. Unless designated as Family and Medical Leave by the Human Resource Department, leave without pay beyond the 40 hours must be made in writing, and, if approved by the department head and a county commissioner, shall be filed with the Human Resource Department. Leave granted to employees who accept full-time employment outside the county's service shall be subject to the approval of the county commission and a designated administrator and shall be denied unless the request thereof is accompanied by satisfactory proof that such employment is temporary and that the experience gained thereby will be for the betterment of the county's service. If an employee is placed on leave without pay status three or more times, however, that employee may be subject to immediate dismissal.

2. A leave of absence without pay may be terminated prior to the expiration date. Failure of an employee to report for duty promptly at the expiration of the leave or violation of an agreement or understanding entered into by the employee relative thereto shall be just cause for discharge and the removal of the employee's name from any eligible list on which it may appear.
3. An employee may be placed on leave of absence without pay when suspected of or charged with committing a felony or a crime involving an abuse of the county office or position. If the employee is exonerated, the employee shall be reinstated with back pay.
4.
 - a. A career service employee shall be placed on an automatic leave of absence in the event the employee becomes an elected county officer, a chief deputy, or is appointed to a position exempt from the career service for the period of time the employee fills the exempt position.
 - b. A career service employee who accepted an appointment to an exempt position prior to August 15, 2006, who is not retained by the appointing officer and has not been terminated for a serious behavior problem such as those identified in Section 24.E, shall be returned to their former career service position upon termination of the leave of absence.
 - c. A career service employee accepting an appointment to an exempt position after August 15, 2006, who is not retained by the appointing officer and has not been terminated for a serious behavior problem such as those identified in Section 24.E, shall:
 - (1) be appointed to any career service position for which the employee qualifies in a pay grade comparable to the employee's last position in the career service provided an opening exists; or
 - (2) be appointed to any lesser career service position for which the employee qualifies pending the opening of a position in a pay grade comparable to the employee's last career service position.
 - d. Appointed lieutenants in the Sheriff's department are governed by Section 6 of these Policies and Procedures and shall have bumping rights back to their former position regardless of when they were appointed unless discharged for a serious behavior problem

such as those identified in Section 24.E. The rate of pay will be determined by Section 11.M.

- e. The Human Resource Department director shall maintain a reappointing register to facilitate the operation of this section, which shall have precedence over other registers.
- f. Employees taking such a leave of absence shall have their accrued annual leave and converted sick leave accrual converted to wages and paid to them upon commencement of the leave. An employee may elect to freeze up to 40 hours of accrued annual leave and up to 40 hours of converted sick leave to be reinstated upon termination of the leave of absence. An employee electing to freeze leave and who does not return to a career service position will have the leave converted to wages at the rate in which the hours were frozen and paid to them upon termination of employment. Accrued sick leave, however, shall be frozen but may be reinstated upon the termination of the leave of absence if the employee returns to a career service position.
- g. A career service employee who accepted an appointment to an exempt position, who is not retained by the appointing authority and who returns to a career service position, shall have their grade and step determined according to increases the employee would have attained during the leave of absence. The exact step will be determined by the Human Resource Director but shall not exceed the maximum step for the grade unless approved by the appointing authority and the county commission.

J. FAMILY AND MEDICAL LEAVE:

- 1. It is the purpose of Subsection J. to define and establish Tooele County's policy and procedure with regard to the Family and Medical Leave Act (FMLA) of 1993, as amended.
- 2. County employees who have been employed for at least one year and for at least 1,250 hours during the preceding 12-month period are eligible for family and medical leave. For employees not eligible for family and medical leave, the county commission may review public policy considerations and the individual circumstances involved. Employees will be returned to the same or to an equivalent position at the end of the leave period granted pursuant to this policy.
- 3. Family or medical leave will consist of appropriate accrued paid leave and unpaid leave. If leave is requested, the employee must use all of his or her accrued paid leave, including annual leave and sick leave. The remainder of the leave period will then consist of unpaid leave.
- 4. Employees who meet the applicable time of service requirements may be granted family and medical leave consisting of appropriate accrued paid leave and unpaid leave for a period of 12 weeks during the 365 days following the invocation of FMLA leave for the following reasons:
 - a. the birth of the employee's child and in order to care for the child;

- b. the placement of a child with the employee for adoption or foster care;
 - c. to care for a spouse, child, or parent who has a serious health condition; or
 - d. a serious health condition that renders the employee incapable of performing the functions of his or her job.
 - e. because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
5. The entitlement to leave for the birth or placement of a child for adoption or foster care will expire 12 months from the date of the birth or placement.
 6. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.
 7. During the single 12-month period described in paragraph (6), an eligible employee shall be entitled to a combined total of 26 workweeks of leave under paragraphs (4) and (6). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (4) during any other 12-month period.
 8. In all cases, an employee requesting leave under this policy must complete an "Application for Family and Medical Leave" and return it to their supervisor or department head with a copy to the Human Resource Director. The completed application must state the reason for the leave, the duration of the leave, and the starting and ending dates of the leave.
 9. An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit an application for leave at least 30 days before the leave is to begin. If leave is to begin within 30 days, an employee must give notice to the supervisor or department head as soon as the necessity for the leave arises.
 10. An application for leave based on the serious health condition of the employee or the employee's spouse, child, or parent must also be accompanied by a "Medical Certification Statement" completed by a health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.
 11. If the employee is needed to care for a spouse, child, or parent, the certification must so state, along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

12. During a period of family or medical leave, an employee will be retained on Tooele County's health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage. If the employee fails to return to work after the expiration of the leave, the employee will be required to reimburse Tooele County for payment of health insurance premiums during the family leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or for circumstances beyond the employee's control.
13. An employee is not entitled to the accrual of any seniority or other employment benefits during any period of unpaid family or medical leave. However, an employee who takes family or medical leave will not lose any employment benefits that accrued before the date leave began.
14. An employee eligible for family and medical leave will be restored to his or her former position or to a position with equivalent pay, benefits, and other terms and conditions of employment. Tooele County cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by the Human Resource Director and the county commission.
15. An employee must complete a "Notice of Intention to Return From Family or Medical Leave" before he or she can be returned to active status. If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, notification must be given to the employee's supervisor or department head at least five working days prior to the employee's planned return.
16. The failure of an employee to return to work upon the expiration of a family or medical leave of absence will subject the employee to immediate termination unless an extension is granted. An employee who requests an extension of family leave or medical leave due to the continuation, recurrence, or onset of her or his own serious health condition, or of the serious health condition of the employee's spouse, child, or parent, must submit a request for an extension, in writing, to the employee's immediate supervisor or department head. This written request should be made as soon as the employee realizes that she or he will not be able to return at the expiration of the leave period.
17. Applications for family or medical leave, medical certification statements, and other notices shall be on forms approved and prepared by the Human Resource Director.

K. LONG TERM DISABILITY LEAVE:

1. An employee who is determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of leave, if warranted by a medical condition.
2. The leave begins on the last day the employee worked. LTD requires a three-month waiting period before benefit payments begin. During this period, an employee may be placed on FMLA leave or other types of leave. When these leaves are exhausted, the employee will then

be placed in a leave without pay status. The employee shall be paid for remaining balances of leave once disability eligibility is determined.

3. Only insurance coverages that were in effect at least one full year prior to the time of LTD eligibility may be continued. If approval or denial for LTD coverage is delayed beyond the three-month waiting period, the employee is entitled to continue benefits not to exceed six months. If denied LTD benefits, the employee will be entitled to elected COBRA coverage.
4. If the county's insurance carrier provides a waiver program, the employee is responsible for the premiums as outlined in the carrier's waiver program. Dental and life insurance are not covered under a waiver program. If no waiver program is offered, the employee is responsible for premiums according to the county service credit policy offered to retirees. However, only the years of service up to LTD eligibility will be counted towards the service credit. Once the employee's service credit is exhausted, and if the employee remains LTD eligible, the employee is responsible to pay the same premiums and be on the same plans offered regular retirees.
5. An employee shall continue to accrue service credit for retirement purposes while receiving LTD benefits. An employee who retires from county government directly from LTD will be entitled to insurance benefits at the same level and pay with the same premiums as other qualified retirees.
6. If an employee is able to return to work within one year of the last day worked, the county shall place the employee in the previously held position or a similar position in a comparable salary range, provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation.
7. If an employee is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the county shall offer the employee a reassignment to an available vacant position, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation.
8. If an employee is unable to return to work within one year after the last day worked, the employee shall be separated from county employment.
9. An employee determined eligible for LTD shall be separated from Tooele County with reinstatement optional within one year, provided the employee first submits a written request for a one-year leave of absence for medical purposes.