

SECTION 15 LEAVE

[FOR EMPLOYEES HIRED PRIOR TO JULY 1, 2017 WHO HAVEN'T CONVERTED TO PTO]

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 annual leave earned the following year. Any annual leave in excess of 320 hours not taken during the year in which it is earned will be forfeited. Beginning January 1, 2018, annual leave in excess of 320 hours will be forfeited if not used by the anniversary of employee's hire date. For the purpose of this subsection, "during the year" shall extend from the employee's date of hire until the following anniversary date.
3. Annual leave will be scheduled so as to meet the operating requirements of the county, and insofar as possible, the preference of employees. Previously taken leave and seniority 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. Supervisors have access through the timekeeping system to track and calendar annual leave used by each employee.
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 using 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 or more 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. Annual leave is not earned by part-time employees working less than 20 hours per week, temporary or seasonal employees, or employees on leave-without-pay status.
13. 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.
14. The fact that an employee has available leave does not justify tardiness or unexcused absences. Unscheduled absenteeism and tardiness are grounds for disciplinary action, regardless of the availability of leave.
15. Annual leave does not accrue during unpaid leave or leave during which an employee receives compensation from any county-sponsored program, such as disability or military leave.
16. Annual leave accrued in any pay period may be taken the following pay period.
17. Annual leave will not be considered as time worked for calculating overtime compensation.
18. Employees who are excluded under the Fair Labor Standards Act (“FLSA”) are paid a salary for any week in which they work, regardless of the number of hours worked. However, all full-time employees are generally expected to work 40 hours per week. The leave policy does not apply to FLSA excluded employees, but the Personal Time Off (PTO) policy is a guideline for reasonable time off for such employees with the following modifications:
 - a. Leave is deemed accrued at the beginning of each year.
 - b. Leave does not carry over from year to year.

B. SICK LEAVE:

1. Full-time or eligible employees hired prior to July 1, 2017 and electing to be subject to this policy shall accrue 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 paid sick leave continue to accrue both annual and sick leave. An employee may accumulate up to 700 hours of sick leave. If an employee has more than 700 hours of sick leave on July 1, 2017, the employee may retain those hours, but will not accrue more sick leave until the employee has less than 700 hours of accumulated sick leave. 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 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. Beginning July 1, 2017, the converted sick leave program will be dissolved. Employees with converted sick leave hours from 2016 and/or prior years will be paid out those hours at their

pay rate as of July 1, 2017. The county will make payment for those hours prior to December 31, 2018.

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 County 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.
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 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 Human Resource Department.

C. CONVERSION FROM ANNUAL AND SICK LEAVE TO PERSONAL TIME OFF (PTO):

1. Employees hired prior to July 1, 2017 may elect to remain subject to the policy of this section or they may elect to be subject to the newly created policy under Section 15A, Leave and Personal Time Off (PTO). Such election shall be made by July 1, 2017.
2. Employees electing to be subject to the PTO policy will have their annual and converted sick leave hours converted to PTO.
3. Employees electing to be subject to the PTO policy with converted PTO in excess of 480 hours must reduce their hours to 480 hours or less. Employees with over 480 hours will be paid out those hours at their pay rate as of July 1, 2017. The county will make payment for those hours prior to December 31, 2018.
4. Employees with sick leave electing to be subject to the PTO policy will have their hours placed in an Extended Illness Bank (hereinafter "EIB"). The employee's EIB hours will be available to the employee after using three days of PTO and with a doctor's note for personal illness or after using five days of PTO for approved FMLA leave. The number of accessible EIB hours will be determined by the estimated time off suggested by the doctor. EIB hours may only be used for the personal illness of the employee or to care for sick family members (spouse, child, or parent) following FMLA guidelines until the EIB hours are exhausted. EIB hours that have been used cannot be replenished. Employees leaving county employment shall forfeit any unused hours that have been placed in the EIB.

D. HOLIDAYS:

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

New Year's Day	-	January 1
Dr. Martin Luther King Jr. 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
Christmas Day	-	December 25

2. Full-time employees shall receive paid holiday leave in the amount of ten hours per holiday for a total of 110 hours. Public safety employees shall receive 12 hours per holiday for a total of 132 hours. Three-quarter time employees shall receive 7.5 hours per holiday for a total of 82.5 hours. Half-time employees shall receive five hours per holiday for a total of 55 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.

E. 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 one week or a total of 40 hours. "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 emergency leave to attend the funeral for such persons. The number of authorized hours for emergency leave shall not exceed four hours. "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.

F. 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.

G. 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.

H. MILITARY LEAVE:

1. Leave is 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 of military leave per year without loss of compensation or other fringe benefits, subject to Subsection 15.H.2.b. Any employee requesting military leave must provide the 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 is 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 are entitled 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 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 after military release. 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.
5. Employees using military leave may elect to use annual leave, compensatory time, or leave without pay.

I. 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.
 - a. Employees may be allowed administrative leave with pay for conducting or participating in trade or professional organizations as follows:
 - (1) Employees serving as organization officers may receive up to five hours administrative leave per month.
 - (2) Employees may attend local employee organization-sponsored meetings or functions during normal working hours, but not to exceed five hours per month.
 - b. 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.
- 2. The County Commission may, at its discretion, grant administrative leave with pay to employees.

J. 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 is appointed to a position exempt or excluded from the career service for the period of time the employee fills the exempt or excluded position. A career service employee who is elected as a county official is not granted a leave of absence, and the employee's career service status is terminated.
 - b. A career service employee who accepted an appointment to an exempt or excluded position prior to August 15, 2006, who is not retained by the appointing officer, and has not been terminated for a violation of the standards of conduct such as those identified in Section 24, 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 or excluded position after August 15, 2006, who is not retained by the appointing officer, and has not been terminated for a violation of the standards of conduct such as those identified in Section 24, 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 Office 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 violation of the standards of conduct such as those identified in Section 24. The rate of pay will be determined by Section 11.
- e. The Human Resources 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 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.
- g. A career service employee who accepted an appointment to an exempt or excluded 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 Resources Director but shall not exceed the maximum step for the grade unless approved by the appointing authority and the County Commission.

K. FAMILY AND MEDICAL LEAVE:

1. FMLA ELIGIBILITY

- a. Employees are eligible for FMLA leave if they have worked for Tooele County for at least 12 months (52 weeks) and worked 1,250 hours of service during the 12-month period immediately before the commencement of the leave.
- b. In determining the 12 months (52 weeks) worked for Tooele County, the 12 months need not be consecutive months. Employment periods prior to a break in service of seven years or more are not counted unless the employee's break in service is occasioned by the fulfillment of his or her National Guard or Reserve military service obligations. The time served performing the military service must be also counted in determining whether the employee has been employed for at least 12 months. For FMLA eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of the week or if the employee was on other paid leave during the week (i.e., sick leave, annual leave, or worker's compensation).

- c. Time spent on paid (including worker's compensation payments) or unpaid leave is not counted in determining the 1,250 hours worked for FMLA eligibility purposes. Tooele County will include overtime hours as hours worked on an hour-for-hour basis regardless of whether they were paid out as overtime or as compensatory time.

2. FMLA DEFINITIONS

For purposes of this section, the following terms have the stated meanings:

- a. Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was child. Parent does not include parent-in-law.
- b. Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" except for FMLA leave due to military service the person does not have to be a minor.
- c. Next-of-kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter. The FMLA provides additional definitions regarding next of kin including order of priority or employee's designation of next of kin.
- d. "Serious health condition," for purposes of the FMLA, means an illness, injury, impairment, or physical or mental condition that:
 - (1) requires an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity (meaning the inability to work, attend school, or perform other regular daily activities due to the serious health condition treatment therefore, or recovery there from) or any subsequent treatment in connection with such inpatient care;
 - (2) involves continuing treatment by a healthcare provider for incapacity and treatment. To qualify the incapacity must be for a period of more than three consecutive full calendar days from work, school, or other regular daily activities and include subsequent treatment or period of incapacity relating to the same condition. Subsequent treatment must include treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. Subsequent treatment must occur two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist. Subsequent treatment may be performed by a health care provider, a nurse under direct supervision of a healthcare provider, or by a provider of health care services under orders of, or on referral by, a health care provider;
 - (3) any period of incapacity due to pregnancy, or for prenatal care;

- (4) any period of incapacity (or treatment for such incapacity) due to a chronic serious health condition. A chronic serious health condition is one which:
 - (a) requires periodic visits at least twice a year for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
- (5) a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment, by a health care provider (e.g., Alzheimer's, stroke, terminal stages of a disease, etc.); or,
- (6) any absences to receive multiple treatments (including any period of recovery there from) by, or on referral by, a health care provider for a condition for:
 - (a) restorative surgery after an accident or other injury; or
 - (b) a condition that would likely result in a period of incapacity of more than three consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

3. BASIC FMLA LEAVE ENTITLEMENT

The FMLA provides up to 12 weeks of job protected leave to eligible employees for the following reasons:

- a. for incapacity due to pregnancy, prenatal medical care, or child birth;
- b. to care for the employee's child after birth, or placement for adoption or foster care. Leave to care for a child following birth, for adoption, or for foster care must be taken within one year of the birth or placement of the child;
- c. to care for the employee's spouse, child, or parent with a serious health condition; or,
- d. for a serious health condition that makes the employee unable to perform the employee's job.

4. MILITARY FMLA LEAVE ENTITLEMENT

- a. Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The FMLA does provide limitations on the amount of leave that can be used for certain qualifying exigencies.
- b. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single “12-month period.” A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. This is the only type of FMLA leave that may extend an employee’s leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are added to this type of leave totaling the 26 weeks. If an eligible employee does not take all of his or her 26 workweeks of leave entitlement to care for a covered service member during this “single 12-month period,” the remaining part of his or her 26 workweeks of leave entitlement to care for the covered service member is forfeited.

5. CALCULATION OF 12 WEEKS / 26 WEEKS

- a. **12 Weeks.** In determining eligibility for FMLA leave the county will measure the 12-month period as a rolling 12-month period measured backward from the date of an employee’s first FMLA use. Each time an employee requests leave, the county will compute the amount of FMLA leave the employee has taken in the last 12 months and subtract it from the 12 weeks of available FMLA leave. The balance remaining will be the amount the employee is entitled to take at that time. Note that this amount may change with each request for FMLA leave as periods of leave drop from the 12-month look back period resulting in leave coming available to the employee. When an employee’s work schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the FMLA leave period is used to calculate the amount of FMLA leave available to the employee.
- b. **26 Weeks.** The “single 12-month period” to care for a covered service member begins on the first day the eligible employee takes FMLA leave to care for a covered service member and ends 12 months after that date. The “single 12-month period” is applied on a per-covered-service member, per-injury basis. An employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for a different covered service member or to care for the same service member with a subsequent serious

injury or illness, except that no more than 26 workweeks of leave may be taken within any “single 12-month period.”

6. HUSBAND & WIFE BOTH EMPLOYED BY COUNTY

If a husband and wife both work for Tooele County and each wishes to take FMLA leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for Tooele 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 FMLA leave during the “single 12-month period.” These limitations do not apply where the reason for the leave is the serious health condition of either the husband or wife or the serious health condition of a child. If either the husband or wife is ineligible for FMLA leave, the eligible spouse retains full leave entitlement (i.e., they don’t have to split the leave).

7. EMPLOYEE BENEFITS DURING FMLA LEAVE

- a. While an employee is on FMLA leave, Tooele County will continue the employee’s health, dental, and vision benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.
- b. Retirement, life, and other benefits may be continued based on insurance provider’s approval. Generally, continuation of these benefits is contingent upon whether the FMLA leave is paid or unpaid and what sources are paying the employee’s wages. Benefit continuation is subject to change based on individual insurance providers’ provisions. Employer contributions to the 401K plan will be adjusted and based on wages paid by Tooele County (i.e., does not include unpaid or worker’s compensation wages).
- c. While on **paid** FMLA leave, Tooele County will continue to make payroll deductions to collect any portion of the employee’s share of the premiums.
- d. While on **unpaid** FMLA leave, the employee must continue to pay any portion of the employee’s share of the health premiums (and any other benefits the employee desires to continue) and may do so in person or by mail. The payment will be due by the 15th day of each month. The employee will be deemed delinquent if the payment is more than 30 days late and alternative payment arrangements have not been made with Tooele County. Failure to make timely premium payments may result in cancellation of benefits. Tooele County may recover the costs incurred for paying the employee’s share of any premiums, whether or not the employee returns to work, including seeking recovery through civil court. Tooele County may also seek retroactive termination of insurance coverage with the insurance provider. Tooele County may recover from an employee both the employee’s and/or employer’s share of any premiums paid during a period of **unpaid** FMLA leave if the employee fails to return to work after the employee’s FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

- 1) the continuation, recurrence, or onset of either a serious health condition of the employee or the employee's family member, or a serious injury or illness of a covered service member, which would otherwise entitle the employee to leave under FMLA; or
- 2) other circumstances beyond the employee's control.

8. EMPLOYEE STATUS AFTER FMLA LEAVE

- a. An employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits, and other employment terms. The position will be the same or virtually identical in terms of pay, benefits, and working conditions.
- b. Tooele County may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

9. SUBSTITUTION OF PAID LEAVE AND/OR DISABILITY INSURANCE

- a. **Paid Leave Benefit Substitution.** Tooele County has elected the statutory provision under the FMLA permitting an employer to require employees to take any accrued paid annual, sick leave, or comp-time (i.e., paid FMLA leave or "substitution of paid leave") and have it run concurrently with any FMLA leave, to the extent that the reason for the leave complies with permissible uses as specified in this and other sections regarding paid leave herein. Before being eligible for unpaid FMLA leave, an employee is required to substitute any accrued and qualifying paid leave to bring the employee to 100% of his/her wage at the time FMLA starts. In cases of varying schedules, the required substitution will be calculated as the average weekly wage earned during 12 months prior to commencing FMLA leave. While substituting paid leave, an employee must follow the same terms and conditions of the county's policy that apply to other employees for the use of such paid leave.
- b. **Worker's Compensation Substitution.** When substitution occurs and wages are paid in whole or in part by a county-sponsored disability insurance provider (i.e., worker's compensation insurance), the employee may elect to, but is not required to, supplement the insurance payment up to 100% of his/her pre-disability wage. This generally only occurs when FMLA is needed due to the serious medical condition of the employee.

10. INTERMITTENT FMLA LEAVE OR A REDUCED WORK SCHEDULE

- a. An employee may take FMLA intermittently (i.e., take off work in 15 minute increments when needed or a day or two over the year when needed) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks (or 26 work weeks to care for an injured or ill service member over a "12-month period").

- b. Tooele County may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.
- c. For the birth, adoption, or foster care of a healthy child, Tooele County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced work schedule.
- d. If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with Tooele County before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.
- e. An employee who has been approved for intermittent FMLA-protected leave must specifically reference either the qualifying reason for leave or the need for FMLA leave. Calling in “sick” without providing more information will not be considered sufficient notice to trigger Tooele County’s obligations under the Act.

11. PROCEDURE FOR REQUESTING FMLA LEAVE

- a. For (1) The birth of a child or in order to care for that child; or 2) The serious health condition of the employee:
 - (1) An employee must complete the FMLA packet prior to the requested leave in all possible circumstances. The packet contains all information and certifications required for the leave to be considered an FMLA approved leave. For cases where an emergency prevents the packet from being completed prior to the first day of leave, it must be completed within a reasonable time directly afterward. Employees who do not complete the packet prior to leave, yet take more than five days of leave for an FMLA event, will have the FMLA leave used back-dated to that FMLA event.
 - (2) Employees must then submit a completed “Certification of Health Care Provider for Employee’s Serious Health Condition (Family and Medical Leave Act)” form.
 - (3) The worker’s compensation insurance company’s approval of the employee’s need to be absent from work will satisfy the need to submit a completed “Certification of Health Care Provider for Employee’s Serious Health Condition (Family and Medical Leave Act)” form.
 - (4) Employees must provide Tooele County with at least 30 days notice prior to the need for leave, if possible. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the workplace. If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the

leave request may be denied until at least 30 days from the date Tooele County receives notice.

- (5) While on leave, employees are requested to report periodically to Tooele County regarding the status of the medical condition and their intent to return to work. Tooele County may ask for additional updates.
 - (6) The employee must respond to requests for certification or recertification within 15 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.
 - (7) If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
 - (8) Tooele County has the right to ask for a second opinion if it has reason to doubt the certification. Tooele County will pay for the employee to get a certification from a second doctor, which the county will select. If necessary to resolve a conflict between the original certification and the second opinion, Tooele County will require the opinion of a third doctor. Tooele County and the employee will mutually select the third doctor, and the county will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.
- b. To care for a spouse, child, or parent with a serious health condition:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees must then submit a completed “Certification of Health Care Provider for Family Member’s Serious Health Condition (Family and Medical Leave Act)” form.
 - (3) Employees must provide Tooele County with at least 30 days notice prior to the need for leave, if possible. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date Tooele County receives notice.
 - (4) While on leave, employees are requested to report periodically to Tooele County regarding the status of the medical condition and their intent to return to work. Tooele County may ask for additional updates.

- (5) The employee must respond to requests for certification or recertification within 15 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.
 - (6) If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent leave or working a reduced schedule.
- c. The placement of a child for adoption or foster care and to care for the newly placed child:
- An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
- d. For a qualifying exigency for Military Family Leave:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees requesting this type of FMLA leave must also submit a completed “Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act)” form. If such leave is foreseeable, employees are asked to provide as much notice as possible to Tooele County.
- e. To care for an injured or ill service member:
- (1) An employee must provide at least verbal notice sufficient to make the county aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.
 - (2) Employees requesting this type of FMLA leave must submit a completed “Certification for Serious Injury or Illness of a Current Servicemember – for Military Family Leave (Family and Medical Leave Act)” form. If such leave is foreseeable, employees are asked to provide as much notice as possible to Tooele County.

12. DESIGNATING LEAVE AS FMLA LEAVE

- a. Absent extenuating circumstances, Tooele County will inform the employee in writing of the designation of leave as FMLA-qualifying leave within five business days after receipt of notification of the need for leave and if applicable, receipt of completed required documentation.
- b. While leave is in progress or if upon returning from leave Tooele County learns that the reason for leave was an FMLA-qualifying reason, Tooele County may retroactively

designate such leave while the leave is in progress or within two business days of the employee's return to work.

L. 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.