LEAVE PROGRAM

Consistent employee presence on the job promotes and maintains excellence in Albemarle County by providing continuity of service and reduced temporary staffing costs. The County recognizes that some absences are necessary. In such cases, the employee's return to work at the earliest time commensurate with good health, safety, and reasonable personal consideration is an expectation. The County expects that all employees shall strive to maintain an acceptable attendance record and that the occasional absences of employees shall not have an adverse effect on services.

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I. General Information

A. Eligibility

All Albemarle County regular, benefits-eligible employees are eligible for the benefits and programs outlined in this policy. While non-benefits-eligible employees may not accrue paid leave as a benefit, they may be granted certain types of paid and unpaid leave under programs outlined in this policy. (See also § P-02, Definition of Employee Status.)

B. Definitions

Unless otherwise stated in policy or defined by law, the following definitions apply only to this policy.

Day of Leave or Day:	A "day of leave", a "day", or "daily" shall equal the total hours scheduled per year divided by the number of days established for an employee's position and number of months worked in a year (i.e., 12-, 11-, 10-month employee). This will not necessarily be the same amount an employee works on a given day. Unless otherwise noted, this definition applies to all leave policies. *For example*, a 12-month employee (260 days) scheduled for 2080 hours per year has an eight (8)-hour day of leave; an 11-month employee (220 days) scheduled for 1760 hours per year has an eight (8)-hour day of leave; a 10-month employee (200 days) scheduled for 1450 hours per year has a seven and one quarter (7.25)-hour day of leave.
Employee:	"Employee," unless otherwise noted in this policy, means regular, benefits-eligible employees.
Fiscal Year:	"Fiscal Year" means the fiscal year adopted by the Board (July 1 to June 30).
Flex:	"Flex" means the ability of a supervisor to allow an employee to work an alternative schedule.
FTE:	"Full-Time Equivalency" or "FTE" describes the full- or part-time status of an employee.
Household Member:	"Household Member" means 1) any individual who cohabits or who, within the previous 12 months, cohabited with the employee, and any children of either of them then residing in the same home with the employee, 2) the employee's former spouse, whether or not he/she resides in the same home with the employee, or 3) any individual who has a child in common with the employee regardless if the employee and individual have been married or have resided together at any time.
Immediate Family:	"Immediate family", unless otherwise defined in policy or defined by law, means the employee's spouse, children, parents, siblings, grandparents, or the employee's

spouse's children, parents, siblings, grandparents (includes all direct lineage such as great-grandparents, grandchildren, etc. and step-immediate family members).

Parents include persons standing *in loco parentis* and children include biological, adopted, or foster children, stepchildren, legal wards, or children of a person standing *in loco parentis.*

In loco parentis includes those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age, or 18 years of age or older and incapable of self-care because of a physical or mental disability. A biological or legal relationship to the child is not necessary.

In Writing: "In writing" mean generally any dated written statement including a leave slip, formal memo, or e-mail, unless otherwise noted or defined by law. Refer to specific policy sections or department requirements for specific forms that may be required.

Rolling Year: "Rolling Year" means a rolling 12-month period measured backward from the date an employee uses leave.

Workday: "Workday" specifically means a calendar day worked, as opposed to a "day of leave" or "day".

C. General Leave Guidelines and Responsibilities

1. Leave under the Family Medical Leave Act (FMLA), Workers' Compensation, Sick Leave Bank, Debilitating or Life-threatening Illness or Injury, and Income Replacement Program is managed by the Department of Human Resources for privacy reasons, with administrative support from the employee's department. All other leave is managed and administered by the employee's department with support from the Department of Human Resources.

2. Employees and supervisors should familiarize themselves with the types of leave available and the proper procedures for using each. Unless specifically stated, leave is used when an employee is absent from work, not as a means of additional compensation. Pay and leave for non-exempt employees are determined on a total workweek or work period basis, not a daily basis.

3. Leave is taken based on an employee's schedule. Due to fluctuations in the day of leave and the varying base hours of different positions throughout the County, leave may be taken at a different rate from the rate at which it was accrued.

4. An employee with two or more regular positions (dual jobs) will have the FTEs for each position combined to determine eligibility for leave benefits. Leave will be held in a single account for all regular positions.

5. Employees are expected to only take leave for which they have sufficient leave balances. "Leave without pay" (LWOP) is not a leave type, but instead is a consequence of having insufficient applicable leave. Applicable types of accrued leave will be used before an employee

may take LWOP. The Department of Human Resources will establish County-wide rules for the order in which different types of leave are used for different types of absences.

6. Employees may not borrow against future leave accruals. Paid leave may only be taken when the employee has earned enough leave to cover the absence or when provided by established County programs/practices.

7. When an employee performs no work or is not in a paid leave status in a calendar month, no accrued leave will be earned for that month.

8. Employees are responsible for notifying their departments as far in advance as possible whenever they will be absent. Employees are responsible for following their department's applicable guidelines when making leave requests. Employees are responsible for notifying their supervisors at least 30 minutes prior to their scheduled start time of unforeseeable delays and absences, unless the department has established other guidelines for notification. Employees should be aware of the notification requirements and procedures of their departments.

9. Employees are responsible for discussing workload/scheduling/coverage with their supervisors/designees when they need to be absent from work for any period either as a block of time or intermittently.

10. Both the department and the employee are responsible for tracking leave approvals and absences.

11. Employees should contact the Department of Human Resources for extended use or use of special leave types which require additional approval/administration as outlined in this policy such as leave under the FMLA, leave without pay (or LWOP), leaves of absence (LOA), Workers' Compensation, or military leave. Also, supervisors should notify the Department of Human Resources if an employee is out of work and may require extended use or use of special leave types which require additional approval/administration.

12. The department head/designee may approve leave that an employee has available as provided in this leave policy. The department head/designee, to the best of his/her ability, should ensure that processes/procedures are in place to prevent employees from taking unapproved or not yet accrued leave. Employees are responsible for being aware of their leave balances and usage and requesting leave use appropriately.

13. Any missed work that is not approved or foreseeable absences that are not requested in a timely manner may result in required leave use, denial of leave use, loss of pay, and/or disciplinary action. Failure to give proper notice or abuse of any of these policies may lead to disciplinary action up to and including termination.

14. Signs of leave abuse or excessive absenteeism will be examined, including looking at patterns such as Friday/Monday absences and/or frequency of occurrences. The Department of Human Resources staff shall provide guidance on initiating an investigation and any disciplinary action to be taken.

15. Employees must receive prior authorization to work with an outside entity while on paid or unpaid leave pursuant to § P-33, Outside Employment.

16. It will remain the right of the department head/designee to:

a. Authorize or refuse to authorize the advance request of an employee for permission to be absent.

b. Investigate absences.

c. Deny leave for absences in violation of any County policy.

d. Impose reasonable disciplinary action upon employees who have been found by the department head/designee to have abused their leave privileges and/or violated the provisions of this policy.

e. Require written verification/proof of medical appointments or other types of absences, unless prohibited by policy or law.

17. The County Executive/designee may issue emergency regulations regarding employee work hours, absences, and leave usage in the event of a declared state of emergency, pandemic, or other crisis affecting the County's ability to operate under normal policies and procedures.

18. Employees who are placed on administrative leave without pay for disciplinary reasons or other administrative reasons may not use other types of leave concurrently without permission from the Director of Human Resources/designee.

19. Employees changing County positions and/or departments without breaks in service shall maintain accrued leave and accrual rates in accordance with policy.

20. Employees changing employment between the County and Albemarle County Public Schools shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal. Employees of a Partner Agency changing employment to the County, Albemarle County Public Schools, or another Partner Agency shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal as agreed through a signed memorandum of understanding (MOU) or similar agreement.

21. Although non-benefits-eligible employees are not eligible for some of the leave programs in this policy, they are required to follow procedures for requesting time off, recording time worked, and acceptable attendance. When flex time is not approved, these employees will be docked pay in accordance with § P-61 Staff Schedules, Time Tracking, and Compensation Policy, when applicable due to a lack of accrued paid leave.

D. Excused and Unexcused Absences

Acceptable attendance is a minimum expectation of all County employees. Absences will be classified as either excused or unexcused. Some types of leave may be either, depending on whether it was approved by the supervisor or not, regardless of whether it was paid. All unexcused absences are included into the acceptable attendance calculations. Sick leave is unexcused, except sick leave used concurrently with FMLA, Workers' Compensation, or Bereavement, which is excused. Any other paid or unpaid leave used in lieu of sick leave is also unexcused. Unapproved annual, personal, and compensatory time leave is unexcused even if the employee uses paid leave. Regardless of the leave type, an employee may be counseled or disciplined for failure to give proper notice or failure to receive prior approval.

E. Acceptable Attendance Standards

Generally, an employee's attendance is unacceptable when more than one (1) day of unexcused absences occurs per month, on average (10 days for 10-month, 11 days for 11-month, 12 days for 12-month per year). However, attendance should be examined, counseled, and disciplined by the supervisor on a case-by-case basis when appropriate. An employee may be disciplined for unacceptable attendance even if he/she has sick leave or other paid leave available.

F. Leave Usage

1. Exempt Employees

a. Increments - Employees who are exempt from overtime provisions under the Fair Labor Standards Act (FLSA) (exempt employees) shall take leave in full-day increments.

b. Work Expectations - An exempt employee is expected to work his/her full schedule. When an exempt employee takes a leave day, the supervisor should respect the employee's time off. However, there may be occasions when the employee may need to respond to an emergency. An exempt employee who performs a minimal amount of work shall still use a day of leave. If more than a minimal amount of work is performed, the employee should work with his/her supervisor to flex the time on a later date or not take the day as leave.

c. Flex Time – Supervisors may approve exempt employees to work alternative schedules in lieu of using leave or in recognition of work above and beyond the employee's regular schedule. Time may be flexed outside of the workweek or work period for exempt employees.

2. Non-Exempt Employees

a. Increments - Employees who are eligible for overtime under FLSA shall record leave in 15-minute increments.

b. Work Expectations – A non-exempt employee must not perform any work while on leave. Permission to work while out must be granted by the supervisor in advance and should be recorded as compensable time instead of leave.

c. Flex Time – Supervisors may approve non-exempt employees to work alternative schedules in lieu of using leave within the same workweek or work period. Pay and leave are determined on a total workweek or work period basis. Leave will only be used to supplement an employee's total weekly hours when the hours worked are less than his/her base hours. For example, if an employee misses two (2) hours of work for a doctor's appointment but works two (2) additional hours in the workweek with the supervisor's permission, no sick leave would be taken that week.

d. Special Flex Time Rules For Certain Public Safety Employees – Non-exempt employees who qualify for the public safety exemption may request flex time in lieu of leave use prior to the use of such leave. When these employees are in a paid status, all such time is considered time worked as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.).

II. Administrative Leave

Administrative leave may be granted or required on a case-by-case basis, such as for investigations, suspensions, releases from work for safety, or recognition of service. Administrative leave may be paid

or unpaid as appropriate. Administrative leave with pay is not an adverse personnel or employment action.

III. Annual Leave

A. Purpose

Annual leave is provided to regular, benefits-eligible 12-month employees to recognize service provided to the County, foster wellness, and encourage work-life balance.

B. Accrual Rates

12-month benefits-eligible employees shall begin to accrue annual leave based on the employee's hire date of regular, continuous employment. Employees accrue annual leave monthly in an amount based on the employee's day of leave at the time of distribution as follows.

1. One (1) day per month for each month employed during the first five (5) years of continuous employment.

2. One and one-quarter (1.25) days for each month employed during the sixth through the tenth (6-10) years of continuous employment.

3. One and one-half (1.5) days for each month employed during the eleventh through the fifteenth (11-15) years of continuous employment.

4. One and three-quarter (1.75) days for each month employed during the sixteenth through the twentieth (16-20) years of continuous employment.

5. Two (2) days for each month employed during the twenty-first through twenty-fifth (21-25) years of continuous employment.

6. Two and one-quarter (2.25) days for each month employed during the twenty-sixth (26+) and succeeding years of continuous employment.

An employee who changes from a 10-month or an 11-month to a 12-month schedule shall begin to accrue annual leave based on the date he/she commenced continuous employment as a regular employee to include benefits-eligible and non-benefits-eligible employment as a 10, 11, or 12-month regular employee.

With the approval of the Director of Human Resources/Ddesignee and the County Executive/Ddesignee, an employee's annual accrual rate may be negotiated at a rate other than the rate determined by years of service and/or an employee may be granted a negotiated amount of additional leave.

C. Accumulation Maximum Cap

Annual leave balances are subject to a maximum cap.

1. The Aannual leave maximum cap is 320 hours for employees, except as provided in subsection 2.

2. Partner Agency employees working for Constitutional Officers have a maximum cap of 6 weeks (240 hours or a fraction thereof for part-time employees) pursuant to state law, unless an

agreement between the Constitutional Officer and the County includes such employees under this policy. If such an agreement exists, then employees of Constitutional Officers shall have an annual leave maximum cap of 320 hours.

D. Use of Annual Leave

1. An ~~E~~employee~~s~~ is ~~are~~ required to obtain ~~their~~his/her ~~D~~department ~~H~~head's/~~D~~designee's approval prior to taking annual leave.

2. Requests to use annual leave and approvals should be in writing. All requests should be made as far in advance as possible. Employees should also refer to department-specific requirements and procedures.

3. Annual leave use is granted at the discretion of the department head/designee.

4. The department head/designee must consider the workload and impact of leave on the County's service delivery when approving or denying annual leave requests.

5. The department head/designee must reasonably accommodate annual leave requests as staffing permits.

6. An employee has the right to ask for and receive an explanation for the denial of an annual leave request.

7. Once annual leave has been approved by the department head/designee, changes shall not be made to the approved annual leave use without notification in writing to the employee by the department head/designee.

In the interest of fostering wellness for employees, non-probationary employees are strongly encouraged to take at least five (5) days of annual leave per year. Department ~~H~~heads/~~D~~designees shall work with their employees to ensure that time is made available for annual leave use. Employees are responsible for knowing their leave balances and usage and ~~schedule~~ scheduling ~~their~~ leave in a timely fashion.

8. Department heads/designees shall not approve more than three (3) consecutive weeks of paid annual leave if the employee is not planning to return to work (i.e., going to retire/resign). Any annual leave requested by a terminating employee beyond three (3) weeks must be approved by the County Executive/designee prior to use.

E. Conversion of Unused Annual Leave

1. At the end of the employee's birth month each year, any annual leave balance that is above the maximum accumulation cap will be converted as follows: 50% to the employee's own sick leave balance and 50% donated to the County Sick Leave Bank. The employee need not be a member of the Sick Leave Bank.

2. Employees are responsible for keeping track of their leave balances to avoid conversion of annual leave. Employees are also responsible for requesting time off as appropriate with as much advance notice as possible.

3. Employees and the department head/designee are encouraged to work together to facilitate leave use to avoid annual leave conversion.

F. Payout of Annual Leave

Payout of annual leave only occurs in the following situations:

1. Upon termination of regular employment, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.

2. Upon transfer/hire from a 12-month position to a 10-month or 11-month position, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap. The employee may request to convert up to five (5) days of accrued annual leave to personal leave to be available for his/her use in the new 10- or 11-month position. If an employee requests leave conversion, it will be taken from the balance subject to the maximum cap. Employees transferring to benefits-ineligible positions will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap prior to the transfer.

3. Upon transfer/hire from a 12-month position eligible for annual leave under this policy to a Partner Agency position who does not have a signed memorandum of understanding (MOU) to accept leave, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.

4. When an employee has two (2) regular 12-month positions (dual jobs), annual leave payout will be representative of the FTEs for each position. For example, a 0.60/0.40 employee would be paid 60% of the annual leave at the hourly rate of job A and 40% at the hourly rate of job B.

IV. Bereavement Leave

A. Purpose

The loss of an immediate family member or household member may deeply affect an employee. To allow an employee to grieve, tend to that person's estate, or other related matters, bereavement leave is available.

B. Bereavement Leave Days and Use

In the event of the death of a member of an employee's immediate family or a household member, any regular employee may use up to five (5) days of unpaid bereavement leave per occurrence. Accrued sick leave may be used concurrently for up to the first five (5) days of absence~~up to five (5) days of paid sick leave during this time~~. Any additional time required by the employee shall be covered by other applicable leave in accordance with this policy. In the event of the death of a non-immediate family member or non-household member, employees may not use bereavement leave, but may use other applicable leave in accordance with this policy.

C. Extraordinary Circumstances

In the event of extraordinary circumstances, such as the death of a current colleague, the department head/designee may allow employees to attend services with approval from the County Executive/designee, so long as it does not cause an undue hardship on the department. Administrative leave with pay would be used in this situation for any regular employee.

V. Building Closure Leave

Paid leave and unpaid leave due to inclement weather and other County emergencies are addressed in § P-XX, Coverage Due to Weather and/or Emergency.

VI. Compensatory Time Leave

A. Purpose

Because employees are paid with taxpayer dollars, to be good stewards of public money, public sector employers are able to offer employees compensatory time leave in lieu of money as compensation for overtime. Additionally, some non-exempt employees may value additional time off more than additional pay.

B. Accrual, Maximum Balance, and Payout

Please refer to § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensatory time leave as it is earned for overtime work performed.

C. Use of Compensatory Time Leave

Accrued compensatory time leave may be used for any leave purpose. However, classified, non-exempt employees are required to arrange use of compensatory time leave in advance with their supervisors. Department heads/designees shall be responsible for allowing employees to use compensatory time leave within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the department. A "reasonable period" under the FLSA is determined by considering the customary work practices within the department, such as: (a) the normal schedule of work; (b) anticipated peak workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to "unduly disrupt the operations of the department" if the supervisor reasonably and in good faith anticipates that granting the request would impose an unreasonable burden on the department's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

VII. Court Duty

A. Purpose

The County recognizes the duty of employees to appear before a court of law when summoned or subpoenaed. These procedures outline leave usage. Refer to § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on when an employee's appearance in court is considered compensable work time.

B. Eligibility

The County provides unpaid court duty leave for employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors in as far in advance as possible prior to using court duty leave. Supervisors may require verification that an employee has been called for court duty. Court duty leave does not apply to any employee who is the defendant in a criminal case for which the employee is summoned or subpoenaed.

C. Regulation

~~Employees who are subpoenaed to appear as witnesses in legal proceedings in their capacity as County employees will be entitled to treat time spent in such proceedings as compensable working time.~~ Employees who are summoned or subpoenaed to appear, except as defendants in criminal cases, in court proceedings which take place during their scheduled hours, are allowed unpaid court duty leave for such appearances. Such employees may use ~~will be require to use accrued~~

~~compensatory time, annual leave,~~ accrued leave as applicable~~or unpaid leave for all hours spent in connection with such actions which occur during working hours~~, subject to supervisor approval.

VIII. Election Officer Leave (Polling Leave)

A. Purpose

The County recognizes that serving as an election official can provide a unique learning and community service experience.

B. Eligibility

Albemarle County offers paid polling leave for benefits-eligible employees and unpaid polling leave for benefits-ineligible employees consistent with Virginia Code § 24.2-100, et. seq.

C. Guidelines

1. Any employee who serves as an officer of election (defined under Virginia Code § 24.2-101) shall not have any adverse personnel action taken against him/her for such service provided. An employee is not required to use accrued paid leave to serve as an officer of election.

2. An employee must give reasonable notice to his/her supervisor and comply with established procedures when he/she needs to take time off to serve as an officer of election.

3. Hours worked as an officer of election shall not be counted as “hours worked” for purposes of overtime compensation. Employees are not required to volunteer as an officer of election.

4. Employees who serve as officers of election for any locality are eligible for polling leave.

5. Employees are also eligible for any standard poll worker stipend that may be provided by an Electoral Board.

6. Employees employed by an elected official, the Electoral Board, or General Registrar are not eligible for polling leave.

7. Employees who work four (4) or more hours as an officer of election, including travel time, are not required to report for any shift which begins between 5 p.m. and 3 a.m. and will be granted polling leave.

IX. Emergency Leave

A. Purpose

Emergency leave is for employees who need to address emergency or urgent circumstances beyond their control that affect their residences~~of the individual and must be used only for this purpose~~.

1. For example, emergency leave may be granted for situations similar to the following:

   A disaster affecting the home or residence of the employee or his/her immediate family, including damage occurring during a declared a state of emergency or an employee’s house burning down.

2. Examples of circumstances for which emergency leave should not be granted are the following:

   a. Animal/vehicle strikes and other car repair-related issues;

   b. Employee's water pump breaks during the normal course of wear and tear and other household repairs due to normal wear and tear; and

   c. Employee loses power due to a non-state of emergency

B. Eligibility and Days of Use

1. The ~~D~~department ~~H~~head/~~D~~designee may grant up to two (2) days of emergency leave without loss of pay to any benefits-eligible ~~all classified and administrative~~ employee per year~~during the fiscal year~~.

2. These days do not ~~carry over or~~ accrue from year to year and are not paid out upon termination of employment.

~~Examples of circumstances for which emergency leave may be granted are:~~

~~1. A disaster affecting the home or residence of the employee or his family.~~

~~2. Other urgent or emergency situations arising out of natural or man-made disasters.~~

C. Requesting and Using Emergency Leave

1. To the extent possible, employees should request emergency leave in writing from the department head/designee.

2. If the circumstances in a given case are unclear, the department head/designee shall confer with the Director of Human Resources/designee before granting approval.

3. Emergency leave is not intended and may not be used for absences covered by other types of leave, ~~such as~~including sick ~~leave~~, personal, or annual leave~~Sick Leave Bank, Family & Medical Leave, military leave or jury/court duty leave~~. In addition, emergency leave is not intended and may not be used as a substitute when ~~if~~ other types of leave have been exhausted.

~~To the extent possible, employees should request Emergency Leave from the Department Head or Designee. If the circumstances in a given case are unclear, the department head shall confer with the Director of Human Resources before granting approval.~~

X. Employee Recognition Leave

Paid leave may be awarded to regular employees as recognition for extraordinary achievements and contributions to the County, including through the Employee Recognition Program.

XI. Employee's Debilitating or Life-Threatening Illness or Injury~~Extraordinary Sick Leave~~

An employee who has a debilitating or life-threatening illness or injury may be granted a reasonable period of unpaid leave for this purpose. The leave will be approved by the Department of Human Resources provided it does not cause an undue hardship to the County. This type of leave may be taken only in full-day increments and runs concurrently with paid leave, unpaid leave, any other leave program, and any reasonable accommodation if applicable.

An employee must submit medical documentation of his/her need for leave to the Department of Human Resources. Whenever possible, documentation must be provided prior to leave being taken. Approval from the Department of Human Resources must be obtained prior to leave being taken when foreseeable or as soon as possible.

~~In certain circumstances such as a long period of illness or recuperation, an employee may not have a sufficient Sick Leave or Sick Leave Bank balance to cover the period of absence. In such circumstances, employees may be eligible for an unpaid leave of absence, as outlined in Policy P-82, Unpaid Leave.~~

XII. Family Medical Leave Act – Protected Leave Status~~Supplemental Leave~~

A. Purpose ~~of Policy~~

This Family and Medical Leave ("FMLA") section ~~policy~~ is written to assist Albemarle County in complying with the provisions of the federal Family and Medical Leave Act of 1993, and its amendments. This section~~policy~~ seeks to balance the needs of the County (the "employer") with the needs of its employees and their families. Any variation between this policy and the FMLA will be determined in favor of the Act.

B. Definitions

Definitions set forth below are applicable to FMLA only and may be different from general definitions listed elsewhere in this policy. If definitions in this FMLA section require clarification or conflict with, federal and/or state laws, those laws will prevail over this policy.

Child:	Means a biological, adopted, or foster son or daughter, a stepchild, ~~or~~ a legal ward, or a child ~~for whom the employee~~of a person standing ~~acts~~ *in loco parentis* who is either i) under 18 years of age or ii) 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time FMLA leave is to commence.~~a parental role, providing care and financial support. The child must be under age 18, unless he/she is incapable of self-care due to mental or physical disability.~~ For a covered service member or for covered active duty, a child may be any age.
Covered Active Duty:	In the case of a member of a regular component of the Regular Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and In the case of a member of a Reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S. Code § 101(a)(13)(B).
Covered Service Member:	A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

	A veteran who was undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
Eligible Employee:	An eligible employee: 1) Has been employed at least ~~one~~ 12 months or 52 weeks within the last seven years; 2) Has worked at least 1250 hours during the 12 months immediately preceding the proposed leave; 3) Has not used all available FMLA Leave ~~Family Medical Leave (FML)~~ in the ~~previous~~ current rolling year; and 4) Meets the conditions of the FMLA.
Employer:	For purposes of this section, "Employer" means the County and the Albemarle County Public Schools, as they are considered a single, integrated employer. See 29 C.F.R. §§ 825.104(2) and 825.108.
Family:	Family is defined as the employee's spouse, employee's children, and employee's parents.
Health Care Provider:	A licensed doctor of medicine or osteopathy or any other person determined by the U.S. Secretary of Labor to be capable of providing health care service.
In Loco Parentis:	Persons who stand *in loco parentis* include those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a physical or mental disability. In the case of an employee, those who had such responsibility when the employee was a child also stand *in loco parentis.* A biological or legal relationship to the child or employee is not necessary.
Job-Protected:	The employee is guaranteed the right to return to his/her former position or to an equivalent position.
Next of Kin:	"Next of Kin" generally means the nearest blood relative of an individual when used in respect to that individual. The "next of kin" of a current service member is the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:

1. A blood relative who has been designated *in writing* by the service member as the next of kin for FMLA purposes,
2. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions,
3. Brothers and sisters,
4. Grandparents,
5. Aunts and uncles,
6. First cousins

When a service member designates in writing a blood relative as next of kin for FMLA purposes that individual is deemed to be the covered service member's *only* FMLA next of kin. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

Parent: Includes ~~B~~biological, adoptive, step, foster, or any individual who stood *in loco parentis* when the employee was a child~~parents as well as any others who have acted in the place of a parent to the employee~~. This does not include parents-in-law.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves the following:

1. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or

2. a period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or

3. any period of incapacity due to pregnancy, or for prenatal care; or

4. any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or

5. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,

6. any absences to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

~~A physical or mental illness or an injury requiring inpatient care at a medical facility or continued treatment by a health-care provider that causes the employee to be absent from work on a recurring basis or for more than three full days.~~

Serious Injury or Illness: In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

A veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S. Code § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Week: A week is defined as the weekly authorized regular hours of the employee's position~~, divided by 52~~.

Year: A rolling 12-month period measured backward from the date an employee uses FMLA leave.

C. Posting and General Notice

The employer shall post and keep posted, in a conspicuous place, on the premises where notices to employees and applicants for employment are customarily posted, a notice prepared or approved by the U.S. Secretary of Labor explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. This posting requirement may be satisfied by electronic posting if every employee has access to a computer at work.

Employees Rights and Responsibilities notification will be posted on the Department of Human Resources website.

D. ~~C.~~ Conditions of Leave

1. General Information

The Family and Medical Leave Act (FMLA) provides up to a combined total of 12 workweeks of unpaid job-protected leave per year to eligible employees for one or more the birth of a child and to care for the newborn child, for the placement with the employee of a child for adoption or foster care, to care for the employee's spouse, child, or parent with a serious health condition, or because of the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position.

The FMLA also provides up to a combined total of 26 workweeks of unpaid job-protected leave per year to eligible employees because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty status), or to care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the covered servicemember. Military caregiver leave is available to an eligible employee once per veteran, per serious injury or illness. However, an eligible employee may take an additional 26 weeks of leave in a different 12-month period to care for the same veteran if the veteran has another serious injury or illness.
of the following qualifying events:

The birth and first-year care of the employee's newborn child;
Placement of a child with the employee for adoption, or by the State for foster care;
To care for the employee's spouse, child or parent with a serious health condition (this does not include in-laws); and
The employee's own serious health condition.

2. Notification Requirements

a. Foreseeable

When the need for leave under FMLA is foreseeable, the employee is required to provide at least 30 days' advance notice to the Department of Human Resources either verbally or in writing. The employee shall make a reasonable effort to schedule the treatment, placement, or other foreseeable need for leave so as not to disrupt unduly the operations of the employer.as in the case of the expected birth, adoption or foster care placement of a child or planned medical treatment for a serious health condition of the employee or a family member, the employee is required to provide at least 30 days advance notice to his supervisor either verbally or in writing. In the event that it is not practicable to give such advance notice, due to a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee should give as much advance notice as is practicable, ordinarily within one or two (2) business days of when he/she learns of the need for the leave.

b. Unforeseeable

When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to his/her supervisor or the Department of Human Resources as soon as practicable based on the facts and circumstances of the particular case.

If an employee is absent for more than three (3) consecutive workdays or if the employee's supervisor has reason to believe that an employee's leave may be for an FMLA-qualifying

reason, the supervisor must contact the Department of Human Resources and will remind the employee to contact Department of Human Resources to determine eligibility.

c. Employee Request and Eligibility Notice

The employee's notice or request should be sufficient to make the employer aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave. When the employee requests FMLA leave or the Department of Human Resources has knowledge that an employee's leave may be for an FMLA-qualifying reason, the Department of Human Resources must notify the employee in writing of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances. The Eligibility Notice should state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least one (1) reason why the employee is not eligible.

d. Employee Rights and Responsibilities Notice

The Department of Human Resources will provide the employee written notice detailing the specific expectations and obligations of the employee and explaining consequences of a failure to meet these obligations. If leave has already begun, the Department of Human Resources will mail the Notice to the employee's address of record.

e. Certification of Health Condition, Designation Notice, Second Opinion(s), Recertification, and Status Updates

The Department of Human Resources will provide the employee a Certification of Health Care Provider form that must be completed by the employee's physician and returned to the Department of Human Resources within 15 calendar days after the Eligibility Notice. If the employee fails to return a Certification of Health Care Provider form or does not provide sufficient or complete information to determine whether the leave is FMLA-qualifying, FMLA leave may be denied or delayed. It is the employee's responsibility to maintain up-to-date medical status while on FMLA leave.

The Department of Human Resources will give the employee written notice (Designation Notice) whether the leave will be designated and counted as FMLA leave within five (5) business days of when the Department of Human Resources has enough information to determine whether the leave is being taken for a FMLA-qualifying reason.

The employer may require a second opinion by a health care provider of its choice and at its expense if it has reason to doubt the validity of the medical certification. The designated health care provider shall not be employed by the employer or regularly utilized by the employer. If the two opinions differ, a third opinion may be requested from a provider selected jointly by the employee and the employer. This third opinion, to be paid for by the employer, is final and binding. The employer shall provide the employee copies of the medical opinions within 5 days of the employee's request.

The employer may request recertification if it later has reason to question the appropriateness of the leave or its duration. The frequency for which the employer may request recertification is governed by federal regulation. The employee must provide a complete and sufficient certification within 15 calendar days after the Department of Human Resources' request. When the Department of Human Resources requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

The employer may also require periodic reports from the employee as to the employee's status and intent to return to work. If an employee gives unequivocal notice of intent not to return to work, the employer's obligations under FMLA to maintain health benefits (subject to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requirements) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

~~The administrative process will be initiated by the employee submitting an FMLA Request Form, which is available from the Human Resources Department. If the reason for leave involves a serious health condition of either the employee or the employee's family member, the employee will be given a Certification of Health Care Provider form that must be completed by the patient's physician and returned to HR within 15 calendar days. Employees granted leave under FMLA will receive a Notice of Employee Obligations under FMLA outlining conditions governing the leave. If an employee does not notify his supervisor that he requests FML, but the supervisor has reason to believe that a leave request would meet the guidelines covered under the Act, the supervisor should contact Human Resources, which will then provide the employee with information regarding the FMLA. If an employee is eligible for FML, then the leave time will be counted against FML.~~

3. Spouses Both ~~Parents~~ Working for the ~~County~~Employer

In cases where both spouses ~~parents~~ are ~~County~~ employees, they may take a combined total of 12 weeks of FMLA leave for the birth, bonding, adoption, ~~and~~ or foster care placement of a child, and the care of a parent with a serious health condition. They may each take 12 weeks for their own injury/illness or that of their spouse or child. An employee can at most take 12 weeks for FMLA purposes in a year (26 weeks for a service member covered by the FMLA)~~their own illness or that of their spouse, child or parent~~.

~~4. Covered Time Period~~

~~Eligible employees may take up to 12 weeks of leave during a rolling 12-month period. This is defined as the 12-month period measured forward from the date an employee's first FML begins.~~

4. Intermittent or Reduced Leave

While most ~~family and medical leave~~FMLA occurrences will necessitate leave to be taken in a single block of several weeks, the employee may request "intermittent" leave or a "reduced leave schedule" to care for ~~a seriously ill~~ the serious health condition of a family member or for the employee's own serious health condition where the need for leave is foreseeable and based on planned medical treatment. In the case of the need for a reduced schedule or intermittent use of leave, a certification of medical necessity is required from the health care provider and an appropriate work schedule should be planned in advance with the supervisor, when possible. An employee may take intermittent or reduced leave for the birth, adoption or foster care placement of a child ~~son or daughter~~ only if the employee and department head/designee ~~employer~~ agree to such an arrangement.

If the employee requests intermittent leave or reduced leave schedule, the ~~County~~ employer may temporarily transfer the employee to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job. When a transferred employee no longer needs

to continue on leave and is able to return to the prior position, the employee will be subject to restoration. See Section H(2) below.

E. Leave Related to a Qualifying Exigency arising from Covered Active Duty or a Call to Covered Active Duty

If the need for FMLA leave is because of a qualifying exigency arising because a family member is on covered active duty or has been notified of an impending call to covered active duty is foreseeable, the employee shall give notice to the employer as is reasonable and practicable. The employee's notice should be sufficient to make the employer aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The first time an employee requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of a military member, the employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service. A copy of new active duty orders or other documentation issued by the military shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member.

~~D. Medical Certification Requirements~~

~~When the necessity for FML exists due to the employee's own serious health condition or the serious health condition of a spouse, parent, or child, certification of the condition and a statement of the need for leave are required from the health care provider(s), using the Certification of Health Care Provider form provided by Human Resources. If the employee fails to provide the requested information to the designated HR Specialist within 15 calendar days of receipt of the form, the leave may not be job-protected under the FMLA.~~

~~The County may require a second opinion by a health care provider of its choice, and at its expense. If the two opinions differ, a third opinion may be requested from a provider selected jointly by the employee and the County. This third opinion, to be paid for by the County, is final and binding. It is the employee's responsibility to maintain up-to-date medical status while on FML. The County may also require periodic reports from the employee as to the employee's status and intent to return to work.~~

F. ~~E.~~ Substitution of Paid Leave

Paid leave shall run concurrently with FMLA leave, as available. Employees should check with the Department of Human Resources to determine what types of leave will run concurrently with their FMLA leave. The type of leave taken must be in compliance with the provisions of the applicable leave addressed in this policy.
Otherwise, FMLA leave is unpaid. ~~The FMLA provides for a maximum of 12 weeks of unpaid leave. If the FML is due to the employee's own medical condition, the employee will first be compensated using any accrued sick leave and sick bank benefits, as applicable.~~ Time will be charged concurrently against ~~these types of~~ paid leave and FMLA leave for a period of up to 12 weeks or up to 26 weeks for certain covered service member conditions.

~~The remainder, if any, of the leave requested will be charged against accrued annual leave and compensatory leave prior to the employee going on unpaid leave, except that the employee may~~

~~save one (1) week of annual leave for use at a later time. Employees should check with HR to determine what types of leave will run concurrently with their FML. The type of leave taken must be in compliance with the provisions of the applicable leave policy found in this manual.~~
Time missed during Workers' Compensation related injuries, which otherwise meet the requirements of the FMLA, will ~~may~~ run concurrently with FMLA leave as applicable.

G. ~~F.~~ Benefits

1. Insurance Continuation Privileges

   Employees on ~~unpaid leave that is designated as FML~~ FMLA leave will continue to receive the employer portion of the medical and dental insurance benefits up to the maximum 12 workweeks allowed or 26 workweeks for certain covered service member conditions. These benefits will continue on the same basis as an active employee during ~~this 12 week period~~ the FMLA period. Employees are responsible for paying the necessary premium for the employee portion to cover themselves and eligible dependents ~~through~~ by continuing to take paid leave or by making other payment ~~procedures~~arrangements. ~~Employees must remit the necessary premium for the employee portion to cover themselves and eligible dependents. As in the case of any unpaid leave of absence, the employee must make arrangements to pay applicable medical, dental, and life insurance premiums.~~

2. Other Employee Benefits

   In all cases where an employee is using some type of ~~approved, accrued~~paid leave ~~such as annual leave, compensatory leave, sick leave, or sick bank~~, all employee benefits continue as long as the employee remains on the payroll through the use of such paid leave time. If leave without pay ~~unpaid leave~~ is taken for one (1) continuous calendar month, employee benefits ~~other than health, dental and life insurance~~ will be ~~are~~ discontinued for the duration of the unpaid leave status as follows:

   ~~a. The accrual of annual or sick leave is discontinued after ten (10) days of unpaid leave and for the duration of the unpaid leave status.~~

   a. ~~b.~~ Employer and employee contributions will not be made on behalf of the employee to ~~T~~the Virginia Retirement System (VRS). ~~contribution is based on a percent of the employee's income. No contribution is made for periods of unpaid leave.~~ Upon returning to work, the employee may be eligible to purchase ~~the lost~~this service ~~with~~ through VRS, if the leave is necessitated by birth or adoption~~,~~ as defined by VRS policies.

   b. Employees will not be eligible for any employer-paid life insurance during this period.

   c. Medical, dental, and optional life insurance premium payment arrangements may be made through the Department of Finance's Payroll Division and/or the appropriate vendor when applicable.

H. ~~G.~~ Returning from FMLA Leave

1. ~~Medical Form~~Return to Work

   a. An employee returning from FMLA leave due to his/her own serious health condition must submit a ~~statement~~ medical release on the required ~~form~~ return to work form to the Department of Human Resources. The medical release must be from ~~his~~the employee's ~~attending physician~~health care provider certifying ~~indicating~~ the employee's fitness-for-duty

based upon the serious health condition that caused the employee's need to take FMLA leave. is physical and mentally capable of returning to work.

b. If an employee would like and is medically certified to return to work in a restricted capacity or through alternative schedule arrangements, supervisors and the Department of Human Resources will discuss possible options with the employee.

2. Restoration to Position

When an eligible employee is released to return to work following FMLA leave, he/she will be restored to the position held at the time the leave began or, with approval of the Department of Human Resources, to an equivalent position with equivalent benefits, compensation, and other terms and conditions of employment. Any issues regarding equivalency should be reviewed with Human Resources. In order to be guaranteed restoration, the employee must return to work at or before the end of the 12-week family leave period. However, in the event that the employer needs to make reductions in staff, employees on FMLA leave are subject to the procedures in § P-30, Employee Reduction in Force Procedures. If an employee was subject to a reduction-in-force during FMLA leave and is subsequently reinstated, any rights would be the same as if the employee had not been on FMLA leave. If an employee would have been laid off had he not been on FML, any right to reinstatement would be whatever it would have been had the employee not been on FML.

Certain "kKey" employees may be denied job restoration. A "key" employee is defined as a salaried FMLA-eligible employee who is among the highest paid 10% of all County employees. A key employee will be notified as soon as practicable after receipt of a request for FMLA leave, if not immediately, that he/she is considered to bequalifies as a key employee. The employer will also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employer should determine that substantial and grievous economic injury to the employer's operations will result if the employee is reinstated from FMLA leave.
Employees on unpaid FML are not eligible for any unemployment benefits.

I. Unable to Return to Work

If an employee is medically unable to return to work at the end of the 12 weeks of FMLA leave, the employee must request additional time off from his/her department head/designee or resign. Otherwise, employment may be terminated. Additional time is subject to approval.

J. H. Record Keeping and Anti-Retaliation

The Director Department of Human Resources shall maintain records necessary to demonstrate compliance with the ActFMLA. The Act FMLA requires also that no employee be subject to any penalty for seeking to enforce rights under the ActFMLA or for testifying for or otherwise helping other employees seek rights under the ActFMLA.

I. Adoption of Policy

This Section P-90 of the Personnel Manual was adopted and is intended to fully implement the Act, subject to the penalties prescribed in the Act. Any variation between this policy and the Family and Medical Leave Act will be determined in favor of the Act.

XIII. Holiday Leave

A. Holidays Observed

The County has established the following holiday schedule for County 12-month employees. Other holidays are granted by special proclamation of the ~~Governor and/or~~ Board of Supervisors.

~~All permanent employees are allowed twelve paid holidays per year:~~

1. New Year's Day – January 1
2. Martin Luther King, Jr. Day - Third Monday in January
3. President's Day (Washington's Birthday) – Third Monday in February
4. Jefferson's Birthday – April 13
5. Memorial Day – Last Monday in May
6. Independence Day – July 4
7. Labor Day – First Monday in September
8. Veteran's Day – November 11
9. Thanksgiving Day – Fourth Thursday in November
10. Friday after Thanksgiving
11. Christmas Eve – December 24
12. Christmas Day – December 25

Employees of departments who serve both the County and Albemarle County Public Schools as client groups may choose, with supervisor approval, which holiday leave schedule to follow each fiscal year. If business needs necessitate a mid-year change, an employee's schedule shall be adjusted so that the employee receives no more than the Board approved number of holidays granted that fiscal year.

Under certain situations, due to coverage requirements or non-County building closures, the holiday schedule for some departments or groups of employees within departments may fall on alternative dates within the fiscal year. Departments in these situations must receive Director of Human Resources/designee approval for the establishment of these alternative holiday schedules. These alternative holiday schedules must be equal in number to the approved holiday schedule.

B. Qualifying for Holiday Leave

1. Twelve (12)-month benefits-eligible employees are granted 12 paid days of holiday leave per fiscal year. ~~Permanent e~~Employees are eligible for holiday~~s with pay~~ leave as soon as they begin working. ~~If a holiday falls on a Sunday, the following day will be observed as a holiday. If a holiday falls on a Saturday, the previous day will be observed as a holiday. If a holiday falls within the employee's vacation, it is not charged to that employee's annual leave.~~ New employees must be employed the day before a holiday to qualify for holiday leave.

~~Holiday Pay~~

2. Employees who are terminating employment with the County will not qualify for holiday ~~pay~~ leave unless they work ~~the next~~a working day after the holiday. Approved paid leave may be used in lieu of working following a holiday. If a holiday falls on the last day of the month or week, holiday leave may be granted by the department head/designee for retiring employees.

3. If a holiday falls within the employee's scheduled annual leave, holiday leave may be used in lieu of annual leave.

~~Note: The above-noted holidays, while being followed by the majority of employees, are not guaranteed as to specific dates. Under some situations, due to coverage requirements, the holidays for an~~

~~individual employee or group of employees may be scheduled by the department head on alternate dates as long as the total number of holidays per fiscal year is granted to the employee(s).~~

C. Working on Holidays

1. While dates for observing holidays are established annually, due to coverage requirements, some employees may be required to work on a holiday. Any non-exempt, benefits-eligible, 12-month employee who is required by the department head/designee to work on a holiday which is observed by the County shall:

   a. Be paid the regular hourly rate for the hours worked on the holiday plus the hours normally granted for the holiday; or

   b. Take another day in the workweek as holiday leave, including days in the workweek before the established holiday.

2. Exempt 12-month employees who work on a holiday may take the holiday on another day approved by the supervisor within the fiscal year. Employees may not take the holiday prior to the County designated holiday date, except within the workweek that the holiday falls. Unused holiday leave is never paid out and does not carry over fiscal years. Holiday leave does not transfer if an employee changes departments. It must be taken prior to transfer or it is forfeited.

3. Alternative Work Schedules: A “day of holiday leave” is equivalent to a “day of leave” as defined in section I(B), above. Employees are responsible for discussing the impact of holiday leave on their alternative work schedules with supervisors. Employees are responsible for making up any hourly difference between the hours granted for the holiday and the employees’ work schedule by either using additional applicable leave or working at another time during the workweek or work period. Fire Rescue employees on 12- or 24-hour shifts will receive 12 hours of a “day of holiday leave” regardless of their “day of leave” status.

   Example: A non-exempt employee’s day of leave is 8 hours/day and the employee’s position is established at 8 hours/day, 5 days/week for a total of 40 hours/week. The employee has an alternative work schedule of 10 hours/day, 4 days/week for a total of 40/hours per week. Eight (8) hours of holiday leave would be granted and the employee must account for the remaining 2 hours by working 2 additional hours within that workweek or using 2 hours of compensatory time leave or annual leave.

D. Half-day Holidays

The Board may grant half-day holidays to benefits-eligible 12-month employees. A “half-day” is defined as half of an employee’s day of holiday leave. Any non-exempt employee who receives approval not to work the other half of the day is responsible for taking compensatory time leave, annual leave, leave without pay, or arranging with his/her supervisor to work those hours within the workweek. An exempt employee who doesn’t work on the half-day may make arrangements with the supervisor to work the time missed on another day within the fiscal year or use annual leave for the half-day.

E. Religious Holidays

Any regular or temporary employee observing a religious holiday occurring on the employee’s workday may request time off. Supervisors should allow employees to take time off for such occasion if the time off can be accommodated without undue hardship to the department. Leave must be requested in advance in accordance with policy. Supervisors shall contact the

Department of Human Resources prior to denying religious holiday leave requests. Applicable accrued leave shall be used. Leave without pay will be considered in the absence of accrued leave.

XIV. Income Replacement Program (IRP) – VRS Hybrid Plan members only

A. Purpose

Effective January 1, 2014, the Virginia Retirement System (VRS) created a new retirement plan called the Hybrid Plan. Part of the VRS Hybrid Plan includes the implementation of a Disability Program for Hybrid Retirement Program Participants. Albemarle County refers to this program as the Income Replacement Program (IRP). The IRP contains two components: Short-Term Disability (STD) and Long-Term Disability (LTD), which contain different eligibility requirements. IRP-STD occurs first. If an employee is not able to return to work after the IRP-STD period, he/she may move into the IRP-LTD portion of the benefit. These programs are outlined below.

This section is intended to fully implement the Disability Program for Hybrid Retirement Program Participants pursuant to Virginia Code § 51.1-1150, et seq.. Any variation between this policy and the Virginia Code will be determined in favor of the Virginia Code.

B. Definitions

Catastrophic Condition:	A catastrophic condition exists when an employee is unable to perform at least two (2) of the following six (6) activities of daily living: 1. Bathing 2. Transferring, such as getting in and out of bed 3. Dressing 4. Toileting (using the bathroom) 5. Continence 6. Eating (ability to feed oneself) A condition may also be considered catastrophic if the employee has a severe cognitive impairment requiring substantial supervision to protect the employee from threats to health and safety.
Major Chronic Condition:	A major chronic condition is a life-threatening health condition that exists over a prolonged period of time and is not expected to improve. The employee must have been disabled with the condition within six (6) months of the date the claim is filed and be under the care of a licensed treating health care professional for the condition.
Disability:	A condition that prevents an employee from working or performing the full duties of the employee's job for a short or extended period. It may be non-work-related or work-related. A work-related disability is the result of an occupational illness or injury that occurs on the job and the cause is determined to be compensable under the Virginia Workers' Compensation Act.

Partial Disability:	An employee has a partial disability if the disability exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80% of his/her pre-disability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

C. IRP Third-Party Administrator

The IRP program is administered through a Third-Party Administrator. The Third-Party Administrator handles all employee claims after detailed consultation with the Department of Human Resources designee for IRP. Any variation between this policy and the Third-Party Administrator's interpretation of the Virginia Code will be determined in favor of the Third-Party Administrator.

D. Qualifying for Income Replacement Program – Short-Term Disability (IRP-STD)

1. An employee must be an active full-time VRS Hybrid Plan member to be eligible.

2. Waiting Period – Employees must be employed for one (1) continuous year of service as an active Hybrid Plan member with a single employer before receiving nonwork-related disability benefits. The Albemarle County Public Schools and Partner Agencies, which have different VRS employer codes from the County, are considered separate employers for the purposes of this benefit. If, for example, a County employee transfers to the Albemarle County Public Schools, the one (1)-year waiting period will begin again. This waiting period is waived for a work-related disability. For work-related disabilities, the effective date of participation in the program for participating employees shall be their first day of employment or the effective date of their participation in the VRS Hybrid Plan, whichever is later.

3. Elimination Period – The elimination period is the period after any required waiting period and when an eligible employee is unable to work more than twenty (20) hours over seven (7) consecutive calendar days due to his/her total or partial disability. To begin an elimination period, an employee must have an approved claim of total or partial disability.

    a. The elimination period is waived for a catastrophic condition or as the result of a major chronic condition.

    b. The elimination period requirement may be met during non-contract/non-scheduled days (i.e. over holidays).

4. IRP-STD runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation. Receipt of other relevant benefits may offset IRP-STD benefits.

5. Once the waiting period and elimination period requirements have been met, Hybrid Plan members are eligible for the IRP-STD benefit. However, the IRP-STD benefit is only available when an employee would be actively working (i.e., during contract/scheduled work days).

6. IRP-STD benefits shall be payable for periods of:
    a. total disability,
    b. partial disability,

c. eligible maternity leave, or
d. periodic absences due to a major chronic condition

E. IRP-STD Benefit Amount

1. IRP-STD – Days of Income Replacement

The following charts show the number of days at the percentage of income replacement provided by the IRP-STD.

a. Days of Income Replacement: Non-Work-Related Disability

Months of Continuous Service	Work days at 100%	Work days at 80%	Work days at 60%	Total Short-Term Paid Days
0 – 12	0	0	0	0
13 – 59	0	0	125	125
60 – 119	25	25	75	125
120 - 179	25	50	50	125
180 or more	25	75	25	125

b. Days of Income Replacement: Work-Related Disability

Months of Continuous Service	Work days at 100%	Work days at 80%	Work days at 60%	Total Short-Term Paid Days
Less than 60	0	0	125	125
60 – 119	85	25	15	125
120 or more	85	40	0	125

2. Successive Periods of Short-Term Disability

a. *Within 45 consecutive calendar days*. If an employee receiving IRP-STD returns to work with a release and then cannot continue to work for the same or a similar condition within 45 consecutive calendar days, the employee will be on the same IRP-STD claim. The employee does not have to fulfill another seven (7)-calendar day elimination period. The employee's income replacement will resume at the level he/she was receiving during the previous disability period. The number of days remaining on the 125-workday period for IRP-STD will also resume.

b. *On or After 45 consecutive calendar days*. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after the 45th consecutive calendar day, the subsequent period will be considered a new claim. The

employee will need to satisfy a new elimination period. If approved, the employee will have up to 125 work days of IRP-STD.

3. Partial Disability

If an employee is able to work, earnings from the employee's job during a period of IRP-STD for an eligible partial disability will offset the IRP-STD benefits. The IRP-STD benefits will be applied to the non-worked time.

4. Catastrophic Condition

If an employee is eligible to receive/is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-STD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

5. IRP-STD and Workers' Compensation

If an employee is eligible for compensable Workers' Compensation and IRP-STD, the Workers' Compensation benefit will be paid first; if the employee is to receive any additional compensation under the IRP-STD days chart, the IRP-STD benefit will further supplement.

F. IRP-STD Supplementing Benefit Amount

1. Employees must use current balances of sick, annual, personal, and compensatory time leave to supplement IRP benefits up to 100% of the employee's pre-disability credible compensation.

2. The total leave hours (IRP plus supplement) shall not exceed the employee's normally scheduled work hours (full creditable compensation amount).

3. Participating employees enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the employee receives benefits pursuant to this program or has received benefits pursuant to this program for the same condition.

G. IRP-STD Effect on Benefits

1. Employees on IRP-STD will continue to receive the same benefits provided to active employees. Medical and dental insurance will continue to be available while on IRP-STD.

2. Life insurance through VRS paid for by the County will continue to be paid by the County.

3. Employees will continue to contribute their mandatory 5% VRS contributions while on IRP-STD. Retirement contributions will not be withheld from the employee's paycheck if an employee is only receiving Workers' Compensation and no supplemental pay. An employee may be eligible to purchase VRS service credit for the period if he/she is receiving only Workers' Compensation and retirement contributions are not being withheld from his/her Workers' Compensation payment.

H. Qualifying for Income Replacement Program – Long-Term Disability (IRP-LTD)

1. If an employee is unable to return to work after the IRP-STD period, a final interactive discussion on the likelihood of return and any additional reasonable accommodations that may help the employee reach full duty will occur. The employee will continue into the IRP-LTD period. If the employee is unlikely to return to full duty following the IRP-STD period and no

additional reasonable accommodations are available to bring the employee back to full duty, the employee's position will no longer be held and the employee will no longer be considered an active employee and will be separated from service. The IRP-LTD benefit will continue in accordance with the terms outlined below and Virginia Code.

2. The IRP-LTD benefit runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation.

3. Employee eligibility for the IRP-LTD benefit is only available when an employee would be actively working (i.e., during contract/scheduled days).

4. IRP-LTD benefits shall be payable during periods of:
   a. total disability, or
   b. partial disability

I. IRP-LTD Benefit Amount

1. IRP-LTD Amount

   a. After short-term disability income replacement, if the employee continues to be disabled he/she may be approved for IRP-LTD.

   b. This is insurance coverage providing 60% of the employee's pre-disability creditable compensation.

   c. Unless otherwise directed, to be eligible for IRP-LTD benefits, the employee must apply for Social Security Disability Insurance (SSDI) benefits or other relevant retirement benefits available to him/her.

   d. If the employee reaches normal retirement age while on IRP-LTD, his/her benefit will stop. Normal retirement age is defined under the Hybrid Retirement Plan.

   e. Employees continue to accrue VRS service credit while on long-term disability income replacement.

2. Successive Periods of Long-Term Disability

   a. *Within 125 consecutive work days*. If an employee receives IRP-LTD, returns to work with a release, and then cannot continue to work for the same or a similar condition within 125 consecutive work days, the employee will be on the same IRP-LTD claim. Work days arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the employee's return to work period.

   b. *On or After 125 consecutive work days*. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after 125 consecutive work days, the subsequent period will be considered a new claim for IRP-STD if still actively employed by the County. The employee will need to satisfy a new elimination period and if approved, will have up to 125 work days of IRP-STD before becoming eligible for IRP-LTD again.

3. Partial Disability

If an employee is able to work, earnings from an employee's job during a period of IRP-LTD for an eligible partial disability will offset the amount of his/her IRP-LTD benefit.

4. Catastrophic Condition

If an employee is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-LTD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

J. IRP-LTD Effect on Benefits

1. Life insurance through VRS paid for by the County will continue to be paid by the County.

2. Employees on IRP-LTD will receive medical and dental insurance coverage as provided to retirees.

3. Employees on IRP-LTD are not eligible to contribute to their VRS defined benefit component (4%) or their VRS defined contribution component (1%).

4. Employees on IRP-LTD will be considered inactive for benefit purposes and will not continue to accrue leave. Employees will be responsible for any applicable employee contributions to their benefits during this period.

K. Returning to Work After Illness

1. An employee must submit a medical release prior to or upon the employee's return to work. The release must be from and signed by the employee's health care provider certifying that he/she is able to return to work with or without restrictions.

2. Other return to work guidelines apply to leave taken concurrently under FMLA or Workers' Compensation. Supervisors should consult with the Department of Human Resources when an employee is on concurrent leave under FMLA or Workers' Compensation prior to requesting a medical release or other information.

3. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

L. End of IRP Benefit Coverage

1. Disability benefits shall cease to be paid to a participating employee upon the first of the following to occur:

   a. The end of the period of disability coverage (e.g., return to work or no longer totally or partially disabled);

   b. Voluntary separation or just cause termination from covered employment;

   c. The date of death of the participating employee;

   d. The date that the participating employee attains normal retirement age;

   e. The effective date of the participating full-time employee's service retirement under the Hybrid Retirement Program;

f. Employee is determined to be no longer medically eligible;

g. Employee takes a refund of his/her member contributions and interest in the defined benefit component of his/her plan; or

h. Employee does not cooperate or comply with the requirements of the IRP-LTD.

2. Maximum Length of the IRP Benefit at Age 60 or Older

If an employee is age 60 or older, he/she will be eligible for an IRP benefit according to the following schedule:

Age 60 – 64	Five (5) years from the date disability benefit begins
Age 65 – 68	Until age 70
Age 69 or older	One (1) year from the date disability benefit begins

XV. Jury Duty Leave

A. Purpose

The County recognizes the duty of citizens to serve on a jury when summoned. These procedures outline leave usage.

B. Eligibility

The County provides paid jury duty leave for benefits-eligible employees and unpaid jury duty leave for benefits-ineligible employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors as far in advance as possible prior to using jury duty leave. Supervisors may require verification that an employee has been called for jury duty.

C. Regulation

1. ~~The Board recognizes the duty of every citizen to serve on a jury when requested~~Employees may retain payment from the court for the daily rate of pay for each day of jury service in addition to jury duty leave provided by the County. ~~and will allow payment from the court for serving on jury duty. Employees serving jury duty will receive full salary as well as retain compensation received from the court.~~

2. Employees are expected ~~to give notice of jury duty and~~ to report to work when jury is not in session, except:

   If an employee has already been summoned for four (4) or more hours of jury duty, including travel time, on that day and starts his/her shift between 5 p.m. and 3 a.m., the employee is not required to report to work and will be granted jury duty leave.

XVI. Leave as a Reasonable Accommodation

Leave may be provided or used as a reasonable accommodation pursuant to the Americans with Disabilities Act, Title VII of the Civil Rights Act, or any other relevant statute. Leave granted as a

reasonable accommodation will be considered on a case-by-case basis, may run in concert with other reasonable accommodations, and/or may run concurrently with other available leave.

XVII. Maternity Leave

From the date of a child's birth, the County provides unpaid maternity leave to regular employee for up to six (6) weeks for natural birth and up to eight (8) weeks for Caesarian-section, regardless if an employee qualifies for FMLA leave. If an employee qualifies for FMLA leave, IRP, or any other benefit program, these leaves will run concurrently. If an employee has paid leave available, it will run concurrently with maternity leave. All paid leave shall be exhausted before taking leave without pay, excluding any rights permitted under the FMLA. Medical documentation regarding the length of recovery time shall be provided to the Department of Human Resources by the employee within 15 calendar days after the start of maternity leave.

XVIII. Military Leave

A. Purpose

Military leave is available to employees and candidates who have accepted offers of employment from the County and perform service in the uniformed services while employed by the County. This section is intended to fully implement the United States Employment and Reemployment Rights Act (USERRA, 38 U.S. Code § 43, et. seq.) and Virginia Code § 44-93, et. seq.. Any variation between this policy and law will be determined in favor of the law.

B. Definitions

Federal Fiscal Year:	The "Federal Fiscal Year" is October 1 through September 30 of every calendar year.
Service in the Uniformed Services:	"Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as authorized by 10 U.S. Code § 12503 or 32 U.S. Code § 115.
Uniformed Services:	"Uniformed services" means any of the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency. "Uniformed services" shall also refer to former members of the armed services or members of the organized reserve forces of any of the armed services of the United States or National Guard.
Workday of Military Leave:	"Workday of military leave" means the period of time normally worked on approximately equal workdays on five

or more days of each calendar week. If an employee does not normally work approximately equal workdays five or more days each calendar week, then "workday of military leave" means 1/260 of the total working hours such employee would be scheduled to work during an entire federal fiscal year, not including holidays, annual leave, or other absences.

C. 2. Advance Notice

An employee who is leaving to perform military service shall provide advance written notice of the need for military leave to his/her immediate supervisor (including the best approximation of the expected dates of the leave), unless it would be unreasonable to provide notice at that time or he the employee is precluded by military necessity from providing notice. When available, employees must shall provide a copy of their military orders to their supervisors. Supervisors shall forward any notice of military service or military orders to the Department of Human Resources.

D. Paid 1. Military Leave with Pay

Upon presentation of a copy of final orders or other equivalent notice, any regular employee who is a member of the uniformed services an officially recognized reserve or National Guard unit shall be entitled to up to 15 workdays of paid military leave for service in the uniformed services per federal fiscal yearfor training purposes or active duty per federal fiscal year (October 1 – September 30). If service in the uniformed services spans more than one (1) federal fiscal year, employees are not entitled to an additional 15 workdays of paid military leave in the second year for the same tour. Employees on paid military leave During this 15-day period, the employee shall accordingly be paid their his or her full gross salariesy for regularly scheduled work hours during this period. Employees are requested to attempt to make arrangements for service in the uniformed services at times other than during scheduled work hours when possible.

3. Military Leave without Pay for Reservist Called to Active Duty – An employee who is called to active duty may be placed on military leave without pay when paid military leave under section 1 above is exhausted.

4. Voluntary Enlistment in the Uniformed Services of the United States – Employees who voluntarily enlist in the uniformed services shall be placed on leave without pay for up to five (5) years while serving in the uniformed services. The leave without pay shall commence after the 15-day military leave with pay and any other applicable leave has been utilized.

E. 5. Unpaid Military Leave and Supplemental Pay

1. An employee shall be placed on unpaid military leave for up to five (5) years while serving in the uniformed services after paid military leave is exhausted.

2. If a regular employee's uniformed services gross base salary is less than the employee's County gross base salary, the employee may request supplemental pay. Supplemental pay provides the amount necessary to bring the employee's monthly gross base salary to the gross base salary earned as a County employee at the time of recall to service in the uniformed services.

3. An employee must provide the Leave Earning Statement (or equivalent) in order to receive supplemental pay. An employee is entitled to receive a maximum total of two (2) years of

supplemental pay. Employees who are receiving supplemental pay are on unpaid military leave for purposes of benefits under this policy.

~~For all employees involuntary recalled to active military duty, the County, after the expiration of 15 workdays of military leave with pay, shall supplement the employee's pay in an amount necessary to bring the gross monthly salary, inclusive of the base military pay, to the gross salary earned for regularly scheduled work hours at the time of recall to federally funded military duty. An employee is entitled to receive a maximum total of two years of supplemental pay while employed by the County. Employees who are receiving supplemental pay under this provision shall be considered on military leave without pay for purposes of benefits under section 7 of this policy. Upon exhaustion of supplemental pay, however, an employee may utilize accrued annual leave to cover periods of military leave upon the request of the employee.~~

F. Reinstatement~~6. Reemployment~~

1. An employee who is entitled to military leave by reason of service in the uniformed services shall be restored to the same position, if it has not been abolished; to a position with like seniority, status, and pay; or to a comparable position if no like position exists, unless to do so would be unreasonable. Restoration is contingent on whether the employee:

    a. Has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);

    b. Has not been absent from his/her job for more than five (5) years;

    c. Provides documentation to the County from his/her respective military commands that indicates a release from this period of active duty and that the service was performed under honorable conditions; and

    d. Returns to work in the timeframes outlined below.

2. If the employee was absent from work for service in the federal military for:

    a. Thirty (30) calendar days or less, he/she must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest, and report to work;

    b. Thirty-one (31) calendar days to 180 calendar days, the employee must submit a notice of intent to return to work in writing within 14 calendar days after the completion of service; or

    c. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days after the completion of service.

3. If the employee was absent from work for service in the Virginia military:

    a. One hundred eighty (180) calendar days or less, the employee must submit a notice of intent to return to work in writing within 14 days of release from duty or from hospitalization, or

    b. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days of his release from duty.

4. Upon returning from duty, a returning service member will be reinstated in the job that he/she would have attained had he/she not been absent for military service, (the "escalator principle"), with the same seniority, status and pay, as well as other rights and benefits determined by seniority, if the position exists, or to a comparable vacant position for which he/she is qualified, unless to do so would be unreasonable. The County is not obligated to reinstate persons returning from military leave in certain situations specified by state and federal law.

~~Any employee whose absence from employment with the County is necessitated by reason of military service in the uniformed services shall be entitled to all reemployment rights and benefits as set forth in the federal Uniformed Services Employment and Reemployment Rights Act and other applicable federal or state laws.~~

~~In accordance with the time frames and requirements established by federal law, employees shall promptly return to employment after military service is completed. The period an individual has to report back to work or notify the employer of his intent to return to work after military service shall be based on time spent on military duty. For service of less than 31 days, the employee/service member must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period. For service of more than 30 days but less than 181 days, the employee/service member must either return to work or submit notice of intent to return to work within 14 days of release from service. For service of more than 180 days, the employee/service member must either return to work or submit notice of intent to return to work within 90 days of release from service.~~

~~Returning employees shall be required to provide documentation to the County from their respective military commands that indicate a release from this period of active duty and that the service was performed under honorable conditions.~~

G. ~~7.~~ Benefits

During paid military leave, the employee will continue to accrue seniority and any other benefits available to him/her as if regularly employed by the County.

During unpaid military leave, the employee will continue to accrue seniority. Employees on unpaid military leave for more than one calendar month will be placed on a leave of absence (LOA) and will be eligible for benefits pursuant to the LOA policy.
~~During military leave with pay, the employee will continue to accrue seniority, annual leave, sick leave, life insurance and VRS contributions that may be applicable during regular employment. Employees who are on military leave without pay (including employees who are receiving supplemental pay under section 5 of this policy) will continue to accrue seniority but not annual leave, sick leave, life insurance or VRS contributions.~~

~~During the period of active duty military service, an employee's health insurance coverage may continue with no change in coverage from what the employee has during regular employment for a period of up to 24 months.~~

~~An employee who is involuntarily recalled to active military service may request the County to pay the employer portion of the applicable health care premium for the lesser of 24 months or the day after the date on which the person fails to apply for or return to a position of employment with the County as required by federal law. The employee shall continue to pay the remainder of the cost of employee coverage and the cost of any dependent coverage. The County will assist the returning employee with applying to VRS for retirement benefits that may have been earned while on active military duty.~~

H. Discrimination Against Members of the Uniformed Services Prohibited

Members of the uniformed services will not be denied initial employment, reinstatement, retention in employment, promotion, or any benefit of employment on the basis of that membership.

XIX. Personal Leave

A. Purpose

It is vital that staff are present at work to provide the quality services expected for the public. Personal leave is provided to allow 10- and 11-month employees time off from work to attend to personal matters that are not due to illness or injury. Personal leave accrues separately from sick leave, and sick leave is not to be used for personal reasons.

B. Accrual for 10- and 11-Month Employees

Regular, benefits-eligible 10- and 11-month employees accrue up to two (2) personal days of leave per year. Employees on Leave of Absences will not accrue personal leave. Personal days will be distributed on the following schedule:

New Hires

1. Employees who are hired into benefits-eligible positions effective between August 1st and October 1st will receive two (2) personal days granted on October 1st based on the day of leave as of October 1st.

2. Employees who are hired into benefits-eligible positions effective between October 2nd and December 31st will receive two (2) personal days at the time of hire or eligibility based on the day of leave at the time of distribution.

3. Employees who are hired into benefits-eligible positions effective between January 1st and June 30th will receive one (1) personal day at the time of hire or eligibility based on the employee's day of leave at the time of distribution.

Returning Employees

Employees who are employed with the County as of June 30th of the current year and return in August at the start of the new year, will receive two (2) personal days granted on October 1st based on the employee's day of leave as of October 1st as a benefits-eligible employee.

C. Accumulation Maximum Cap

Personal leave balances are subject to a maximum cap. Employees may accrue up to five (5) personal leave days.

D. Changes in Status

1. Personal leave is not paid out upon termination or transfer to a benefits-ineligible position and has no cash value. Employees who had breaks in service and are rehired will be treated as new hires per above. Balances are cleared upon termination of regular employment.

2. Employees transferring without breaks in service to 12-month positions may request to convert accrued personal leave to annual leave up to a maximum of five (5) days of leave of the new 12-month position.

3. Those employees changing to benefits-ineligible status will have their personal leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the personal leave balances will be re-activated for use and accrual will resume.

4. Employees who have increases in FTE during the year will not receive additional personal leave at the time of the increase. If an employee had an accrued personal leave balance of five (5) days and has an increase in the day of leave, the leave balance will be capped at the rate of the day of leave on the October 1st distribution.

5. Employees who change from regular benefits-ineligible to regular benefits-eligible positions will be treated as new hires per above.

6. If an employee who has a balance at the maximum cap has a decrease in FTE during the year, the balance will be capped at the rate of the new day of leave on October 1st.

E. Use of Personal Leave

Employees may use up to two (2) personal leave days per year. Personal leave requires approval from the department head/designee prior to the leave being taken. An employee must submit his/her request for personal leave to the department head/designee at least five (5) days in advance of the day or days to be taken. If it is necessary for an employee to request personal leave without five (5) days' notice, the department head/designee may require an explanation from the employee regarding the reason for the leave and the short notice.

Guidelines for granting personal leave for eligible personnel are as follows:

1. The department head/designee may limit the number of employees who may be granted personal leave on a given day in order to assure the orderly and efficient operation of the department.

2. Personal leave may be denied to an employee who has not met expectations for attendance during the current and/or previous year.

F. Exceptions

Department heads/designees may grant exceptions to the dates above when there is a bona fide reason for doing so. While two (2) days of personal leave is the standard allowance, they may approve up to five (5) days of personal leave for exceptional circumstances when an employee's personal leave balance permits.

XX. Professional Learning Leave

For information on compensation and leave options for professional learning, please refer to § P-87 Professional Learning Leave and Time.

XXI. Sick Leave

A. Purpose

~~Albemarle~~ The County recognizes that its employees may need time away from work due to personal ~~illness, and/or illness or death~~ health-related matters, health-related matters in their immediate families, and/or health-related appointments. ~~The immediate family is defined as the employee's spouse or the employee's or spouse's children, parents, siblings, and grandparents.~~ The County provides a program of paid leave to benefits-eligible employees to cover such circumstances. ~~It is necessary, however, for employees to realize that absenteeism problems hinder~~ Employees should schedule appointments and other health-related matters outside of regular work hours whenever possible to minimize the impact on the efficient operation ~~of a County department~~ and~~its~~ delivery of services to the public.

Employees and supervisors are encouraged to be flexible when employees or their immediate family members are sick or injured. Depending on the situation, a telework, alternate schedule, or restricted duty accommodation may be considered instead of, or in combination with, sick leave use.

~~Disciplinary actions regarding absenteeism will be determined by examining patterns and/or frequency of occurrence. Unacceptable attendance will be handled through the normal performance evaluation and disciplinary procedures of the County. The purpose of Sick Leave is to provide for paid time in the event of absences due to personal illness and/or illness or death in the family.~~Sick leave is for legitimate health-related matters and may run concurrently with other leave programs available by County policy. Other types of accrued leave may be used in lieu of sick leave when sick leave has been exhausted, but sick leave may not be used in lieu of other types of leave unless specifically stated in a policy. An employee who is unable to return to work due to his/her own or an immediate family member's health-related matter may be separated from employment, subject to applicable law, if it causes an undue hardship on the department, regardless of the employee's sick leave balance.

Accrued sick leave is not paid out upon termination. It has no cash value and may not be exchanged for pay; except for those grandfathered employees who elected for a retirement sick leave payout as outlined in that agreement. Employees who have breaks in service and are rehired will begin with zero balances.

Those employees changing to benefits-ineligible status will have their sick leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the sick leave balances will be re-activated for use and accrual will resume.

B. Accrual Rates

Employees accrue sick leave at the rate of one (1) "day" per month worked (10 days per year for 10-month positions, 11 days for 11-month positions, and 12 days for 12-month positions) based on the employee's day of leave at the time of distribution.

Grandfathered Employees: County ~~E~~employees employed before November 1, 1989 accrue sick leave at a rate of 1.25 days per month~~.~~ (12.5 days per year for 10-month positions, 13.75 days per year for 11-month positions, and 15 days per year for 12-month positions).

An employee may be granted a negotiated amount of sick leave with the prior approval of the Director of Human Resources/designee and the County Executive/designee.

C. Accumulation Maximum Cap

1. There is no maximum cap on sick leave for employees not enrolled in the Virginia Retirement System (VRS) Hybrid Plan.

2. Employees enrolled in the VRS Hybrid Plan shall have a maximum cap of 720 hours.

3. Any employee who becomes eligible for the VRS Hybrid Plan may retain any accrued sick leave, even if it exceeds the maximum cap. However, the employee will not accrue sick leave until the balance is below the maximum cap and then will only accrue to the maximum cap.

D. Sick Leave Use

1. Sick leave may be used by employees for personal health-related matters, health-related matters in an employee's immediate family, an employee's health-related appointment, or health-related appointments in an employee's immediate family.

2. Sick leave may run concurrently as paid leave with other ~~relevant policies~~types of leave as appropriate/applicable (e.g., FMLA leave, bereavement leave, income replacement, and Workers' Compensation).

E. Medical Verification/Returning to Work

1. The County reserves the right to seek medical verification (i.e. a doctor's note) and medical clearance for sick leave used by the employee for him/herself or immediate family member at any time.

   a. When an employee has been absent for his/her own medical issue, a supervisor may require that an employee submit to the supervisor a medical release from the treating health care provider certifying that he/she is well enough to return to work. Requests to provide a medical release should be made prior to the employee's return, when possible, so that the employee may obtain the medical release in a timely manner. If requested, an employee must provide the requested medical release to the supervisor within three (3) business days of the request or upon return to work, whichever comes later.

   b. The department head/designee may create reasonable guidelines as to when a medical release is expected for employees who are out on sick leave (excluding when concurrent with FMLA leave use). Such guidelines must be approved by the Director of Human Resources/designee prior to becoming effective.

   c. A medical release should specify the name of the employee, the date on which the employee was seen, if the absence from work was medically necessary, and the date on which the employee is/was able to return to work. It may further stipulate any period of partial or total disability or incapacity to perform a job. If a medical release identifies any disability or incapacity, the department head/designee must contact the Department of Human Resources.

   d. Supervisors may neither solicit information about the employee's underlying medical condition nor contact the employee's health care provider. If additional information is needed, the supervisor should contact the Department of Human Resources.

   e. Other return to work guidelines apply to FMLA, Workers' Compensation, Sick Leave Bank, and IRP-STD. Supervisors should consult with the Department of Human Resources when an employee is on these types of leave prior to requesting a medical release or other information.

2. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

XXII. Sick Leave Bank

A. Purpose

The County authorizes the creation and maintenance of the Sick Leave Bank ~~The County will maintain a Sick Leave Bank~~ to be used when a member of the Sick Leave Bank becomes incapacitated by extended ~~long-term~~ illness or injury (defined as more than 20 work days) ~~or injury~~ as long as one-third (1/3) of the eligible members agree to participate in accordance with the terms contained herein.

B. Administration of the Sick Leave Bank

The Director of Human Resources/designee is designated as the administrator of the Sick Leave Bank. Members of the Sick Leave Bank will be assessed one (1) additional day of sick leave at such time as the Sick Leave Bank is depleted to 1600 hours, unless they choose not to participate further in the Sick Leave Bank.

C. Employee Membership in the Sick Leave Bank

Membership in the Sick Leave Bank shall be voluntary and open to all benefits-eligible employees ~~who accrue Sick Leave~~.

An eligible employee may enroll within the first 30 calendar days of employment ~~Each employee of the Bank who accumulates Sick Leave is eligible for membership and may become a member~~ by donating one (1) day of sick leave ~~upon joining and an additional day thereafter whenever an assessment is required~~. An employee who does not enroll when first eligible may do so during any subsequent Benefits Open Enrollment period by applying, providing satisfactory evidence of good health, and donating one (1) day of sick leave. One (1) additional day may be requested for continued membership in the Sick Leave Bank whenever an assessment is required. The donated days of leave will be deducted from the donor's accrued sick leave balance. Members who have no sick leave to contribute at the time of assessment will be assessed one (1) day at the next available accrual.

D. Requesting Use of Sick Leave Bank

1. Requests for use of leave time from the Sick Leave Bank must be made in writing by the ~~employee~~ member ~~(~~or his/her representative prior to use of any Sick Leave Bank leave.~~if the employee is unable to submit the request) in advance of the absence for which the extra days are to be granted~~. Requests cannot be ~~made~~ applied retroactively except in the case of absences that were presumed to be covered by Workers' Compensation~~,~~ but were subsequently denied.

2. Requests must be supported by appropriate medical documentation~~a medical doctor's certificate acceptable to the County~~. The Department of Human Resources may require additional medical documentation to support the request. ~~The County reserves the right to require additional medical documentation to support the request.~~ Failure to meet applicable requirements set forth in this policy will result in the denial ~~rejection~~ of the member~~employee~~'s Sick Leave Bank usage request~~application~~.

3. Employees Members should also be aware of leave under the Police P-90, Family and Medical Leave Act (FMLA) , and how it relates to the use of sick leave and Sick Leave Bank leave. Members should also be aware of their rights and responsibilities under the Americans with Disability Act (ADA).

The Director of Human Resources is designated as the administrator of the Sick Leave Bank.

A. Enrollment Procedures

An eligible employee may enroll within the first thirty (30) days of employment. An employee who does not enroll when first eligible may do so during any subsequent Benefits Open Enrollment period by making application and providing satisfactory evidence of good health to the Board. Membership in the Bank may be earned by contributing one (1) day of Sick Leave upon joining and an additional day thereafter whenever an assessment is required. The donated days of leave will be deducted from the donor's accumulated days of Sick Leave.

E. B. Rules for Use

1. General Information

a. 1. The first 20 consecutive working days of illness or disability will not be covered by the Bank, but must be covered by the member's own accumulated paid leave or leave without pay. This requirement may be met in cases in which twenty (20) days of absence for the same illness/injury, although not consecutive, occur within thirty (30) working days.For initial use of the Sick Leave Bank, a member of the Sick Leave Bank must miss scheduled work equivalent to 20 days of leave within 30 workdays for the same illness, injury, impairment, or physical or mental condition, and the member must also have exhausted all of his/her own sick leave. Members are responsible for using other available paid or unpaid leave for time not covered by the Sick Leave Bank.

2. Requests for use of the Sick Leave Bank must be submitted in writing by the employee (or representative if the employee is unable to submit the request) prior to the twentieth (20th) day of absence except in the case of Workers' Compensation claims that were denied.

b. 3. Eligible employees members may take a maximum of forty-five (45) working days of leave from the Sick Leave Bank in any rolling year (defined as a three hundred sixty-five (365-) day period beginning with the first day of Sick Leave Bank usage). For example, if an eligible employee member begins Sick Leave Bank usage on March 1st, he/she may would be entitled to take up to forty-five (45) working days of leave from the Sick Leave Bank in the following three hundred sixty-five (365) -day period beginning on that date.

c. 4. Days drawn from the Sick Leave Bank for any one (1) period of eligibility must be consecutive, except additional periods of disability resulting from recurrence or relapse of the original illness, which will be covered fully on a continuing basis up to the annual maximum of forty-five (45) days. There may be more than one period of eligibility (or qualifying illness) during the 365-day period, but only a maximum of 45 days total of Sick Leave Bank leave may be used in the 365-day period. Once a member has used all forty-five (45) days of Sick Leave Bank leave, he/she must return to work and must meet the requirements of Section XXI, E(1) Section B.1 before becoming eligible to utilize Sick Leave Bank benefits again.

d. 5. A member of the Bank will not be able to use Sick Leave Bank benefits until the employee's sick leave declines to zero. Sick leave and/or Sick Leave Bank time will run

concurrently with FMLA leave or as part of an ADA reasonable accommodation where applicable and appropriate.

6. Members of the Bank will be assessed additional days of Sick Leave at such time as the Bank is depleted to two hundred (200) days, unless they choose not to participate further in the Bank. Members who have no Sick Leave to contribute at the time of assessment will be assessed one (1) day and allowed to temporarily maintain a negative balance.

e. 7. Members utilizing using sSick lLeave Bank days from the Bank will not have to replace these those days except as a regular contributing member of the Sick Leave Bank.

f. 8. The Sick Leave Bank request form must be signed by the member's health care providera medical doctor (M.D.) acceptable to the Department of Human Resources. The Department of Human Resources County reserves the right to require additional medical documentation supporting the request or documentation from a different health care provider.

g. Participating members enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the member receives benefits pursuant to the Income Replacement Program or has received benefits pursuant to the Income Replacement Program for a same condition.

2. C. Termination

a. Upon termination of employment or membership in the Sick Leave Bank, an employee member may not withdraw the days he/she contributed to the Sick Leave Bank.

b. The Sick Leave Bank may be dissolved if less than one-third (1/3) of eligible employees agree to participate.

XXIII. Total Leave Exhaustion Guidelines

When an employee has exhausted all applicable paid leave types and wants additional time off from work, he/she should request short or long-term unpaid leave. If unpaid leave is not approved, he/she is obligated to report for work fit for duty. If an employee is unable to work due to injury or disability, he/she should discuss options with the Department of Human Resources prior to leave exhaustion. Employees who do not have approved paid or unpaid leave and do not come to work fit for duty may be disciplined up to and including termination.

XXIV. Unpaid Leave – Leave of Absence (Long-Term)

A. Purpose

An employee may need to request an unpaid long-term leave of absence from his/her regular employment. The County authorizes the County Executive/designee to consider all requests for unpaid long-term leaves of absence and will establish a procedure by which these requests may be processed in a fair and consistent manner. The Board recognizes the fact that members of its staff may need to request leaves of absence from their regular employment. Such leaves of absence will be unpaid. The County Executive will give consideration to all requests for leave in a fair and consistent manner. The County Executive/Ddesignee will, however, make decisions on granting or denying leave of absence requests based on the best interests of the County. The following procedure is intended to be utilized for leave requests not covered by other County policies.

B. Eligibility

To qualify, an employee must have completed at least six (6) months of continuous employment in a benefits-eligible position prior to commencement of a leave of absence.

C. Period of Leave of Absence

An unpaid long-term leave of absence is for a period of time from 28 consecutive calendar days to up to 12 consecutive months.

~~Criteria for Leave of Absence~~

~~A. Leave shall be granted by the County Executive for no more than one year;~~

~~B. Employees requesting leave shall return to a comparable position from which leave has been granted;~~

~~C. No fringe benefits shall be provided during the time for which leave is granted. However, the rate of annual leave, received at the time of the leave of absence, shall be maintained once employment with the County has been resumed;~~

~~D. All annual leave shall be utilized prior to the leave of absence taking effect~~

D. Requesting Unpaid Leave

~~The following procedure is intended to be utilized for leave requests not covered by other Board policies:~~

1. Leave of absence requests must be submitted in writing to the employee's supervisor as soon as possible in advance of taking the leave; however, this requirement may be waived by the department head/designee based on the circumstances and/or immediate need of the request. The request must ~~and~~ state the ~~appropriate~~ reason~~s~~ for the leave and the starting and ending dates of the leave~~, length of time requested, and inclusive dates~~. ~~The request will be directed to the employee's immediate supervisor.~~ Generally, requests for leave to pursue other employment will not be approved.

2. The employee, supervisor, department head/designee, and County Executive/designee will work together to determine if the request creates a hardship for the County or impedes the County's ability to provide the necessary level of service to the public and any other relevant factors.

3. The County Executive/designee will make a decision to approve or deny the request.

~~B. After discussing the leave request with his/her immediate supervisor, that supervisor will develop recommendations regarding the leave addressing such matters as the implication of the leave on the department, filling the position on a substitute basis, etc. The immediate supervisor will then forward these materials, along with the employee's written request form, to the department head.~~

~~C. The department head will forward the request to the Director of Human Resources and County Executive or designee along with his/her recommendation concerning the request.~~

~~D. The Human Resources Director will meet with the employee to discuss fringe benefits and other matters which may be affected by the leave of absence. The Human Resources Director will review the request with the department head and develop a recommendation for the County Executive or designee.~~

~~E. The County Executive's decision will be made and considered final after having reviewed all recommendations concerning the leave request.~~

E. Effect on Benefits

1. Employees on unpaid long-term leaves of absence will not accrue annual, personal, or sick leave and will not receive holiday leave or employer contributions to life insurance, VRS, medical insurance, or dental insurance.

2. If an employee has opted for any optional voluntary benefits, the employee must make additional arrangements with the Department of Finance's Payroll Division and/or the vendor providing the benefit/product (as applicable) to cover these obligations since he/she will not be paid salary or wages.

3. An employee requesting an unpaid long-term leave of absence should meet with the Department of Human Resources to discuss the effect of the leave on his/her benefit options.

F. Completion of Unpaid Leave of Absence

1. After completion of the unpaid leave of absence, an employee will be assigned to a similar position in the department from which he/she took leave. However, if the County needs to make reductions in staff, employees on a leave of absence are subject to the procedures outlined in § P-30, Employee Reduction in Force Procedures.

XXV. Unpaid Leave – Leave Without Pay (Short-Term)

A. Purpose

An employee's presence at work is essential. The County's Leave Program has been created to recognize that life circumstances do not always permit an employee to work. There may be unforeseeable circumstances when employees are unable to work and do not have paid leave available to them. The County authorizes the use of short-term leave without pay and to establish a procedure by which these requests may be processed in a fair and consistent manner. To use leave without pay, all other applicable leave options must be exhausted.

B. Period of Short-Term Leave Without Pay (LWOP)

LWOP may be requested and approved through the Time and Attendance System or other applicable process as follows. Requests should be reviewed to determine if they will create a hardship for the County, impede the County's ability to provide the necessary level of service to the public, and any other relevant factors.

1. A regular employee's supervisor may approve up to 10 days per rolling year. Supervisors must also notify the department head/designee of employee LWOP use. Departments may create notification procedures for when and how supervisors keep department heads/designee informed of such use. Department heads/designees are responsible for ensuring reasonable audit procedures for LWOP usage to occur.

2. Eleven (11+) or more days of LWOP per rolling year requires department head/designee approval in writing, as well as department heads/designees notification to the County Executive/designee. The County Executive/designee may create notification procedures. LWOP may not be approved for more than 27 consecutive calendar days.

3. The Department of Human Resources may approve LWOP regardless of the length when it runs concurrently with FMLA leave, Workers' Compensation, IRP, Maternity Leave, Military Leave, or during the Sick Leave Bank initial waiting period, when applicable.

C. Effect on Benefits

1. As long as the employee has income by working or using paid leave in a calendar month, employees on LWOP will continue to accrue and may continue to use holiday leave, annual leave, and sick leave, and may continue to participate in life insurance, medical insurance, dental insurance, and VRS contributions.

2. If an employee on LWOP does not work during a calendar month and does not use any paid leave during the month, the employee will not accrue holiday leave, annual leave, or sick leave and the County will not contribute to the employee's life insurance, medical insurance, dental insurance, or VRS.

3. Employees will be responsible for any applicable employee contributions to their benefits during this period of leave.

4. Employees should meet with the Department of Human Resources to discuss the effect of LWOP on benefits if taking leave for a block of longer than two (2) weeks.

XXVI. Workers' Compensation

For details on Albemarle County's Workers' Compensation Policy, see § P-90. Any additional types of applicable leave will run concurrently with Workers' Compensation when an employee is out for a Workers' Compensation-related injury/illness.