



## BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 9/20/2022

\*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

**\*Title:**

Proposed change to Personnel Policy 8-108, Leaves of Absence Without Pay

**\*Introduction/Background:**

Addition of language to clarify that holiday benefit is available to an eligible employee who is on an approved leave of absence without pay and utilizing their accruals/in a paid status on their work day before and their work day after a holiday.

**\*Discussion:**

The proposed language will ensure that holiday benefit is available only to an employee who is either actively working or otherwise on an approved leave of absence without pay and utilizing their own accruals/in a paid status.

**\*Conclusion:**

Modify language in Personnel Policy 8-108: Where applicable, edits to correct acronym "FML" to "FMLA."

Modify language in Personnel Policy 8-108: Where applicable, edits to gender-neutral language.

Modify language in Personnel Policy 8-108(A) and 8-108(G)(1) to add "Act" to Family and Medical Leave.

Modify language in Personnel Policy 8-108(I)(3) to clarify that an employee on a leave of absence without pay, who is not using their accrued leave banks on their regularly scheduled work day before and their regularly scheduled work day after a holiday shall not receive the holiday benefit.

**\*Recommendation:**

The Board of Supervisors approve the modifications to Personnel Policy 8-108 as outlined, effective upon adoption.

**\*Fiscal Impact:**

None.

**\*Board of Supervisor District:**

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Department: Human Resources

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Contact: Cathy Bohland

Telephone: 520-724-8672

Department Director Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Deputy County Administrator Signature: \_\_\_\_\_

Date: \_\_\_\_\_

County Administrator Signature: \_\_\_\_\_

Date: \_\_\_\_\_

September 20, 2022

Summary of Revisions  
*Personnel Policy 8-108*

**LEAVES OF ABSENCE WITHOUT PAY**

**Significant Changes**

1) Revised Language in Following Section:

- |        |  |
|--------|--|
| (I)(3) | Added language to require that an employee on a leave of absence without pay, who is not using their accrued leave banks on their regularly scheduled work day before a holiday and their regularly scheduled work day after a holiday, shall not receive the holiday benefit. |
|--------|--|

Reason for the Change:	Ensures that holiday benefit is available only to an employee who is utilizing their own accruals while on an approved leave of absence without pay.
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## 8-108 - LEAVES OF ABSENCE

WITHOUT PAY Effective Date: ~~December 3, 2019~~ **SEPTEMBER 20, 2022**A. Types of Leave

Leaves of absence without pay may be granted by a department to an employee for the following reasons and lengths of time:

<u>Reason</u>	<u>Maximum Leave Time</u>
Education	One (1) year
Medical	One (1) year
Candidacy for Elective Office	Eight (8) months
Best Interest of County	One (1) year
Humanitarian/Personal	Six (6) months
Family and Medical Leave <b>ACT</b>	Twelve (12) to Twenty-six (26) weeks
Victim	Unlimited

All leaves of absence must have the written approval of the employee's Appointing Authority, except leave designated under the Family and Medical Leave Act.

B. Education

An employee may be granted a leave of absence without pay for educational purposes when it is determined that such leave is in the best interest of the County and/or does not adversely affect its operation.

C. Medical

An employee may be granted a leave of absence without pay when unable to work because of a medical condition that is documented by a recognized physician or medical practitioner to include conditions arising from pregnancy or childbirth. For continuing conditions, official documentation of the status of the condition may be required on a monthly basis at the discretion of the Appointing Authority. Upon returning to work from medical leave, the employee shall provide a written release from ~~his/her~~ **THEIR** attending physician or medical practitioner. Upon receiving notification of approval for long term disability coverage, employees shall immediately resign from County employment if the benefit is awarded retroactively, or no later than one day before the long term disability coverage is scheduled to begin.

If an interactive process under the Americans with Disabilities Act (ADA) results in an accommodation agreement that permits the employee to work a part-time schedule, the employee will be permitted to remain employed by the County and ~~his/her~~ **THEIR** long term disability benefits will be offset by County wages as provided in ARS § 38-797.07(A)(1)(h). Intermittent medical leave without pay may

## 8-108 - LEAVES OF ABSENCE

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occur as an ADA accommodation as determined by Federal law and regulations under the ADA or due to a serious medical condition as determined by Human Resources and may be interspersed with paid time. The ADA is set out by administrative procedures which comply with the Americans with Disabilities Act.

D. Candidacy for Elective Office

When an employee files petitions of candidacy for an elective office for which there is monetary compensation, the employee shall be placed on a leave of absence without pay.

When an employee files petitions of candidacy for an elective office for which there is not monetary compensation, to include School Board Member, the employee may be placed on a leave of absence without pay if:

1. It is determined by the Appointing Authority that the employee's election activities prevent the employee from performing assigned County duties, or
2. The election activities adversely affect the operation of the department.

E. Best Interest of County

With the full concurrence of the employee and the Appointing Authority and the approval of the County Administrator, an employee may be placed on a leave of absence without pay if it is determined that such leave is in the best interest of the County.

F. Humanitarian/Personal Reasons

An employee may be granted a leave of absence without pay for humanitarian or personal reasons when it is determined that undue hardship to the employee would otherwise result and that the operation of the department would not be adversely affected or to supplement bereavement leave pursuant to 8-107 E.4. Humanitarian/personal leave includes a leave of absence due to the birth and/or adoption of a child and the serious illness of a child, stepchild, foster child, grandchild, spouse, mother, father, grandparent, domestic partner and/or the child of the domestic partner, as established by affidavit once a year or more often if a relationship has changed in that calendar year or must have a current affidavit on file with the Human Resources Department for the domestic partner or child of the domestic partner enrolled under the County's health benefits plan.

**G. Family and Medical Leave Act (FMLA) Leave**

1. Family and Medical Leave **ACT**: An employee may be granted a leave of absence without pay as determined by Federal law and regulations under the FMLA. The FMLA is set out by administrative procedures which comply with the Family and Medical Leave Act.
2. Military Family Leave: The federal FMLA entitles eligible employees to take leave for a covered family member's service in the Armed Forces as established in the Federal law and regulations.
3. The employee is required to use accrued sick and/or annual leave banks and compensatory time concurrent with FMLA unpaid leave and pursuant to administrative procedures. This applies to all eligible exempt and non-exempt employees on intermittent or continuous FMLA.

**H. Victim Leave**

1. General Conditions
  - a. An employee may be granted a leave of absence without pay for an unlimited amount of time under the provisions of the Arizona Victim Leave Law, ARS § 8-420 and § 13-4439, if the employee is a "victim" of a crime. The leave of absence shall be granted for the employee to attend all court proceedings involving the perpetrator(s) of the crime(s) against the employee.

Exception: an employee's time may be limited if it creates an undue hardship, as defined by the statute, for the County.
  - b. The employee shall maintain all seniority rights while absent from employment under these provisions.
  - c. All records regarding an employee's victim leave shall be considered confidential and maintained in a separate department personnel file.
2. Eligibility: to be eligible for victim leave, an employee must have been the victim of a juvenile offense or adult crime.
  - a. "Victim" is defined as a person against whom the delinquent act or criminal offense has been committed, or if the person/victim is killed or incapacitated, the person's immediate family or lawful representative.
    - (1) "Immediate family" means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.

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2. a. (2) "Lawful representative" means a person who is designated by the victim or appointed by the court to act in the best interests of the victim.
  - b. Exception: a family member is not entitled to take victim leave who is in custody for an offense or is the accused.
3. Employee's option for pay: victim leave is unpaid, unless the employee elects to use accrued sick and/or annual leave, or compensatory time, none of which need be exhausted before victim leave begins.
4. Department requirements: at the conclusion of the leave period, the department shall assign the employee to the same or an equivalent position with the same pay, benefits and working conditions. An employee has no greater right to restoration or to other benefits than if the employee had been continuously employed during the leave period.
5. Leave request procedure: an eligible employee shall provide the Department with the following documentation before victim leave is granted:
  - a. A copy of the notice from law enforcement or the prosecutor regarding the employee's status as a crime victim; and
  - b. A copy, if applicable, of the notice of any scheduled proceeding.

I. General Provisions

1. An employee shall submit ~~his/her~~ **THEIR** request for a leave of absence without pay at least two (2) weeks in advance of such leave, unless such advance time is not practicable, or is reduced or waived by the department. The employee must also make arrangements with Human Resources regarding continuation of and payment for group insurance. Approval must be obtained before such leave begins.
2. Annual leave and sick leave shall not accrue while an employee is on a leave of absence without pay, including continuous FMLA, unless the employee is using ~~his/her~~ **THEIR** own leave banks. Employees on intermittent or reduced schedule leave under FMLA, on intermittent medical leave or on intermittent victim leave shall accrue annual and sick leave based on the number of regular hours paid in the same pay period during which leave is used, including all hours of the employee's own leave and/or time worked. Unpaid hours will not be calculated nor applied for the purpose of determining annual and sick leave accruals.
3. An employee on a leave of absence without pay, who is not using ~~his/her~~ **THEIR** accrued leave banks **ON THEIR REGULARLY SCHEDULED WORK DAY BEFORE AND THEIR REGULARLY SCHEDULED WORK DAY AFTER A HOLIDAY**, shall not receive ~~pay for~~

**THE HOLIDAY BENEFIT.**

4. An approved leave of absence without pay is not considered a break in County service, but no credit is given toward seniority unless the leave of absence without pay was for Uniformed Services leave in accordance with 8-103 G.1.b.
5. A leave of absence without pay shall not be granted for an employee to engage in outside employment.
6. A department may appoint a temporary replacement, without a guaranteed length of employment, or detail another employee to substitute for an employee on a leave of absence without pay, until the regular employee returns. Upon agreement with the department, the employee is not obligated to remain on the leave of absence until the scheduled end date if reasons for the leave have changed and the employee is able to return from the leave earlier than scheduled.
7. An employee starting a leave of absence without pay, who wishes to continue coverage under any of the County's group insurance programs, must make coverage and payment arrangements with Human Resources prior to such leave.
8. An employee starting an approved leave of absence without pay, other than FMLA, is expected to pay the full cost of the insurance premiums, which includes both employee's and employer's shares. The employee starting FMLA is expected to pay only the employee's cost of the premiums. If an employee cancels insurance coverage while out on a leave of absence, the employee can elect to continue coverage within thirty-one (31) calendar days upon returning to work.
9. An employee on intermittent medical leave will receive the employer's share of the insurance premium as long as ~~he/she~~ **THEY** receives sufficient pay to cover the employee's share. Otherwise, the employee is responsible for the employer's and the employee's share of the insurance premium.
10. A leave of absence without pay, when granted, must be continuous and may not be interspersed with paid time, except for intermittent medical leave, for intermittent FMLA, and for intermittent victim leave.
11. Resignation during a leave of absence without pay becomes effective two (2) weeks from date of notice, or at the end of the leave of absence, whichever occurs first.

A. Types of Leave

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Exception: an employee's time may be limited if it creates an undue hardship, as defined by the statute, for the County.

- b. The employee shall maintain all seniority rights while absent from employment under these provisions.
  - c. All records regarding an employee's victim leave shall be considered confidential and maintained in a separate department personnel file.
2. Eligibility: to be eligible for victim leave, an employee must have been the victim of a juvenile offense or adult crime.
    - a. "Victim" is defined as a person against whom the delinquent act or criminal offense has been committed, or if the person/victim is killed or incapacitated, the person's immediate family or lawful representative.
      - (1) "Immediate family" means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.
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elects to use accrued sick and/or annual leave, or compensatory time, none of which need be exhausted before victim leave begins.

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3. An employee on a leave of absence without pay, who is not using their accrued leave banks on their regularly scheduled work day before and their regularly scheduled work day after a holiday, shall not receive the holiday benefit.
4. An approved leave of absence without pay is not considered a break in County service, but no credit is given toward seniority unless the leave of absence without pay was for Uniformed Services leave in accordance with 8-103 G.1.b.
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