

BOX ELDER COUNTY PERSONNEL POLICIES AND PROCEDURES

13.	FAMILY AND MEDICAL LEAVES OF ABSENCE
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13-1. Purpose

This policy explains the circumstances under which an employee may take time off from work for family care, medical care, covered service member care, or due to a qualifying event.

Any employee who anticipates being gone more than 2 weeks must apply for FMLA. In the event that an employee doesn't anticipate being gone more than 2 weeks but actually is gone more than 2 weeks, they must apply for FMLA.

13-2. Definition

A family and/or medical leave of absence shall be defined as an approved absence available to eligible employees for up to twelve weeks of paid or unpaid leave per year under particular circumstances that are critical to the life of a family. Leave may be taken: upon the birth of the employee's child; upon the placement of a child with the employee for adoption or foster care; when the employee is needed to care for a child, spouse, or parent who has a serious health condition; or when the employee is unable to perform the functions of his or her position because of a serious health condition.

13-3. Scope

The provisions of this policy shall apply to all family and medical leaves of absence including to the extent that such leaves are covered under other paid employment benefit plans or policies for any part of the twelve weeks of leave to which the employee may be entitled under this policy. In other words, an employee may use accrued leave instead of taking unpaid leave for any part of the twelve weeks of leave to which the employee may be entitled.

13-4. Eligibility

To be eligible for leave under this policy an employee must meet the following conditions:

- The employee must have been employed for at least twelve months or 52 weeks. The 12 months or 52 weeks need not have been consecutive.
- The employee must have worked at least 1250 hours during the twelve month period preceding the commencement of the leave. The 12-month period for FMLA is based on the start date of FMLA rolling

forward. For example, if an employee begins FMLA leave on May 1, FMLA hours will be calculated based on hours taken from May 1-April 30. A new FMLA period would begin May 1 of the following year if more leave is needed.

Exception: If the employee on leave is a salaried employee and is among the highest paid ten percent of county employees within seventy-five miles, and keeping the job open for the employee would result in substantial economic injury to the county, reinstatement to the employee on leave can be denied. In this situation, however, the employee will be given an opportunity to return to work.

13-5. Basic Regulations and Conditions of Leave

1. The county will require medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse or parent. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform the functions of his or her position. For leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care. In its discretion, the county may require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the county, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the county and the employee.
2. If medically necessary for a serious health condition of the employee or his or her spouse, child or parent, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, however, the county may require the employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits.
3. Spouses who are both employed by the county are entitled to a total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child or for the care of a sick parent.

13-6. Notification and Reporting Requirements

When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide reasonable prior notice, and make efforts to schedule leave so as not to

disrupt county operations. In cases of illness, the employee will be required to report periodically on his or her leave status and intention to return to work.

13-7. Status of Employee Benefits and Insurance during Leaves of Absence

1. An employee on approved unpaid family or medical care leave who wants to maintain health, dental, 125 pre-tax cafeteria deductions, life insurance, or other voluntary benefits will be required to pay the same premium or cafeteria payroll deduction normally paid, as if the employee were at work receiving regular wages.
2. An employee who fails to submit the required premium payment will be notified in writing and given 15 calendar days after the notification before coverage is canceled, provided that the coverage may not be canceled until after the payment is 30 days late.
3. If upon the expiration of family or medical leave, the employee chooses not to return to work, the employee will be required to reimburse the county for premiums paid by the county. If the employee does not return to work due to a medical circumstance that would entitle the employee to leave under FMLA, the employee is not required to reimburse premiums paid by the county. Employee will be required to furnish medical certification to Human Resources to support their claim. Employees who fail to furnish the requested information within 30 days of the request will be required to reimburse the County for insurance premiums paid during the unpaid leave.
4. An employee who returns to work for at least 30 calendar days is considered to have returned to work.
5. An employee who transfers directly from taking FMLA leave to retirement or who retires during the first 30 calendar days after returning to work is deemed to have returned to work.
6. Premiums owed to the county may be deducted from any sums owed by the County to the employee.
7. If the employee elects to discontinue insurance coverage while on leave without pay, upon return to work, the employee may reinstate the same insurance coverage.

8. Employees who are on FMLA leave during open enrollment will be provided with the same options as active employees.
9. While on unpaid FMLA leave an employee is not eligible for accumulation of leave time or retirement benefits as provided by State law.

13-8. Procedures

Any employee who anticipates being gone more than 2 weeks must apply for FMLA. In the event that an employee doesn't anticipate being gone more than 2 weeks but actually is gone more than 2 weeks, they must apply for FMLA.

1. Completion of Request for Family and Medical Leave of Absence Form:
 - a. A Box Elder County Request for Leave of Absence must be completed with Human Resources. If possible, the form should be submitted thirty (30) days in advance of the effective date of the leave.
2. All requests for family and medical leaves of absence due to illness will include the following information attached to a completed Request for Leave of Absence: Sufficient medical certification stating 1) the date on which the serious health condition commenced; 2) the probable duration of the condition; and 3) the appropriate medical facts within the knowledge of the health care provider regarding the condition. In addition, for purposes of leave to care for a child, spouse, or parent, the certificate should give an estimate of the amount of time that the employee is needed to provide such care. For purposes of leave for an employee's illness, the certificate must state that the employee is unable to perform the functions of his or her position. In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated.

13-9 Reinstatement from Leave

Upon returning from FMLA under the provisions of this policy, the employee will return to the former position or an equivalent position in terms of pay, benefits, and working conditions within the department or elected office from which the leave was granted. An equivalent position must have substantially similar duties, conditions, responsibilities, privileges, and status as the employee's original position.

If the supervisor determines the employee will not be reinstated to the former position, but to an equivalent position, written notice will be provided to the employee.

If, during the period of leave, the payroll unit where the employee worked undergoes a reduction-in-force and there is no vacant allocation to which the employee may be reinstated, normal reduction-in-force (RIF) procedures will be followed:

- If the position the employee formerly encumbered was abolished during the period of leave for purposes of a RIF, the employee will be considered as having encumbered the position at the time the position was abolished.

13-10 Military Family Leave

1. Eligibility, procedures, certification, intermittent leave, and insurance benefits are the same for military family leave as for non-military family leave except for the following:
 - a. Qualifying exigency leave for families of members of the Regular Armed Forces, National Guard, and Reserves when the covered military member is on covered active duty or has been notified of an impending call or order to covered active duty.
 - i. For members of the Regular Armed Forces, covered active duty is duty during deployment of the member with the Armed Forces to a foreign country.
 - ii. For members of the National Guard and Reserves, covered active duty is duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation.
 - iii. An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:
 1. short-notice deployment;
 2. military events and activities;
 3. child care and school activities;

4. care of the military member's parent;
 5. financial and legal arrangements;
 6. counseling;
 7. rest and recuperation;
 8. post-deployment activities; or
 9. additional activities that arise out of active duty, provided that the department head and the employee agree, including agreement on timing and duration of the leave.
- iv. The leave may commence as soon as the individual receives the callup notice.
 - v. Son or daughter for this type of FMLA leave is the same as other types of FMLA leave except the son or daughter does not have to be a minor. This type of leave is counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.
- b. Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member.
- i. This leave may extend to up to 26 weeks in a single 12-month period for an employee who is the spouse, child of any age, parent, or next of kin of a covered service member with a serious illness or injury.
 - ii. A covered service member is either a current member of the Armed Forces or a veteran of the Armed Forces who was discharged within five years before the family member first takes military caregiver leave to care for the veteran.
 - iii. Next of kin is defined as the closest blood relative of the injured or recovering service member, other than the service member's spouse, child, or parent, as governed by federal law.
 - iv. An eligible employee can take up to 26 weeks for military caregiver leave during a single 12-month period. For this military caregiver leave, Box Elder County will measure the 12-month period as a rolling 12-month period measured forward from the date this leave is first taken. FMLA leave taken during the 12-month period for other FMLA circumstances will be deducted from the total of 26 weeks available.

- v. If spouses both work for Box Elder County and each wishes to take leave to care for a covered injured or ill service member, the spouses may only take a combined total of 26 weeks of leave.

- c. HR will require certification of a qualifying exigency for military family leave or serious injury or illness of the covered service member. The employee must respond to such a request within 15 calendar days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.