

ADMINISTRATIVE REGULATION

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Administrative Regulation: 1-25

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Supersedes: July 24, 2018

Approved By: William H. Ashton II

Subject: Leave

Objective

The objective of this administrative regulation is to clarify the Town of Herndon's leave policies. The sections governing specific leave types are as follows:

- I. Annual Leave
- II. Compensatory Time Off
- III. Compensatory Time Off for Department Heads
- IV. Discretionary Time for the Town Manager and Town Attorney
- V. Sick Leave
- VI. Restricted Leave
- VII. Family and Medical Leave
- VIII. Sick Leave Bank
- IX. Catastrophic Leave
- X. Liberal Leave
- XI. Administrative Leave
- XII. Bereavement Leave
- XIII. Holiday Leave
- XIV. Civil Leave
- XV. Military Leave
- XVI. Leave without Pay
- XVII. Injury Leave (see administrative regulation 1-22, Worker's Compensation Program)

General Policy

- A. Department heads are responsible for ensuring that this policy is properly administered by their supervisors. Authority to approve leave should be delegated to the lowest practical level.
 - B. Supervisors at each level of authority are responsible for the control of absence from duty of their employees. This responsibility includes ensuring that all employees under their immediate supervision are present or accounted for during the entire tour of duty.
 - C. Employees are responsible for managing their annual and sick leave balances. There is no requirement to carry a minimum number of leave hours; however, employees are
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responsible for planning for future or potential needs for leave and should therefore use wisely.

- D. Employees shall not be paid overtime or earn compensatory time on a day that he/she worked outside of the scheduled work time when the employee has used leave during that day. Employees shall instead adjust their workday.

Examples of adjusted workdays:

1. Employee takes three hours off during their shift and works three hours beyond their normal end time, no leave or use of compensatory time should be recorded.
2. Employee begins work one hour prior to their normal start time and leaves one hour prior to their normal end time, no leave or use of compensatory time should be recorded.
3. Employee begins work three hours after their normal start time and works two hours beyond their normal end time, one hour of leave or compensatory time used should be recorded.
4. Employee begins work three hours after their normal start time and works four hours beyond their normal end time, no leave should be recorded, and one additional hour of time worked should be recorded, as applicable. If an employee is in an overtime status, the hour may be recorded as compensatory time earned instead.

- E. Employees are encouraged and may be required to adjust their work period by offsetting the number of leave hours taken by the number of excess hours worked, when administratively possible. Employees are not permitted to earn compensatory time or overtime pay on compensatory time used during a work period. Work period adjustments are authorized changes made in an employee's regularly scheduled working hours to ensure the total time paid during the work period does not exceed 40 hours for non-sworn employees or 80 hours for sworn police officers.

Examples of an adjusted work period:

1. An employee normally assigned to work an eight-hour day who is required or requests to work an additional two hours on Monday, for a total of ten hours that day, may be rescheduled to work two fewer hours on another day or days in the same work period, so that the total hours for the work period do not exceed 40 hours for non-sworn employees or 80 for sworn police officers, when administratively possible.
2. An employee who uses compensatory time during the work period and works additional hours on another day during the same work period will not earn additional compensatory time or overtime on the compensatory time used.

- F. Leave must be charged in no less than 15-minute increments.

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I. Annual Leave

Regular status employees are eligible to accrue annual leave. Annual leave accrues at the beginning of each pay period and employees are permitted to use annual leave as soon as it is accrued if the leave is approved in advance. Employees may use their accrued annual leave for vacations and for other personal purposes.

A. Approval of Annual Leave

1. All requests for annual leave should be submitted to the employee's supervisor at least 48 hours in advance of the requested leave and must be approved in advance by the employee's supervisor. The request for annual leave should be made as far in advance as possible.
2. Supervisors must consider town obligations and priorities before approving annual leave so there will be no disruption of service and operations will be adequately covered.
3. Should an event occur that makes it impossible to receive prior approval of annual leave, an employee must contact his/her supervisor no later than one hour after commencement of the employee's normal workday to request annual leave and receive approval of the leave, if it is approved.

B. Accrual of Annual Leave

1. Annual leave for regular status full-time employees accrues as follows:
 - a. With less than five years of service, an employee accrues four hours of leave per pay period.
 - b. After five years of service, but with less than ten years of service, an employee accrues six hours of leave per pay period.
 - c. With ten or more years of service, an employee accrues eight hours of leave per pay period.
2. Annual leave for regular status part-time employees accrues as follows:

<i>Hours regularly scheduled to work per week</i>	<i>Number of hours earned per pay period based on years of service</i>		
	<i><5 years of service</i>	<i><10 years of service</i>	<i>10+ years of service</i>
Part-time 25-29 hours/week	2.5 hours	3.75 hours	5 hours
Part-time 30-34 hours/week	3 hours	4.5 hours	6 hours
Part-time 35-39 hours/week	3.5 hours	5.25 hours	7 hours

3. Annual leave continues to accrue while an employee is on approved leave, except when an employee is on leave without pay, injury leave, disability leave, or
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- catastrophic leave, for a full pay period.
4. Upon termination of employment, employees who have completed at least six months of regular status employment are entitled to payment of the net balance of unused annual leave for the pay period in which they terminate.
 5. Former employees rehired within one year of their separation date will retain their time in service for annual leave accrual purposes.

C. Carryover of Annual Leave

A maximum of 300 hours of accumulated annual leave may be carried into the next calendar year. The Town Manager, Town Attorney, Chief of Police and the directors of community development, finance, golf, human resources, information technology, parks and recreation and public works may carry a maximum of 320 hours into the next calendar year. Excess annual leave over the maximum will be deducted from an employee's leave balance at the end of the second pay period in the calendar year.

II. Compensatory Time Off

Compensatory time off is not a leave benefit but is compensation for overtime worked. (See Sections 54-25, Overtime pay, and 54-59, Compensatory Time Off, Town Code), therefore compensatory time earned should be used before accrued annual leave. Employees are not permitted to earn compensatory time or overtime pay on compensatory time used during a work period. An employee who has accrued compensatory time off and requests use of the time, must be permitted to use the time off within a reasonable period after making the request as long as it does not unduly disrupt the operations of the department.

A. Approval of Compensatory Time Off

1. All requests for compensatory time off should be submitted to the employee's supervisor at least 48 hours in advance of the requested leave and must be approved in advance by the employee's supervisor. The request for compensatory time off should be made as far in advance as possible.
2. Supervisors must consider town obligations and priorities before approving compensatory time off so there will be no disruption of service and operations will be adequately covered.
3. Should an event occur that makes it impossible to receive prior approval of compensatory time off an employee must contact his/her supervisor no later than one hour after commencement of the employee's normal workday to request compensatory time off and receive approval of the leave, if it is approved.

B. Carryover of Compensatory Time Off

All eligible employees may carry over 120 hours of compensatory leave into the next calendar year.

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Compensatory time balances shall not exceed 120 hours at any point in a calendar year. Non-exempt employees who have reached the maximum balance of 120 hours, may not earn additional compensatory time and shall be paid overtime compensation in their regular pay check for overtime hours.

For exempt employees, once the compensatory time threshold is met, any additional time will be unpaid.

III. Compensatory Time Off for Department Heads

Department heads, the Town Attorney, and Town Manager are specifically excluded from earning overtime. However, department heads may accrue compensatory time off for all time spent on town business after normal working hours on an hour-for-hour basis. This includes attendance at night meetings, required weekend work and other activities, as authorized by the Town Manager. The maximum balance of accrued compensatory time is 40 hours. Compensatory time will not be used in determining final pay or service at retirement or any other separation from town service.

IV. Discretionary Time for the Town Manager and Town Attorney

In lieu of compensatory leave, the Mayor may grant discretionary time to the Town Manager and Town Attorney. Discretionary time may not be accumulated and is not intended as an hour-for-hour compensation. Discretionary time will not be used in determining final pay or service time at retirement or any other separation from town service.

V. Sick Leave

A. Use of Sick Leave

The town grants sick leave to regular status employees when illness or non-work related injury prevents the employee's attendance on duty or when continuing to work might jeopardize the health of others. Sick leave is only to be used when actually warranted. Employees may use their accrued sick leave to take time off from work for the following reasons:

1. Personal illness or injury.
 2. Serious illness of the immediate family where the employee's attendance is required.
 3. Doctor, dental or other health care appointments for the employee or immediate family members for whom the employee is responsible. Employees should request and receive prior approval for this use.
 4. A temporary disability related to pregnancy, miscarriage, or childbirth.
 5. Medical quarantine.
 6. Immediate family means the employee's spouse, natural or adopted children, parents, biological siblings, biological grandparents or dependents residing in the household
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that qualify as a dependent for federal income tax purposes.

B. Notification and Verification of Sick Leave

1. Employees who become ill unexpectedly while off the job are required to notify the supervisor of illness no later than one hour after commencement of their normal work day. Sworn police officers and communications technicians are required to notify the supervisor in accordance with the Herndon Police Department General Orders Manual. If possible, employees should notify the supervisor far enough ahead of their regularly scheduled work period to permit rescheduling of work or location of relief personnel.
2. Supervisors have authority to grant sick leave. A certifying statement from an examining physician may be required if there is a question concerning the legitimacy of the use of sick leave. Failure to provide a verification statement, if requested, may result in loss of pay for the leave taken or disciplinary action. An employee who anticipates being disabled from work due to a medical condition, including but not limited to such things as elective surgery, pregnancy and childbirth, must submit a physician's certification of disability as soon as possible, to assist management in planning for the employee's absence.
3. The town reserves the right to require any employee who is ill or disabled and who proposes to work to furnish an examining physician's certification that the employee is able to perform the essential functions of the job, or to submit to a medical examination by a physician chosen by the town at the town's expense, or both.
4. When sick leave is approved and the employee's sick leave balance is inadequate to cover the entire period of the approved absence, the difference must be charged in the following order: compensatory time, annual leave, leave without pay.

C. Accrual of Sick Leave

1. Regular status full-time employees accrue sick leave at the rate of four hours per pay period.
2. Regular status part-time employees accrue sick leave as follows:

<i>Hours regularly scheduled to work per week</i>	<i>Number of hours earned per pay period</i>
Part-time 25-29 hours/week	2.5 hours
Part-time 30-34 hours/week	3 hours
Part-time 35-39 hours/week	3.5 hours

3. Regular status employees are eligible to accrue sick leave. Sick leave accrues at the beginning of each pay period and an employee is eligible to use sick leave as soon as it is accrued.
4. Employees covered under the VRS Hybrid Retirement Plan may carry a maximum balance of 600 hours of sick leave.
5. There is no limit on the balance of sick leave that employees not covered under the

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VRS Hybrid Retirement Plan can accrue.

6. Sick leave continues to accrue while an employee is on approved leave, except when an employee is on leave without pay, injury leave, disability leave, or catastrophic leave, for a full pay period.

D. Pay-out of Sick Leave Upon Termination of Employment

1. Upon an employee's retirement under the Virginia Retirement System, the town will pay the employee, in the employee's final paycheck, an amount in dollars up to 25 percent of the dollar amount of the net balance of unused sick leave for the pay period in which they terminate, with a maximum possible payment of \$10,000.
2. In the event of the death of an active employee who had at least five years of continuous services and was covered under the Virginia Retirement System the town will pay out to the deceased employee's personal representative or estate, an amount in dollars up to 25 percent of the dollar amount balance of unused sick leave with a maximum possible payment of \$10,000.
3. Upon an employee's resignation from town service a payment of 25 percent of the net balance of unused sick leave for the pay period in which they terminate with a maximum possible payment of \$2,500 for all employees except those on their initial probationary period upon hire, will be paid to the employee. No such payment will be made for employees on their initial probationary period upon hire, or employees who are dismissed.

E. Abuse of Sick Leave

Any employee who abuses the use of sick leave will be subject to disciplinary action. Events that may lead to disciplinary action include but are not limited to, falsifying illness or reasons for using sick leave, unsubstantiated excessive use of sick leave and not complying with the authorization requirements above. Disciplinary action may extend to loss of pay or dismissal.

VI. Restricted Leave

A. Designation of Restricted Leave

An employee who has established a pattern of abuse of leave privileges, may be placed on restricted leave status by the supervisor and the department head for a period not to exceed six months. The supervisor must notify the employee, the relevant department head and the Director of Human Resources, in writing, of restricted leave status and the specific procedures to follow in order to use leave.

Restricted leave is not a disciplinary action and does not remove the employee's eligibility to use accrued leave benefits. However, the employee must follow specific procedures to use leave.

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B. Procedures for Employees on Restricted Leave

To obtain approval for sick leave, the employee must contact the supervisor in accordance with section V.B.1 of this administrative regulation. Upon returning to work, the employee must present a doctor's notice certifying the illness or other physical disability. Unless such a certificate is received, the time off may be charged to leave without pay.

All requests for annual leave must be submitted in writing to the supervisor at least 48 hours in advance of the beginning of the requested leave. Failure to do so will result in time off being charged to leave without pay.

If prior approval for annual leave is not received due to an emergency, the supervisor may conditionally approve the leave. The employee is required to contact the supervisor no later than one hour into the scheduled work day. Within 24 hours of return to work the employee must submit written verification or certification of the emergency's existence.

Failure to follow the restricted leave procedure or continued abuse of leave may result in disciplinary action up to and including dismissal.

VII. Family and Medical Leave (FML)

The town complies with all minimum requirements of the federal Family and Medical Leave Act of 1993, as amended (FMLA). If specific questions arise which are not addressed by this administrative regulation, the employee should contact the Human Resources office or refer to the federal statute itself.

A. Eligibility

Employees are eligible if they have been employed by the town for at least 12 months and have worked at least 1,250 hours during the 12 months prior to the start of the FML. Leave used during the 12 months prior to the start of FML is not included in the calculation of hours worked. Employees cannot waive, nor may employers induce employees to waive, their prospective rights under FMLA.

B. Leave Entitlement

Family and medical leave will be granted to eligible employees for up to 12 work weeks during a 12 month period for one or more of the following reasons:

1. the birth and care for a newborn child of the employee;
 2. the placement with the employee of a child for adoption or foster care;
 3. to care for an immediate family member with a serious health condition;
 4. a serious health condition that makes the employee unable to work; or
 5. qualifying exigencies arising out of the fact that the employee's spouse, son, daughter
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or parent is on active duty or called to active duty status as a member of the Armed Forces, National Guard or Reserves in support of a contingency operation.

Qualifying exigencies include:

- a. short-notice deployment military events and related activities
 - b. childcare and school activities
 - c. financial and legal arrangements
 - d. counseling
 - e. rest and recuperation
 - f. post-deployment activities or
 - g. other activities not listed above, but agreed to by the employer and employee
6. FML will be granted to an eligible employee who is a spouse, son, daughter, parent or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of 26 work weeks of leave during a single 12-month period to care for the service member.

C. Definitions

1. Serious Health Condition

An illness, injury, impairment, or physical or mental condition that involves either:

- a. inpatient care in a hospital, hospice, or residential medical care facility including any period of incapacity (e.g. inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
 - b. continuing treatment by a health care provider, which includes a period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes treatment two or more times by or under the supervision of a health care provider or one treatment by a health care provider with a continuing regimen of treatment; or
 - c. any period of incapacity related to pregnancy or to prenatal care. A visit to the health care provider is not necessary for each absence to meet this definition; or
 - d. any period of incapacity or treatment for a chronic serious health condition which continues over an extended time, requires periodic visits to a health care provider and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence to meet this definition; or
 - e. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision of a health care provider is required, rather than active treatment to meet this definition; or
 - f. any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.
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2. Health Care Provider

The following qualify as health care providers under this policy if they are authorized to practice medicine or surgery by the state in which the doctor practices:

- a. A doctor of medicine or osteopathy
- b. Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist)
- c. Nurse practitioners, nurse midwives, clinical social workers and physician assistants
- d. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. The town may require an employee or family member receiving treatment from this practitioner to submit to an examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner.
- e. any health care provider recognized by the town's group health plans or,
- f. a health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

3. Immediate Family Member

- a. Parent – biological, adoptive, step or foster parent or individual who stood in place of the parent of the employee and was charged with the duties of the parent.
- b. Son or daughter – a biological, adopted or foster child, a stepchild, or legal ward, or a child of a person standing in place of the parent.
- c. Spouse – a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including “common law” marriage and same-sex marriage.
- d. Siblings - biological brothers or sisters.
- e. Grandparents – biological grandmother or grandfather.

4. Key Employee

A position within the 10 percent highest paid of all the town's employees. A “key employee” is a salaried FML eligible employee who is among the highest paid 10 percent of all the employees employed by the employer within 75 miles of the employee's worksite.

D. Policy

FML may be granted for a period of up to 12 work weeks within a 12 month period or in the case of a military caregiver, up to 26 weeks of leave in a single 12 month period. A work week is defined as the hours an employee is regularly scheduled to work in a seven

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consecutive day period. FML consists of any combination of sick leave, compensatory time off, annual leave, disability leave, catastrophic leave or leave without pay. Sick leave used for the purpose of family or medical leave must conform to the requirements contained in this administrative regulation.

E. Calculation of Leave

The town will calculate this period as a “rolling” 12-month period measured backward from the date an employee first uses FML. Each time an employee uses FML, the town will compute the amount of leave taken in the preceding 12-month period and subtract it from the 12 weeks of total FML with the balance representing the amount of FML still available to be taken. This computation limits the employee to a total of 12 weeks of FML, both paid and unpaid, in any 12-month period.

Family and medical leave may be taken “intermittently or on a reduced leave schedule” under certain circumstances. The town must agree to the reduced leave schedule if due to a birth or placement of a child for adoption or foster care. If the leave is taken due to a personal serious health condition, or one affecting an employee’s immediate family, leave may be taken intermittently or on a reduced leave schedule when medically necessary. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A reduced leave schedule is a leave schedule that reduces an employee’s usual number of working hours per work period, or hours per workday.

Employees taking FML on an intermittent basis must notify their supervisors no later than one hour after the commencement of their normal work day of the need for FML. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the town’s operations. An employee is not entitled to take intermittent leave for the birth and care of a newborn child or for the placement with the employee of a child for adoption or foster care unless the employer agrees to the arrangement.

Eligible spouses who work for the same employer are limited to a combined total of 12 workweeks of leave in a 12-month period to share for the following FMLA-qualifying reasons:

- The birth of a son or daughter and bonding with the newborn child,
- The placement of a son or daughter with the employee for adoption or foster care, and bonding with the newly-placed child, and
- The care of a parent with a serious health condition.

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F. Procedures for Requesting FML

Requests for FML must be in writing and submitted to the employee's supervisor or department head 30 calendar days in advance of the start of the requested FML, whenever possible, along with a copy submitted to the Director of Human Resources. When leave is foreseeable less than 30 days in advance, notice must be provided as soon as practicable. An employee's failure to give timely notice could delay the employee's eligibility for FML or mean approval of leave would not be granted.

Regardless of whether an employee requests FML, the town will designate leave as FML as soon as it becomes apparent the employee is out of work for a reason that meets the requirements of the law. Typically, an absence will be designated FML when the employee has been or is anticipated to be absent for five or more work days, or their equivalent, due to a qualifying situation.

Upon receipt of an employee's request for FML or upon learning of a need for leave that appears to meet the requirements of the law, the Human Resources office will provide the employee a Notice of Eligibility and Rights and Responsibilities and the appropriate certification form to be completed.

The required certification should be returned to the Human Resources office within 15 calendar days, or the employee should provide a reasonable explanation for the delay. If the employee fails to provide complete and sufficient certification, the town may deny the request for FML and possibly the request for paid leave for the time off. Within five business days after the Human Resources office receives the required notice and certification, the employee will be informed whether the leave will be designated FML.

G. Recertification

If the initial medical certification indicates that the employee will need intermittent or reduced schedule leave for longer than six months, including cases where the serious health condition has no anticipated end, the town may request a recertification every six months.

In general, the town may ask for the same information in a recertification as that permitted in the initial medical certification. As with the initial certification, in most circumstances, the employee has 15 calendar days after the employer's request to provide a complete and sufficient recertification. The employee is responsible for paying for the cost of a recertification. During recertification an employer may provide the health care provider with a record of the employee's absence pattern, such as an attendance record of FMLA leave use, and ask the health care provider if the serious health condition and need for leave is consistent with the absence pattern provided.

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G. Maintenance of Benefits

During the FML period, the town will provide coverage for applicable benefits which the employee selected prior to going on leave at the level and under the same conditions coverage would have been provided if the employee had not gone on leave. The employee will be responsible for continuing to pay the same monthly premium as other active employees.

Should an FML covered employee fail to return to work upon conclusion of the certified FML period and be in a leave without pay status for at least one pay period, the employee will be responsible for full payment of benefits, to include both the employee and employer portions.

If an employee fails to return to work for a reason other than the continuation, recurrence, or onset of the employee's serious health condition or one affecting a member of an employee's immediate family, the town will recover the employer's contribution to the health insurance premium paid during any period of unpaid leave. An employee will not be prevented from returning to work prior to the expiration of the 12-week period. If applicable, a supervisor or Human Resources may require medical documentation from the employee's doctor indicating that the employee has been medically cleared to return to work.

Employees will return to the position vacated, or, with the approval of the Town Manager, another position in the same class. Restoration may be denied for certain highly compensated employees who are key employees. Restoration may be denied for such employees if the town shows that such denial is necessary to prevent substantial and grievous economic injury to the town's operations and the town notifies the employee that it intends to deny restoration on such basis at the time the town determines that such injury would occur. Restoration may be so denied in any case in which the leave has commenced and the employee elects not to return to employment within a reasonable period of time after receiving such notice.

I. Record Keeping

If an employee is taking FML due to the birth of a child, the employee may, at the employee's option, use sick leave immediately following the birth of a child. Then, if the employee's sick leave balance is inadequate to cover the entire period of FML, the difference must be charged in the following order: compensatory time, annual leave, leave without pay.

If the employee is taking FML due to the serious health condition of the employee or family member, the employee must first use accrued paid sick, then if the employee's sick leave balance is inadequate to cover the entire period of FML, the difference must be charged in the following order: compensatory time, annual leave, leave without pay.

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Upon approval of FML, the Department of Human Resources will issue a supplemental tracking sheet to be used in conjunction with the time and attendance sheet. Supervisors are responsible for maintaining records of FML and for tracking the amount of FML used within the approved 12-month period.

VIII. Sick Leave Bank

The sick leave bank may provide paid sick leave to members of the bank who are unable to perform the duties of their position due to a major personal illness or injury. The sick leave bank is not intended for intermittent leave or for short-term leave due to routine or non-major illness or injury such as colds or the flu. In the event an employee has a qualifying illness or injury, the sick leave bank may provide for paid leave until short-term disability goes into effect. Leave granted may be used after the member has a sick leave balance of zero and a compensatory leave balance of less than 40 hours.

A. Eligibility

Membership in the bank is voluntary and open to regular status personnel who are not members of the VRS Hybrid Retirement Plan. Employees are ineligible to use donated leave during the period of any formal disciplinary actions other than a formal written reprimand. To be eligible for sick leave bank benefits, an employee must not have received a formal disciplinary action related to abuse of leave for the previous 12 months. An employee must not have been on restricted leave status within six months of applying for the sick leave bank benefit.

B. Definitions

1. **Sick Leave** - Earned, paid leave granted to an eligible employee for periods of absence because of illness, injury, pregnancy, miscarriage, childbirth, medical quarantine, medical, dental or other health care examinations and treatment.
2. **Major Illness or Injury** - A non-job related personal illness, injury, or disability requiring absence from work for a period in excess of 30 consecutive calendar days and that necessitates continued care of a health care professional. For the purpose of applying for sick leave bank benefits, absences due to illnesses, injury, or disability of family members are not covered.
3. **Sick Leave Contribution** - The transfer of accrued sick leave from the leave balance of the employee to the sick leave bank.
4. **Contract Year** - July 1 to June 30 of each year.
5. **Qualification Period** - An employee must have completed six months of employment before qualifying for benefits from the sick leave bank.

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C. Administration of Sick Leave Bank

The sick leave bank will be administered by the Director of Human Resources. The Director of Human Resources will verify an applicant's eligibility to receive benefits from the sick leave bank and will review the information provided by the employee's attending physician.

Once the Director of Human Resources has determined the medical leave satisfies the criteria for sick leave bank requirements, the application will be forwarded to the Town Manager for review and approval. The Town Manager will consider the employee's previous leave usage when determining whether or not to approve the leave and in determining the number of hours authorized from the sick leave bank.

E. Sick Leave Bank Benefits

1. The sick leave bank benefit is to be used only when an enrolled employee is unable to return to work for a period in excess of 30 consecutive calendar days due to a major personal illness, disability or injury. The employee or a member of the employee's family, if the employee is incapacitated, must make application for this benefit. It is not automatic.
2. For regular status full-time employees, a maximum of 160 hours may be charged against the sick leave bank in a 12-month period. For regular status, part-time employees the maximum number of hours to be charged will be prorated according to the ratio that the number of hours worked has to a full-time 40-hour work week.
3. A member who requests leave from the sick leave bank must submit a completed Sick Leave Bank Application and a statement from the member's attending physician or health care provider which includes a description of the nature of the illness or injury, date of initial onset and anticipated date eligible to return to work in regular status. Submission of an application for short-term disability satisfies this requirement.
4. Employees using sick leave from the bank do not have to replace the time taken.
5. All medical and leave information relating to an employee seeking benefits will be treated as confidential medical information.
6. Employees receiving leave from the sick leave bank will be issued the necessary sick leave bank hours at the end of a payroll period as needed, up to the maximum number of hours granted, and will not receive sick leave bank hours in a lump sum.

D. Enrollment Procedure

1. To be a member of the sick leave bank, an eligible employee must complete the sick leave bank enrollment form and forward it to the Department of Human Resources. By enrolling, the employee agrees to contribute eight hours of accumulated sick leave to the sick leave bank. The contribution of a part-time employee will be pro-rated in relation to the number of hours worked weekly, i.e., twenty hours per week would equate to a contribution of four hours. An employee who transfers sick leave
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relinquishes all rights to that leave. The employee may be reassessed every July for eight hours (pro-rated for part-time employees) if the balance in the sick leave bank falls below 500 hours. No employee may receive benefits under this program unless enrolled in the program.

2. Eligible new employees must enroll within the first 30 calendar days of employment. An employee who does not enroll within the first 30 calendar days of employment may do so during any subsequent open enrollment season, normally May 1 to May 31 of each year, for an effective date of July 1.
3. An employee who donates a minimum of eight hours of excess annual leave at the end of any calendar year is automatically enrolled as a member of the sick leave bank.

E. Termination

Upon termination of employment, leave payouts will not include hours donated to or received from the Sick Leave Bank Program.

IX. Catastrophic Leave Program

Catastrophic leave provides for the voluntary transfer of annual leave benefits to an eligible employee who has either suffered a non-work-related catastrophic illness or injury or has a dependent family member who has suffered a catastrophic illness or injury which may result in the loss of income to the employee.

A. Eligibility

1. Regular status, full and part time, employees must have completed one year of employment before qualifying for benefits from the catastrophic leave program.
2. Regular status employees who are not members of the VRS Hybrid Retirement Plan are eligible to participate in this program and may receive leave hours for the catastrophic illness or injury of the employee or an immediate family member.
3. Members of the VRS Hybrid Plan may receive catastrophic leave only for the catastrophic illness or injury of an immediate family member.

B. Requirements to Receive Catastrophic Leave

1. The employee cannot perform work for another employer, including self-employment, and receive catastrophic leave benefits.
 2. To be eligible for donated leave hours, the employee must be on an approved leave of absence for a catastrophic, non-work-related illness or injury of the employee or to provide required care for an immediate family member (as defined below) who is critically ill or injured.
 3. An employee must have for an extended time a verifiable long-term illness or injury, such as cancer, heart attack, stroke, serious injury, and the like, or have an immediate
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family member with a long-term illness or injury which results in the employee's requesting to take time off from work to care for that family member. The employee will not be eligible to receive catastrophic leave until the conclusion of four consecutive weeks of time off due to illness or injury. Employees have the option of belonging to the Sick Leave Bank which may provide sick leave coverage for the employee's injury or illness until the employee is eligible for short term disability insurance coverage.

4. The employee must have exhausted all annual leave, sick leave and compensatory time, or soon will exhaust such leave, resulting in the employee being in a leave without pay status.
5. Annual and sick leave will not be earned while an employee is receiving catastrophic leave.
6. As with paid leave status, recipients will continue to be eligible to participate in those health insurance plans to which the town contributes. The employee will be responsible for continuing to pay the same monthly premium as other active employees.

C. Exclusions

Medical conditions resulting from the following will exclude an employee from eligibility to receive catastrophic leave donations:

1. Any occupationally related accident or illness for which Workers' Compensation benefits have been or could be awarded.
2. Injuries occurring in the course of the employee's commission of a crime.
3. Injuries occurring while under the influence of alcohol or drugs.
4. Employees are ineligible to use donated leave during the period of any formal disciplinary actions greater than a formal written reprimand. The employee must not have had a formal written reprimand for chronic or excessive absenteeism, chronic or excessive lateness or abuse of leave in the 12-month period preceding the employee's need for catastrophic leave. An employee must not have been on restricted leave status within six months of applying for the catastrophic leave benefit.

D. Definitions

1. **Catastrophic illness or injury:** a non-work related, severe illness or injury which is expected to or does incapacitate the employee for a period in excess of 30 consecutive calendar days and that necessitates continued care by a health care provider. Catastrophic illness or injury also means a severe illness or injury of an immediate family member which results in the employee being required to take time off from work for an extended time to care for the ill family member.
 2. **Immediate Family:** the employee's spouse, natural or adopted children, biological parents, or dependents of the employee residing in the household of the employee who qualify as a dependent for federal income tax purposes.
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E. Application for Catastrophic Leave

1. An employee must submit a completed "Request for Catastrophic Leave" application to the employee's supervisor within ten working days of the anticipated expiration of all leave time.
2. The application must be signed by the employee or the employee's designee, the employee's supervisor, the employee's department head, the Director of Human Resources and the Town Manager.
3. Required medical verification of the catastrophic illness or injury from the health care provider must be submitted to the Department of Human Resources only. This verification must be signed by the treating physician of the employee or the employee's immediate family member. Submission of a physician's certification for family and medical leave satisfies this requirement.
4. Once the Director of Human Resources has determined the medical leave satisfies the criteria for catastrophic leave, the application will be forwarded to the Town Manager for review and approval. The Town Manager will consider the employee's previous leave usage when determining whether or not to approve the leave and in determining the number of hours authorized from the catastrophic leave program.
5. Upon approval of the Town Manager, the Director of Human Resources will communicate the request to all employees but will not reveal the identity of the requesting employee.
6. All medical and leave information relating to an employee seeking catastrophic leave will be treated as confidential personnel information.
7. Eligible employees who participate in this program and receive catastrophic leave be subject to the terms and requirements of the Family and Medical Leave Act (FMLA), other laws, leave policies, rules or regulations. This program is to run concurrently with other leave programs.
8. Hours approved are subject to the amount of hours available in the catastrophic leave program and will be awarded in two hour increments.
9. An employee may be eligible to receive a maximum of 360 hours (prorated for part time employees proportional to hours worked compared to 40 hours a week) of catastrophic leave in a 12-month period.
10. Employees receiving catastrophic leave donation will be issued the necessary catastrophic leave at the end of a payroll period as needed, up to the maximum number of hours granted, and will not receive catastrophic leave in a lump sum of donated hours.

E. Donation of Catastrophic Leave

1. Leave cannot be donated or transferred from one employee to another except in cases of catastrophic illness or injury, as approved by the Town Manager and as processed by the Department of Human Resources.
 2. An employee must have completed his or her probationary period to donate leave.
 3. Donations to recipients are in the form of annual leave only. Donations of annual leave
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hours must be made in whole hour increments and are irrevocable. Donors are not required to retain minimum balances of their own annual leave. There is no limit on the number of hours of annual leave donors may donate.

4. An employee may donate excess annual leave at the end of any calendar year to the catastrophic leave program.
5. Application to donate leave will be made in writing by completing the attached "Donation for Catastrophic Leave" form and submitting the form to the Department of Human Resources.
5. All donations of leave will be processed anonymously. Names of employees who donate leave and the amount of leave donated will be maintained as confidential.
7. Annual leave will be transferred on an hour-for-hour basis regardless of differing pay scales.
8. Unused donated leave will remain in a Catastrophic Leave Bank for use by other employees who may qualify for catastrophic leave.
9. This is a voluntary program and no employee may be required to surrender leave.

F. Termination

Upon termination of employment, leave payouts will not include hours donated to or received from the Catastrophic Leave Program.

X. Liberal Leave

Liberal leave may be designated by the Town Manager only. It authorizes all employees except those designated as emergency service personnel to use their own leave to cover a period of missed work without obtaining prior approval from their supervisor. Employees taking leave must notify their supervisor in accordance with departmental policy. Employees may use compensatory time off, or annual leave, during the time liberal leave is in effect. If the employee does not have sufficient compensatory time off or annual leave, the employee may use leave without pay for the balance.

The Town Manager determines the period of liberal leave. Unless otherwise notified, if declared prior to beginning of normal business hours, liberal leave extends from 6:00 a.m. on the day declared until 6:00 a.m. the following day. If declared later in the day, it is in effect until 6:00 a.m. the following day.

A. Notice of Liberal Leave

Departments will be notified by the Town Manager or designee when liberal leave is declared during normal working hours. At other times, including weekends, announcements will be made on the employee weather line (703) 481-1185 and on the town's Website.

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B. Effect on Emergency Service Personnel

During liberal leave, emergency service personnel are required to report for work or to secure prior approval from their supervisors before absenting themselves from work.

C. Time and Attendance Reporting

1. The payroll report is coded for compensatory, annual, or leave without pay as appropriate.
2. Sick leave may never be used during a period of liberal leave unless the employee is actually sick or meets the conditions described in section V, Sick Leave, of this administrative regulation.

XI. Administrative Leave

Administrative leave is paid leave granted as authorized in this policy to eligible employees. This time is not charged to an employee's annual or compensatory leave balance.

A. Administrative Leave – Non-emergency

1. Blood or platelet donation: administrative leave may be granted by the employee's immediate supervisor to employees who donate blood or platelets, not to exceed four hours, to be taken on the same day the donation was made during their work schedule. Employees are encouraged to make donations during non-work hours and will not receive administrative leave or compensatory time for non-work hours donations or recuperation.
2. Officer involved shooting: the Chief of Police may grant administrative leave to sworn personnel involved in an officer related shooting. The Chief of Police will notify the Town Manager and the Director of Human Resources of this administrative leave.
3. The Town Manager may grant administrative leave when the Town Manager determines it is in the best interest of the town. This leave may be limited to specific shifts, times, groups of employees or an individual employee.
4. Employees granted administrative leave should code the hours of leave as administrative leave.

B. Administrative Leave – Emergency

Administrative leave for emergency purposes may be granted by the Town Manager or designee only. Such leave may be authorized when, for example, severe storms make it hazardous to get to work or require an early release from work, or when equipment breakdowns or facility closings make it impossible to work. It may be limited to specific shifts, times, or groups of employees. Administrative leave may be granted by the Town Manager on weekends and holidays as well as during the regular Monday through Friday workweek.

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1. Notice of Administrative Leave - Emergency

Departments will be notified by the Town Manager or designee when administrative leave is declared during normal working hours. At other times, including weekends and holidays, announcements will be on the employee weather line (703) 481-1185 and on the town's Website. It is an employee's responsibility to verify if the town is closed.

The Town Manager determines the period of administrative leave. Unless otherwise notified, if declared prior to beginning of normal business hours, administrative leave extends from 6:00 a.m. on the day declared until 6:00 a.m. the following day.

2. Effect on Emergency Service Personnel

During administrative leave, emergency service personnel are required to report to work or to secure approval prior to the incident from their supervisors before absenting themselves from work. If an employee so designated cannot or does not report to work and the supervisor has been appropriately notified, leave may be granted, and the employee may be subject to disciplinary action. In such case where the supervisor has not been so notified, the employee may be subject to disciplinary action.

C. Emergency Service Personnel

Emergency Service Personnel are those employees who, due to the nature of their specific job duties or the nature of the emergency which has occurred, must report to work to ensure that public health and safety needs of critical operational requirements are met. Only those employees who meet these criteria should be designated emergency services personnel. Designated employees should expect to work during periods of administrative leave or liberal leave, as directed. Department heads are responsible for clearly designating those employees considered emergency service personnel.

1. Time and Attendance Reporting-Non emergency service personnel

- a. Employees who are not designated as emergency service personnel are not required to report to work during periods of administrative leave.
 - b. Employees already on scheduled leave or who are not scheduled to work, or who are on a pre-arranged remote workday, during the time administrative leave is declared are not eligible for administrative leave.
 - d. Non-emergency service employees must receive supervisory approval if they want to work during a period of designated administrative leave, in which case their time should be coded as regular. If non-emergency employees do not receive supervisory approval to work during a designated period of administrative leave, yet work, a supervisor may at their discretion flex that employee's hours for that work period. Hours should be coded as regular time.
 - e. If the town opens offices late, employees who do not report to work are not eligible
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for administrative leave. Employees who do report to work late may combine personal leave and administrative leave to cover hours missed as indicated in example following:

EXAMPLE: Town opens two hours late and administrative leave is granted until 10:30 a.m. Employee reports to work at 11:30 a.m. The employee (assuming 8.00 a.m. - 5:00 p.m. schedule) would code his/her timesheet as follows:

2.5 Administrative leave pay
1.0 Compensatory or annual leave
4.5 Regular hours

- f. If employees are released early, employees who did not report to work are not eligible for administrative leave. Employees who leave prior to the designated administrative leave period are not eligible for administrative leave and must use compensatory or annual leave for the entire absence.

EXAMPLE: Administrative leave is granted starting at 3:30 p.m. because of snow. The announcement is made at 2:30 p.m. An employee who is scheduled to work 7:30 a.m. - 4:30 p.m. leaves at 2:30 p.m. The employee is not eligible for administrative leave and must use two hours of annual or compensatory leave for the day.

2. Time and Attendance Reporting Emergency Services Personnel:

- a. Employees who are required to work during a period for which administrative leave has been granted are entitled to compensation. The employee's time and attendance record should be coded as administrative leave and administrative leave worked for the hours actually worked during the period of designated administrative leave. Hours worked outside the period of designated administrative leave should be coded as regular hours.
- b. For Emergency Services Personnel required to modify their shift due to the emergency, resulting in hours worked in the work period less than the required hours, administrative leave hours will be added to affected employees, to reach required hours for the work period.
- c. Employees already on scheduled leave or who are not scheduled to work during the time administrative leave is declared are not eligible for administrative leave.

XII. Bereavement Leave

All regular status town employees may be granted bereavement leave for a death in the immediate family. The maximum number of hours granted per occurrence is 40 for the death of the employee's spouse, natural or adopted children and parents. Twenty-four hours is the maximum to be granted for the death of the employee's brother, sister, grandparents, parents-in-law or dependents residing in the household that qualify as a dependent for federal income tax purposes. Hours granted per occurrence will be pro-rated for regular status part time employees.

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XIII. Holiday Leave

The following holidays are observed by the town and granted to regular status employees with pay and to temporary employees without pay, unless such employees are required to be on scheduled duty. In the case of voluntary or involuntary termination, an employee's last day of employment cannot be on a holiday unless the holiday is worked.

New Year's Day	Columbus Day
Martin Luther King Jr. Day	Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	Friday after Thanksgiving Day
Independence Day	Christmas Eve (half-day)
Labor Day	Christmas Day

If an approved holiday falls on Saturday, the previous Friday will be considered as the holiday. If the holiday falls on Sunday, it will be observed on Monday. Regular employees will be granted holiday leave or pay in accordance with the number of hours regularly scheduled to work on the day the holiday is observed as a town holiday.

For non-essential personnel, if a holiday falls on a day when the employee is not scheduled to work, then the proceeding workday shall be given off instead, even if the replacement holiday is in a different pay period. If there is to be an adverse impact on service to the public, a department head will determine another day off to observe the holiday, within the same pay period. Efforts should always be made to adjust a work week as to not fall into overtime status. Police personnel are excluded and will receive holiday pay for the day the holiday is observed.

Holiday pay shall be at the regular hourly rate. Employees working on a holiday shall receive holiday pay and pay for the hours worked at one time their regular hourly rate. Hours paid for holidays shall be included in calculating overtime and in the computation of hours in a work week.

Example: An employee working an 8-hour shift on a holiday would be paid 8 hours of straight time, and an additional 8 hours of holiday worked pay for a total of 16 hours of paid time. If an employee has a regular 11-hour work day schedule, they will receive 11 hours of holiday pay.

If an employee temporarily deviates from their schedule, and normally works an 8, 9, 10, 11 etc. hour day, holiday pay should be recorded in accordance with their normally scheduled hours, not their temporary schedule. For example, employees adjusting hours temporarily, to work 4-10 hour days instead of 5-8 hour days, shall earn 8 hours of holiday pay on a holiday.

Unless an employee is required to work the holiday, leave cannot be used in addition to holiday pay to add to an overtime status. For essential police personnel not working the holiday,

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the same applies, with leave being reduced to offset holiday pay hours, in lieu of receiving extra overtime pay resulting from the holiday. See examples below.

EXAMPLES:

<p>Employee with a 40-hour work week who does not work the holiday.</p> <p>16 regular hours 16 hours other type of leave (e.g. ann/comp/sick) <u>8 hours holiday pay</u> Total hours to be recorded equals 40.</p>	<p>Sworn employee with an 80-hour work period who does not work the holiday (assuming 10 hour work day)</p> <p>50 regular hours 20 hours other type of leave (e.g. ann/comp/sick) <u>10 hours holiday pay</u> Total hours to be recorded equals 80.</p>
<p>Employee with a 40-hour work week who works the holiday.</p> <p>16 regular hours 16 other type of leave (e.g. annual /sick) 8 hours holiday pay <u>8 hours holiday worked</u> Total hours to be recorded equals 48.</p>	<p>Sworn employee with an 80-hour work period who works the holiday (assuming 10 hour work day)</p> <p>50 regular hours 20 hours other type of leave (e.g. annual/sick) 10 hours holiday pay <u>10 hours holiday pay worked</u> Total hours to be recorded equals 90.</p>

XIV. Civil Leave

A regular status employee will be given time off without loss of pay and without charge to any type of leave when performing jury duty; when subpoenaed to appear before a court, public body or commission in connection with town business; when performing emergency civilian duty in connection with national defense; when needed for the purpose of voting (not to exceed one hour); and when serving on an electoral board at a polling place as an officer of election for any election.

XV. Military Leave

- A. Regular status employees who leave the town's service to join the armed forces of the United States or who are drafted into the military service may be placed on military leave without pay in accordance with the Uniformed Services Employment and Reemployment Act of 1994. This leave extends through a date 90 days after the employee is relieved from such service. Employees will be restored to the position and benefits they vacated, or to another position of the same class, provided they make application within 90 days after the date of honorable discharge and are physically and mentally capable of performing the work of the position. If the employee is not qualified to perform the duties of such position by reason of disability sustained during military service but is

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qualified to perform the duties of any other position, every effort will be made to place the employee in another position.

- B. A regular status employee who is a member of the National Guard, Virginia Defense Force, or an organized military reserve of the United States will be allowed to attend training not to exceed 15 calendar days during any one fiscal year. Such employees will be paid at their regular hourly rate for no more than 120 hours per fiscal year. If the time of such training is optional, the time allocation shall be designated at the discretion of the town manager upon recommendation of the department head.
- C. Regular status employees who are activated to federal or state federally funded duty in the case of a war or other national or state emergency declared by the president, Congress or the governor will be paid a military pay differential (MPD) which will be the difference between (i) the gross base pay the employee would have earned during the period as a town employee (gross base town pay) and (ii) the gross base military pay, provided that the gross base town pay is greater than the gross military pay actually earned. The MPD will begin on the first day of activation and will persist until the earlier of deactivation or one year after activation. Gross base military pay includes all forms of military pay and allowances in money whether taxable or non-taxable.

The employee must provide proof of military earnings to the Department of Human Resources to obtain the MPD.

1. Employees who are absent from work to serve military duty may continue in the town's group health plan, with the town contribution paid by the town until the earlier of deactivation or one year after activation. The employee must continue to pay the employee portion of the premium. If the employee is receiving MPD and it is sufficient to cover the health insurance premium, payment may be made by deduction from the MPD. If the employee is not receiving MPD, the employee may use their compensatory time or accrued annual leave to pay their health insurance premium.
 2. Employees may discontinue health insurance during the period of absence and reinstate coverage upon their return without waiting for an open enrollment period. Employees will have 30 days upon return to submit new enrollment forms to reinstate insurance coverage. Coverage will be reinstated the first of the month after the enrollment form is received. If the enrollment form is received on the first of a month, coverage may be effective that day provided the employee has returned to work.
 3. Employees will continue to accrue annual and sick leave while on active duty until the earlier of deactivation or one year after activation.
 4. The active duty military service can be granted under the Virginia Retirement System at no cost and counted towards vesting and a service retirement benefit upon reentry into a covered position. Employees must return to covered employment within 12 months of honorable discharge. Life insurance will continue to be provided as a
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benefit paid for by the town during the period of absence from work.

XVI. Leave Without Pay

A. Purpose of Leave Without Pay

1. Except for conditions stated in this administrative regulation, leave without pay will be granted only after an employee's leave balances of compensatory, annual or sick leave, as appropriate, have been reduced to zero. The Town Manager has the discretion to approve exceptions to this provision.
2. An employee may be granted leave without pay for illness, education purposes, vacation or for any other reasons deemed justified by the appropriate authority.
3. The department head may grant leave without pay for a period of up to two weeks.
4. The Town Manager has the discretion to grant leave without pay for a longer duration, if requested.
5. Annual and sick leave will not be earned during a leave without pay period that exceeds one full pay period.
6. If leave without pay continues for 3 months a longer, an employee's anniversary date will be adjusted to reflect the absence.

B. Unapproved Absences

1. An employee who has not had prior authorization to use annual leave or has not notified the supervisor of an illness or injury in accordance with this administrative regulation will be placed on leave without pay status. Upon returning to work, this absence must be explained to the employee's supervisor. Disciplinary action may be taken if such leave cannot be satisfactorily explained.
2. An employee placed on leave without pay status due to lack of proper notification to the supervisor for three consecutive work days may be terminated. However, the employee may be reinstated if there were extenuating circumstances that made it impossible to notify the supervisor of the absence.

XVII. Injury Leave

Injury leave is covered in administrative regulation 1-22, Worker's Compensation Program.



William H. Ashton II
Town Manager