

# Chapter Seven

## Leave and Absence from Work

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Personnel Administrative Instruction 7.1 – Absence from Work Due to Military Duty

Personnel Administrative Instruction 7.2 – Leave Donation Program

Personnel Administrative Instruction 7.3 – Family and Medical Leave

Personnel Administrative Instruction 7.4 – Bonus Day Off

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## CHAPTER SEVEN

### LEAVE & ABSENCE FROM WORK

#### I. General Rules Governing Leave and Attendance

The importance of regular work attendance cannot be over-emphasized because of its relationship to service delivery, productivity, efficiency, and the ultimate ability of the City to accomplish its goals. Employees are expected to maintain regular attendance and report for work on time except for time off which is approved under the following leave provisions or under other approved alternative work arrangements as set forth elsewhere in this manual. Abuse of time-off privileges and/or unauthorized absences are considered misconduct and such actions are covered by the provisions of Chapter Two, Section XI.

Paid leave is an employee benefit designed to provide time away from work for personal reasons. Annual and sick leave are specific to the individual employee and shall not be loaned or sold to another employee; however, under certain circumstances leave may be donated to another employee in accordance with the provisions of the City's Leave Donation Program. This chapter prescribes the types of leave authorized for Permanent Full-Time City employees. Department Heads or designee shall be responsible for accurate and timely leave administration and reporting.

Total creditable service for leave accrual purposes shall be computed from the date of hire, appointment or conversion to a Permanent Full-Time position. Employees assigned to Permanent Part-Time and WAE positions are not eligible for paid leave. Permanent Full-Time employees who convert to other than permanent full-time status, and

return to permanent full-time status within ninety (90) calendar days, shall receive credit for former permanent full-time service. Permanent Full-Time employees who are members of a reserve unit of the United States Armed Forces or the Commonwealth of Virginia and are called to active duty shall continue to accrue annual and sick leave while in a paid status in accordance with applicable laws and regulations as determined by the City Attorney.

## **II. Leave Accrual Dates**

### **A. Date of Hire**

Permanent Full-Time employees who begin work between the first and fifteenth day of the month shall be credited with eight (8) hours annual leave and eight (8) hours sick leave effective on the first day of the following month. Permanent Full-Time employees, who begin work on or after the sixteenth day of the month, shall be credited with four (4) hours annual leave and four (4) hours sick leave effective on the first day of the following month. Thereafter, they shall be credited with leave effective on the first day of each month.

### **B. Leave Accrual during Absence**

Permanent Full-Time employees shall continue to accrue annual and sick leave and shall be granted service credit for all periods of absence in an authorized paid leave status.

A Permanent Full-Time employee does not accrue sick or annual leave when the employee is in a non-pay status for thirty (30) consecutive calendar days. A Permanent Full-Time employee in a non-pay status while receiving benefits under the Workers' Compensation Act shall not accrue sick leave, but shall accrue up to a maximum of one (1)

year's accrual of annual leave in the appropriate leave accrual category. The period of time spent in this status shall be considered as creditable service for placing the employee in the appropriate annual leave accrual category.

An employee who enters extended active duty with a unit of the Armed Forces of the United States or the Commonwealth of Virginia and is in a non-pay status shall not accrue annual or sick leave. However, if the employee applies for reinstatement to the former position with the City in accordance with the Uniformed Services Employment and Reemployments Rights Act of 1994 (USERRA), the period of active duty shall be considered as creditable service for placing the employee in the appropriate annual leave accrual category.

**III. Eligibility for Use of Leave**

An employee must have completed a continuous period of thirty (30) calendar days of Permanent Full-Time service to be eligible to use earned annual and sick leave. There shall be no exception to this requirement. If the employee is separated from employment for any reason before completing a continuous period of thirty (30) calendar days of service, no leave will be granted, or paid as a lump sum.

**IV. Annual Leave Accrual and General Guidelines**

Annual leave is accrued and administered for Permanent Full-Time employees as follows:

Years of Service	Annual Leave Accrual Rate Per Month	Maximum Accrual Limit
Forty (40) Hour Work Week (including Sworn Police Officers and Steam Plant Employees)		
2 months-4 years	8	192

5-9 years	10	240
10-14 years	12	288
15-19 years	14	336
20 or more years	16	384
Fire Suppression Twenty-Four (24) Hour Shift		
2 months-4 years	10.4	249.6
5-9 years	13.0	312
10-14 years	15.6	374.4
15-19 years	18.2	436.8
20 or more years	20.8	499.2

An employee shall cease to accrue annual leave when their accrual exceeds the maximum limit based on their years of service. Accruals will resume once the employee's annual leave balance drops below the maximum limit.

Permanent Full-Time employees shall be paid for accrued annual leave, up to a maximum of 384 hours (499.20 for Fire Suppression employees), at the time of retirement, resignation, termination or death.

**A. Changes in Annual Leave Accrual Category**

Changes in rates of accrual shall be effective on the first day of the calendar month after the employee has completed the prescribed period of service.

Twenty-four (24) hour shift personnel who are temporarily assigned or promoted to forty (40) hour per week positions shall begin accruing annual leave at the rate designated for forty (40) hour per week personnel on the first day of the month following the first thirty (30) calendar days of work in the forty (40) hour position. The same policy applies to forty (40) hour personnel who are temporarily assigned or temporarily promoted to twenty-four (24) hour shift positions.

When it is determined to be in the best interest of the City or when extraordinary

circumstances preclude the use of annual leave, the City Manager may authorize payment to current employees for unused leave, the carryover of excess leave beyond the maximum accrual amount or the banking of leave.

## **B. Annual Leave Administration**

To insure that employees do not forfeit annual leave which the employee would otherwise accrue, Department Heads will establish a tentative annual leave schedule for departmental personnel each year. Employees may schedule annual leave as desired, provided workload and other pertinent factors permit. However, the final decision to approve or disapprove requests for annual leave shall rest with the Department Head. For this reason, first-level managers/supervisors shall plan for, schedule, and approve or disapprove requests for annual leave subject to coordination with their Department Head.

Annual leave shall be charged one hour for every hour of absence in quarter (.25) hour increments for all employees.

Annual leave shall be requested and approved in accordance with established City of Hampton timekeeping procedures. Under no circumstances shall annual leave be granted in advance of its accrual.

Employees may be placed on annual leave for the following reasons: during periods of emergency, reduced, or suspended operations, other management considerations, or in special circumstances to protect an employee's pay. Employees shall not be placed on annual leave as a disciplinary measure.

## **C. Lump Sum Payment**

A Permanent Full-Time employee who converts to an other than full-time position in

which the employee is not eligible for paid leave shall be paid for the accrued annual leave balance at the time of placement in the new position.

**V. Sick Leave Accrual and General Guidelines**

Sick leave is paid time off from work for personal illness or injury (except job-related injury or occupational disease), exposure to a contagious disease that could jeopardize the health of others, routine visits to doctors, dentists, or other medical specialists, other circumstances of physical incapacity; or illness or incapacity of an immediate family member requiring the presence of the employee. Immediate family is defined as spouse, parent, guardian, child, sibling, grandparent, grandchild, including step, foster, half and mother-in-law and father-in-law relationships.

Sick leave may also be approved by the Department Head when circumstances warrant, such as when the employee is a primary caregiver for someone other than an immediate family member who is seriously ill or incapacitated. Such requests shall be administered in the same manner as those relating to illness or incapacity of an immediate family member.

**A. Sick Leave Accrual Rates for Virginia Retirement System Plan 1, Plan 2, and Sworn/Uniform Public Safety Employees**

Sick leave is accrued and administered for Permanent Full-Time Employees as follows:

Employee Schedule	Sick Leave Monthly Accrual
Forty (40) Hour Work Week	Eight (8) hours
Twenty-Four (24)-Hour Operational Departments	

(911, Steam Plant, Sworn Police and Fire Suppression Employees)	
Ten (10) hours	Ten (10) hours
Twelve (12) hours	Twelve (12) hours
Twenty-four (24) hours	Twenty-four (24) hours

Sick leave accrual balances will not be converted if the employee changes shifts, the employee will start accruing leave based on their new shift. For example: An employee works a ten (10) hour shift four (4) days a week, accrues ten (10) hours of sick leave each month and has 80 hours of sick leave accrued. The employee changes schedules and now works an eight (8) hour shift five (5) days a week. The employee uses two (2) sick days which decreases the balance to 64. The employee will start accruing eight (8) hours of sick leave the following month. There shall be no limit on the amount of sick leave that an employee may accrue.

**B. Sick Leave Accrual Rates for Virginia Retirement System Hybrid Employees**

Permanent Full-Time Employees will receive 144 hours of sick leave annually on January 1<sup>st</sup>. Any unused sick leave hours as of December 31<sup>st</sup> will be deleted. Employees hired after January 1<sup>st</sup> will receive prorated hours based on the schedule below:

Hired Before	Sick Leave Hours
January 1 <sup>st</sup>	144
February 1 <sup>st</sup>	132
March 1 <sup>st</sup>	120
April 1 <sup>st</sup>	108

May 1 <sup>st</sup>	96
June 1 <sup>st</sup>	84
July 1 <sup>st</sup>	72
August 1 <sup>st</sup>	60
September 1 <sup>st</sup>	48
October 1 <sup>st</sup>	36
November 1 <sup>st</sup>	24
December 1 <sup>st</sup>	12

**C. Sick Leave Administration**

All employees shall be charged sick leave one hour for every hour in quarter (.25) hour increments for each period of absence.

**D. Requests for Sick Leave**

First-line managers/supervisors may be delegated authority by the Department Head to approve or disapprove routine requests for sick leave. However, when there is reason to believe that sick leave is being abused, the final decision to approve or disapprove requests for sick leave shall rest with the Department Head or designee. Sick leave shall be shall be requested and approved in accordance with established City of Hampton timekeeping procedures. Sick leave that can be pre-arranged shall be requested in advance.

Sick leave that cannot be pre-arranged shall be requested as soon as possible after the beginning of the employee's absence, usually within the first hour of the work shift or as prescribed by the Department Head. Such requests shall be made by the employee to the immediate manager/supervisor, or in the manager's/supervisor's absence, to the next manager/supervisor in the chain of command to insure official notification of absence. Notifying co-workers or asking co-workers to notify a manager/supervisor shall not meet this requirement.

#### **E. Medical Documentation**

The Department Head may require medical documentation that supports the employee's absence due to illness, injury, or incapacity of the employee or immediate family member. When there is reason to believe that an employee is abusing sick leave, medical documentation may be required prior to approval of sick leave. Medical documentation may also be required prior to an employee returning to work after a period of absence due to illness, injury, or incapacity. Failure to provide required medical documentation will preclude the use of sick leave, constitute absence without leave (AWOL) and may result in disciplinary action.

#### **F. Lump Sum Payment**

All Permanent Full-Time employees who have completed five (5) years of continuous service and are separated from employment shall be paid for accrued but unused sick leave as follows:

- 1. Retirement** - Up to a maximum of 720 hours at an hourly rate

computed by dividing fifty percent (50%) of the employee's annual salary on date of retirement by 2080 hours.

- 2. Separation Other Than Retirement** – Up to a maximum of 720 hours computed by dividing the number of hours of sick leave by 8 and multiplying the result by \$20.00.
- 3. Employment Status Change** - Up to a maximum of 720 hours computed by dividing the number of hours of sick leave by 8 and multiplying the result by \$20.00.

Employees who are dismissed or resign pending dismissal are not eligible for lump sum payment of accrued but unused sick leave.

#### **G. Substitution of Sick Leave for Annual Leave**

If illness, injury or incapacity occurs during a period of annual leave, approved sick leave may be substituted for annual leave in accordance with Section V, C. The use of annual leave will be adjusted accordingly, provided the supervisor is informed of the employee's illness. The employee's supervisor may request medical documentation and a release to return to work. Failure to provide the appropriate documentation may result in the denial of sick leave usage.

#### **VI. Leave Donation Program**

Permanent full-time employees who have completed a continuous period of thirty (30) calendar days of permanent full-time service, are unable to work due to a non –work related injury, temporary illness, or disability lasting at least twenty (20) days, and are

ineligible for short-term disability are eligible for leave donations. Employees must exhaust all accrued paid leave before requesting leave donations. Medical documentation is required for all leave donation requests as outlined in Section V., E. of this Chapter. Leave donation is completely voluntary. Employees may donate either sick leave or annual leave, with a minimum donation of eight (8) hours. Employees can receive a maximum of 26 weeks of leave donations in a rolling twelve (12) month period.

If the employee does not receive enough leave donations to cover their period of incapacity, they can request advanced sick leave up to a maximum of ninety-six (96) hours. Advanced sick leave shall be automatically offset when the employee returns to duty and begins accruing sick leave. The employee is ineligible for any additional advanced sick leave until the balance is completely offset.

In the event the employee does not return to duty or returns and is separated from employment (except by reason of disability or death) prior to offsetting the advanced sick leave, the balance shall be offset against any monies due the employee upon separation. The Department of Finance shall initiate appropriate action to recover any remaining balance due the City.

Employees who have applied for disability retirement are eligible to receive up to ninety (90) days (720 hours) of leave donation. If the employee does not receive enough leave donations to cover the ninety (90) days, they will go into a leave without pay status.

## **VII. Administrative Leave**

Employees may be placed on administrative leave pending the results of official

investigations, pending serious disciplinary actions, or where the Department Head determines that the employee's absence from work is in the best interest of the City. Decisions to grant administrative leave shall be made and documented in writing by the Department Head. Leave may be paid or unpaid, but shall not be unpaid without the approval of the Director of Human Resources or designee and shall not be utilized unless one of the following factors is present:

- 1) The employee's continued presence in the workplace would jeopardize the health and/or safety of other employees.
- 2) The employee is alleged to be in violation of the City's Substance Abuse Policy.
- 3) The employee is the subject of allegations of workplace violence, harassment or discrimination.
- 4) The employee is the subject of allegations of theft, fraud, or embezzlement of City property or services.
- 5) The employee has been charged with a felony offense or a misdemeanor offense which involves the possession of a controlled substance, is a sex offense, domestic assault, or any other misdemeanor offense which is considered a crime of moral turpitude.

Decisions to extend paid or unpaid administrative leave beyond fifteen (15) calendar days shall be coordinated with the Director of Human Resources or designee and documented in the employee's official personnel file. If an employee is placed on unpaid administrative leave pending the results of an official investigation, and the investigation

does not ultimately result in discipline, or results in discipline lower than a suspension, the employee shall receive back pay and any applicable leave accruals for the period of time they were on unpaid leave.

## **VIII. Other Authorized Absences with Pay**

Employees may request and, under the conditions and circumstances stated for each category of absence, be granted time off from work without loss of pay or charge to leave as follows:

### **A. Bereavement Leave**

Employees on a forty (40) hour work week, sworn Police Officers and Steam Plant employees assigned to twelve (12) hour shifts will be granted bereavement leave with pay for three (3) work days for the death of an immediate family member. Fire Suppression employees working a fifty-two (52) or fifty-six (56) hour work week will be granted bereavement leave with pay for two (2) twenty-four (24) hour consecutive shifts. Bereavement leave should be taken within ten (10) calendar days of the death of an immediate family member or when the employee is notified of the death. Exceptions to the ten (10) calendar day period, necessitated by special arrangements for the deceased, may be approved by the department head. The term "immediate family member" shall be defined as spouse, parent, guardian, child, sibling, grandparent, grandchild, including step, foster, half and mother-in-law and father-in-law relationships. "Immediate family member" shall also cover any member of the employee's immediate household who resided with the employee at the time of the death.

If additional time is needed, accrued annual leave, compensatory leave, available personal day or leave without pay may be used with the approval of the immediate supervisor.

**B. Military Duty**

Employees who are members of a reserve unit of the United States Armed Forces or the Commonwealth of Virginia shall be granted a paid leave of absence of not more than fifteen (15) work days in a federal fiscal year (October 1 - September 30) when engaged in federally funded military duty, training, or when called to duty by the Governor.

**C. Court/Jury Duty**

An employee who is required to perform jury duty or subpoenaed to appear in court outside of regularly prescribed duties will be granted paid time off to perform such duties.

**D. Work Related Injury**

An employee who sustains a work related injury or occupational disease that incapacitates the employee from performing the essential functions of the job will be granted up to seven (7) calendar days off with pay. Such paid time off shall end at the close of business on the seventh calendar day. Requests for time off under this section must be supported by medical documentation and coordinated with the City Attorney's Office/Division of Risk Management.

**E. Election Day**

An employee whose work schedule conflicts with the hours polls are open may be granted up to two (2) hours of time off to vote in federal, state, county, and municipal

elections. The decision as to whether individual circumstances warrant such time off and the exact amount of time off to be granted within the prescribed maximum two (2) hour period shall rest with the Department Head.

Employees designated as Election Officers will be compensated in accordance with the Code of Virginia, Section 24.2-118.1 and shall not be required to use leave during the performance of official election duties. Employees may be asked to provide documentation of their performance of official election duties.

#### **F. Education**

A Permanent Full-Time employee may be granted paid time off for educational purposes when it is determined to be in the best interest of the City. Such time off may be with full or partial pay, benefits, or charge to leave. Absence for educational purposes must be recommended by the employee's Department Head, justified in writing, and approved by the City Manager. The written justification must specify how the course of study relates to the employee's present responsibilities, or the future needs of the City, and how the City and/or the community's interests will be served. Any service and/or repayment obligations shall be outlined in a written agreement signed by the employee, the Department Head, the City Manager, and the Director of Human Resources.

#### **G. Participation and Attendance at City Sponsored Events**

Time spent for the purpose of participating in City sponsored educational, health events, wellness events, job interviews for City positions, and/or visiting other city offices for counseling and assistance shall be considered as paid time.

## **H. Time-Off Bonus Days**

Time-Off Bonus days that result in the City being closed for routine business may be awarded by the City Manager or designee. Permanent Full-Time, Permanent Part-Time, and WAE employees are eligible for the bonus days. The bonus days shall be awarded as follows:

Permanent Full-Time Employees:

1. Employees working forty (40) hours per week will receive eight (8) hours of bonus pay for each designated day.

2. Twenty-four hour shift personnel (911, Steam Plant, Sworn Police and Fire Suppression) will receive up to twelve (12) hours of bonus pay for each designated day according to their assigned shift.

Permanent Part-Time Employees and WAE Employees:

1. Regular shift employees will receive the equivalent number of hours scheduled to work, not to exceed eight (8) for each designated bonus day.

2. Twenty-four (24) hour shift personnel will receive up to twelve (12) hours of bonus pay for each designated day according to their assigned shift.

Operational departments that require staff to work on the designated bonus days shall grant the equivalent time off in accordance with departmental guidelines.

Please refer to PAI 7.4, Bonus Days for additional information.

## **I. Emergencies**

The City Manager has the discretion to close all or any part of the City offices and

operations when a situation exists that endangers life or City property, involves the safety or welfare of employees, or otherwise warrants such action. In such cases, employees may be excused from duty with pay for a period not to exceed two (2) workdays during each period of closure. Any further time taken off by employees, who are not designated essential personnel, shall be charged to leave.

### **VIII. Family and Medical Leave**

In accordance with the Family and Medical Leave Act of 1993 (FMLA), certain types of employee absences may qualify as Family and Medical Leave (FML). Employees who have been employed by the city for at least twelve (12) months, and who have actually worked at least 1,250 hours in the previous twelve (12) month period are eligible to take Family and Medical Leave. Eligible employees may be absent from work for up to twelve (12) work weeks in a twelve (12) month period, with the exception of Military Caregiver Leave for which the maximum is twenty-six (26) weeks. Eligible employees may request Family and Medical Leave for the following reasons:

1. The birth of the employee's child, and to care for the newborn child;
2. The placement of a child with the employee for adoption or foster care;
3. To care for the employee's spouse, child, or parent with a serious health condition, or;
4. Due to the employee's own serious health condition which makes the employee unable to perform the essential functions of the job.

5. Qualifying Exigency Leave: Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. In this circumstance leave may be taken to react to short-notice deployment, attend military events or related activities, arrange childcare or school activities, make financial or legal arrangements, attend counseling, for rest and recuperation, for post-deployment activities or additional activities.
  
6. Military Caregiver Leave: To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or "next of kin", of the service member. If FML taken for this circumstance, an eligible employee is entitled to twenty-six (26) workweeks of leave during a single twelve (12) month period. FML taken for this circumstance will be applied on a "per covered service member, per injury or illness" basis; i.e. two (2) periods of twenty-six (26) workweeks of FML may not be taken for the same injury or illness. If the employee does not use the full twenty-six (26) workweeks in a single twelve (12) month period, the remaining workweeks are forfeited. If an employee is taking Military Caregiver Leave, and subsequently requires FML designation for another qualifying condition, a combined total of twenty-six (26) workweeks of leave cannot be exceeded in any single twelve (12) month period. Military Caregiver Leave may be taken

to provide care for veterans who are undergoing medical treatment, recuperation or therapy for serious injury of illness that occurred any time during the five years preceding the date of treatment.

7. Employees on FML shall be required to exhaust all sick leave, annual leave, and compensatory time prior to taking unpaid leave. Under certain circumstances, FML may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule. An employee generally has a right to return to the same position or a position with equivalent pay, benefits, and working conditions at the conclusion of Family and Medical Leave. Family and Medical Leave shall be administered in accordance with a Personnel Administrative Instruction (PAI) issued by the Director of Human Resources.

## **IX. Leave Without Pay**

Department Heads may approve periods of absence for one (1) year or less when the employee has exhausted all leave balances. This absence shall be charged to Leave Without Pay (LWOP) and is at management's discretion, except in the case of FMLA, military duty, or in accordance with federal and/or state law. LWOP may be granted when it would be in the best interest of the City and the employee. Employees on LWOP shall not accrue annual or sick leave during the period of absence.

LWOP shall not be confused with Absence Without Leave (AWOL) which is charged for unauthorized absence and for which disciplinary action may be taken.

### **A. Extended Leave Without Pay**

Requests for LWOP beyond one (1) year shall be submitted by the Department Head to the City Manager for consideration. Such requests may be approved only when in the best interests of the City and the employee. Extended LWOP may be appropriate for educational purposes, temporary service with a non-City agency, and recuperation from illness, or pending disability retirement. Costs and inconveniences to the City shall be weighed against the potential benefits to be gained by granting extended LWOP.

### **B. Military Duty**

LWOP shall be granted to employees who are members of a reserve unit of the United States Armed Forces or the Commonwealth of Virginia who have exhausted the fifteen (15) days of paid military leave available during a federal fiscal year (October 1 through September 30). Employees may take appropriate accrued leave prior to LWOP. Absences due to military duty shall be administered in accordance with a Personnel Administrative Instruction (PAI) issued by the Director of Human Resources.

### **X. Managing Leave and Time Off**

The two most important considerations for managers/supervisors in managing leave and time off are deciding when to approve absences and assessing patterns of leave usage. Managers/supervisors should exercise careful judgment in managing leave and time off, as short staffing impacts productivity and the work load of other employees. This can be accomplished through discussion with the employee and thorough review of attendance and performance records, medical documentation, and legal requirements.

Absenteeism problems are often difficult to address, and managers/supervisors are encouraged to seek guidance from the Department of the Human Resources.