




POLICY AND PROCEDURE STATEMENT

SUBJECT BENEFITS LEAVE OF ABSENCE	PAGE 1 OF 5	DATE EFFECTIVE NOVEMBER 1, 2018	
SECTION/POLICY NO. 4.13	APPROVED BY  MAYOR	SUPERSEDES VOA V-F, MAY 2, 2008	
PREPARED BY VILLAGE ADMINISTRATOR & SOLICITOR	 VILLAGE ADMINISTRATOR	APPROVAL DATE	ISSUE DATE 12/31/2017
REFERENCE FMLA, ORDINANCE 155, BWC, ORC	 PERSONNEL/BENEFIT COMMITTEE	REVIEW DATE	
		DISTRIBUTION LIST WEBSITE, MAYOR, COUNCIL CLERK- TREASURER, AND VILLAGE EMPLOYEES	

SCOPE

- I. This Policy applies to Ashville Personnel, Ashville Government, and Contract Staff.

POLICY:

- I. Leaves may be granted to Village Employees for good cause shown, for such lengths of time and with compensation or other employment benefits as determined by Ordinance and Policy of the Village, as the Village Administrator and/or Mayor should determine.
- II. Leave of absence may be granted to Village Employees for good cause shown, for such lengths of time and without compensation or other employment benefits as may be in the best interest of the Village, as the Village Administrator and/or Mayor should determine.

PURPOSE:

- I. To have a "Leave of Absence" Policy.
- II. To have a policy that protects the business solvency of the village.
- III. To have a policy that operates to provide for the fiduciary responsibilities to our residents.
- IV. To provide balance and protection to our employees
- V. To comply with all Federal, State, and Local regulations involving employer and employee relations.

PROCEDURE

- 1. A leave of absence for full time employees may be granted after completion of one year of continuous employment with the Municipality. Reasons for approved leave of absence may include:
 - 1. Sickness
 - 2. Family/Medical Leave
 - 3. Personal Leave
 - 4. Military Leave
 - 5. Funeral Leave
 - 6. Injured on Duty Leave (IOD)

(1) Sickness Leave

It is the intent of this policy to allow for sickness, including pregnancy leave and family injury or death in the immediate family. This sickness leave may be granted without loss of seniority for a period of time not to exceed 90 days. Sick leave may be used by an employee when it occurs as found in Title Five, Chapter 155.05 Sick Leave. During a leave of absence for sickness or pregnancy, all benefits will continue.

(2) Family / Medical

Information on Family Medical Leave Act (FMLA) Rights and Responsibilities and the Policies of the Village of Ashville regarding the FMLA

The FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. To be eligible for FMLA benefits, an employee must have worked for a covered employer for a total of 12 months, have worked at least 1,250 hours over the previous 12 months, and work in a location where there are at least 50 employees within 75 miles.

You may be able to take up to 12 weeks unpaid leave for any of the following reasons:

- To care for your new child after birth or placement for adoption or foster care;
- To care for your spouse, son, daughter, or parent who has a serious health condition; or
- If you have a serious health condition that makes you unable to perform your job.

An employee who is a spouse, son, daughter, parent, or next of kin of an Armed Services member may take leave for up to twenty-six (26) weeks during any single 12-month period to care for a member of the Armed Services, including a member of the National Guard or Reserves, who suffered an injury or illness while on active duty that may render the member unable to perform the duties of the member's office, grade, rank, or rating. The twenty-six (26) weeks includes any leave used under the FMLA for any other FMLA qualifying purpose. Finally, in the event that a husband and wife are both employed by the Village, they collectively are entitled to twenty-six (26) weeks of leave under this amendment.

An employee may take twelve (12) weeks of FMLA leave for any "qualifying exigency" relating to the fact that a son, daughter, spouse, or parent of the employee is on active duty or has been notified of a pending call or order to active duty in the Armed Forces. For example, a wife of a recently deployed service member could use FMLA time to arrange for child care, or the parents of a deployed service member could use FMLA time to see him off or welcome him home. An employee should refer to the National Defense Authorization Act ("NDAA") for regulations defining "qualifying exigency."

The 12-month period for purposes of calculating the 12-week entitlement to FMLA leave is measured backward from the date an employee uses any FMLA-qualifying leave.

Notice Requirements

You are required to provide the Village of Ashville with notice of the need for leave. You must explain the reasons for needed leave so as to allow the Village of Ashville to determine that the reason for the leave is for an FMLA qualifying reason. If you fail to explain the reason, leave may be denied. Notice should include enough information to make the Village aware that you need FMLA qualifying leave, and the anticipated timing and duration of the leave. Failure to provide timely notice may result in a delay in or the denial of the leave and/or cause the absence to be considered as unexcused, which may subject you to disciplinary action up to and including termination.

You should provide as much advance notice as possible so that the Village of Ashville can make appropriate arrangements to cover any work that needs to be performed in your absence. The minimum amount of required notice under the FMLA is as follows:

When the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or medical treatment planned for you or your spouse, child or parent, you must provide the Village of Ashville at least 30 days advance notice;

If 30 day's notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances or a medical emergency, you must give notice as soon as practicable, ordinarily within one or two business days of when you know FMLA leave is needed. If the dates of leave are originally unknown, or if the dates of scheduled leave change or are extended, you are likewise responsible for giving notice as soon as is practicable;

If the approximate timing for leave is not foreseeable, you should provide notice of the need for FMLA leave as soon as practicable, ordinarily within one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible;

If you fail to give advance notice of the need for leave and the Village of Ashville does not learn of the reason for the absence until your return (e.g., where you were absent for only a brief period), special rules apply. In such circumstances, if the Village of Ashville does not designate the leave as FMLA leave and you desire it to be counted as FMLA leave, you must within two days after returning to work, notify the Village of Ashville that the leave was for an FMLA reason. In the absence of such timely notification, a later attempt to assert FMLA protections for the absence may be rejected;

While on FMLA leave, you are required to report periodically concerning your intent to return to work. If you need leave beyond the anticipated date originally provided for the ending of such leave, you must provide reasonable notice to the Village of Ashville as soon as possible and no later than within two business days after learning of the need for an extension of the leave. If you are able to return to work earlier than expected, you must provide reasonable notice as soon as possible and no later than two day's notice from when you learn that you will be able to return to work earlier than expected.

How Leave May Be Taken

Leave may be taken on a continuous basis (that is, a certain number of days or weeks in a row). Additionally, for leaves involving serious health conditions, when medically necessary, leaves may also be taken on an intermittent basis (that is, leave taken in separate blocks of time due to a single qualifying reason), or on a reduced schedule basis (that is, a leave schedule that reduces the usual number of hours per workweek or hours per day). If you require intermittent leave or leave on a reduced schedule basis you must satisfy all of the conditions set forth in this policy. You must also advise the Village of Ashville of the reasons why the intermittent/reduced schedule is necessary and of the schedule for treatment, if applicable. You and the Village's Fiscal Officer must then attempt to work out a schedule which meets your needs without unduly disrupting the Village of Ashville's operations, subject to the approval of the health care provider.

Likewise, whenever you request leave for planned medical treatment (whether on an intermittent reduced schedule or continuous basis), you must consult with the Village's Fiscal Officer and make a reasonable effort to schedule the leave so as not to unduly disrupt the Village's operations.

Request for FMLA leave must be submitted in writing along with a completed "Certification of Health Care Provider" form (WH Form-380), which can be obtained from the Village's Fiscal Officer, or its written equivalent. The certificate must include the date of expected return to work.

Return To Work

When you return to work you will be placed in your previous position or an equivalent position with equivalent benefits and compensation. Job restoration may be denied to certain highly compensated employees if necessary to avoid substantial and grievous economic injury.

If you do not return at the end of your approved leave your employment will be terminated. In addition, in some cases we may be able to recover from you premiums paid for maintaining your health insurance coverage if you fail to return to work.

Contact the Village's Fiscal Officer at least 2 weeks before you plan to return to work.

Pay During Leave

The FMLA does not require the leave to be paid. However, to the extent that you have any accrued paid leave available, you are required to substitute all accrued paid leave for FMLA leave. This means that your accrued paid leave will be used concurrently with your FMLA leave.

The information listed above highlights the rights and obligations of employees and employers under the FMLA, which are covered in over forty pages of federal regulations. This information is intended to be a short summary of these lengthy regulations, and in any particular case, the law itself will govern the precise rights and obligations of employees and the Village. Nothing in this summary is intended to, or should be interpreted as, granting employees rights beyond those that the law itself provides.

(3) Personal Leave

The Village Administrator and/or Mayor or his designee may approve a personal leave of absence. Requests for a personal leave must be furnished in writing and contain the dates the leave is to begin and end, and the reason for the leave. In determining the approval for leave of absence, the Village Administrator and/or Mayor or his designee may consider the following: employee's past work record, convenience to the Municipality, and the ability of the Municipality to find a suitable replacement if needed.

Personal leave may be granted without loss of seniority for a period of time not to exceed 90 calendar days. After thirty (30) consecutive days of personal leave all benefits will terminate except for seniority as noted above. If allowed by insurance carrier, the employee may choose to prepay benefits.

(4) Military Leave

Village of Ashville employees who serve in the military are entitled to leave, as described in Ohio Revised Code Section 5923.05 and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. Sections 4301-4333, as follows:

- Public employees called to military duty are entitled to pay protection under the following rules:
- Must be a member of the Ohio organized militia or other reserve components of the armed forces of the United States, including the Ohio National Guard.
- Employees must furnish a copy of the order from the appropriate military commander to the Village's Fiscal Officer.
- Employees called to duty are entitled to a leave of absence as long as the duty lasts.
- Pay is given under the following formula:

Month	Amount
First month of absence in a calendar year	Full amount of normal pay.
Each additional month in a calendar year	Partial pay: The difference between the employee's normal pay and the employee's gross uniformed pay and allowances, up to a maximum of \$500.

- The pay formula resets each calendar year. This means employees absent during a period spanning two calendar years would be entitled to two months' full pay during that time.
- The word "month," in this law, means either: (1) twenty-two 8-hour days or (2) a period of 176 hours.

While absent from work, an employee who meets the eligibility requirements of USERRA will be entitled to health insurance for the lesser of either the twenty-four (24) month period beginning on the date on which the employee's absence begins or the period until the employee should have returned to work or applied for reemployment. Additionally, the following apply:

- (1) If the employee performs service for fewer than 31 days, the employee cannot be required to pay more than the regular employee share, if any, for health care coverage;
- (2) If the employee performs service for more than 31 days or more the employee may be required to pay no more than 102% of the full premium under the plan; and
- (3) Employee must have the option to elect to continue coverage while on leave.

Finally, it should be noted that upon return, the employee should receive all sick leave, vacation leave, and personal leave which had been accumulated at the time of entering service.

(5) Funeral Leave

All full time equivalent employees (FTE) will be allowed up to three (3) regularly scheduled working days for funeral leave. Part time employees will be based upon a pro-rated percentage bases or their FTE times 35% or 0.35. Funeral leave may be used by an employee when a death occurs in the immediate family of the employee as found in Title Five, Chapter 155.06 Bereavement Pay. Deviations from this definition may be requested at the Manager's discretion but upon Village Administrator or Mayor's approval. One day of funeral leave may be granted by the Village Administrator, Mayor or designate when the death is that of any other legal relative. Funeral leave shall be charged based on 155.06.

(6) Injured on Duty Leave (IOD).

Injured on duty leave (IOD) shall be granted to any employee certified by the employee is injured in the course and scope of Village employment. If, however, an employee files for Temporary Total Disability Compensation (TT) or is working elsewhere during the time the employee claims to be disabled from his/her Village job, IOD benefits will immediately stop. The benefit granted will be related to non-salary related benefits that will continue. The salary related benefit will be paid through BWC.

If, after a BWC determination or the administrative appeals process, whichever stage finalizes the process, it is found by the BWC, the Industrial Commission or a court that the claim is not related to the employee's Village of Ashville job, the employee must reimburse the Village for all IOD used. The amount so used must be repaid within a twelve (12)-month period which can be through bi-weekly deductions. The benefits provided will be based upon the employee's employment status (FTE Status).

While the employee is on IOD leave, the employee will be permitted to use his/her sick leave or vacation accumulated benefit if BWC benefits are not provided. Any employee granted IOD will be required to apply for, attend and fully cooperate with the Workers' Compensation Rehabilitation Program. After every thirty (30) days of IOD, up to the first

ninety (90) days, the Village may request that the employee undergo a medical review at the Village's expense. After ninety (90) days, this review may be requested every three (3) months. The doctor will be mutually agreed to between the Village and the employee. If, however, an agreement on a doctor is not reached within fourteen (14) days, the Village and the employee agree that an alternate striking method from a list of specialists in the area of the employee's disability will be used to determine a doctor. This medical review will be used to grant or deny a request for continued IOD. If the physician determines that the employee is unable to work in any status, IOD shall be continued. If the employee is able to work in a "light duty" status, the Village will provide work within his or her own department, if available.

While the employee is on IOD leave, the position of employment will be kept open for 30 to 90 days. If that creates a business operational hardship for the department, the department manager can hire a replacement. The employee on IOD will be eligible to be hired into a position as soon as they can return to work and a position of employment is available.

If the physician determines that the employee is able to return to work, the employee may return to work or apply to Workers' Compensation for TT, in no event will the Village continue to pay IOD or any other benefit after a doctor's determination that the employee is fit for work and the employee does not return to work.

The Village reserves the right to recoup benefit payments to any employee who is guilty of submitting a false claim or abuse of the privilege covered in this section, or working for another employer while on injury leave, and to take disciplinary action. Examples of what might constitute "abuse" as used in this section, include an employee's refusal to perform the duties associated with his/her transitional work duty assignment, failure to comply with the terms outlined in this section, etc.

If the employee is able to work in a light duty or transitional work assignment, the Village will provide work within the department, if available. An employee working in a transitional assignment will be compensated at their regular rate of pay. The Worker's Compensation Rehabilitation Program shall specify, as part of an affected employee's rehabilitation program, the date upon which an employee in the program may fully resume his or her normal work duties. Upon an employee's resumption of his or her normal work duties, the affected employee's transitional work assignment shall be terminated. A light duty or transitional work assignment shall not exceed two (2) months, unless mutually agreed to by both the employee and the Village.

The department or division head, in conjunction with the selected rehabilitation case manager, shall identify whether a transitional work assignment is available. However, it is not the intent of this section to require a department or division to provide transitional work above that identified nor is a department or division required to provide transitional work where no such appropriate tasks have been identified and recognized.

A Village employee who declines to take part in a Village's transitional work program subsequent to a work-related injury shall be ineligible for any form of transitional work duties as otherwise contemplated herein. The Village shall be under no obligation to identify potential transitional duties in any such case and its failure to do so shall not be construed by the employee as unequal or disparate treatment of the employee.

Employee Responsibility.

(1) The injured employee shall immediately report an injury received on duty to supervision. The report shall be filed during the tour of duty on the date the injury is received and shall be on forms issued by the Village of Ashville.

(2) Thereafter within no less than three (3) days of the injury, the injured employee shall report the injury and shall timely complete all forms designated by the Village pertaining to injuries received during the actual performance of duty.

(3) Failure to report an injury on duty within the prescribed time periods shall render the employee ineligible for injured-on-duty leave.

(4) The filing requirements, as above described, may be waived by the Village with the injury received physically prevents the employee from filing or when circumstances surrounding the injury require a waiver in the interest of justice.

(5) The employee shall cause a certified physician to file a written report with the Village, which report shall contain a description and diagnosis of the injury and a prognosis which shall include the nature and extent of any disability, the type of duty the employee may perform while under such disability and an estimate of the length of time necessary for recovery and return to duty.

The failure to receive the above-described physician's report will be sufficient cause to deny or terminate injured-on-duty leave.