



## NIAGARA COUNTY

### RIGHTS AND RESPONSIBILITIES FOR EMPLOYEES ON LEAVE OF ABSENCE

*This document is intended as notification and explanation of your rights and responsibilities while you are on leave of absence. It is not intended to supersede governing language in any Collective Bargaining Agreement or any binding County policies.* You should take the time to read through this information carefully and call Human Resources at 438-4070 if you have any questions.

#### **Notification of Employer**

It is the employee's responsibility to notify the employer in accordance with all call-in procedures when an employee is not able to report to work. The employee should be in contact with the employer regarding benefit time use, anticipated return date, and current medical status. **While on an intermittent FMLA leave it is your responsibility to designate upon calling in to your supervisor and/or manager whether the absence is FMLA related or not. NOTE – when designating FMLA your illness must be consistent with the approved application for FMLA on file.**

#### **Return to Work from Leave of Absence**

You will be required to present a fitness for duty certification from your health care provider prior to returning to work. You must provide the County with at least two (2) weeks advance notice of the date you intend to return to work. In the event that you are scheduled for a medical examination to verify your fitness to return to duty and it is determined that you are not fit to return to duty, you have the right to appeal that determination. If you are found fit for duty by the County, your leave will be terminated, and you will be scheduled to return to work.

#### **Termination**

##### **Worker's Compensation Leave**

If you do not return to work prior to the expiration of your worker's compensation leave of absence, your employment can be terminated under Section 71 of the Civil Service Law. **For purposes of determining the one (1) year cumulative time period, all time off work for the same work-related injury will be counted.**

##### **Ordinary Disability**

If you do not return to work prior to the expiration of your leave of absence, your employment can be terminated under Section 73 of the Civil Service Law.

##### **Notification**

One month prior to termination, you will receive written notification from Human Resources that your leave of absence will end and your employment will terminate as of a specific date if you fail to return to work. You have the right to apply to Human Resources prior to the termination date for restoration to duty if you are medically fit to perform the duties of your position. If you apply, you may be required to submit to an independent medical examination to determine your fitness. If you are found fit for duty, your leave will be terminated, and you will be scheduled to return to work.

#### **Application for Reinstatement after Termination**

If your leave of absence has exceeded one (1) year and your employment has been terminated, you have the right to apply to the Personnel Officer at the Department of Civil Service within one (1) year of the end of your disability for a medical examination to determine your fitness to return to work. If you are fit to return to work, we will consider you for reinstatement to your position, if vacant, or to a similar position. If you cannot be reinstated at that time, your name will be placed on a preferred list for four (4) years pursuant to Civil Service Law Section 71 for worker's compensation leave or Section 73 for ordinary disability.

Your application for reinstatement and medical examination should be addressed to the Niagara County Personnel Officer at the Niagara County Human Resources Department, 111 Main Street – Suite G2, Lockport, New York 14094. With this application, you should submit written documentation from your medical doctor that you are able to return to work.

### **Americans with Disability Act (ADA)**

As required by the Americans with Disability Act (ADA), it is the policy of this agency to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee with a disability. If you are an individual with a disability, as defined by the ADA, you may be entitled to an accommodation to enable you to perform the essential duties of your position. If you believe you would be able to perform the duties of your position with a reasonable accommodation, please contact Human Resources at 438-4070 for an application for requesting such an accommodation or for further information concerning the ADA.

### **Genetic Information Discrimination (GINA)**

Title II of the Genetic Information Nondiscrimination Act (GINA) prohibits genetic information discrimination in employment. For more information go to <http://www.eeoc.gov/laws/types/genetic.cfm>.

### **New York State Employees' Retirement System**

If appropriate for your situation, you should consider contacting the Employees' Retirement System by calling or writing the New York State Employees' Retirement System, The Alfred E. Smith State Office Building, Albany, New York 12244, phone (518) 474-7736, to determine your eligibility for various retirement benefits, including accidental disability retirement. If you intend to do so, you should act promptly to avoid ineligibility due to the un-timeliness of your actions.

### **Benefit and Longevity Date Adjustment**

Your benefit and longevity dates will be adjusted for periods that you are off the payroll with the exception of worker's compensation, disability, half-pay, and military leaves of absence.

### **Leave Accrual Benefits**

You will not accrue sick or vacation leave accruals while on unpaid leave of absence in accordance with current County policies and/or collective bargaining agreement.

**Probationary Period** – The probationary period of an employee on an unpaid leave of absence may be extended for the length of the leave. The employer should notify the employee and Human Resources in writing of the new probationary period end date.

**Temporary Appointments** - An employee that is appointed temporarily and is placed on an unpaid leave of absence will not have his/her temporary appointment extended due to the leave (i.e. a three (3) year Community Services Aide appointment will not be extended for that employee).

**Medical documentation** – You may be required to submit periodic medical reports/updates every thirty (30) days. Human Resources should receive a copy of all reports.

### **Family and Medical Leave**

The Family and Medical Leave Act of 1993 (FMLA) is a federal law for most employers which entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons. Effective 1/16/2009, certain military service members and their families may be eligible for up to twenty-six (26) weeks of FMLA leave. The County measures FMLA by a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. **Your FMLA leave will run concurrently with other types of leave of absence.**

**You will be deemed to qualify for FMLA if you call in sick more than three (3) consecutive days. You must visit your health care provider within the first seven (7) days of the first day of incapacity.**

Refer to the *Employee Rights and Responsibilities Under the Family and Medical Leave Act* information sheet for basic leave entitlement, benefits and protections, eligibility requirements, use, responsibilities, etc. This information is available from your payroll clerk, it is posted throughout the County on employee bulletin boards, or you can visit the Human Resources Department page at [www.niagaracounty.com](http://www.niagaracounty.com).

**Healthcare coverage during leaves of absence** – Employees on the following types of approved leave of absence will continue to receive healthcare coverage subject to the same terms and conditions prior to the leave of absence: worker's compensation, disability, FMLA, sick-leave extension, military, or statutorily protected leaves of absence. Any share of group health plan premiums which had been paid by the employee prior to these, or any other, leaves of absence must continue to be paid by the employee. Niagara County will cease to contribute to an employee's healthcare coverage at the end of the month in which an employee's paid leave of absence and/or worker's compensation, disability, FMLA, sick-leave extension, military, or statutorily protected leave ends. You must mail or deliver a check for your portion of the premium to the Office of Risk & Insurance Services, 111 Main Street, Lockport, New York 14094. Your payment is due on the first of each month. If an employee's share of the premium payment is more than thirty (30) days late, his or her group health insurance benefits may be terminated, subject to the availability of continuation coverage under COBRA. If you do not wish to continue your healthcare coverage you must provide written notification to the Office of Risk & Insurance Services immediately.