

ADMINISTRATIVE ORDER
OF THE
JEFFERSON COUNTY COMMISSION
07-2

Pursuant to the authority vested in the Jefferson County Commission by law, the following Administrative Order is hereby issued:

PURPOSE

To establish a policy for compliance with the Family and Medical Leave Act ("FMLA"), the Uniform Services Employment and Reemployment Rights Act ("USERRA"), §§ 31-2-13 and 31-12-6, Alabama Code (1975), the Jefferson County Commission's January 27, 2004 Resolution (Minute Book 143, Pages 556-557) establishing the War on Terrorism Supplemental Military Benefit, the Personnel Board of Jefferson County Enabling Act, Alabama Act 248 (1945), as amended, and the Rules and Regulations of the Personnel Board of Jefferson County which relate to unpaid leaves of absence for employees of Jefferson County, and to establish procedures for the following:

1. The receipt, review, approval, disapproval and retention of all requests for unpaid leaves of absence by the Director of the Human Resources Department;
2. The continuation of employment benefits for employees on an approved unpaid leave of absence;
3. The return to duty of employees on an approved unpaid leave of absence; and
4. The substitution of workers' compensation leave and other forms of paid leave for FMLA Leave to the fullest extent that the FMLA allows such substitution.

I. POLICY

It shall be the policy of the Jefferson County Commission to comply with all federal and state laws and the Rules of the Personnel Board of Jefferson County which relate to

the unpaid leaves of absence of employees of Jefferson County. The Jefferson County Commission hereby delegates its authority to approve unpaid leaves of absence to the Director of the Human Resources Department as permitted by § 19, Alabama Act 248 (1945), as amended. It shall also be the policy of the Jefferson County Commission that all forms of paid leave be substituted for FMLA Leave to the fullest extent that the FMLA allows such substitution.

II. IMPLEMENTATION DATE

This Administrative Order is effective on the date specified by Paragraph XIII, below, and it shall apply to all new requests for unpaid leaves of absence and all requests for unpaid leaves of absence that are pending on such effective date and all requests for extension or modification of previously approved unpaid leaves of absence submitted or pending on or after such effective date.

III. DEFINITIONS

For purposes of this Administrative Order, the following terms, whether in the singular form or the plural form, shall have the following meanings when used herein:

A. Administrative Leave Without Pay. “Administrative Leave Without Pay” means leave without pay authorized by Personnel Board Rule 13.20.

B. AWOL. “AWOL” means that an Employee is absent from work without eligibility for paid leave and without approved Unpaid Leave.

C. Career Development Leave. “Career Development Leave” means leave without pay authorized by Personnel Board Rule 13.18(a)(2) to engage in a course of study which will contribute materially to the Employee’s value to Jefferson County.

D. Child. “Child” means, for FMLA purposes, any person who is under 18 years old, or any person 18 years old or older who is incapable of self-care because of a mental or physical disability, whose relationship to an Employee is that of a biological child, an adopted child, a stepchild, a legal ward, or a child placed for Foster Care or as to whom an Employee stands in loco parentis.

E. Classified Employee. “Classified Employee” means a person appointed for employment in the classified service.

F. Director. “Director” means the Director of the Human Resources Department of Jefferson County.

G. Employee. “Employee” means all employees of Jefferson County, whether classified or unclassified. The definition of “employee” does not include any Elected Official or any person appointed to fill a vacant elected position.

H. Extended Medical/Disability Leave. “Extended Medical/Disability Leave” means leave without pay authorized by Personnel Board Rule 13.18(a)(1) for an Employee who has exhausted all other available forms of leave and is unable to perform the essential functions of his or her job.

I. FMLA. “FMLA” means the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601–2654, and applicable regulations issued thereunder.

J. FMLA Leave. “FMLA Leave” means leave without pay available to an Employee pursuant to the FMLA.

K. Foster Care. “Foster Care” means 24-hour care for children in substitution for, and away from, their parents or guardian, with the placement for such 24-hour care

having been made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves an agreement between the State and foster family that the foster family will take care of the child. Although Foster Care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

L. Group Health Plan. “Group Health Plan” means, for FMLA Leave purposes, a plan as defined by the Internal Revenue Code of 1986 at 26 U.S.C. § 5000(b)(1), which for the purposes of this Administrative Order is a Jefferson County employee benefit plan (including a self-insured plan) that provides health care (directly or otherwise) to Employees, former Employees, and/or the families of Employees or former Employees.

M. Health Care Provider. “Health Care Provider” means, for FMLA purposes, a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which he or she practices or any other person who is a Health Care Provider under the FMLA.

N. Hour. “Hour” means an hour worked by an Employee within the meaning of the Fair Labor Standards Act, and, in the case of a Salaried Employee, hours worked without regard to the Fair Labor Standards Act.

O. Intermittent Leave. “Intermittent Leave” means FMLA Leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period.

P. Key Employee. “Key Employee” means a Salaried Employee who is among the highest paid 10 percent of all Employees within 75 miles of the Salaried Employee's worksite, and no more than 10 percent of the Employees within 75 miles of the worksite may be Key Employees. To determine which Salaried Employees are Key Employees, year-to-date Employee earnings are divided by weeks worked (including weeks in which paid leave was taken), with earnings to include wages and premium pay. The determination of whether a Salaried Employee is a Key Employee shall be made at the time the Salaried Employee gives notice of the need for leave.

Q. Military Leave. “Military Leave” means leave with or without pay available to an Employee pursuant to Personnel Board Rules 13.13 and 13.14.

R. Paid Injury Leave. “Paid Injury Leave” means leave with pay available to an Employee pursuant to Personnel Board Rule 13.12.

S. Parent. “Parent” means, for FMLA purposes, a person who is or was the biological parent, adoptive parent, stepparent, or foster parent of an Employee (or an individual who stood in the place of a parent to an Employee) when the Employee is/was a child under 18 years old or is/was 18 years old or older and incapable of self-care because of a mental or physical disability. Pursuant to the FMLA, this term does not include parents “in law.”

T. Personnel Board Rule. “Personnel Board Rule” means a Personnel Board of Jefferson County rule or regulation promulgated under Act 248 of the Alabama Legislature of 1945, as amended. The terms and provisions of this Administrative Order

shall be applied and administered consistent with the Personnel Board Rules, and this Administrative Order shall not limit the application of the Personnel Board Rules.

U. Personal Leave. “Personal Leave” means leave without pay available to a Regular Employee pursuant to Personnel Board Rule 13.18(a)(3).

V. Reduced Schedule Leave. “Reduced Schedule Leave” means FMLA Leave that reduces an Employee's usual number of Hours per work day or Hours per work week.

W. Regular Employee. “Regular Employee” means a full time Classified Employee who has completed twelve (12) months of uninterrupted full time service following an initial appointment in the classified service.

X. Salaried Employee. “Salaried Employee” means an Employee who is paid “on a salary basis” as defined in Section 541.118 of Title 29 of the Code of Federal Regulations, which is the United States Department of Labor regulation defining who may qualify as exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act due to executive, administrative, and professional employment status.

Y. Serious Health Condition. “Serious Health Condition” means, for FMLA purposes, an illness, injury, impairment, or physical or mental condition that involves (i) inpatient care in a hospital, hospice, or residential medical care facility and any period of incapacity or any subsequent treatment in connection with such inpatient care or (ii) continuing treatment by a Health Care Provider that includes (a) a period of incapacity of more than three calendar days, including any subsequent treatment or period of incapacity relating to the same condition that also involves continuing treatment by (or under the supervision of) a Health Care Provider, (b) prenatal care, (c) any period of incapacity or

treatment for such incapacity due to a chronic condition, (d) a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, and (e) any period of absence to receive multiple treatments (including any recovery therefrom) by a Health Care Provider or under the orders of, or on referral by, a Health Care Provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

Z. Sick Leave. “Sick Leave” means leave with pay available to an Employee pursuant to Personnel Board Rule 13.10.

AA. Spouse. “Spouse” means the statutory or common law husband or wife of an Employee.

BB. Unpaid Leave. “Unpaid Leave” means and includes Administrative Leave Without Pay, Career Development Leave, Extended Medical/Disability Leave, FMLA Leave, Military Leave, or Personal Leave; provided, however, that Military Leave shall be paid leave to the extent required under Paragraph IX, below.

CC. Vacation Leave. “Vacation Leave” means leave with pay available to an Employee pursuant to Personnel Board Rule 13.9.

DD. Vacation Leave Bank Leave. “Vacation Leave Bank Leave” means paid Vacation Leave awarded to an Employee pursuant to the Vacation Leave Bank Plan established by Jefferson County Administrative Order 99-1, as amended.

IV. **ADMINISTRATION**

A. **Approval of Unpaid Leave by Director.** All Unpaid Leave applications shall be submitted to and approved by the Director.

B. **Administration.** The Director is hereby authorized to take such actions as are necessary to implement and administer this Administrative Order, and such actions shall include, but not be limited to, establishing necessary administrative rules and procedures, providing materials to Employees, requiring the use of written application forms and materials by Employees, and coordinating Unpaid Leave with Jefferson County Department Heads and the Payroll Department and the General Retirement System for Employees of Jefferson County. All such actions taken by the Director shall be consistent with the terms, provisions and requirements of this Administrative Order and in compliance with all applicable laws and regulations, including the FMLA and Personnel Board Rules.

C. **Administrative Order Not a Contract of Employment.** This Administrative Order is not intended to and does not create a contract of employment with any Employee and/or any vested right(s) for any Employee.

V. **FAMILY AND MEDICAL LEAVE**

FMLA Leave shall be governed by the following terms and provisions:

A. **Eligibility for FMLA Leave.** An Employee may become eligible to take up to 12 weeks of FMLA Leave during any 12-month period, with the 12-month period to be measured backward from the date the Employee uses any FMLA Leave (a “rolling 12-month period”). For an Employee to be eligible to take FMLA Leave, the Director must determine that the Employee has satisfied each of the following five (5) requirements:

1. **Covered Worksite.** The Employee works at a location where at least 50 Employees are employed by Jefferson County within 75 miles.

2. **Twelve Months of Employment.** The Employee must have been employed by Jefferson County for at least 12 months in total.

3. **1,250 Work Hours.** The Employee must have worked at least 1,250 Hours during the 12-month period preceding the commencement date of any FMLA Leave.

4. **Qualifying Circumstances.** The Employee requests FMLA Leave due to one or more of the following circumstances: (i) the birth of a Child and to care for the newborn Child; (ii) the placement of a Child with an Employee for adoption or foster care and to care for the newly placed Child; (iii) to care for the Employee's Spouse, Child, or Parent who has a Serious Health Condition; and (iv) when the Employee has a Serious Health Condition that makes the Employee unable to perform one or more of the essential functions of the Employee's job. A husband and wife who are both Employees and who are both eligible for FMLA Leave may only take a combined total of 12 weeks of FMLA Leave during any 12-month period (a) for the birth of a Child and to care for the newborn Child, (b) for the placement of a Child for adoption or foster care and to care for the newly placed Child, or (c) to care for a Parent who has a Serious Health Condition.

5. **Accrued FMLA Leave.** The Employee must not have previously exhausted his or her FMLA Leave entitlement.

B. Intermittent Leave and Reduced Schedule Leave. With respect to the medical treatment of or recovery from a Serious Health Condition of an Employee, Spouse, Child or Parent, Intermittent Leave or Reduced Schedule Leave may be approved if

medically necessary. Intermittent Leave or Reduced Scheduled Leave is not available for care for a newborn or newly placed Child. In the case of Intermittent Leave or Reduced Schedule Leave, the Director shall limit FMLA Leave increments to the shortest period of time that Jefferson County's payroll system uses to account for absences or use of leave, provided it is one Hour or less. To determine the amount of the salary reduction for a Salaried Employee who takes Intermittent Leave or Reduced Schedule Leave, (i) a pay rate per Hour will be determined by dividing year-to-date earnings (including wages and premium pay) by year-to-date Hours and (ii) multiplying such rate by the number of hours of Intermittent Leave or Reduced Schedule Leave taken.

C. Application for FMLA Leave. It is preferred that an Employee submit a written application for FMLA Leave to the Director. An Employee must provide at least 30 days advance notice, prior to the date an FMLA Leave period is to begin, to the Director of the need for FMLA Leave that is foreseeable (such as a need based on the expected birth of a Child, placement of a Child for adoption or foster care, or planned medical treatment for a Serious Health Condition of the Employee, a Spouse, a Child or a Parent). If an Employee fails to give 30 days advance notice for foreseeable FMLA Leave with no reasonable excuse for the delay, the Director may delay the approval of FMLA Leave until at least 30 days after the date the Employee provides notice to the Director of the need for FMLA Leave. If 30 days notice is not practical, however, such as because of a lack of knowledge of when the FMLA Leave will need to begin, a change of circumstances, or a medical emergency, notice must be given to the Director as soon as practicable. When the approximate timing of the need for FMLA Leave is not foreseeable, an Employee must give notice to the Director as soon as practicable or within two days of when the need for FMLA

Leave becomes known to the Employee. The Director will delay or deny FMLA Leave if the Employee fails to give notice.

D. Decision on Application. When applying to the Director for FMLA Leave or giving notice to the Director of the need for FMLA Leave, an Employee must provide sufficient information for the Director to be able to determine whether the requested leave is FMLA qualifying. If the Employee fails to provide such information, the Director may delay approval or deny the requested FMLA Leave.

1. FMLA Leave Designation. Upon receipt of an application (or notification of a need) for FMLA Leave and sufficient information to determine whether the requested leave is FMLA qualifying, the Director shall designate whether the requested leave is (or is not) FMLA qualifying and give notice of such designation to the Employee and his or her Department Head and the Payroll Manager. The Director shall require that medical certification(s) be provided that will be considered by the Director in deciding whether the requested leave is FMLA qualifying.

2. Timing of Designation. An Employee and his or her Department Head and the Payroll Manager shall, where possible, be informed by the Director, prior to the commencement of any leave or before the conclusion of any leave, whether the leave will be approved FMLA Leave. Without Jefferson County Attorney review and approval, the Director shall not retroactively designate leave as FMLA Leave after the Employee has returned to work. In no event shall the Director retroactively designate leave as FMLA Leave, unless the Employee has requested such retroactive designation during the period of two (2) business days that immediately follows the date of the Employee's return to work.

3. **Preliminary Designation.** If the Director knows the reason for the leave taken by an Employee but has not been able to confirm that the leave qualifies under FMLA (or where the Director has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion), the Director should make a preliminary designation, and so notify the Employee and Department Head and Payroll Manager, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the Employee and of the medical certification that confirms the leave is for a qualified FMLA reason, the preliminary designation shall be made final. If the medical certification(s) fail to confirm that the reason for the absence is an FMLA qualifying reason, the Director shall withdraw the designation with written notice to the Employee and Department Head and Payroll Manager. Regardless of the foregoing, the Director may delay continuation of or deny FMLA Leave, unless the Employee provides a medical certification.

4. **Transfer to Alternative Position.** The Director may require an Employee who has requested foreseeable Intermittent Leave or Reduced Schedule Leave due to planned medical treatment to transfer temporarily to a vacant alternative position or may temporarily alter the Employee's regular position, provided that (i) the Employee is qualified for such alternative or altered position; (ii) the alternative or altered position has pay and benefits equivalent to those of the Employee's regular position; and (iii) the alternative or altered position better accommodates recurring periods of FMLA Leave than the Employee's regular position.

E. Leave Substitution and Concurrent Leave. The Director shall require the Employee to substitute all paid Sick Leave and/or Vacation Leave for FMLA Leave to the fullest extent that the FMLA allows such substitution. When an Employee has begun taking Sick Leave and/or Vacation Leave and the Director thereafter learns that the Sick Leave and/or Vacation Leave is being taken for an FMLA qualifying reason, the Director shall count such Sick Leave and/or Vacation Leave as FMLA Leave. The Director shall also require that certain periods of workers compensation absence or Paid Injury Leave or Vacation Leave Bank leave run concurrently with FMLA Leave.

1. Order of Substitution and Counting. When paid Sick Leave and/or paid Vacation Leave are substituted for FMLA Leave, paid Sick Leave shall first be substituted. After all paid Sick Leave is exhausted, then all paid Vacation Leave shall be substituted. The substituted Sick Leave and/or Vacation Leave shall be counted against the Employee's FMLA Leave entitlement.

2. Workers' Compensation, Paid Injury Leave and Vacation Leave Bank. When an Employee is on a workers' compensation absence and/or is absent on Paid Injury Leave or Vacation Leave Bank Leave due to a Serious Health Condition, the Director shall designate the Employee's FMLA Leave entitlement to run concurrently with the workers' compensation absence and/or Paid Injury Leave and/or Vacation Leave Bank Leave, and the period of the workers' compensation absence and/or Paid Injury Leave and/or Vacation Leave Bank Leave shall count against the Employee's FMLA Leave entitlement.

3. **Designation Before or After a Paid Leave or Absence Begins.** It is the intent of this Administrative Order that paid Sick Leave, Vacation Leave, Paid Injury Leave, Vacation Leave Bank Leave and periods of workers' compensation absence run concurrent with and count towards an Employee's FMLA Leave entitlement as designated by the Director and to the fullest extent permitted by the FMLA. If the Director has insufficient information to make such a designation before such paid leave commences, the Director (i) may make the designation after the paid leave commences and (ii) will notify the Employee and the Employee's Department Head and Payroll Manager of any such designation.

F. **Required Medical Certification.** When FMLA Leave is requested to care for a Spouse, Child or Parent who has a Serious Health Condition or due to the Employee's own Serious Health Condition, the Director shall notify the Employee that a written medical certification issued by a Health Care Provider must be provided to the Director and shall notify the Employee of the consequences of failing to provide the medical certification. The Director also may require additional medical certification(s) after FMLA Leave begins to the fullest extent allowed by the FMLA. If an Employee does not supply required medical certification, any leave taken by the Employee shall not be FMLA Leave. The Director will advise an Employee whenever a medical certification is incomplete and provide the Employee a reasonable opportunity to cure any such deficiency. It is the Employee's responsibility to cure such deficiency within the 15-day period after the date the Employee is notified of the deficiency by the Director.

1. **Contents.** An Employee requesting FMLA Leave for medical reasons may obtain the necessary medical certification forms from the Director, and these forms should be signed by the Health Care Provider and the Employee. The medical certification must include (i) a certification of any medical facts that support the existence of a Serious Health Condition and a brief statement as to how the medical facts meet the criteria of the definition of "Serious Health Condition," (ii) the date the Serious Health Condition began, its probable duration, whether additional treatments will be required for the condition, and an estimate of the probable number of any such additional treatments, (iii) an assertion that the Employee either (a) is unable to perform any one or more of the Employee's essential job functions and a statement regarding the probable period of the Employee's inability to work or (b) is needed to care for the Employee's Spouse, Child or Parent and an estimate of the time period of the care, and (iv) such additional medical facts as are required by the Director consistent with the FMLA.

2. **Foreseeable Leave.** The Employee should provide the medical certification before FMLA Leave begins; however, when that is not possible, the Employee must provide the medical certification within 15 calendar days after it is requested by the Director, unless it is not practicable under the circumstances to do so despite the Employee's diligent, good faith efforts.

3. **Intermittent Leave or Reduced Schedule Leave.** When Intermittent Leave or Reduced Schedule Leave is requested, additional medical certification requirements shall be applied by the Director, depending on the reason for which FMLA Leave is requested. With regard to an Employee's own Serious Health Condition, the

medical certification must include a statement of the necessity for and duration of the Intermittent Leave or Reduced Schedule Leave. For additional medical treatment(s), the medical certification must include the actual or estimated dates of treatment (if known) and the probable period required for recovery, if any. In the case of FMLA Leave requested for the purpose of taking care of a Spouse, Child or Parent, the medical certification must provide the expected duration of the FMLA Leave.

4. **Additional Medical Opinions.** At the discretion of the Director, the Employee may be required to obtain the opinion of a second Health Care Provider designated by the Director. Jefferson County will pay for any such second opinion. In the event of a conflict between the first and second medical opinions, the Director may, at Jefferson County's expense, obtain a third opinion from a Health Care Provider approved jointly by the Director and the Employee. This third opinion shall be final and binding.

5. **Return to Work.** The Director may require an Employee on FMLA Leave to report periodically on his or her status and intention to return to work. The Director also may require medical certification that an Employee is able to resume work as a condition of job restoration and/or that an Employee is unable to return to work after expiration of FMLA Leave due to a Serious Health Condition.

G. **Accounting for FMLA Leave.** When an Employee requests FMLA Leave, the Director shall permanently maintain a file relating to the request which file shall contain written documentation evidencing how the Employee requested FMLA Leave (by written application, phone, fax, letter, etc.), the date the Employee requested the FMLA Leave, the duration of the FMLA Leave requested by the Employee, and the need for FMLA Leave as

stated by the Employee. The file shall also contain a calendar year log the Director shall use to track the FMLA Leave used by the Employee, to calculate the amount of FMLA Leave taken by the Employee, and to determine the amount of the Employee's remaining eligibility for FMLA Leave. The file shall also contain all application forms and written materials relating to the Employee and FMLA Leave.

H. Job Reinstatement and Employee Benefits. The Director shall apply Sections 825.209 through 825.219 of Title 29 of the United States Code of Federal Regulations in facilitating or denying job reinstatement and in administering Jefferson County employee benefit plans and programs.

1. Reinstatement. On return from approved FMLA Leave, an Employee is entitled to be returned to the same position held when the FMLA Leave began, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Jefferson County's obligation under the FMLA to restore an Employee to the same or equivalent employment ceases if and when the employment relationship would have terminated if the Employee had not taken FMLA Leave, such as when the Employee informs Jefferson County of his or her intent not to return from the FMLA Leave, fails to return from FMLA Leave, or continues on leave after exhausting his or her FMLA Leave entitlement. If the Director, in consultation with a Key Employee's Department Head and the Jefferson County Attorney, determines that restoration of the Key Employee to employment will cause substantial and grievous economic injury to the operations of Jefferson County, job restoration under the FMLA (including, without limitation, Sections

825.216 through 825.219 of the Code of Federal Regulations) may be denied to the Key Employee.

2. Group Health Plan Coverage. During any FMLA Leave, an Employee's Group Health Plan coverage will be maintained, but only on the same conditions as such coverage would have been provided if the Employee had been continuously employed during his or her entire FMLA Leave period. Therefore, any share of Group Health Plan premiums which had been paid by the Employee prior to the FMLA Leave must continue to be paid by the Employee during the FMLA Leave period. The Director may require that the Employee's share of Group Health Plan premiums during the FMLA Leave period be paid in any of the following ways: (i) payment would be due at the same time as it would be made if by payroll deduction; (ii) payment would be due on the same schedule as payments are made for continuation of coverage following a qualifying event under the Public Health Service Act, as amended by the Consolidated Omnibus Budget Reconciliation Act (COBRA); (iii) payment would be prepaid pursuant to a cafeteria plan at the Employee's option; (iv) existing rules, if any, for payment by Employees on "leave without pay" would be followed, provided that such rules do not require prepayment (i.e., prior to the commencement of the leave) of the premiums that will become due during a period of FMLA Leave or payment of higher premiums than if the Employee had continued to work instead of taking FMLA Leave; or (v) another system voluntarily agreed to between the Director and the Employee, which may include prepayment of premiums (e.g., through increased payroll deductions when the need for the FMLA Leave is foreseeable). An Employee who is receiving payments as a result of a workers'

compensation injury must make arrangements with the Director for payment of Group Health Plan benefits when simultaneously taking FMLA Leave. Subject to Section 825.212 of Title 29 of the United States Code of Federal Regulations, Jefferson County's obligation to maintain Group Health Plan coverage under FMLA cease if an Employee's premium payment is more than 30 days late. An Employee may choose not to retain Group Health Plan coverage during FMLA Leave. Except as otherwise provided by the FMLA for Key Employees, Jefferson County's obligation to maintain Group Health Plan coverage during FMLA Leave ceases if and when the employment relationship would have terminated if the Employee had not taken FMLA Leave, such as when the Employee informs Jefferson County of his or her intent not to return from the FMLA Leave, fails to return from FMLA Leave, or continues on leave after exhausting his or her FMLA Leave entitlement. Subject to Section 825.213 of Title 29 of the United States Code of Federal Regulations, Jefferson County may recover from an Employee its share of Group Health Plan premiums for a period of FMLA Leave if the Employee fails to return to work after his or her FMLA Leave entitlement has been exhausted or expires.

3. Other Employee Benefits. An Employee's entitlement to benefits (other than Group Health Plan benefits) is determined under the applicable Jefferson County policy(ies) for providing such benefits when the Employee is on other forms of leave (paid or unpaid, as appropriate).

VI. ADMINISTRATIVE LEAVE WITHOUT PAY

An Employee may be placed on Administrative Leave Without Pay for a period of up to 365 days for reason(s) deemed to be in the best interest of Jefferson County. Only the

Director may place an Employee on Administrative Leave Without Pay. The Director shall consult with the Employee's Department Head and the Jefferson County Attorney in deciding whether to place the Employee on Administrative Leave Without Pay. A Regular Employee who is involuntarily placed on Administrative Leave Without Pay for a period exceeding five (5) working days may appeal to the Personnel Board pursuant to Personnel Board Rule 13.20(c).

If an Employee is enrolled in and covered by Jefferson County group insurance plans, policies or arrangements before commencing a period of Administrative Leave, the Director will make available the continuation of such coverage during the period of the Administrative Leave to the extent permitted under such group insurance plans, policies and arrangements. Any continuation of coverage under a Jefferson County group insurance plan, policy or arrangement during a period of Administrative Leave shall be contingent upon an Employee making arrangements with the Director to continue to make any premium contributions for which the Employee is responsible and then timely paying such premium contributions. Following the termination of a period of Administrative Leave, job reinstatement shall be provided in accordance with Personnel Board Rules.

VII. CAREER DEVELOPMENT LEAVE

An Employee who desires to engage in a course of study that will materially contribute to the value of his or her Jefferson County service may be granted a period of Career Development Leave not to exceed 365 days. Only the Director may approve Career Development Leave. To apply for Career Development Leave, an Employee must complete a written application form specified by the Director and return the completed form to the Director, along with materials explaining and evidencing the course of study. The Director shall consult with the requesting Employee's Department Head and the Jefferson County Attorney in deciding whether to grant the application for Career Development Leave.

If an Employee is enrolled in and covered by Jefferson County group insurance plans, policies or arrangements before commencing a period of Career Development Leave, the Director will make available the continuation of such coverage during the period of the Career Development Leave to the extent permitted under such group insurance plans, policies and arrangements. Any continuation of coverage under a Jefferson County group insurance plan, policy or arrangement during a period of Career Development Leave shall be contingent upon an Employee making arrangements with the Director to continue to make any premium contributions for which the Employee is responsible and then timely paying such premium contributions. Following the termination of a period of Career Development Leave, job reinstatement shall be provided in accordance with Personnel Board Rules.

VIII. EXTENDED MEDICAL/DISABILITY LEAVE

An Employee who is unable to perform the essential functions of the Employee's position and has exhausted all Unpaid Leave and all Paid Injury Leave, Sick Leave, Vacation Leave, or other leave with pay may be granted a period of Extended Medical/Disability Leave not to exceed 365 days. Only the Director may approve Extended Medical/Disability Leave. The Director shall consult with a requesting Employee's Department Head and the Jefferson County Attorney in deciding whether to grant the Employee's application for Extended Medical/Disability Leave.

A. Application. To apply for Extended Medical/Disability Leave, the Employee must complete a written application form specified by the Director and return the completed form to the Director. In addition to the completed application, the Employee must also provide to the Director a written certificate signed by a licensed physician that provides (i) a general explanation of the Employee's condition, (ii) a certification that the employee is unable to perform the essential functions of the Employee's position with or without reasonable accommodation, and (iii) the probable duration of the Employee's incapacitation.

B. Return to Work. If during a period of Extended Medical/Disability Leave the Employee becomes capable of performing the essential functions of the Employee's position with or without reasonable accommodation, the Employee shall so notify the Director. When the Employee provides such notice, the Employee shall also provide the Director with a written certification from a licensed physician that the Employee is able to perform the essential functions of the Employee's position with or without reasonable

accommodation. If reasonable accommodation is required, the physician's certification shall outline and explain the needed accommodation.

C. Reinstatement. If an Employee is enrolled in and covered by Jefferson County group insurance plans, policies or arrangements before commencing a period of Extended Medical/Disability Leave, the Director will make available the continuation of such coverage during the period of the Extended Medical/Disability Leave to the extent permitted under such group insurance plans, policies and arrangements. Any continuation of coverage under a Jefferson County group insurance plan, policy or arrangement during a period of Extended Medical/Disability Leave shall be contingent upon an Employee making arrangements with the Director to continue to make any premium contributions for which the Employee is responsible and then timely paying such premium contributions. Following the termination of a period of Extended Medical/Disability Leave, job reinstatement shall be provided in accordance with Personnel Board Rules.

IX. MILITARY LEAVE

The Jefferson County Commission supports the United States Armed Forces and will comply with applicable provisions of the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), Sections 31-2-13 and 31-12-6 of the Code of Alabama, the Jefferson County Commission's January 27, 2004 Resolution (Minute Book 143, Pages 556-557) establishing the War on Terrorism Supplemental Military Benefit, and Personnel Board Rules 13.13 and 13.14. An Employee must notify the Director of his or her need for Military Leave and complete such Military Leave application forms and materials as are provided to the Employee by the Director. Employees shall be eligible for

Military Leave without pay (and with pay) in accordance with USERRA, Sections 31-2-13 and 31-12-6 of the Code of Alabama, and Personnel Board Rules 13.13 and 13.14.

X. PERSONAL LEAVE

An Employee may be granted a period of Personal Leave, not to exceed 365 days, for personal reason(s) considered sufficient by the Director. Only the Director may approve Personal Leave. To apply for Personal Leave, an Employee must complete a written application form specified by the Director and return the completed form to the Director. The Director shall consult with the requesting Employee's Department Head and the Jefferson County Attorney in deciding whether to grant the application for Personal Leave.

If an Employee is enrolled in and covered by Jefferson County group insurance plans, policies or arrangements before commencing a period of Personal Leave, the Director will make available the continuation of such coverage during the period of the Personal Leave to the extent permitted under such group insurance plans, policies and arrangements. Any continuation of coverage under a Jefferson County group insurance plan, policy or arrangement during a period of Personal Leave shall be contingent upon an Employee making arrangements with the Director to continue to make any premium contributions for which the Employee is responsible and then timely paying such premium contributions. Following the termination of a period of Personal Leave, job reinstatement shall be provided in accordance with Personnel Board Rules.

XI. EMPLOYEE DISCIPLINE

Employees who are AWOL and/or have abused Unpaid Leave may be disciplined as provided by Personnel Board Rules 12 and 13.6 and Jefferson County Administrative Order

02-5, as amended. Any Employee who fraudulently obtains FMLA Leave is not protected by FMLA's job restoration or maintenance of health benefits provisions.

XII. REPEAL OF ADMINISTRATIVE ORDER 94-2

Jefferson County Administrative Order 94-2 is hereby repealed effective at 12:01 a.m., on September 1, 2007.

XIII. EFFECTIVE DATE

This Administrative Order shall be effective at 12:01 a.m., on September 1, 2007.

DONE and ORDERED at the Jefferson County Courthouse, this 28th day of August, 2007.


BETTYE FINE COLLINS, President
Jefferson County Commission

APPROVED BY THE
JEFFERSON COUNTY COMMISSION
DATE: 8-28-07
MINUTE BOOK: 154
PAGE(S): 249-255