

PERSONNEL POLICY NO. 12 - LEAVE OF ABSENCE

12.1 GENERAL PROVISIONS

- a. A leave of absence is any authorized absence, with or without pay, during regularly scheduled working hours. This includes, but is not limited to: sick leave, vacation leave, bereavement leave, administrative Leave, maternity leave, jury duty or witness leave, family care or medical leave, and military leaves.
- b. All Leaves of Absence must be in writing, and authorized in advance by the employee's immediate Supervisor and the Executive Director. If the Family Medical Leave of Absence request is for more than twelve weeks it must be approved by the Administrative Committee. The Administrative Committee may extend up to an additional two weeks for a total of fourteen weeks.
- c. A modification to the originally authorized leave period may be granted on an individual basis. Request for the modification must be submitted in writing to the Executive Director at least two weeks in advance. A request to extend a leave of absence, or a request to return to work earlier than the date of return granted, must have the prior written approval of the Executive Director. Every effort will be made to accommodate an employee's request. However, extensions of leave of absence, or early returns cannot be guaranteed.
- d. When an employee is absent from his/her job without prior approval, the employee is considered absent without leave ("AWOL"). Persons who are AWOL will be disciplined. Further, a person who is AWOL for three consecutive work days will be considered to have voluntarily resigned his/her employment with the Tribe.

12.2 FAMILY AND MEDICAL LEAVE

12.2.1 Eligibility for Leave

All employees who have been employed for at least 12 months, and have worked a minimum of 1,250 hours in the past year are eligible for up to twelve (12) or twenty six (26) weeks of unpaid leave during any 12-month period. The Yurok Tribe uses a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

12.2.2 Serious Health Condition

An employee is eligible for up to twelve (12) weeks of unpaid leave to care for a sick spouse, child, or parent who has a serious health condition, or due to the employee's own serious health condition that renders the employee incapable of performing the functions of his/her job.

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12.2.3 Parental Leave - Birth or Placement of Child for Adoption or Foster Care

- a. An employee is eligible for up to twenty-six (26) weeks of unpaid leave for the birth or placement of a child for adoption or foster care. Leave must be taken within twelve (12) months of the child's birth or placement.
- b. Child care leave may not be taken intermittently or on a reduced leave schedule. In other words, the employee must take off twenty-six (26) consecutive work weeks.
- c. If, however, the Executive Director determines that an employee's request for a reduced work schedule can be accommodated without compromising the quality of care, such leave may be granted. The granting of such requests lies in the sole discretion of the Executive Director.
- d. For spouses employed by the Tribe, the cumulative total amount of leave that will be given to the two employees is twenty-six (26) work weeks during any twelve (12) month period for the birth, or placement of a child. The two employees (not the Tribe) will decide the amount of leave which will be taken by each employee.

12.2.4 Right of Return to Position

Any employee who is granted family or medical leave will be returned to the same position she/he held prior to taking the leave or to an equivalent position. The Tribe may, however, deny job restoration to certain highly compensated employees (i.e., those among the highest paid 10%) if necessary to prevent substantial and grievous economic injury to the Tribe's operations.

If the Tribe determines that it intends to deny a highly compensated employee reinstatement, the Tribe will notify the employee as soon as practicable of its determination, and if the leave has begun, give the employee the opportunity to immediately report back to work.

12.2.5 Health Insurance Premiums during Leave

The group health insurance of an employee on family or medical leave will be maintained during the leave period. The Tribe will pay the employer portion of health insurance benefits for a period not to exceed the approved Family or Medical Leave.

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- a. If the employee fails to return to work after the leave expires, the employee must reimburse the Tribe for the group insurance premiums paid to provide coverage for the employee while she/he was on leave.
- b. An employee who does not return to work due to circumstances beyond his/her control or due to the continuation, recurrence, or onset of a serious health condition of a family member of the employee that would otherwise entitle the employee to take leave, the employee will not be required to reimburse the Tribe for the cost of the premiums. Certification from a health care provider as to the continuation, recurrence or onset of a serious health condition may be required.

12.2.6 Birth or Placement of Child for Adoption/Foster Care

- a. In the case of the birth or placement of a child for adoption or foster care, leave must be taken within twelve (12) months of the child's birth or placement. Child care leave may not be taken intermittently or on a reduced leave schedule. In other words, the employee must take off twelve (12) consecutive work weeks.
- b. If, however, the Executive Director determines that an employee's request for a reduced work schedule can be accommodated without compromising the quality of care, such leave may be granted. The granting of such requests lies in the sole discretion of the Executive Director.
- c. For spouses employed by the Tribe, the cumulative total amount of leave that will be given to the two employees is twelve (12) work weeks during any twelve (12) month period for the birth, placement of a child, or to care for a sick parent. The two employees (not the Tribe) will decide the amount of leave which will be taken by each employee.

12.2.7 Sick Leave Must Be Used First

An employee requesting family or medical leave must first use all of the employee's available accrued sick leave. Using one's sick time will in no event extend the total amount of family or medical leave beyond twelve (12) work weeks or twenty-six (26) work weeks for parental leave during any twelve (12) month period.

12.2.8 Intermittent Leave or Reduced Schedule

Where leave is taken to care for a sick family member or due to the employee's own serious health condition, leave may be taken intermittently or on a reduced schedule when medically necessary.

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***For example:** If an employee ordinarily works eight (8) hours a day, five (5) days a week, and due to scheduled treatment or other medical necessity, is limited to working six (6) hours a day, three (3) days a week, leave in the amount of twenty-two (22) hours a week will be granted.*

12.2.9 Notice to Employer

- a. In instances where the leave is foreseeable, the employee must notify his/her Supervisor a minimum of thirty (30) days prior to the first day of leave. When the need for leave is unforeseeable, the employee must notify his/her Supervisor as soon as practicable.
- b. Notice to the Supervisor must be in writing, and must state the first day the employee intends to take leave.
- c. If the request for leave is based on a family member's health condition or the employee's own serious health condition, the employee is required to provide a physician certification at the time the leave request is made. This certification must contain the following information:
 1. The date the serious health condition began;
 2. The probable duration of the condition;
 3. The appropriate medical facts regarding the condition;
 4. If based on caring for a spouse, child, or parent, a physician's statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue;
 5. If based on the employee's serious health condition, a physician's statement that the employee is unable to perform the function of his or her job; and
 6. In the case of intermittent leave or leave on a reduced schedule for planned medical treatment, the dates the treatment is expected to be given and the duration of the treatment.

12.3 PERSONAL LEAVES OF ABSENCE WITHOUT PAY

12.3.1 Eligibility

Regular full-time, part-time or intermittent hourly employees with one year or more of continuous employment with the Tribe may, in special

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circumstances, be granted a leave of absence without pay for personal reasons.

The Administrative Committee may approve personal leaves of absence for those with successful completion of 90 ninety days and less than one year of service in special circumstances for personal reasons up to 90 days.

12.3.2 Requests

Requests for leave will be considered based on the employee's length of service, performance, responsibility level, and the reason for the request, whether other individuals are already out on leave, and expected impact on the employer's operations.

Requests must be in writing and must be approved by the employee's immediate Supervisor and the Executive Director.

The granting of such leaves is not automatic, and is in the sole discretion of the Executive Director. The Executive Director, however, shall not grant any leave of absence without pay in excess of one year.

12.3.3 Use of Leave Time

During an unpaid leave of absence, an employee shall first use (and be paid for) all accrued annual vacation time.

12.3.4 Effect of Leave of Absence on Benefits

No sick or annual leave, seniority, or other benefits will be earned during a leave of absence except during weeks in which the employee has used 30 or more hours of paid leave. Personal leave without pay is not counted toward continuous employment for the purpose of determining annual vacation leave or for the purpose of receiving merit salary increases.

12.4 ADMINISTRATIVE LEAVES

- a. Paid Administrative Leave may be granted by the Executive Director for not more than three (3) days for floods, fires, earthquakes, and other natural disasters which prevent employees from reporting to work.
- b. The Executive Director, in his/her sole discretion, may place any employee on paid Administrative Leave to investigate allegations of misconduct, violations of Tribal Policies and Procedures, or for any other reason determined to be in the best interests of the Tribe.

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- c. An employee placed on Administrative Leave under this provision shall continue to accrue all benefits except they may not seek redress under the Grievance Procedure, and shall be paid at his/her regular rate of pay during the entire Administrative Leave.
- d. Absent emergency circumstances such as natural disasters, serious illness, or other unanticipated circumstances which prevent management from resolving the issue which prompted the decision to place the employee on Administrative Leave, no employee shall be placed on paid Administrative Leave for more than ten (10) working days.

12.5 CONTRIBUTIONS DURING A LEAVE OF ABSENCE

The Tribe will not compensate nor make any contributions whatsoever for any employee who is on an authorized leave of absence except for employees on approved medical leave of absence.

12.6 RETURN FROM AUTHORIZED LEAVE OF ABSENCE

- a. Absent business necessity and undue hardship, an employee granted a leave of absence will be returned to the same position s/he held prior to taking the leave or to an equivalent position. Reinstatement is contingent upon the employee returning to work at the end of the leave, as scheduled.
- b. It is the employee's responsibility to report to work at the end of the approved leave. An employee who fails to report to work on the first work day scheduled following the leave will be considered to have voluntarily resigned his/her employment with the Tribe.
- c. An employee returning from an authorized medical leave of absence must furnish a physician's certification verifying the employee is physically able to perform the full duties required for the job.
- d. An employee will be considered to have voluntarily terminated their employment under the following conditions:
 - 1. During a medical leave of absence, the employee engages in employment, including self-employment, unless agreed to in writing by the Executive Director.
 - 2. The employee fails to return to work on the day agreed without prior written approval of the **Executive Director**.

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12.7 EMERGENCY SERVICE LEAVE

This policy establishes guidelines when employees are called for Emergency Service.

The Yurok Tribe will allow all full-time and part-time permanent employees paid Emergency Service leave. Leave under this policy may be used to provide emergency medical service or fire-fighting service, without regard to location, including service in response to a distant natural disaster or terrorist incident.

A Tribal employee who volunteers as an Emergency Medical Technician ("EMT") -- EMT-Basic or EMT-1, first responder, paramedic, or volunteer firefighter -- is to receive leave with pay during emergency medical service or fire-fighting service.

The employee must meet the certification requirements for holding a position as an EMT-Basic, EMT-1, first responder, paramedic, or volunteer firefighter, and must establish eligibility for emergency leave by providing Yurok Tribe Human Resources with a valid certification, submitted in accordance with established procedures.

Compensation shall be at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

12.7.1 Procedures

A Tribal employee who is a volunteer firefighter or volunteer provider of emergency medical services shall notify their supervisor and the Human Resource department of their status as a volunteer firefighter or volunteer provider of emergency services upon employment, or not later than thirty (30) days after receiving certification as a volunteer firefighter or a volunteer provider of emergency services. The employee must submit written notification to the Yurok Tribe Human Resources signed by the chief of volunteer fire department service, or the medical director or chief administrator or the cooperating physician advisory board of the emergency medical organization with which the employee serves. This form shall be re-submitted annually before January 1 of each year. New employee orientation sessions will include notification to the employees of the availability of emergency service leave under this policy and of the requirements to submit written notification.

12.7.2 Request for Leave

Employees requesting or verifying paid Emergency Service Leave must use the [Request for Emergency Service Leave](#) form as soon as practicable. Whenever an employee is absent from work due to the employee providing emergency medical or firefighting service, and the employee wishes to use Emergency Service Leave, the absence must be

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verified by providing the employee's supervisor with a completed [Request for Emergency Service Leave](#) form. The supervisor will submit the completed form to Human Resources.

12.7.3 Department Notification

If the call to provide emergency medical or firefighting service occurs when the employee is already at work, he or she will notify his or her supervisor before leaving (or follow standard departmental notification procedures for early departure, if one exists). If the call to provide emergency medical or firefighting service occurs when the employee is not at work, he or she will notify his or her supervisor (or follow standard departmental notification procedures for late arrival or absence, if one exists) as soon as possible after it becomes evident that late arrival or absence from scheduled work may be required in order to provide the emergency service. The employee should discuss in advance with his or her supervisor how to deal with any situation where it is impossible to follow the usual notification procedure while responding to an emergency situation. Supervisors should make reasonable accommodations in such situations, provided that the employee does notify the department as soon as possible.