



# County Technical Assistance Service

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## Leave Policies

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Leave Policies

**Reference Number:** CTAS-1099

Under T.C.A. 5-23-104(a), counties are required to have written policies stating “whether employees are entitled to paid vacation or annual leave, sick leave or other leave, policies for accrual and use of such leave, policies for compliance with state and federal family and medical leave laws and provisions for maintaining leave records.”

There are two kinds of leave: (1) leave that employers are required by law to give, and (2) leave that is left to the discretion of the employer. Leave that falls in the “required” category includes leave under the FMLA, the state’s parental leave law, and some miscellaneous leave laws.

Both the FMLA and the state parental leave law require only *unpaid* leave. An employer may choose to give paid leave, but it is not mandated. The policy should cover all issues, including what 12-month period will be used, whether employees will be required to take accrued paid leave before taking unpaid leave or whether the employee will be able to choose, how employees make a request for leave, and how insurance payments are handled while the employee is on leave. It is suggested that a copy of the FMLA Fact Sheet be included in the policies to ensure that employees are given the required notice of their rights under the FMLA.

The Tennessee parental leave law entitles a female employee to take up to four months of leave for pregnancy, childbirth and nursing an infant. Unless the employer wants to give 12 weeks under the FMLA *and* another four months under this state law, the policy should state that the FMLA leave and state parental leave entitlements will run concurrently, so that employees receive a total of four months under both laws combined.

There are a few other miscellaneous leave provisions required by state and federal law that will need to be included in the policies. These are jury and court duty, voting leave, military leave and Workers’ compensation (in-line-of-duty injury) leave.

The policies also must set out any other types of leave that are given. These include sick leave, vacation, personal leave, administrative leave and any other kinds of leave that employees are allowed to take. The policies should state whether the leave is paid or unpaid, how it accrues, whether it carries over to the next year if it is not used, whether there is a maximum amount an employee can accrue, and whether employees are entitled to payment for unused accrued leave when their employment terminates for any reason.

The policies should set out the procedure for requesting and using leave. Also, the policies are required to set out the procedures used to keep records of employee leave.

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