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**From:** Terrence McCracken  
**Sent:** Wednesday, August 28, 2019 4:00 PM  
**To:** Jerome Schad; Mark Carney; E. Thomas Jones  
**Subject:** Memo Re Leaves of Absence 8-2019

Commissioners-

At a past board meeting there has been discussion about leaves of absences and how they affect the organization. Attached please find a memo from Human Resources Director Daniel NeMoyer addressing the issue and additionally he provides some examples from other municipal organizations. Please let me know if you need anything further.

Thanks

Terry

**From:** Dan Nemoyer  
**Sent:** Wednesday, August 28, 2019 3:49 PM  
**To:** Terrence McCracken  
**Cc:** John J. Gilmour, Esq. ; John Gilmour  
**Subject:** With attachments

Daniel NeMoyer  
Director of Human Resources  
Erie County Water Authority  
716-685-8249

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## ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

August 27, 2019

To: Terrence McCracken , Secretary/Personnel Director

From: Daniel J. NeMoyer, Director of Human Resources

Subject: Employee Leaves of Absence

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At your request John Gilmour, ECWA Associate Attorney, and I have reviewed the Authority's practices for granting leaves of absence for employees who make such a request.

Mr. Gilmour was able to provide examples from the Erie County Sheriff's Department and Buffalo Police Department who follow practices similar to the ECWA (see attached). The Sheriff and Police Commissioner may grant leaves at their sole discretion.

By and large these leaves of absence do not cause an undue burden to our operations. My sense is that the workforce appreciates that the Authority, when possible, is willing to be flexible to accommodate employees who may be faced with a personal matter or have a chance to pursue another career opportunity. Employees seeking to fill a vacancy caused by such a leave are advised in advance of any impact the leave of absence will have on their permanent placement in the position. In practice this results in an employee having an opportunity, if only temporarily, to serve in a more advanced position while the permanent employee is on leave. Since other employees are advised on how this may affect their permanent placement in any position, most staff are understanding and accepting of this practice.

Since the Secretary of the Authority is also the Personnel Director, and as such is intimately aware of our staffing needs, perhaps it would assure the Board if no request for a leave of absence, or extension of leave, was presented to the Board without an endorsement memo from the Secretary.

I:\HUMAN RESOURCES

1 In the case of emergency or when circumstances require that visitations be made during  
2 working hours, the Division Head shall grant time off for medical or dental visits. Such absence  
3 to be deducted from accumulated sick leave in units of not less than one (1) hour.  
4

#### 5 **SECTION 9. FRAUDULENT CLAIMS**

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7 Any employee found to have requested paid sick leave or has been paid sick leave as a  
8 result of filing a fraudulent or false claim for such sick leave pay shall be subject to disciplinary  
9 action.  
10

#### 11 **SECTION 10. SICK LEAVE BONUS**

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13 Effective upon ratification, there will be a three hundred dollar (\$300.00) bonus for  
14 anyone who reaches the maximum of eighteen hundred (1,800) hours of accumulated sick  
15 leave. Thereafter, an additional bonus of two hundred dollars (\$200.00) will be paid in any  
16 subsequent year in which the maximum amount of sick leave is maintained and 40 hours or  
17 less sick days are utilized. The sick leave bonus will be payable in the first pay period in  
18 November.  
19

### 20 **ARTICLE XVI**

21

*Erie County Sheriff's Contract*

#### 22 **LEAVE OF ABSENCE WITHOUT PAY**

23

##### 24 **SECTION 1. ELIGIBILITY**

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26 (a) Only permanent employees shall be eligible for leaves of absence without pay after  
27 satisfactory completion of their probation period.  
28

29 (b) Temporary and provisional employees without permanent status shall be entitled to  
30 military and maternity leave only.  
31

##### 32 **SECTION 2. APPLICATION FOR LEAVE WITHOUT PAY**

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34 Application for leave of absence without pay, for any of the reasons cited in this  
35 provision shall be filed by the Employee, on the prescribed forms, with the Sheriff. Such  
36 application shall state the reasons for the requested leave and the duration thereof. If  
37 approved by the Sheriff, the application shall be submitted to the Commissioner of Personnel.  
38 It is understood that if the leave is granted, such employee will be permitted to return to the  
39 same class title within the same division.  
40

##### 41 **SECTION 3. MATERNITY LEAVE**

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43 (a) Employees who are unable to perform the duties of their position because of  
44 pregnancy may use sick leave for the period of disability certified by their personal physician.  
45 In the event that sick leave is exhausted prior to the employee's ability to return to duty, a  
46

1 request for leave of absence on the prescribed County form should be submitted to cover the  
2 additional period of disability. In either case, the duration of disability indicated by period of  
3 leave requested shall be substantiated by a statement completed by the employee's personal  
4 Physician.

5  
6 (b) Leaves for legal adoptions shall be covered under the Family Medical Leave Act.

7  
8 **SECTION 4. SUBSTANTIATION OF REQUEST FOR SICK LEAVE OR LEAVE**  
9 **WITHOUT PAY**

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11 (a) A certificate is required from the employee's personal physician specifying:

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13 (1) The date that the employee is no longer able to carry out all normal assigned  
14 duties.

15  
16 (2) The expected date of confinement, and

17  
18 (3) The date the employees may return to duty shall accompany the request  
19 whether it be for sick leave (prescribed County form) or for leave without pay  
20 (prescribed County form). In those instances where the duration of certified  
21 absence will utilize the employee's sick leave balance, and in addition, a period  
22 of leave without pay, all prescribed County forms should be completed at the  
23 same time, and the above Physician's certificate used to substantiate both  
24 requests.

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26 **SECTION 5. LEAVE BECAUSE OF EXTENDED ILLNESS**

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28 When an employee has exhausted all of his sick leave credits, and is still incapacitated  
29 and unable to perform the duties of his position, or if the attending Physician has  
30 recommended a period of rest and convalescence, the Sheriff may grant leave of absence  
31 without pay for a period not to exceed one year, subject to extension pursuant to County Civil  
32 Service Rules.

33  
34 **SECTION 6. EDUCATION LEAVE FOR VETERANS**

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36 Education leave for veterans shall be granted pursuant to Section 246 of the Military  
37 Law.

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39 **SECTION 7. LEAVE FOR EDUCATIONAL PURPOSES**

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41 On the approval of the Sheriff, permanent employees may be granted leave of  
42 absence without pay for a period of one year for the purpose of acquiring additional education  
43 and training that will increase the usefulness and efficiency of the employee in his position as  
44 determined by the Sheriff in his sole discretion.

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46 **SECTION 8. LEAVE OF ABSENCE TO SERVE IN ANOTHER POSITION IN THE COUNTY**

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**SERVICE**

Leave of absence without pay may be granted by the Sheriff to a permanent employee in competitive class to enable such employee to serve temporarily or provisionally in another position in the classified class.

**SECTION 9. LEAVE OF ABSENCE TO ACCEPT EMPLOYMENT OUTSIDE THE COUNTY SERVICE**

An employee may request leave of absence without pay to accept employment outside the County service.

**SECTION 10. LEAVES FOR OTHER REASONS**

Leaves of absence without pay, for reasons other than those cited in this provision, may be granted by the Sheriff only in unusual circumstances, which in his judgment justifies the granting of such leave. If a request for such leave is approved by the Sheriff it will be submitted to the Commissioner of Personnel.

**SECTION 11. MILITARY LEAVE OF ABSENCE**

(a) Any County employee who is required to render ordered military or naval duty, shall be granted military leave of absence with no loss of time or pay not to exceed thirty (30) calendar days pursuant to Military Law, Sections 242 and 243.

(b) Military Leave pursuant to Section 243 of the Military Law, shall be deemed actual service.

(c) In no case shall an employee utilizing such leave be paid for a regular day off or holiday.

**SECTION 12. POLITICAL LEAVE**

Any employee who is elected or appointed to an elective public office or who is appointed to a non-elective public office not to exceed four years, may be granted leave or leaves of absence without pay provided written application is made for such leave specifically outlining the extent of leave requested and the public office elected or appointed to. Leaves of absence to non-elective public office may be only granted for periods of one year, but may be renewed. Employees will not accumulate seniority if elected or appointed to a non-County position.

**SECTION 13. DENIAL OF LEAVE**

It is understood that the Sheriff or the Undersheriff has full discretion in granting or denying leaves under this Article.

ARTICLE VIII

LEAVE OF ABSENCE WITHOUT PAY

8.1 General

(A) Whenever a leave of absence without pay is granted to an employee, the head of the department or City agency granting such leave of absence without pay shall forthwith file with the City Clerk, for Presentation to the Council, a certificate Setting forth the date on which the leave of absence begins and ends.

(B) Any permanent employee who is elected or appointed to public office shall, at the discretion of the Commissioner of Police, be granted a leave of absence without pay for a period of not more than one (1) year from the effective date of his election or appointment to such public office. Such leave of absence shall be renewable for successive periods of not more than one (1) year in the sole discretion of the Commissioner of Police.

8.2 Union Business

Any employee who is elected to a Union office or who is designated by the Union to do work which takes him from his employment with the City, shall, upon the written request of the Union, and the consent of the Commissioner of Police, be granted a leave of absence without pay. This leave shall not exceed two (2) years, but it shall be renewed or extended at any time upon the written request of the Union and the consent of the Commissioner of Police. Any member of the Union who is selected by the Union to participate in any other Union activity shall be granted a leave of absence at the written request of the Union and the consent of the Commissioner of Police. Such leave is not to exceed one (1) month but it shall be renewed at any time upon the written request of the Union and the consent of the Commissioner of Police.

8.3 Maternity

Maternity leaves, not to exceed six (6) months, shall be granted upon the request of an employee. Maternity leaves shall, upon the request of the employee, be extended or renewed for an additional period not to exceed six (6) months.

8.4 AWOL

Any member absent without an authorized leave for more than twenty (20) working days may have his employment terminated by the department head without a hearing. Such termination shall be final without recourse to the disciplinary procedures contained in the collective Agreement. Upon such termination, the City will provide the employee with all benefits which he has previously earned. The above shall also apply to a member who fails to return from an authorized leave of absence without pay within five (5) days subsequent to the expiration of the leave of absence without pay.