

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
PERSONNEL POLICIES AND PROCEDURES

Leave of Absence without Pay

Policy: A long-term leave of absence without pay is generally not granted until after all appropriate accrued leave has been exhausted unless the employee is requesting leave to serve in a public office or for extended military service. In order to achieve its mission, the agency must require the attendance of its workers; therefore, long-term leave without pay should only be granted for extraordinary circumstance involving good and sufficient reason, such as extended illness, family emergency, or continuing education if such education will benefit the provision of service within the agency. It should also be considered a viable option for providing a reasonable accommodation to an employee with an American's With Disabilities Act covered situation. The accommodation should not impose an undue hardship on the department. MOM Policy 3-0330 shall be consulted prior to final decision on such leave.

Definitions:

Leave of absence without pay

A period of unpaid absence from employment with a state agency requested by an employee and approved at the agency's discretion, which does not result in a break of service.

Long-term leave

A leave of absence without pay for more than 15 consecutive working days.

A. Employee obligations:

1. Unless precluded by an emergency, the employee shall put the request for leave in writing, and submit it to the appropriate supervisor at least 20 working days in advance of the leave's starting date. The request shall clearly state the reason for the absence, the beginning and ending dates (when possible) of the leave, and other information which may be helpful to the employer in

making a determination.

2. **Emergency:** If a bona fide emergency arises, the employee may orally request leave without pay, and complete the written request at a later more convenient time. In such instances, prior employer authorization is still required.

3. **Leave for Medical Reasons:** A physician statement of prognosis and expected duration must support a leave of absence without pay for medical reasons. The requested medical information need only contain job-related, necessary information as required by the ADA. Employees who have worked at least 1040 hours during the previous year for the state may be eligible for family medical leave. The family medical leave policy should be consulted when a medical leave is requested.

4. During a leave of absence without pay, employees are not permitted to cash out accrued sick leave, nor can they withdraw the employee portion of P.E.R.S. contributions.

5. **Health Insurance Coverage:** The employee may self-pay insurance premiums to the state employee benefits plan for one calendar year from the effective date of a leave of absence without pay. The employer contribution will not be made during periods of unpaid absence where less than 40 hours is worked in a payroll period. The employee must make arrangements for health insurance continuity if such is desired, which includes personal payment of the total premium during the period of absence. Approved family medical leave provides exceptions to this, which are addressed in that policy.

6. Any change in the original request (such as an extension) must be approved in advance by the employer.

7. Unauthorized absences may subject an employee to discipline up to and including termination.

B. Employer obligations:

1. For leaves of less than three months, a supervisor shall approve or disapprove the request. The superintendent or division administrator must approve longer leaves. Approval or disapproval of leave must be given to the employee in sufficient time prior to the

beginning date of the request to allow an employee opportunity for inquiry should the leave be denied.

2. If the leave is disapproved: the employer shall provide written reason(s) for its denial.

3. If the leave is approved:

a. Position protection:

1) Leave for six months or less: the employer may, at its discretion, provide reinstatement right to the employee into a like or similar position.

2) Leave in excess of six months, but not more than one year: the employer may, at its discretion, provide reinstatement back into the first available position which is similar to the position previously held or to a position of similar compensation for which the employee qualifies.

3) Leave in excess of one year: Unless excepted by special agreement, the employer will not provide position or pay protection to the employee. Division administrators have the final authority in granting leaves of over one year. The employee may be granted preference in hiring over other persons in an applicant pool for a time period that will be established by the division administrator.

b. The employer will inform an employee of reinstatement rights at the time a long-term leave of absence is approved.

c. At the time of the request for leave without pay, the employer and the employee should attempt to come to a written understanding of the particulars of any pay protection subject to the parameters as established in this policy.

d. The employer shall make offers of reinstatement in writing to the employee. One bona fide offer which is not acted upon by the employee or which is rejected will waive further employer obligation.

e. During an authorized leave of absence without pay, the employee shall be placed in an inactive status for payroll purposes. Such action will continue the employee/employer relationship for purposes of longevity and leave accelerator continuity.

4. Probationary employees: A supervisor may approve a leave of less than one month for probationary employees. Extended leaves are discouraged and must be approved by the division administrator.

This policy shall be followed unless it conflicts with negotiated labor contracts, which shall take precedence to the applicable extent.