

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : Table of Contents  
Effective : August 1, 1994  
Revised : October 1, 2011

---

Subject:

**BENEFITS**

---

**TABLE OF CONTENTS**

**SECTION 5**

Workers' Compensation & Salary Continuation Program .....	1 - 15
Reserved.....	16
Disability Income Plan of North Carolina .....	17 - 32
Reserved.....	33 - 34
Retirement Benefits .....	35 - 39
Voluntary Shared Leave Program.....	41 - 52
Reserved.....	53 - 77
Unemployment Insurance Program .....	78 - 79
Reserved.....	80-115
Leave Without Pay.....	116 – 127
Reserved.....	128 - 152
Family and Medical Leave.....	153 - 177

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 1  
Effective : May 1, 1991  
Revised : October 1, 1997

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**PURPOSE**

The purpose of the Workers' Compensation Act is to provide medical benefits, compensation for lost time from work and compensation for any permanent or permanent partial disability that results from a compensable job related injury.

**GUIDELINES & DEFINITIONS**

The North Carolina Industrial Commission was created by the General Assembly to oversee the Workers' Compensation Act. The Industrial Commission is authorized by law to hear and determine all matters in dispute between the employer and employee.

Under the North Carolina Workers' Compensation Act an injury is covered if it was caused by an accident or incident which arose out of and in the course of the employment. The Workers' Compensation Act does not cover all injuries, only injuries by accident. An accident is defined as a separate event preceding and causing the injury. Unless there is an accident, an injury received while performing the regular duties in the usual and customary manner is not compensable.

There are two exceptions to the "by accident" requirement. They are back injuries and hernias. These injuries are compensable if they are caused by a specific traumatic incident of the work assigned.

Occupational diseases that are specifically named in the North Carolina Workers' Compensation Act are compensable. An occupational disease is any disease that is proven to be due to causes and conditions that are characteristic of a particular occupation or employment and the exposure is greater than that of the general public outside of the employment.

**SELF-INSURED**

The North Carolina Department of Correction is self-insured for the purpose of administering the Workers' Compensation Act. Workers' compensation expenses are paid from the department's current operating budget. The Department of Correction's workers' compensation claims are being handled by a third party administrator (TPA). The TPA is Key Risk Management Services (KRMS). Employees of the Department must contact the Benefits Section in the Department of Correction's Personnel Office or KRMS with questions regarding their workers' compensation benefits. KRMS decides whether a claim is compensable under the workers' compensation laws.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 2  
Effective : May 1, 1991  
Revised : October 1, 1997,  
\*November 1, 1999

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**EMPLOYEES COVERED**

All Department of Correction employees including some temporary/contractual employees are covered under the North Carolina Workers' Compensation Act.

**REPORTING INJURIES**

The injured employee or the employee's representative, must immediately on the occurrence of an accident give the employer written notice of the accident. Medical payments nor compensation are payable before the employee's written notice. If thirty (30) days has passed from the date of the accident/injury and the employee has not given the employer notice, compensation is not payable unless a reasonable excuse is made to the satisfaction of the Industrial Commission for not giving a written notice.

**SUPERVISOR RESPONSIBILITY**

The supervisor shall perform the following procedures:

\*

1. Complete the Form 19, have the employee sign and date the back of the Form 19 acknowledging that he/she received a copy of both sides of the Form and give the employee a copy of the completed Form 19. ***The completed Form 19 must be faxed to the Department's Personnel Office, Benefits Section at fax # (919) 716-3960 within 24 hours after the accident or injury occurs.*** If the injury occurs on a weekend or a holiday, you must fax the Form 19's directly to Key Risk at 1-800-605-7502 and send a copy to the Benefits Section. Please remember to use **payroll titles** when listing the employees' occupation on the Form 19. All supporting documents, Form DOC-WC-4, employee written notice, investigative memorandum(s), incident report(s), and witness statements must be submitted through the chain of command to the Benefits Section in the Personnel Office. **DO NOT HOLD THE FORM 19 FOR THE PRECEDING DOCUMENTS. YOU MUST FAX THE FORM 19 IMMEDIATELY TO THE PERSONNEL OFFICE.**
2. Give the employee a form DOC-WC-4 "Employee's Initial Report of Injury" for completion (*this form must be completed by the employee and the signature of both the employee and supervisor is required*); **THIS FORM IS USED BY THE DIVISION OF PRISONS ONLY.**

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

3. Refer employee to Unit Nurse or person rendering first aid (*person rendering first aid must complete the appropriate blocks on the DOC-WC-4*);
4. Refer those employees in need of medical treatment to a physician listed in the *CompCare Network* provided by Key Risk. If it is an emergency, the employee may seek immediate medical attention at the closest medical facility, then notify the Benefits Section of medical attention outside the *CompCare Network*;
5. All injuries shall be investigated. Get names and reports from any witness that may have knowledge of the accident;
6. Immediately notify the Benefits Section and Key Risk by telephone of any catastrophic injury;
7. Forward all out-of-work medical excuse, medical report, etc. to the Benefits Section immediately;
8. Maintain weekly verbal contact with the employee during the disability period. Keep the employee notified of any departmental changes while they are out of work.
9. Submit to the Benefits Section a copy of the employee's DC-113 (Employee Time Report) for each 28-day period beginning on the date of injury until the employee has returned to work full-time (*a DC-113 should be submitted when there is occasional lost work time associated with the job related injury*);
10. Advise the Benefits Section of any concerns regarding an employee's claim for benefits;
11. Send the following information to the Benefits Section on automobile accidents:
  - a. a copy of the investigating police officer's report;
  - b. a copy of the Motor Fleet Management report; and
  - c. insurance information for the other vehicle.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 4  
Effective : May 1, 1991  
Revised : March 1, 2004

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

\*

**NOTE:** Under certain circumstances, involving third party liability, an employee may elect to pursue recovery for a work-related injury through the third party rather than file a claim for workers' compensation. If an employee chooses to do this, a statement acknowledging that the employee was advised of his rights under the Workers' Compensation Act must be prepared by the work unit, i.e., benefit representative, etc. and signed by the employee.

**EMPLOYEE RESPONSIBILITIES**

1. Immediately give written notice of an accident or injury to his/her supervisor as soon as possible after the accident occurs;
2. Accept medical treatment provided by the employer/Key Risk Management Services to treat the injury;
3. Follow the prescribed treatment to affect a cure for the injury; **NOTE:** *Refusal may bar the employee from further compensation until such refusal is resolved;*
4. Provide his/her supervisor with any medical restrictions; **NOTE:** *Refusal to comply with work restrictions may bar the employee from further Compensation. Employees without restrictions shall return to the regular work schedule.*
5. Provide his/her supervisor with an out of work medical excuse every 30 days, if needed. The supervisor will forward a copy of the medical excuse to the Benefits Section.
6. Contact supervisor weekly while out of work.

**MEDICAL TREATMENT**

Employees shall seek medical treatment from a physician listed in the **CompCare Network**. If it is an emergency, the injured employee may seek immediate medical treatment from the nearest medical facility and then notify the Benefits Section of medical attention outside the **CompCare Network**. Medical treatment from sources other than the **CompCare Network**, except in emergency situations, without prior approval of Key Risk Management Services may result in the denial of part or all of the employee's claim.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 5  
Effective : May 1, 1991  
Revised : October 1, 1997

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**PAYMENT OF BILLS**

The Workers' Compensation Act provides payment of all medical, surgical, hospital, nursing, sick travel, prescription drugs, and rehabilitation services prescribed by the treating physician to treat the injury as it relates to the job. It is the employee's responsibility to ensure that the physician forward all bills and medical reports to Key Risk Management Services at Post Office Box 49129, Greensboro, North Carolina 27419.

**DISABILITY PAYMENTS**

**Salary Continuation Plan for Certain State Law-Enforcement Officers**

*Who's Covered?* Employees of the Department of Correction whose position at the time of a compensable injury requires certification by the Criminal Justice Training and Standards Act as State Correctional Officers and State Probation and Parole Officers will receive full salary continuation (injury leave) if the injury requires any absences from work for up to two years from the date of incapacity.

Effective July 1, 1996, employees of the Department of Correction who are injured by a **direct and deliberate act** of an offender/inmate supervised by the Department will also receive full salary continuation (injury leave) for related absences from work for up to two years.

*What is a direct and deliberate act of an offender/inmate?* Please note the following examples of a direct and deliberate act by an inmate:

1. a nurse was attempting to take an inmate's blood pressure when without warning the inmate struck the nurse with an object; or
2. a secretary was sitting at a desk drafting a letter when an irate inmate came down the hall and kicked the secretary; or
3. a medical records clerk was filing medical charts when an inmate came into the office and punched the clerk in the face.

In the preceding 3 examples, the employees are entitled to full salary continuation using the same procedures as those used for the injured Criminal Justice Certified State Correctional Officers and State Probation and Parole Officers.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 6  
Effective : May 1, 1991  
Revised : October 1, 1997

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

*What is not considered a direct and deliberate act of an offender?* Please note the following examples of injuries that would not be covered by injury leave:

1. a nurse was attempting to turn an inmate over to relieve pressure when the inmate began having seizures, the nurse tried to hold the inmate down, the nurse hurt her back; or
2. a secretary was walking down the hall behind an inmate, the inmate slipped and fell on the wet floor causing the secretary to trip and fall injuring her arm; or
3. a medical records clerk was delivering a medical chart, when the clerk turned the corner, the clerk bumped head first into an inmate and sustained a broken tooth.

In these 3 examples, the employees are entitled to regular Workers' Compensation. See **Non-Criminal Justice Certified Employees** in this section.

*What's Required?* A medical excuse from the treating physician placing the employee out of work is mandatory. Injury leave will **NOT** be approved without a medical excuse from the treating physician. It is the employee's responsibility to furnish the medical excuse, through the chain of command, to the Benefits Section in the Personnel Office.

*What about injury (I) leave approval?* Employees are required to use accumulated vacation/sick leave until the medical excuse has been received by the Department of Correction's Benefits Section. A memorandum from the Benefits Section shall be forwarded to the supervisor advising the specific period that "I" Injury leave shall be used. The employee will remain on the regular payroll and his/her absence will be shown on the DC-113, Time Report, with an "I" (INJURY LEAVE). The supervisor shall credit the employee's leave account, on the current DC-113, time report, and use injury leave for the specified period. The approval of Injury Leave shall not result in the employee earning overtime on the approved date. **The exception to this rule is DOP pilot 12-hour shift facilities.**

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 7  
Effective : May 1, 1991  
Revised : October 1, 1997,  
\*May 1, 2000,  
\*\*April 1, 2001

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

\*\*

**For those work locations that are approved 12-hour shift facilities, the employees are required to use accumulated vacation/sick leave as described in the preceding paragraph. Do not use built-in compensatory time. The 28-day schedule will equal 171.50 hours. The holidays shall be given on the holiday schedule established by the State Personnel Commission and shall equal 8 hours/day. Therefore, when using holidays, compensatory time is required to account for the remainder of the day. At the end of each 28-day schedule, total hours beyond 171 shall be compensated at the overtime rate of one and one-half times the hourly rate of pay and total hours from 160 through 171 shall be compensated at the straight time.**

If the employee does not have sufficient leave to cover the period of absence until authorization can be obtained from the Benefits Section, the supervisor shall immediately telephone the Benefits Manager and explain the situation. Never shall an employee certified by the Criminal Justice Standards Division as a State Correctional Officer or a State Probation/Parole Officer or an employee who has been injured by a **direct and deliberate act** of an offender supervised by the Department be placed on leave without pay under Workers' Compensation without the approval of the Benefits Section.

\*

***What about Shift Premium pay?*** Criminal Justice Certified Correctional Officers, Adult Probation/Parole Officers, and non-certified employees (if they are injured by a direct and deliberate act of an inmate) whose position entitles them to shift premium pay prior to the injury, shall continue to receive shift premium pay while out of work due to a compensable job related injury.

***What about scheduled off days and holidays?*** If an employee is out of work for more than 30 consecutive days, his/her work schedule shall be converted to show Monday through Friday as scheduled workdays with weekends and holidays off. For example, on John Doe's DC-113's "I" would be shown for Monday through Friday, "E" Saturday and Sunday, and the holiday letter on the appropriate holiday. This shall not cause the employee to lose any benefit for which he/she may have been otherwise entitled to if he/she was working.



---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

***Does this change on return to work?*** Once the employee has returned to work, the normal work schedule before the job related injury would apply. The exception would be if the employee was returned to temporary light duty work in a "makeshift" position created to temporarily accommodate the medical restriction(s). Then the employee may be required to temporarily work a schedule that differed from the normal schedule. **(See Return to Work in this section).**

***What about vacation earned while out of work?*** The maximum amount of vacation that can be accumulated at the end of the thirteenth 28-day work cycle, which includes December 31 of each year, is 240 hours. Any criminal justice certified Correctional Officer or Probation/Parole Officer covered by the Salary Continuation Program with more than a 240-hour balance of vacation shall have the excess vacation converted to sick leave so that only 240 hours are carried forward to the first 28-day work cycle of the next calendar year.

***When will I know when the salary continuation program will end?*** The Benefits Section will notify the employee's supervisor when the salary continuation benefit is about expire. If the disability continues, the employee should contact the Benefits Section through the chain of command before the end of the two-year period to arrange for continued benefits provided by the Workers' Compensation Act. The continued benefits are the same as those benefits provided for non-criminal justice certified employees.

**Non-Criminal Justice Certified Employees**

When an employee is injured and is unable to return to work, he/she must receive the workers' compensation weekly benefits. Compensation paid under the Workers' Compensation Act is based on the average weekly wage earned by the employee including any special allowances (i.e., shift premium, overtime, longevity, etc.), during the 52 weeks before the injury. The employee will receive 66 2/3% of the average weekly wage not to exceed the maximum amount payable as set-forth by the North Carolina Industrial Commission.

There is a seven (7) day waiting period. No compensation for time lost from work shall be allowed during the waiting period. However, the injured employee may choose one of the following options during the required waiting period:

**Option 1:** Elect to take sick or vacation/bonus leave during the required 7 day waiting period and then be placed on Leave Without Pay due to workers' compensation and began drawing the workers' compensation weekly benefits.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 9  
Effective : May 1, 1991  
Revised : June 1, 2003

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**Option 2:** Elect to be placed on Leave Without Pay due to workers' compensation for the required 7 day waiting period and then begin drawing the worker's compensation weekly benefits.

**NOTE:** *In either option above if the injury results in disability for more than 21 days, the workers' compensation weekly benefit shall be allowed from the date of disability.*

The State Personnel policy allows an employee to supplement the workers' compensation weekly benefit by using part of the vacation, sick and compensatory leave that the employee had accumulated before the date of the injury. Each year, the Office of State Personnel establishes a new Workers' Compensation Supplemental Leave Schedule that will be provided to those employees assigned a *Department of Correction Personnel Manual*.

**Option 3:** Elect to supplement the Workers' Compensation weekly benefit with the use of partial earned sick or vacation/bonus leave according to the schedule provided by the Office of State Personnel.

**NOTE:** *The employee will only be allowed to exhaust the sick and vacation leave available at the time of injury. Sick and vacation leave accumulated while on Workers' Compensation leave cannot be used during this period.*

**ALL ELECTIONS INVOLVING THE USE OF EARNED VACATION/BONUS, SICK AND/OR COMPENSATORY LEAVE SHALL BE IRREVOCABLE.**

A medical excuse from the treating physician placing the employee out of work is mandatory. It is the employee's responsibility to furnish the medical excuse, through the chain of command, to the Benefits Section in the Personnel Office. The workers' compensation weekly benefit will NOT be paid without a medical excuse from the treating physician.

**Leave Without Pay Due to Workers' Compensation**

Listed below are additional steps that the **SUPERVISOR** shall follow when a non-certified employee sustains an on-the-job injury:

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 10  
Effective : May 1, 1991  
Revised : January 1, 1998,  
\*November 1, 1999

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**STEP 1:** If it has been determined that the injury is compensable and the employee will lose more than 7 days from work submit a DC-154S placing the employee on Leave Without pay due to Workers' Compensation to the Personnel Office. Attach to the DC-154S, the employee's last two DC-113's, time report.

**STEP 2:** Submit a DC-113 on those employees who have elected to supplement the workers' compensation weekly benefit with the use of partial earned vacation, sick and compensatory leave according to the Office of State Personnel's schedule, to the Department of Correction's Personnel Office **and Payroll Office**. The Payroll Office requires a cover memorandum for the DC-113's stating "employee is on Leave Without Pay due to Workers' Compensation and is exhausting leave according to Section 8, page 17 of the Office of State Personnel Policy." The DC-113's are due in payroll on the 1st day of the month so that checks can be issued on the 15th of each month. The Payroll Supervisor will accept telephone notifications followed by the DC-113 so that the checks are issued on the 15th of the month. Workers' Compensation checks will be mailed by Key Risk Management Services at the end of each month.

**STEP 3:** Immediately notify the Benefits Section and the Payroll Office by telephone when an employee returns to work. A DC-154 reflecting the reinstatement from leave without pay shall be forwarded to the Personnel Office immediately to insure that the employee is returned to the regular payroll on a timely basis.

While on leave without pay due to workers' compensation the employee:

- a. may be eligible for performance increase(s) upon reinstatement, established rules governing the granting of the performance increase(s) will apply;
- b. will continue to accumulate vacation and sick leave to be credited to his/her account for use upon return to work. The 240-hour maximum to be carried forward to the next calendar year may be exceeded by the amount of vacation accumulated during the Leave Without Pay due to Workers' Compensation. The excess vacation leave may be used after the employee returned to work or carried on the leave account until the end of the calendar year when any excess vacation shall be converted to sick leave. If the employee separates during the period that the excess vacation is allowed, the excess vacation and the sick leave accumulated during the first twelve months of leave will be paid in a lump sum.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 11  
Effective : May 1, 1991  
Revised : January 1, 1998,  
\*November 1, 1999

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

- c. will continue coverage under the state health insurance program. Employees must send a check each month to the Payroll Office payable to the Department of Correction for their portion of the premium that includes dependent coverage.
- d. Employees do not receive retirement credits. However, after the employee returns to work, the credits may be purchased. Upon request, the Retirement System will provide a statement of the cost and a date by which purchase must be made. If the purchase is not made by this date, the cost will be recalculated by the Retirement System.

\*

Employees who return to work but continue to require medical or therapy visits to reach maximum medical improvement may be entitled to time away from work for the appointments without loss of other leave credits. This time may be recorded on the employee time report with the corresponding leave code "Z" and an explanation in the comments section. Employees are required to use accumulated vacation and/or sick leave until their work facility has requested and received approval in writing from the Workers' Compensation Office to record the absence with the corresponding leave code "Z." This time shall not be added into the total hours worked and shall not extend an employee's workday such that overtime is generated. An employee may only earn overtime as a result of actual hours worked.

**FAMILY MEDICAL LEAVE (FML)**

**Salary Continuation**

If salary continuation is *approved*, managers/supervisors *shall designate* FML, provided the employee meets the eligibility criteria for FML as listed in the FML Policy. To be eligible for FML, the employee must have:

- twelve (12) months of employment with State government,
- at least 1,040 pay status hours during the immediately preceding 12 months, and
- a serious health condition, as that term is defined in the FML Policy.

The managers/supervisor must notify the employee in writing that the leave has been designated as FML. If salary continuation is *denied*, the FML policy shall apply. (See FML Policy in Section Five of the Department of Correction Personnel Manual).

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 12  
Effective : May 1, 1991  
Revised : October 1, 1997

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**Leave Without Pay (LWOP) - Workers' Compensation**

The Office of State Personnel policy does not allow FML to run concurrent with Leave Without Pay due to Workers' Compensation. Therefore, FML shall not be designated for LWOP-WC.

If the Workers' Compensation Claim is *denied*, the FML policy shall apply. (See FML Policy in Section Five of the Department of Correction Personnel Manual).

**PERMANENT TOTAL DISABILITY**

If the injury results in a permanent total disability and the employee cannot return to work for the Department of Correction, the supervisor shall immediately contact the Department's Benefits Manager for instruction.

**PERMANENT PARTIAL DISABILITY**

If the injury results in a partial loss or use of a part of the body, the employee is entitled to compensation according to the disability rating given by the treating specialist and the payment schedule set forth in the Workers' Compensation Act. Employees are eligible to receive compensation for permanent partial disability although they have returned to work and are earning wages. Compensation for permanent partial disability is based on the average weekly wage earned by the employee during the 52 weeks before the injury.

If the injury leaves serious facial or head disfigurement, or causes the loss or permanent injury to an important organ of the body, the Industrial Commission, within its discretion, may award additional compensation. No compensation is allowed for scars where the employee is paid for loss or partial loss of use of the same member. The employee is also entitled to payment for the loss of permanent teeth.

**TRANSITIONAL RETURN TO WORK PROGRAM (TRTWP)**

The purpose of the TRTWP is to provide transitional work to employees of the Department of Correction (DOC) that are restricted from doing their normal job duties due to a compensable job related injury. The TRTWP provides employees the opportunity to return to suitable, productive work while continuing to recover from the job related injuries. The DOC believes that offering transitional work to employees during the recovery period is an important part of the healing process.

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

The goal of the TRTWP is to help employees

- return to their normal lifestyle sooner
- focus on abilities instead of disabilities
- improve morale
- encourage cross training within DOC

**Guidelines**

- employees must have sustained a compensable job related injury,
- employees must give supervisor a medical note from the treating physician that lists the temporary medical restrictions and the duration of the restrictions,
- manager/supervisor shall try to place the injured employee in a transitional job
- if a transitional job cannot be identified, the supervisor must contact the Benefits Section immediately

**Questions and Answers**

***Does the DOC accommodate temporary medical restrictions?*** Yes, if the medical restrictions are a result of a compensable job related injury.

***What is transitional work?*** Transitional work is any job that accommodates temporary medical restrictions placed on an injured employee by the treating physician.

***How long can an employee participate in the TRTWP?*** Generally, an employee may participate in the TRTWP until the treating physician advises that the employee has reached maximum medical improvement.

***What happens when the treating physician advises that the employee has reached maximum medical improvement and has a permanent medical restriction(s)?*** The Benefits Section will send the employee the necessary documents to request a permanent accommodation in accordance with ADA. Examples of possible TRTWP placements are:

clerical duties (filling, data entry, receptionist), control rooms, towers, any position short staffed where accommodation can be made.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 14  
Effective : May 1, 1991  
Revised : October 1, 1997  
\*April 1, 2001

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**RETURN TO REGULAR DUTY**

The employee shall submit to the supervisor, a note from the treating physician stating that the employee may return to regular duty. The supervisor shall forward the original return to regular duty physician note to the Benefits Section. If the employee refuses to return to regular work, the supervisor must notify the Benefits Section immediately.

**AMERICANS WITH DISABILITIES ACT (ADA)**

Once the injured employee has reached maximum medical improvement and if the employee has a permanent medical restriction(s), the Benefits Section will have the treating physician decide whether the employee can perform all of the essential job functions. If the employee cannot perform all of the essential job functions, the Benefits Section will have the employee to complete the DC-730, *Request for Reasonable Accommodation* and forward this information to management. The Benefits Section does not decide accommodations under the ADA.

**APPEAL PROCESS**

If management, supervisors or the employees have concerns regarding a workers' compensation claim contact the Benefits Section in the Department of Correction's Personnel at (919) 716-3700.

If an employee disagrees with the TPA's handling of a claim, the employee may contact the Benefits Section or the North Carolina Industrial Commission.

\*

Employees may appeal the denial of a workers' compensation claim by filing a written notice with the North Carolina Industrial Commission, 4335 Mail Service Center, Raleigh, N.C. 27699. The written notice must include the employee's name, employer's name and date and nature of the injury. Notice must be filed with the North Carolina Industrial Commission within two (2) years from the date of injury or last compensation payment. Otherwise, the claim is barred by law and no further compensation is allowed.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 15  
Effective : May 1, 1991  
Revised : October 1, 1997  
\*October 1, 2001

---

Subject:

**WORKERS' COMPENSATION AND SALARY CONTINUATION PROGRAMS**

---

**SEPARATIONS**

Separation of an employee who is receiving Workers' Compensation or Special Salary Continuation benefits are not allowed without the approval and instruction of the Benefits Section.

\*

**DEATH BENEFIT**

In the event of death resulting from an injury arising out of and in the course of an employee's employment, compensation is paid to the surviving spouse and/or dependents for 400 weeks or until the child reaches their eighteenth (18) birthday, whichever is longer. There is a \$3,500 allowance for funeral expenses.



Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 17  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**PREFACE**

The Disability Income Plan of North Carolina was established effective January 1, 1988 to provide replacement income for eligible State teachers and State employees who become temporarily or permanently disabled for the performance of their duty prior to retirement and to encourage disabled State teachers and State employees who are able to work to seek gainful employment after a reasonable period of rehabilitation. The Plan is administered by the North Carolina Department of State Treasurer and the Board of Trustees of the Teachers' and State Employees' Retirement System within the terms and conditions of the Plan as set forth in the North Carolina General Statutes. A Medical Board of physicians has been designated to make conclusions and recommendations as to the eligibility for disability benefits under the Plan.

**POLICY**

It shall be the policy of the Department of Correction to administer the North Carolina Disability Income Plan within this agency consistent with State laws, policies, and procedures.

**GENERAL PROVISIONS**

An individual is covered if:

He/she is (or becomes) a State teacher or State employee in service and a member of the Teachers' and State Employees' Retirement System or participant of the University Optional Retirement Program.

Coverage under the Plan ceases upon:

- the employee's separation from state service,
- the employee's retirement under the provisions of the Teachers' and State Employees' Retirement System or the University Optional Retirement Program,
- the employee becoming a beneficiary under the Plan, or
- the employee's death.

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**THE WAITING PERIOD**

A participant is not entitled to benefits from the Plan for a period of sixty (60) continuous calendar days from the onset of disability. The sixty (60) day waiting period is determined from the last actual day of service, the day of the disabling event if the disabling event occurred on a day other than a normal workday, or the day succeeding at least 365 calendar days after service as a State teacher or State employee, whichever is later. During this waiting period the employee shall, in accordance with the Family/Medical Leave Policy, exhaust accumulated sick leave and may exhaust vacation leave, or may request approval for Leave of Absence (LOA) Without Pay.

During the waiting period, the employee may return to work for trial rehabilitation for periods of not more than five (5) consecutive work days without causing a new waiting period to begin. Such a return to work will, however, extend the waiting period by the number of days of the return to service.

**THE DISABILITY INCOME PLAN (DIP)**

There are three (3) phases of the Plan:

1. Short-Term Disability
2. Extended Short-Term Disability
3. Long-Term Disability

**SHORT-TERM DISABILITY BENEFITS**

Short-term disability benefits are payable after the conclusion of the waiting period for a period of 365 calendar days provided the participant meets the following eligibility requirements:

1. at least one (1) year of contributing membership service in the Retirement System earned within 36 calendar months preceding the disability,
2. determined to be mentally or physically disabled for the further performance of his/her usual occupation, and
3. the disability must have been continuous and incurred at the time of active employment.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 19  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

The determination of disability and eligibility for short-term benefits shall be made by the Department of Correction Personnel Review Board. In certain cases, the Review Board may request that the Retirement System Medical Board make the determination of short-term benefits. Any decision by the Department of Correction Personnel Review Board may be appealed to the Retirement System Medical Board.

A participant is not entitled to receive any disability benefits from the Plan during the sixty (60) day waiting period. Short-term benefits are payable from the 61st day of disability continuing for a period of up to one (1) year or 365 days. Accumulated sick leave shall be exhausted during the waiting period in accordance with the Family/Medical Leave Policy. In lieu of short-term disability benefits the employee may continue to exhaust accumulated sick and vacation leave after the waiting period thereby continuing to receive full salary and benefits. However, such an election will not extend the 365 days duration of the short-term benefit period.

**NOTE:** *Management should not advance leave benefits to employees going on Short-term Disability as it is unknown if the employee will later return to work and may result in an overpayment..*

**Monthly Benefit**

The monthly short-term benefit is equal to 50% of 1/12th of the annual base rate of compensation plus 50% of 1/12th of the annual longevity payment, if any, up to a maximum of \$3,000 per month. Earnings are permitted during the short-term disability period up to the amount of the short-term disability benefit without reduction in the benefit. If the earnings exceed the amount of the short-term benefit, the benefit will be reduced on a dollar-for-dollar basis by the amount the earnings exceeding the short-term benefit.

**Example:** *Employee's monthly compensation at time of disability was \$1,000. (DIP short-term benefit \$500). He/she may earn \$500 without penalty because the total of the DIP and outside earnings (\$500 + \$500) do not exceed regular compensation. If earnings were \$510, DIP benefit would be reduced to \$490.*

Monthly benefits shall be subject to Federal and State Income Taxes. Benefits payable within the first six (6) months, first of the month after the last month worked, shall be subject to Social Security Taxes. The benefit will be reduced by any monthly payments received for Workers' Compensation and/or VA Benefits received for the same disability. Short-term Benefits, however, will not be offset by any primary Social Security benefits received. Checks are issued on the last workday of the month directly from the Office of the State Controller.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 20  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**APPLYING FOR SHORT-TERM DISABILITY BENEFITS**

**Form 701 Requesting Short-term Benefits through the Disability Income Plan of NC**

An employee shall initiate his/her application for Short-term Disability when a disability has or is expected based upon medical certification to extend beyond sixty (60) days by completing the Form 701. This form shall be submitted along with the other required forms and documents to his/her employing unit or the Personnel Office Disability Manager. The employing unit shall forward the completed forms to the Personnel Office.

**Form 703 Reporting Earnings for Short-Term Disability Benefits and Medical Report for Eligibility Review**

This form shall be completed by both the employee and the employee's physician. Sections A, C and E shall be completed by the employee and Sections E, F and G shall be completed by the physician. Participants receive benefits based on the dates given by the physician certifying the employee's disability. In addition the physician's certification of continuous disability must be completed every thirty (30) days.

**NOTE:** *A preliminary long-term determination may be used at the employer's discretion in lieu of the physician's certification required every thirty (30) days.*

**Form 7A Medical Report for Disability Eligibility Review**

This form shall be completed, signed and dated by the employee's treating physician. Other medical information, *i.e., office notes, present medical condition, surgery performed (hospital admission and discharge summaries), diagnostic test results, treatment rendered, prognosis, etc.*, shall be attached to the Form 7A to assist in making the determination regarding an employee's eligibility for short-term disability benefits.

**NOTE:** *The Retirement System and the Department of Correction will not assume any responsibility for payment of fees for furnishing requested information.*

**Job Description**

The work unit shall furnish a copy of the employee's job description, *i.e., essential job functions*.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 21  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**Employee Time Sheets (DC-113W)**

The work unit shall submit copies of the weekly paper time sheets indicating the employee's last day of work and the use of sick and/or vacation leave. If the employee elects to exhaust all accumulated leave before receiving disability benefits, the work unit shall prepare projected DC-113 W's reflecting the use of the leave and submit a copy to the Disability Program Manager so the employee may be placed on the Disability Payroll and to prevent any delays.

If an employee records their time via Employee Self Service (ESS), then the work unit must send projected timesheets up to the employee's LOA without pay date (starting with the day after the last entry in Beacon), if the employee is not already on LOA without pay.

When an employee exhausts leave beyond the sixty (60) day waiting period, disability benefits will begin on the day following the last day leave is exhausted.

**DC-154S (Separation)**

A DC-154S shall be submitted to Personnel Office placing the employee on leave of absence without pay effective either the last day worked or the last day leave is exhausted. The reason shall be recorded as follows:

LOA - Family/Medical Leave - Has applied for Short-term Disability  
LOA - Extended Illness (*Only if the employee is not eligible for Family/Medical Leave*)  
Leave that has been exhausted shall be documented on the DC-154S in the appropriate spaces. Please refer to the Separation Section for details on preparing the DC-154S.

Upon receipt of the application, the Disability Program Manager shall review the Form 701 and complete the Form 700 (Requesting Employer Information Required for Member Disability Income Plan Benefits). The case is prepared for presentation to the Department of Correction Personnel Review Board or as previously stated, to the Retirement System Medical Board for the determination of eligibility for short-term benefits.

The process to prepare the case for presentation may take up to twelve (12) weeks or longer. Payroll deadlines normally occur around the 20th of the month, therefore, the case must be reviewed, approved and payroll forms completed by the 20th of the month to meet the payroll deadline. The Disability Program Manager will make every effort to expedite the process and place the participant on the disability payroll as soon as possible.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 22  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

The following factors may impact when a participant receives his/her first check:

Receipt date of application in the Personnel Office,  
Incomplete application,  
Preparation of the case for presentation to the Review Board,  
Payroll deadline(s),  
Need for additional information for the Review Board or referral of application to the Retirement System Medical Board, which may delay the approval process by twelve (12) weeks.

**PRELIMINARY LONG-TERM**

If the disability is likely to be permanent or last more than twelve (12) months, the Personnel Office may request that the Plan's Medical Board make a preliminary determination for long-term benefits. If approved, this determination may be used at the employer's discretion in lieu of the physician's certification required every thirty (30) days (Form 703). Even though granted a preliminary approval of eligibility for long-term disability benefits, the employee must still make application for long-term disability benefits at the end of the short-term disability period. The employee shall be notified by letter of approval, rejection, or if additional medical information is needed.

**TRIAL REHABILITATION** *(After the 60-day waiting period has ended):*

An employee in receipt of short-term disability benefits may return to work for trial periods of up to forty (40) continuous days without causing a new waiting period, provided management at the employing work unit has authorized the return to work. The short-term disability period will not be extended, however.

In considering an employee's request to return to work for a trial rehabilitation period, the employee's treating physician will need to complete the Essential Job Functions indicating any work restrictions. The employing work unit shall contact the Disability Program Manager prior to the employee's reinstatement, forward a copy of any information provided by the treating physician. Once confirmed, the employing work unit shall notify the Disability Program Manager of the actual date of reinstatement. The employing work unit shall communicate with the Disability Program Manager regarding the employee's work progress and attendance and monitor the forty (40) day period.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 23  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

The employing work unit shall complete a DC-154 to reinstate the employee to his/her position. The standard procedures for reinstating an employee from LOA without Pay shall apply.

Should the employee go out of work again, the Disability Program Manager shall be contacted immediately and provided the following documents:

1. Employee Time Sheets (DC-113W) to determine the number of days the employee actually worked. If the employee worked more than forty (40) continuous days a new waiting period shall be required.
2. A separation transaction (DC154-S) placing the employee on LOA without Pay.

The work unit manager shall also notify the Payroll Office of the employee's LOA.

**FILLING POSITION ON A TEMPORARY BASIS**

Some units may need to fill positions held by employees on short-term disability. Managers may only fill these positions with temporary employees as the employee on short-term disability must be reinstated to the same position or to a position of like salary and status when the disability ends and he/she returns to work. The following steps shall be required:

1. A memorandum from the work unit manager shall be submitted through the Chain-of-Command to the Personnel Office Disability Manager requesting approval to fill the position. The memorandum shall state the following:
  - a. The employee's current medical condition.
  - b. Estimated length of disability according to medical information.
  - c. Likelihood of individual returning to work, and
  - d. Rationale for requesting that the position be filled.
2. The manager shall be notified in writing by the Disability Program Manager as soon as possible regarding the outcome of his/her request to fill a position.

If the request is approved, the position shall be posted. The posting shall indicate it is "Temporary". All personnel transactions that result from this vacancy, (*promotions, demotions, transfers, new hires, etc.*) shall have a signed statement from the selected employees, stating that he/she understands the situation. If the letter is not included in the employment package, it shall be returned without action.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 24  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**Sample Statement: (New Hires)**

*TO: Manager, Department of Correction*

*FROM: Applicant*

*RE: Temporary Appointment*

*I have read and understand the following:*

*I agree to accept the position under the condition that I will immediately resign upon the return of (previous employee's name). I understand that I must maintain acceptable job performance and conduct as further conditions. I further understand that management has the option of granting me permanent status at the end of the disability period if all requirements have been met. Should management choose not to grant me permanent status, I understand that normal recruitment and job posting will occur.*

**Promotions or Other Transactions**

*I agree to accept the position under the condition that I will immediately return to my old position or one of like status upon the return of (previous employee's name). I understand that my pay will be the same as prior to accepting this position plus any Legislative Salary Increase.*

*My statement is irrevocable.*

**EXTENDED SHORT-TERM DISABILITY BENEFITS**

Short-term disability benefits may be extended for up to 365 days beyond the short-term period in cases where the Retirement System Medical Board finds that the disability continues to be temporary and is likely to end during the extended period.

The monthly benefit shall continue to be equal to fifty (50%) percent of the annual base rate of compensation plus longevity, if applicable.



Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 25  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

The Disability Program Manager shall notify the employee in writing sixty (90) days before the end of the Short-term Disability period that if he/she continues to be disabled for the further performance of his/her job duties, application may be made for Extended Short-term or Long-term Disability Benefits. Included in the letter are the necessary forms required to apply for Extended Short-Term Disability benefits, a Form 704 and Form 7A.

The determination for Extended Short-term Disability benefits shall be made by the Retirement System Medical Board. Current medical information shall be submitted. It may take up to twelve (12) weeks to be scheduled for review by the Medical Board. The employee and Disability Program Manager shall be notified in writing of the Board's decision.

Continuation of LOA without Pay shall be considered in accordance the Department's LOA Without Pay Policy.

**APPLYING FOR EXTENDED SHORT-TERM DISABILITY BENEFITS**

**Form 704 Requesting Additional Benefits Through the Disability Income Plan of NC**

The employee or his/her legal representative may initiate a request for Extended Short-term Disability Benefits by completing the Application for Long-term or Extended Short-term Disability Benefits (Form 704), and submit it to the work unit or Personnel Office Disability Manager. The work unit shall forward the completed application directly to the Personnel Office.

**Form 7A Medical Report for Disability Eligibility Review**

This form shall be completed, signed and dated by the employee's treating physician. Other medical information, *i.e.*, *office notes, present medical condition, surgery performed (hospital admission and discharge summaries), diagnostic test results, treatment rendered, prognosis, etc.*, shall be attached to the Form 7A to assist in making the determination regarding an employee's eligibility for short-term disability benefits.

**NOTE:** *The Retirement System and the Department of Correction will not assume any responsibility for payment of fees for furnishing requested information.*

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**LONG-TERM DISABILITY BENEFITS**

**Employees Vested in the Retirement System on July 31, 2007:**

Long-term disability benefits are payable after the conclusion of the short-term disability period for as long as the employee is permanently disabled but not after he/she becomes eligible for an unreduced service retirement, provided the following requirements are met:

1. The employee must have at least five (5) years of contributing membership service in the Retirement System earned within 96 calendar months prior to the end of the short-term disability period.
2. The employee must make application within 180 days after the conclusion of the short-term disability period or after Salary Continuation payments cease or monthly payments for Workers' Compensation cease (excluding permanent partial disability) whichever is later.
3. The employee must be certified by the Medical Board to be mentally or physically disabled for the further performance of his/her usual occupation.
4. The employee disability must have been continuous; likely to be permanent, and incurred while a state teacher or state employee.
5. The employee must terminate employment as a permanent full time teacher or State employee, and
6. The employee must not be eligible to receive an unreduced retirement benefit.

During the first 36 months of the long-term disability period, the monthly long-term benefit shall equal 65% of 1/12th of the annual base rate of compensation that was last payable plus 65% of 1/12th of the annual longevity payment, if any, to a maximum of \$3,900 per month. The monthly benefit shall be reduced by any monthly payments for Workers' Compensation and VA Benefits received for the same disability and by any primary Social Security benefits. Earnings are permitted during the long-term disability period but shall be coordinated through the Retirement System. Refer to "Your Retirement Benefits" handbook for more detailed information.

After the first 36 months of the long-term disability period, the benefit shall be reduced by an amount equal to a primary Social Security disability benefit had the participant been awarded social security disability benefits.

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**Employees Vested After July 31, 2007**

Long-term disability benefits are payable after the conclusion of the short-term disability period for 36 months (unless approved and in receipt of Social Security Disability benefits) provided the employee is permanently disabled but not after he/she becomes eligible for an unreduced service retirement and provided the following requirements are met:

1. The employee must have at least five (5) years of contributing membership service in the Retirement System earned within 96 calendar months prior to the end of the short-term disability period.
2. The employee must make application within 180 days after the conclusion of the short-term disability period or after Salary Continuation payments cease or monthly payments for Workers' Compensation cease (excluding permanent partial disability) which ever is later.
3. The employee must be certified by the Medical Board to be mentally or physically disabled for the further performance of his/her usual occupation.
4. The disability must have been continuous; likely to be permanent, and incurred while a state teacher or state employee.
5. The employee must terminate employment as a permanent full time teacher or State employee; and
6. The employee must not be eligible to receive an unreduced retirement benefit.

The monthly long-term benefit shall equal 65% of 1/12<sup>th</sup> of the annual base rate of compensation that was last payable plus 65% of 1/12<sup>th</sup> of the annual longevity payment, if any, to a maximum of \$3,900 per month. The monthly benefit shall be reduced by any monthly payments for Workers' Compensation, and monthly VA benefits if for the same disability and by any primary Social Security benefits. Earnings are permitted during the long-term disability period but shall be coordinated through the Retirement System. Refer to "Your Retirement Benefits" handbook for more detailed information.

After the first 36 months of the long-term disability period, the benefit shall be suspended until such time that the employee is approved for Social Security Disability benefits.

The Disability Program Manager shall notify the employee in writing ninety (90) days before the end of the short-term disability period of the date his/her short-term disability benefits will end. Included in the letter are the necessary forms required to apply for Long-Term Disability Benefits, a Form 704 and Form 7A.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 28  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

The determination for Long-Term Disability benefits shall be made by the Retirement System Medical Board. Current medical information shall be submitted. It may take up to twelve (12) weeks to be scheduled for review by the Medical Board. The employee and Disability Program Manager shall be notified in writing of the Board's decision.

**APPLYING FOR LONG-TERM DISABILITY BENEFITS**

**Form 704 Requesting Additional Benefits Through the Disability Income Plan of NC**

The employee or his/her legal representative may initiate a request for Long-term Disability Benefits by completing the Application for Long-term or Extended Short-term Disability Benefits (Form 704) and submit it to the work unit or Personnel Office Disability Manager. The work unit shall forward the completed application directly to the Personnel Office.

**Form 7A Medical Report for Disability Eligibility Review**

This form shall be completed, signed and dated by the employee's treating physician. Other medical information, *i.e., office notes, present medical condition, surgery performed (hospital admission and discharge summaries), diagnostic test results, treatment rendered, prognosis, etc.*, shall be attached to the Form 7A to assist in making the determination regarding an employee's eligibility for long-term disability benefits.

**NOTE:** *The Retirement System and the Department of Correction will not assume any responsibility for payment of fees for furnishing requested information.*

Upon receipt of the required application forms, the Disability Program Manager shall submit the application to the Retirement System, as the determination of Disability and eligibility for Long-term and Extended Short-term benefits are made by the Medical Board. It usually takes approximately twelve (12) weeks for the applicant to receive a decision in writing from the Medical Board.

Upon notification of approval for Long-term or Extended Short-term benefits, the Disability Program Manager shall review the position history and notify the work unit of the action that needs to be taken such as separating the disabled employee by submitting the DC-154S, and taking appropriate action regarding the temporary employee currently in the position, if applicable. If approved for Long-term Disability the employee must sign a letter of resignation and submit to the work unit or Personnel Office Disability manager immediately to avoid a delay in receiving benefits.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 29  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

If the employee is denied Long-term or Extended Short-term benefits, the Retirement Systems Division shall send a notification to the employee and the Disability Program Manager. The employee has the right to submit additional medical information within ninety (90) days from the date of the letter, otherwise the application will be cancelled.

Management shall be notified by the Disability Program Manager of the denial for Long-term or Extended Short-term benefits. If the employee is unable to return to work and does not meet the requirements for an early or service retirement, management shall reevaluate the individual's employment status in accordance with the Americans with Disabilities Policy. This process shall be coordinated by the Disability Program Manager.

The employee has the following options:

1. Return to work with or without a reasonable accommodation in accordance with the Americans with Disabilities Policy.
2. Make application for an Early or Service Retirement (must meet eligibility requirements)
3. Submit additional medical information to the Medical Board.
4. Apply for Extended Short-term if disability may end within one year (denial of Long-term).
5. Apply for Long-term if Medical Board determined permanently disabled (denial of Extended Short-term - must meet eligibility requirements.)

**RETURN OF CONTRIBUTIONS**

An employee in receipt of short-term benefits from the Plan shall not be permitted to receive a refund of accumulated contributions from the Retirement System. Furthermore, a person shall also not be permitted to receive retirement benefits from the Retirement System while in receipt of Short-term Benefits from the Plan.

**LEAVE OF ABSENCE WITHOUT PAY**

An employee shall not be covered under the provisions of the Plan during any period of disability that begins while on leave without pay unless in receipt of temporary total benefits under the N.C. Workers' Compensation Act. This act was effective July 27, 1990.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 30  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**HEALTH INSURANCE**

In accordance with Family/Medical Leave, the Department of Correction shall maintain coverage for the employee under the State's group health plan for up to twelve (12) weeks beginning on the first day of the waiting period under the conditions coverage would have been provided if the employee had continued employment. **Any share of health plan premiums which an employee had paid prior to leave must continue to be paid by the employee. The work unit manager shall advise the employee of the terms for payment of premiums during the period of Family/Medical Leave.**

Following the period of leave that has been designated as Family/Medical Leave:

An employee in receipt of short-term disability benefits with at least five (5) years of contributing membership service at the time of disability, is eligible to continue participation in the Comprehensive Major Medical Plan at the same rate charged while an active employee.

An employee in receipt of benefits with less than five years of contributing membership service at the time of disability, may elect to continue under the Major Medical Plan by paying the full premium required. A check payable to the North Carolina Department of Correction should be mailed before the 1st of the month to BEST Shared Services.

**SERVICE ACCRUAL WHILE DISABLED**

The Plan provides for the accrual of creditable service in The Retirement System for each month that an individual is eligible for and is paid a benefit under the Plan.

**NOTE:** *The accrual of creditable service time is for Retirement benefits and is not creditable toward longevity pay, service awards, or leave earning rates.*

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 31  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**DISABILITY INCOME PLAN OF NORTH CAROLINA**

---

**DEATH BENEFIT AND SURVIVOR'S ALTERNATE BENEFIT**

A person in receipt of benefits under the Plan is considered to be in service and covered under the Death Benefit Plan and Survivor's Alternate Benefit.

**Death Benefit** - To be eligible, death must occur after one year of contributing membership service in the Retirement System.

Minimum Payment of \$25,000

Maximum Payment of \$50,000

**Survivor's Alternate Benefit** - To be eligible, the employee must have:

reached age 60 with 5 years of creditable service (age 55 with 5 years of creditable service as a law enforcement officer), or  
completed 20 years of creditable service regardless of age, or  
reached age 50 with 15 years of creditable service as a law enforcement officer.

For more detailed information, refer to "Your Retirement Benefits" (Including Disability Income Benefits) handbook.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 35  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**RETIREMENT BENEFITS**

---

The State of North Carolina provides retirement benefits to state employees as a part of the total package of compensation, which is deferred until the employee retires after completing the appropriate service requirements. The State, state employees, and the investment earnings on total contributions pay the cost of providing retirement benefits.

**APPLYING FOR RETIREMENT BENEFITS**

Retirement benefits are calculated using a formula that incorporates creditable service. Creditable service means any period during which the employee contributed to the Teachers' and State Employees' Retirement System. Creditable service may also include military service, out-of-state service, and other types of service. Refer to the pamphlet entitled "Your Retirement Benefits" or contact the Department of State Treasurer, Retirement Systems Division for more information.

**Form 6, Claiming Your Retirement Benefit**

The Form 6, Claiming Your Retirement Benefit, shall be completed and signed and filed with the Retirement System at least one (1) day prior to the effective date of retirement but not more than 120 days before the effective date. The effective date of retirement shall be the first day of the month. In addition to the Form 6, employees will need to submit projected weekly time sheets from the last time entries in Beacon through their effective retirement date, proof of birth for themselves as well as proof of birth for their beneficiary (if applicable). The Personnel Office will forward the application to the DOC Payroll Office and the Retirement System for processing.

**Estimate of Benefits**

Upon receipt of the Form 6, the Retirement System will send a letter acknowledging receipt of the application. The retiree will later receive estimates of the monthly benefit under the various options that are available. In order to provide an estimate under the Social Security Income Leveling option, the retiree must obtain an estimate of his/her social security benefit from the Social Security Administration, and provide the Retirement System a copy of that estimate. Along with the estimates, an Election of Benefits Form (Form 6E) will be provided to select the payment plan. In order for the benefit to be paid in the first month of retirement, this form must be returned directly to the Retirement System by the tenth (10th) of the month in which the benefit begins. The monthly retirement checks will be issued on the 25th of each month. The first check will be mailed and all future benefit payments will be direct deposited.



Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 36  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**RETIREMENT BENEFITS**

---

**Unused Sick Leave**

Unused sick leave may be converted to creditable service. Sick leave converted from excess vacation leave in accordance with State law is also creditable. One (1) month of credit is allowed for every twenty (20) days or fraction thereof of unused sick leave. Sick leave may be used to complete thirty (30) years of service, regardless of age, twenty-five (25) years of service after age sixty (60) and twenty (20) years of service after age fifty (50). Sick leave shall not be used to satisfy the minimum qualifications for a disability, deferred benefit, or the Survivor's Alternate Benefit.

**Payment of Vacation Leave**

The retiree shall be paid for accumulated vacation leave, using an hourly rate of pay based on 2080 work hours per year, not to exceed a maximum of 240 hours. Employees will also be paid for all bonus leave hours in addition to their vacation leave.

Effective January 1, 1989, State Personnel revised the vacation policy to allow some flexibility for retiring employees. It states: "Employees separating from state service due to service retirement or early retirement may elect to exhaust vacation leave after the last day of work but prior to the effective date of retirement. All benefits accrue while leave is being exhausted. If leave is exhausted, the last day of leave is the date of separation; and any unused leave not exhausted must be paid in a lump sum not to exceed 240 hours. If no leave is exhausted, the last day of work is the date of separation."

Example: An employee retiring effective June 1, 2000, could establish the last day of work as May 18, 2000; exhaust 72 hours of vacation leave through the end of May and receive the unused balance up to 240 hours, in a lump sum. The date separated would be May 31, 2000.

Management shall be responsible for requesting approval to permit an employee to exhaust leave in this manner.

Refer to the employee handbook "Your Retirement Benefits" for the eligibility rules on a Service or Early Retirement.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 37  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**RETIREMENT BENEFITS**

---

**HEALTH INSURANCE**

**Form HM, Selecting Health Coverage through the State Health Plan**

Employees hired prior to October 1, 2006:

The State will pay the full cost of individual coverage under the State's Comprehensive Major Medical Plan if selected, or most of the cost of individual coverage of a PPO. In all cases, the full cost of dependent coverage, if elected, must be paid by the retiree/employee.

Employees hired on or after October 1, 2006:

In order to receive individual coverage at no cost, the employee must retire with twenty (20) or more years of retirement service credit. If the employee has ten (10) years but less than twenty (20) years of retirement service credit, he/she must pay for fifty (50%) percent of the cost of the coverage. If the employee has five (5) years of retirement service credit, but less than ten (10) years, he/she must pay the full cost of the coverage. In all cases, the full cost of dependent coverage, if elected must be paid by the employee.

**NOTE:** Credit received for unused sick leave, or credit transferred from the Local Governmental Employees' Retirement System shall not count toward eligibility for health insurance coverage.

The retiree **shall** complete a new Selecting Health Coverage through the State Plan (Form HM) at the time of his/her retirement for coverage under the Health Plan. The Selecting Health Care Coverage through the State Health Plan (Form HM) along with the Form 170 (Authorizing Direct Deposit) will be mailed directly to the employee's home address from the Retirement System upon receiving the Retirement Application (Form 6).

Coverage as a retiree will begin the first of the month following the effective date of retirement.

The State insurance will continue to be primary insurance up until the retiree meets requirements for Medicare. Then Medicare is the primary insurance and the state insurance becomes secondary.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 38  
Effective : May 1, 1991  
Revised : June 1, 2009

---

Subject:

**RETIREMENT BENEFITS**

---

**UNIT/MANAGEMENT'S RESPONSIBILITY**

1. Management shall be responsible for assisting the employee in the completion of the Form 6, Claiming Your Monthly Retirement Benefit, 90 to 120 days prior the effective date of retirement. The Personnel Office and the Payroll Department will complete the Employer Certification section.
2. The Form 6 should be submitted directly to the Personnel Office at least ninety (90) days prior to the date of retirement in order to process the paperwork between the Personnel Office, the Payroll Office and the Retirement System.
3. Include with the Form 6 a copy of the projected employee time sheet(s) (DC-113W) indicating the days on which the employee will work and the days on which the employee will apply leave. Even employees using Employee Self Service must complete projected weekly time sheets. The Personnel Office will calculate the leave balances and determine ending leave balances upon the employee's retirement

**NOTE:**     **An employee cannot work and retire in the same month.**

**Example:**     Retirement effective date 2-1-00. The last day of employment must be 1-31-00.

4. The Report of Separation (Form DC-154S) shall be completed by the unit prior to the employee's last day of work and submitted through the appropriate chain-of-command. The reason for separation shall be service retirement effective 2-1-00. The F-5B (Report of Separation) for employees certified under Criminal Justice Education and Training Standards should be included with the Report of Separation (Form DC-154S).
5. Time entries will need to be entered and approved in Beacon through the date of separation at the time the DC-154S is submitted to the DOC Separations Office.

**NOTE:** Do not hold the Form 6 to send in with the DC-154S. This form should be sent to the DOC Personnel/Retirement Office prior to processing the DC-154S.

---

Subject:

**RETIREMENT BENEFITS**

---

**DEATH BENEFITS**

Although the System's primary purpose is to provide retirement income, it recognizes that some employees may not live to enjoy their retirement benefits. As a result, the State provides a death benefit that protects the employee.

After one year as a contributing member in the Retirement System, a benefit would be paid to the beneficiary if death occurs within 180 days of the last day of work for which the employee was paid salary. The payment equals the highest 12 months' salary in a row during the 24 months before death, but no less than \$25,000 and no more than \$50,000.

The employing unit should follow the procedures outlined below in the event of an employee's death:

1. Notify the Personnel/Retirement Office immediately of the employee's death along with the following information:
  - a. Employee's name, social security number and date of death,
  - b. Beneficiary's name, current address, if known
  - c. A certified copy of the death certificate shall be requested and should be forwarded to the DOC-Personnel/Retirement Office.
2. Complete a DC-154S (Separation) immediately along with the required Employee Time Sheets (DC-113W), F5-B (if in a certified position), and a copy of the death certificate. If the death certificate is not available at the time the DC-154S is submitted, note on the DC-154S that the death certificate will be forwarded as soon as received.

Upon receipt of the certified death certificate, the Personnel Office forwards the certificate directly to the Retirement System for processing the Death Benefits.

Refer to the (DC-154S) Separation Section for instructions on how to complete the DC-154S in the event of an employee's death.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 41  
Effective : September 1, 1992  
Revised : May 1, 2004

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

**PURPOSE**

As a result of a prolonged medical condition, an employee may exhaust all available leave. It is recognized that such an employee may be without income at a critical time in his/her career and is further recognized that fellow employees may wish to assist the employee by voluntarily donating leave. This program provides an opportunity for employees to assist another employee affected by a medical condition that requires a prolonged absence from work resulting in possible loss of income due to lack of accumulated leave.

**POLICY**

It is the policy of the Department of Correction to administer a Voluntary Shared Leave (VSL) Program consistent with State and Department policies, procedures, and guidelines and to ensure fair and equitable participation.

**GENERAL PROVISIONS**

In cases of a prolonged medical condition, as defined in this policy, an employee may apply or be nominated to become a recipient of leave transferred from the vacation/bonus leave account of another employee from any state agency or from the sick/vacation/bonus leave account of an immediate member in any state agency, so long as the other state agency is covered by the State Personnel Act, G.S. 126, the Public School System and Community Colleges. (*This policy does not apply to local government*).

Use of this policy and participation in the program presumes prudent and justifiable past use of earned leave benefits. Documentation that an employee has abused his/her leave benefits and privileges or has unwisely used leave with the knowledge of an impending need for leave, may be disqualifying factors for participation in the Voluntary Shared Leave Program.

*Vacation, bonus or sick leave transferred and used on a shared basis for any purpose other than what is specified by this policy is strictly prohibited. All donated leave shall be received and used by the recipient as sick leave. Establishment of a leave "bank" for use by unnamed employees is prohibited.*

In the event an employee is placed in a Leave Without Pay (LWOP) status, all VSL donations will be paid at the end of the donation period.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

**DEFINITIONS**

1. **Prolonged Medical Condition:**

- a. A medical condition of an employee or an employee's immediate family member which requires an absence from duty for a prolonged period of time, but for not less than twenty (20) consecutive scheduled workdays or 160 hours, as verified in writing by the health care provider. Specifically included are:

The normal disability period associated with delivery and recovery from childbearing, and

Participation in a drug and/or alcohol treatment program for a minimum of twenty (20) or more consecutive scheduled workdays.

- b. A medical condition of an employee or an employee's immediate family member which requires an employee's absence from duty on an intermittent basis, where prior absences as a direct result of the condition equal twenty (20) workdays or 160 hours during the immediately preceding six (6) months.

Not included are short-term or sporadic conditions or illnesses, including but not limited to such things as sporadic short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term recurring medical or therapeutic treatments which have no specific time frame, i.e., beginning and ending dates.

Each medical condition shall be reviewed individually and a determination made based upon the facts provided by the health care provider (i.e., medical doctor, psychologist, psychiatrist, etc.), the circumstances surrounding the case and the case's conformity to program intent.

2. **Immediate Family Member:** Spouse, parents, children, other dependents, brother, sister, grandparents, grandchildren, great-grandparents, and great-grandchildren. Also included are the step, half, and in-law relationships.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

**ELIGIBILITY**

1. An employee shall be a full-time or part-time (*half-time or more*) employee with a permanent, probationary, trainee, or time-limited appointment. The limitation and leave balance for permanent part-time employees is prorated.
2. The employee shall have been absent from work or anticipate an absence from work as a result of a prolonged medical condition for a minimum of twenty (20) consecutive scheduled workdays or 160 hours; or the employee shall have had intermittent absences during the immediately preceding six (6) months equaling 160 hours as a direct result of the medical condition which is the immediate cause for requesting vacation, bonus or sick leave.
3. Shared leave may be used by an employee who has been approved for benefits under the Disability Income Plan of North Carolina (DIPNC). However, Disability Income Benefits will not begin until the donation period has ended and the employee has been placed in a LWOP status or the employee withdraws from the VSL Program.
4. Any employee on Worker's Compensation leave who is drawing temporary total disability compensation may be eligible for participation in this program. Use of donated leave under the Worker's Compensation program would be limited to use with the supplemental leave schedule published by the Office of State Personnel.
5. Any employee in receipt of Workers' Compensation benefit (i.e., Temporary Total Disability (TTD) or Salary Continuation Program) may be eligible to donate leave under this program. Employees receiving TTD benefits may donate leave earned as of the date of injury and leave accumulated during the first twelve (12) months. Employees receiving Salary Continuation may donate leave as if they are working.

**APPLICATION PROCEDURES**

Employees may apply for participation in the VSL Program at such time as medical evidence is available to support the need for leave beyond the employee's available leave. A completed VSL application package should be received in the DOC Personnel Office prior to the exhausting of all available leave but no later than ten (10) calendar days from the date of Leave-Without-Pay. A completed VSL application package consists of the **Voluntary Shared Leave Program Application, Release Form & Physician's Certification** (Application and Release Form) and the **DC-113, Employee Time Reports** (Time Report). Employees who have returned to work prior to applying for VSL are not eligible for the program.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

1. Employees shall apply by completing the Application and Release Form and submitting it to his/her supervisor. A fellow employee may also nominate an employee for participation; however, the Application and Release Form with supporting medical information shall still be required.
  2. Employees and management must complete side one (1) of the Application and Release Form to include the following information:
    - a. Applicant's name, Social Security Number, Work Location, Classification, and Telephone Number;
    - b. Description of medical condition; and,
    - c. Signature of Applicant and Manager/Supervisor
  3. The employee must have their treating physician to complete side two (2) of the Application and Release Form (Physician's Certification) to include the following:
    - a. A statement from the health care provider with the beginning and ending date of disability, nature of the medical condition and signature/date of the health care provider.
    - b. When the recipient is applying for shared leave due to the illness or disability of an immediate family member, the application shall also include a statement from the health care provider (in the space provided on side two) explaining why the employee/recipient is needed to help care for the immediate family member and what type of medical care he/she will be providing.
- NOTE:** While providing emotional or psychological support for the immediate family member may be sufficient to approve Family/Medical Leave, greater detail of the medical care being provided by the immediate family member is needed to warrant approval for shared leave.*
4. In addition to the above, copies of the applicant's time reports reflecting the first day out of work until all leave has been exhausted (i.e., sick leave, compensatory leave, vacation leave and bonus leave) must be submitted with the Application and Release Form. Projected time reports may be needed if the applicant is submitting his/her request in advance of the event, (i.e., the employee has an estimated date of delivery of October 15, 1994, but submits his/her Application and Release Form in September).



---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

5. For intermittent absences, copies of the applicant's time reports for the immediately preceding six (6) months must be submitted with the Application and Release Form. This is only necessary if the employee has not been absent for twenty (20) consecutive scheduled workdays. Medical documentation is required to support each absence.
6. The completed Application and Release Form with attached supporting documentation, (i.e., health care provider's statement, time reports, etc.) shall be submitted to the manager, (i.e., Warden, Institution Head, Superintendent, Judicial District Manager, Section Chief or designee) for approval. If a request is disapproved by a manager in the chain-of-command, the request need not be forwarded any further and such disapproval shall be the final agency decision. If the request is approved, a copy shall be maintained at the work unit and the original forwarded to the Personnel Office for authorization from the Personnel Director or designee.

***NOTE:** Failure to fully complete the Application and Release Form, including all required signatures, dates, and requested information, or failure to include medical documentation verifying the medical condition and the duration of the medical condition, or failure to include the Employee Time Report shall result in significant processing delays and may result in a denial of the employee's request to participate in the VSL program. Failure to comply with all timelines as stated in this policy shall result in a denial of the employee's request to participate in the VSL program. Documentation that an employee has abused his/her leave benefits and privileges may also be a reason for disapproving a request to participate in the Voluntary Shared Leave Program even if the employee has complied with all other requirements/criteria for participation. Such disqualifying factors shall be applied in a consistent, fair, and reasonable manner to all employees and shall be appropriately documented.*

7. Following receipt of the completed VSL application package, the Personnel Director or designee shall review the request and render a decision consistent with the recipient guidelines described in this policy.
8. Upon reaching a decision, the Personnel Director or designee shall notify the work unit, in writing, of the decision and, if approved, the beginning and ending dates of the donation period. A donation period of twenty-one (21) calendar days shall be established. During this time only, will donations for a particular applicant/recipient be accepted. The donation period shall begin on the date of application approval and end on the twenty-first (21<sup>st</sup>) calendar day. **ABSOLUTELY NO EXTENSIONS WILL BE PERMITTED.** Any donation of leave received after the twenty-first (21<sup>st</sup>) calendar day shall be disapproved.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

9. Upon receipt of the written approval from the Personnel Director or designee, the work unit shall be responsible for notifying the recipient, in writing.
10. The Personnel Director or designee shall publicize the recipient's application approval for participation in the VSL Program, via e-mail to all Benefit Representatives within the Department, for purpose of advising prospective donors.
11. Once the Benefit Representatives receive the broadcast memorandum, it must be posted within three (3) calendar days, for all employees to read, unless the recipient chooses not to publicize their participation.
12. The recipient shall be responsible for notifying immediate family members in other state agencies, public schools, and community colleges of the application approval. The recipient is also responsible for notifying non-family members in other state agencies.

**RECIPIENT GUIDELINES**

1. An employee approved for participation in the VSL Program shall exhaust all available leave (i.e., sick leave, compensatory leave, vacation leave and bonus leave) prior to using any donated leave. This includes vacation and sick leave accumulated while in pay status (i.e., exhausting paid leave benefits).
2. Participation in the Shared Leave Program is limited to a total of 1,040 hours (*prorated for part-time employees*) per medical condition. An employee may apply more than once for the same medical condition provided the employee returns to work for more than five (5) consecutively scheduled work days and meets the definition of a prolonged medical condition. The Personnel Director or designee may grant a continuation to a maximum of 2,080 hours on a case-by-case basis.
3. Recipients may use donated leave on an intermittent basis provided there is a defined period of time with a beginning and ending date to the condition or for the treatment and so long as all other requirements for approval for participation in the VSL Program have been satisfied. In such cases, an employee is required to exhaust all available vacation, bonus and sick leave credits, including leave accumulated while in pay status, prior to using any donated leave.
4. Donated leave shall be available for use on a current basis or may be retroactive for up to sixty (60) calendar days from the date the donated leave is approved by the DOC Personnel Office.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

5. At the expiration of the employee's participation in the VSL Program, any unused sick leave in the recipient's leave account, in excess of forty (40) hours, shall be returned to the donor(s) on a pro rata basis and credited to the leave account from which it was donated. Fractions of an hour shall not be returned to the donor(s).
6. A recipient may return to work for a trial period not to exceed five (5) consecutive scheduled workdays without affecting his/her eligibility for continued participation in the VSL Program.

***NOTE:** The amount of donated leave to be returned to the donor(s) shall not be calculated until the sixth (6th) day following the employee's return to work.*

7. If a recipient separates for any reason from State government, participation in the program ends. All unused donated leave shall be returned to the donor(s) on a pro rata basis.

**DONOR GUIDELINES**

1. Employees may donate vacation/bonus leave to any state agency (this does not apply to public schools and community colleges). Employees may donate vacation/bonus leave to a coworker's immediate family member who is an employee of the public schools or the community colleges. The donor and the coworker must be employed by the same state agency.
2. Immediate family members may donate vacation, bonus or sick leave to other immediate family members in any state agency, public school or community college. A recipient's immediate family member may donate up to a maximum of 1,040 hours of sick leave, but may not reduce his/her sick leave account below forty (40) hours when donating leave.
3. The maximum amount of vacation leave allowed for donation by one individual shall not be more than the amount of the individual's annual earning rate. In addition, the amount donated may not reduce the donor's vacation leave balance below one-half of the annual vacation leave earning rate. (See chart at the end of this policy)
4. The minimum amount of vacation, bonus or sick leave that may be donated is four (4) hours.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

**PROCEDURES FOR DONATING LEAVE**

1. Employees within the Department of Correction who wish to donate leave to another Department of Correction employee shall complete the Donor Information Sheet (donor form) and submit to his/her supervisor for verification of leave account information and approval.
2. Upon receipt of the completed Donor Form, the supervisor shall immediately forward it directly to the work location's Benefit Representative for review of leave. The donor form must then be forwarded to the Benefits Section, in the Personnel Office, for final approval.

***NOTE:** The donor forms must be received in the Benefits Section on or before the twenty-first (21<sup>st</sup>) calendar day, of the donation period. Failure to do so shall result in the donation being disapproved.*

3. Employees of other state agencies, public schools and community colleges who wish to donate leave to a Department of Correction employee shall complete the Department of Correction's Donor Form, or a similar form provided by their employer. They must contact their personnel office to advise their desire to donate leave, obtain approval, and forward the completed form to the Department of Correction, Personnel Office. The Department of Correction Personnel Office shall provide written notice to the donor's employer that the transfer of leave has been accepted.
4. After approval of the employee's request for participation in the Voluntary Shared Leave Program, the Personnel Director or designee shall review all Donor Forms, approve/disapprove the donation and notify the work location's Benefit Representative.
5. Employees of the Department of Correction who wish to donate leave to other state agencies, public schools or community colleges shall:
  - a. Complete the Donor Form or a similar form provided by the recipient's employer;
  - b. Obtain a copy of recipient's approval notification for participation; and
  - c. Submit the above (a & b) to the Department of Correction, Personnel Office, for review and consideration. If approved, the Personnel Director or designee shall notify the employing agency of the authorization for the leave donation, and shall further notify, in writing, donor's work location Benefit Representative to authorize the appropriate deduction(s) from the donor's leave account(s).

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

**LEAVE WITHOUT PAY (LWOP) PROCEDURES**

Once the employee has exhausted all accumulated vacation and sick leave, management must:

1. Immediately place employee on LWOP (see LWOP Policy & Procedures);
2. Await the expiration of the twenty-one (21) calendar day donation period and the approval of all donated leave from the Personnel Office;
3. Reinstatement employee to the payroll no later than seven (7) calendar days from the date of the donation approval memorandum; submit DC-154 package to Separation Section of Personnel.
4. Immediately place employee on LWOP if he/she can not return to work at the expiration of VSL exhaustion.

**LEAVE ACCOUNTING PROCEDURES**

1. The work unit shall be responsible for establishing a system of leave accountability that accurately records leave donations and recipient's use of donated leave for financial and management audit purposes.
2. Once VSL has been approved and the employee will be out of work for more than thirty (30) consecutive calendar days, his/her work schedule shall be converted to show Monday through Friday as scheduled workdays with weekends and holidays off.
3. No leave shall be transferred under the VSL Program prior to receiving written approval from the Personnel Director or designee.
4. All donated leave shall be received and used by the recipient as sick leave, using the code "S" on the time report.
5. Donated leave shall be added to the recipient's sick leave account by recording the amount of donated leave in the block labeled "earned" and marked with an asterisk (\*). The donated leave shall be added to the balance forward, if any, and the employee's earning rate to arrive at the subtotal. An explanation of the donated leave shall be provided in the comments/justification section.

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

***NOTE:** If leave has been concurrently designated as Family/Medical Leave, the procedures for recording leave as described in the Family/Medical Leave Policy shall also apply.*

6. While exhausting donated leave, a recipient is in pay status and therefore, continues to accumulate leave benefits. Accumulated leave shall be used prior to using donated leave.

***Example:** An employee exhausted accumulated leave from April 3 to April 20. On April 21 the employee begins exhausting donated leave. However, on May 15, the 11th day of the leave accounting cycle, the employee accumulates vacation and sick leave. This leave must be exhausted beginning on the 11th day and continue exhausting all leave (vacation and sick leave) prior to using donated leave again.*

7. Leave donated shall be deducted from the donor's appropriate leave account and shall be reflected on the donor's time report in the leave taken column and marked with an asterisk (\*) with an explanation provided in the comments/justification section.

At the expiration of the employee/recipient's participation in the VSL Program, any unused sick leave in the recipient's leave account, in excess of forty (40) hours, shall be returned to the donor(s) on a pro rata basis and credited to the leave account from which it was donated. Employees who donate vacation leave in excess of the 240 hour maximum allowable carryover at the end of the year may have it returned and converted to sick leave if it is not used by the recipient. Fractions of one (1) hour shall not be returned to an individual donor.

**EXPIRATION OF VSL BENEFIT**

Each approved medical condition shall stand alone. Donated leave not used in accordance with the provisions of this policy shall be considered as having served its purpose, shall lose its identity, and shall be deleted and the account closed. An employee's participation in the VSL Program shall expire when one of the following events occur:

1. the employee returns to work prior to his/her request for participation in the shared leave program being approved by the Personnel Office;
2. the employee returns to work for more than five (5) consecutive, scheduled work days;
3. the employee/recipient returns to work before the twenty (21) day donation period ends;
4. the recipient's Donation Period ends and the employee exhaust all donated leave;
5. the employee receives and exhausts the maximum amount of leave that may be received per condition, i.e., 1,040 hours per twelve (12) month period;

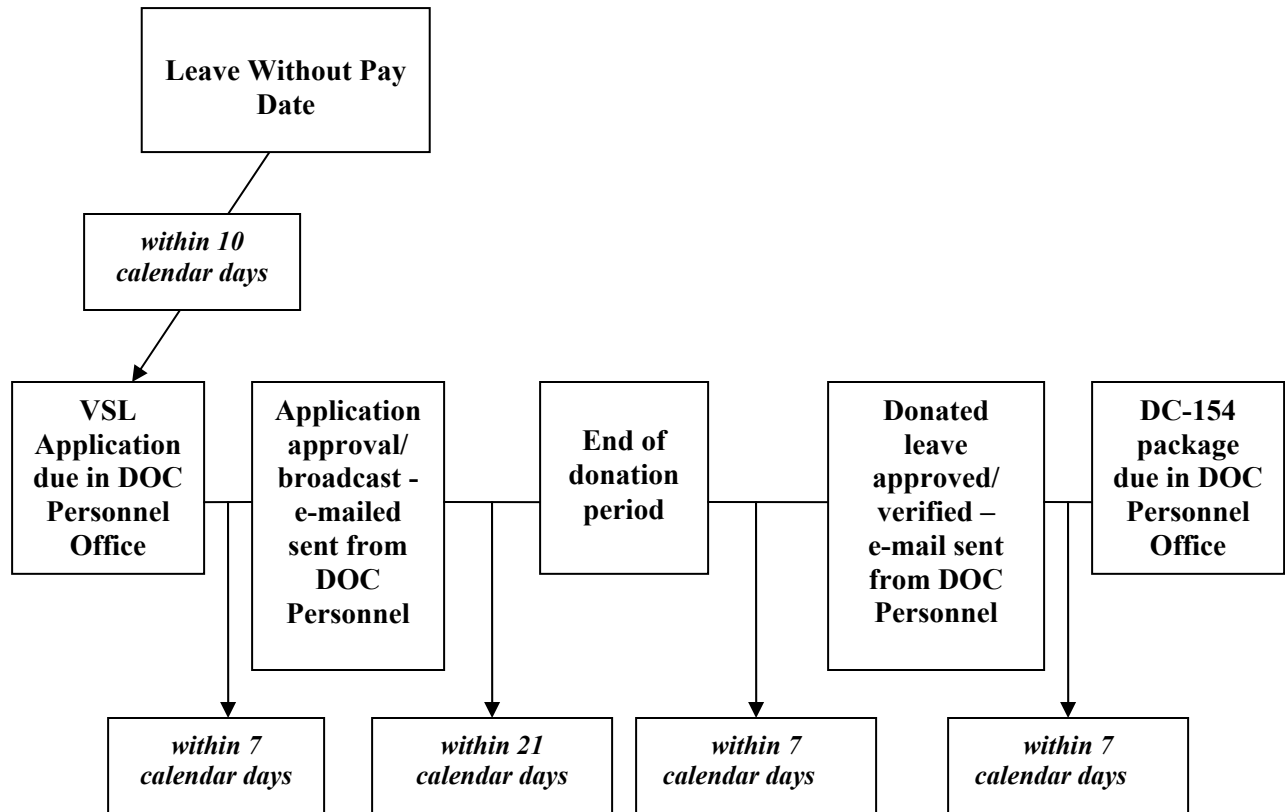
Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

6. the employee begins receiving benefits under the Disability Income Plan of North Carolina;
7. the employee separates from State Government; or,
8. the death of the employee or the death of the immediate family member for whom the employee has been using leave.

At the expiration of the employee's participation, the appropriate action shall be taken dependent upon the event, i.e., Personnel Separation Form (DC154S), etc.

**TIME LINE**



Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 52  
Effective : September 1, 1992  
Revised : May 1, 2004

---

Subject:

**VOLUNTARY SHARED LEAVE PROGRAM**

---

**CONFIDENTIALITY OF RECORDS**

All records associated with the Voluntary Shared Leave Program are confidential and shall be maintained in that manner. As required by the Americans with Disabilities Act of 1990, those records that are also medical records shall be maintained in the recipient's employee medical record separate from the primary personnel record.

Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave.

**DISCIPLINARY ACTION**

Notwithstanding a manager/supervisors approval/disapproval, an employee shall not directly or indirectly attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using leave under this program. Employees shall not sell their leave for money or exchange their leave for favors. Such actions by an employee shall be viewed as unacceptable personal conduct and shall be grounds for disciplinary action up to and including dismissal.





**VOLUNTARY SHARED LEAVE PROGRAM APPLICATION, RELEASE FORM & PHYSICIAN'S CERTIFICATION**

**Please return completed form to your supervisor for consideration and subsequent chain of command review.**

**NOTE: PLEASE TYPE OR PRINT.**

Applicant's Name: \_\_\_\_\_

Patient's Name and relationship to Applicant: \_\_\_\_\_  
(If other than applicant)

SSN: \_\_\_\_\_ Classification: \_\_\_\_\_

Work Location/Unit #: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_

Description of Medical Condition: \_\_\_\_\_  
\_\_\_\_\_

**Would you like your Voluntary Shared Leave participation broadcasted in the Department?  Yes  No**

**Either the Doctor's Certification on the back side of this form must be completed or a doctor's statement containing the necessary information must be attached before the application will be considered.**

I, \_\_\_\_\_, request participation in the Shared Leave Program due to the above mentioned medical condition. I hereby authorize the release of the above mentioned information for the purpose of receiving leave as prescribed by the Voluntary Shared Leave Program policy. I further authorize my treating physician to release any information acquired in the course of my examination(s) or treatment(s) to my employer as indicated for purposes of receiving donated leave in accordance with the Voluntary Shared Leave Program policy.

I understand that I may not force or coerce any individual into donating leave. The donation of leave under this program shall be entirely voluntary. If the use of force or coercion is discovered, it will be viewed as unacceptable personal conduct and dealt with accordingly.

\_\_\_\_\_  
Applicant's Signature                      Date

\_\_\_\_\_  
Manger's Signature                      Date

**Attachments Required:      Employee Time Report(s) (DC-113)  
   Additional Physician's Certification if provided**

**VOLUNTARY SHARED LEAVE PROGRAM – PHYSICIAN’S CERTIFICATION**

*Please have the treating physician complete this Section and return it to your Benefit Representative.*

I hereby certify that I first treated \_\_\_\_\_  
(Give name of patient)

for his/her present disability on \_\_\_\_\_  
(Month) (Day) (Year)

and that he/she became disabled to perform his/her regular job on \_\_\_\_\_  
(Month) (Day) (Year)

with a diagnosis of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and that he/she is/was continuously disabled to the extent that he/she could not perform his/her regular job duties from that date through \_\_\_\_\_  
(Month) (Day) (Year)

The prognosis is that the total length of his/her disability will be approximately \_\_\_\_\_ weeks.

If the patient is not the employee/applicant, please furnish a detailed statement describing the medical care that the employee/applicant will be providing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Physician’s Name (Print) Signature Degree Date

\_\_\_\_\_  
Physicians Suppliers and/or Group Name Telephone Number

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 78  
Effective : May 1, 1991  
Revised : October 1, 2001

---

Subject:

**UNEMPLOYMENT INSURANCE**

---

**Coverage**

Effective January 1, 1978, the North Carolina General Assembly provided unemployment insurance coverage for all temporary and permanent State employees except those exempted in accordance with Employment Security Law of North Carolina. Please refer to the State Personnel Manual for the types of work covered and those not covered.

**Policy**

The Employment Security Commission (ESC) has sole jurisdiction over decisions concerning unemployment insurance claims adjudication and benefit rights, and has adopted regulations in conjunction with Employment Security Law for claims processing and benefits administration. It is the policy of the State and the Department of Correction to comply with Employment Security Law and ESC regulations in a cooperative and expeditious manner. The purpose of this policy is to assure employees the benefits provided by law while protecting the State and the Department of Correction from undue benefit charges.

Please refer to the State Personnel Manual for the policy and procedures governing unemployment insurance.

**Administration**

The Office of State Personnel is responsible for designing, effecting, and maintaining a centralized Unemployment Insurance Cost Management Program, which shall have as its goal effective claims administration and the control of benefit costs.

The Department of Correction is responsible for designating a coordinator within the Department to control the flow of necessary information between the Department, the Office of State Personnel, and the claims administrator retained by the Office of State Personnel.

A third party administrator is responsible for processing most of the forms related to unemployment insurance claims filed against State Government, including the Department of Correction.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 79  
Effective : May 1, 1991  
Revised : October 1, 2001

---

Subject:

**UNEMPLOYMENT INSURANCE**

---

The Department's Unemployment Insurance Coordinator is assigned to the Personnel Office. However, in most cases the third party administrator representative will be referred to the appropriate manager/supervisor for additional details regarding employment and/or separation information on a particular claimant. As the representative is acting on behalf of the agency and in the agency's best interest, it is of utmost importance that this individual be given full assistance and cooperation and provided with any and all information sought.

Occasionally, unemployment insurance forms may be received at a work location (i.e., correctional facility, judicial division, etc.) rather than the office of third party administrator. In these cases, the appropriate manager/supervisor should complete the form, retain a copy for their records, forward a copy to the third party administrator, and forward the original to the ESC Office where the form originated. As time frames are of the essence, an uncompleted form should not be forwarded to the Personnel Office or the third party administrator as this may cause the Department to be untimely in responding.

Any questions, comments, or concerns regarding unemployment insurance policy, procedures, or claims should be directed to the coordinator in the Personnel Office.

---

Subject:

**LEAVE WITHOUT PAY**

---

**POLICY**

It is the policy of the Department of Correction to administer leave without pay consistent with State laws, policies, and procedures and in a manner that is fair and equitable to all employees.

**GENERAL PROVISIONS**

**NOTE:** *The following procedures do not apply to leave without pay for Short-term Disability and Workers' Compensation.*

Leave without pay (LWOP) is official permission to be absent from work or duty without compensation for educational purposes, family and medical leave, parental leave, vacation, or any other justifiable reason with approval by the Department's Personnel Director and the Office of State Personnel. Managers have been delegated the authority to approve requests for LWOP consistent with the needs of the respective work locations.

Leave without pay may be granted to full-time or part-time employees with a permanent, trainee, or probationary appointment.

Employees placed on LWOP are still employees of the Department of Correction and are responsible for abiding by the Department's policies and procedures. Failure to comply with the Department's policies and procedures while on LWOP may result in disciplinary action up to and including dismissal. If an employee is in doubt about an issue or a situation, he/she shall be responsible for contacting the manager (*i.e., Superintendent, Judicial District Manager, Section Chief, etc.*) of his/her work unit immediately for clarification. The "Request and Approval for LWOP" form includes this information.

Factors to Consider When Granting LWOP include:

1. The needs of the employee requesting leave;
2. Work load of the employee and the work unit;
3. The need for filling the employee's job;
4. The chances of the employee returning to work;
5. The obligation of the agency to reinstate the employee to a position of like status and pay;
6. The ability to accommodate under the Americans with Disabilities Act or 1990.

---

Subject:

**LEAVE WITHOUT PAY**

---

There are two (2) primary categories of LWOP:

1. **EXTENDED LEAVE WITHOUT PAY** - leave in excess of one-half of the work days in the leave accounting period (*greater than ten work days or eighty hours*).
2. **SHORT LEAVE WITHOUT PAY** - leave for less than one-half of the workdays in the leave accounting period (*less than ten workdays or eighty hours*), otherwise known as docking.

**EXTENDED LEAVE WITHOUT PAY (LWOP)**

**Length of Extended LWOP**

Extended LWOP shall be requested in increments of thirty (30) calendar days unless the duration of the period of LWOP is known at the time of the request, in which case LWOP may be requested in increments of other than thirty (30) calendar days, *i.e., Family and Medical Leave, Parental Leave, etc.* This does not preclude the manager from approving a request for LWOP of less than thirty (30) calendar days.

The total period of leave shall not normally exceed six (6) months, unless individual circumstances warrant an extension, and shall never be approved past twelve (12) months. The one exception is LWOP for Workers' Compensation, in which case, the policies governing Workers' Compensation shall apply. Furthermore, LWOP shall be reevaluated at any time that the manager or supervisor is put on notice that the employee is permanently disabled.

**Requests for Extended LWOP**

An employee or his/her authorized agent shall complete the "Request and Approval for LWOP" form to request extended LWOP and submit the completed form to the employee's immediate supervisor. Even where an employee has applied for Short-term Disability or participation in the Voluntary Shared Leave Program, the employee shall also be required to submit a written request for LWOP. Authorized agents may be used only in those cases when the employee is mentally or medically unable to act on his/her own behalf.

---

Subject:

**LEAVE WITHOUT PAY**

---

This form requires the following information:

1. the employee's name
2. the name of the authorized agent's name (*if applicable*)
3. the employee's social security number
4. the employee's work location
5. the employee's position classification
6. the reason for the request for LWOP

**NOTE:** *Documentation supporting the need for LWOP, i.e., medical certification, may be required by the supervisor and manager of the employee prior to approving a request for LWOP.*

7. the beginning date and the expected date of return
8. the employee's or authorized agent's signature

Upon receipt of the completed and signed "Request and Approval for LWOP" form, the manager shall consider the request and render a decision. The employee shall be notified in **writing** of the decision and if approved, the employee shall be further advised that failure to return on or before the expected date of return or failure to request and receive approval for an extension of LWOP prior to the expected date of return may be considered the employee's resignation from employment.

In those cases where an employee is exhausting paid vacation or sick leave, and the employee's combined total of vacation and sick leave credits equals eighty (80) hours or less, the supervisor shall contact the employee, in writing, to advise the employee of:

1. his/her combined vacation/sick leave balance,
2. the procedures for requesting LWOP, *i.e., "Request and Approval for LWOP"* and,
3. that failure to request LWOP prior to all vacation and sick leave being exhausted may result in the employee's separation from employment under the provisions of "Separation Due to Unavailability When Leave is Exhausted."

The supervisor may choose to contact the employee by telephone; however, the supervisor shall also contact the employee in writing acknowledging the conversation and include a copy of the "Request and Approval for LWOP" form. The primary issue is to ensure that the employee is fully advised and aware of his/her responsibilities and the consequences of his/her failure to fulfill those responsibilities.



---

Subject:

**LEAVE WITHOUT PAY**

---

Upon receipt of the completed and signed "Request and Approval for LWOP" form, the manager shall consider the request and render a decision. The employee shall be notified in writing of the decision and if approved, the employee shall be further advised that failure to return on or before the expected date of return or failure to request and receive approval for an extension of LWOP prior to the expected date of return may be considered the employee's resignation from employment.

**Requests for Extensions of Extended LWOP**

The employee is obligated to return to work within or at the end of the time granted. If the employee will not return to work on the specified date, the employee or his/her authorized agent is responsible for promptly notifying the immediate supervisor and requesting, in writing, approval for an extension of the initial LWOP. The "Request and Approval for LWOP" form shall generally be used for requesting extensions; however, a written memorandum may also be accepted, provided it contains sufficient information. Where an employee has been approved and is receiving benefits under the Short-term Disability Program, the DIP-3 Form - "Request for Payment By Employee and Certification of Disability By Physician" may be accepted as an employee's request for an extension of LWOP. The request for an extension shall include all information requested on the form. Documentation supporting the need for an extension of LWOP, *i.e., medical certification*, may be required by the supervisor and manager of the employee prior to approving a request for an extension of LWOP.

If the employee does not return to work on the specified date, and neither the employee nor his/her authorized agent has requested and received approval for an extension prior to the expected date of return, the manager may pursue separation under the provisions of "Voluntary Resignation Without Written Notice."

**Policy Exceptions for Emergencies**

In situations where the event precipitating the need for LWOP is not foreseeable and/or could not have been anticipated by the employee, a supervisor may, in his/her discretion, allow an exception to the previously outlined procedures. Such exceptions shall only be acceptable for emergency situations.

***Example:*** *An employee with little to no accumulated leave credits is seriously injured in an car accident and is unable to return to work for six (6) weeks.*

---

Subject:

**LEAVE WITHOUT PAY**

---

**Example:** *An employee with little to no accumulated leave credits is diagnosed with acute appendicitis requiring emergency surgery and is unable to return to work for six (6) weeks.*

**Example:** *An employee with little to no accumulated leave has a heart attack requiring a lengthy period of hospitalization and is unable to return to work for three (3) months.*

In such situations the supervisor may waive the employee's responsibility of requesting LWOP in advance. The employee or his/her authorized agent shall still be required to complete the "Request and Approval for LWOP" form, provide a written statement documenting the emergency situation, and return both to the supervisor within ten (10) calendar days of the date of event precipitating the need for LWOP. Exceptions to this will be authorized on a case-by-case basis.

**Example:** *An employee with no accumulated leave credits is notified on 12/15/93 that their parent living in another state has suffered from an aneurysm of the brain and is in a coma. The employee must leave immediately. The supervisor may place the employee on LWOP due to emergency circumstances; however, the employee is required to provide a written statement documenting the emergency situation and the "Request and Approval for LWOP" form to the supervisor on or before 12/25/93.*

Documentation supporting the need for LWOP, *i.e., medical certification*, may be required of the supervisor prior to an approval for LWOP.

If an employee or his/her authorized agent does not request LWOP after having been advised of the procedures, and fails to return to work, the manager may pursue separation of the employee under the provisions of "Voluntary Resignation Without Written Notice." Documentation of notice to the employee is essential to the separation under the provisions of "Voluntary Resignation Without Written Notice."

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 121  
Effective : March 1, 1994  
Revised : November 1, 1997

---

Subject:

**LEAVE WITHOUT PAY**

---

**Approvals for LWOP**

Upon the supervisor's approval of an employee's request for LWOP, an extension of LWOP, or a LWOP where the supervisor allowed an exception to policy due to a medical emergency, the supervisor shall notify the employee in writing of the approval by completing the approval section of the "Request and Approval for LWOP" form and returning a signed copy to the employee or his/her authorized agent. The reverse side of the "Request and Approval of LWOP" form shall also be completed with the period of leave is to be designated as Family/Medical Leave.

**RETURN FROM LWOP**

**Workers' Compensation and Short-term Disability - LWOP**

In situations where the employee is on LWOP - Workers' Compensation or LWOP - Short-term Disability, the Personnel Office shall be responsible for gathering the pertinent information and referring it to the manager. However, there may be occasions where the work unit manager receives information indicating a permanent disability before the Personnel Office receives such information, even with Workers' Compensation or Short-term Disability cases. In such situations the work unit manager shall be responsible for initiating procedures under the Americans with Disabilities Act (ADA) Policy.

***Example:*** *An employee was approved for Short-term Disability and has been on LWOP for six (6) months. Information is received from the health care provider indicating that the employee is permanently disabled. Upon receipt of this information, the manager reevaluates the employee's LWOP status and advises the employee of the procedures for requesting a reasonable accommodation under the ADA.*

When an employee has been on LWOP - Short-term Disability and the health care provider has released the employee to return to work, or the employee wants to return to work even if the health care provider has not released the employee to return to full duty, or the employee has exhausted all available benefits, *i.e., short-term disability period has expired and the employee is not eligible for long-term disability, etc.*, the Personnel Office shall be responsible for requesting information from the health care provider.

---

Subject:

**LEAVE WITHOUT PAY**

---

Specifically, the Personnel Office shall send the treating health care provider a list of the essential job functions for the employee's position, and ask the health care provider to indicate which, if any, of the essential job functions the employee is unable to perform. The health care provider shall also be asked to indicate if the employee's disability is temporary or permanent and if temporary, how long will the temporary disability last. Upon receipt of this information, the Personnel office shall either initiate procedures with appropriate management to return the employee to work status or shall advise the employee of the process for requesting a reasonable accommodation under the ADA Policy.

**Other LWOP**

In those cases where an employee has been placed on approved LWOP and the work unit manager receives information indicating a permanent disability, the manager shall initiate procedures under the Americans with Disabilities Act (ADA) Policy.

**SHORT LEAVE WITHOUT PAY (LWOP)**

Short LWOP is intended to be used:

1. to account for the time that an employee is absent from work and has no accumulated or advanced leave credits, or
2. to account for the time that an employee is absent from work and has not requested and received approval to use sick or vacation leave, *i.e., unapproved leave.*

**NOTE:** *The decision to either advance leave or authorize short LWOP is the responsibility of management. However, an employee cannot be advanced more leave than that which the employee would earn during the remaining leave accounting periods. Additionally, employees with negative leave balances at the end of the last/thirteenth leave accounting period shall be docked for the negative amount.*

Employees shall be responsible for requesting approval for short LWOP in the same manner as extended LWOP. Specifically, when the event precipitating the need for leave is foreseeable, an employee or his/her authorized agent shall complete the "Request and Approval for LWOP" form to request short LWOP and submit the completed form to the employee's immediate supervisor. Authorized agents may be used only in those cases when the employee is mentally or medically unable to act on his/her own behalf.

---

Subject:

**LEAVE WITHOUT PAY**

---

Documentation supporting the need for short LWOP, *i.e., medical certification*, may be required by the supervisor and manager of the employee, if applicable, prior to approving a request for short LWOP.

**Example:** *A new employee with an effective date of hire of November 1, 1993 requests a one (1) week vacation in December. The employee has no accumulated leave credits and leave cannot be advanced; thus, the employee may request short LWOP.*

**Example:** *A new employee with an effective date of hire of November 1, 1993 requests one (1) day of leave to be with their spouse who is scheduled for surgery. The employee has no accumulated leave credits and leave cannot be advanced; thus, the employee, may with the supervisor's approval, be placed on short LWOP.*

In situations where the event precipitating the need for short LWOP is not foreseeable and/or could not have been anticipated by the employee, a supervisor may, in his/her discretion, allow an exception to the previously delineated procedures. Such exceptions shall only be acceptable for emergency situations.

**Example:** *A new employee with an effective date of employment of December 15, 1993 and no accumulated leave credits contracts the flu and is absent from work for three (3) days. Leave cannot be advanced and the employee has no accumulated leave credits. In this case, the employee could be placed on short LWOP for three (3) work days.*

In such situations, the supervisor may waive the employee's responsibility of requesting short LWOP in advance; however, the supervisor shall still require that the employee or his/her authorized agent provide a written statement documenting the emergency situation upon the employee's return to work.

If the employee's absence will extend beyond ten (10) work days or eighty (80) hours, the procedures for extended LWOP shall be followed.

Short LWOP may also be used in those situations to cover the status of an employee who has failed to report to work but has not requested and received approval to take sick or vacation leave. Managers and supervisors are responsible for determining, in such cases, whether short LWOP is appropriate or whether the time may be charged to a more appropriate leave account.

---

Subject:

**LEAVE WITHOUT PAY**

---

Additionally, employees who are absent from work without approved leave may be subject to disciplinary action in accordance with the Department's disciplinary policies and procedures.

**Example:** *An employee calls in stating that he/she will not report to work that day due to personal reasons. The supervisor advises the employee that leave is not being approved and orders the employee to report to work. The employee does not report to work that day. Although the employee may have accumulated vacation leave credits, the supervisor may dock the employee for one (1) day rather than charge the time to vacation leave.*

The employee continues to earn all benefits for which they are eligible.

**OPTIONS FOR CHARGING LEAVE**

Accumulated sick leave shall be exhausted before going on sick LWOP when the need for LWOP is due to the employee's illness. This applies regardless of the employee's eligibility for Family/Medical Leave. Any portion of or all accumulated vacation leave may be exhausted before going on LWOP. Unused vacation leave will be retained for the employee upon return to work.

*Exceptions:*

1. *An employee may retain accumulated sick leave after satisfying the sixty (60) day waiting period before going on LWOP - Short-term Disability.*
2. *If an employee has accumulated vacation leave, all vacation leave shall be exhausted before going on LWOP for vacation purposes, or*
3. *If an employee requests LWOP for personal reasons for a period not to exceed ten (10) workdays, vacation leave shall be used if available; however, if the leave is for a period longer than ten (10) workdays, the employee may choose to use vacation leave or retain it for future use.*

**REINSTATEMENT RIGHTS OF EMPLOYEES RETURNING FROM LWOP**

When the employee returns to work, he/she shall be reinstated to the same position or one of like seniority, status, and pay unless other arrangements are agreed to in writing.

---

Subject:

**LEAVE WITHOUT PAY**

---

Refer to the State Personnel Manual, Section 8, for an explanation of the retention of benefits and the employee's retirement status.

**PROCEDURES**

For any LWOP request, a DC-154S shall be completed and submitted to the Personnel Office for action.

**Extended LWOP:**

1. Notify the Payroll Office of the effective date of the LWOP to ensure the employee is properly compensated.
2. Complete the DC-154S sections one and three indicating the following:
  - a. Last day worked
  - b. Reason for LWOP - check appropriate blank. If reason is other, indicate the reason on the blanks provided;
  - c. Duration of LWOP, *i.e.*, 11/15/93 to 12/31/93.  
If an employee exhausts leave prior to LWOP and fails to be in pay status a full eight (8) hours prior to going on or returning from LWOP, the actual number of pay status hours must be documented on the DC-154S in brackets.  
**Example:** From 11/15/93 (4 hrs.) to 12/31/93 (2 hrs.)
  - d. The total number of hours of vacation and/or sick leave exhausted since the last day worked and the beginning and ending dates for vacation and/or sick leave exhausted. Leave may be exhausted prior to going on LWOP to a zero (0) balance.  
**Example:** No. of Hours of Sick Leave Used: 166.45  
From: 10/04/93 To: 11/01/93(6.45 hrs.)  
No. of Hours of Vac. Leave Used: 70.45  
From: 11/01/93(2 hrs.) To: 11/15/93(4.45 hrs.)
  - e. The final leave balances.
  - f. Date Payroll notified.
  - g. Last holiday given, holiday(s) advanced, and holiday(s) due.  
**NOTE:** *Holidays shall not be advanced while exhausting leave.*
  - h. In the comments section indicate that medical certification is on file in the employee's work unit medical file, if applicable.

---

Subject:

**LEAVE WITHOUT PAY**

---

3. Attach the following documents:
  - a. DC-113(s) for entire month(s) leave is exhausted.
  - b. Copy of the completed and signed "Request and Approval for LWOP" form. Do not attach any medical certification. The only exception applies to the actual period of disability associated with childbirth, whereas, the health care provider's statement verifying the dates of the employee's actual period of disability shall be provided. This is necessary to verify the beginning and ending dates that sick leave was exhausted.
  - c. Two (2) copies of the Criminal Justice Form F-5B for probationary certified employees.
  
4. If LWOP has been approved due to an emergency, the above procedures shall still be followed; however, a statement in the comments section of the DC-154S indicating that an exception to policy has been allowed due to an emergency situation shall be included. A copy of the completed and signed "Request and Approval for LWOP" form shall be submitted upon receipt.
  
5. If an employee is being placed on unapproved leave, the DC-154S sections one and three shall be completed indicating the following:
  - a. Last day worked
  - b. Reason for LWOP - Other - Unapproved leave.
  - c. Duration of LWOP - Due to unapproved status, this may be left blank.  
If an employee exhausts leave prior to LWOP and fails to be in pay status a full eight (8) hours prior to going on or returning from LWOP, the actual number of pay status hours must be documented on the DC-154S in brackets.  
**Example:**     *From 11/15/93 (4 hrs.) to 12/31/93 (2 hrs.)*
  - d. The total number of hours of vacation and/or sick leave exhausted since the last day worked and the beginning and ending dates for vacation and/or sick leave exhausted. Leave may be exhausted to a zero (0) balance.  
**Example:**     *No. of Hours of Sick Leave Used:     166.45*  
*From: 10/04/93     To: 11/01/93(6.45 hrs.)*  
*No. of Hours of Vac. Leave Used:     70.45*  
*From: 11/01/93(2 hrs.) To: 11/15/93(4.45 hrs.)*
  - e. The final leave balances.
  - f. Date Payroll notified.



---

Subject:

**LEAVE WITHOUT PAY**

---

- g. Last holiday given, holiday(s) advanced, and holiday(s) due.  
**NOTE:** *Holidays shall not be advanced while exhausting leave.*
- h. In the comments section briefly explain the circumstances surrounding the situation resulting in the employee being placed on unapproved leave.  
**Example:** *Employee exhausted all leave credits, has been advised of procedures for requesting LWOP and has failed to do so or return to work.*

**NOTE:** *At any point where the reason for LWOP is changed, i.e., unapproved leave to approved LWOP for extended illness, etc., a DC-154S shall be submitted to the Personnel Office to revise the status.*

**Short LWOP:**

- 1. Complete sections one and four indicating the following:
  - a. Number of hours to be docked
  - b. Month(s) time was taken
- 2. In the comments section, indicate the reason(s) for Short leave without pay, *i.e., employee absent without approved leave, employee on vacation and has no accumulated leave, employee being docked due to negative leave balance at the end of the last leave accounting period, etc.*, and that certification is on file in the employee's work unit medical file, if applicable.
- 3. Attach the following documents:
  - a. DC-113(s) reflecting or supporting hours and/or days to be docked.
  - b. Copy of the completed and signed "Request and Approval for LWOP" form.
- 4. Employees with negative leave balance(s), vacation or sick leave, at the end of the last leave accounting period, *i.e., thirteenth, shall be docked for the negative amount.*



---

Subject:

**MILITARY LEAVE**

---

**POLICY**

It is the policy of the North Carolina Department of Correction to administer a military leave benefit program consistent with the laws, policies and procedures of the State of North Carolina.

Leave shall be granted to employees for certain periods of service in the uniformed services. No employee of the State shall discriminate against any employee or applicant for employment because of their membership, application for membership, performance of service, application for service or obligation for service in the Uniformed Services.

**ELIGIBILITY**

All full-time or part-time (half-time or more) permanent, trainee, probationary or time-limited employees. Temporary, intermittent, or less than half-time employees are not eligible.

**DEFINITIONS**

***Uniformed Services –***

1. Armed Forces and the Reserve Components (Army, Navy, Air Force, Marine Corps, Coast Guard, Army and Air National Guard),
2. Commissioned Corps of the Public Health Services,
3. National Disaster Medical System intermittent disaster-response appointees, and
4. Any other category of persons designated by the President in time of war or national emergency.

***Service in the Uniformed Service -*** The performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes:

1. Active duty (extended active duty, mobilization or call up of reserve components),
2. Active duty for training of reserve components (annual training – usually 2 weeks or special schools),
3. Initial active duty for training (initial enlistment in reserve or National Guard),
4. Inactive duty training (drills – usually on weekends),
5. Full-time National Guard (usually a 3 year contract), and
6. A period for which a person is absent to determine fitness of the person to perform such duty.
7. Service in or training for the National Disaster Medical System.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 136  
Effective : March 1, 1994  
Revised : February 17, 2000  
\*September 11, 2001

---

Subject:

**MILITARY LEAVE**

---

***North Carolina National Guard –***

A reserve of the U.S. Armed Forces. The N.C. Army and Air National Guard respond to the Governor as Commander in Chief, serve as the military arm of State government, and respond to the President of the U.S. in time of war.

***State Defense Militia –***

Exercise discipline in the same manner as provided by the law of the State for the National Guard. It's members are in addition to and distinct from the National Guard. Such military force shall be subject to the call or the order of the Governor to execute the law.

***North Carolina Civil Air Patrol –***

An auxiliary to the Air Force. Its members are a civilian corporation of volunteers who respond at the request of the Governor or the Secretary of Crime Control and Public Safety.

**MANAGEMENT RESPONSIBILITIES**

\*

1. To determine the employee's eligibility for military leave with or without pay;
2. To explain to the employee their rights and benefits concerning military leave;
3. To provide a copy of the employees' Military Leave and Earnings Statement or similar document to the Payroll once the employee has submitted it to the work location; and
4. To administer the military leave policy in accordance with Federal law and State policy.

**EMPLOYEE RESPONSIBILITIES**

\*

1. The employee or an appropriate officer of the military service in which such service is or is to be performed shall provide written and verbal notice of such service as soon as it is known (i.e., weekend drills, annual training, physical examinations, etc.);
2. The employee shall provide a copy of their Leave and Earnings Statement or similar document covering the periods eligible for differential pay to the respective work site;
3. The employee shall be responsible for returning, or making application for reinstatement, within the time limits as defined in this policy;
4. The employee shall notify management of any decision not to return from military leave; and
5. To receive retirement credit for their period of active duty, employees must submit a copy of the DD214 or similar document to the Retirement System.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 137  
Effective : March 1, 1994  
Revised : October 1, 2004

---

Subject:

**MILITARY LEAVE**

---

**MILITARY LEAVE WITH PAY**

**Training**

Leave with pay, up to the maximum of 120 hours (prorated for part-time employees), shall be granted during each Federal fiscal year beginning October 1 through September 30 when performing:

1. active duty for training (annual training or special schools, including an authorized training program for the National Disaster Medical System)
2. inactive duty training (drills – usually on weekends)

*NOTE:* If the drill is not scheduled on the employee's off-days, the employee has the option of:

- a. Requesting that the work schedule be rearranged, or
- b. Requesting the use of military leave with or without pay or vacation leave.

Military Leave shall be documented on the employee's time report (DC-113) as "M" in the "OPS" column with an explanation in the "Comments/Justification" section. The balance of the 120 hours must be carried forward to the next time sheet. While in pay status, employees will receive the holidays as they occur.

Leave Without Pay (LWOP) Procedures and Retention of Benefits for this section are the same as those under the *OTHER MILITARY LEAVE WITHOUT PAY* section in this policy.

**Physical Examination**

Employees shall be granted leave with pay for a required physical examination relating to membership in the uniformed services. This additional period of military leave with pay shall not be deducted from the 120 hours of military leave with pay for training and is for actual time away from the regular work schedule including reasonable travel time not to exceed the employee's standard hours of work (i.e., 8 hours or 12.25 hours). It is recorded on the DC-113 in the OSP column with the actual number of hours of work time lost with the code "M" and is added into the total hours. Supervisors must note in the DC-113's Comments/ Justification column that "this period of military leave with pay for physical examination is not deducted from the 120 hours."

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 138  
Effective : March 1, 1994  
Revised : October 1, 2004

---

Subject:

**MILITARY LEAVE**

---

**Reserve Active Duty**

Leave with full pay, up to the maximum of 30 calendar days (prorated for part-time employees), shall be granted during each period of involuntary service for members of the uniformed services reserve components when ordered to State or Federal active duty or as an intermittent disaster-response appointee upon activation of the National Disaster Medical System.

Employees projected to be out of work for more than 30 calendar days shall be placed on an 8-hour (prorated for part-time employees), Monday-Friday, work schedule. To achieve this, management must first exhaust the current week on the standard schedule at the standard rate and beginning with the next Sunday, convert to the 8-hour, Monday-Friday schedule.

Prior to the 30 calendar days of full pay the employee (exempt and non-exempt alike) must exhaust all accumulated compensatory time. The employee may then choose to have vacation leave paid in a lump sum (maximum of 240 hours) or exhaust any portion of vacation, or retain the vacation. Employees must make their election of vacation benefits in writing.

The 30 calendar days of full pay shall be documented on the employee's time report (DC-113) as "M" in the "OPS" column and is added into the total hours with an explanation in the "Comments/Justification" section.

Some employees may be called to training prior to mobilization for reserve active duty. In this case the employee must use the remaining 120 hours of military leave for the period of training only. This 120 hours is found under the *Military Leave With Pay, Training* section. Once the employee reports to reserve active duty the *Reserve Active Duty* section applies.

After the 30-calendar day period, employees must be placed on LWOP and differential pay shall apply. Management must notify the Payroll Office immediately of the projected effective date of the LWOP. Be sure to indicate the last day leave will be exhausted.

Management must continue to prepare a DC-113 for each 28-day cycle while employees are on LWOP due to military leave/reserve active duty as these employees continue to earn vacation and sick leave. Please refer to Retention of Benefits - Reserve Active Duty/Differential Pay. Management shall place in the OSP column of the DC-113 "O/M" and continue to show the accumulation of leave in the leave summary columns. At the end of the leave cycle that includes December 31, all vacation leave over 240 hours shall be converted to sick leave.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 139  
Effective : March 1, 1994  
Revised : February 17, 2000  
\*September 11, 2001

---

Subject:

**MILITARY LEAVE**

---

**Reserve Active Duty/Differential Pay**

Employees shall receive differential pay for any period of involuntary service following the 30 calendar days of full pay. This pay shall be the difference between military basic pay and the employee's annual State salary, if military pay is the lesser.

Management must provide a copy of the employees' Military Leave and Earnings Statement or similar document to the Payroll Office once the employee has submitted it to the work location. These documents must be submitted to Payroll in the same manner that the employee is paid by the military (i.e., biweekly, monthly, etc.)

**Retention Of Benefits - Reserve Active Duty/Differential Pay**

Employees shall not incur any loss of total State service or retirement service or suffer any adverse service rating during any period of military leave with pay, differential pay, or no pay.

The employee shall continue to accumulate sick and vacation leave, total State service credit and receive any promotion or salary increase for which otherwise eligible.

For retirement purposes, differential pay does not meet the statutory definition of "compensation." Therefore retirement contributions shall not be reported to the Retirement System on differential pay. Retirement membership service credits (i.e., non-contributory) will be granted State employees for all required periods of active military service.

*Compensatory Time*

The employee shall exhaust accumulated compensatory time prior to exhausting any other leave.

*Vacation Leave*

The employee has the following options:

1. Paid in a lump sum (maximum of 240 hours); or
2. Exhaust, or
3. Retain until return to State service; or
4. Any combination of the above.

Note: Employees shall continue to accumulate vacation leave. At the end of the leave cycle that includes December 31, all vacation leave over 240 hours shall be converted to sick leave.

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 140  
Effective : March 1, 1994  
Revised : February 17, 2000  
\*September 11, 2001

---

Subject:

**MILITARY LEAVE**

---

*Sick Leave*

The employee shall retain sick leave and continue to accumulate sick leave.

*Holidays*

Any holidays that were advanced prior to the employee going on military leave shall be deducted from the pay due. Upon return to work, the employee shall be entitled to holidays occurring after the reinstatement.

*Longevity Pay*

Employees eligible for longevity pay on reserve active duty military leave without pay - differential pay shall receive their full longevity pay during their regular longevity month. The Personnel Office will maintain appropriate records to ensure proper payment.

*Legislative Increases*

Employees will become eligible for the Legislative Increases upon reinstatement. Management must use the 8 code (LWOP) on PMPERF screen and record in comments "Military LWOP."

*Retirement Benefit*

Creditable service to the Retirement System (i.e., non-contributory) is given to those employees who are on military leave without pay for active duty at no cost, provided:

1. The employee returns to state service within two years after the earliest discharge date; or
2. Returns to state service at any time after discharge and has completed at least 10 additional years of service as a contributing member; or
3. The employee has filed with the Teachers' and State Employees' Retirement System a copy of the service record (DD-214) showing dates of entrance into the military and separation from the military to receive retirement credit.

*Death Benefit*

After one year as a contributing member in the Retirement System, a Death Benefit will be paid in lump sum to the beneficiary if death occurs within 180 days of the last day worked. The payment will equal the highest 12 months salary in a row during the 24 months before death, but no less than \$25,000 and no more than \$50,000.



---

Subject:

**MILITARY LEAVE**

---

*Health Care*

1. *National Guard* - The State shall maintain coverage for the employee under the State's group health plan. Any share of health insurance premiums that the employee paid prior to the military leave must continue to be paid by the employee during the leave period.
2. *Federal Active Duty* – Coverage in the State's group health plan ends on the last day of the month in which the employee enters active service. The military health and benefits program covers the employees and their dependents.

Employee and/or their dependents whose health coverage ceases because of entry into the military are eligible for COBRA coverage for a period of up to 18 months. The employee must pay the full coverage for the periods in excess of 30 days.

**Procedures - Reserve Active Duty/Differential Pay**

1. Complete the DC-154S (Separation), sections 1 and 3, indicating:
  - a. Employee Name, Work Location, Unit Location Number, Classification, Position Number, Social Security Number, current salary, and the date prepared;
  - b. Document the employee's last actual day worked in the space provided. (the employee's work schedule may be projected if the DC-154S is being completed in advance of the anticipated effective date of leave without pay).
  - c. Indicate the reason for leave without pay by checking the Military Leave blank, attach the Military Orders and the Employee Time Report(s) (DC-113's) for the entire month(s) leave is/will be exhausted since the last day the employee actually worked;
  - d. Indicate the duration of leave without pay approved by management. DO NOT STATE "UNKNOWN."
  - e. If the employee elects to use vacation leave, indicate the total number of hours of vacation leave exhausted since the last day worked. If the employee elects to be paid vacation leave in a lump sum, indicate the total number of hours of vacation leave to be paid. Indicate the vacation and sick leave balances the employee will retain (must have written request from employee);
  - f. Indicate the date the Payroll Office was notified and the stop order confirmation number that was assigned by the Payroll Office, if the employee did not have enough military leave with pay and/or vacation leave to cover payment for the entire month;

---

Subject:

**MILITARY LEAVE**

---

- g. Review the employee's holiday schedule and document in the spaces provided:
  - 1) The last holiday given
  - 2) Holidays advanced and to be deducted from pay due
  - 3) Holidays due the employee
2. In the comment section of the DC-154S indicate:
  - a. if any military leave (120 hours – TRAINING ONLY) was used prior to the employee exhausting the 30 calendar days of full pay, give the total number of hours used with beginning and ending dates and the military leave balance; and that a full explanation of the military leave without pay policy was provided to the employee.
3. Submit the DC-154S to the Personnel Office and attach the following documents:
  - a. Copy of the orders; and
  - b. DC-113's for the last month worked through exhaustion leave after the last day worked.
4. Submit the employees' military Leave and Earnings Statement or similar document to the Payroll once the employee has submitted it to the work location. This is an on-going process until the employee has returned to work. The Payroll Office will pay differential pay, if applicable, upon receiving this document each month.
5. Continue to prepare a DC-113 for each 28-day cycle while employees are on LWOP and show the accumulation of leave in the leave summary columns.

**OTHER MILITARY LEAVE WITHOUT PAY**

Leave without pay shall be granted for the following uniformed service duty that is not covered by military leave with pay:

1. extended active duty for a period not to exceed 5 years plus any additional service imposed by law;
2. full time National Guard duty (usually a 3-year contract);
3. initial active duty for training (initial enlistment);

---

Subject:

**MILITARY LEAVE**

---

4. while awaiting entry into active duty, such period as may be reasonable to enable the employee to address personal matters prior to such extended active duty;
5. the period immediately following eligible period(s) of active duty, (see Reinstatement from Military Leave Without Pay);
6. employees hospitalized for, or convalescing from, an injury or illness incurred in, or aggravated during the performance of extended active duty, except that such period shall not exceed two years beyond their release from extended active duty under honorable conditions;
7. duties resulting from disciplinary action imposed by military authorities; and
8. inactive duty training (drills) performed for the convenience of the member, such as equivalent training, split unit assemblies, make-up drills, etc.

**Retention of Benefits – Other Military Leave Without Pay and Training**

*Vacation Leave*

The employee may choose to have accumulated vacation leave:

1. paid in a lump sum (maximum 240 hours),
2. exhausted, or
3. retain (part or all) until return to state service

Employees *do not* earn vacation leave while on military leave without pay (training).

*Sick Leave*

The employee shall retain accumulated sick leave. Employees do not earn sick leave while on military leave without pay (training).

*Holidays*

Any holidays that were advanced prior to the employee going on military leave shall have that holiday deducted from the pay due. Upon return to work, the employee shall be entitled to holidays occurring after the reinstatement.

## MILITARY LEAVE

---

### *Longevity*

Employees eligible for longevity pay on extended military leave without pay shall received a longevity payment computed on a pro rata basis at the time they are placed on leave without pay. The balance will be paid when the employee returns to the Department and completes the remainder of the full year. A full payment will be made on the employee's longevity date established prior to going on military leave without pay.

### *Legislative Increases*

Employees will become eligible for the Legislative Increases upon reinstatement. Management must use the 8 code (LWOP) on PMPERF screen and record in comments "Military LWOP."

### *Retirement Benefit*

Creditable service to the Retirement System is given to those employees who are on military leave without pay for active duty at no cost, provided:

1. The employee returns to state service within two years after the earliest discharge date; or
2. Returns to state service at any time after discharge and has completed at least 10 additional years of service as a contributing member; or
3. The employee has filed with the Teachers' and State Employees' Retirement System a copy of the service record (DD-214) showing dates of entrance into the military and separation from the military to receive retirement credit.

### *Death Benefit*

After one year as a contributing member in the Retirement System, a Death Benefit will be paid in lump sum to the beneficiary if death occurs within 180 days of the last day worked. The payment will equal the highest 12 months salary in a row during the 24 months before death, but no less than \$25,000 and no more than \$50,000.

### *Health Care*

1. *National Guard* - The State shall maintain coverage for the employee under the State's group health plan. Any share of health insurance premiums that the employee paid prior to the military leave must continue to be paid by the employee during the leave period.
2. *Federal Active Duty* – Coverage in the State's group health plan ends on the last of the month in which the employee enters active service. The military health and benefits program covers the employees and their dependents.

Employee and/or their dependents whose health coverage ceases because of entry into the military are eligible for COBRA coverage for a period of up to 18 months. The employee must pay the full coverage for the periods in excess of 30 days.

## MILITARY LEAVE

---

### **Procedures – Other Military Leave Without Pay and Training**

The following procedures are required when completing a military leave without pay package for this section and the Training Section:

1. Give the employee the option of having vacation leave paid in a lump sum (maximum of 240 hours), or exhausting any portion of the vacation, or retaining the vacation for use upon return to work. Employees must make their election of vacation benefits in writing.
2. The Payroll Office shall be notified immediately of the projected effective date of the leave without pay to ensure the employee is properly compensated. (Be sure to indicate the last day leave will be exhausted.)
3. Complete the DC-154S (Separation), sections 1 and 3, indicating:
  - a. Employee Name, Work Location, Unit Location Number, Classification, Position Number, Social Security Number, current salary, and the date prepared;
  - b. Document the employee's last actual day worked in the space provided. (the employee's work schedule may be projected if the DC-154S is being completed in advance of the anticipated effective date of leave without pay).
  - c. Indicate the reason for leave without pay by checking the Military Leave blank, attach the Military Orders and the Employee Time Report(s) (DC-113's) for the entire month(s) leave is/will be exhausted since the last day the employee actually worked;
  - d. Indicate the duration of leave without pay approved by management. DO NOT STATE "UNKNOWN."
  - e. If the employee elects to use vacation leave, indicate the total number of hours of vacation leave exhausted since the last day worked. If the employee elects to be paid vacation leave in a lump sum, indicate the total number of hours of vacation leave to be paid. Indicate the vacation and sick leave balances the employee will retain (must have written request from employee);
  - f. Indicate the date the Payroll Office was notified and the stop order confirmation number that was assigned by the Payroll Office, if the employee did not have enough military leave with pay and/or vacation leave to cover payment for the entire month;
  - g. Review the employee's holiday schedule and document in the spaces provided:
    - 1) The last holiday given
    - 2) Holidays advanced and to be deducted from pay due
    - 3) Holidays due the employee

**MILITARY LEAVE**

---

4. In the comment section of the DC-154S indicate:
  - a. If any military leave (120 hours – TRAINING ONLY) was exhausted prior to the employee going on military leave without pay, give the total number of hours used with beginning and ending dates; and
  - b. That a full explanation of the military leave without pay policy was provided to the employee.
  
5. Submit the DC-154S to the Personnel Office and Attach the following documents:
  - a. Copy of the orders
  - b. DC-113's for the last month worked and exhaustion of military and/or vacation leave after the last day worked;

**REINSTATEMENT FROM MILITARY LEAVE WITHOUT PAY**

The time limit for submitting an application for reemployment or reporting back to work depends upon the length of uniformed service. If reporting back or submitting an application for reemployment within the specified periods is impossible or unreasonable through no fault of the employee, the employee must report back or submit the application as soon as possible. The service duration and periods for returning or applying for reemployment are as follows:

1. Less than 31 days, must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an 8 hour rest period;
2. More than 30 days but less than 181 days, must submit a written or verbal application for reemployment with the agency no later than 14 days after the completion of the period of service; or
3. More than 180 days, by submitting an application with the agency no later than 90 days after the completion of the period of service.

Reinstatement shall be made if the employee:

1. Separated/discharged from military service under honorable conditions, and
2. Reports to work or applied for reinstatement within the established time limits.

Reinstatement shall be to the employees same or like position.

### **MILITARY LEAVE**

---

The employee's salary upon reinstatement shall be based on the current salary rate of the same or like position. In no case will the reinstated employee's salary be less than when placed in a military leave status. If the employee was in trainee status at the time of military leave, the addition of trainee adjustments may be considered, at the discretion of the Personnel Director, if it can be determined that military experience was directly related to development in the area of work to be performed in the same or like position. The addition of trainee adjustments must be made if it can be shown that progression within or through such status is based merely upon the passage of time with satisfactory performance.

***NOTE: It is assumed that an employee had at least satisfactory performance when placed on military leave; therefore, any cost of living adjustments should be included in the reinstatement pay. The addition of career growth adjustments is determined in the same manner as any other employee on leave without pay.***

Employees who resign to enter military service without knowledge of their eligibility for leave without pay and reinstatement benefits, but who are otherwise eligible, shall be reinstated as if they had applied for benefit.

#### **Procedures - Reinstatement From Military Leave Without Pay**

Complete a Personnel Action Form, DC-154 (Reinstatement), indicating the following:

1. That the action is a reinstatement from military leave without pay;
2. The salary shall be the same as prior to going on military leave without pay, plus any general salary increases due while on leave; (i.e., legislative salary increases, etc.)
3. The effective date/date of return to work;
4. The tax, insurance forms, and direct deposit forms shall be sent directly to the Payroll Office;
5. If a probationary certified employee has not completed basic training and has therefore not obtained General Certification, attach a copy of the service record (DD-214) showing dates of entrance into the military and discharge date for Criminal Justice purposes.

### **MILITARY LEAVE**

---

6. if the employee is overpaid when he/she becomes eligible for reinstatement and payroll has forwarded to the work location the Overpayment of Wages memorandum, management must have the bottom of the memorandum completed and signed by the employee. The executed memorandum must be included with the DC-154 (Reinstatement) package.

### **VOLUNTEER WORK**

Employees are not excused for incidental military activities such as volunteer work at military facilities (not in duty status), unofficial military activities, etc.

### **RECOUP TIME**

When a military obligation is less than 31 days an employee is authorized eight (8) hours recoup time before and after performance of military duties or military training. This time may also be charged to the 120 hours military leave with pay, military leave without pay or vacation leave.

### **CIVIL AIR PATROL**

The Civil Air Patrol is an auxiliary of the Air Force. It is not a reserve component. Its members are not subject to obligatory service. When performing missions or encampments authorized and requested by the US Air Force or emergency missions for the State at the request of the Governor or the Secretary of the Department of Crime Control and Public Safety, its members are entitled to military leave with pay not to exceed 120 hours (prorated for part-time employees) in any calendar year. Exceptions may be granted by the Governor. Such service may be verified by the Secretary of the Department of CCPS upon request by the employing agency. Regularly scheduled unit training assemblies, usually occurring on weekends are not acceptable for military leave, however, employing agencies are encouraged to arrange work schedules to allow employees to attend this training.

### **STATE DEFENSE MILITIA**

The State Defense Militia is considered a reserve of the National Guard, however, it is not a reserve component of the US Armed Forces. Its members are not subject to obligatory service unless they are assigned to a unit that is ordered or called out by the Governor. Only under the following conditions are State employees entitled to military leave with pay:

1. infrequent special activities in the interest of the state, usually not exceeding one day, when so order by the Governor or his authorized representative



Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 149  
Effective : March 1, 1994  
Revised : February 17, 2000

---

### **MILITARY LEAVE**

---

2. State duty for missions related to disasters, search and rescue, etc., only when ordered by the Governor or his authorized representative.

State employees who are members of the State Defense Militia are not entitled to military leave with pay when volunteering for support of functions or events sponsored by civic or social organizations even though such support has been “authorized.”

Regularly scheduled unit training assemblies, usually occurring on weekends, are not acceptable for military leave; however, employing agencies are encouraged to arrange work schedules to allow the employee to attending this training.

Duty status may be verified with the Office of the Adjutant General, North Carolina National Guard, ATTN: Vice Chief of Staff – State Operations (VCSOP).

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**PURPOSE**

The Family and Medical Leave Act (FMLA) was enacted into law on February 5, 1993 to be effective August 5, 1993. The primary purposes of the FMLA are:

- To balance the demands of the workplace with the needs of families;
- To promote the stability and economic security of families;
- To promote national interests in preserving family integrity;
- To minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons, inclusive of maternity-related disability and for compelling family reasons; and
- To promote the goal of equal employment opportunity for women and men.

**POLICY**

It is the policy of the Department of Correction to administer a family medical leave program in accordance with State and Federal regulations, laws, and general statutes.

The FMLA entitles eligible employees to take up to twelve (12) weeks or 480 hours of leave per twelve (12) month period for:

- Serious health condition as defined by a doctor;
- The birth or placement of a child for adoption or foster care; or
- To care for a spouse or an immediate family member with a serious health condition.

Family Medical Leave (FML) is **not** a paid leave benefit for employees. FML, however, may run concurrent with the employee's vacation, bonus vacation and sick leave depending upon the employee's wishes and his/her available vacation, bonus vacation and sick leave credits. Periods of paid vacation, bonus vacation, sick leave and periods of leave without pay (including leave without pay while drawing Short-term Disability Benefits) count towards the 480 hours to which the employee is entitled. This includes leave taken under the Voluntary Shared Leave Program and leave taken under the Salary Continuation Program.

Employers covered by the FMLA are required to maintain health coverage on the employee during the leave period and once the leave period is concluded to reinstate the employee to the same or an equivalent job and pay to include any general salary increases (i.e., legislative) received during the period of approved leave.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**DEFINITIONS**

1. **FMLA** - Family Medical Leave Act of 1993.
2. **FML** - Family Medical Leave.
3. **Spouse** - a husband or wife recognized by the State of North Carolina.
4. **Parent** - a biological or adoptive parent or an individual who stood in loco parentis (a person who is in the position or place of a parent) to an employee when the employee was a child.

5. **Child** - a son or daughter who is:

Under 18 years of age; or

Is 18 years of age or older and incapable of self-care because of a mental or physical disability

And who is:

- a. a biological child
  - b. an adopted child
  - c. a foster child - a child for whom the employee performs the duties of a parent as if it were the employee's child
  - d. a step-child - a child of the employee's spouse from a former marriage
  - e. a legal ward - a minor child placed by the court under the care of a guardian
  - f. a child of an employee standing in loco parentis
6. **Serious Health Condition** - an illness, injury, impairment, or physical or mental condition that involves:
    - a. inpatient care (i.e., overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment for or recovery from), or any subsequent treatment in connection with such impairment; OR

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

- b. continuing treatment by a health care provider involving one or more of the following:
- (1) any period of incapacity, as defined above, for three (3) or more consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
    - (a) two (2) or more treatments by a health care provider, by a nurse or physician's assistant under the direct supervision of a health care provider, or a provider of health care services; or
    - (b) at least one visit to the health care provider followed by a regimen of continuing treatment under the supervision of the health care provider (i.e., physical therapy).
  - (2) any period of incapacity due to pregnancy, or for prenatal care even when the employee or family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three (3) calendar days (i.e., prenatal examinations, severe morning sickness)
  - (3) any period of incapacity or treatment due to a "chronic serious health condition" which is defined as one:
    - (a) requiring periodic visits or treatment by a health care provider, or by a nurse or physician's assistant under the direct supervision of a health care provider;
    - (b) continuing over an extended period of time (including recurring episodes of a single underlying condition); and
    - (c) which may cause episodic rather than continuing period(s) of incapacity (i.e., asthma, diabetes, epilepsy, etc.).
  - (4) incapacity for a permanent or long-term condition for which treatment may not be effective (i.e., Alzheimer, severe stroke, or terminal stages of a disease, etc.).
  - (5) multiple treatments for restorative surgery or incapacity for serious conditions that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment (i.e., chemotherapy, radiation, dialysis, etc.).

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

The following are examples of conditions that do **NOT** meet the definition of a Serious Health Condition:

common cold	flu
ear aches	upset stomach
minor ulcers	headaches other than migraine
routine dental or orthodontia problems	periodontal disease
cosmetic surgery other than for medical reasons	

7. **Health Care Provider -**

- a. Doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of North Carolina; or
- b. any other person determined by statute, credential or licensure to be capable of providing health care services which include:

Podiatrists  
Dentists  
Clinical Psychologists  
Optometrists  
Chiropractor  
Nurse practitioners  
Nurse midwives  
Clinical social workers  
Christian Science practitioners listed with First Church of Christ Scientists in Boston, MA

**NOTE:** In this situation, the employee cannot object to a requirement to obtain a second or third certification from other than a Christian Science practitioner.

Health care providers from whom state approved group and HMO health plans will accept certification of serious health condition to substantiate a claim for benefits.

Foreign health care providers in above stated areas who are authorized to practice in that country and who are performing within the scope of the laws.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

8. **Workweek** - The number of hours an employee is regularly scheduled to work each week.
9. **Reduced Work Schedule** - A work schedule involving less hours than an employee is normally scheduled to work.
10. **Intermittent Work Schedule** - A work schedule in which an employee works on an irregular basis and is taking leave in separate blocks of time, rather than for one continuous period of time, usually to accommodate some form of regularly scheduled medical treatment.
11. **Qualifying Event** - the event precipitating the need for FML (i.e., birth of a child, care for a newborn child, placement of a child for adoption or foster care, a serious health condition of the employee or the employee's parent, child or spouse, a chronic health condition).
12. **Twelve (12) Month Period of Entitlement** - the date of the qualifying event establishes the beginning of the employee's twelve (12) month period. This date does not establish an anniversary date for FML.

*Example: An employee provides notice for FML and is subsequently designated FML effective October 1, 2006 for a period of four (4) weeks. The employee's effective date is October 1, 2006. The employee's twelve (12) month period begins October 1, 2006 and ends September 30, 2007. When the employee returns to work at the end of the four (4) weeks of FML, the employee has a balance of 320 hours of FML that may be used through September 30, 2007. Any remaining FML not used as of September 30, 2007 shall be forfeited. This same employee has another qualifying event on June 1, 2007, provides notice of the need for FML and is subsequently designated FML effective June 1, 2007. The employee's twelve (12) month period of FML will remain October 1, 2006 through September 30, 2007.*

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**ENTITLEMENT**

An eligible employee shall be entitled to a total of 480 hours of paid or unpaid leave during a twelve (12) month period measured forward from the first date any FML is used.

Part-time employees are entitled to 480 hours on a prorated basis in proportion to the number of hours the employee is regularly scheduled to work.

**Example:** *A part-time employee scheduled to work 20 hours per week is eligible for up to 240 hours of FML per twelve (12) month period measured forward from the first date any FML is used.*

**NOTE:** If the reason/event for which the employee is needing leave occurs during the employee's regularly scheduled time off, such time would not count against the employee's FML entitlement.

Eligible employees are guaranteed paid health insurance premiums. Any portion of the health plan premiums that the employee paid (dependent coverage) prior to FML must continue to be paid by the employee during the leave period.

Eligible employees are also entitled to same or like position, pay, shift assignment, etc. upon returning to work.

**ELIGIBILITY**

**Employees with Permanent, Probationary, Trainee and Time-Limited Appointments**

These employees are eligible for FML as long as they have been employed with State government for at least twelve (12) months and have been in pay status at least 1,040 hours during the preceding twelve (12) months.

In determining eligibility, the twelve (12) months of employment nor 1040 hours in pay status has to be consecutive. Prior creditable service for permanent employment with a State agency shall be considered in determining eligibility for FML.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

In determining whether an employee has the required hours of service during the preceding twelve (12) months, the manager shall count pay status hours as recorded on the employee's time report (DC-113). This includes actual hours worked and other pay status (OPS) hours, i.e., vacation leave, bonus vacation leave, sick leave, holidays, injury leave, etc. as recorded on the employee's time report (DC-113).

**Temporary and Contractual Employees**

Temporary and contractual employees are covered by the FMLA and eligible for FML provided they have worked for State Government for twelve (12) months and at least 1,250 hours during the preceding twelve (12) month period. Any leave granted to temporary or contractual employee shall be without pay.

When a temporary/contractual employee has been hired as a permanent state employee, the time worked in a temporary/contractual capacity with the State shall be calculated in determining the employee's eligibility for FML.

**Notice of Eligibility**

It shall be the manager's responsibility to determine an employee's eligibility for FML in accordance with the following guidelines:

If an employee provides notice of the need for leave before he/she meets the eligibility requirements, the manager shall:

1. Confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave is to start; or
2. Confirm the employee's eligibility based upon a projection that the employee has enough paid leave to carry them to the date he/she will be eligible; or
3. Advise the employee when the eligibility requirements will be met.

Once it is determined that the employee is eligible for FML and the employee has been notified of the decision, it may not be reversed. No additional notice for FML from the employee may be required.

If the employee provides more than two (2) days notice of the need for leave and the manager fails to notify an employee of his/her eligibility for FML before the leave is to begin, regardless of whether the employee is eligible, he/she shall be considered eligible for FML and the manager cannot then deny the leave.



---

Subject:

**FAMILY/MEDICAL LEAVE**

---

If the employee does not give notice of the need for leave more than two (2) workdays before beginning leave, the employee shall be deemed eligible unless notified of ineligibility within two (2) workdays of the date the notice is received.

**The manager may notify an employee of his/her eligibility verbally; however, a written follow-up shall be required.**

**QUALIFYING EVENTS**

FML shall be used by eligible employees for one or more of the following reasons:

1. For the birth of a child and to care for the newborn child after birth, provided the leave is taken within a twelve (12) month period following birth. This applies to the mother and father of the child.

**NOTE:** An expectant mother may take FML before the birth of the child for prenatal care or if her condition renders her unable to work as certified by a health care provider.

2. For the placement of or to care for a child placed with the employee for adoption or foster care, provided the leave is taken within a twelve (12) month period following adoption. This applies to the mother and father of the child.

**NOTE:** FML may begin before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his/her attorney, etc. There is no maximum age limit on a child being adopted or placed for foster care for purposes of determining eligibility for leave.

3. For the employee to care for the employee's child, spouse or parent where that child, spouse or parent has a serious health condition (as that term is defined in policy). (Also, see Family Illness Leave Policy)
4. For the employee's own serious health condition (as defined in policy) that makes the employee unable to perform one or more of the essential functions of the employee's position.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**EMPLOYEE RESPONSIBILITIES**

The employee is responsible for providing notice to his/her supervisor for requested leave. An employee need not specifically indicate FML in his/her initial notice or request for leave. However, once an employee requests leave, unless the employee has already complied with the notice requirements identified below, the supervisor shall be responsible for advising the employee of the following notice requirements necessary to designate leave as FML. These include:

1. the reason(s) for the needed leave,
2. the beginning date and anticipated date of return,
3. the amount of leave to be exhausted, if any, during the period of leave, and
4. a request for Leave Without Pay (Refer to the policy/procedures governing Leave Without Pay).

If the employee does not provide information regarding the reason, the manager will be responsible for *provisionally* designating FML

Notice shall be given by the employee in the following manner:

**Birth or Adoption/Foster Care**

The employee shall give no less than thirty (30) calendar days notice, in writing, of the intent to take leave, subject to the actual date of birth or adoption/foster care. If the actual date of the birth or adoption/foster care requires leave to begin in less than thirty (30) calendar days, the employee shall provide such notice within five (5) workdays after the date of the qualifying event, *i.e., actual date of birth or date of notice that a child is available for adoption/foster care.*

**Planned Medical Treatment**

The employee shall give written notice within thirty (30) calendar days, if feasible, of the intent to take leave when leave is needed to care for a child, spouse, or parent with a serious health condition or for the employee's own serious health condition. For planned medical treatment, the employee shall consult with his/her supervisor prior to the request for FML. If circumstances require that the leave begin prior to the date in the original notice, the employee shall provide notice as soon as feasible or a least within five (5) workdays after the date of the qualifying event, *i.e., date of surgery, etc.*

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**Medical Emergency**

In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice cannot be required. However, notice with a written follow-up shall be required as soon as feasible or a least within five (5) workdays after the date of the qualifying event, *i.e., date of car accident, etc.* If an employee is unable to provide notice due to the employee's own serious health condition, the employee's spouse or other family member may provide notice.

**MANAGEMENT RESPONSIBILITIES**

Generally, the supervisor has the first hand knowledge of an employee's request and need for leave; therefore, it shall be the supervisor's responsibility to obtain and forward the necessary information to the manager. If the employee does not request FML, but the supervisor has reason to believe that the leave is for an FML qualifying event the supervisor shall notify management. In all cases, it is the responsibility of the manager (*i.e., Warden, Superintendent, Assistant Judicial Division Chief, Judicial Division Chief, Section Chief, etc.*) to:

1. determine the eligibility of the employee for FML,
2. determine that the leave request is for an FML qualifying event,
3. if the information is sufficient to designate FML then designate even when an employee would rather not use any of his/her FML entitlement.
4. if the information is not sufficient to designate FML, the manager shall Provisionally designate FML, in writing, requesting medical documentation by providing the employee with a WH-380 Certification of Health Care Provider Form.
5. if the employee refuses to provide medical documentation, the manager shall advise the employee, in writing, that FML will be delayed until such time as the employee provides information sufficient enough to determine that the need for leave is for an FML qualifying event.

**NOTE:** If the employee has provided medical documentation that is insufficient to determine FML, the manager may not delay/deny the request for leave. The employee will not get the benefits of FML, *i.e., reinstatement under the same conditions of employment at the conclusion of his/her period of leave.*

Once the manager has knowledge that the leave is being taken for an FML qualifying reason, the manager shall within two (2) workdays, notify the employee that the leave shall be designated as FML. This notice may be oral or in writing, but shall be confirmed, in writing, no later than the following payday.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

If management did not designate FML during the employee's absence, then management cannot go retroactive and designate FML after the employee has returned to work, except under the following conditions:

1. management did not learn of the reason for the leave until the employee returned to work. Then management has two (2) workdays of the employee's return to work to designate the period of leave as FML; or
2. if the Agency has provisionally designated the leave under FML and is awaiting receipt of medical documentation (WH-380) from the employee.

If an absence which begins as other than FML later develops into an FML qualifying absence, the entire portion of the leave period that qualifies under FML shall be designated as FML.

**Designation of Paid Leave as FML**

If an employee requests sick leave, the supervisor has the authority to ask the employee to provide an explanation for the needed leave (please see the sick leave policy). This is necessary to determine if the request is for an FML qualifying event.

If an employee requests paid vacation/bonus leave, the supervisor does not have the authority to ask for an explanation for the needed leave, however, the supervisor may disapprove the request if it is not feasible at the time, i.e., due to scheduling difficulties. If the supervisor disapproves a request for vacation/bonus leave, it then becomes the employee's responsibility to assert their rights under the FMLA.

If an employee takes vacation/bonus or sick leave and it is not designated as FML prior to the conclusion of the paid leave, and the employee does not request an extension of leave, the leave taken does not count against the employee's annual FML entitlement.

**Designation of Unpaid Leave – Leave Without Pay (LWOP) as FML**

Even though an employee is eligible for FML and the need for leave is for an FML qualifying reason, an employee shall still be required to adhere to agency policy regarding LWOP. Specifically, an employee shall request LWOP, in writing, in advance using the Department's "Request and Approval for LWOP" form. (Refer to the Leave Without Pay Policy).

Department of Correction  
Personnel Manual

Section No. : 5  
Page No. : 164  
Effective : July 1, 1994  
Revised : January 1, 2006

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

If an employee is in a non-pay status not previously approved by the supervisor, the employee shall be advised, in writing, to provide information sufficient to determine if such leave qualifies as FML. Failure to request LWOP and provide sufficient information to approve the unpaid leave and to make a determination as to whether the leave qualifies as FML shall result in a reevaluation of the individual's employment status.

**LEAVE CHARGES**

The period of FML may be paid or unpaid leave depending upon the reason for the needed leave, the employee's wishes and his/her available leave credits.

An employee cannot exhaust paid leave for any period of time and then be placed on LWOP and be entitled to begin exhausting the 480 hours of FML. Likewise, an employee cannot retain accumulated leave, be placed on LWOP using the 480 hours of FML and then be placed in a pay status to begin exhausting accumulated leave. Once an employee is placed in a LWOP status the employee shall remain in that status until such time as they return to work.

**Workers' Compensation Leave**

If an employee is out of work on authorized Workers' Compensation leave, the time away from work shall not be designated as FML.

**NOTE:** Pending notice that Workers' Compensation leave has been authorized, the work unit manager may provisionally designate leave as FML. Upon notice that the Workers' Compensation leave has been approved, the FML shall be withdrawn. If Workers' Compensation leave is denied, then the FML Policy and Procedures shall apply.

**Salary Continuation Program**

If an employee is out of work under the Salary Continuation Program (Injury Leave), the period of leave shall be designated as FML.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**Compensatory Leave**

An employee may choose to use compensatory leave for an FML qualifying reason but the work unit manager cannot require that the employee use the compensatory leave. However, if the employee chooses to use compensatory leave while out for an FML qualifying event, the compensatory leave cannot be designated as FML and the effective date for FML cannot begin until after the use of compensatory leave.

The employee has the following options for charging leave:

**Birth**

For the birth of a child, the employee may choose to exhaust available vacation, bonus and/or sick leave or a portion, or be placed on LWOP; except that sick leave may be used only during the period of the mother's disability associated with childbirth and recovery there from. This applies to both parents.

**Adoption/Foster Care**

For the adoption of a child, the employee may use available sick leave up to a maximum of thirty (30) workdays (which is equivalent to a biological mother's period of temporary disability), available vacation leave, or be placed on LWOP.

**NOTE:** For the use of sick leave for the adoption of a child, advance written notice from the requesting employee indicating his/her desire to use sick leave and written verification indicating the date of adoption shall be required.

For the placement of a child for foster care, the employee may choose to exhaust available vacation leave, or any portion, or be placed on LWOP.

**Illness of Child, Spouse, Parent**

For the illness of an employee's child, spouse, or parent the employee may choose to exhaust available sick and/or vacation leave, or any portion, or be placed on LWOP.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**Employee's Illness**

For the employee's illness, the employee shall exhaust available sick leave and may choose to exhaust available vacation leave, or any portion, before being placed on leave without pay. If the employee does not have to be placed on leave without pay, the employee may choose to exhaust sick and/or vacation and/or bonus leave. If the illness extends beyond the sixty (60) day waiting period required for short-term disability, the employee may choose to exhaust the balance of available leave or begin drawing short-term disability benefits.

**INTERMITTENT LEAVE OR REDUCED WORK SCHEDULE**

Leave under this policy may be taken intermittently or on a reduced work schedule for the following reasons:

1. When medically necessary to care for the employee's child, spouse, or parent who has a serious health condition, or
2. When the employee has a serious health condition.

The employee may not take leave under this policy intermittently or on a reduced work schedule for childbirth and birth related childcare, birth related childcare, adoption or foster care unless the employee and the manager agree.

The employee shall provide written notice to the supervisor of the need to take leave intermittently or on a reduced work schedule in the same manner as previously described for providing notice for a continuous period of leave. The notice shall include the reason(s) for intermittent leave or reduced work schedule and medical certification, if required. While the supervisor may approve the leave request, i.e. vacation, bonus or sick leave, etc., all documentation shall be forwarded to the manager for a determination as to whether the leave qualifies as FML.

For those events which are not foreseeable, notice may be given verbally as soon as feasible; however, a written follow up shall be required.

If such leave is foreseeable based upon planned medical treatment, the manager may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

Only the time actually taken as leave may be counted toward the 12 weeks/480 hours of leave to which the employee is entitled when leave is taken intermittently or on a reduced work schedule.

**CERTIFICATION**

**Birth**

For leave requested due to child birth, the supervisor shall require a doctor's certification verifying the actual date of delivery and the duration of the period of the mother's disability.

**Adoption**

For leave requested to care for a child because of adoption or foster care, the supervisor shall require reasonable proof of adoption or foster care. In accordance with Sick Leave Policy, if the employee is legally adopting a child and has requested the use of sick leave during the first thirty (30) workdays of the period of leave, a certification verifying the effective date of adoption shall be required.

**Serious Health Condition**

For leave requested because of a serious illness of the employee or the employee's child, spouse, or parent, where the employee is using paid leave benefits, the manager may require a medical certification from the health care provider, but shall not require a more stringent medical certification than normally required.

If the employee has requested LWOP, the manager shall require a medical certification in accordance with the following guidelines:

When the leave is foreseeable and at least thirty (30) calendar days notice has been provided, the employee should provide the medical certification before the leave begins.

When it is not possible to provide the medical certification before the leave begins, the employee shall provide the requested certification to the manager within the requested time frame. The required time frame shall not be for less than fifteen (15) calendar days.

If the employee fails to provide the requested medical documentation, the manager shall notify the employee, in writing, advising the employee that they are not entitled to FML until such time as medical certification is received to determine if the leave request is for an FML qualifying event.



---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**“Certification of Health Care Provider” (Form WH-380)**

The “Certification of Health Care Provider” form WH-380 is mandatory when provisionally designating FML. Please note, however, that if FML is not provisionally designated, then any valid written medical certification from the employee’s treating health care provider is acceptable, so long as it provides the beginning and ending dates of disability and the diagnosis. No additional information may be required.

**Validity of the Certification**

1. If an employee submits a complete certification signed by the health care provider, the agency may not request additional information; however, a health care provider representing the agency may contact the employee’s health care provider, with the employee’s consent, for purposes of clarification and authenticity of the medical certification.
2. Where there is reason to question the adequacy of a certification, the employee may be required to obtain a second opinion from a health care provider designated by the agency at the agency’s expense. The health care provider may not be employed on a regular basis by the agency.
3. Where the second opinion differs from the opinion in the original certification, the employee may be required to obtain a third opinion from a health care provider designated jointly by the agency and the employee, again, at the agency’s expense. The third opinion is final and is binding on the agency and the employee.
4. The agency shall reimburse an employee or family member for reasonable travel expenses incurred to obtain the second and third medical opinions. The agency may not require the employee or family member to travel outside normal commuting distance, unless extenuation circumstances warrant such travel.
5. Upon request from the employee, the agency shall provide the employee a copy of the second and third medical opinions within two (2) workdays of the date of the request.

Pending receipt of subsequent opinions, the employee shall be provisionally entitled to FML. If the certifications fail to establish the employee’s entitlement to FML, the leave shall not be designated as FML and any provisional designation shall be withdrawn.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**Recertification of Medical Conditions**

1. The manager may request recertification of an employee no more often than every thirty (30) calendar days, unless:
  - a. an extension is requested;
  - b. circumstances described by the previous certification have changed significantly;  
or
  - c. the manager receives information that casts doubt upon the employee's stated reason for the absence.
  
2. Recertification requested by the manager shall be at the employee's expense and are not subject to subsequent opinions.

The employee has a minimum of fifteen (15) calendar days to provide the requested medical certification.

**Return to Duty Medical Certification**

When an employee has been on FML due to his/her own serious health condition, a return-to-duty certification provided by the employee's treating health care provider shall be required prior to the employee returning to work.

Prior to the employee's return to work, he/she shall be given a copy of the list of essential job functions for his/her position. The employee shall be instructed to deliver the list of essential job functions to his/her treating health care provider for that person's review and determination of the employee's ability to perform the essential job functions. If the employee is unable to perform one (1) or more of the essential job functions on a temporary basis, he/she may request a temporary accommodation that would allow him/her to return to work or request a continuation of his/her period of leave. If the employee is unable to perform one (1) or more of the essential job functions on a permanent basis, the Americans With Disabilities Act Policy and Procedures shall apply.

The manager may also require a fitness-for-duty evaluation as a result of the manager's reasonable belief, based on objective evidence, *i.e., observation(s) of the employee's performance or behaviors, or information provided by the employee's treating health care provider, etc.*, that:

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

- a. an employee's ability to perform the essential job functions will be impaired by a medical condition, or
- b. an employee will pose a direct threat due to a medical condition.

This includes employees that received treatment for a mental health condition and whose treating health care provider has indicated that the employee may return to duty.

**PROCEDURES FOR RECORDING LEAVE**

While the manager is responsible for designating leave as FML, the supervisor shall be responsible for maintaining appropriate leave records which accurately reflect FML taken and the balance.

Leave, paid or unpaid, designated as FML shall be recorded on the Employee Time Report, Form DC113, in the OPS column using the corresponding leave code "P" with an explanation in the comment/justification section that such leave has been designated as FML.

Once FML has been designated and the employee is out of work for more than thirty (30) consecutive days, his/her work schedule shall be converted to show Monday through Friday as scheduled workdays with weekends and holidays off.

**Example:** *John Doe's DC-113's "P" would be shown for Monday through Friday, "E" Saturday and Sunday, and the holiday letter on the appropriate holiday. This shall not cause the employee to lose any benefit for which he/she may have been otherwise entitled to if he/she was working.*

**NOTE:** Holidays occurring during a period of leave designated as FML shall be included in the total number of hours of FML counted against the 480 hours entitled.

If exhausting paid leave, i.e., vacation or sick leave, where paid leave has been designated as FML, the amount of paid leave taken shall be recorded consistent with fiscal policy and procedures. Such leave shall also be recorded with the corresponding leave code "P" and an explanation provided in the comment/justification section that such leave has been designated as FML.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

If FML is unpaid leave, the leave code "O" for non-pay status shall be recorded in the OPS column. Such leave shall also be recorded with the corresponding leave code "P" and an explanation provided in the comment/justification section that such leave has been designated as FML.

*Example:*

*If paid leave:  
(Non-pay status)*

*If unpaid leave:*

*Combination:*

*R OPS SP  
8/V/P*

*R OPS SP  
O/8/P*

*R OPS SP  
3 2/S/P  
1/V/P  
2/O/P*

*V - Vacation S - Sick O - Non-pay Status P - FMLA Leave*

Time recorded with the corresponding leave code "P" shall not be added into the "OPS" totals. Only in those cases where leave is compensable, i.e., vacation or sick leave, shall leave be added into the "OPS" totals and in such cases, it is the sick leave or vacation leave which is being added into the "OPS" totals and not the FML ("P" hours).

A summary of the balance forward, leave taken, and ending balance of FML shall be maintained and carried forward into the next leave accounting period on the DC113 in the section for recording and monitoring FML, labeled "FMLA LEAVE."

Once the employee has exhausted all FML, the employee may continue on paid leave if already exhausting paid leave, or continue on leave without pay or request and be placed on leave without pay, in accordance with the respective policies.

Any FML not used at the end of the twelve (12) month period shall be forfeited.

Upon transfer of an employee within the agency, the releasing supervisor shall notify the receiving supervisor of the employee's FML balance in the same manner as vacation and sick leave balances.

Upon transfer of an employee to another State agency, the Personnel Office shall provide such information to the receiving agency.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

The balance of FML shall be recorded on the Personnel Action Form, DC154S, so that the Personnel Office may either notify the receiving agency of the employee's balance upon transfer to another state agency or so that the information will be available should the employee be reinstated within the twelve (12) month period.

Upon transfer in of an employee from another State agency, the Personnel Office shall obtain the FML balance and provide such information to the appropriate supervisor.

For those employees with standard work hours of 165 hours per work cycle, i.e., 7k, shift lieutenants, etc., the work day consists of eight (8) hours when FML is taken.

**LEAVE WITHOUT PAY - FAMILY/MEDICAL LEAVE**

If an employee is to be placed on Leave Without Pay (LWOP) for FML, the procedures governing Leave Without Pay shall be followed. The supervisor shall:

1. Notify the Payroll Office of the:
  - a. employee's name, work location, position title/number, social security number,
  - b. effective date of the LWOP to ensure the employee is properly compensated, and
  - c. beginning effective date and ending date of FML, paid and unpaid leave, to ensure that the employee's health insurance premiums are paid for the period of FML only.
  
2. Complete the DC-154S sections one and three indicating the following:
  - a. Last day worked
  - b. Reason for LWOP - check appropriate blank. If reason is other, indicate the reason on the blanks provided;
  - c. Duration of LWOP, *i.e., 11/15/93 to 12/31/93.*  
If an employee exhausts leave prior to LWOP and fails to be in pay status a full eight (8) hours prior to going on or returning from LWOP, the actual number of pay status hours must be documented on the DC-154S in brackets.  
**Example:** *From 11/15/93 (4 hrs.) to 12/31/93 (2 hrs.)*

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

- d. The total number of hours of vacation and/or sick leave exhausted since the last day worked and the beginning and ending dates for vacation and/or sick leave exhausted. Leave may be exhausted prior to going on LWOP to a zero (0) balance.  
*Example: No. of Hours of Sick Leave Used: 166.45  
From: 10/04/93 To: 11/01/93(6.45 hrs.)  
No. of Hours of Vac. Leave Used: 70.45  
From: 11/01/93(2 hrs.) To: 11/15/93(4.45 hrs.)*
  - e. The final leave balances.
  - f. Date Payroll notified.
  - g. Last holiday given, holiday(s) advanced, and holiday(s) due.  
NOTE: Holidays shall not be advanced while exhausting leave.
  - h. In the comments section indicate that medical certification is on file in the employee's work unit medical file, if applicable.
3. Attach the following documents:
- a. DC-113(s) for entire month(s) leave is exhausted.
  - b. Copy of the completed and signed "Request and Approval for LWOP" form specifying the employee's effective date establishing the beginning of the employee's twelve (12) month period. Do not attach any medical certification. The only exception applies to the actual period of disability associated with childbirth, whereas, the health care provider's statement verifying the dates of the employee's actual period of disability shall be provided. This is necessary to verify the beginning and ending dates that sick leave was exhausted.
  - c. Two (2) copies of the Criminal Justice Form F-5B for probationary certified employees.
- NOTE:** A copy of the "Request and Approval for LWOP" form (side one and side two) approving LWOP - FML shall also be submitted to the Payroll Office. It is of utmost importance that the Payroll Office be informed of the exact dates of an employee's FML period, to ensure that the employee's health insurance premiums are paid for the appropriate months.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

4. If LWOP - FML has been approved due to an emergency where advance notice could not be made, the above procedures shall still be followed; however, a statement in the comments section of the DC-154S indicating that LWOP - FML has been approved due to emergency shall be included. A copy of the completed and signed "Request and Approval for LWOP" form shall be submitted upon receipt.

**NOTE:** If an extension of LWOP - FML is approved for an employee, the Personnel Office does not require notification, as the employee has already been placed on LWOP. However, the Payroll Office does require notification so continuation of health insurance will be provided during the period of LWOP - FML leave.

Upon the employee's return to work, the reinstatement from LWOP - FML shall be submitted in the same manner as a reinstatement from LWOP.

**EMPLOYMENT AND BENEFITS PROTECTION**

**Reinstatement**

The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits, and other conditions of employment, i.e., shift assignment. The work unit manager may require the employee to report at reasonable intervals to him/her on his/her status and intention to return to work. In the case of leave taken due to the employee's serious health condition, medical certification indicating that the employee may return to work and perform the essential job functions of his/her position may be required.

Reinstatement is not required if an employee is reduced in force during the course of taking FML. However, the Department must be able to provide proof that the reduction would have occurred had the employee not been using FML.

**Benefits**

The employee shall be reinstated without loss of benefits accrued when the leave began. All benefits accrue during any period of paid leave; however, benefits do not accrue during any period of leave without pay. For example, while an employee is exhausting vacation or sick leave, the employee continues to earn vacation and sick leave.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**Health Benefits**

The State shall maintain coverage for the employee under the State's group health plan for the duration of leave at the level and under the conditions coverage would have been provided if the employee had continued employment. Any share of health plan premiums which an employee had paid prior to leave must continue to be paid by the employee during the leave period.

The work unit manager shall advise the employee of the terms for payment of premiums during the period of FML. The obligation to maintain health insurance coverage stops if an employee's portion of the premium payment is more than thirty (30) days late. The agency shall provide fifteen (15) days notice that coverage will cease.

If the employee's failure to make the premium payments leads to a lapse in coverage, the employer must still restore the employee, upon return to work, to the health coverage equivalent to what the employee would have had if leave had not been taken and the premium payments had not been missed without an waiting period or preexisting conditions.

**NOTE:** Even if the employee chooses not to maintain group health plan coverage for dependents or if coverage lapses during the period of FML, the employee is entitled to be reinstated on the same terms as prior to taking leave, including family or dependent coverage, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. Therefore, the agency should assure that health benefits coverage will be reinstated; otherwise, the agency would need to pay the premium and recover its share after the employee returns to work.

The agency may recover the health plan premium payments from the employee if the employee fails to return to work for a minimum of thirty (30) calendar days after the period of leave to which the employee is entitled has expired if the employee's failure to return to work is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control.

If the employee continues on unpaid leave after the employee's FMLA leave entitlement has expired, the employee shall be responsible for the entire health plan premium.



---

Subject:

**FAMILY/MEDICAL LEAVE**

---

**INTERFERENCE WITH RIGHTS**

**Actions Prohibited**

It is unlawful to interfere with, restrain, or deny any right provided by this policy or to discharge or in any other manner discriminate against an employee for opposing any practice made unlawful by this policy.

**Protected Activity**

It is unlawful to discharge or in any other manner discriminate against any employee because the employee does any of the following:

1. Files any civil action, or institutes or causes to be instituted any civil proceeding under or related to this policy.
2. Gives, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided by this policy.
3. Testifies, or is about to testify, in any inquiry or proceeding relating to any right provided under this policy.

**ENFORCEMENT AND GRIEVANCE**

The U.S. Department of Labor is the federal regulatory agency for the FMLA of 1993. A violation of or denial of leave requested pursuant to the FMLA of 1993 is a grievable issue and employees, except for ones in exempt positions (policymaking, exempt managerial, confidential assistants, confidential secretaries and chief deputy or chief administrative assistant), may appeal under the State Personnel Act. Violations may result in one or more of the following:

1. U.S. Department of Labor investigation, or
2. Civil liability with the imposition of court cost and attorney's fees, or
3. Administrative action by the U.S. Department of Labor

**POSTING REQUIREMENT AND NOTICE PROVISIONS**

Managers are required to post and keep posted, in a conspicuous location easily accessible to all employees, this policy and a notice explaining the FMLA provisions and providing information concerning the procedures for filing complaints of violations of the Act with the U.S. Department of Labor, Wage and Hour Division. This requirement may necessitate posting in more than one area within the work location.

---

Subject:

**FAMILY/MEDICAL LEAVE**

---

In addition, upon notice from an employee of the need for FML, the supervisor shall provide the employee with notice detailing the specific expectations and obligations of the employee and explaining the consequences of a failure to meet these obligations.

**RECORDKEEPING**

Agencies are required to keep records for no less than three (3) years and make such records available to the US Department of Labor upon request. In addition to records required to be maintained under the Fair Labor Standards Act, the following information shall also be maintained:

1. dates FML is taken
2. hours of leave if less than a full day
3. copies of employee notices
4. documents describing employee benefits
5. premium payments of employee benefits, and
6. records of any disputes

Any and all records associated with a notice of leave requested under this policy, and the designation of leave as FML are confidential and shall be maintained in a manner so as not to breach this confidentiality. All records and documents relating to medical certifications, recertification, or medical histories of employees or employees' family members, created for purposes of FML, shall be maintained as confidential medical records in separate files/records from the employee's personnel file. The only exceptions include:

1. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations;
2. First aid and safety personnel may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment; and
3. Government officials investigating compliance with the FMLA of 1993 or other pertinent law shall be provided relevant information upon request.

**DISCIPLINARY ACTION**

Any willful violation of the aforementioned policy and procedures shall be handled consistent with the Department's Disciplinary Policy and Procedures and may result in disciplinary action up to and including dismissal.

## Sample Letter - Provisional Designation

Date

### **MEMORANDUM**

**TO:** Employee's Name

**FROM:** Manager's Name

**RE: Family/Medical Leave**

This to advise that your period of leave beginning date has been provisionally designated as Family/Medical Leave (FML) pending the receipt of medical certification from your health care provider that verifies identify reason employee has requested leave.

In determining the Twelve (12) month period during which an eligible employee may be entitled to up to twelve (12) weeks or 480 hours of FML, the Department of Correction uses a fixed twelve (12) month period measured forward from the first date FML is designated, also referred to as the effective date.

Any vacation or sick leave used as part of your personal or family medical problem after the effective date, including whole days and any portion of a day, shall be applied towards the 480 hours of FML. The Employee Time Report, DC-113, should reflect that the vacation or sick leave has been designated as FML. Specifically, the FML should be recorded on the DC-113 in the OPS column using the corresponding leave code "P" in addition to the leave codes "V" or "S" (i.e., 8/V/P or 8/S/P) and a statement in the comments/justification section indicating that such time has been designated as FML. Only the vacation or sick leave exhausted shall be included in the OPS totals.

If all or any portion of the 480 hours is unpaid leave, you will need to submit a completed "Request and Approval for Leave Without Pay" form to identify appropriate supervisor or manager by identify specific date employee must return a completed form. Any period of leave without pay concurrently designated as FML shall be recorded on the DC-113 in the OPS column as 8//O/P; however, the unpaid leave will not be included in the OPS totals. Hereagain, a statement in the comments/justification section indicating that such time has been designated as FML shall be included. Please note, no employee shall be covered by the FML Program for more than 480 hours during the twelve (12) month period following the beginning effective date. This includes vacation or sick leave used for family/medical leave qualifying reasons.

During any period of Family/Medical Leave that is leave without pay, the State will continue to pay the State's contribution to your health care plan. You, however, will be responsible for any premium payments not previously paid by the State, specifically, additional premiums for HMO's, coverage for children, family, and any cost above the amount paid by the State for personal coverage. Your health insurance coverage may cease if your share of the health insurance premium is more than thirty (30) days late.

### **Sample Letter - Provisional Designation (continued)**

However, if this occurs, you would still be restored, upon return to work, to the health coverage equivalent to what you would have had if leave had not been taken and the premium payments had not been missed without a waiting period or preexisting conditions.

Additionally, if you fail to return to work at the conclusion of your period of FML for reasons other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond your control, the agency may recover the health plan premium payments from you.

Prior to returning to work, a return-to-duty certification from your treating health care provider will be required. A list of the essential job functions is enclosed. Please take these to your treating health care provider for his/her review. You may also be required to submit to a fitness-for-duty evaluation prior to returning to work.

If you continue on unpaid leave after your FML entitlement has expired, you will be responsible for the entire health plan premium.

Should you require additional leave beyond the period of Family/Medical Leave, you will need to submit a written request to your supervisor for approval of a continuation of leave or leave without pay for identify reason, i.e., extended illness, personal reasons, etc.

Should you have any questions regarding the Family/Medical Leave Program, please contact identify contact person.

Enclosure

cc: Payroll  
Medical File

## Sample Letter for Designation of Paid Leave as Family/Medical Leave

Date

### **MEMORANDUM**

**TO:** Employee's Name  
**FROM:** Manager's Name  
**RE:** **Family/Medical Leave**

This to advise that your period of leave beginning date and ending date has been designated as Family/Medical Leave (FML). Please note the following information:

Leave Entitlement: Indicate total number of FML hours to which the employee is entitled  
Twelve (12) Month Period: From: Identify Specific Date To: Identify Specific Date  
Amount of Family/Medical Leave Used: Indicate total number of FML hours to be used  
Family/Medical Leave Balance: Identify total number of FML hours remaining

In determining the Twelve (12) month period during which an eligible employee may be entitled to up to twelve (12) weeks or 480 hours of FML, the Department of Correction uses a fixed twelve (12) month period measured forward from the first date FML is designated, also referred to as the effective date.

Any vacation or sick leave used as part of your personal or family medical problem after the effective date, including whole days and any portion of a day, shall be applied towards the 480 hours of FML. The Employee Time Report, DC-113, should reflect that the vacation or sick leave has been designated as FML. Specifically, the FML should be recorded on the DC-113 in the OPS column using the corresponding leave code "P" in addition to the leave codes "V" or "S" (i.e., 8/V/P or 8/S/P) and a statement in the comments/justification section indicating that such time has been designated as FML. Only the vacation or sick leave exhausted shall be included in the OPS totals.

If all or any portion of the 480 hours is unpaid leave, you will need to submit a completed "Request and Approval for Leave Without Pay" form to identify appropriate supervisor or manager by identify specific date employee must return a completed form. Any period of leave without pay concurrently designated as FML shall be recorded on the DC-113 in the OPS column as 8//O/P; however, the unpaid leave will not be included in the OPS totals. Hereagain, a statement in the comments/justification section indicating that such time has been designated as FML shall be included.

Please note, no employee shall be covered by the FML Program for more than 480 hours during the twelve (12) month period following the beginning effective date. This includes vacation or sick leave used for family/medical leave qualifying reasons.

## **Sample Letter for Designation of Paid Leave as Family/Medical Leave (continued)**

During any period of Family/Medical Leave that is leave without pay, the State will continue to pay the State's contribution to your health care plan. You, however, will be responsible for any premium payments not previously paid by the State, specifically, additional premiums for HMO's, coverage for children, family, and any cost above the amount paid by the State for personal coverage. Your health insurance coverage may cease if your share of the health insurance premium is more than thirty (30) days late. However, if this occurs, you would still be restored, upon return to work, to the health coverage equivalent to what you would have had if leave had not been taken and the premium payments had not been missed without a waiting period or preexisting conditions.

Additionally, if you fail to return to work for a minimum of thirty (30) calendar days at the conclusion of your period of FML for reasons other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond your control, the agency may recover the health plan premium payments from you.

Prior to returning to work, a return-to-duty certification from your treating health care provider will be required. A list of the essential job functions is enclosed. Please take these to your treating health care provider for his/her review prior to your anticipated date of returning to work. You may also be required to submit to a fitness-for-duty evaluation prior to returning to work.

If you continue on unpaid leave after your FML entitlement has expired, you will be responsible for the entire health plan premium.

Should you require additional leave beyond the period of Family/Medical Leave, you will need to submit a written request to your supervisor for approval of a continuation of leave or leave without pay for identify reason, i.e., extended illness, personal reasons, etc.

Should you have any questions regarding the Family/Medical Leave Program, please contact identify contact person.

cc: Payroll  
Medical File

Date

Dear Mr./Mrs. Employee:

The medical certification requested in my letter of indicate date of letter has been received, however, it fails to identify the condition for which leave has been approved and for which Family/Medical Leave was provisionally designated. Without further information, we are unable to determine if your condition meets the criteria to be considered a serious health condition as that term is defined in the Family/Medical Leave Policy. Therefore, we are unable to designate your leave as Family/Medical Leave and are hereby withdrawing the provisional designation Family/Medical Leave as indicated in my letter of indicate date of letter.

Since we are unable to designate your leave as Family/Medical Leave, you will not be entitled to the benefits and protections provided by the Family/Medical Leave Policy. If you are later able to provide additional information regarding your condition, we will be happy to reconsider the designation of Family/Medical Leave.

You are still expected to return to work on indicate date and will also still be required to provide a return-to-duty certification from your treating health care provider and may be required to submit to a fitness-for-duty evaluation prior to returning to work. Your failure to return to work or failure to request and receive approval for a continuation of your leave will result in a reevaluation of your employment status. Manager may need to be more specific depending on status of leave, i.e., lwop or paid leave.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Work Unit Manager

Reference Initials

cc: Medical File