



## OFFICE OF THE SECRETARY

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### SECRETARIAL DIRECTIVE

**SUBJECT:** Employee Work Schedules and Leave

**NUMBER:** 2021-18

**SUPERSEDES:** 2019-03

**APPLICABILITY:** All Department of Corrections Employees

**REFERENCE:** A.C.A. §§ 21-4-201 et seq., 25-43-105, 25-43-108, and 25-43-403, Federal Family and Medical Leave Act of 1993, Americans with Disabilities Act, and the Secretarial Directive on Employee Conduct Standards and Discipline.

**PAGE:** 1 of 11

**ISSUED BY:** Original Signature on File

**EFFECTIVE DATE:** 9/16/2021

#### **I. POLICY:**

As the executive head of the Arkansas Department of Corrections (DOC), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. The purpose of this directive is to ensure that all DOC Employees abide by a standard work schedule that meets the needs of the DOC and the executive expectations set by the Governor.

#### **II. DEFINITIONS:**

- A. Catastrophic Leave. Leave granted to an Employee as a result of a Catastrophic Illness, after the Employee has exhausted all sick and annual leave hours.
- B. Catastrophic Illness. A medical condition or injury as certified by a physician of the Employee or the Employee's spouse, parent or child who may be claimed as a dependent under the Arkansas Income Tax Act of 1929 that requires the Employee's absence from duty for a prolonged period of time and that, except for the catastrophic leave program, would result in a substantial loss of income to the Employee because of the exhaustion of all earned sick and annual leave.
- C. Catastrophic Leave Bank Program (CLBP). A pool of accrued annual and sick leave voluntarily donated by state Employees and managed by TSS-OPM that may be approved for use by Employees who meet the catastrophic illness eligibility requirements.
- D. Central Human Resources Administrator (CHRA). An Employee who manages the operations of Central Human Resources Office.
- E. Central Human Resources Office (CHRO). Shared Services personnel who manage the overall operations of Human Resources for the DOC.
- F. Compensatory Leave. Time off in lieu of payment for overtime hours.
- G. Critical Need Employee. A designated individual in a position or job classification that is required to be staffed by the State agency twenty-four (24) hours a day and seven (7) days a week.
- H. Employee. A person employed in a legislatively-authorized position either on a full or part-time basis by the DOC. A class title and pay grade must be established in an agency's appropriation act.
- I. FMLA. Family Medical Leave Act.
- J. Leave Abuse/Unauthorized Absences. Documented abuse of leave or unauthorized absence from work (may be cause for disciplinary action).
- K. Onset of the Illness or Injury. The initial beginning, or start, as certified by a physician or other appropriate healthcare provider, of a medical condition which creates the need for a Catastrophic Leave request.

- L. Tardiness. Arriving one (1) minute or more past the scheduled start of the workday (may be cause for disciplinary action).
- M. TSS-OPM. Department of Transformation and Shared Services Office of Personnel Management.
- N. UHRC. Unit Human Resource Coordinator, area or local Unit HR Manager or Designee. Division level personnel designated to perform HR functions and duties.
- O. Worker's Compensation. A benefit provided to injured workers, or their dependents in the event of the worker's death due to the injury.

### **III. PROCEDURES:**

#### **A. WORK SCHEDULE**

1. The various locations within the Divisions of the DOC, other than correctional facilities will be open for regular business between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except for observed holidays and inclement weather adjustments. Correctional facilities operate twenty-four (24) hours a day, seven (7) days a week. Alternate work schedules may be authorized by a Division Director after consultation with the Secretary. Upon approval, a Division Director will notify the CHRO of any authorized alternate work schedule. An example of an alternate work schedule, requiring approval prior to implementation, would be Monday through Thursday 7 a.m. to 6 p.m.
2. Area Parole and Probation Managers may adjust office hours to allow for offenders to report at times outside of regular business days and hours. If hours are adjusted, a supervisor or the Area Manager's designee must be assigned during those hours.
3. Wardens/Center Supervisors will set staff schedules that provide for the necessary coverage of security and non-security facility job assignments.
4. A supervisor may adjust their Employee's work schedule as needed in order to meet operational needs of the Department. Employees will follow the schedule provided to them by their immediate supervisor. An example would be allowing an Employee the flexibility to work from 7:30 a.m. to 4:30 p.m. or 8:30 a.m. to 5:30 p.m. instead of the normal 8 a.m. to 5 p.m. five days a week. Any change beyond this requires approval by the appropriate Division Director.

#### **B. LUNCH BREAKS**

Non-Exempt employees not assigned to a unit security post are required to take an unpaid lunch break during their workday. Lunch breaks shall be for at least thirty (30) minutes and up to sixty (60) minutes, depending on the Employee's approved work schedule. Lunch breaks cannot be taken in order to allow an Employee to arrive late or leave early. Supervisors are encouraged to allow Employees to take short breaks as necessary to remain productive and attentive.

#### **C. EMPOWERING ARKANSAS STATE EMPLOYEES (EASE)**

All state Employees can use the EASE software to view their pay stubs, submit leave slips, view benefits details, quota overview, W-2 statements, Employee performance evaluations, etc. EASE can be accessed on a desktop, laptop, or mobile device. Employees can access the website at <https://ease.arkansas.gov>.

#### **D. LEAVE TRACKING AND HIERARCHY**

1. Employees transferring without a break in service or between state agencies and/or state-supported institutions of higher education that are covered by these policies will retain all accumulated annual leave. Employee Leave time cannot be used until it is available. Leave time can be used in increments of fifteen (15) minutes. Employees should make every effort to submit requests for leave in advance. Requests for leave should be submitted and approved prior to the end of the pay period.
2. Employees at work sites with work schedules other than eight (8) hours per day, will be charged leave based upon their daily work schedule.
3. All leave should be requested using EASE. Where EASE is not available, leave must be requested, approved, or denied in writing using an Employee leave slip from the UHRC. A hard copy of all records of leave submitted using a leave slip shall be sent to the UHRC and placed in the Time folder in Laserfiche. Employees shall track all requests for leave, approvals, and denials. Employees will submit leave in the following order:

Leave Hierarchy
Straight Time
Overtime/Compensatory
Annual Leave
Holiday Leave
Employee Birthday

4. A non-security Employee who is required to work on a legal holiday may receive equivalent time off on another date. Days off in lieu of holidays worked should be taken as soon as practical at a time approved by the Employee’s supervisor.

**E. LEAVE PAYOUTS**

1. When an Employee terminates employment with the state, he/she is eligible to receive a payout of annual, birthday, and holiday leave balances; however, the payout cannot exceed thirty (30) days or 240 hours.
2. When an Employee transfers to another agency or terminates employment, the original agency must pay the Employee the balance of their unpaid overtime or unused compensatory time in a lump sum payment at the higher rate or the final regular rate of pay received by the Employee.
3. Employees are not entitled to payment for accrued and unused sick leave upon termination of employment. Upon retirement or death, an Employee, or beneficiary of an Employee, will receive compensation not to exceed \$7,500 for accumulated unused sick leave as outlined in the Sick Leave Incentive Payout policy on the Office of Personnel Management (OPM) website.
4. Upon retirement or death, if the balance of the Employee’s sick leave does not reach the criteria for a Sick Leave Incentive Payout, the Employee or their beneficiary may donate their sick leave to the Catastrophic Leave Bank. When an Employee receives a payout for unused sick leave at retirement or death, hours used to calculate the maximum payout of \$7,500 cannot be donated to the catastrophic leave bank. Once the calculation of the number of accrued hours needed to receive a full payout of \$7,500 has been made, any remaining hours may be donated to the Catastrophic Leave Bank.

**F. ANNUAL LEAVE**

1. Annual Leave is paid vacation time that is earned during each month and is available the first day of the following month.
2. Annual leave is earned at a predetermined rate based on years of service:

Years of Service	Hours per Month	Days Earned Annually
1-3	8	12
4-5	10	15
6-12	12	18
13-20	14	21
20+	15	22.5

3. For Employees using approved alternative work schedules of ten (10) hour days, when taking a full day of annual leave, it will be charged at a rate of ten (10) hours a day not to exceed forty (40) working hours in a seven (7) day work week or eighty (80) hours in a fourteen (14) day pay period.
4. Employees must request leave in advance and receive approval by his or her supervisor prior to the leave beginning. Supervisors may deny a leave request due to business necessity.
5. An Employee will not earn annual leave when on Leave Without Pay status for ten (10) or more cumulative days within a calendar month.
6. An Employee interviewing for internal DOC positions may be required to submit leave, other than sick leave, if the number of interviews exceeds one (1) interview per pay period, unless prior approval is granted by the appropriate Division Director or designee.
7. At the end of the calendar year and except as provided in A.C.A. §§ 21-4-201 et seq., an Employee's accumulated annual leave that exceeds the maximum allowed shall be deposited into the catastrophic leave bank administered by the OPM. If an Employee does not want his or her accumulated annual leave to be deposited into the catastrophic leave bank, he or she shall submit a written request to DOC Central Human Resources no later than December 1<sup>st</sup> of each calendar year. DOC Central Human Resources will then submit the request to the OPM that the accumulated annual leave in question be forfeited in lieu of being deposited into the catastrophic leave bank.
8. Employees cannot borrow from anticipated future accruals and may not use annual leave accrued by other Employees.

## 9. Critical Need Employee

### A. Procedures

1. A Critical Need Employee is prohibited from carrying over to the next calendar year more than forty-five (45) days or 360 hours. The following are positions designated by the Secretary as Critical Need Employees due to the requirement that they be staffed 24/7:
  - a. DOC Correctional Officer
  - b. DOC Corporal
  - c. DOC Correctional Sergeant
  - d. DOC Lieutenant
  - e. DOC Captain
  - f. DOC Major
  - g. DOC Food Preparation Supervisor
  - h. DOC Food Preparation Manager
2. If at the end of a calendar year, the cumulative annual leave of a Critical Need Employee exceeds forty-five (45) days or 360 hours, and one (1) or more written or electronic requests by the Critical Need Employee to use annual leave were denied, in written or electronic form, due to the staffing needs of the DOC, then the amount of the leave that was requested by the Critical Need Employee but denied shall be liquidated and paid out in a lump sum to the Critical Need Employee. Eligibility for payment is automatic; however, DOC Central Human Resources will review an eligible Employee's leave records prior to payout.
3. The DOC shall monitor the annual leave balance of a Critical Need Employee; and may request that a Critical Need Employee use annual leave to avoid his or her cumulative annual leave exceeding forty-five (45) days or 360 hours.

### B. Notice

1. If the cumulative annual leave of a Critical Need Employee will exceed forty-five (45) days or 360 hours at the end of a calendar year, the DOC may instruct the Critical Need Employee to use annual leave on one (1) or more specified dates prior to the end of the calendar year.
2. If the DOC instructs a Critical Need Employee to use annual leave, the DOC shall provide notice to the Employee at least fourteen (14) days before a specified date to use annual leave.

## **G. SICK LEAVE**

### 1. Procedure

- a. Regular-full-time Employees will accrue eight (8) hours per month regardless of years of service. It is available the first day of the following month. Sick leave cannot be used until it is available. An Employee will not earn sick leave when on Leave Without Pay status for ten (10) or more cumulative days within a calendar month. The use of sick leave is contingent upon the occurrence of one of the events listed below.
  - i. An Employee is unable to work because of sickness, injury, or has the need to seek medical, dental, or optical treatment.
  - ii. The spouse of an Employee or dependent child is suffering from sickness, injury or has the need to seek medical, dental, or optical treatment; or
  - iii. Death or serious illness of an immediate family member (father, mother, sister, brother, spouse, child, grandchild, grandparents, in-laws, or a person acting as a parent or guardian or dependent of the Employee).
- b. The maximum sick leave that can be carried over to the next calendar year on December 31st is 960 hours. If an Employee is off work forty (40) or more consecutive hours, an Essential Job Functions Questionnaire is required upon returning to work. A supervisor may request a doctor's excuse at any time. If requested, Employees should provide a signed statement from their medical provider stating that the illness prevented the Employee from performing his or her normal work for a specified time.

### 2. Notice

- a. Requests to use sick leave for medical appointments should be made in advance. Employees must notify their supervisor prior to the first thirty (30) minutes of the duty day every day of absence due to unexpected illness. If physically unable to make the notification within thirty (30) minutes, the Employee, or designee must notify the supervisor as soon as possible. If the supervisor is not available, the next supervisor in the chain of command should be notified, and a sick leave request should be submitted as soon as possible.

- b. Except as otherwise provided for in this policy, an Employee is only required to provide a doctor's excuse, when requested, to explain absence or illness. This does not preclude the requirement for detailed medical information for such purposes as FMLA, Catastrophic Leave, required fitness exams, Americans with Disabilities Act (ADA), Workers' Compensation claims etc.
3. Banked holidays, straight time, and overtime may be used in lieu of sick leave.

## H. FAMILY AND MEDICAL LEAVE ACT (FMLA)

1. The Federal Family and Medical Leave Act of 1993 requires all public agencies to provide up to twelve (12) weeks of unpaid, job-protected leave per calendar year to eligible Employees for certain family and medical reasons or any qualifying need arising out of the fact that the spouse, child, or parent of the Employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
2. Federal law has expanded FMLA to provide up to 26 weeks of leave per calendar year to care for an injured military service member. Employees are eligible if they have worked within state government for at least one (1) year (cumulative) and for 1,250 hours over the previous twelve (12) months.
  - a. The FMLA provides for leave for any of the following reasons:
    - i. To care for the Employee's child after birth or placement by adoption or foster care;
    - ii. To care for the Employee's spouse, son or daughter (under age 18 or if 18 or older, incapable of self-care due to a mental or physical disability as defined by the ADA), or parent who has a serious health condition;
    - iii. For a serious health condition that makes the Employee unable to perform the essential functions of the Employee's job;
    - iv. To care for the Employee's spouse, child (over the age of 18), parent or next of kin who was injured on active duty; or
    - v. For the qualifying need when an Employee's spouse, child (over the age of 18), or parent is called to or on active duty.
  - b. An Employee must use accrued paid leave in place of unpaid leave. An Employee may take FMLA on a full time or intermittent basis.
  - c. An Employee is required to provide the employer with at least thirty (30) days advance notice before FMLA leave is to begin if the need for leave is foreseeable based on:
    - i. An expected birth;
    - ii. Placement by adoption or foster care; or
    - iii. Planned medical treatment for an Employee's or family member's serious health condition.
    - iv. If thirty (30) days' notice is not practicable, notice must be given as soon as possible. It is expected that an Employee will give notice within one (1) or two (2) working days of learning of the need for leave.
  - d. An Employee will provide at least verbal notice to his/her supervisor upon application to UHRC for FMLA, and the anticipated duration of the leave requested. The Employee must follow policy regarding call-in procedures for reporting any absence, unless there are extenuating circumstances. Requested leave time must be submitted.
  - e. The UHRC will provide a packet of information and forms for Employees requesting FMLA leave. When verbal notice is given by the Employee, the UHRC may complete the FMLA Request (Attachment I); however, the Employee is required to provide medical certification to support the request for leave. When this is not possible, the Employee must provide the certification to the DOC within fifteen (15) calendar days of receipt of paperwork. Additional certification may be required if the Employee is unable to return to work from leave at the end of the original requested period. FMLA leave may be denied or delayed if the medical certification requirements are not met.
  - f. If the agency has reason to believe an Employee's leave may be FMLA qualifying, the Employee will be provided promptly with the FMLA packet. An absence of more than five (5) consecutive days that involves continuing treatment by a health care provider may be considered sufficient reason to believe.
  - g. The supervisor must notify the UHRC or designee that an Employee has been out of work for five (5) days that involves continuing treatment by a health care provider. The UHRC will abide by the following procedures:
    - i. FMLA papers will be sent to the Employee via certified mail or email. Email will have a read receipt;

- ii. Advise the Employee of the fifteen (15) calendar day timeframe from the date information was received by the Employee to return the completed FMLA paperwork;
- iii. If the FMLA paperwork has not been returned at the end of the 15 calendar days, the FMLA may be denied or delayed if the medical certification requirements are not met;
- v. If an Employee submits medical certification that is incomplete or insufficient, the UHRC will specify in writing which information is lacking and give the Employee an additional seven (7) calendar days to cure the deficiency;
- vi. At eight (8) weeks of FMLA usage, CHRA will send the Employee via certified mail an FMLA status letter with FMLA hardship determination. This timeline may be modified when the staff member is not using the full twelve (12) weeks of FMLA;
- vii. Upon completion of the twelve (12) week period (26 weeks in the event the Employee is caring for an injured military service member), CHRA or designee will check if the Employee is unable to return to work, perform the essential functions of his/her position, and has depleted all accrued leave. The Employee may be terminated unless the Employee has requested and has been approved for an accommodation under the ADA by the appropriate Division Director or the Secretary. If a physician determines an Employee is unable to perform one of the essential functions of his/her current job due to a temporary or permanent disability, the CHRA must be notified; and
- viii. Prior to returning to work, an Employee who has been on FMLA leave due to his/her own health condition, must provide to the UHRC an Essential Job Function Questionnaire completed by his/her physician certifying fitness for duty. The UHRC will submit the completed form to the CHRA.
  - a. If an Employee is given an essential job functions with no accommodations needed, the Employee will be instructed to return to work. Copies of Essential Job Functions are available under the Human Resources tab on DOC Connect under ADC or DCC HR Forms, or may be provided by central or unit Human Resources.
  - b. Employees receiving Catastrophic Leave and/or Workers' Compensation benefits may be FMLA qualified for up to twelve (12) weeks. These awards will run concurrently if eligibility requirements are met.
- h. Under FMLA, job benefits and protection include:
  - i. For the duration of FMLA leave, the DOC will maintain the Employee's health insurance coverage under any "group health plan," under the conditions that the coverage would have been provided if the Employee had continued to work (matching portion paid by the DOC while the Employee continues to pay his/her portion);
  - ii. When an Employee returns from FMLA leave, he or she must be restored to the same job or to an "equivalent job". The Employee is not guaranteed the actual job held prior to the leave. An equivalent job means a job that is virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions (including shift and location).
  - iii. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the Employee's leave;
  - iv. Employees must meet all conduct standards to be eligible, regardless of being absent from work because of medical leave;
  - v. Employees approved for FMLA will be approved for only the amount of time noted on the medical paperwork. If more FMLA is needed, the Employee must submit a request for additional FMLA paperwork to UHRC; and

## **I. CATASTROPHIC LEAVE**

1. The Catastrophic Leave Bank Program allows the continuation of salary and benefits for an eligible Employee who has exhausted all paid leave due to a medical condition and/or Catastrophic Illness. A prolonged period of time is a continuous period of time (minimum of thirty (30) days) whereby a medical condition prevents the Employee from performing his/her duties.
2. The combination of catastrophic leave for the stated medical condition(s) that are due to illness/injury or for maternity purposes, which an Employee receives may not exceed 1,200 hours in a calendar year (1,040 hours for illness/injury and 160 hours for maternity purposes).
3. All Catastrophic Leave requests must be submitted to TSS-OPM for review and determination.
4. Eligibility requirements to apply for Catastrophic Leave are as follows:
  - a. The applicant must be a regular full-time Employee;

- b. The Employee must have been employed by the State of Arkansas for at least one (1) year in a regular, full-time position, prior to submitting request for Catastrophic Leave;
  - c. Employees must have exhausted all sick, annual, holiday and compensatory leave. At the Onset of the Illness or Injury, had at least eighty (80) hours of combined sick and annual leave. If a recurrence of the same illness necessitates a subsequent catastrophic leave request, the eligibility requirement that the Employee has eighty (80) hours of combined sick and annual leave at the Onset of the Illness or Injury will not be required on the illness recurrence date;
  - d. The "80-hour requirement" may be waived for an otherwise eligible Employee if an "extraordinary circumstance" is declared by the appropriate Division Director or the Secretary due to the applicant providing documentation that one (1) of the following conditions has occurred:
    - i. The Employee applying for catastrophic leave had, during the previous one (1) year period, another medically documented, catastrophic illness, as defined by this policy, that was not compensated under the CLBP that caused the exhaustion of all annual/sick leave; or
    - ii. The Employee applying for catastrophic leave had, during the previous one (1) year period, exhausted his/her sick and annual leave as a direct result of supplementing workers' compensation benefits, which were received due to an on-the-job injury or illness with the State of Arkansas.
  - e. The Employee has not been disciplined for leave abuse during the past year, from the date of application.
  - f. An Employee is eligible for approved catastrophic leave due to injury/illness for a maximum of six (6) months (1,040 hours) within a five (5) year period. Additional requests within the five (5) year period may be submitted for review and determination by the OPM Catastrophic Leave Bank Committee and State Personnel Administrator. This requirement does not apply for maternity purposes.
  - g. An Employee must not be approved for catastrophic leave for a maternity purpose unless the Employee has provided acceptable proof of the birth or placement.
    - i. For the birth of an Employee's biological child, acceptable proof includes:
      - a. A hospital announcement or discharge papers with the mother's name and/or the biological child's name; or
      - b. A birth certificate of the biological child.
    - ii. For the placement of an adoptive child in an Employee's home, acceptable proof includes:
      - a. Formal document from the placement entity with the mother's name and the child's name; or
      - b. Legal guardianship papers with the mother's name and the child's name.
    - iii. The acceptable proof will be maintained by the agency submitting the request but certified as part of the application process or as follow-up to the application using the Maternity Purposes Eligibility Date Verification form.
  - h. Approved catastrophic leave for a medical emergency or for maternity purposes must be applied concurrently with FMLA, if the Employee is eligible.
5. Catastrophic Leave Bank Program (CLBP) Administration
- a. To be considered for catastrophic leave, an Employee must complete an application, with attachments, and forward them to the CHRO. CHRO staff will notify the applicant of approval or disapproval of the request. Catastrophic Leave will not be awarded retroactively. Forms are available under the Human Resources tab on DOC Connect under ADC HR Forms or DCC HR Forms, (or may be requested from CHRO or UHRO).
  - b. Except for employees in Catastrophic leave Status for maternity purposes, employees on Catastrophic Leave will continue to accrue leave in accordance with existing leave policies and will receive the normal state benefits, such as agency contributions to insurance and retirement.
  - c. Employees in Catastrophic Leave status for maternity purposes will earn leave as set out in the Maternity Leave section.
  - d. An Employee may be dismissed for failing to report to work promptly at the expiration of the period of approved catastrophic leave. Nothing, however, will prevent the agency from accepting satisfactory reasons provided by the Employee in advance of the date the Employee is scheduled to return to work and from granting leave without pay status to an Employee after the expiration of catastrophic leave if, the Secretary determines, such action is warranted. For Employees pending approval of Catastrophic leave, supervisors should not take disciplinary action for Leave Without Pay (LWOP) until the application has been formally approved or denied. Alleged or suspected abuse of the

CLBP will be investigated and on a finding of wrongdoing, an Employee must repay all leave hours awarded from the CLBP and will be subject to disciplinary action as determined by the appropriate Division Director or the Secretary.

## **J. MATERNITY LEAVE**

1. Eligible female Employees may take up to four (4) weeks of paid leave after the birth of the Employee's child or placement of an adoptive child in the Employee's home. Paid maternity leave will run concurrently with FMLA leave. Eligible male Employees may take FMLA after the birth or placement of a son or daughter or to bond with a newborn or newly placed son or daughter.
2. Maternity leave is treated as any other leave for sickness or a disability. However, an Employee may elect to take Leave Without Pay to avoid exhausting accumulated Annual and Sick Leave. Before taking maternity leave, Employees must submit a doctor's statement to their supervisor indicating when maternity leave will begin and end. An Essential Job Functions form is required upon return from Maternity Leave.
3. While on maternity leave, Employees will continue to earn annual and sick leave unless they are on leave without pay status. Consult the CHRO or the section on Family and Medical Leave Policy for requirements that may impact maternity leave. Eligibility requirements for Catastrophic Leave for maternity purposes are as follows:
  - a. Employed by the State of Arkansas for one (1) year or more.
  - b. The Employee cannot have disciplinary actions for leave abuse during the past year from the time of application.
  - c. Up to four (4) consecutive weeks of catastrophic leave with full pay may be granted to Employees for maternity purposes.
  - d. After the four (4) weeks has expired, maternity will be treated as any other leave for sickness or disability.
  - e. An Employee is eligible only within the first twelve (12) weeks after birth or adoption of a child.
4. Employees in a Catastrophic Leave status for maternity purposes during a four (4) week period will have the accrued annual and sick leave removed for the month the Catastrophic Leave status begins. If the Employee in a catastrophic leave status for maternity purposes accrues birthday leave during that time, the accrued birthday leave will be removed at the time of the birthday. If the Employee in a Catastrophic Leave status for maternity purposes accrues holiday leave during that time, the holiday leave will be removed. Birthday and holiday leave during the catastrophic maternity leave period will be reflected as paid catastrophic leave. No accrued annual, sick, holiday or birthday leave will be returned to the OPM Catastrophic Leave Bank.
5. If an Employee is eligible for both Catastrophic Leave for maternity purposes and family medical leave for maternity purposes, the two will run concurrently.

## **K. HOLIDAY LEAVE**

1. Employees will generally be granted time off to observe all legal holidays.
2. The Governor may issue an Executive Proclamation to declare additional days as holidays in observance of special events or for other reasons.
3. Employees are not allowed to work on a holiday unless they are:
  - a. Required for security or other reasons at a 24-hour facility;
  - b. Designated as essential staff;
  - c. The General Assembly is in session; or
  - d. Authorized by a supervisor.
4. Employees who work a flex schedule earn holiday hours at the same rate as the number of hours the Employee was scheduled to work on the holiday. All "regular salaried" and "extra help" Employees will receive holiday pay if they are in pay status for at least fifteen (15) minutes on their last scheduled workday before the holiday and at least fifteen (15) minutes on the first scheduled workday after the holiday. An Employee on Leave Without Pay status is not in a pay status and not eligible to receive holiday pay.

## **L. EMPLOYEE BIRTHDAY**

Employees are given one (1) workday in recognition of their birthday to be taken on or after their birthday. Employee birthday leave is taken at the discretion of the Employee and with the supervisor's approval. Birthday leave hours never expire and are carried forward each year.

**M. ADMINISTRATIVE LEAVE**

1. Administrative Leave should only be utilized, as a last resort, by the appropriate Division Director, the Secretary, or their Designee when allegations and/or complaints have been filed or made known that will affect the good order and security of the institution or office. This includes but is not limited to felonies, misdemeanors, arrests, complaints, protective orders, indictments, or during the course of an ongoing investigation.
2. The CHRA must be notified when an Employee is being placed on Administrative Leave. If the facts and circumstances of an allegation are not readily available, the task of investigating should be assigned/assumed by an Employee suited to make an objective and unbiased determination of fact.
3. The Warden/Center Supervisor/Administrator/Area Manager will notify the CHRA on incidents when an Employee is arrested and forward the documentation of the pending charges.
4. Pursuant to SD Incident Notifications Procedures, the Warden/Center Supervisor/Administrator/Area Manager must notify the Internal Affairs Division Administrator of felony arrests and any allegation(s) that would violate the sexual harassment policy or any serious incident.
  - a. This investigation should be completed within five (5) working days, when possible, beginning the day of notification of the allegation.
    - i. If possible, the Warden/Center Supervisor/Administrator/Area Manager should consider alternative duties in their area, institution, or another unit for the Employee under investigation. In those sensitive positions where an Employee's behavior reflects on their ability to perform the job, and where no alternate duties can be assigned, the Employee may be relieved of duty, pending the outcome of an investigation.
    - ii. If no alternative is available, the Warden/Center Supervisor/Administrator/Area Manager will place the Employee on leave for up to five (5) working days and will arrange an internal investigation surrounding the circumstances.
    - iii. If the Internal Affairs investigation is not completed within five (5) working days, the Warden/Center Supervisor/Administrator/Area Manager via the CHRA shall make a written request to the appropriate Division Director or the Secretary to extend the leave with a copy to the appropriate Deputy Director. The appropriate Division Director or the Secretary may grant an extension of administrative leave, approve a job reassignment of the Employee until the investigation is completed, or deny the request.
    - iv. The leave will be administrative paid leave only after the Employee is found innocent of all allegations. If the Employee is found guilty of all allegations, the leave will be unpaid administrative leave. The Employee may have the option of utilizing any leave (other than sick leave) on the books based on the Leave Hierarchy if found guilty.
  - b. Following the completion of the investigation, the Warden/Center Supervisor/Administrator/Area Manager may:
    - i. Return the Employee to regular duty status;
    - ii. Return the Employee to duty status but reassign to another post; or
    - iii. Initiate disciplinary action in accordance with the SD Employee Conduct Standards and Discipline.
  - c. Employees of the DOC involved in any incident where force has been used against another person or persons may be placed under Administrative Leave with pay status at the discretion of the appropriate Division Director or the Secretary. The Administrative Leave will be until a time that the appropriate Division Director or the Secretary deems appropriate to return the Employee to duty or after all documentation and investigations are complete.
  - d. The Warden/Center Supervisor/Administrator/Area Manager will submit to the appropriate Division Director, the Secretary, and appropriate Deputy Director a written report covering the results of the investigation and their decision on the Employee's work status.
  - e. Administrative leave cannot be initiated by an Employee.

**N. CHILD EDUCATIONAL ACTIVITIES LEAVE (CEAL)**

All state Employees will be entitled to eight (8) hours of leave, regardless of the number of children or grandchildren (pre-kindergarten through Twelfth (12<sup>th</sup>) grade), during a calendar year for the purpose of engaging in and traveling to and from the educational activities or interscholastic activities of a child. Documentation of the school related event is required. CEAL that is unused in one (1) calendar year may not be carried over to the next year and is not compensable to a state Employee at the time of retirement. For further guidance regarding CEAL, please visit the OPM website <https://www.transform.ar.gov/personnel/policy/>.

## O. COURT AND JURY LEAVE

1. Employees serving as a juror in a state or federal court are entitled to use Court and Jury Leave for compensation and to retain any fees paid for such services.
2. Employees who are subpoenaed as a witness to give a deposition or testimony in state or federal court, at a hearing, or before any office with the power to issue a subpoena, are entitled to the following:
  - a. If the Employee is an unpaid witness in a matter within the Employee's scope of employment:
    - i. To use Court and Jury Leave for compensation if subpoenaed to appear on a scheduled workday. Employees who work night shifts will be allowed to take court and jury leave on the night shift of the day on which they served. The Employee shall furnish certified documentation from the court indicating that the Employee served Court or Jury Duty to their supervisor. It is the responsibility of the supervisor to submit the document to the UHRC.
    - ii. To mileage fees if they use a personal vehicle for travel in obeying the subpoena and the DOC does not reimburse the Employee for travel expenses if subpoenaed to appear on a workday.
    - iii. To retain any witness and mileage fees rendered to him or her if subpoenaed to appear on a non-workday.
  - b. If the Employee is a witness in a matter outside the scope of employment and the Employee is not serving as a paid expert witness or is not a party to the matter:
    - i. To use Court and Jury Leave for compensation.
    - ii. To mileage fees if the Employee does not use a state-owned vehicle for travel in obeying the subpoena.
  - c. If the Employee is a law enforcement officer who is subpoenaed to appear when the officer is not scheduled for regular duty, the Employee is not entitled to his/her regular salary but is entitled to retain any witness or mileage fees paid to him or her.
  - d. If the matter is outside the Employee's scope of employment and the Employee is serving as a paid expert or is a party to the case, the Employee is not entitled to use Court and Jury Leave and is required to use annual leave.

## P. MILITARY LEAVE

1. Military Leave for Annual Training. Regular, full-time state Employees who are members of the National Guard or the reserve branches of the United States Armed Forces will be granted leave at the rate of fifteen (15) working days per calendar year, plus necessary travel time for annual training purposes.
  - a. Up to fifteen (15) unused military leave days may be carried over to the succeeding year for a maximum of thirty (30) military leave days for military training purposes for that calendar year.
  - b. Employees who are members of the Inactive Reserve Corps of the United States Public Health Service (USPHS) who desire to take leave for the purpose of participating in the civil defense and public health training programs made available by the USPHS are eligible for this leave benefit. Employees who are drafted, called up for active duty or for specialized training may also be eligible for military leave benefits. The Employee must submit a copy of his or her first orders for a calendar year to their supervisor and the UHRC. Thereafter, the Employee must submit military leave requests with orders through his or her supervisor to the timekeeper. The timekeeper shall maintain the documentation.
  - c. Return to work after discharge. Employees must report for work on the first regularly scheduled workday within eight (8) hours after discharge from military service. If the Employee serves more than thirty (30) days, but less than 181 days, he/she must report within fourteen (14) days after discharge. If the Employee serves more than 180 days, he/she must report within ninety (90) days after discharge from military service.
  - d. Uniformed Services Employment and Reemployment Rights Act (USERRA). For information about USERRA refer to the poster in your place of employment, the U.S. Department of Labor website, or contact the CHRA.
  - e. Active Duty for Military Service. A regular full-time Employee who is drafted or called to active duty in the Armed Forces of the United States or who volunteers for military service is placed on extended military LWOP. Unused sick and annual leave at the time of military leave will be reinstated at the time the Employee returns unless he/she requests and receives a lump-sum payment for the annual leave balance when placed on the extended military leave.
  - f. If an Employee voluntarily goes on active or full-time military duty, he or she must notify the UHRC prior to going on active duty. If the Employee fails to provide such notice, he or she may be terminated.
  - g. Active Duty for the Purpose of Specialized Training. When military members volunteer or are ordered to active duty for the purpose of special training, they are placed on LWOP for the period of training unless they elect to use accrued annual leave. The LWOP is given in addition to the paid leave for annual military training. In such situations the

military member will retain eligibility rights including accumulated annual leave and sick leave. Sick and annual leave do not accrue during the LWOP period.

- h. Exigency Leave. Eligible Employees are entitled up to twelve (12) weeks of leave in a calendar year because of “any qualifying exigency” arising because the spouse, son, daughter, or parent of the Employee is on covered active duty or has been notified of an impending call or order to covered active-duty status in support of a contingency operation. The qualifying exigencies for which Employees can use exigency leave are as follows:
- i. Short-notice deployment;
  - ii. Military events and related activities;
  - iii. Childcare and school activities;
  - iv. Financial and legal arrangements;
  - v. Counseling, rest, and recuperation;
  - vi. Post-deployment activities; and
  - vii. Additional activities not encompassed in the other categories but agreed to by the DOC and Employee.
- i. Military Caregiver Leave. Eligible Employees who are the spouse, parent, child or next of kin of a service member who incurred a serious injury or illness on active duty in the Armed Forces may take up to 26 weeks of leave in a calendar year to care for the injured service member. Military Caregiver Leave is used in combination with regular FMLA leave. FMLA leave is without pay; however, if an eligible Employee has accumulated unused sick or annual leave, the Employee is required to substitute the paid leave, including any paid catastrophic leave benefits, for any FMLA leave taken during the 12-week period, with the exception that Employee taking maternity leave may elect to not substitute accrued, unused sick and annual leave while on FMLA leave. Time taken prior to a request or approval for FMLA leave may be charged against the allowable FMLA time.

#### V. ATTACHMENTS:

1. Family Medical Leave Act Return to Work Form
2. Family Medical Leave Act Status Letter
3. CLBP - Application for Maternity Purposes Eligibility Date Verification
4. CLBP - Application for Maternity Purposes
5. CLBP - Application for Medical Emergency due to Illness/Injury Purposes
6. CLBP - Dependent Child Certification
7. CLBP - Physician's Certification

**Attachment 1**

**Department of Corrections**  
SHARED SERVICES  
Human Resources



2403 East Harding Ave.  
Pine Bluff, AR 71601  
Phone: (870) 850-8510  
Fax: (870) 850-8550

**Family Medical Leave Act Return to Work Form**

Employee Name \_\_\_\_\_ Personnel Number \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Contact Phone \_\_\_\_\_ Email \_\_\_\_\_ Unit/Office \_\_\_\_\_

Job Title \_\_\_\_\_ Supervisor's Name \_\_\_\_\_

Original Anticipated Return to Work Date \_\_\_\_\_

Do you anticipate you will be cleared by your physician to return to work on the date above?  Yes  No

If no, what is your new anticipated return to work date? \_\_\_\_\_

Will you be able to complete all essential functions of your job upon your return to work?  Yes  No

If no, please explain (must be verified by your physician):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Prior to returning to work you must have your physician complete the enclosed Essential Job Functions form.

If you are unable to return to work upon the exhaustion of your available FMLA leave or will need accommodations to complete your essential job functions, you **MUST** contact the Human Resources Office to discuss your options. Failure to do so may result in termination.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

## Attachment 2

Department of Corrections  
SHARED SERVICES  
Human Resources



2403 East Harding Ave.  
Pine Bluff, AR 71601  
Phone: (870) 850-8510  
Fax: (870) 850-8550

Date

Employee Name  
Employee Address

Re: Family Medical Leave Expiration

Dear [EMPLOYEE NAME]:

According to our records, your leave under the Family and Medical Leave Act (FMLA) is scheduled to end soon. It is important that we confirm your return to work as soon as possible.

Based on the information provided in your FMLA Request Form, your current FMLA leave is scheduled to end on [DATE]. Therefore, we expect your return to work on the following business day. If the amount of leave you originally anticipated has changed or you do not intend to return to work, you must contact this office as soon as possible.

All Employees on FMLA leave for their own serious health condition must provide documentation from their physician that they can complete the essential functions of their job prior to returning to work. Enclosed is an Essential Job Functions form that must be completed by your physician and returned to this office as soon as possible but no later than 10 days after you have received this letter.

If your physician indicates that you need an accommodation to complete one of the essential functions of your job or gives you an anticipated return to work date that is after the expiration of your available FMLA leave we will consider whether such accommodation can be made without undue hardship to DOC. You will be contacted by this office with a decision.

Enclosed is a form to be completed by you to help this office determine the status of your return to work and your need for additional accommodation. The completed form must be returned to this office as soon as possible.

**Failure to return the requested forms or contact this office prior to the expiration of your FMLA could result in your termination.**

Please contact this office if you have any questions. We look forward to your return.

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Nicholas Stewart,  
DOC Central Human Resources Administrator

Please contact this office if you have any questions. We look forward to your return.

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