



# Arkansas Community Correction

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**ADMINISTRATIVE DIRECTIVE: AD 16-18 EMPLOYEE LEAVE**

**TO: ARKANSAS COMMUNITY CORRECTION (ACC) EMPLOYEES**

**FROM: SHEILA SHARP, DIRECTOR**

**SUPERSEDES: AD 15-07**

**APPROVED: Signature on File EFFECTIVE: September 9, 2016**

- I. APPLICABILITY.** This policy applies to all ACC employees.
- II. POLICY.** All employees are expected to abide by the leave guidelines as outlined in this policy.
- III. EMPLOYEE LEAVE.**
  - A. ANNUAL LEAVE.** Annual leave is earned at a predetermined rate based on years of service. Leave is earned during each month and is available the first day of the following month. Leave cannot be used until it is available. Annual leave can be used in increments of 15 minutes.

For employees using approved alternative work schedules of 10-hour days, when taking a full day of annual leave, it will be charged at a rate of 10 hours a day not to exceed 40 working hours in a seven-day work week or 80 hours in a 14-day pay period.

Employees must request leave in advance and receive approval by the supervisor prior to the leave beginning. Supervisors may deny a leave request due to “business necessity.” An employee will not earn annual leave when on leave without pay for ten (10) or more cumulative days within a calendar month.

Annual Leave is cumulative and no employee can have more than 30 days (240 hours) accumulated on December 31 of each year. Accrued leave may exceed 30 days (240 hours) during the calendar year, but those days in excess of 30 days (240 hours) will be forfeited if not used by December 31 of each year. Employees who have a balance exceeding 30 days (240 hours) at the end of the calendar year may donate their time over 30 days (240 hours) to the Catastrophic Leave Bank or as shared leave. Accrued Birthday and Holiday leave balances are not forfeited at the end of the year even though the employee is carrying over 30 days (240 hours) of annual leave.

Employees cannot borrow from anticipated future accruals and may not use annual leave accrued by other employees, unless approved as shared leave.

All compensatory time should be used before the use of annual leave. Employees transferring without a break in service, between state agencies and/or state-supported institutions of higher education, that are covered by these policies, shall retain all accumulated annual leave. When an employee terminates employment with the state, he/she is eligible to receive a payout of their annual, as well as birthday and holiday, leave balances; however, the payout may not exceed 30 days or 240 hours.

- B. CATASTROPHIC LEAVE.** The Catastrophic Leave 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 catastrophic illness is a medical condition 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 which, 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. 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 the employee's duties.

The catastrophic leave bank is a pool of accrued annual and sick leave voluntarily donated by state employees and managed by Department of Finance and Administration Office of Personnel Management that may be approved for use by employees who meet the catastrophic illness/injury eligibility requirements.

All Catastrophic Leave requests will be submitted to DFA-OPM for review and determination. This policy includes a brief summary of OPM Catastrophic Leave Bank Program. For more detailed guidance, see the policy on the DFA-OPM website.

**1. Eligibility Requirements to Apply for Catastrophic Leave:**

- a. The applicant must be a regular full-time employee.
- b. The employee must have been employed by the State of Arkansas for more than two (2) consecutive years in a regular, full-time position from the date of application.
- c. Employees must have exhausted all sick, annual, holiday and compensatory leave, and at the onset of the illness or injury, had to his/her credit at least eighty (80) hours of combined sick and annual leave. "Onset of the Illness" means the initial beginning or start, as certified by a physician, of the medical condition that created the need for the catastrophic leave request. If a recurrence of the same illness necessitates a subsequent catastrophic leave request, the eligibility requirement that the employee have eighty (80) hours

of combined sick and annual leave at the onset of the illness 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 ACC director due to the applicant providing documentation that one of the following conditions has occurred:
  - 1) The employee applying for catastrophic leave had, during the previous two (2) year period, another medically documented, catastrophic illness, as defined by this policy, that was not compensated under the agency approved Catastrophic Leave Bank Program and caused the exhaustion of all annual and/or sick leave, or
  - 2) The employee applying for catastrophic leave had, during the previous two (2) 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 two (2) years from the date of application.
- f. The combination of shared and catastrophic leave received by an employee may not exceed two thousand eighty (2,080) hours in a calendar year.

## **2. Donations of Leave to the Catastrophic Leave Bank Program.**

- a. Accrued leave may be donated to the Catastrophic Leave Bank Program only in one (1) hour increments. Donations of leave will be granted hour-for-hour and not dollar-for-dollar.
- b. No employee of a participating agency/institution will be allowed to donate leave to the Catastrophic Leave Bank Program if such donation will reduce that employee's accrued sick and annual leave balance to less than eighty (80) hours. This restriction does not apply to employees who are terminating their employment.
- c. Annual and/or sick leave that have been donated to the Catastrophic Leave Bank may not be restored to the employee who donated the leave time.
- d. Approved donations of leave will be transmitted to the Catastrophic Leave Bank Program by submitting the approved donor form.

To donate leave to the Catastrophic Leave Bank Program, employees must secure the necessary forms from HR, timekeeper, or EagleNet, complete the forms and

return them to the timekeeper to be promptly submitted to Human Resource Section.

### **3. Catastrophic Leave Bank Program Administration**

- a. To be considered for catastrophic leave an employee must complete an application, with attachments, and forward it to the Human Resource Section. HRS will notify the applicant of approval or disapproval of the request. Catastrophic leave will not be awarded retroactively.
- b. 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. An employee may be dismissed for failing to report to work promptly at the expiration of the period of approved/granted catastrophic leave. Nothing, however, shall 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 prior to or after the expiration of catastrophic leave if, in the view of the Director, such action is warranted. Supervisors should not take disciplinary action for such leave until the application has been formally approved or denied.
- e. Alleged or suspected abuse of the Catastrophic Leave Program will be investigated, and on a finding of wrongdoing, an employee must repay all of the leave hours awarded from the Catastrophic Leave Bank Program and will be subject to disciplinary action as determined by the Director.

**C. FAMILY AND MEDICAL LEAVE ACT (FMLA).** For detailed guidance on FMLA, see the policy on the DFA-OPM website. The federal Family and Medical Leave Act (FMLA) of 1993 requires all public agencies to provide up to 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. Federal law has expanded FMLA to provide up to 26 weeks of leave per calendar year to care for an injured military service member. All employees are eligible if they have worked within state government for at least one year (cumulative), and for 1250 hours over the previous 12 months.

#### **1. Procedures:**

- a. The FMLA provides for leave for any of the following reasons:

1. To care for the employee's child after birth or placement for adoption or foster care;
  2. 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 Americans with Disabilities Act), or parent who has a serious health condition;
  3. For a serious health condition that makes the employee unable to perform the employee's job;
  4. 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
  5. 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 30 days advance notice before FMLA leave is to begin if the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for an employee's or family member's serious health condition. If 30 days' notice is not practicable, notice must be given as soon as possible. It is expected that an employee will give notice within no less than one or two working days of learning of the need for leave.
  - d. An employee will provide at least verbal notice to their supervisor upon application to HR for FMLA, and the anticipated timing and duration of the leave requested. The employee must follow ACC policy regarding call-in procedures for reporting any absence, unless there are extenuating circumstances. A leave slip should also be completed including this information.
  - e. The Human Resources Section will provide a packet of information and forms for employees requesting FMLA leave. If verbal notice is given by the employee, the Human Resources Section may complete the ACC Family and Medical Leave Request (see FMLA forms); 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 employer within the period requested by the employer (no later than 15 calendar days after employer notification). 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 three consecutive days that involves continuing treatment by a health care provider may be considered sufficient "reason to believe."
- g. The Supervisor must notify the Human Resources Section that an employee has been out of work for four days. The Agency Human Resources Manager will abide by the following procedures:
  - 1. FMLA papers will be mailed to the employee via certified mail.
  - 2. The Human Resources Section will advise the employee of the 15-calendar day timeframe from the date information was mailed to return the completed FMLA paperwork.
  - 3. If at the end of the 15 days, the FMLA paperwork has not been returned, the FMLA may be denied or delayed if the medical certification requirements are not met.
  - 4. If an employee submits medical certification that is incomplete or insufficient, the Human Resources Section will specify in writing which information is lacking and give the employee seven calendar days to cure the deficiency.
  - 5. Upon completion of the 12-week period (26 weeks in the event the employee is caring for an injured military service member), 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 ~~will~~ may be terminated. However, if a physician determines an employee is unable to perform one of the essential functions of his/her current job due to a permanent disability, the Human Resources Section must be notified and the procedures stipulated in the Administrative Directive on ADA must be followed
  - 6. Prior to returning to work, an employee who has been on FMLA leave due to his/her own health condition, must provide to their supervisor or HRS an essential job function questionnaire completed by his/her physician certifying fitness for duty.

**NOTE:** Employees receiving Catastrophic Leave and/or Workers' Compensation benefits may be FMLA qualifying for up to 12 weeks. These awards will run concurrently if eligibility requirements are met.

h. Under FMLA, job benefits and protection include:

1. For the duration of FMLA leave, ACC 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 ACC while the employee continues to pay his/her portion).
2. Upon return from FMLA leave, most employees should be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
3. 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.
4. Employees must meet all merit criteria to be eligible regardless of being absent from work because of medical leave.

**D. HOLIDAY LEAVE.** Employees will be granted time off to observe the following regularly scheduled legal holidays:

New Year's Day	January 1
Dr. Martin Luther King, Jr.'s & Robert E. Lee's Birthday	Third Monday in January
George Washington's Birthday & Daisy Gatson Bates Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Eve	December 24
Christmas Day	December 25

The Governor may issue an Executive Proclamation to declare additional days as holidays in observance of special events or for other reasons. ACC employees are not allowed to work on a holiday unless they are required for security or other reasons at an ACC 24-hour facility; they are designated as essential staff in Pulaski County; the General Assembly is in session; or the employee is authorized by a supervisor. If a state-observed holiday falls on a scheduled workday, the holiday is taken that day. If it falls on a Saturday, the holiday will be observed the day before the holiday. If it falls on a Sunday, the holiday will be observed on the following Monday.

Employees at work sites with an approved 10-hour a day work schedule will accrue worked holidays at 10 hours a day, however; there is no change for the annual or sick

leave accrual. When a holiday is worked, it must be entered as “banked” in AASIS for future use. If an employee is on paid leave when a holiday occurs, the holiday time will be applied rather than another type of leave, if possible.

**E. EMPLOYEE BIRTHDAY.** Employees are given one (1) day (8 hours leave) 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 supervisor’s approval. Employee Birthday leave is not automatically deducted as a holiday in lieu of other time off such as sick or annual.

**F. LEAVE WITHOUT PAY (LWOP).** LWOP is discouraged (except in cases of catastrophic and family medical leave) because it results in staff shortages. LWOP in excess of 40 consecutive hours requires the approval of the appropriate Deputy Director

An employee must use all leave prior to going into LWOP status with the following exceptions:

1. In the case of maternity leave, such employee may elect to take leave without pay.
2. In the case of disciplinary actions resulting in leave without pay.

An employee approved to go on LWOP is responsible for making timely payments (including ACC match) for group health and life insurance to continue coverage. However, if the employee is receiving Worker’s Compensation benefits or is in Family and Medical Leave Act (FMLA) status, ACC will continue to pay the employer-matching amount. Failure to comply with the due dates and premium amounts will result in cancellation of the group health/life insurance. Once insurance is cancelled, the employee cannot reapply until the next open enrollment period.

An employee who is in LWOP status for 10 or more days during a month does not accrue sick or annual leave for that month. Employees may be dismissed if they fail to report to work promptly upon the expiration of the period of LWOP. However, the Director may approve an extension in advance of the date to return to work.

**G. MATERNITY LEAVE.** Is to be treated as any other leave for sickness or disability. However, an employee may elect to take leave of absence without pay without 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 the return from Maternity Leave.

While on maternity leave, employees will continue to earn annual and sick leave unless they are on leave without pay status. Employees have the option of choosing to take leave without pay instead of using earned annual or sick leave. Consult HRS or the section on Family and Medical Leave Policy for requirements that may impact maternity leave.



## H. 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. 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.

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 United States Public Health Service 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/her first orders for a calendar year through their supervisor and timekeeper to HRS so that HRS may establish the 15-day quota in AASIS. Thereafter, the employee must submit military leave requests with orders through his/her supervisor to the timekeeper and the timekeeper maintains the documentation.

- 2. Military who perform active military service for fewer than 31 days** must report for work on the first regularly scheduled workday within 8 hours after discharge from military service. If they serve more than 30 but less than 181 days, they must report within 14 days after discharge. If they serve more than 180 days, they must report within 90 days after discharge from military service.
- 3. 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 HRS Administrator.
- 4. 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 to ACC unless he/she requests and receives a lump-sum payment for the annual leave balance when placed on the extended military leave. If an employee voluntarily goes on active or full time military duty, he/she must notify the agency prior to going on active duty. If the employee fails to provide such notice he/she may be terminated.

**5. 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.

**6. Exigency Leave.** Eligible employees are entitled to up to 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 exigency’s for which employees can use FMLA leave are as follows:

- a. Short-notice deployment
- b. Military events and related activities
- c. Childcare and school activities
- d. Financial and legal arrangements
- e. Counseling rest and recuperation
- f. Post-deployment activities
- g. Additional activities not encompassed in the other categories, but agreed to by the agency and employee.

**7. 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 an 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.

**I. SHARED LEAVE.** The Shared Leave Program allows eligible employees to donate sick and/or annual leave to another eligible employee. Eligibility and donor requirements are as follows:

**1. Eligibility Requirements.** Continuous employment for more than one (1) year by the same agency, cumulative earned sick and annual leave in excess of eighty (80) hours at the onset of the severe illness, applied in writing for shared leave, received written approval for shared leave from his/her employer; and not been disciplined for leave abuse by a state agency within two (2) years from the date of application.

- a. The 80-hour requirement may be waived for an otherwise eligible employee at the discretion of the Director.
- b. No employee shall be approved for shared leave unless the employee is, or is reasonably expected to be, on leave without pay status as a result of a severe illness.
- c. An employee who applies for shared leave must provide an acceptable medical certificate from a healthcare provider documenting the severe illness. Shared leave may be used on a full-time or intermittent basis; however, in no case will the employee be granted shared leave beyond the date certified by a healthcare provider as the date when the employee is able to return to work.
- d. The combination of shared and catastrophic leave received by an employee may not exceed two thousand eighty (2,080) hours in a calendar year.
- e. Shared leave may be used in conjunction with Family Medical Leave.
- f. Any shared leave donated to an employee that is not used by the employee will be converted to the employer's catastrophic leave bank program.
- g. Leave that is accrued by an employee while on shared leave will be donated to the employer's catastrophic leave bank.
- h. Donations of shared leave shall be granted hour-for-hour and not dollar-for-dollar.

**2. Donor Requirements.**

- a. Is employed by the same employer as the employee receiving shared leave;
- b. Has cumulative earned sick and annual leave in excess of eighty (80) hours prior to donation and the donation will not cause the donating employee to have less than eighty (80) hours, except at termination or retirement; and
- c. Has not been disciplined for leave abuse by a state agency within two (2) years from the date of application

**3. Approval.** Shared leave will be approved in writing by the agency Director and the Chief Fiscal Officer of the State will determine the agency's funding availability. If shared leave is granted to an employee, the employee will use the shared leave after the employee has exhausted earned sick, annual, holiday, and compensatory leave. Once shared leave is approved, granted, and extracted from the donor's leave bank, it is irrevocable. An Essential Job Functions form is required upon return from Shared Leave.

**J. SICK LEAVE.** Sick leave is earned at the rate of 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. It can be used in increments of 15 minutes. An employee will not earn sick leave when on leave without pay for 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. If the event never occurs, the employee is not entitled to the sick leave benefits:

1. Employee is unable to work because of sickness, injury, or has the need to seek medical, dental or optical treatment; or
2. 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, guardian or ward of the employee).

Requests to use sick leave for medical appointments should be made in advance. Employees must notify their supervisor within the first 15 minutes of the duty day every day of absence due to unexpected illness. If physically unable to make the notification 15 minutes, notify the supervisor as soon as possible. The employee must complete a sick leave request upon his/her return to work and no later than two days following the return. An employee is not required to divulge medical symptoms, diagnosis or prognosis when on sick leave or when a doctor's excuse is requested. However, if requested, a doctor's statement must be provided that orders the employee to be off work and specifying the time period. This does not preclude the requirement for detailed medical information for such purposes as FMLA, catastrophic leave, required fitness exams, Americans with Disabilities Act, workers' compensation claims, etc.

Banked holidays, straight time, and overtime may be used in lieu of sick leave.

Employees at work sites with an approved 10-hour a day work schedule will be charged at a rate of 10 hours a day when off a full day not to exceed 40 working hours in a seven-day work week or 80 hours in a 14 day pay period.

The maximum sick leave that can be carried over to the next calendar year on December 31 is 960 hours.

If an employee is off work 40 or more consecutive hours, a medical "certificate of illness" is required upon returning to work. However, a supervisor may request a medical "certificate of illness" at any time. Employees should provide a signed physician's statement that the illness prevented the employee from performing his/her normal work for a specified period of time.

Employees are not entitled to payment for accrued and unused sick leave when they terminate their 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 of the Department of Finance and Administration-Office of Personnel Management. For details of accrued sick leave payouts, please refer to this state policy, which is available at [www.dfa.arkansas.gov](http://www.dfa.arkansas.gov).

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 agency's shared leave program or the catastrophic leave bank.

#### **IV. FORMS.**

Catastrophic Leave Bank Instructions  
Catastrophic Leave Bank Physicians Certification OPM 013  
FMLA-Certification or Qualifying Exigency for Military Family Leave Form  
FMLA-Healthcare Provider for Employee Serious Health Condition Form  
FMLA- Healthcare Provider for Family Member Serious Health Condition Form  
FMLA- Leave Request Form  
FMLA- Serious Injury-Illness Military Family Form  
Leave Request for Employee Form  
Liability Agreement-Catastrophic Leave Form OPM 014  
Returned or Accrued Catastrophic Leave Transmittal OPM 016  
FMLA - Your Rights under the Family Medical Leave Act OPM 006  
Donation of Sick and Annual Leave to the Catastrophic Leave Program OPM 015  
Dependent Child Certification OPM 008  
Application for Benefits-Catastrophic Leave OPM 012  
Shared Leave Application.  
Shared Leave Donation  
Shared Leave Dependent Child Certification  
Shared Leave Physicians Certification