



Office of the Secretary

6814 Princeton Pike
Pine Bluff, Arkansas 71602

Phone: 870-267-6200

Fax: 870-267-6244

SECRETARIAL DIRECTIVE

SUBJECT: Employee Work Schedules and Leave

NUMBER: 2019-03

SUPERSEDES: NEW

APPLICABILITY: All Department of Corrections Employees

REFERENCE: Ark. Code Ann. §§ 25-43-105,
25-43-108, and 25-43-403

PAGE 1 of 19

ISSUED BY: Signature on File

EFFECTIVE DATE: November 18, 2019

I. POLICY:

It is the policy of the Department of Corrections that all employees will abide by a standard work schedule that meets the needs of the Department and Executive expectations set by the Governor. When not performing Department business, employees will follow the leave guidelines contained within this policy.

II. PROCEDURES:

A. WORK SCHEDULE

1. The various locations of the Department of Corrections, 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.
2. Area Parole and Probation Managers may adjust office hours to allow for offenders to report at times outside of regular business days and times.
3. Wardens will set staff schedules that provide for the necessary coverage of security and non-security facility job assignments.

4. Any Supervisor may adjust their employees' work schedule as needed in order to meet Department needs. Employees will follow the schedule provided to them by their immediate supervisor

- B. Lunch Breaks:** All employees not assigned to a unit security post are required to take an unpaid lunch break during their workday. Lunch breaks will be for either thirty (30) or 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. ADMINISTRATIVE LEAVE:** Administrative Leave should only be utilized, as a last resort, by the Director or Designee when allegations and/or complaints have been filed or made known that will affect the good order and security of the institution. This includes but is not limited to felonies, misdemeanors, arrests, complaints, protective orders and indictments. The **Human Resources Administrator** 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. The Internal Affairs Division is available to assist and must be notified of any allegation(s) that would violate the sexual harassment policy. This investigation should be completed within five (5) working days, when possible, beginning the day of notification of the allegation.
1. If possible, the Administrator/Area Manager/Warden 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, an Administrator /Area Manager/Warden may have no alternative but to relieve an employee of duty, pending the outcome of an investigation.
 2. If no alternative is available, the Administrator/Area Manager/Warden will place the employee on leave for up to five (5) working days and will arrange to perform or have performed an internal investigation surrounding the circumstances. The leave will be administrative paid leave if the employee is found innocent of all allegations. If the employee is found guilty, of all allegations, the leave will not be paid administrative leave. The employee will have the option of utilizing their annual, holiday, straight time or comp leave on the books if found guilty. If the investigation is not completed within five (5)

working days, the Administrator/Area Manager/Warden via the Human Resource Administrator may make a written request to the Director to extend the leave with a copy to the appropriate Deputy Director. The Director may grant an extension of administrative leave, approve a job reassignment of the employee until the investigation is completed, or deny the request.

3. Following the completion of the investigation, the Administrator/Area Manager/Warden may:
 - a. Return the employee to regular duty status.
 - b. Return the employee to duty status but reassign to another post.
 - c. Initiate disciplinary action in accordance with the administrative directive governing employee conduct standards.
4. Employees of the Department of Corrections involved in any serious 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 Director. The Administrative Leave shall be until a time that the Director deems appropriate to return the employee to duty or after all documentation and investigations are complete.
5. The Administrator/Area Manager/Warden will submit to the appropriate Director and Deputy Director a written report covering the results of the investigation and their decision on the employee's work status.
6. Administrative leave cannot be initiated by an employee.

D. 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.

1 through 3 years	8 hours a month	12 days annually
4 through 5 years	10 hours a month	15 days annually
6 through 12 years	12 hours a month	18 days annually
13 through 20 years	14 hours a month	21 days annually
Over 20 years	15 hours a month	22.5 days annually

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. Accrued Birthday and Holiday leave balances are not forfeited at the end of the year even though the employee is carrying more than 30 days (240 hours) of annual leave. Employees cannot borrow from anticipated future accruals and may not use annual leave accrued by other employees.

All compensatory time should be used before the use of annual leave. 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. 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 30 days or 240 hours.

- E. 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 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. 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.

The catastrophic leave bank is a pool of accrued annual and sick leave voluntarily donated by state employees and managed by Department of Transformation and Shared Services 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 TSS-OPM for review and determination. This policy includes a brief summary of OPM Catastrophic Leave Bank Program. For more detailed guidance, see the policy and forms on the TSS-OPM website.

The combination of catastrophic leave for the stated medical conditions 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).

1. Eligibility Requirements to Apply for Catastrophic Leave (see Maternity Leave for eligibility requirements for maternity purposes):

- 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.
- 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 has 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 Secretary of the Department 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 one (1) year period, another medically documented, catastrophic illness, as defined by this policy, that was not compensated under the Catastrophic Leave Bank Program that

caused the exhaustion of all annual and/or sick leave, or

- 2) 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. For the birth of an employee's biological child, acceptable proof includes a hospital announcement with the mother's name and/or the biological child's name, hospital discharge papers with the mother's name and the biological child's name, or a birth certificate of the biological child. 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 legal guardianship papers with the mother's name and the child's name. 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 the Family and Medical Leave Act, if the employee is eligible.

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, the timekeeper, the Department's Intranet Site; complete the forms; and return them to the timekeeper to be promptly submitted to the Human Resources Section.

3. Catastrophic Leave Bank Program Administration

- a. To be considered for catastrophic leave an employee must complete an application, with attachments, and forward them to the Human Resources 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. 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 and/or birthday leave will be returned to the OPM Catastrophic Leave Bank.

- d. 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 Secretary, 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.

F. CHILD EDUCATIONAL ACTIVITIES LEAVE: All state employees shall be entitled to 8 total hours of leave, regardless of the number of children, during a calendar year for the purpose of engaging in and traveling to and from the educational activities or interscholastic activities of a child.

Child: a person enrolled in pre-kindergarten through grade 12 who is of the following relation to a state employee:

1. Natural child;
2. Adopted child;
3. Stepchild;
4. Foster child;
5. Grandchild;
6. Ward of the state employee by virtue of the state employee's having been appointed the person's legal guardian or custodian; or
7. Any other legal capacity where the state employee is acting as a parent for the child.

A Child includes a person who meets the criteria above this section but is:

1. Over eighteen (18) years of age; and
2. Declared legally incompetent.

Developmental Disability: A disability of a person that:

1. Is attributable to mental retardation, cerebral palsy, spina bifida, down syndrome, epilepsy, or autism; is attributable to any other condition of a person found to be closely related to mental retardation because the condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation or requires treatment and services similar to that required for a person with mental retardation; or is attributable to dyslexia resulting from a disability;
2. Originates before the person attains the age of twenty-two (22) years;
3. Has continued or can be expected to continue indefinitely; and
4. Constitutes a substantial handicap to the person's ability to function without appropriate support services, including, but not limited to planned recreational activities, medical services such as physical therapy and speech therapy, and possibilities for sheltered employment or job training.

Educational Activity: Any school-sponsored activity including without limitations:

1. Attending a parent-teacher conference;
2. Participating in school-sponsored tutoring of the child;
3. Participating in a volunteer program sponsored by the school in which the child is enrolled;
4. Attending a field trip with the child;
5. Attending a school-sponsored program or ceremony in which the child is participating;
6. Attending a graduation or homecoming ceremony in which the child is participating;
7. Attending an awards or scholarship presentation in which the child is participating;
8. Attending a parent's or grandparent's breakfast in which the child is participating;
9. Attending a classroom party in which the child is participating;
10. Attending a school committee meeting of the school in which the child is enrolled;
11. Attending an academic competition in which the child is participating;
12. Attending an athletic, music, or theater program in which the child is enrolled;

13. Engaging in any of the activities listed above that are connected with a prekindergarten program.

Home-schooled student: A student legally enrolled in an Arkansas home school. **Interscholastic activity:** An activity between schools subject to regulations of the Arkansas Activities Association that is outside the regular curriculum of a school district, including without limitation an athletic activity, a fine arts program, or a special interest club or group; and taught by an individual with a minimum of a high school diploma. A home-schooled student shall not participate in interscholastic activities a public school other than the student's resident school.

Prekindergarten: means an educational and child development program that is designed to prepare children who are at least three (3) years of age for an academic kindergarten program.

Resident school: The school to which the student would be assigned by the resident school district in which the home-schooled student's parent resides.

State Agency: An agency, bureau, board or commission of any branch of state government and all state-supported institutions of higher education.

State Employee: A full-time employee of the State of Arkansas or any branch, department, board, bureau, commission, or state-supported institution of higher education.

Leave that is unused may not be carried over to the next year and is not compensable to the state employee at the time of retirement.

G. 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 body with the power to issue a subpoena, are entitled to the following:
 - a. If the employee is a witness in a matter within the employee's scope of employment:
 - To use "Court and Jury Leave" for compensation if subpoenaed to appear on a work day
 - To mileage fees if they use a personal vehicle for travel in obeying the subpoena and the agency does not reimburse the employee for travel expenses if subpoenaed to appear on a work day.

*To retain any witness and mileage fees rendered to him/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.
 - To use "Court and Jury Leave" for compensation.
 - To mileage fees if the employee does not use a state-owned vehicle for travel in obeying the subpoena.
- c. If the witness is a law enforcement officer who is subpoenaed to appear when the officer is not scheduled for regular duty, he is not entitled to salary but is entitled to:
 - 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 the employee is not entitled to use "Court and Jury Leave" and is required to use annual leave.

H. FAMILY AND MEDICAL LEAVE ACT (FMLA): For detailed guidance on FMLA, see the policy of the TSS-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 1,250 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 by 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 by 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 his/her supervisor upon application to HR for FMLA, and the anticipated timing and duration of the leave requested. The employee must follow policy regarding call-in procedures for reporting any absence, unless there are extenuating circumstances. A leave slip must 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 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 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 Human Resources Section that an employee has been out of work for five (5) 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 (7) 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 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 his/her 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 qualified 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, the Agency 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 Agency 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.

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 request submit additional FMLA paperwork to the Human Resources Section.

- I. 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 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
Veterans' 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. Employees are not allowed to work on a holiday unless they are required for security or other reasons at a 24-hour facility; they are designated as essential staff; 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.

- J. EASE** (Empowering Arkansas State Employees): Employees are to request leave using the EASE electronic process, which can be done through their desktop, laptop, or mobile device unless instructed otherwise.

K. 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 the supervisor's approval.

L. LEAVE WITHOUT PAY (LWOP): LWOP is discouraged (except in cases of catastrophic, family medical leave and military) because it results in staff shortages.

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

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

M. MATERNITY LEAVE: Is to be treated as any other leave for sickness or 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.

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. Eligibility requirements for Catastrophic Leave are as follows:

- The employee must be employed in state government for one year or more.
- The employee cannot have disciplinary actions for leave abuse during the past year from the time of application.
- Up to four (4) consecutive weeks of catastrophic leave with full pay may be granted to employees for maternity purposes.
- After the four weeks has expired, maternity will be treated as any other leave for sickness or disability.
- An employee is eligible only within the first 12 weeks **after** birth or adoption of a child.

If an employee is eligible for both catastrophic leave for maternity purposes and family medical leave for maternity purposes, the two will run concurrently.

N. 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 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 exigencies for which employees can use exigency 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.

- O. SICK LEAVE:** Sick leave is earned at the rate of 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. 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).

Request 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 within 15 minutes, the employee must 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 (7) 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 31st 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 Transformation and Shared Services-Office of Personnel Management. For details of accrued sick leave payouts, please refer to the state policy, on OPM's website.

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.

III. IMPLEMENTATION:

The divisions within the Department are directed to review their existing operational policies and ensure that those policies reflect the procedures contained within this Secretarial Directive.