

Subject: Addendum to PD-51, Leaves Without Pay (LWOP)

This addendum incorporated the following significant changes to PD-51, Leaves Without Pay:

- The current requirement that Human Resources Representatives must mail the Request for Leave Application form, PERS-182 (Attachment B to PD-51) to employees via certified mail, return receipt requested was deleted. The form will be mailed via first class mail instead. This change was based on a determination from the Office of the General Counsel after reviewing a United States Supreme Court ruling regarding notification of leave covered by the Family and Medical Leave Act.
- When a Human Resources Representative mails a Request for Leave Application form to an employee, the Human Resources Representative shall also mail a Leave Application (PERS-24) to the employee.
- The revised procedures reference a new form, Family Medical/Sick Leave Tracking Log, PERS-487 (Attachment D). Human Resources Representatives shall use this log to document when they mail a PERS-182 form.

The following addendum was effective September 1, 2002.

Section II.B.3 was revised as follows:

II. Leave Without Pay/Medical:

B. Procedures for Use:

3. The employee's supervisor shall notify the Human Resources Representative if a leave application and supporting health care provider's statement are not received by the date the employee's accrued leaves are exhausted or prior to exhaustion of LWOP-FML. The Human Resources Representative shall:
  - a. complete a Request for a Leave Application form, PERS-182 (Attachment B), within ten days after the employee is provisionally placed on LWOP/Medical;
  - b. make a copy of the Request for Leave Application form for placement in the employee's unit/facility/department medical file;
  - c. mail the Request for a Leave Application form and a Leave Application (PERS 24) to the employee via first class mail; and
  - d. document the date that the Request for Leave Application form was mailed on the Family Medical/Sick Leave Tracking Log, PERS 487 (Attachment D).

The employee shall have a "Grace Period" of 15 calendar days from the date the Request for a Leave Application form was mailed to submit a leave

application and current health care provider's statement. An employee may return to work during the grace period but must provide a leave application and current health care provider's statement as requested in the Request for Leave Application form. If an employee returns to work and does not comply with this requirement within the time period specified, disciplinary action shall be initiated in accordance with PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees. Additional Request for Leave Application forms shall not be sent for subsequent periods if the employee's leave application has not been received by the date the leave expires.

The Request for a Leave Application form, PERS-182 (Attachment B to PD-51) was revised effective September 1, 2002, to reflect the changes made in this addendum and to reflect the current practice that employees will receive notification regarding total monthly insurance premiums due from the Employees' Retirement System of Texas instead of from the Insurance Section, Human Resources Headquarters. The revised PERS-182 form and the new Family Medical/Sick Leave Tracking Log, PERS-487 (new Attachment D to PD-46) are available on the Internet and hard copies will be distributed to Human Resources Representatives with the September 1, 2002 Personnel Manual update.

To: All Agency Employees

From: Warren N. Moore, Ph.D.  
Director  
Human Resources Division

Subject: Addendum to PD-51, Leaves Without Pay (LWOP)

In response to information received from the State Auditor's Office (SAO), an addendum to PD-49, Leaves with Pay, is being published effective October 1, 2001. The addendum clarifies the following (1) the entitlement of 15 workdays of administrative leave for authorized military training or training duty shall be based on 8-hour workdays not to exceed a total of 120 hours per federal fiscal year (October 1 - September 30); and (2) on October 1, an eligible employee shall be entitled to another 15 eight-hour workdays or 120 hours of administrative leave - military for that fiscal year regardless of the employee's status as of September 30. The procedures in PD-51 relating to LWOP - Military for authorized military training or training duty are being revised to reference these changes.

This addendum is effective October 1, 2001 as follows:

I. V. Leave Without Pay – Military

A. General Provisions:

1. After an employee has exhausted the 15 eight-hour workdays or 120 hours of administrative leave for authorized military training or training duty granted in accordance with PD-49, Leaves with Pay, the employee shall:
  - (a) Be placed in a leave without pay status if the employee does not have any accrued leave balances; or
  - (b) Elect one of the following if the employee does have accrued leave balances:
    - (1) Freeze all accrued compensatory, holiday, overtime, or vacation leave until after returning to work and immediately be placed in a LWOP status; or
    - (2) Use all of his or her accrued leave, other than sick leave, and then be placed in a leave without pay status.

If an employee is in LWOP - Military status on September 30 as a result of authorized military training or training duty, the employee shall be placed back on administrative leave on October 1 for a period up to 15 eight-hour workdays or 120 hours. If the employee is still engaging in military training or training duty after the employee has exhausted the 15 eight-hour workdays or 120 hours of administrative leave, the employee shall then be returned to LWOP - Military status. Any other paid leave entitlements may not be used intermittently with LWOP - Military.

The TDCJ Leave Application, PERS-24 (Attachment A to PD-51), is being revised effective October 1, 2001 to include: (1) the statement required by HB 1922 regarding an employee's rights under the Public Information Act; and (2) a reference to administrative leave for emergency medical service volunteer training under the "Check Type of Leave Requested" column. New leave applications will be available some time this month. The old PERS-24 forms may be used until the supply is depleted or until December 31, 2001, whichever comes first.



**TEXAS DEPARTMENT**  
**OF**  
**CRIMINAL JUSTICE**

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**DATE:** September 1, 1999

**PAGE:** 1 of 12

**SUPERSEDES:**  
September 1, 1997

**EXECUTIVE DIRECTIVE**

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**SUBJECT:** LEAVES WITHOUT PAY

**AUTHORITY:** Texas Government Code Section 661.909, Section 661.912 and Section 661.913; Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended (COBRA), 29 U.S.C. Sections 1161 - 1168; Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. Section 2601, et seq.; Title 5, Texas Labor Code (Workers' Compensation); The Uniformed Services Employment and Reemployment Rights Act (USERRA).

**POLICY:** An employee of the Texas Department of Criminal Justice (TDCJ or Agency) may be granted leave without pay (LWOP) subject to the provisions established in this directive. Leave without pay may be granted when it is determined to be in the best interest of the employee and the Agency.

These guidelines do not constitute an employment contract or a guarantee of continued employment. The Agency reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the Executive Director's authority to establish or revise human resource policy. These guidelines and procedures are adopted to guide the internal operations of the Agency and do not create any legally enforceable interest or limit the Executive Director's, Deputy Executive Director's or Division Directors' authority to terminate an employee at will.

**DISCUSSION:** Procedures set forth in this policy relating to an employee's return to work from leave without pay are distinct from procedures for the Agency's Return to Work Program. The Return to Work Program offers temporary alternate or modified duty assignments to those employees who have sustained or incurred a work-related injury/illness and is governed by PD-40, Return to Work Program.

**DEFINITIONS:**

1. Americans with Disabilities Act (ADA): Federal anti-discrimination statute passed in 1990 which prohibits discrimination on the basis of disability against qualified individuals with a disability, and requires reasonable accommodation for qualified individuals with disabilities, after a determination has been made that the qualified individual can perform the essential functions of the position held or desired, with the reasonable accommodation requested.
2. Consolidated Omnibus Budget Reconciliation Act (COBRA): Federal legislation that requires certain employers to offer continuation of coverage to qualified beneficiaries that lose coverage as a result of a qualifying event.

3. Essential Functions: The fundamental job duties of a position that an applicant or employee must be able to perform either with or without the assistance of a reasonable accommodation.
4. Family and Medical Leave Act (FMLA): Federal law that entitles an employee to 12 workweeks of job-protected leave, with or without pay, during any 12-month period for a qualified reason as set forth in that act, if the employee has been employed for at least 12 months by the State and has physically worked at least 1,250 hours during the 12-month period immediately preceding the start of the leave.
5. Family and Medical Leave (FML): Leave granted in accordance with the Family and Medical Leave Act.
6. Health Care Provider: A doctor of medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, licensed acupuncturist, nurse practitioner, nurse mid-wife, clinical social worker who is performing within the scope of their practice as defined under State law, any health care provider recognized under the Uniform Group Insurance Program and/or Christian Science practitioners who are listed with the First Church of Christ, Scientist in Boston, Massachusetts.
7. Health Care Provider's Statement: For the purpose of this policy, a health care provider's statement shall be that of the attending health care provider and must contain the medical facts associated with the injury/illness and the expected duration of the injury/illness. Medical facts identify the cause or nature of the illness or injury (i.e., viral infection, internal bleeding, back pain, upper respiratory infection). If the statement is for the care of a family member, it must also include the type and duration of assistance required from the employee and projected date of recovery. If the employee is released to return to work, the health care provider's statement should list any restrictions or limitations and should indicate whether the limitations are temporary or permanent. If no restrictions are listed, the health care provider's statement shall be considered an unconditional release.
8. Immediate Family: Those individuals who reside in the same household with the employee and who are related by kinship, adoption or marriage, as well as foster children certified by the Texas Department of Protective and Regulatory Services. Minor children of the employee, whether or not living in the same household, shall be considered immediate family for purposes of regular sick leave. An employee's use of sick leave for family members not residing in their household is strictly limited to the time necessary to provide care and assistance to a spouse, child or parent who needs such care and assistance as a direct result of a documented medical condition.
9. Proof of Event: A document required to show an event took place and the individual(s) involved. For the birth of a child, a birth bracelet, hospital certificate, health care provider's statement or birth certificate may be used as proof of event.

10. Release To Return To Work: A health care provider's statement listing any restrictions or limitations and whether the injury/illness is of a temporary or permanent nature. If no restrictions or limitations are listed, the release shall be considered an unconditional release to return to work.
11. Sick Leave: Leave taken when a sickness, injury or pregnancy and confinement prevents the employee's performance of duty (essential functions of the job) or when a member of the employee's immediate family is actually ill.
12. State Parental Leave: Leave that is authorized by state law for employees who have been employed for fewer than 12 months by the state or who worked fewer than 1,250 hours during the 12-month period preceding the beginning of leave that is limited to: (a) the birth of a natural child of the employee; or (b) the adoption by or foster care placement with the employee of a child younger than three years of age.

PROCEDURES:

I. General Provisions:

- A. Except for military LWOP, any full calendar month (i.e., from the first day of a month through the last day of a month, inclusive) in which an employee is on LWOP, shall not be counted in the calculation of total state service for purposes of longevity pay, hazardous duty pay, or vacation leave entitlements. No employee shall accrue vacation or sick leave for such month. A full calendar month of LWOP shall not constitute a break in the continuity of State employment, but shall not be included in the calculation of the six months continuous service under merit salary provisions, employee vacation and leave provisions, or salary adjustments.
- B. An employee on approved LWOP is eligible to continue participation in the group insurance program while on such leave, for a maximum period of 12 months. To continue participation, a cashier's check or money order must be made payable to Employees Group Insurance Fund and forwarded to the Employee Services Section, Human Resources Headquarters, for each month coverage is desired.

The employee shall have 30 days from the date the employee was placed on leave without pay to make eligible changes to the employee's current insurance coverage. If the employee's spouse is a State employee, the employee and the employee's covered dependent(s) may be eligible to be placed on the spouse's insurance policy. The employee must contact the Human Resources Representative to make any eligible insurance changes.

Continuation of coverage payment of premiums and State contribution for LWOP is as follows:

1. Family and Medical Leave (FML):
  - a. The State contributes toward the cost of employee insurance coverage. An employee who fails to pay the employee's portion of any remaining monthly insurance premium shall have coverage reduced to Employee Only. Upon returning to work, a pre-existing conditions clause shall not be applicable to disability coverage, if the pre-existing period had been satisfied prior to going on FML. Once an employee returns to work, coverage may resume at the level held prior to the reduction to Employee Only.
  - b. If an employee fails to return to work immediately upon expiration of LWOP-FML, the employee must reimburse the Agency for any State paid contributions toward the cost of employee health insurance coverage and an employee's dependent health insurance coverage paid on the employee's behalf. There may be an exception, to be determined by Human Resources Headquarters, if an employee fails to return to work as a result of a serious health condition affecting the employee or that of a family member or as a result of other circumstances beyond their control.
  - c. For additional information and procedures for use of LWOP-FML see PD-46, Family and Medical Leave.
2. Military LWOP: An employee on military LWOP may continue his or her insurance coverage; however, the employee shall not receive the State contribution toward the cost of the monthly premium. If insurance coverage is cancelled for nonpayment of the premium, there shall be no coverage in effect until the employee returns to work. Upon the employee's return to work, insurance coverage may resume at the level held prior to cancellation, and a pre-existing conditions clause shall not be applicable to disability coverage if the pre-existing period had been satisfied prior to the military leave.
3. Workers' Compensation: An employee on LWOP/Medical due to a work-related injury/illness may continue his or her insurance coverage; however, the employee shall not receive the State contribution toward the cost of the monthly premium. The State Office of Risk Management (SORM) shall be notified and the amount of the employee's weekly workers' compensation payment shall increase to compensate for the State paid portion of insurance coverage.

If insurance coverage is cancelled for nonpayment of the premium, there shall be no coverage in effect until the employee returns to work. Upon the employee's return to work, coverage may resume at the level held prior to cancellation, and a pre-existing conditions clause shall not be applicable to disability coverage, if the pre-existing period had been satisfied prior to the workers' compensation leave.

4. Other LWOP: Except for FML, workers' compensation, or military LWOP, an employee on LWOP may continue his or her insurance coverage; however, the employee shall not receive the State contribution toward the cost of the monthly premium. If insurance coverage is cancelled for nonpayment of the premium, there shall be no coverage in effect until the employee returns to work. Upon the employee's return to work, the employee shall be automatically enrolled in HealthSelect, Employee Only health coverage. Evidence of insurability shall not be required for health coverage, but shall be required for applicable optional coverages. An employee who wants to reinstate disability coverage must make application through evidence of insurability and if approved, a pre-existing conditions clause shall be applicable. Enrollment in dental plans shall be restricted to the annual enrollment period.
- C. An employee on approved LWOP may not withdraw his or her State retirement contributions. An employee who participates in the Agency's Deferred Compensation Plan should contact the Agency Deferred Compensation Coordinator, Employee Services Section, Human Resources Headquarters, for withdrawal eligibility from the plan. If applicable, contributions to the TexFlex health care reimbursement account must continue.
  - D. Approval of LWOP constitutes a guarantee of employment for the length of the approved leave, subject to fiscal restraints and the limitations stated in this directive.
  - E. Except for disciplinary suspensions, active military duty, and workers' compensation, all vacation and sick leave must be exhausted prior to approval of LWOP. Sick leave use is limited to those situations falling clearly within the definition of sick leave. The Deputy Executive Director or a Division Director may grant exceptions to these limitations for such reasons as interagency agreements and educational purposes.
  - F. An employee that is granted LWOP shall turn in his or her ID card and any other state-issued equipment (i.e., uniforms, parking permits) to the employee's Human Resources Representative.
- II. Leave Without Pay/Medical
- A. General Provisions
    1. An employee may request LWOP/Medical when a condition or combination of conditions affecting the mental or physical health of the employee or the employee's immediate family prevents the employee's performance of duties (essential functions). Unless an employee is on workers' compensation and has frozen part or all of his or her accrued time, all of an employee's accrued sick leave, overtime, compensatory time, holiday, and vacation time must be exhausted in order for the employee to be eligible for LWOP/Medical. Paid leave entitlements may not be used intermittently with LWOP-Medical.

2. LWOP/Medical may be granted for a period not to exceed six months, except as provided for under the Agency's ADA Program. If an employee is granted LWOP-FML, the period granted shall count towards the six months for which the employee is eligible under the LWOP/Medical provisions. Extreme cases where it would be in the Agency's best interest to grant LWOP/Medical for a longer period may be submitted through the Director for Human Resources to the Deputy Executive Director or appropriate Division Director for special consideration.

B. Procedures for Use:

1. An employee requesting LWOP/Medical shall complete Section III of the Leave Application, (PERS 24, Attachment A), and submit it to the employee's supervisor before the exhaustion of all paid leave entitlements or prior to exhaustion of LWOP-FML. Each leave application shall be accompanied by a current health care provider's statement.
2. A leave application shall be submitted with a current health care provider's statement through the supervisor to the Warden/Department Head for approval at the onset of the LWOP/Medical. The initial Leave Application shall cover the expected duration of the injury/illness as stated on the health care provider's statement and may not exceed 90 days. If LWOP/Medical is required beyond the approved period, an additional leave application with the associated health care provider's statement shall be furnished for the additional leave period(s). The leave application and supporting statement shall be submitted no later than the date the current approved leave period expires. Total time requested for LWOP/Medical shall not exceed a period of six months except as provided for under the Agency's ADA Program.
3. The employee's supervisor shall notify the Human Resources Representative if a leave application and supporting health care provider's statement are not received by the date the employee's accrued leaves are exhausted or prior to exhaustion of LWOP-FML. The Human Resources Representative shall initiate a Leave Request Form (PERS 182, Attachment B) within ten days after the employee is provisionally placed on LWOP/Medical, and shall mail the Leave Request form to the employee via Certified Mail, return receipt requested. The employee shall have a "Grace Period" of 15 calendar days from the date on the Leave Request form to submit a leave application and current health care provider's statement. An employee may return to work during the grace period but must provide a leave application and current health care provider's statement as requested in the Leave Request form. If an employee returns to work and does not comply with this requirement within the time period specified, disciplinary action shall be initiated in accordance with PD-22, Guidelines for Employee Disciplinary Action. Additional Leave Request forms shall not be sent for subsequent periods if the employee's leave application has not been received by the date the leave expires.

4. If LWOP/Medical is approved, the Human Resources Representative shall complete a Payroll Status Change (PSC), PERS 25 indicating "Leave Without Pay/Medical - Work Related or Non-Work Related" for submission to the Payroll Department.

C. Return to Work:

1. Return to work shall be to the same salary rate that the employee was receiving at the time LWOP was granted. The employee's medical limitations (if applicable), job skills, and any fiscal constraints and needs of the Agency shall be considered in determining job assignment.
2. If an employee's absence was due to the employee's own illness or injury, the employee shall immediately provide a health care provider's statement to the Human Resources Representative upon the employee's return to work. If an employee's absence was due to the employee's own illness, the health care provider's statement shall be considered an unconditional release to return to work unless it indicates special limitations.

If the health care provider's statement identifies a physical or mental restriction as a permanent disability or if the employee states the restriction(s) are permanent, the Human Resources Representative shall inform the employee how to contact the ADA Coordinator, ADA/Leaves/SEIP Section, Human Resources Headquarters, for possible assistance under PD-14, Employment of Persons With a Disability, and the Americans with Disabilities Act (ADA). An unconditional medical release shall be required of an employee if there is evidence that the employee will not be able to perform the essential functions of the position.

3. A PSC indicating the employee's return to work following an approved leave shall be submitted to the Payroll Department.

D. Separation From Employment - Expiration of LWOP/Medical:

1. If an employee does not return to work immediately after the work related or non-work related LWOP/Medical period is exhausted or the employee's request for leave is disapproved, a PSC shall be submitted to the Payroll Department indicating "Separation - Expiration of Leave Without Pay/Medical - Work Related or Non-Work Related". An employee on workers' compensation shall be allowed to exhaust all compensatory and holiday time prior to being separated from employment. Prior to submitting the PSC, the Human Resources Representative shall ensure the employee has received all eligible leave benefits, to include FML, State Parental Leave, Sick Leave Pool, Extended Sick Leave and other accrued leave entitlements.
2. The Human Resources Representative shall forward a copy of the PSC to the employee accompanied by an Expiration of LWOP Notification form (PERS 302, Attachment C) advising the employee of re-employment procedures and possible health coverage continuation rights through provisions set by the Consolidated Omnibus Budget Reconciliation Act (COBRA).

3. If the separated employee wants to return to work at a later date, application shall be made through the Employment Section, Human Resources Headquarters.

III. Leave Without Pay - Other:

- A. General Provisions: An employee may request LWOP for other reasons including, but not limited to, educational purposes, training seminars, personal reasons. All accrued paid leave entitlements except sick leave shall be exhausted before such LWOP is granted. LWOP-Other may be granted for a period not to exceed 30 days.
- B. Procedures for Use:
  1. An employee shall complete a Leave Application form (PERS 24) for the entire period of time requested not to exceed 30 days.
  2. The Leave Application shall be accompanied by a written statement detailing the specific reason for the leave request, how approval of the request will benefit the Agency, and the employee's intent to return to work following the expiration of the LWOP.
  3. The Leave Application shall be submitted through the employee's supervisor to the Warden/Department Head for approval.
  4. If the initial request is approved, the Human Resources Representative shall complete a PSC (PERS 25) indicating Leave Without Pay/Other and forward the PSC to the Payroll Department.
- C. Return to Work:
  1. Return to work shall be to the same salary rate that the employee was receiving at the time LWOP was granted. The employee's medical limitations, if applicable, job skills, and any fiscal constraints and needs of the Agency shall be considered in determining job assignment.
  2. A PSC shall be submitted to the Payroll Department indicating the employee's return to work following an approved LWOP.
- D. Separation From Employment - Expiration of Leave Without Pay/Other:
  1. If the employee does not return to work immediately after the LWOP period is exhausted, a PSC shall be submitted to the Payroll Department indicating "Expiration of Leave Without Pay".
  2. The Human Resources Representative shall forward a copy of the PSC to the employee accompanied by an Expiration of LWOP Notification form (PERS 302) advising the employee of re-employment procedures and possible health coverage continuation rights through provisions set by COBRA.
  3. If the separated employee wants to return to work at a later date, application shall be made through the Employment Section, Human Resources Headquarters.

IV. Leave Without Pay - State Parental:

A. General Provisions: State parental leave is limited to the birth of a natural child or the adoption or foster care placement of a child under three years of age.

1. An employee is eligible for State Parental Leave if the employee has less than 12 months of state service or has not physically worked 1250 hours in the 12 months immediately preceding the need for leave.
2. LWOP-State Parental may not exceed 12 calendar weeks, and the period allowed for the 12 calendar weeks shall begin on the date of the birth of a natural child or the effective date of the adoption or foster care placement of a child under three years of age. State Parental Leave may not be taken intermittently.
3. An employee shall utilize any accrued paid vacation leave and/or accrued applicable sick leave while taking LWOP-State Parental. The use of sick leave is strictly limited to those situations clearly falling within the definition of sick leave. An employee may elect to use or freeze holiday, compensatory, and overtime balances. Any additional time taken beyond these paid time categories as part of the 12-week parental leave period shall be LWOP-State Parental. Paid leave entitlements may not be used intermittently with LWOP-State Parental.

B. Procedures for Use:

1. An employee shall complete a Leave Application (PERS 24) for the entire period of time requested not to exceed 12 weeks. Proof of the event shall accompany the Leave Application and shall be submitted through the supervisor to the Warden/Department Head for approval.
2. If the Leave Application is approved, the Human Resources Representative shall complete a PSC indicating Leave Without Pay-State Parental and submit it to the Payroll Department.

C. Return to Work:

1. A release to return to work is only required if an employee's absence was due to the employee's own illness or injury.
2. Return to work shall be to the same salary rate that the employee was receiving at the time LWOP was granted. The employee's medical limitations, if applicable, job skills, and any fiscal constraints and needs of the Agency shall be considered in determining job assignment.
3. A PSC shall be submitted to the Payroll Department indicating the employee's return to work following an approved Leave Without Pay-State Parental.

D. Separation From Employment- Expiration of Leave Without Pay-State Parental:

1. If an employee does not return to work immediately after the LWOP period is exhausted a PSC shall be submitted to the Payroll Department indicating "Expiration of Leave Without Pay".
2. The Human Resources Representative shall forward a copy of the PSC to the employee accompanied by a Expiration of LWOP Notification form (PERS 302) advising the employee of re-employment procedures and possible health coverage continuation rights through provisions set by COBRA.
3. If the separated employee wants to return to work at a later date, application shall be made through the Employment Section, Human Resources Headquarters.

V. Leave Without Pay - Military:

A. General Provisions:

1. After exhausting the 15 days administrative leave for authorized military training or training duty, an employee may be placed in a leave without pay status, or an employee may use all his or her accrued leave, other than sick leave, and then be placed in a leave without pay status. Paid leave entitlements may not be used intermittently with LWOP-Military.
2. An employee who enters the military on active duty or enlists in the Federal Armed Forces, Texas State Guard, National Guard or federal military reserves may be placed in a leave without pay status not to exceed 6 months or, upon entry to such duty, may elect to separate his or her State employment in accordance with PD-76, Reemployment of Members of the Uniformed Services.
3. While on military leave without pay, an employee shall accrue State service credit, but shall not accrue vacation or sick leave. However, the employee shall retain any accrued sick or vacation leave and shall be credited with those balances upon return to work.
4. If an employee who enlists in the Federal Armed Forces, Texas State Guard, National Guard, or federal military reserves separates from employment, the employee may be paid for any accrued vacation leave in a lump sum payment. Other paid leave entitlements, except for sick leave, shall be exhausted in accordance with provisions outlined in PD-49, Leaves With Pay. An employee who enlists in the Federal Armed Forces, Texas State Guard, National Guard, or federal military reserves, may apply for reinstatement within the appropriate time frame (see Section V.C.1. of this directive) or in accordance with PD-76, Reemployment of Members of the Uniformed Services. Upon reinstatement the employee shall be considered to have been on military leave without pay.

B. Procedures for Use:

1. An employee shall complete a Leave Application (PERS 24) for the entire period of time requested.
2. The Leave Application shall be accompanied by the employee's military orders and submitted in advance of the requested leave. In the event of a national emergency call to duty, the employee shall contact the Warden/Department Head or highest ranking supervisor on duty. The Leave Application with required documentation may be submitted when the employee returns to State service.
3. The Leave Application shall be submitted with required attachments through the employee's supervisor to the Warden/Department Head for approval.

C. Return to Work:

1. Upon completion of military duty, the employee shall notify the Human Resources Representative of the employee's intent to report to his or her previous unit/facility/department of assignment within the following appropriate time frame. The Employment Section, Human Resources Headquarters, may make exceptions for reporting to work within the appropriate time frame for factors beyond the employee's control.
  - a. Period of Service Less Than 31 Days: The employee shall report to work no later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service. Eight hours shall be allowed for the safe transportation to the employee's residence.
  - b. Period of Service 31 Days or More but Less Than 181 Days: The employee shall report to work no later than 14 days after the completion of the period of service.
  - c. Period of Service 181 Days or More: The employee must submit an application for reemployment no later than 90 days after the completion of the period of service.
2. Based on the length of military service, an employee returning from military duty with no disabilities incurred in or aggravated by the military service is entitled to the following:
  - a. Period of Service One to 90 Days: The employee shall be reinstated in the job the employee would have held if the employee had not gone on LWOP and shall have seniority status restored (e.g., the employee's position on a Transfer List, Shift Change List, etc.).

b. Period of Service 91 Days or More: The employee shall be reinstated in the job the employee would have held if the employee had not gone on LWOP or the employee shall be reinstated in a position similar in status and pay. In addition, the employee shall have seniority status restored (e.g., the employee's position on a Transfer List, shift change list, etc.).

3. If an employee returns to work following the approved leave, a PSC shall be submitted to the Payroll Department indicating the date of return.

D. Separation From Employment - Expiration of Leave Without Pay:

1. If the employee does not return to duty within the time approved for Leave Without Pay, a PSC shall be submitted to the Payroll Department showing "Expiration of Military Leave Without Pay."

2. The Human Resources Representative shall forward a copy of the PSC to the employee accompanied by an Expiration of LWOP Notification form (PERS 302) advising the employee of re-employment procedures and possible health coverage continuation rights through provisions set by COBRA.

3. If the separated employee wants to return to work at a later date, application shall be made through the Employment Section, Human Resources Headquarters. The former employee should specify during the interview the reason for expiration of military leave so that any provisions of PD-76, Reemployment of Members of the Uniformed Services, may be appropriately applied.

VI. Leave Management: Supervisors shall coordinate with the Human Resources Representative to ensure employee leaves are managed in accordance with applicable Agency policies and to ensure qualified absences are appropriately designated as FML.

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Wayne Scott  
Executive Director