

GEORGIA DEPARTMENT OF CORRECTIONS

Standard Operating Procedures

Functional Area: Support Services/Personnel	Reference Number: IVO10-0003	Revises Previous Effective Date: 09/01/01
Subject: Leave Without Pay		
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I. POLICY:

Employees of the Georgia Department of Corrections (GDC) may be placed on authorized or unauthorized leave without pay.

II. APPLICABILITY:

All employees of the Georgia Department of Corrections.

III. RELATED DIRECTIVES:

- A. Code of Federal Regulations 29, Section 2601
Family and Medical Leave Act
- B. O.C.G.A. 45-20-16 Leave Earning and Usage
- C. State Personnel Board (SPB) Rules:
 - 12.200 Voluntary Separations
 - 17.400 Salary Increases
 - 18.400 Leave of Absence Without Pay
 - 18.500 Military Leave
 - 19.000 Reduction In Force Procedure
- D. GDC Standard Operating Procedures:
 - IVO08-0001 Working Hours, Overtime and Compensatory Time (FLSA)
 - IVO08-0002 Time Keeping Requirements (FLSA)
 - IVO10-0001 Annual and Terminal Leave
 - IVO10-0004 Military Leave
 - IVO10-0005 Sick Leave
 - IVO10-0010 Personal Leave
 - IVO10-0011 Family Leave
 - IVO17-0001 Return-to-Work Program

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IVO20-0001 Adverse Actions (Classified Employees)
IVO20-0002 Adverse Actions (Unclassified Employees)

IV. DEFINITIONS:

- A. Authorized Leave Without Pay: An authorized, continuous leave of absence without pay, for a specified period of time, not to exceed 12 months. (Position may not be filled.)
- B. Unauthorized Leave Without Pay: An absence that has not been approved by the Appointing Authority.
- C. Contingent Leave Without Pay: An authorized continuous leave of absence without pay for a specified period, not to exceed 12 months. The employee's right to return to duty at the expiration of such leave is contingent upon the availability of a suitable vacancy. (Position may be considered as vacant for hiring purposes. See VI.D.6.)
- D. Military Leave Without Pay: Any authorized period of absence, for which the individual has been ordered to military duty, but has no military leave balance, **and** does not desire to use other accrued leave.

NOTE: Neither sick nor forfeited leave may be utilized for a military absence.

- E. Excessive or Abusive Use of Leave: A pattern of intermittent, short-term use of leave indicated by, but not limited to:

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1. Failure to establish a medical "need" for an extended absence for continuing treatment or care;
2. Requests for use of annual or personal leave when sick leave has been previously denied;
3. Frequent use of sick leave in conjunction with scheduled "off days," holidays, or dates when pay checks are distributed;
4. Continued use of sick leave following receipt of a disciplinary action, or when scheduled for an undesired shift/work assignment, or during periods of severe staff shortages or peak workloads.

F. Serious Health Conditions: As described by the federal Family Medical Leave Act (FMLA) CFR 29, Section 2601, 825.114.

V. ATTACHMENTS:

None

VI. PROCEDURES:

The local Appointing Authority should closely monitor the employee during a period of Leave Without Pay, to determine the employee's intent and/or ability to return to duty.

A. AUTHORIZED LEAVE WITHOUT PAY

1. This type of leave may be approved for an employee who is unable to report for duty for a period of time and has no accrued leave to cover the period of

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absence. This leave may also be taken when an employee does not report for duty due to an unplanned absence, and has no leave accruals to cover the absence; or has leave, but has not requested to use leave. (For record keeping purposes, authorized leave without pay absences of 15 days or less with a known return date may be recorded in Absence History and not in Job Data. This will be a determination made in Central Personnel Administration [CPA] upon receipt of a Personnel Action Request Form with Action/Reason Code: **LOA/AUT, Authorized Leave Without Pay.**)

2. Absences of this type cannot exceed 12 months.
3. If the requested absence is for more than 15 days, the employee must submit a written request to the Appointing Authority, indicating the specific reason(s) and duration for the requested period of absence. If the employee is requesting Authorized Leave Without Pay for medical reasons, he/she may also be required to provide medical documentation or written certification from the attending physician, which provides satisfactory evidence that the requested period of absence is necessary due to specific medical circumstances.
4. Authorized Leave Without Pay for absences greater than 15 days should only be approved in special circumstances, and only for the period justified by the request. Prior to approving Authorized Leave Without Pay, the Appointing Authority should carefully consider: the justification for the request; whether the absence would adversely affect the work unit or department operations; whether the absence would contribute to the employee's failure to fulfill work responsibilities; or whether the employee has demonstrated excessive or abusive use of any leave.

NOTE: When considering any request for Leave Without Pay, the Appointing Authority must determine whether the employee is eligible for Family Leave. If the employee is eligible, Family Leave will be designated

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for use before approving Authorized Leave Without Pay.

5. Final approval/disapproval for Authorized Leave Without Pay (during the first twelve-month period) is at the discretion of the local Appointing Authority. The requested period of absence may be modified, at any time, at the discretion of the local Appointing Authority. (For extensions, see VI.J. of this procedure.)
6. The Appointing Authority may deny a request for Authorized Leave Without Pay and approve Contingent Leave Without Pay in lieu of Authorized Leave Without Pay.
7. If leave for more than 15 days is requested and approved, the Appointing Authority must provide a written notice of approval to the employee. Such notice must contain the terms and conditions of the approval, including the conditions for return.
8. If leave is approved for more than 30 days, the employee may make a written request for payment of the full balance (up to 360 hours) of accumulated Annual Leave. No partial balance can be paid. The local Personnel Representative must submit the employee's request, along with a Leave Verification form, to the assigned CPA Personnel Technician for processing.

NOTE: Position is considered filled and cannot be treated as a vacancy for the purposes of filling a vacant position.

9. At the expiration of the period of leave (if less than 12 months), an employee may request, in writing, an additional period of Authorized Leave Without Pay.
10. Approval of such request is at the discretion of the Appointing Authority, and will be determined on a case-by-case basis, consistent with the circumstances surrounding the employee's request.

NOTE: The total period of Family Leave, Authorized Leave Without Pay, Unauthorized

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Leave Without Pay, Contingent Leave Without Pay, or any other leave, will not exceed 12 months, unless express approval is granted by the Department Personnel Director.

11. At the expiration of the leave, if all terms and conditions are met, the employee will be returned to the former position, or to a position of equal grade and pay, without loss of any rights.

B. UNAUTHORIZED LEAVE WITHOUT PAY

1. This action is typically taken when an employee is absent without the approval of the Appointing Authority [e.g., failure to report for duty; failure to follow proper procedures in reporting the absence and/or requesting the use of leave; failure to report for duty for a period when leave was previously denied; or when leave taken is later determined to have been requested falsely (i.e., failure to produce medical documentation satisfactory to the Appointing Authority, failure to produce an official jury summons or appropriate military orders, etc.)]. Use Action/Reason Code: **LOA/UNA - Unauthorized Leave Without Pay.**

NOTE: An employee must not be in Unauthorized Leave Without Pay status for more than 5 days. Absences of this type may be grounds for disciplinary action.

2. An employee who is absent from duty for 5 consecutive workdays or equivalent after all sick and annual leave is used may, in the discretion of the Appointing Authority, be released from employment. Use Action/Reason Code: **TER/PLE - Paid Leave Exhausted.** Such release is deemed to be a voluntary separation, but must not be used if the employee is eligible for Family Medical Leave.
3. An employee who is absent from duty for 5 consecutive workdays or equivalent, without proper authorization, in the discretion of the Appointing Authority, may be deemed to have resigned voluntarily from employment (Presumptive Resignation). Use Action/Reason Code: **TER/PRE -**

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Presumptive Resignation. The employee must receive a written notice advising of the appeal process for this separation.

D. CONTINGENT LEAVE WITHOUT PAY

1. This type of leave may be approved for a period not to exceed 12 months. This type of leave may also be requested at the expiration of a period of Authorized Leave Without Pay.
2. The employee must submit a written request, to the Appointing Authority, indicating the specific reason(s) and duration for the requested period of absence. The employee may also be required to furnish evidence satisfactory to the Appointing Authority before approval can be granted.

NOTE: Absences of this type will not exceed 12 months unless an extension is granted (See Section VI.J. of this procedure).

3. If the leave is approved, the Appointing Authority must provide a written notice of approval to the employee. Such notice must contain the following:
 - a. Type of leave approved;
 - b. The effective date and duration of the approved leave;
 - c. The conditions and instructions for returning to duty;
 - d. A statement that the employee's right to return to duty at the expiration of the leave will be contingent upon the availability of a vacant position in the employee's former job and former work unit.
4. Final approval/disapproval for Contingent Leave Without Pay (during the first twelve-month period) is at the discretion of the Appointing Authority. The requested period of absence may be modified at the discretion of the Appointing Authority.
5. At the expiration of any 12-month period of leave, an employee may request, in writing, an additional

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period of Contingent Leave Without Pay. Approval of such request is at the discretion of the Department Personnel Director, and will be determined on a case-by-case basis, consistent with the circumstances surrounding the employee's request.

6. The Appointing Authority may request to fill a position occupied by an incumbent on Contingent Leave Without Pay by completing and submitting a Request for Double Encumbering a Position form to the Department Personnel Director. This form can be accessed via the **GDC Intranet/Captiva**:

**Human Resources Division \ Personnel \
General Forms \ Miscellaneous Forms
Menu \ Request for Double Encumbering
a Position Form**

7. For an employee who is seeking to return to duty at the expiration of contingent leave (approved by the Appointing Authority), the Appointing Authority must determine if a position in the former job is available. If an appropriate position is available, the employee will be returned to work utilizing the Action/Reason Code: **RFL/RFL - Return from Leave**.
8. If a position is not available in the employee's former job at the time the Appointing Authority is notified of the employee's intent/ability to return to work, the employee shall be terminated. Use Action/Reason Code: **TER/NPR - No Position to Return from Leave**.

E. MILITARY LEAVE WITHOUT PAY

An employee who is on a leave of absence while engaged in the performance of ordered military duty may be placed on Military Leave Without Pay, in accordance with procedures outlined in GDC SOP IVO10-0004.

F. RETURN FROM LEAVE (DUE TO MEDICAL REASONS)

An employee who is absent from duty due to his/her own serious health condition(s) must, in addition to meeting other requirements, provide the Appointing Authority a medical certification for fitness-for-duty (at the expiration of the period of leave). The Appointing Authority must determine that the employee is able to

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perform the assigned work (including "transitional" or temporary assignments). If the determination is made by the Appointing Authority that the employee is unable to perform the assigned duties, return to work may be denied.

G. OTHER LEAVE WITHOUT PAY

1. If sufficient work is temporarily unavailable or not feasible, the Appointing Authority may, pursuant to a prior written employment agreement, place an employee in Authorized Leave Without Pay status during the period. An employee who has accrued annual or personal leave or compensatory time will, upon request, be granted such leave or compensatory time in lieu of leave without pay.
2. Furlough or Temporary Layoff: Due to curtailment of funds, the Appointing Authority may, as a temporary reduction-in-force, place employees in authorized non-pay status, effectuated through a furlough personnel transaction, pursuant to a Plan previously filed with and approved by the Commissioner of the Georgia Merit System, in accordance with Rule 19. No employee will be placed in a non-pay status under this provision for more than a total of 30 work days in any 12-month period.

NOTE: Absences under the provisions of this paragraph will not be charged against accrued annual, personal or sick leave, or compensatory time; however, such absences will not delay eligibility of salary advances under Rule 17.400, nor be considered a break in service.

H. PERSONNEL ACTION REQUIRED

To ensure proper record keeping, a Personnel Action Request for leave without pay (or return from leave without pay) must be submitted, with any required documentation, to the assigned CPA Personnel Technician by the Field Cutoff date for the effective date of the leave. Action/ Reason Codes should be utilized as follows:

LOA AUT Authorized Leave Without Pay

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LOA UNA Unauthorized Leave Without Pay

LOA CON Contingent Leave Without Pay

LOA MIL Military Service

LOA FML Family and Medical Leave Act

(Specify With or Without Pay)

LOA TMP Temporary Closure

LOA FUR Furlough

RFL RFL Return From Leave

I. LIMITS OF LEAVE WITHOUT PAY

Any continuous leave of absence, or any combination hereof, will not exceed 12 months, except when an extension has been granted. (See VI.J. of this procedure.)

J. EXTENSION OF LEAVE WITHOUT PAY

1. The Department Personnel Director is the approving authority for any requests for extended leave of absence without pay exceeding 12 months. Extensions will not exceed 12 months. At the expiration of the leave extension, the employee, at the discretion of the Appointing Authority, may be reinstated without loss of any rights. The extension shall be granted as Contingent Leave Without Pay.

2. If the extension of leave is approved, the Appointing Authority must provide a written notice of approval to the employee. Such notice must contain the following:

a. The effective date and duration of the approved leave;

b. The conditions and instructions for returning to duty;

c. A statement that the employee's right to return to duty at the expiration of the leave will be contingent upon the approval of the Appointing Authority.

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NOTE: An employee's return from Contingent Leave, granted under an extension, shall be at the discretion of the Appointing Authority, regardless of the availability of a vacant position and/or the employee's meeting all terms and conditions specified in the original approval.

K. FAILURE TO RETURN FROM LEAVE OF ABSENCE

Any employee who fails to return to duty at the expiration of a leave of absence may, in the discretion of the Appointing Authority, be deemed to have resigned voluntarily from employment. The Appointing Authority must notify the employee in writing including a statement advising of any appeal rights. Use Action Reason Code: **TER/LVE - Failure to Return from Leave.**