

## Leave Without Pay

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### Policy

Leave without pay may be granted for illness, education purposes, vacation, or for any other reasons deemed justified by the agency head.

Special provisions for leave without pay for military, family and medical, and workers' compensation are covered in these respective policies in this Section of the Personnel Manual. Parental leave without pay for employees not eligible for FMLA leave is covered at the end of this policy.

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### Covered Employees

Full-time or part-time (half-time or more) permanent, probationary, trainee and time-limited employees are eligible for leave without pay.

Temporary, intermittent, and part-time (less than half-time) are not eligible for leave without pay.

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### Definitions

Following are definitions of terms used in this policy:

**Extended Leave Without Pay** - leave in excess of one-half the workdays and holidays in the month or in the pay period (whichever is applicable)

**Short Leave Without Pay** - leave for less than one-half the workdays and holidays in the month or in the pay period (whichever is applicable)

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### EXTENDED LEAVE WITHOUT PAY

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#### Maximum Amount

Except for extended illness, extended leave without pay normally shall not exceed six months. The decision to grant leave without pay and the amount of time granted, except for leave required by the FMLA Policy, is an administrative one for which the agency head must assume full responsibility.

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#### Employee Responsibility

The employee shall:

- apply in writing to the supervisor for leave without pay,
- give written notice of intention to return to work at least thirty days prior to the end of the leave, and
- return to duty within or at the end of the time granted, or
- notify the agency immediately when there is a decision not to return.

If the employee does not give notice of the intention to return, the agency is not required to provide reinstatement but may do so if feasible. Failure to report at the expiration of a leave, unless an extension has been requested and approved, may be considered as a resignation.

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#### Agency Responsibility

Factors to consider in determining whether to grant leave without pay and the amount of time to approve are:

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- needs of the employee requesting leave,
- workload,
- need for filling employee's job,
- chances of employee returning to duty, and
- the obligation of the agency to reinstate employee to a position of like status and pay.

It is the responsibility of the agency to administer leave without pay in a manner that is equitable to all of its employees.

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### Extended Illness

Advisory Note: When an employee has a personal illness, the agency must consider the following:

- \* Does the need for leave qualify as Family and Medical Leave? If so, the rules of that policy shall be applied first.
- \* Is the illness likely to result in participation in the Disability Income Plan?
- \* Does the employee qualify for Voluntary Shared Leave?

Taking these into consideration, the agency should explain these policies to the employee and assist in determining which are applicable.

Leave without pay for extended illness may be:

Granted for:	For a period	Sick leave	Vacation/Bonus leave
Employee illness (not covered by short-term disability or FMLA)	up to one year. Any extension shall be managed/ documented by the agency head.	shall be exhausted during the time that would cover the waiting period required by DIP.	may be exhausted or retained. (*See note below.)

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Disability Income Plan (Short-term disability)	up to one year. Any extension must be approved by the Retirement System Medical Board.	shall be exhausted during the waiting period. Additional sick leave may be exhausted or retained.	may be exhausted or retained.
Family and Medical Leave	up to twelve workweeks (See FMLA Policy).	shall be exhausted for employee illness. See FMLA Policy for other options.	may be exhausted or retained.
* If leave does not qualify for FMLA, the agency may also require that the employee use accumulated vacation/bonus leave before granting leave without pay.			

**Advisory Note:**

Eligible employees who become temporarily or permanently disabled and are unable to perform their regular work duties may receive partial replacement income through the Disability Income Plan of North Carolina (DIPNC). The DIPNC is explained in a handbook, "Your Retirement Benefits," published by the Department of State Treasurer, Retirement Systems Division. Exhaustion of sick, vacation/bonus leave during the short-term disability period is in lieu of short-term disability benefits that may otherwise be payable.

Procedure: The date separated shall be the last day of work or the last day leave is exhausted, whichever is later; however, in cases where no leave is available and the disability occurs after the last day of work and before the beginning of the next workday, the date separated shall be the date the disability occurs. This is necessary to assure that the employee is considered to be in service for the purposes of determining short-term disability benefits.

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### Special Provision for Long-Term Disability

If an employee is approved for long-term disability following the short-term disability, the employee must be separated from leave without pay. The employee shall be reinstated to the payroll for the purpose of exhausting any unused vacation/bonus and sick leave the employee had prior to going on leave without pay.

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*Exception: The employee may choose to apply the sick leave credits toward retirement if the employee would be eligible for service retirement within a five-year period.*

Note: Under the laws governing the DIP, the long-term disability is not payable until the leave has been exhausted. The agency is responsible for paying the employer's share of medical benefits while leave is exhausted.

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### Vacation

An employee must exhaust all accumulated vacation/bonus leave before going on leave without pay for the purpose of vacation.

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### Personal or Other Reasons

An employee must exhaust accumulated vacation/bonus leave for personal or other reasons if the leave period is 10 workdays or less. If the leave period is greater than 10 workdays, the employee may elect to exhaust all, part, or none of the vacation/bonus leave prior to going on leave without pay.

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### Exhausting Leave

While exhausting leave, the employee:

- continues to accumulate leave,
- is eligible to take sick leave,
- is entitled to holidays, and
- is eligible for salary increases during that period.

Any accumulated unused vacation/bonus leave or sick leave shall be retained. Eligibility to accumulate leave ceases on the date leave without pay begins.

If leave without pay extends through December 31, any vacation leave accumulation above 240 hours shall be converted to sick leave. (Bonus leave does not convert to sick leave.)

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### Health Insurance

While on leave without pay the employee may continue coverage under the State's health insurance program by paying the full premium cost (no contribution by the State).

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### Retirement Status

All accumulated retirement credits shall be retained. If the leave without pay is granted for purposes which will tend to make the person a more valuable employee, permission may be received from the Board of Trustees of the Teachers' and State Employees' Retirement System to make personal contributions to the retirement account during this period and receive service credit. The request must be made in advance by the agency head and the employing agency must agree to pay its share of the cost. The employee should contact the Retirement System for information regarding all specific requirements.

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### Reinstatement

Reinstatement to the same position or one of like seniority, status and pay must be made upon the employee's return to work unless other arrangements are agreed to in writing.

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### Separation While on Leave without Pay

If the employee does not return to work following leave without pay, the employee shall be paid for any unused vacation/bonus leave at time of separation.

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### Filling a Position Vacant by Leave without Pay

If it is necessary to fill a position vacant by leave without pay, the position may be filled by a temporary or time-limited permanent appointment, whichever is appropriate.

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## SHORT LEAVE WITHOUT PAY

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### Approved Absences

With approval of the supervisor, an employee may be on leave without pay for less than one-half the workdays and holidays in the month or pay period and continue to earn

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benefits. This accounts for time an employee is absent and has not accumulated or advanced leave credits. These short periods may be docked from the employee's pay check without submitting a personnel action form.

Exception: When placing an employee on leave without pay due to suspension, a PD-105 must be submitted, including those that are less than half the workdays in a month.

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### Unapproved Absences

Employees who are absent without approved leave may be subject to disciplinary action.

Short leave without pay may be used to cover the status of an employee who has failed to come to work but has not requested and received approval to take sick or vacation/bonus leave. Agency management is responsible for determining whether leave without pay is appropriate or whether the time may be charged to the appropriate leave account.

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## SPECIAL PROVISIONS FOR PARENTAL LEAVE

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### Policy

Employees who are not eligible for leave under the FMLA Policy shall be granted leave during the period of the biological mother's disability and may be granted additional leave for childbirth and adoptions.

Advisory Note: The FMLA Policy provides for family and medical leave for employees who have been employed with State government for at least 12 months and who have worked at least 1040 hours during the previous 12-month period.

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### Leave Required During Period of Disability

The agency shall grant leave with or without pay to the biological mother for all of the time of personal disability. The biological mother may use accumulated sick leave during this period, and may choose to use vacation/bonus leave or leave without pay.

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A doctor's certificate or other acceptable proof shall be required verifying the employee's period of temporary disability.

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### Additional Leave

The biological mother may desire to be on leave prior to and/or after the time of actual disability. The agency may grant vacation/bonus leave, if available, and may grant leave without pay for this purpose.

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### Leave for Immediate Family

The agency may allow a member of the immediate family (as defined in the Sick Leave Policy) to use accumulated sick leave to care for the biological mother during the period of disability. Or, the family member may be allowed to use vacation/bonus leave or leave without pay.

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### Adoption

The parents of a newly-adopted child may request to use vacation/bonus leave, leave without pay or a maximum of 30 days of sick leave (see Sick Leave Policy).

The agency may require evidence satisfactory to the agency in support of an employee's request for sick leave for adoption-related purposes.

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