

## Leave Without Pay Policy

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**§ 1. 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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**§ 2. Covered Employees**

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

## Leave Without Pay Policy (cont.)

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

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### § 3. 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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### § 4. Extended Leave Without Pay

#### § 4.1. 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.

#### § 4.2. 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.

## Leave Without Pay Policy (cont.)

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### § 4.3. Agency Responsibility

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

- 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.

### § 4.4. 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 Policy (cont.)**

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.)
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.

## Leave Without Pay Policy (cont.)

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### § 4.5. **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.

*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.

### § 4.6. **Vacation**

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

### § 4.7. **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.

### § 4.8. **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.

## Leave Without Pay Policy (cont.)

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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.)

### § 4.9. **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).

### § 4.10. **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.

### § 4.11. **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.

### § 4.12. **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.

### § 4.13. **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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## Leave Without Pay Policy (cont.)

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### § 5. Short Leave Without Pay

#### § 5.1. 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 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.

#### § 5.2. 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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### § 6. Special Provisions for Parental Leave

#### § 6.1. 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.

## Leave Without Pay Policy (cont.)

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### § 6.2. **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.

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

See also the **FMLA Policy**, **Paid Parental Leave Policy** and **Reasonable Accommodation Policy** for types of leave that may be available after childbirth, adoption, or foster care placement.

### § 6.3. **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.

### § 6.4. **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.

### § 6.5. **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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### § 7. **Sources of Authority**

This policy is issued under any and all of the following sources of law:

- [N.C.G.S. § 126-4\(5\)](#)

**Leave Without Pay Policy (cont.)**


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It is compliant with the Administrative Code rules at:

- [25 NCAC 01E .1100](#)

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§ 8. **History of This Policy**

Date	Version
November 29, 1951	In cases of extended sick leave, both sick and annual leave must be exhausted before leave without pay is granted. In other cases where leave without pay is required, annual leave must be exhausted before leave without pay can begin.
September 18, 1953	Maternity Leave policy adopted. Leave is without pay, sick leave may not be used and annual leave must be paid as terminal leave.
December 15, 1969	Leave without pay normally will not exceed one year except that it may be extended when necessary and justified.
December 17, 1970	Maternity leave without pay shall be granted to full-time permanent, probationary or provisional employees. Annual leave must be paid same as terminal leave.
June 20, 1972	Limitation of employment before childbirth is prohibited, each agency responsible for determining how far into pregnancy she may continue to work. Annual leave must be exhausted before going on leave without pay. Accumulated sick leave is provided for actual period of temporary disability. Employee retains benefits. Increment anniversary date delayed one month for each month on leave without pay.
January 1, 1976	Removed mandatory requirement for doctor's certification of disability to make it consistent with sick leave policy, and changes the stated maximum extension of twelve months to an extension based on actual need. Deletes special provision for short periods of LWOP.
March 1, 1978	An employee going on sick leave without pay, military leave without pay, maternity leave, workmen's compensation leave or any other leave without pay, except for vacation purposes, may retain part or all of accumulated leave until the employee returns to work.

**Leave Without Pay Policy (cont.)**

February 1, 1981	Adoption leave policy
June 1, 1982	Combined maternity leave and adoption leave policies into the general leave without pay policies as parental leave. Provides that an agency must give leave without pay for the time of disability for the natural mother and further provides that an agency may give leave without pay to the father of a natural child or to the parents of an adopted child.
November 1, 1990	Provisions for LWOP - RIF & Policy Making - deleted. No longer needed. Defined Extended LWOP and Short LWOP. Added provision for deducting employee's pay, if absent without approval.
December 1, 1993	Provision added to cover parental leave for employees who are eligible for FMLA leave. Also changed to convert excess vacation to sick leave at end of year.
December 1, 1995	Revised to include provision for parents to use 30 days sick leave for adoption purposes.
September 30, 2002	Added provisions for bonus leave.
November 1, 2009	Corrected an omission on Page 67.
August 7, 2023	Added a cross reference to the FMLA Policy, Paid Parental Leave Policy and Reasonable Accommodation policy to section 6 of this policy.