

# Fourth Court of Appeals



## Human Resources Leave Policy

### ANNUAL LEAVE

State employees are entitled to a paid vacation each year. The amount of time off each employee receives is determined by length of service. Vacation accrual rates are the same for both hourly and salaried employees. Part-time employees are also eligible for paid vacation, but their accrual rate and maximum carryover are proportional to the number of hours worked. For example, half-time employees earn and carry over annual leave at one-half the rate authorized for full-time employees. The amount of annual leave accrued by an employee is based on his or her employment status on the first day of the month.

In computing annual leave taken by an employee, absences due to holidays are not charged.

### SICK LEAVE

State employees are entitled to sick leave subject to the following provisions:

- An employee accrues sick leave beginning on the first day of state employment and ending on the last duty day of state employment. *Duty day* means an employee's last physical day on the job.
- An employee who is on leave the first day of the month may not use that month's accrual until he or she returns to duty.
- An employee accrues sick leave at a rate of eight hours per month (prorated for part-time employees).
- Sick leave may be used when an employee is prevented from performing his or her job due to sickness, injury, pregnancy, or confinement. It may also be taken to care for an immediate family member who is ill. Immediate family is defined as individuals related by kinship, adoption, or marriage who live in the same household; foster children who reside in the same household; and minor children regardless of whether or not the child lives in the same household. Sick leave may be used to care for immediate family members who do not reside in the same household only because of a documented medical condition.
- An employee who will be absent from work must notify his or her supervisor as soon as possible.
- For the Clerk's staff, an absence of greater than three days requires the employee to provide the Clerk of the Court a doctor's certification or a written statement of the facts surrounding the absence and the nature of the illness. The need to provide such documentation for absences of three days or less is at the discretion of the Clerk.
- Sick leave may be used by an employee while he or she is on vacation.

- Employees employed by multiple agencies cannot accrue sick leave at a rate that exceeds that of a full-time, 40-hour-per-week employee.
- An employee who is a legal guardian of a child by court appointment may take sick leave to care for the child.
- Sick leave may be taken for the adoption of a child under the age of three.

### **LEAVE WITHOUT PAY (LWOP)**

The Chief Justice may grant a leave of absence subject to the following provisions:

- The leave is unpaid.
- Except in instances of disciplinary suspension, workers' compensation, or military situations:
  - Annual leave must be exhausted.
  - Sick leave, if appropriate, must be exhausted.
- Subject to fiscal constraints, approval of LWOP constitutes a guarantee of employment for a specified period of time, not to exceed 12 months.
- The Chief Justice may approve instances of LWOP on a case by case basis and may also allow for exceptions to these limitations.
- Any full calendar month of LWOP does not constitute a break in employment but also does not count for purposes of state service credit with the exception of an employee returning from military leave without pay.

An employee who is on LWOP will have his or her compensation reduced for the pay period at the hourly rate of pay times the number of hours on LWOP.

### **FAMILY AND MEDICAL LEAVE**

Eligibility for Family and Medical Leave (FML) is limited to employees who have worked for the State at least 12 months. The 12 months need not be consecutive or continuous. In addition, the employee must have worked a minimum of 1,250 hours during the 12 months immediately preceding the start of leave. For purposes of FML, the State is considered a single employer. The Court will credit time worked for other state employers when considering FML eligibility. Eligible employees must use all appropriate paid leave while taking FML. Sick leave may be used in conjunction with FML when a child under the age of three is adopted, regardless of whether or not the child is ill at the time of adoption.

Employees on worker's compensation or receiving temporary disability benefits cannot be required to use, but may elect to use, paid leave prior to taking FML.

The Family and Medical Leave Act (FMLA) provides all eligible employees a total of 12 weeks of unpaid leave during any 12-month period for the following:

- The birth and subsequent care of a newborn child
- The placement of a child for adoption or foster care
- The need to care for a spouse, child, or parent with a serious health condition
- A serious health condition that makes the employee unable to work

Additionally:

- An employee who takes FML must be returned to the same job or a job with equivalent status and pay.
- The Court will continue the employee's health benefits during the absence.
- The Court can require the employee to provide a doctor's certification.
- FML may be used intermittently if required by a physician to care for a serious illness. Employees requesting intermittent leave to care for a newborn child, during adoption, or during foster care must obtain employer approval for the intermittent leave.
- If FML is used in one continuous block, the Court closure will count against the employee's entitlement. The exception to this is a closing of a week or more.
- Holidays, ice days, and shutdowns do not count against employees who are on intermittent FML or a reduced work schedule.

The Court will continue to pay its portion of the employee's group health plan coverage during FML. The employee is responsible for paying his or her portion of the premium.

An employee does not earn state service credit, annual leave, or sick leave for any full calendar months of leave without pay while on FML. This time is also not included in the calculation of the number of continuous months of employment for purposes of merit increases and leave.

### **PARENTAL LEAVE**

Employees who do not qualify for FML are entitled to parental leave for the birth of a child or the adoption or foster care placement of a child under the age of three. This entitlement provides up to 12 weeks (480 hours) of unpaid leave. Accrued annual leave and applicable sick leave must be used while taking parental leave. Because eligibility time requirements are different for parental leave (less than 12 months of state service) and family and medical leave [12 months (1,250 hours) or more of state service], an employee can meet requirements for only one of these entitlements.

Employees with fewer than 12 months of state service or less than 1,250 hours in the 12 months immediately preceding the start of leave are entitled to a parental leave of absence, not to exceed 12 weeks, for the birth of a natural child or the adoption or placement in foster care of a child under three years of age. This period begins with the date of birth, or the first day the adoptive child is formally placed in the home. The employee must use all available paid annual and sick leave before going on leave without pay while taking the parental leave.

Employees anticipating using parental leave should notify the Clerk of the Court at the earliest possible opportunity in order to allow ample time to plan for covering duties for the duration of the absence. Any additional time off must be requested in accordance with the leave without pay policy and must be approved by the Chief Justice.

Parental leave is available for employees who are not eligible for FMLA leave.

### **EMERGENCY LEAVE**

**Death in Family** - An employee is entitled to leave with pay for a death in the employee's family. An employee's family is defined as the employee's spouse and the employee and spouse's parents, children, brothers, sisters, grandparents, and grandchildren.

Leave During Agency Investigation - The Chief Justice may grant leave without a deduction in salary to an employee who is:

- The subject of an investigation being conducted by the court or another investigative entity; or
- A victim of, or witness to, an act or event that is the subject of an investigation being conducted by the court or another investigative entity.

The court is required to report to the State Auditor's Office and the Legislative Budget Board each quarter if an employee is granted 168 hours or more leave for being the subject of an investigation.

Other Reasons - The Chief Justice may grant Emergency Leave to an employee for reasons other than bereavement if the employee shows good cause and the Chief Justice believes in good faith that the employee intends to return to work when the emergency leave ends. The granting of such leave is at the sole discretion of the Chief Justice, and is granted only if it is determined to be in the best interest of the court.

Emergency Leave and Workers' Compensation - The Chief Justice may authorize emergency leave pay for not more than 6 months to an employee receiving workers' compensation benefits. Payment will not exceed the difference between the employee's basic monthly wage and the monthly amount of minimum benefits.

Requests - Requests for Emergency Leave should be submitted to the employee's supervisor, who in turn submits it to the Clerk of Court.

Approval - Approval for emergency leave can only be granted or denied by the Chief Justice.

Reporting - By October 1 of each year, the Clerk of Court is required to report to the Comptroller's Office:

- The name and position of each employee who is granted more than 32 hours of emergency leave during the previous fiscal year;
- The reason for which the employee was granted the emergency leave; and
- The total number of hours of emergency leave granted to the employee in that fiscal year.

### **Medical and Mental Health Care Leave for Certain Veterans**

- A veteran who is eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs is eligible to be granted up to 15 days of leave each fiscal year to obtain medical (including physical rehabilitation) or mental health care. The Chief Justice may grant additional days as deemed appropriate.