

Treasury Documentation**Subject:** Leaves of Absence**For:** EMPLOYEE HANDBOOK**Also See:** BT-03046

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LEAVE OF ABSENCE

Eligible employees of the Department of Treasury (Treasury) may apply for a leave of absence as identified in this Policy, as regulated by the Civil Service Commission and federal Family and Medical Leave Act (FMLA). This Policy is not intended to supersede or modify any provisions contained in collective bargaining agreements. Standards for approval and administration of paid and unpaid leaves are set forth in this Policy.

Administrative Leave

To be eligible for administrative leave, the employee's absence must be a necessary absence from duty not covered by annual, sick, or other paid leave. Refer to Bulletin BT-03046.

Administrative leave with pay may be approved by the appointing authority for a necessary absence from duty for which annual, sick, or other leave with pay is not applicable. Additionally, administrative leave may be granted when specifically required by the Civil Service Commission.

Family and Medical Leave Act

To be eligible for FMLA, an employee must be employed by the State for at least 12 months and have worked at least 1,250 hours during the previous 12 months.

The FMLA entitles an eligible employee to take a leave of absence for up to 12 work weeks during a 12-month period for the following:

1. Parental leave of absence for the birth, adoption, or foster care placement of a child in the employee's home.
2. Family care leave of absence for the care of the employee's parent, spouse, son, or daughter with a serious health condition.
3. Medical leave of absence for an employee's own serious health condition.
4. Qualifying Exigency Leave
5. Military Caregiver Leave

The National Defense Authorization Act for fiscal year 2008 created two new military family leave entitlements: Qualifying Exigency Leave and Military Caregiver Leave.

Qualifying Exigency Leave:

- For absences necessitated by call to duty of spouse, parent, or child.
- Applies only to National Guard and Reserve members and military retirees who are called to active duty; not full-time military members.
- Limited to 12 work weeks of FMLA leave for qualifying exigency combined with other existing FMLA leave types during a 12-month period.

Military Caregiver Leave:

- For absences by a spouse, parent, child, or next of kin to care for a covered service member who suffers from a serious injury or illness incurred on active duty.
- Applies to all current military members and those on the temporary disability retired list.
- Limited to 26 total work weeks of military caregiver FMLA leave during a 12-month period.

An employee may request FMLA when the absence from work is intended to be for five workdays or more. An employee requesting medical, parental, or family care leave under FMLA shall provide 30 days notice prior to the beginning of the leave if the leave is for a foreseeable condition, or such notice as is practicable if the condition is unforeseeable. Provisional FMLA is not available. For all health-related leaves under the FMLA, Treasury requires medical certification confirming the serious health condition of the employee or family member and expected duration.

Written notice shall be provided to the employee at the time the leave is requested or when it is determined to be an FMLA qualifying leave. If a leave has not been designated as FMLA, an employee who desires the leave to be on an FMLA qualifying absence must notify the employee's supervisor or Office of Human Resources (HR) within two business days of returning to work that the leave was for an FMLA reason.

While on an FMLA leave, Treasury requires the employee to use accrued sick leave credits for all or part of the 12-work week FMLA entitlement. Employees may choose to substitute paid leave credits for otherwise unpaid FMLA leave. These leave credits include compensatory time, deferred hours, and banked leave time. Employees must comply with requirements for leave usage.

Sick leave credits must be depleted to a balance of 80 hours prior to the start of an unpaid family care leave of absence. Use of leave credits must be requested prior to the expiration of the approved leave.

The period when an employee uses annual or sick leave for an FMLA qualifying absence counts toward the employee's 12-work week FMLA entitlement.

If annual or sick leave is used for all or part of the FMLA leave, the employee receives pay, service credit, and fringe benefits. If paid leave credits are not used, the FMLA leave is unpaid, but the employee may continue current medical, dental, and vision plan benefits by paying the employee's share of premiums. No leave or service credit is accrued during an unpaid FMLA leave of absence.

A single FMLA leave may not exceed 12 consecutive work weeks. During any 12-month entitlement period, an eligible employee's cumulative FMLA leaves cannot exceed 12 work weeks.

An employee may request intermittent FMLA leave in writing. Intermittent leave or a reduced work schedule may be granted when medically necessary for a serious health condition of the employee or the employee's spouse, parent, or child. An intermittent leave cannot exceed 12 work weeks during a 12-month entitlement period.

Medical Leave of Absence

An employee must be employed by the State for at least six months to be eligible for a medical leave of absence.

An employee whose sick leave is exhausted and who has the equivalent of at least six months of full-time employment at the time of the leave may be granted a medical leave of absence for up to six months during any five-year period. If an employee requests an extension before the leave expires, Treasury's appointing authority has sole discretion to extend the leave up to a maximum of one year.

The medical leave shall not be approved without certification by a health care provider. The employee shall be required to return to work as scheduled if the medical leave is not approved. Failure to return to work could result in separation from employment.

The length of the approved leave of absence may be based on the medical certification and Treasury's ability to accommodate any restrictions.

Treasury may require a second medical opinion or job analysis at any time at its own expense when the employee's original medical certification or subsequent ability to return to work is questioned. Treasury may require a third medical opinion at its own expense when the first and second medical opinions conflict. The third opinion shall be provided by a mutually agreed upon health care provider and shall be the binding opinion.

Sick leave credits must be exhausted prior to the start of an unpaid medical leave of absence.

Before an employee may return from a medical leave of absence, he or she must provide certification from a health care provider authorizing the return and identifying any continuing restrictions.

Employee Military Leave of Absence

An employee is eligible for a military leave of absence if he or she has military obligations in the armed forces of the United States.

A military leave of absence without pay shall be granted to a classified employee to fulfill a military obligation in the armed forces of the United States, in accordance with Civil Service Commission Rule 2-5.3. An employee requesting a military leave shall provide advance notice as soon as possible and a true copy of military order. State service credits shall be allowed for the period of the military leave of absence. Military leaves are not covered under the provisions of FMLA.

Parental Leave of Absence

An employee must satisfactorily complete an initial probationary period and have worked 1,250 hours in the previous 12-month period to be eligible for a parental leave of absence.

A parental leave of absence is granted to an employee for up to six months for the birth of, or adoption and care of, a new child during the 12 months following the birth or adoption. Any absence or leave, with or without pay, including FMLA leave, used for care of a new child counts as part of the six-month parental leave entitlement.

Waived Rights Leave of Absence

An employee who terminates State employment may be granted a waived rights leave of absence for up to one year to protect the employee's continuous service, seniority, and any benefits connected with length of service. A one-year extension may be granted upon providing written notice to the State Personnel Director. The State Personnel Director must approve any further extension in writing.

An employee on a waived rights leave does not accrue annual, sick, or other leave. The employee cannot carry any annual leave balance forward and is paid off at the last rate of pay for any annual leave balance at the start of the leave. The employee's sick leave balance is frozen during the waived rights leave.

At any time during the waived rights leave, the employee may seek reemployment with Treasury or another department. If successful in gaining reemployment, the employee is treated as if returning from a regular leave of absence without pay. If an employee is not returned to the classified service by the end of the leave, the employee is separated and any sick leave is liquidated in accordance with Civil Service Commission regulation 5.10.

PROCESS FOR REQUESTING LEAVE OF ABSENCE

When a leave of absence is foreseeable, an employee should notify his or her supervisor of anticipated leave and request forms from HR. Completed forms and medical information must be submitted to HR.

If the leave is unexpected/unforeseeable, the employee's supervisor or HR liaison should contact HR and report employee information.

Following are leave of absence forms (available on Treasury's Intranet Forms page) employees may need to complete if requesting a leave of absence:

- Treasury Form 1878 APPLICATION FOR LEAVE OF ABSENCE.
- Civil Service Form CS-1810 Eligibility, Rights, and Designation Notice
- Civil Service Form CS-1806 Employee's Serious Health Condition
- Civil Service Form CS-1807 Family Member's Serious Health Condition
- Civil Service Form CS-1808 Qualifying Exigency
- Civil Service Form CS-1809 Inquiry or Illness of Covered Service Member

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