

GEORGIA DEPARTMENT OF CORRECTIONS



Standard Operating Procedures

**Policy Name:** Leave Without Pay

**Policy Number:** 104.39.04

**Effective Date:** 11/29/2023

**Page Number:** 1 of 10

**Authority:**  
Commissioner

**Originating Division:**  
Administration & Finance  
Division (Human Resources)

**Access Listing:**  
Level I: All Access

**I. Introduction and Summary:**

Employees of the Georgia Department of Corrections (GDC) may be placed on Authorized or Unauthorized Leave Without Pay.

**II. Authority:**

A. 29 U.S.C., Section 2601 Family and Medical Leave Act.

B. O.C.G.A § 45-20-16, Leave Earning and Usage.

C. State Personnel Board Rules: 478-1-.12 Salary, 478-1-.15 Changes to Employment Status, 478-1-.16 Absence from Work, and 478-1-.19 Military Leave; and

D. GDC Standard Operating Procedures (SOPs): 104.37 Working Hours, Overtime, and Compensatory Time, 104.39.02 Annual Leave, 104.39.05 Military Leave, 104.39.06 Sick Leave, 104.39.11 Personal Leave, 104.39.12 Family and Medical Leave Act, 104.64 Adverse Actions (Classified Employees), 104.65 Adverse Actions (Unclassified Employees).

**III. Definitions:**

A. **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 IV. D5).

B. **Excessive or Abusive Use of Leave** - A pattern of intermittent, short-term usage that includes but is not limited to:

1. Frequent use of sick leave in conjunction with holidays, scheduled off days, weekends, or paydays.

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2. Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak workload.
  3. A request for sick leave for an absence for which other paid leave has previously been denied.
  4. Frequent occurrences of illness during the workday.
  5. Peculiar and increasingly improbable excuses.
  6. Repetitive use of fewer than 17 hours of sick leave in 30-day periods.
  7. Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave (e.g., written warning, active attendance plan, etc.).
- C. **Regular Leave Without Pay** - Leave that allows an employee to take unpaid time off for up to 12 continuous months and be granted return to work if the employee returns within the terms of the leave approval.
- D. **Authorized Leave Without Pay** - Leave granted to an employee who is absent but does not have accrued leave to cover the period of absence, leave without pay for a period of not more than 10 consecutive workdays in any one continuous absence. At the expiration of the approved leave, the employee shall be returned to the same position without any loss of rights provided the employee returns within the terms of the leave granted.
- E. **Unauthorized Leave Without Pay** - An absence that has not been approved by the Appointing Authority.
- F. **Serious Health Conditions** - As described by the federal Family Medical Leave Act (FMLA) at 29 C.F.R. § 825.113.

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**IV. Statement of Policy and Applicable Procedures:** The local Appointing Authority (AA) or designee in conjunction with CHRM 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. **Regular Leave Without Pay:** This type of leave may be approved for an employee who is unable to report for duty for a period of time and has not accrued leave to cover the period of absence. This leave may also be taken when an employee does not report for duty due to an unplanned absence, and 1) has no leave accruals to cover the absence, or 2) has leave but has not requested to use leave (For record keeping purposes, Regular 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 Corrections Human Resources Management (CHRM) upon receipt of a Personnel Action Request Form with Action/Reason Code: LOA/AUT, (Authorized Leave Without Pay).

1. Regular Leave Without Pay absences cannot exceed 12 months.
2. If the requested absence is for more than 15 days, the employee must submit a written request to the local AA, 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.
3. Regular 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 Regular Leave Without Pay, the local AA should carefully consider:
  - a. The justification for the request.

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- b. Whether the absence would adversely affect the work unit or department operations.
- c. Whether the absence would contribute to the employee's failure to fulfill work responsibilities; or
- d. Whether the employee has demonstrated Excessive or Abusive Use of (any) Leave.

**NOTE:** When considering any request for Regular Leave Without Pay, the local AA must determine whether the employee is eligible for Family Leave. If the employee is eligible, Family Leave will be designated for use before approving Regular Leave Without Pay.

- e. Final approval/disapproval for Regular Leave Without Pay (during the first twelve-month period) is at the discretion of the local AA. The requested period of absence may be modified, at any time, at the discretion of the local AA. (For extensions, see IV.G. of this procedure).
- 4. The AA may deny a request for Regular Leave Without Pay and approve Contingent Leave Without Pay in lieu of Regular Leave Without Pay.
  - 5. If leave for more than 15 days is requested and approved, the AA 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.
  - 6. A copy of both the employee's request and the local AA's approval letter must be submitted with the Personnel Action (PA) Request to the assigned CHRM HR Analyst.
  - 7. 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

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Annual Leave. No partial balance can be paid. The local HR Representative must submit the employee's request, along with a Leave Verification form, to the assigned CHRM HR Analyst for processing.

**NOTE:** For this type of leave of absence, the position is considered filled and cannot be treated as a vacancy for the purposes of filling a vacant position.

8. At the expiration of the period of leave, an employee may request, in writing, an additional period of Authorized Leave Without Pay. However, total Regular Leave Without Pay may not exceed 12 months. See section IV. G. for additional information.
9. Approval of such request is at the discretion of the AA 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 Leave Without Pay, Contingent Leave Without Pay, or any other leave, cannot exceed 12 months, unless approval is granted by the Department Human Resources Director.

10. 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. Authorized Leave Without Pay: Appointing Authorities may grant an employee who is absent but does not have accrued leave to cover the period of absence. It is a leave without pay for a period of not more than 10 consecutive workdays in any one continuous absence. At the expiration of the approved leave, the employee shall be returned to the same position without any loss of rights provided the employee returns within the terms of the leave granted.

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C. Unauthorized Leave Without Pay:

1. This type of leave is used when an employee is absent without the approval of the AA [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 AA, failure to produce an official jury summons or appropriate military orders, etc.)]. Use Action/Reason Code: LOA/UNA - Unauthorized Leave Without Pay.

**NOTE:** An unclassified employee must not be in Unauthorized Leave Without Pay status for more than 3 days. Absences of this type may be grounds for disciplinary action.

2. An unclassified employee who is absent from duty for 3 consecutive workdays or equivalent (for classified employees, the period is 5 days) after all sick and annual leave is used may, at the discretion of the AA, 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 unclassified employee who is absent from duty for 3 consecutive workdays or equivalent (for classified employees, the period is 5 days), without proper authorization, in the discretion of the AA, may be deemed to have resigned voluntarily from employment (Presumptive Resignation). Use Action/Reason Code: TER/PRE - Presumptive Resignation. The employee must receive a written notice advising of the availability of a review for this separation.

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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 Regular Leave Without Pay.
2. The employee must submit a written request to the AA, 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 AA before approval can be granted.

**NOTE:** Absences of this type will not exceed 12 months.

3. If the leave is approved, the AA 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; and
  - d. A statement that the employee's ability 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 AA. The requested period of absence may be modified at the discretion of the AA.
5. The AA may request to fill a position occupied by an incumbent on Contingent Leave Without Pay by completing and submitting a Request for Double

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Encumbering a Position form to the Department Human Resources Director.  
This form can be accessed via:

- a. GDC Intranet/Captiva: Administration > Positions & Transactions > Request for Double Encumbering a Position Form.
6. For an employee who is seeking to return to duty at the expiration of Contingent Leave Without Pay, the AA 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.
7. If a position is not available in the employee's former job at the time the AA 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.
8. Because a Contingent Leave Without Pay absence does not guarantee an employee the right to return to work at the expiration, it may not be considered a reasonable accommodation under the Americans with Disabilities Act, as amended.
9. Although a Contingent Leave Without Pay absence does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours.

E. Return from Leave (Due to Medical Reasons):

1. 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 AA a medical certification for fitness-for-duty (at the expiration of the period of



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leave). The AA must determine that the employee is able to perform the assigned work (including "transitional" or temporary assignments). If the determination is made by the AA that the employee is unable to perform the assigned duties, return to work may be denied.

2. Prior to denying the request of the employee's return in this situation, the AA must have the permission of the Department Human Resources Director.
- F. 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 CHRM HR Analysis by the Field Cutoff date for the effective date of the leave. Action/ Reason Codes should be utilized as follows:
1. LOA AUT: Authorized Leave Without Pay.
  2. LOA UNA: Unauthorized Leave Without Pay.
  3. LOA CON: Contingent Leave Without Pay.
  4. LOA MIL: Military Service.
  5. LOA FML: Family and Medical Leave Act. (Specify With, or Without Pay).
  6. LOA TMP: Temporary Closure.
  7. LOA FUR: Furlough; or
  8. RFL RFL: Return from Leave.
- G. Extension of Leave without Pay:
1. The Department Human Resources Director is the approving authority for any

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requests for extended leave of absence without pay exceeding 12 months. Extensions will not exceed 12 months. All extensions beyond the original 12 months will be granted as Contingency Leave Without Pay.

2. If the extension of leave is approved, the Department Human Resources Director will provide a written notice of approval to the employee. Such notice will contain the following:
  - a. The effective date and duration of the approved leave.
  - b. The conditions and instructions for returning to duty; and
  - c. A statement that the employee's ability to return to duty at the expiration of the leave will be contingent upon the approval of the AA.

**NOTE:** An employee's return from Contingent Leave Without Pay, granted under an extension, shall be at the discretion of the Department Human Resources Director regardless of the availability of a vacant position and/or the employee's meeting all terms and conditions specified in the original approval.

H. Failure to Return from Leave of Absence: Any employee who fails to return to duty at the expiration of a leave of absence may be deemed to have resigned voluntarily from employment. The AA will obtain the approval of the Department Human Resources Director. If approval is granted by the HR Director, the AA will notify the employee in writing including a statement advising of any review/appeal rights. Use Action Reason Code: TER/LVE - Failure to Return from Leave.

V. **Attachments:** None.

VI. **Record Retention of Forms Relevant to this Policy:** None.