



Department of Public Safety and Correctional Services

Office of the Secretary

300 East Joppa Road • Suite 1000 • Towson, Maryland 21286-3020
(410) 339-5000 • FAX (410) 339-4240 • TOLL FREE (877) 379-8636 • V/TTY (800) 735-2258 • www.dpscs.maryland.gov

STATE OF MARYLAND

LARRY HOGAN
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GARY W. McLHINNEY
ASSISTANT SECRETARY

TO: Wayne Hill
Acting Deputy Secretary of Operations

THRU: *Sasha Vazquez*
Sasha Vazquez
Executive Director HRSD

FROM: *Gary W. McLhinney*
Gary W. McLhinney
Asst. Secretary of Security Operations

DATE: November 20, 2020

SUBJECT: LWOP Policy

Pursuant of the Memorandum of Understanding signed on December 31, 2017 between the State of Maryland and AFSCME Maryland, the following will be adhered to by all appointing authorities in the Department of Public Safety and Correctional Services (DPSCS):

“If an employee who has exhausted all sick leave and is absent from work due to a personal/family illness but has accrued annual leave, personal leave, or compensatory leave available, at the employee’s written request, the appointing authority or designee shall grant the use of the other accrued leave for the time the employee is absent. Written requests for Leave Without Pay (LWOP) may be approved at the discretion of the appointing authority.”

Appointing Authorities are no longer required to follow the previous contract language which stated, “If an employee who has exhausted all sick leave and his absent from work due to a personal/family illness but has accrued annual leave, personal leave, or compensatory leave available, at the employee’s written request, the appointing authority or designee shall grant the use of the other accrued leave for the time the employee is absent; including LWOP.”

For your reference, the LWOP policy can also be obtained from COMAR and specifically states:

.24 Leave of Absence Without Pay.

A. An employee in the State Personnel Management System may apply for, and the appointing authority may grant, a leave of absence without pay:

- (1) For personal reasons for a period not to exceed 30 calendar days;
- (2) Under the Family and Medical Leave Act (FMLA) for the amount of time permitted by the FMLA; or
- (3) Up to a maximum of 6 months, for the employee's documented temporary personal illness or disability, when there is medical documentation that the employee can return to the employee's full range of duties within 6 months.

B. If a request is approved as provided in §A of this regulation, the employee is not separated from the payroll.

C. Except as provided in COMAR 17.04.04.05, if a leave of absence without pay is approved by an appointing authority for a period greater than the times indicated in §A of this regulation, it does not mean that the employee who is granted the leave shall, upon return, be restored to the position the employee vacated or any other position in State service.

D. Leave of absence without pay for a period exceeding the time periods established in §A of this regulation shall require notification to the Secretary, and may be granted for a cause satisfactory to the appointing authority. In these situations, the employee shall be separated from the payroll.

E. A leave of absence without pay may not exceed 2 years except for leave to enter the armed services. Leave to enter the armed services shall be for the period of time of the employee's initial tour of duty in the armed services.

F. For the following conditions, the appointing authority shall automatically authorize leave of absence without pay, unless the employee wishes to resign:

- (1) An employee who is a member of the armed forces and is called to active service in the armed forces; or
- (2) An employee injured in the line of duty who, following a period of work-related accident leave, has exhausted all paid leave before the employee is able to return to active duty.

G. Except for a leave of absence for military purposes, an employee granted leave of absence without pay for more than 30 calendar days, and who is ready to return to duty at or before the expiration of the leave, shall notify

the appointing authority of the employee's readiness to return and may be restored to the employee's classification, if a vacancy exists in the department. If the employee is not restored to duty, the employee may request that the Secretary place the employee's name on the appropriate eligible list as a reinstatement candidate

H. An employee who does not notify the appointing authority in writing of the employee's desire to return to duty before expiration of a leave of absence without pay shall be considered resigned from State service.

I. Family and Medical Leave. Family and medical leave may be used in accordance with the provisions of the Family and Medical Leave Act of 1993, the implementing federal regulations, and the regulations, policies, and guidelines promulgated by the Secretary.

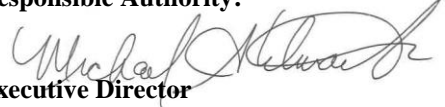
J. When an employee enters military training or service for a period of at least 16 days up to a maximum of 4 years, the employee may choose to bank the employee's annual leave earned up to the date of departure for military training or service or to be paid for that earned annual leave. However, after the completion of 4 years, the employee shall be paid for all accumulated annual leave earned up to the date of departure for military training or service whether or not the employee returns to State service.

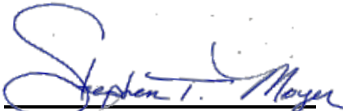
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cc: Michael Resnick, Commissioner DPDS
Dionne Randolph, A/Deputy Commissioner DPDS
Philip Morgan, Asst. Commissioner DOC - East
Frank Bishop, Asst. Commissioner DOC - West
John Flynn HRSD

Executive Directive



Title: Alternative Leave Policy	Executive Directive Number: ADM.050.0035 REVISED
Related MD Statute/Regulations: Correctional Services Article, §2-103, Annotated Code of Maryland	Supersedes: ADM. 050.0035, Dated September 6, 2013
Related ACA Standards: ACI-4-4048 4-ALDF-7D-06 and 7E-01 1-CO-1C-01	Responsible Authority:  Executive Director Human Resources Services Division
Related MCCS Standards: N/A	Effective Date: August 14, 2015 Number of Pages: 2



Stephen T. Moyer
Secretary



Wendell M. France
Deputy Secretary
for Operations



William G. Stewart
Deputy Secretary
for Administration

.01 Purpose.

This directive continues policy and procedure agreed (August 1, 2010) to by the Secretary of Public Safety and Correctional Services (Secretary) and the Association of Federal, State, County and Municipal Employees (AFSCME) Maryland concerning alternative leave.

.02 Scope.

This directive applies to all units in the Department of Public Safety and Correctional Services.

.03 Policy.

Refer to policy contained in the attached August 2010 agreement between the Secretary and AFSCME Maryland.

.04 Definitions.

There are no definitions for this directive.

.05 Responsibility.

The administration of employee leave shall comply with requirements established in the attached August 2010 agreement between the Secretary and AFSCME Maryland.

.06 Attachments.

Department of Public Safety and Correctional Services Policy on the Use of Alternative Leave

.07 History.

A. This directive replaces Executive Directive ADM.050.0035, Alternate Leave, dated September 6, 2013.

Executive Directive Number: ADM.050.0035

B. This directive supersedes provisions of any other prior existing communication with which it may be in conflict. The attached agreement, dated August 1, 2010 remains in effect.

.08 Correctional Facility Distribution Code.

A

B

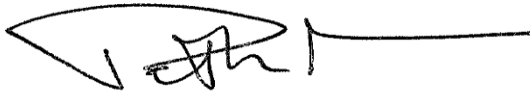
S – Human Resources

Department of Public Safety and Correctional Services

Policy on the Use of Alternative Leave

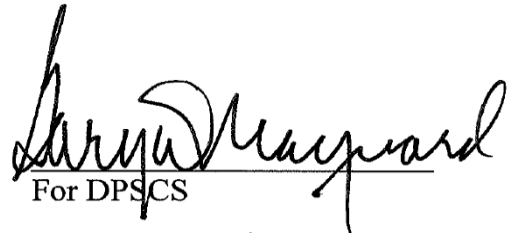
Effective upon approval of this policy, The Department of Public Safety and Correctional Services' Guidelines for Requesting Other Accrued Leave and Leave without Pay in Lieu of Sick Leave issued January 21, 2005 is hereby rescinded.

~~If an employee who has exhausted all sick leave and is absent from work due to a personal/family illness but has accrued annual leave, personal leave or compensatory leave available, at the employee's written request, the appointing authority or designee shall grant the use of the other accrued leave for the time the employee is absent; including LWOP. A request for LWOP can only be approved by the appointing authority.~~
The employee must comply with the documentation requirements for use of sick leave as specified in the Sick Leave Article within the Memoranda of Understanding or the Sick Leave Guidelines issued by DBM/OPSB.



For AFSCME

6/29/10
Date



For DPSCS

August 1, 2010
Date