

**COUNTY BOARD OF HEALTH
POLICY # HR-03423
LEAVE OF ABSENCE WITHOUT PAY POLICY**

Approval:	 District Health Director	4/9/20 Date
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1.0 PURPOSE

This contains guidelines for the use of Leave Without Pay.

2.0 AUTHORITY

The County Board of Health (CBOH) Leave of Absence without Pay Policy is published under the authority of CBOH and in compliance with the following:

- 2.1 Authorized officials have the authority to grant leaves of absence without pay (LWOP) when determined appropriate.
- 2.2 Rules of the State Personnel Board

3.0 SCOPE

This policy applies to employees of the County Board of Health.

4.0 POLICY

The policy of the County Board of Health is that leaves of absence without pay are generally approved only for medical reasons when employees are reasonably expected to be able to return to work.

5.0 DEFINITIONS

- 5.1 **CBOH** – County Board of Health
- 5.2 **HR** – Human Resources
- 5.3 **FLSA** – Fair Labor Standards Act
- 5.4 **ERS** - Employees' Retirement System
- 5.5 **LWOP** – Leave Without Pay
- 5.6 **PHIL** – Public Health Information Library website, www.dphintranet.com.

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6.0 RESPONSIBILITIES

- 6.1 Human Resources is responsible for issuing and updating procedures to implement this policy.
- 6.2 Leaves of absence without pay should be approved only for short periods of time, unless there are extraordinary circumstances that support an extended period.
- 6.3 When extended leave is requested, employees are to submit written documentation that supports the extraordinary circumstances.

7.0 PROCEDURES

7.1 GENERAL PROVISIONS

- 7.1.1 Classified and unclassified employees who are eligible for leave benefits may submit written requests for leaves of absence without pay for specified periods of time.
- 7.1.2 Leaves of absence without pay are designated for medical reasons with the employee or immediate family as designated in the Family Medical Leave policy #HR-03431.
- 7.1.3 Leaves of absence without pay are not designated for personal recreational activities including vacations, personal trips abroad, or spring break and holidays. The state provides adequate annual leave for these activities.
- 7.1.4 Leaves of absence without pay do not cause a break in continuous employment.
- 7.1.5 Leaves of absence without pay may be either authorized (regular) or contingent.

7.2 AUTHORIZED REGULAR LWOP

- 7.2.1 If an authorized (regular) leave of absence without pay is approved, the position which the employee occupied or a position of equal grade and pay can be held for the employee's return.
- 7.2.2 At the expiration of an authorized (regular) leave of absence without pay, the employee will be returned to work without loss of any rights, if the employee has complied with the terms and conditions outlined in the notice of approval.
- 7.2.3 Requests for authorized (regular) leaves of absence without pay should be closely reviewed. Employees who have already used twelve (12) work weeks of job protected family and medical leave, are generally not granted an additional authorized (regular) leave of absence without pay.

7.3 CONTINGENT LWOP

- 7.3.1 If a contingent leave of absence without pay is approved, the position which the employee occupied is not held open.
- 7.3.2 The position from which an employee is on a contingent leave of absence without pay may be filled.

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7.3.3 The employee is entitled to return to work only if a "suitable vacancy," as defined in the notice of approval, is available at the expiration of the leave.

7.4 FAMILY AND MEDICAL LEAVE

7.4.1 When absence from work is due to a family and medical leave qualifying reason, employees should be placed on available family and medical leave (with or without pay) prior to placement on leaves of absence without pay.

7.4.2 If family and medical leave has been exhausted or is otherwise not available, employees may request leaves of absence without pay.

7.4.3 If family and medical leave has already been granted and used, requests for authorized (regular) leaves of absence without pay should be closely reviewed and may be denied unless there are extraordinary circumstances that support the requests.

7.5 MEDICAL EXAMINATION

7.5.1 Under limited circumstances and only with the approval of District Health Director an employee may be required to undergo a medical (physical and/or psychiatric) examination at the expense of the agency.

7.5.2 This examination may be required prior to approving use of accrued leave, approving a leave of absence without pay, allowing an employee to return from leave with pay, or allowing an employee to return from a leave of absence without pay.

7.5.3 An employee is required to authorize the release of the results of the medical examination to an authorized official. The results must be considered confidential and are to be shared with individuals only on a "need to know" basis.

7.5.4 Upon receipt of the results, a determination regarding request for use of leave, leave of absence without pay or return to work will be made.

7.5.5 If a determination is made to not allow the employee to return to work, appropriate action which includes, but is not limited to, the following should be taken.

7.5.5.1 The employee may be allowed to use accrued leave.

7.5.5.2 The employee may request and be granted an authorized (regular) or contingent leave of absence without pay.

7.5.5.3 The employee may be referred to a treatment program.

7.5.5.4 The employee may be separated.

7.5.6 If a determination is made to allow the employee to return to work, the employee may return without restrictions or with restrictions that can be reasonably accommodated.

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7.6 REQUEST

- 7.6.1** Employees are to submit written requests for leaves of absence without pay to HR. The requests must include the type of leave of absence without pay requested [authorized (regular) or contingent]; the reason for the leave of absence without pay; the start date; the return date; and, any other information relevant to the request (e.g., statement from attending health care provider).

NOTE: If not specified, the authorized official will make a reasonable effort to discuss the request with the employee before designating the type of leave of absence without pay that is approved.

- 7.6.2** Requests based on illness, disability or other medical condition of the employee, family member or others must include a completed *Certification of Serious Health Condition Form* or other document containing similar information from the attending health care provider which supports the request for absence.

NOTE: Clarification may be required from the employee and/or attending health care provider prior to a determination being made on the request for the leave of absence without pay.

7.7 REVIEW

- 7.7.1** Requests for leaves of absence without pay will be reviewed and determinations made based on reasons for the leaves of absence without pay; amount of time requested; employees' documented performance, behavior and attendance records; needs of the organization; employees' years of service; and previous accommodation efforts by the organization.

- 7.7.2** Leaves of absence without pay are generally approved only for medical reasons when employees are reasonably expected to be able to return to work. Leaves of absence without pay should be for short periods of time unless extraordinary circumstances support a longer period. They will not be approved for reasons including, but not limited to, the following:

7.7.2.1 attending school (unless attendance is short-term AND directly benefits the agency);

7.7.2.2 relocation;

7.7.2.3 incarceration; or,

7.7.2.4 accepting another job.

- 7.7.3** Authorized officials are to provide written decisions to employees concerning requests for leaves of absence without pay in a timely manner.

- 7.7.4** If a leave of absence without pay is approved, the notification is to specify the terms and conditions of the approval, including the type of leave of absence without pay that has been approved [authorized (regular) or contingent], the beginning and ending dates, and the terms for return (e.g., return-to-work statement from the attending health care provider).

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7.7.5 The written approval of an authorized (regular) leave of absence without pay must identify the location and job(s) which will be available for employees' return to work.

7.7.6 The written approval of a contingent leave of absence without pay must include the organizational unit(s) within which a suitable vacancy must exist; and the specific job(s) in the organizational unit, which would represent a suitable vacancy.

NOTE: To be considered a "suitable vacancy," a position must be properly established, budgeted and have no other restrictions that must be resolved prior to filling the vacancy.

7.7.7 If an employee requests an authorized (regular) leave of absence without pay, and it is determined that it will not be approved, an authorized official must notify the employee that the request is denied.

7.7.8 Authorized officials may offer to employees, if appropriate, the opportunity to request a contingent leave of absence without pay.

7.7.9 Authorized officials do not have the authority to place employees on contingent leaves of absence without pay when a specific request has not been received from the employee unless otherwise specified in this policy.

7.8 WORKERS' COMPENSATION

7.8.1 Employees who are absent from work due to work-related injuries, illness and/or exposures to occupational disease covered under workers' compensation may request to be placed on unpaid family and medical leave, if appropriate, or leave without pay, rather than use accrued leave to cover the absence. The *Worker's Compensation Selection of Payment Option Form* must be completed and submitted to the authorized official. Employees cannot receive both workers' compensation payments and salary due to using accrued leave for lost work time.

7.9 BENEFITS

7.9.1 While on leaves of absence without pay, employees may maintain health insurance coverage through the State Health Benefit Plan and continue their benefits through the Flexible Benefits Program.

7.9.2 Employees should be advised of the cost for maintaining health insurance and any benefits through the Flexible Benefits Program, arrangements for making payment and consequences for not making timely payments.

7.9.3 It is the employee's responsibility to make arrangements with the Human Resources to continue health insurance coverage.

NOTE: A *Certification of Serious Health Condition Form* or other document containing similar information from the attending health care provider, which supports the request for absence, may be accepted.

7.9.4 Employees with at least one year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may

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retain coverage while on leaves of absence without pay. A request to continue coverage must be made in writing to ERS prior to beginning the leave of absence without pay. Coverage terminates if this written request is not filed (Group Term Life Insurance Program not applicable to Georgia State Employees Pension Savings, GSEPS plan members).

7.10 TIME LIMITATIONS

7.10.1 Authorized (regular) and contingent leaves of absence without pay should be approved for short periods of time, unless specific circumstances support approving a longer absence. Approval cannot exceed twelve (12) months.

7.10.2 Continuous leave of absence without pay cannot exceed twenty-four (24) months. A continuous leave of absence without pay may include any combination of the following:

7.10.2.1 authorized (regular),

7.10.2.2 contingent (and any approved extensions),

7.10.2.3 short-term/other, and

7.10.2.4 unpaid family and medical leave.

7.11 RETAINING ACCRUED LEAVE

7.11.1 Employees may request that accrued leave (all or part) be retained while on leaves of absence without pay. Authorized officials should consider the reasons for the leaves of absence without pay and the length of time requested before approving a request to retain accrued leave.

7.12 RETURN TO WORK

7.12.1 Employees must notify authorized officials, verbally or in writing, of their intent to return to work. This notification must be received prior to the expiration of the leave of absence without pay. Specific notification instructions may be included in the approval notification. (e.g., notice will be required in writing, specific deadline date for receiving notice, need for release to return to work, etc.).

7.12.2 Prior to employees returning to work from leaves of absence without pay due to their own illness, disability or medical condition, employees must provide a release to return to work statement from the attending health care provider to the authorized official.

7.12.2.1 The statement must certify that the employee can resume the essential functions of the job, without restrictions or with restrictions that can be reasonably accommodated.

7.12.2.2 Each health care provider's statement indicating work accommodations will be reviewed on a case-by-case basis.

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7.12.3 Employees may request to return to work prior to the expiration of approved leaves of absence without pay. Authorized officials may approve requests for early return to work unless specific circumstances prevent approval.

7.12.4 Upon return from leaves of absence without pay, employees retain previously accrued and unused leave.

7.12.5 For employees to return to work from a contingent leave of absence without pay, a "suitable vacancy" must be properly established, budgeted and have no other restrictions that must be resolved prior to filling the vacancy.

7.13 EXTENSIONS

7.13.1 An extension of a leave of absence without pay beyond the 12-month limitation may be approved by authorized officials if determined appropriate. If an extension is approved, it will be on a contingent leave of absence without pay basis only. Such an extension should be for a limited period and cannot be approved for more than twelve (12) months.

NOTE: Authorized officials should only grant an extension for the employee's medical reasons and when the employee's condition and other factors indicate that the employee will be able to return to work.

7.13.2 Employees are to request extensions in writing. Only requests for a contingent leave of absence without pay will be considered.

7.13.3 Requests for extensions must be accompanied by a statement from the attending health care provider, which supports the request for the continued absence.

7.13.4 Authorized officials are to either approve or deny requests in writing, and must include the conditions of return.

7.13.5 If an extension is approved, a statement should be included in the notice that approval of the request for extension does not extend health insurance coverage under the State Health Benefit Plan. The State Health Benefit Plan will provide information regarding continuing coverage through COBRA.

7.13.6 Employees must notify authorized officials, verbally or in writing, of their intent to return to work as provided in this policy.

7.14 CREDITABLE SERVICE TOWARD RETIREMENT

Members of ERS who are on leaves of absence without pay due to a physical or mental illness, sickness or disorder caused by a job-related disease/accident may submit a request to purchase up to twelve (12) months of service in a five (5)-year period by paying employee contributions plus interest within the first six (6) months of return to duty.

8.0 REVISION HISTORY

REVISION #	REVISION DATE	REVISION COMMENTS
0	January 17, 2020	Initial Issue

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9.0 RELATED FORMS

*HR-03431D - Certification of serious health condition. (Can be found in FMLA Packet)
Request for LWOP form*