



**DEPARTMENT OF CORRECTIONS
Human Resources**



Title:	Leave without Pay	DOC Policy: 20.8.6
Supersedes:	DOC Policy 20.8.6, "Leave without Pay," dated 01/0101	
Applicability:	Management service and executive service employees; and represented employees except as otherwise covered by labor agreement	
Directives Cross-Reference: State Policy 60.005.01, Executive Order EO-96-46		

I. PURPOSE

To describe the circumstances where leave without pay shall be granted.

II. POLICY

This policy specifically addresses the reason under which leave without pay shall be granted because of state policy or statute. The decision to grant leave without pay for other reasons shall be at the discretion of the appointing authority and may be granted where the work of the agency will not be seriously handicapped by the absence of the employee.

A. Leave without pay, generally

1. Generally, leave without pay shall not be granted to an employee who is accepting employment outside of state service, unless such employment is related to or benefits the state.
2. Leave without pay shall not be granted until all appropriate leave is exhausted, except an employee may be placed on leave without pay and maintain a balance of no more than 40 hours of sick leave while receiving short term disability insurance benefits provided through Public Employees' Benefit Board.
3. See DOC Policy 20.8.4, Family and Medical Leave, with regard to granting leave without pay for family and medical leave. See DOC Policy 20.2.1, Merit Pay System, for effect of qualifying leave on employee's salary eligibility date (SED) and DOC Policy 20.8.2, Vacation Leave, for effect on recognized service date.

B. Sick and Disability Leave

1. The appointing authority or designee shall grant sick/disability leave without pay for any job-incurred injury or illness after the employee has exhausted all accrued sick leave, vacation leave, and personal

leave. The sick leave without pay shall end upon request by the employee for reinstatement accompanied by a physician's certificate.

2. After all appropriate accrued leave has been exhausted, the appointing authority or designee may grant leave without pay for non-job incurred injury or illness.
3. The appointing authority or designee may require that the employee submit a certificate from the attending physician or practitioner in verification of disability resulting from a job-incurred or non-job incurred injury or illness. Any cost associated with the supplying of a certificate concerning a non-job incurred injury or illness or concerning a job-incurred injury or illness that is not covered by Workers' Compensation benefits shall be borne by the department. Failure or refusal of the employee to submit a certificate that clearly shows sufficient disability to preclude the employee from the performance of duties may result in termination.

C. Court Appearance

1. An employee may request and shall be granted leave without pay for the time required to make an appearance as a plaintiff or defendant in a civil or criminal court proceeding that is not connected with the defendant's officially assigned duties.
2. Such leave shall be granted only after exhaustion of the employee's accrued vacation leave and personal leave.

D. Peace Corps

1. Leave without pay for at least two years shall be granted to a full-time salaried employee who provides a copy of Peace Corps appointment documents. Upon completion of service in the Peace Corps, the employee shall be returned to the last held position and at the same salary step without loss of seniority, accrual rate or other rights. Failure of the employee to report within 90 calendar days after completion of the Peace Corps service may result in termination.
2. Such leave shall be granted only after the exhaustion of the employee's accrued vacation leave and personal leave.

E. Uniformed Services

1. Leave of Absence

- a. An employee shall be entitled to military leave without pay for service with the uniformed services. The leave shall be granted for voluntary and involuntary service. Leave shall be approved to a maximum of five years unless extension is required in accordance with ORS 408.240, 399.065, and 399.075. Such employee shall provide verbal or written notice of military service to the agency.
- b. An employee going on such leave may elect to be paid for accrued vacation leave, personal leave and compensatory time. Accrued leave does not have to be exhausted before leave without pay is granted for military leave
- c. Employees absent for 31 or more days may elect to continue their health benefits through a process similar to Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) for up to 18 months.

2. Reemployment Rights

- a. An application for reemployment can be made either verbally or in writing. The application must be made within 90 days after the employee is relieved from military duty. An employee has up to one year to make application for reemployment if hospitalization due to military duty continues after discharge. An employee has reemployment rights if the military duty performed does not exceed 4 years or if for the convenience of the federal government, does not exceed 5 years.
- b. Upon return to work or application for reemployment, and with an honorable discharge from the uniformed services, the department shall restore the employee to his or her former position without loss of seniority or other benefits. The employee must be qualified to perform the duties of such position. If the employee is not qualified to perform the duties of such position by reason of such service, but is qualified to perform the duties of any other position, the employee shall be restored to such other position, the duties of which the employee is qualified to perform, as will provide the employee like seniority, status and pay, or the nearest approximation thereof, consistent with the circumstances in the case.
- c. Employees reemployed under this policy shall be restored in such manner as to give the employee the status in employment that the employee would have enjoyed if the

employee had continued in such employment continuously from the time of entering the uniformed services until the time of restoration to such employment.

- d. Vacation accrual rate, salary eligibility date and service credit shall be treated as though the employee had been continuously employed. This does not apply to accrual of sick and vacation leave hours, nor to completion of trail service.

3. Protection from Discrimination

- a. An employee shall not be discriminated against based upon a service obligation.
- b. A reemployed employee shall not be discharged without cause within one year of such reemployment.

III. POLICY CLARIFICATION

- A. For purposes of reemployment eligibility, military service in the uniformed services is based on time spent on military duty (duration of service) not the category of service.
- B. Submitting an application for reemployment means that the returning service member must make it clear to the department that he or she is a former employee returning from service in the uniformed services.
- C. The department may request confirming documentation (military orders, training/drill schedule or other official documents) for the absence prior to or upon completion of the military training leave.

IV. IMPLEMENTATION

This policy will be adopted immediately without further modification.