

## Leave Without Pay (LWOP)

### Introduction

LWOP means the unpaid temporary absence from duty by an employee who intends to return to work. This unpaid absence cannot exceed 12 months.

### Paid Leave Exhausted

Subject to the exceptions stated below, all accrued paid leave (overtime, compensatory time, annual leave, fitness leave) must be exhausted before an employee may enter an LWOP status. If the leave is requested for medical reasons, sick leave must also be exhausted.

The Deputy Comptroller may make exceptions to the requirement to exhaust leave accruals for:

- disciplinary situations;
- short-term and long-term disability with FMLA benefits; and/or
- worker's compensation with or without FMLA benefits..

### Approved LWOP v. Dock Status

Leave Without Pay is considered "Approved" when agency management determines the employee's absence is reasonable and business needs are still being met. An employee is in "Dock Status" when the employee exhausts paid leave and enters an unpaid status without approval from management.

Management will use the following to consider requests to approve LWOP:

- reason for leave
- frequency and duration of leave
- employee's previous attendance record
- employee's previous disciplinary history
- business needs

Before an employee is placed in Dock Status, management should contact Human Resources to ensure compliance with FMLA guidelines.

## Requesting Approved LWOP

The employee must request LWOP by completing a [Special Leave Request form \(70-275-A\)](#). The employee must include the number of hours he or she is requesting on the form. If the employee is unable to complete the form, his or her supervisor may complete and submit the form on the employee's behalf.

## Low Leave Balance and Payroll

Employees with a low leave balance, which is defined as less than 24 hours of cumulative leave on or before three working days before the end of the month (the direct deposit payroll processing date), may not receive their paycheck via direct deposit. For more details, please refer to the [Direct Deposit Policy](#) in Chapter 8.

## Employee LWOP Responsibility

An employee who will be on LWOP for a month or more should contact a Benefits Coordinator in the Human Resources Division to make arrangements to pay insurance premiums.

If an employee is out for a month, ERS will not receive payroll retirement contributions. This means the employee will not receive retirement service credit for each month he or she is out in a LWOP status. Employees **must** contact ERS at (512) 867-7711 or (877) 275-4377 to ask about purchasing LWOP month(s).

## Management LWOP Responsibility

Once an employee has been on LWOP for 40 continuous hours, or more, the manager must immediately prepare a Leave Without Pay (LWOP Begin) Personnel Action Form (PAF).

## LWOP Leave Accruals

An employee on Authorized Leave Without Pay (LWOP) on the first day of the month will not receive annual and sick leave accruals for that month. If the employee returns to work within the same month, the annual and sick leave accruals will be credited at that time.

## LWOP Months of Service Accrual

If an employee is on LWOP on the first day of the month, that month's service will not be credited to the total length of service unless the employee returns within the month.

## Holidays Not Paid

An employee will NOT be paid for a holiday if he/she is in unpaid leave status for the entire workday:

- before or after the holiday if the holiday falls mid-month;
- after the holiday if the holiday falls on the first workday of the month; and
- before the holiday if the holiday falls the last workday of the month.

In cases of a partial LWOP day, the employee will receive credit for working the entire day if he/she works any part of it.

## Return from LWOP

Upon returning from approved LWOP, the employee will have priority consideration for a comparable job if the original job is not available.

Managers must prepare an LWOP (LWOP Return) Personnel Action Form (PAF) immediately after the employee has returned to work.

## Outside Employment or Business

An employee granted LWOP may not engage in any previously approved outside employment, business or activity while on authorized leave LWOP without prior approval from his or her management, after consultation with Human Resources.

Whether it is appropriate for an employee to continue with outside employment, business or other activities depends on the reason for the leave, the type of leave (regular, reduced schedule or intermittent), the duration of the leave and other factors.