

# State Human Resources Policy #E24-104.05

## Leave Without Pay

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

### **DEFINITIONS**

Agency – The South Carolina Military Department/Office of the Adjutant General.

Extenuating Circumstances - Emergency situations or unforeseen occurrences of a non-routine nature that would preclude the employee from performing the job responsibilities of their position.

### **FORMS**

All forms noted for use in accordance with this Policy may be found at <https://scmd.sc.gov/state-operations/forms> under the “Leave and Attendance” Section.

### **POLICY**

1. Employees of the South Carolina Military Department are encouraged to avoid Leave Without Pay (LWOP) whenever possible.
2. The Chief of Staff for State Operations or his designee is the approval authority for LWOP requests.
3. LWOP is not an earned leave and is therefore not an employee right except in specific situations.
  - a. Employees may request LWOP because of extenuating circumstances (e.g., extended illness of employee or family member, waiting on approval of long-term supplemental disability or retirement, voluntary or extended furloughs, etc.).
  - b. Exceptions to the “extenuating circumstances” policy may be found in other specific Agency policies.
  - c. The employee is responsible for providing the justification for the request.
4. Employees may not request or use LWOP as a means to augment, in lieu of, or as a substitute for using their earned Annual Leave, Sick Leave, or other earned leaves.
5. Employees and Supervisors will not use LWOP as a substitute for disciplinary actions. Supervisors and managers will use the Agency’s Progressive Disciplinary Policy to address discipline issues.
6. An employee must have an approved LWOP Request prior to taking LWOP unless an emergency situation occurs that prohibits the employee from doing so. In such a case, the employee will provide the LWOP Request and supporting documentation through their Department Head/Program Manger to the Military Department’s State Human Resources Officer (State HRO) as soon as practical (usually within 15 days).
7. An employee who enters into a LWOP status without proper approval and required documentation to support a LWOP request may be subject to the Agency’s Progressive Discipline Policy.

8. Employees who are on LWOP the day before a holiday will not be paid or receive holiday compensatory time for holidays falling during the period of LWOP.
9. In qualifying Sick Leave situations, the employee will use all Sick Leave before going on LWOP unless The Adjutant General or his designee grants an exception at the employee's request.
10. Employees will not earn Sick Leave and/or Annual Leave for any month in which they are in LWOP status for more than one-half ( $\frac{1}{2}$ ) of the working days in the month.
11. Employees in LWOP status beyond thirty (30) working days will experience a break in service.

**Notice: Under certain circumstances, the employee may be entitled to additional use of leave as prescribed by the Family and Medical Leave Act (FMLA) or the Americans with Disabilities Act (ADA). The State HRO will review all documentation submitted with the LWOP request to determine eligibility and possible qualification within the FMLA or ADA guidelines.**

## **PROCEDURE**

1. The requesting employee must submit a *Leave Without Pay Request Form*, with the supporting documentation to justify the request, through their Department Head/Program Manager.
2. The Department Head/Program Manager will forward the request to the State HRO who will evaluate each request and make a recommendation to the Chief of Staff for State Operations for approval/disapproval. Although not inclusive, the following criteria are a guideline to assist in the evaluation process:
  - Nature and length of the LWOP request
  - Employee's judicious use of leave in the past
  - Employee's position responsibilities, staffing and workload considerations at the time the leave is to commence
  - Employee's work history
  - Employee's record of LWOP requests and usage
  - Possible alternatives to LWOP
3. The State HRO Leave Coordinator will enter the LWOP into the SC Enterprise Information System (SCEIS) Time & Leave Accounting system.
4. If the circumstances change during the course of the approved LWOP, the employee is responsible for promptly notifying and providing updated documentation through their Department Head/Program Manger to the State HRO to have their LWOP status reevaluated or adjusted.