

To: All Human Resources Managers

Date: March 2, 2000

Phone: 465-4429

From: Sharon Barton, Director
Division of Personnel
Department of Administration

Re: Personnel Memorandum 00-2
Administration of Leave
(Supersedes Personnel Memorandum 94-1)

This memorandum is being issued to include changes to policies and regulations pertaining to leave usage and accrual brought about by the Alaska Family Leave Act, the federal Family and Medical Leave Act and to otherwise update. This memo is intended as a general guide for the administration of leave. These provisions are subject to individual collective bargaining agreements and the complaint/grievance procedures therein.

For purposes of this memo, the term "employee" shall refer to all bargaining unit members who accrue leave. **AS 39.20.330** prescribes that the Department of Administration will provide forms for maintenance of leave records by departments and agencies and that those records are subject to annual audit and approval by the director of personnel. The monthly and year-end printouts generated by the payroll system meet the intent and purpose of this requirement.

1. Application for Leave of Absence

Applications for leave will be made on Leave Request/Report forms (02-035). These forms should be retained for reference and audit purposes for a period of at least three years.

2. Accumulation and Use of Personal or Annual Leave

Refer to individual collective bargaining agreements for minimum use and maximum accruals. When an employee moves to a new collective bargaining unit, the provisions of the new agreement cover that employee. Therefore, an employee who has been employed from December 16 of one year to December 15 of the next year will be covered by the provisions of the current agreement or, in the case of an employee moving into a position not covered by a collective bargaining agreement, the provisions of the Leave Rules - unless the agreement under which the employee had been covered provides otherwise.

3. Accumulation and Use of Sick Leave

Refer to individual collective bargaining agreements.

4. Annual Leave Conversion to Sick Leave

When the appointing authority is satisfied that an absence was for medical reasons, annual leave can be converted to sick leave only when an employee becomes so sick or injured while on annual leave that hospitalization occurs or the services of a physician are required. The appointing authority may require that the request for conversion to sick leave be supported by a written statement from the attending physician that the employee would have been unable to perform the employee's duties had the employee not been on annual leave.

5. Sick/Medical Leave Payment

An employee on approved sick/medical leave shall receive payment at the employee's regular rate of pay to the extent the employee has accrued leave .

Employees with personal leave may have access to banked medical leave under the provisions of their collective bargaining agreement.

If wage continuation payments are made to the employee under the Alaska Workers' Compensation Act or under the maintenance and cure provisions applicable while an employee is "in service to the vessel," the amount of such payments shall be deducted from payments for sick/medical leave. In such cases, accrued leave shall be charged only in the amount that payment is made for sick/medical leave.

Maintenance and Cure

In addition to the maintenance payments for injuries, an eligible employee may utilize sick/medical leave in an amount equal to the employee's daily rate of pay reduced by the monetary amount of maintenance payments.

Workers' Compensation

Workers' Compensation will be handled in conjunction with leave in the following manner:

- a. First, accrued sick/personal leave will be used to the extent that these payments, when added to Workers' Compensation payments, equal regular pay. Sick/personal leave is prorated in charging against the employee's accrued sick/personal leave.
- b. Second, accrued annual leave will be used to the extent that these payments, when added to Workers' Compensation payments, equal regular pay. Annual leave is prorated in charging against the employee's accrued annual leave.
- c. Third, leave without pay may be granted to an employee who has exhausted all available leave.
- d. Annual/personal and sick leave, when used in conjunction with Workers' Compensation payments, will be charged on a prorated basis. Leave without pay is recorded for the portion of time covered by the Workers' Compensation payment. For example:

Wage per week is \$400.00:

Workers' Compensation pay is \$200.00.

Leave will be charged on a 50 percent basis, or 2.5 days for each five days of absence.

Wage per week is \$490.00:

Workers' Compensation pay is 65 percent or \$318.50.

Leave will be charged on a 35 percent basis, or 13.13 hours leave for five days absence.

- e. An employee receiving Workers' Compensation payments must be instructed to retain the payment. The State's insurance carrier will notify the Division of Finance of the amount and duration of Workers' Compensation payments so the adjustments in d. above can be made.
- f. NOTE: The Public Safety Bargaining Unit agreement contains separate and unique provisions.

6. Accrual of Leave While on Paid Leave

An employee shall accrue sick and annual leave or personal leave while on paid, approved leave; however, it cannot be used before it has been earned and posted on the employee's leave record.

7. Family Leave

Refer to AS 39.20.305, individual collective bargaining agreements, and the numbered Personnel Memorandum.

8. Termination While on Leave

If an employee resigns while on annual/personal leave (for non-medical reasons), or resigns without at least 14 calendar days notice upon return from such leave no leave accrual shall be credited for the period of leave. If an employee resigns while on leave, the termination date becomes the last day worked. When either condition exists, the remarks on the Personnel Action shall be "Resigned while on leave, no accrual due."

If the appointing authority approves a leave of absence for an employee after receiving a letter of resignation, leave accrual is credited, however, the employee must be in work status, not on leave, on the last day of employment.

Any sick leave taken after a letter of resignation has been accepted should be supported by a physician's statement, unless the appointing authority is satisfied that the absence is for bona fide sick/medical leave.

If an employee is on paid leave, due to illness or injury, and is ultimately unable to return to work (must separate from State service), the period of leave is not considered terminal leave. Regardless of the source of paid leave used in conjunction with the absence, the entire period of paid leave is treated as "sick/medical" leave for purposes of leave accrual.

9. Legal Holidays During Periods of Paid Leave

When an employee is in pay status, including approved paid leave, immediately preceding and following a legal holiday the day shall be recognized as a paid holiday and shall not be charged to leave.

10. Court Leave

Refer to AS 39.20.270 and individual collective bargaining agreements. Compensation for services received from the court must be returned to the departmental fiscal office in order for the employee to receive full pay for the period of court leave. An employee may keep the compensation from the court if on approved annual/personal leave, if serving on a regular day off, or if serving during unscheduled hours.

11. Leave Anniversary Date

An employee's leave anniversary date shall be the beginning of the pay period immediately following the pay period in which the employee completes the prescribed period of full-time service or the 16th of the month immediately following the date upon which the employee was appointed, dependent upon the provisions of the appropriate collective bargaining agreement. The leave anniversary date of an employee shall be set forward one month for any leave without pay totaling 23 working days in any leave year.

Leave without pay in conjunction with military service under AS 26.10.060 shall not affect the employee's leave anniversary date, unless otherwise provided for in statutes or regulations.

12. Legal Holidays and Leave

- a. If an employee is in full leave without pay on the last work day before or the first work day following a holiday, the employee is considered to be on leave without pay for the holiday.
- b. When an employee is in pay status for any portion of the last work day immediately preceding the holiday and the first work day immediately following the holiday, the holiday shall be credited for pay purposes.
- c. An employee may not be paid for a holiday which falls before the effective day of appointment, return from seasonal leave without pay, or return from layoff. However, if the holiday is the first day counted as a work day in the pay period, and the employee is not on leave without pay for the next entire work day, the employee is paid for the holiday.
- d. An employee may not be paid for a holiday which falls after the effective date of separation. However, if the separation is effective on a holiday because: (a) the employee worked on the holiday, (b) the employee is being appointed to another position or retired on the next work day, or (c) the holiday is the last day counted as a work day in the pay period and the employee was paid for any part of the preceding work day, the employee will be paid for the holiday.
- e. Temporary or nonpermanent employees do not receive holiday pay except as it may have been negotiated into a collective bargaining agreement.

13. Leave Accrual for Periods of Unauthorized Leave

There shall be no accrual of personal, annual or sick leave during a pay period in which the employee is absent without approved leave (unauthorized LWOP). Implementation of unauthorized LWOP will be subject to the complaint/grievance procedures established in the collective bargaining agreement.

14. Leave Accrual for Partial Pay Periods

Personal, annual and sick leave accrual for eligible employees working less than a full pay period (except as provided in 13 above) is prorated and computed automatically by the AKPAY system.

15. Leave Accrual and Deductions

Personal, annual and sick leave will be recorded on an hours basis. The minimum charge for leave taken will be one-quarter hour. Leave in excess of one-quarter hour will be reported in one-quarter hour increments.

When the leave balance is insufficient to cover the amount of leave taken, leave taken will first be applied to reduce the accrued leave to "zero." The residue will then be reported as LWOP.

LWOP time will be reported in hours of absence within a pay period, reporting to the nearest two decimal places. If an employee is on LWOP the entire pay period, report the number of hours in the pay period as LWOP (e.g., 7.5 times the number of working days, including holidays, in the pay period).

16. Leave Without Pay

Normally, employees shall not be permitted to take leave without pay when personal, annual or sick leave (as appropriate to the circumstances) is accrued to their account. Nor shall employees take leave without pay after exhausting their sick leave when annual leave remains in their account. The possible exceptions are:

- a. As provided for in the family leave acts.
- b. Authorized LWOP: Charged without regard to accrued leave or when approved leave is exhausted and defaults to LWOP.
- c. Disciplinary LWOP: Leave without pay for disciplinary purposes is charged without regard to accrued leave on record. Disciplinary leave without pay for employees who are not FLSA exempt may be as short as one-quarter hour administered for lateness or may reflect a period of suspension or similar causes. For employees who are FLSA exempt, leave without pay for disciplinary purposes may not be in increments of less than one work week block of time except for instances of major safety violations. For this type of leave the leave

- request/report form should reflect "Disc LWOP" for disciplinary actions.
- d. Unauthorized LWOP: Leave without pay for period of absence without approved leave is charged without regard to accrued leave on record. The leave request/report form should reflect "Unauthorized LWOP" for unapproved leave.
 - e. As specifically provided in collective bargaining agreements.
 - f. As provided in 2 AAC 08.095(d).
 - g. Workers' Compensation.

Should an employee's approved leave default to leave without pay by the end of a pay period, and should this absence extend into the new pay period, the employee will be permitted to draw upon the newly-accrued annual, sick, or personal leave (as is appropriate) once this new accrual has been posted to the employee's account. (For this purpose, this new leave will be considered to have been posted to the employee's account before business begins on the 1st and the 16th of the month.)

Agencies (and employees) should be aware that this new accrual will be somewhat less than the employee's normal accrual because of LWOP in the pay period in which it was earned. (See Section 14 above.) In no event will the employee be allowed to use the newly-accrued leave to erase or decrease LWOP incurred in a previous pay period.

Should a termination while on leave situation be created (see Section 8 above), it will be the responsibility of the employing agency to correct the employee's time and attendance record so that no leave accrues to the employee's account for the period of leave. This may involve recovering all or part of the unearned leave accrual and charging the absence instead to LWOP.

17. Mandatory Leave Usage/Excess Leave - Notice to Employees

Departments shall advise employees of the number of remaining hours of mandatory annual or personal leave that must be taken prior to December 15. See collective bargaining agreements and 2 AAC 08.060. Annual/Personal leave may be scheduled by the Employer to offset liability of excess annual/personal leave payoff.

18. Effects of Leave Without Pay

Throughout the preceding sections, employee and department options concerning the placement of an employee on LWOP while the employee still has leave in the employee's account are discussed. Before such action is taken, the following consequences should be considered:

- a. Group health and life insurance coverage will cease at the end of the month in which LWOP commences unless prior arrangements are made with the employee's Human Resources Manager for the employee to pay the premiums or unless the federal Family and Medical Leave 12 week entitlement is engaged.
- b. The employee will not receive retirement service credit in the Public Employees' Retirement System for the duration of LWOP if the period(s) of LWOP exceed ten days in a calendar year.
- c. The employee will not accrue any personal, sick or annual leave while on LWOP. In addition, the employee will not accrue any leave during a pay period in which unauthorized LWOP occurs. (See 13 and 14.)
- d. The employee's leave anniversary date, longevity date and merit anniversary date are advanced one month for each accumulation of 23 days of LWOP in the leave year (from December 16 to the following December 15) unless otherwise provided for in statutes, regulations or contracts. The employee's probationary period will be extended one month for each accumulation of 23 days of LWOP in the leave year unless otherwise provided for in contract.
- e. In addition to not receiving regular compensation, the employee would not receive holiday pay while on full LWOP either the last work day before or the first work day following a holiday.
- f. Any of the above listed items may be altered by collective bargaining agreements.

19. Seasonal Leave Without Pay

If available annual or personal leave is not used prior to the effective date of seasonal leave without pay, leave will be paid in a lump sum payment. Some collective bargaining agreements provide for an option of carrying some annual/personal leave over an "off" season. The collective bargaining agreements should be consulted.

20. Other

Please refer to memoranda issued periodically to cover specific applications of provisions of the various collective bargaining agreements.