

 Corrections and Community Supervision DIRECTIVE	TITLE Leave Without Pay		NO. 2211
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SUPERSEDES DIR #2211 Dtd. 9/10/2015	DISTRIBUTION A	PAGES PAGE 1 OF 5	DATE LAST REVISED
REFERENCES (Include but are not limited to) 4NYCRR 22.1 & 22.2; 4NYCRR 4.5; Section 5.2 of the Rules for Classified Service; Military Law Section 246; Attendance and Leave Manual; Dir. #2202, #2226	APPROVING AUTHORITY 		

I. **DESCRIPTION:** This directive describes the granting of leave without pay as specified by the State Attendance Rules, Civil Service Law or Rule, negotiated agreement, Federal law, or State policy.

II. **POLICY**

A. Leave Without Pay

1. The duration of a leave without pay granted an employee, by this Department, may vary according to legal regulations and/or bargaining unit agreements.
2. Extensions of leave, or approval of leaves ordinarily not provided by statutes, may be granted to eligible employees at the discretion of the appointing authority for a period not to exceed two years.
3. A leave of absence may not be extended beyond two years unless the employee is reinstated to the payroll for at least six months or receives approval from the Civil Service Commission for an extended absence, at the request of the Department.
4. An employee who requests a leave of absence from State service in order to accept employment in private industry or other level of government will not be granted leave without pay to evaluate a new appointment or to encumber a position during his or her probationary period on the new job. Exceptions can only be granted by the Deputy Commissioner for Administrative Services or designee.

B. Eligibility

1. A permanent employee is eligible for an extended leave without pay in accordance with Part 22 of the State Attendance Rules (4NYCRR 22.1, 22.2).
2. Employees who are not subject to the State Attendance Rules, but who are otherwise subject to the Civil Service Rules for Classified Service, may be granted leave without pay pursuant to Section 5.2 of the Rules for Classified Service.

III. **MANDATORY LEAVES**

A. Promotion

1. A permanent employee, including probationers, who accepts an intra or interdepartmental permanent promotion to a competitive class position will be granted a leave of absence without pay from his or her former position while he or she serves a probationary period.

2. The leave of absence without pay for an employee to accept an interdepartmental competitive class promotion terminates at the completion of his or her probationary period. Leave of absence without pay for an employee to accept an intradepartmental promotion terminates at the completion of his or her probationary period unless the appointment was to a contingent permanent position.
3. A permanent competitive class employee, including probationers, who receives a provisional or temporary appointment to a competitive promotion position within the Department will be granted a leave from his or her permanent position during service in the other title.

B. Open Competitive Appointment

1. An employee, who has completed probation, holding a permanent appointment to a position in the competitive or noncompetitive class, who is subject to the provisions of a permanent agreement between the State and one of the bargaining units, and accepts an appointment from an open competitive eligible list, will be granted a leave of absence from their former position as follows:

CSEA: for the period of the probation

PEF: for the period of the probation or 52 weeks,
whichever is less

NYSCOPBA & Council 82: for the period of probation

2. Management/Confidential employees will be afforded leave for the duration of the probationary period.

C. Transfer

1. A permanent competitive employee, including probationers, who transfers to a similar position will be granted a leave of absence without pay for the duration of the probationary period.
2. The approved leave of absence without pay terminates at the completion of the probationary period (4NYCRR 4.5).

D. Traineeships

1. Any permanent Department employee appointed as a Correction Officer Trainee or a Parole Officer Trainee will receive a leave of absence for the period of their probation.
2. A permanent competitive employee, including probationers, who receives an appointment to a traineeship within the Department will receive a leave of absence for the period of their probation.
3. A permanent competitive employee, including probationers, who receives a permanent appointment to a traineeship in another state agency will receive a leave of absence for the period of their probation if the appointment is to a higher salary grade, or to a traineeship leading to a higher salary grade position.

E. Non-Competitive Appointments

1. An employee holding a permanent appointment who is subject to the provisions of an agreement between the State and one of the CSEA bargaining units, and accepts a permanent non-competitive appointment will be granted a leave of absence from their former position as follows:

CSEA – ASU:

A permanent competitive and non-competitive employee, who has completed probation, will receive a leave of absence for the period of probation or 52 weeks, whichever is less, if the appointment is within the Department.

CSEA – ISU and OSU:

A permanent competitive and non-competitive employee, who has completed probation, will receive a leave of absence for the period of probation in the permanent appointment is to a higher salary grade position.

2. A permanent non-competitive employee, including probationers, will receive a leave of absence for the period of probation if the permanent appointment is to a higher salary grade position.

F. Educational Leave of Veterans

1. A qualified veteran who requests an educational leave for training or vocational rehabilitation must be granted leave without pay for the required period of attendance (Military Law, Section 246).
2. Veteran's educational leave is not to exceed four years.
3. A veteran on educational leave who applies for reinstatement later than 60 days but within a year following the termination of that leave may be reinstated at the discretion of the appointing authority (Military Law, Section 246).

- G. **Child Rearing Leave:** An employee who requests child rearing leave without pay because of pregnancy, adoption, or childbirth must be granted a leave without pay, if requested, for up to seven months. See Directive #2226, "Maternity and Child-Rearing Leave." Also refer to the Attendance and Leave Manual, Appendix I - Family and Medical Leave Act of 1993.

IV. DISCRETIONARY LEAVES**A. Appointment to Exempt or Noncompetitive Position**

1. A permanent employee in the competitive class may, at the discretion of the appointing authority, be granted a leave of absence without pay to accept appointment to a position in the exempt or noncompetitive class within the Department.
2. The leave of absence without pay for this purpose may not exceed two years.
3. The appointing authority may request the State Civil Service Commission to extend the leave beyond the normal two-year period (4NYCRR 22.1).

B. Temporary Appointment with Another State Agency

1. A permanent employee in a competitive class position may, at the discretion of the appointing authority, be granted a leave of absence without pay to accept a temporary appointment with another State agency.
2. The leave of absence for this purpose will be for one year only, with a possible extension of an additional year. The maximum leave that can be allowed for this purpose is two years.
3. A leave of absence for an employee to accept a temporary appointment in another State agency is not mandatory. The policy of the Department is to discourage the granting of this type of leave, as it creates a temporary vacancy in the Department that is difficult to fill.
4. An employee who wishes a leave to accept a temporary appointment in another agency must submit a request in writing to his or her unit supervisor giving the purpose of the leave and its duration. If the unit supervisor approves, the request must be reviewed and approved in turn by each of the following:
 - a. The appropriate Division Head
 - b. The appropriate Deputy Commissioner
 - c. The Bureau of Personnel
5. A temporary vacancy in the Department is created when an employee is granted a leave of absence to accept a temporary appointment in another agency. The resulting vacancy can be filled on a temporary basis or on a contingent permanent basis if promotion is from within the Department.

C. Extended Sick Leave (Personal Illness)

1. An employee absent because of personal illness and who has exhausted all his or her accumulated sick leave, vacation, overtime, and personal leave credits may be granted a leave without pay at the discretion of the appointing authority. Please refer to Directive #2202, "Attendance Control Program," Section II-B, for medical documentation requirements.
2. A leave of absence without pay for this purpose may not exceed two years.
3. A leave without pay will not normally be granted when an employee has been continuously absent from his or her position for one year and a physician determines that the disability will continue indefinitely. Before denying such leave, refer to the Attendance and Leave Manual, Appendix I - Family and Medical Leave Act of 1993.
4. When the prognosis indicates that the employee may be able to return to work in the near future, the appointing authority may request the State Civil Service Commission to extend the leave without pay beyond the normal two year period.

D. Educational Leave

1. A permanent employee may be granted a leave of absence without pay for a period not to exceed one year for the purpose of further education (except for qualified veterans as described in Section III-F, above).

2. A request for educational leave must be processed through the employee's supervisor to the Personnel Office, which presents the results to the appropriate Deputy Commissioner for final approval.
3. An educational leave of absence may be granted to a permanent employee only if such leave does not interfere with the security or efficient operations of the office or facility in question.

V. TRANSACTIONS

- A. Each work location should initiate leave transactions at the earliest possible opportunity, in writing.
- B. Each work location must maintain careful control over the duration of leaves of absence to ensure proper processing of restoration to pay status.
- C. Each work location must initiate an appropriate NYSTEP transaction terminating the employee's leave when the approved leave of absence without pay terminates on the successful completion of the probationary period for promotions and interdepartmental transfer, only if the NYSTEP system fails to remove it automatically. PAYSRS transactions to terminate an employee's leave are only required if the agency where the employee is currently working does not participate in the PAYSRS system.