



## Corrections and Community Supervision

### DIRECTIVE

SUPERSEDES DIR# 2226 Dtd. 01/07/2016	TITLE <b>Maternity and Child-Rearing Leave</b>	NO. 2226	
	DISTRIBUTION A	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Dir. #2206, #2208A, #2220; Personnel Procedure #55, #412; Appendix 1 of the Attendance and Leave Manual, Policy Bulletin #94-01	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive provides information and guidelines concerning leaves of absence for employees as a result of maternity, paternity, adoption, foster placement, and/or child-rearing.

The attendance rules provide that any employee who requires a leave because of a disability arising from pregnancy or childbirth shall receive consideration and benefits comparable to that of other employees who become medically disabled. Additional leave is provided under the attendance rules for the purpose of child-rearing, after medical disability due to pregnancy, or associated with the adoption of a child.

Employees who qualify for Family Medical Leave Act (FMLA) coverage are subject to the guidelines stated in Directive #2220, "Family Medical Leave Act." Where there is conflict between this directive and FMLA, the FMLA takes precedence.

**II. REPORTING OF PREGNANCY**

- A. A pregnant employee should notify her supervisor of her pregnancy, in order that arrangements may be made for maternity/child-rearing leave and a replacement, if necessary.
- B. A pregnant employee may be asked or encouraged to report the existence of pregnancy, but she is not required to do so. Where the nature of the duties is particularly hazardous or burdensome, the pregnant employee should be asked or encouraged to report her pregnancy well in advance of childbirth.
- C. Upon notification of pregnancy by an employee, the employee's supervisor should discuss with her the anticipated duration of her absence and leave accruals to be charged.
- D. If a security employee becomes pregnant or gives birth while on Workers' Compensation leave, refer to Directive #2208A, "Workers' Compensation Benefits (Security Services)," and Personnel Procedure #55, "Maternity Leave Notification."

**III. DISABILITY**

- A. An employee can establish her disability due to pregnancy by submitting a physician's statement describing her condition and anticipated date of delivery. She has the option of giving her medical documentation to her immediate supervisor or providing it directly to the designated Medical Information Officer. This documentation should be handled in a confidential manner, as outlined in Personnel Procedure #412, "Confidentiality of Medical Documentation."

- B. A disability arising out of pregnancy or childbirth is treated the same as any other disability in terms of eligibility for sick leave with pay, sick leave at half pay, and sick leave without pay.
- C. An employee is usually considered to be disabled from the performance of her duties four weeks prior to delivery and generally continues to be regarded as disabled for six weeks following childbirth.
- D. An employee who has accrued sick leave at half pay may request upon exhaustion of all leave credits to use sick leave at half pay. Such leave may be granted in accordance with Directive #2206, "Sick Leave at Half Pay."
- E. At the discretion of the appointing authority and upon request of the employee, leave without pay may be granted prior to the onset of any medical disability associated with pregnancy.
- F. At the discretion of the appointing authority and upon request of the employee, absences during pregnancy or following childbirth may be charged to vacation, non-compensatory overtime, or personal leave.

#### **IV. MATERNITY/PATERNITY/CHILD-REARING LEAVE**

##### **A. Eligibility for Maternity/Paternity/Child-Rearing Leave**

- 1. Any employee is eligible for child-rearing leave following childbirth, adoption, or foster placement of a child.
- 2. No employee is entitled to leave under this provision of the attendance rules beyond the time at which the employee's service would otherwise terminate pursuant to law, rule, or regulation (e.g., beyond the date when a temporary appointment would end or a Federally-funded position would terminate).

##### **B. Duration**

- 1. Maternity leave takes place, as outlined in Section III-C, during the disability period which generally takes place up to four weeks prior to delivery and six weeks following childbirth. This disability period may be extended, either prior to or following childbirth, when conforming medical documentation is provided.

- 2. Paternity leave begins on the day of delivery. Normally the employee is approved for the use of sick leave credits for the day of delivery and the convalescent period immediately following hospitalization (generally about one week under normal circumstances).

In the absence of unusual circumstances, other absences would generally be charged to credits other than leave for family illness. When other such credits are charged in the absence of an unusual circumstance, this begins the employee's period of child rearing leave.

- 3. Child-rearing leave: An employee who requests a leave of absence for child-rearing purposes following childbirth must be granted a leave without pay for up to seven months from the date of delivery.

If both parents are State employees, leave for childcare is mandatory for one parent at a time and the parents may elect to split the mandatory seven month leave time into two separate blocks of leave with each parent entitled to one continuous period of leave, but not to exceed a combined total of seven months of leave, and not to extend beyond seven months from the date of delivery.

Note: Child-rearing leave can only be taken in one block of time, it cannot be used intermittently.

4. Following adoption: For child-rearing leave in cases of adoption, an employee will be allowed up to seven months leave without pay from the date the child begins residence with the adoptive parent(s).
5. Following foster placement: For child-rearing leave in a case of foster child placement, an eligible employee will be allowed up to 12 weeks leave without pay as authorized by the FMLA (see Appendix 1 of the Attendance and Leave Manual, Policy Bulletin #94-01). There is no restriction to leave when both parents are employed by the State.
6. Use of Leave Credits: Upon request of the employee, an employee may reduce the amount of maternity/child-rearing leave without pay through the use of some or all accrued vacation, overtime, and personal leave credits.
7. At the discretion of the appointing authority, an eligible employee may be granted a leave of absence without pay or successive leaves of absence without pay for a period not exceeding two years.
8. A leave of absence may be extended beyond two years only with the written approval of the Civil Service Commission.

C. Approval of Maternity Leave

1. An employee who is granted a maternity/child-rearing leave of absence without pay must be notified via memo from the Personnel Office of the terms of the leave. The memo must include the following information:
  - a. Effective date of leave;
  - b. Termination date of the leave; and
  - c. Consequences that may result from failing to report for duty at the expiration of the approved leave.
2. The employee's personnel unit enters NYSTEP transaction and faxes all relevant documentation to the Central Office Personnel Representative for review and approval.