

Subject: **LEAVE OF ABSENCE**

REFERENCES	SECTIONS
Human Resources Policy Memos <a href="http://www.ohr.dgs.ca.gov/policymemos/default.htm">http://www.ohr.dgs.ca.gov/policymemos/default.htm</a>	03-003
Law & Regulation <a href="http://www.leginfo.ca.gov/calaw.html">http://www.leginfo.ca.gov/calaw.html</a> <a href="http://www.dpa.ca.gov/statesys/dpa/oalrules.htm">http://www.dpa.ca.gov/statesys/dpa/oalrules.htm</a>	DPA Rules 599.780-599.794 SPB Rules 446, 448 Govt. Codes 18543, 19143(b), 19574.5, 19592.2, 19991.1-19991.10
Memo of Understanding (MOU) <a href="http://www.dpa.ca.gov/bargaining/contracts/index.htm">http://www.dpa.ca.gov/bargaining/contracts/index.htm</a>	Check applicable MOU
Personnel Management Policy and Procedures Manual (PMPPM)	312
Responsible Control Agency and Program	Department of Personnel Administration State Personnel Board

## Leave of Absence

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### Policy

It is the policy of the DGS to comply with the provisions of the MOU and applicable DPA and SPB laws, rules and regulations. Before a formal leave of absence is granted, the employee shall be advised of other avenues they may exercise, which include:

- Non-industrial Disability Leave (NDI) for a non-job related illness or injury to the employee, or for a pending job-related (workers' compensation) illness or injury claim for the employee.
- Pursuant to the provisions of the MOU, consider the Catastrophic Leave Program for when an employee faces financial hardship due to injury or prolonged illness of the employee or the employee's family member and the employee has exhausted all available leave credits, or when an employee faces financial hardship due to the effect of a natural disaster on the employee's principle residence and the employee resides in a county wherein a State of Emergency has been declared by the Governor and the employee has exhausted all leave credits except sick leave.
- Family Medical Leave Act (FMLA). Refer to the FMLA section in this manual.

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### Definition/ Explanation

A leave of absence (LOA) is unpaid leave that allows an employee to be off work for an extended period of time and return to his/her former position when the leave ends. The criteria for granting an unpaid LOA are stated in Department of Personnel Administration (DPA) Rule 599.781 and in the Memoranda of Understanding (MOU). Approval of the request for leave of absence by the DGS is discretionary.

Note: Pursuant to DPA Rule 599.781, "A leave of absence **shall not** be granted under this section to any employee who is accepting some other position in the State service; or who is leaving the State service to enter other employment except as hereto in provided; or who does not intend to nor can reasonably be expected to return to State service on or before the expiration of the leave."

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## Leave of Absence, Continued

**Types of leaves of absence**

The various types of leaves of absence are indicated in the following table.

<b>Type</b>	<b>Description</b>
Academic (10-12 leave)	See DPA Rule 599.786.
Adoption	A permanent employee may request a LOA without pay for the adoption of a child for a period not to exceed one year. The employee shall provide substantiation to support the employee's request. (See Government Code (GC) section 19991.6).
Career Executive Assignment (CEA)	See DPA Rule 599.980.
Child birth or parental leave	A permanent employee can request a parental LOA for pregnancy, child birth or recovery, or adoption of a child, not to exceed one year. (See GC section 19991.6).
Civilian during military emergency	Pursuant to GC section 19991.6, "During a state military emergency and subject to department rule, an appointing power may grant a leave of absence without pay to a permanent or probationary employee under his/her jurisdiction to: <ul style="list-style-type: none"> <li>(a) engage in civilian war work pursuant to mandatory order of the agency of the United States or of the state having authority to make that order</li> <li>(b) assume active duty in the United States merchant marine</li> <li>(c) assume other duty rather than active duty to fulfill a military obligation pursuant to mandatory order of the agency</li> <li>(d) assume active full-duty for the American Red Cross; such a leave shall not exceed the period authorized in the order.</li> </ul>
Compensable injury	See GC section 19991.4 for detailed information. However, note that "any period of time during which an employee is required to be absent from his/her position by reason of an injury or disease for which s/he is entitled to receive temporary disability compensation. . .is not a break in his/her continuous service for the purpose of his/her right to salary adjustments, sick leave, vacation, annual leave or seniority.

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## Leave of Absence, Continued

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### Types of leaves of absence (continued)

Type	Description
Informal (dock)	Subject to provisions of the MOU, an employee may request an informal LOA without pay (treated as dock) not to exceed 11 working days in a 22-day pay period or 10 working days in a 21-day pay period.
Jury duty	LOAs granted for jury duty may be with or without pay. See applicable MOU.
Medical and scientific meetings	See GC section 19991.5 for specifics.
Merchant marine service/non-military	See GC section 19991.8 for specifics.
Military service	Refer to the section of this manual pertaining to Military Leave and applicable DPA laws and rules.
Paid educational leave	Refer to DPA Rule 599.787 through 599.791 for provisions.
Veterans educational leave	See GC section 19991.9.

### Length of leave

Pursuant to GC section 19991.1(a), "... an appointing power may grant a leave of absence without pay.....for a period **not to exceed one year.**

An extension to an unpaid leave of absence may be granted by the appointing power upon the prior approval of the DPA. If an extension is granted, the employee has the right to return under the provisions of GC section 19143.

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## Leave of Absence, Continued

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### Reason for leave

The reason for a leave of absence may be:

- to attend school or college or enter training to improve the quality of employee's service,
  - temporary incapacity due to illness or injury,
  - loaned to another governmental agency for performance of a specific assignment,
  - to seek or accept other employment during a layoff situation or otherwise lessen the impact of an impending layoff,
  - other reasons equally satisfactory as determined by the appointing power
  - pending disability retirement (GC 19991.4), which states, in part:  
*"If a permanent or probationary employee is still not able to return to his/her former position and continues to receive permanent disability compensation, the appointing power shall take at least one of the actions described in GC 19253.5 or grant a leave of absence for the period during which the employee receives permanent disability compensation or is being retrained through rehabilitation."*
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### Granting a leave

An appointing power may grant a leave of absence without pay:

- to any employee for a period not to exceed 30 calendar days,
  - to an employee who has permanent status and since that permanent status has had no break in continuity of State service due to a permanent separation or a probationer who has completed six months of service in a classification having a longer probationary period because of entry into the military service of the United States.
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### Termination

Pursuant to DPA Rule 599.782, a leave of absence can be terminated:

- effective at the expiration date of the approved LOA
- by the department prior to the expiration date, with written notice at least 30 work days prior to the effective date of the revocation
- by the employee prior to the expiration date with a request to the department (former supervisor) and the department's approval

Note: The Classification and Pay (C&P) Analyst shall review the applicable MOU to determine the amount of notification required prior to revocation, as the number of days may be different.

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**Reinstatement of employee** The employee has mandatory reinstatement to his/her former classification and geographic location. The Office or Client Agency shall take the following steps to reinstate an employee:

- at termination of the leave, submit a Request for Personnel Action (RPA) to the C&P Analyst
- if assistance is needed to place the employee in a former position, consult with the C&P Analyst
- if the employee is not returning to work or may need a reasonable accommodation, consult with the C&P Analyst

**Responsibility** The following table depicts the participant and his/her responsibility in the leave of absence process.

<b>Part</b>	<b>Function</b>
Employee	<p>The responsibility of the employee is:</p> <ul style="list-style-type: none"> <li>• to initiate a request for leave by completing a “Formal Leave of Absence” request form, DGS OHR 28</li> <li>• to provide a reason and a beginning and ending date of leave (<b>not to exceed one year</b>)</li> <li>• to forward the DGS OHR 28 to his/her immediate supervisor (provide substantiation when required or requested)</li> <li>• to request an extension when needed by completing a new DGS OHR 28 and following this same procedure</li> <li>• to make arrangements with immediate supervisor regarding return date before the leave expires</li> <li>• to request “direct pay” forms from the Attendance Clerk (AC) to continue medical benefits and make direct payment to insurance(s) carrier(s)</li> </ul>

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## Leave of Absence, Continued

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### Responsibility (continued)

<b>Part</b>	<b>Function</b>
Supervisor	The responsibility of the immediate supervisor is: <ul style="list-style-type: none"> <li>• to refer to the applicable MOU for specific information on granting an unpaid LOA</li> <li>• to recommend LOA be approved or denied (must state reason why LOA should be denied)</li> <li>• if denied, to retain a copy of the DGS OHR 28 in the supervisor's employee working file</li> <li>• to initiate RPA prior to the return of the employee</li> </ul>
Office Chief or Client Agency Executive	The responsibility of the Office Chief or Client Agency Executive is: <ul style="list-style-type: none"> <li>• to approve or deny request (must state reason for denial in writing)</li> <li>• to inform the employee of the status of the LOA</li> <li>• to forward approved request to assigned Personnel Specialist (PS) in the Personnel Transactions Unit (PTU) and retain the goldenrod copy</li> <li>• prior to the employee's return, to forward the RPA to the C&amp;P Analyst</li> </ul>
Personnel Specialist (PS)	The responsibility of the PS is: <ul style="list-style-type: none"> <li>• to document action to the employee's employment history</li> <li>• to return approved copies of DGS OHR 28 to employee and Office/Client Agency (send original to the employee's Official Personnel Folder [OPF])</li> <li>• to process appropriate direct payment insurance(s)</li> </ul>

**Attachments**    [Formal Leave of Absence Request, DGS OHR 28](#)

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