

MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY

Leave Without Pay Policy and Procedures

Effective Date: October 1, 2018

Updated: July 1, 2022

PURPOSE: To define the Mississippi Department of Employment Security's policy and procedures with regard to Leave Without Pay ("LWOP").

GENERAL: MDES employees should manage their leave balances to prevent going into LWOP status. **LWOP should be requested only under extraordinary circumstances.** An employee may request LWOP for medical reasons, emergency reasons, or due to extenuating circumstances. All requests for LWOP will be handled on a case-by-case basis and will be granted at the discretion of the Executive Director or his/her designee. **Unapproved LWOP may result in disciplinary action.**

Employees may not take leave in anticipation of being able to reconcile the leave on the next pay period in the TIME system. Only leave that has accrued as of the day of the actual absence may be used. Leave balances are located on check stubs and in the MDES TIME system. In the TIME system, leave balances are accurate as of the date and time the system opens before any leave is recorded on the timesheet. It is the employee who is responsible for maintaining a current balance of all unused leave to ensure that (s)he does not go into unapproved LWOP.

PROCEDURES:

1. Requests for LWOP for medical or emergency reasons or due to extenuating circumstances will be handled according to the following procedures:
 - a. The Employee shall submit an *Application for Leave Without Pay* form to his/her supervisor and obtain approval *prior* to taking the leave when at all possible. If the request for LWOP is for medical reasons of the employee or the employee's immediate family member, the employee must attach a doctor's statement justifying the leave for the duration of the leave requested. No additional doctor's statement is necessary if the employee returns on the pre-approved day. However, if the initial LWOP request must be extended, the employee is required to provide a second doctor's

statement to his/her supervisor indicating the extended period of care due to the continuation of the health concern, prior to the end date of the initial LWOP date.

- b. If the reason for LWOP is for an emergency or extenuating circumstance which is not medical in nature, the employee is required to attach to the application documentation that substantiates the emergency or extenuating circumstance for which LWOP is requested (e.g., the obituary of the death of a family member, etc.). The employee or his/her supervisor should consult with the Office of Human Resources to determine what documentation is required when the reason for the LWOP is not for a medical reason.
2. If prior written approval is not possible due to emergency circumstances, a verbal request for LWOP shall be given to the employee's supervisor as soon as practical, and immediately upon return to work, the employee shall submit an Application for Leave Without Pay form to his/her supervisor. **If the written request for LWOP is for medical reasons, the employee must attach a doctor's statement justifying the leave.** Approval is dependent upon sufficient and applicable documentation for the medical, emergency, or extenuating circumstance. Failure to follow these procedures or provide the necessary documentation may result in disciplinary action.
3. The request for LWOP will be evaluated on the basis of MDES's ability to sustain the proposed absence.
4. The employee will be advised in writing whether the request is approved or disapproved. The employee's supervisor shall give the original *Application for Leave Without Pay* to the Office of Human Resources, who will forward it up the chain of command until it reaches the Executive Director. The supervisor shall also retain a copy for his/her files.
5. Regardless of whether LWOP is approved in advance of an employee's absence or granted upon an employee's return to work following an emergency situation, it is the *supervisor's responsibility* to notify, as soon as possible, both Business Management and the Office of Human Resources of the dates an employee will be going into or has already gone into LWOP. The supervisor's failure to do so in a timely manner may result in disciplinary action.
6. MDES reserves the right to process the paychecks of employees going into LWOP in one of the following ways, when possible, to ensure that the employee is not paid for days which were not worked and in which the employee was in LWOP:

- a. When Business Management is *sufficiently notified* in advance of the employee's LWOP, the LWOP can be correctly recorded on the timesheet prior to payroll being sent to the Mississippi Department of Finance Administration ("DFA"), and the employee's paycheck will reflect the actual hours worked in the pay period;
- b. When Business Management is *not sufficiently notified* in advance of the employee's LWOP, the employee's check may be held until (s)he has worked the time for which (s)he has been paid. The following pay period will then reflect the time in which the employee was in LWOP; or
- c. When the circumstances surrounding an employee's LWOP warrant it, Business Management may void the employee's paycheck, return it to DFA, and request that the employee's paycheck be re-issued reflecting the actual hours worked.

LIMITATIONS:

LWOP will be granted for medical and emergency reasons only when the health of the employee or an immediate family member (as defined by the *Mississippi State Employee Handbook*) necessitates the absence, or when the emergency is outside the control of the employee and proper documentation is presented. No LWOP will be granted in excess of thirty (30) calendar days unless the agency has determined there to be extenuating circumstances.

LWOP for medical or other emergency reasons will not be authorized until all accrued compensatory time, major medical leave, and personal leave balances have been exhausted, unless the absence is due to a Workers' Compensation claim or for other situations as approved in advance by the Executive Director or his/her designee.

Requests for LWOP for extenuating circumstances which are neither for medical or emergency reasons will be handled on a case-by-case basis as approved in advance, whenever possible, by the Executive Director or his/her designee.

RETURN TO WORK:

1. Pre-approved LWOP for medical reasons does not require an additional doctor's statement if the employee returns to work on the pre-approved date.
2. LWOP for medical reasons that was not pre-approved shall require a doctor's statement justifying the leave as being for medical reasons.
3. Pre-approved LWOP for non-medical reasons does not require further documentation upon the employee's return to work.

4. LWOP for non-medical reasons that was not pre-approved shall require documentation substantiating the need for leave upon the employee's return to work. (Please see the "Procedures" portion of this policy).

Failure to provide the required documentation will result in unapproved leave and subject the employee to disciplinary action for insubordination and/or unauthorized absences. For information related to disciplinary actions, please see *Chapter 7 of the Mississippi State Employee Handbook*, a link to which is located online at MDES's internal website, *The Insider* or on the State Personnel Board's website www.mspb.ms.gov.

RESPONSIBILITY:

While an employee is on LWOP, it is the employee's responsibility to pay the employee and employer portion, if any, of all insurance premiums the employee wishes to continue (*See Ch. 3.2 section titled "Leave Without Pay" of the Mississippi State Employee Handbook*). In order to continue insurance coverage while out on LWOP, the employee should contact the Office of Human Resources. Please be advised that an employee on LWOP will not accrue creditable service time toward retirement.

Failure on the part of the employee to report to work promptly at the expiration of pre-approved LWOP, unless satisfactory reasons have been submitted in advance, shall be cause for dismissal, suspension without pay, demotion, or other disciplinary action. LWOP for medical, emergency reasons, or extenuating circumstances may result in termination of employment if it is determined that an employee is not using such leave for sickness, disability, maternity purposes, emergency reasons, or extenuating circumstances for which the LWOP was requested. Termination may also result if the agency determines that it can no longer sustain the employee's extended absence in LWOP status. The failure of any employee to abide by the procedures stated herein may result in suspension or dismissal.

All employees are responsible for reading and following the policies and procedures regarding any absence as outlined in the Mississippi State Employee Handbook.

MDES APPLICATION FOR LEAVE WITHOUT PAY

Employee Name: _____

Dates of LWOP Requested: _____

Nature of Need for LWOP: (Check all that apply)

- _____ Medical
- _____ Workers' Compensation Claim
- _____ Emergency
- _____ Other Unforeseen Circumstance(s)

Provide a brief statement summarizing the need for Leave Without Pay ("LWOP"): (Ex: surgery involving # weeks recovery; maternity leave; death in family, etc.) _____

By signing and dating below, I acknowledge that all requests for LWOP must be substantiated by documents evidencing the need for LWOP as indicated in my statement above and in accordance with MDES's Leave Without Pay Policy and Procedures. Failure to substantiate the stated need for LWOP may result in a denial of my request and further subject me to disciplinary measures up to and including termination.

X _____
Employee Signature Date

For Use by Supervisor Only

Substantiating Documents Received: ____ Y ____ N Date Received: _____

Date Application for LWOP Received: _____

X _____
Supervisor Date

X _____
Manager Date

X _____
Department Director Date

X _____
Deputy Executive Director Date

For Use by Executive Director/Designee Only

Application for LWOP Approved: ____ Y ____ N

X _____
Executive Director's or Designee's Signature Date