

**Department of Finance and Administration**  
**Office of Administrative Services**  
**Human Resources Office**  
***Leave Information for Supervisors***

Agency administrators and their designated timekeepers are required to establish and maintain appropriate leave records for each employee. They are also responsible for ensuring that employees are informed of federal, state, and internal policies and procedures affecting leave and timekeeping. This information is designed to ensure that agency supervisors know and understand their various responsibilities to their employees and to the agency. Other training is available for timekeepers.

**LAWS AFFECTING LEAVE**

Leave records are subject to legislative and internal audit, and may be subject to federal Department of Labor investigation. Therefore, laws, policies, and procedures must be strictly followed. Effective January 1, 1992, it became the policy of DFA that timekeepers will retain hard-copy documentation by individual employee until the agency has been given a written, approved audit report. The employee leave records may be stored electronically prior to the approved audit report to meet the records retention requirements. Timekeepers will be notified when this report has been received.

As stated above, there are many federal and state laws governing employee leave and timekeeping. The main ones are listed below. Please reference specific laws for details.

**Act 567 of 1975, as amended**, known as the Uniform Leave and Attendance Act, established leave for annual, sick, maternity, educational, court and jury, and military leave, and leave without pay provisions.

**Act 976 of 1975** established that most state employees receive paid time off for official state holidays. **Act 306 of 1999** stated that the General Assembly will not meet on Dr. Martin Luther King Jr.'s birthday. **Act 304 of 2001** created Daisy Gatson Bates' day which is celebrated on the 3<sup>rd</sup> Monday in February along with President's Day.

**Act 586 of 1989** allowed state employees who are members of the National Guard or any of the reserve branches to receive fifteen (15) days each year, plus travel time, for annual training requirements without a loss in pay or annual leave time. **Act 471 of 2003** authorized up to fifteen (15) days leave with pay per calendar year to employees who are members of the United States Air Force Auxiliary Civil Air Patrol or the Coast Guard Auxiliary to participate in training programs and/or emergency and rescue services.

**Act 169 of 1991** established catastrophic leave. **Act 1176 of 1999** and **Act 194 of 2003** re-defined catastrophic leave eligibility.

**Act 956 of 1991** allowed a maximum of thirty (30) days military leave time any employee can use in one (1) calendar year.

**Family & Medical Leave Act (FMLA) of 1993**, a federal law that provided up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons.

**Act 268 of 1997** established disaster service volunteer leave for qualified employees. **Act 489 of 1999** redefined the period of leave.

**Act 1127 of 1999** provided sick leave incentive pay upon retirement.

**Act 991 of 2001** extended sick leave incentive pay benefits to the beneficiaries of deceased employees.

**Fair Labor Standards Act (FLSA) of 1938, as amended**, a federal law that set overtime pay standards, including required monetary payment for any time worked over 40 hours by non-exempt employees in a workweek.

**Public Law 99-150** authorized the granting of compensatory time to non-exempt regular salary and extra help employees instead of cash payment, at a rate of one and one-half hours for each hour of overtime worked.

**Act 546 of 2003** authorized up to thirty (30) days leave with pay per calendar year to employees who serve as human organ donors and up to seven (7) days leave per calendar year for bone marrow donors.

**Act 835 of 2003** (1) expanded the definition of “immediate family” for the purposes of sick leave usage to include “grandchild”, (2) allowed the use of leave without pay during periods of inclement weather and/or budget reduction efforts, (3) amended court and jury leave to only be paid in cases where employees are serving a jurors or if subpoenaed as a witness to give a deposition in a court or hearing that does not involve personal litigation.

**Act 653 of 2005** authorized up to six (6) days paid leave per calendar year for employees who have been rated by the U.S. Department of Veterans Affairs as having a military service-connected disability and who must be re-examined or treated for the disability.

**Act 1188 of 2005** stated that if an employee receives compensation for unused sick leave at the time of retirement, he/she will not have to repay the compensation or wait until the expiration for the number of days compensated before returning to state employment.

**Act 1189 of 2005** prohibited an employee on paid sick leave with one state agency from receiving a salary or compensation from another state agency (concurrent employment).

**Act 1028 of 2007** authorized up to eight (8) hours of leave each calendar year for a state employee to participate in his or her children’s education activities.

**Act 870 of 2009** authorized a public school district or institution of higher education employee with more than two (2) years of service to be eligible to apply for catastrophic leave or a state employee with less than two (2) years of State service and who was employed by a public school district or state supported institution of higher education to be eligible to apply for catastrophic leave. The break between the previous service and the state service cannot exceed six (6) months and the combined years of service must total more than two (2) years.

## DEFINITIONS

To ensure that all DFA supervisors understand and utilize common terminology, supervisors should be familiar with and understand the following definitions:

1. **Exempt employee**—an employee who, under the provisions of the Fair Labor Standards Act, is exempt from the overtime provisions of the Act. The main categories for exemptions for state employees are Executive, Professional, and Administrative. The Office of Personnel Management (OPM) analyzes each state job specification and determines whether it meets the criteria for an exemption from the FLSA. Agencies are required to ensure that each position has the proper designation according to the FLSA criteria and may request that OPM make individual position exceptions or change the overall determination for a classification.
2. **Non-exempt employee**—an employee who is covered by the Fair Labor Standards Acts and who must be paid monetary compensation or given compensatory time at time and one-half for all hours worked over 40 per week. The FLSA allows for modifications in the number of hours worked for certain classifications of employees.
3. **Regular employee**—an employee in a “regular” position authorized for the agency by the legislature. Regular employees may work full-time or part-time.
4. **Extra help employee**—an employee in an “extra help” position authorized for the agency by the legislature. The number of extra help positions allowed for an agency is set by the appropriation act, but the classifications are not. Extra help employees are

paid by funds specifically appropriated for this purpose. In general, extra help employees may work no more than 1,000 hours in a fiscal year, and do not accrue leave time. Extra help employees may work full-time or part-time. Special language in DFA's appropriation acts may allow an exception to the 1,000 hour limit.

5. **Probationary employee**—an employee hired or rehired into a regular position at DFA will be considered a "new hire" for a probationary period of six (6) months. New hire probationary employees do not have access to DFA's grievance procedure. Employees who change positions within the agency are subject to a probationary period of three (3) to six (6) months, at the discretion of the supervisor, and have access to DFA's grievance procedure.
6. **Job Share employee**—one of two part-time employees who share a single position. The salaries of the two employees together cannot exceed the maximum salary allowed for the grade and 40 work hours per week, and both employees must perform duties appropriate to the classification. **Act 1461 of 2001** allowed extra help positions to be job shared.
7. **Part-time employee**—any employee who works less than 40 hours per week.
8. **Full-time employee**—any employee who works 40 (or more) hours per week.
9. **Official leave file**— file folder containing an employee's leave records for an entire calendar year. This file should be maintained in chronological sequence by payroll ending date. The records for each payroll cycle must be in total agreement prior to being placed into the file.

The leave file must be audited and forwarded to DFA OAS Human Resources when the employee is terminating, changing administrators with the department, transferring to another state agency, or moving from a non-exempt position/classification to an exempt position/classification and has compensatory time recorded. The timekeeper will reconcile leave balances on a monthly basis and when a termination occurs. The timekeeper will be responsible for auditing and reconciling leave balances for the month in which the termination occurs prior to submitting the leave file to DFA OAS Human Resources. When submitting a leave file, the Leave Payout Authorization Form must be included with the file for a terminating employee and a Transferring Employees Form must be included with the file for an employee who is transferring to a position internally or with another state agency; the DFA OAS Human Resources staff will verify payout information and process the leave payout in the system. The employee's leave file will be returned to the timekeeper for storage.

When an employee changes administrators within the department, timekeepers should forward a courtesy copy of the leave records to the new timekeeper.

10. **Workweek**—the official, established time period of seven (7) consecutive days beginning at 12:00 AM Sunday and ending at 11:59 PM Saturday.
11. **Leave accrual date**—the date used to determine when leave accruals will increase. DFA OAS Human Resources will determine this date by adjusting the employee's latest hire date for completed years of service. Proof of Prior Service Forms from previous employers must be included in the official personnel records to support adjustments to the leave accrual date.
12. **Leave accrual increase date**—the date the employee's annual leave accrual rate will be increased according to the Rate Schedule below.

## TYPES OF LEAVE AND COMPENSATORY TIME

1. **Annual Leave**  
Regular employees accrue annual leave according to the following rate schedule:

YEARS OF EMPLOYMENT	LEAVE ACCRUED MONTHLY
through 3 years	8 hours
4 through 5 years	10 hours
6 through 12 years	12 hours
13 through 20 years	14 hours
over 20 years	15 hours

Extra Help employees are not eligible to accrue annual leave.

The accrual rate is determined on the basis of completed years of service. Service credit for rehired employees will be brought forward in completed years of service only for state employment which began July 1, 1975, and later. Service prior to July 1, 1975, will be credited in completed months and years of service.

Accrual rates will change on the first day of the month following the date the employee becomes eligible for the next higher rate. This includes cases in which the hire date or adjusted hire date is the first day of the month. Example: An employee's accrual increase date is October 6. The accrual rate will increase on November 1. November's accrual (at the higher rate) will be added to the employee's balance and available for use after November 30.

At the end of a calendar year, employees may carry forward no more than 30 days (240 hours) of annual leave into the next calendar year. Employees who choose to donate excess unused leave to the Catastrophic Leave Bank must do so before the end of December. (See section on Catastrophic Leave) Excess leave will be lost if not used or donated by December 31<sup>st</sup> of each year.

For the month in which they are hired, new (or rehired) employees will accrue leave according to the following schedule:

Date of Hire	Amount of Leave Accrued	Date of Accrual	Date Leave is Available for Use
1 <sup>st</sup> workday of month	Full month's accrual	1 <sup>st</sup> of the following month	Same date as date of accrual
Between 1 <sup>st</sup> and 16 <sup>th</sup> of month	½ month's accrual	1 <sup>st</sup> of the following month	Same date as date of accrual
After 16 <sup>th</sup> of month	None	-----	-----

Active employees who work the first day through the 15<sup>th</sup> day of the month will accrue half their monthly accrual of annual and sick leave, however, the accrual is not reflected until the end of the month with a full month rate. Terminating employees will accrue leave for the month in which they terminate, according to the following schedule:

Date of Termination	Amount of Leave Accrued
Prior to 15 <sup>th</sup> of month	None
On or after 15 <sup>th</sup> of month	½ month's accrual
Last workday of month	Full month's accrual

Annual leave will not be accrued during a calendar month which contains leave without pay (LWOP) totaling ten (10) days or more or 80 hours or more. The hours do not have to be consecutive work hours, but cumulative throughout the month. Employees returning from LWOP will accrue leave at their regular rate starting the first month in which the employee has less than 80 hours of LWOP.

Regular and job share employees working less than full-time will accrue annual leave in the same proportion as time worked. Annual leave must be earned before it can be used.

Annual leave accrued but not taken will be paid as a lump sum at the time of termination, not to exceed 30 total days (240 hours) of annual and holiday time.

The minimum charge for annual leave is 15 minutes. Annual leave must be requested and approved in advance. Exceptions to this policy in cases of emergency are at the discretion of the supervisor. Compensatory time may be requested by the employee in lieu of annual leave, or the supervisor may **require** the employee to take compensatory time in lieu of annual leave.

## 2. **Sick Leave**

Sick leave with pay must be earned before it can be used. It will be granted to regular employees when they are unable to perform their duties due to:

- a. sickness
- b. injury
- c. medical, dental, or optical treatment
- d. death or serious illness of an immediate family member

Extra Help employees are not eligible to accrue sick leave.

Immediate family is defined as: the father, mother, sister, brother, husband, wife, child, grandparent(s), grandchild, in-law(s) or any individual acting as a parent/guardian of an employee. In-laws are defined as father-in-law, mother-in-law, sister-in-law, or brother-in-law.

Full-time regular employees earn sick leave with full pay, computed on the basis of one (1) day for each complete month of service. Regular and job share employees working less than full-time will accrue sick leave with pay in the same proportion as time worked. Extra help employees do not accrue sick leave.

New employees and terminating employees accrue sick leave according to the schedules on page 4.

Sick leave will be accrued at a rate of one (1) day for each completed month of service. The maximum number of sick leave days that can be carried forward at the end of December is 120 days. An employee may accrue more than 120 days (960 hours) during the calendar year, but the excess will be lost if not used or donated by December 31<sup>st</sup>.

Sick leave will not be accrued during a calendar month which contains leave without pay (LWOP) totaling ten (10) days or more or 80 hours or more. The LWOP hours do not have to be consecutive.

Sick leave should be requested in advance; however, if the nature of the illness makes advance notice impossible, notification must be given to the supervisor or designated alternate on the first day of absence. A request for sick leave must be submitted within two (2) days after return to work.

Employees who are on sick leave for five (5) or more consecutive work days must furnish a release from an attending physician or a Christian Science Practitioner. If notification is not made in accordance with established procedures, disciplinary measures may be taken at the discretion of the supervisor.

Routinely, absence due to illness or injury will be charged against cumulative leave totals in the following order:

1. earned sick leave
2. earned annual leave
3. catastrophic leave, when authorized
4. leave without pay, when authorized

Prior to a leave without pay status, an employee may choose to use earned holiday leave and/or accumulated compensatory (comp) time for a sick leave purpose.

If an employee is receiving Workers' Compensation benefits, special rules apply to the use of leave time, depending on the circumstances in each case. For guidance in Workers' Compensation situations, the timekeeper should contact the DFA OAS Human Resources Office, Payroll Section at 501-324-9065.

An employee requesting maternity leave may choose to take leave without pay before first exhausting accumulated sick, annual, and holiday leave, and compensatory time. (See section on Family and Medical Leave also)

Effective July 1, 1999, upon retirement, sick leave accrued but not taken will be paid as a lump sum payment as follows:

1. If the employee has accumulated at least 50 days, but less than 60 days, of sick leave, the calculated amount is equal to 50% of the number of accrued sick leave days (rounded to the nearest day) times 50% of the employee's daily salary (annual salary divided by 260);
2. If the employee has accumulated at least 60 days, but less than 70 days, of sick leave, the calculated amount is equal to 60% of the number of accrued sick leave days (rounded to the nearest day) times 60% of the employee's daily salary (annual salary divided by 260);
3. If the employee has accumulated at least 70 days, but less than 80 days, of sick leave, the calculated amount is equal to 70% of the number of accrued sick leave days (rounded to the nearest day) times 70% of the employee's daily salary (annual salary divided by 260);
4. If the employee has accumulated 80 or more days of sick leave, the calculated amount is equal to 80% of the number of accrued sick leave days (rounded to the nearest day) times 80% of the employee's daily salary (annual salary divided by 260).

Paid sick leave taken concurrently with the Family and Medical Leave Act (FMLA) provisions since August of 1993 will be added to the final total of sick leave for the purpose of qualifying for the incentive payout. For example, an employee who has 40

days accrued sick leave upon retirement and who used ten (10) days sick leave as FMLS would qualify for a payout. However, the amount of the payout will be based on the unused sick leave balance at the time of retirement. Retiring employees, who meet all other eligibility requirements, must complete and submit the Sick Leave Incentive Program Notification Form to DFA OAS Human Resources prior to retirement. (Reference the Sick Leave Incentive Program Notification Form)

Act 991 of 2001 extends these sick leave payment benefits upon death of a state employee to his or her estate.

In either situation, a lump sum payment for accrued sick leave cannot exceed \$7,500.

The minimum charge for absence due to sickness is 15 minutes.

### 3. **Family and Medical Leave**

The federal Family and Medical Leave Act (FMLA) of 1993 requires all public agencies to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. DFA employees are eligible if they have worked within state government for at least one (1) year, and for 1,250 hours over the previous 12 months. The employee may receive up to 12 weeks of leave per calendar year.

Unpaid FMLA leave must be granted for any of the following reasons:

1. To care for the employee's child after birth, or placement for adoption or foster care;
2. To care for the employee's spouse, son or daughter (under age 18, or if 18 or older, incapable of self-care due to a mental or physical disability as defined by the Americans with Disabilities Act), or parent who has a serious health condition; or
3. For a serious health condition that makes the employee unable to perform the employee's job.

Family Medical Leave is not a separate paid leave status; it is a federally granted period of time where an employee's job is protected during a time of illness or qualifying event. This period of time can be an extended absence, intermittent, or involve a reduced work schedule. However, effective January 1, 2009, if an eligible employee has unused accrued balances of annual, sick, or holiday leave, and effective January 16, 2009, compensatory time, the employee is required to substitute such paid leave for FMLA related absences before utilizing leave without pay. Catastrophic leave benefits, if approved, will also run concurrent with FMLA. An exception can be made for any employee taking maternity leave; they may elect to use periods of leave without pay instead of their accrued paid balances.

An employee is required to provide the employer with at least 30 days advance notice before FMLA leave is to begin if the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for an employee's or family member's serious health condition. If 30 days notice is not practicable, notice must be given as soon as possible. It is expected that an employee will give notice within no less than one or two working days of learning of the need for leave.

An employee will provide at least verbal notice sufficient to make the supervisor aware of the need for FMLA leave, and the anticipated timing and duration of the leave. DFA will

provide a packet of information and forms for employees requesting FMLA leave. If verbal notice is given by the employee, his or her supervisor may complete the DFA Family and Medical Leave Request (see FMLA forms); however, the employee is required to provide medical certification to support the request for leave. When this is not possible, the employee must provide the certification to the employer within the time frame requested by the employer (at least 15 calendar days after employer notification). Additional certification may be required if the employee is unable to return to work from leave at the end of the original requested period. FMLA leave may be denied or delayed if the medical certification requirements are not met.

If the agency has reason to believe an employee's leave may be FMLA qualifying, the employee will be provided with the FMLA packet promptly. **An absence of more than three (3) consecutive calendar days that involves continuing treatment by a health care provider may be considered sufficient "reason to believe."**

If the agency has knowledge that an employee's requested leave period is covered by FMLA, it is the responsibility of the agency to notify the employee that they have been placed on FMLA leave.

**NOTE:** Employees receiving catastrophic leave and/or workers' compensation benefits may be FMLA qualifying for up to 12 weeks. These awards should run concurrently if eligibility requirements are met.

If the agency does not learn of the reason for an employee's absence until the employee's return (usually a brief period of absence), the employer will provide the FMLA packet promptly; in this case, the employee must notify his or her supervisor within two (2) business days of returning to work of the reason for the leave. If the employee fails to provide notification within the established guidelines, the leave may not qualify for FMLA leave.

Under FMLA, job benefits and protection include:

1. For the duration of FMLA leave, DFA will maintain the employee's health insurance coverage under any "group health plan," under the conditions that the coverage would have been provided if the employee had continued to work (matching portion paid by DFA while employee continues to pay his/her portion);
2. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms;
3. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

## **FAMILY AND MEDICAL LEAVE REQUEST PACKET INSTRUCTIONS**

When an employee requests Family and Medical Leave Act (FMLA) leave, or the supervisor has reason to believe that the absence may be due to a valid FMLA reason, the supervisor should reference the eligibility requirements and determine if the employee meets the requirements of having worked within state government for at least one (1) year (cumulative), and for 1,250 hours over the previous 12 months. If the



employee meets these requirements, the supervisor provides the employee with the FMLA request packet. The packet has (4) parts:

1. Notice of Eligibility and Rights and Responsibilities
2. Employee Rights and Responsibilities under the Family and Medical Leave Act
3. Request for Family and Medical Leave
4. Certification of Health Care Provider

### **Supervisor's Responsibilities**

***Geri Jones in DFA OAS Human Resources (324-9063 or Geri.Jones@dfa.arkansas.gov) will assist you in beginning this process.***

The supervisor completes the first portion of the FMLA packet, Notice of Eligibility and Rights form , and provides it to the employee within five (5) business days, absent extenuating circumstances, of the employee's verbal or written request or the supervisor's determination that the leave may be FMLA qualifying. The Notice of Eligibility form explains eligibility and other rights and requirements to the employee.

The supervisor or designated staff will scan and email or fax the completed Notice of Eligibility form to Geri at the above email address or fax number (501) 371-6014.

**DO NOT PROVIDE THE NOTICE OF ELIGIBILITY FORM TO THE EMPLOYEE WITHOUT CONTACTING DFA OAS HUMAN RESOURCES.**

Once the supervisor has fully completed the Notice of Eligibility form, the original must be provided to the employee directly or by certified mail. If the form is provided to the employee directly, the employee is to read and sign the form, and a copy is maintained by the supervisor and Geri Jones. If the form is mailed to the employee, the return certified receipt will serve as the signature of the employee. In some instances, the response form can be faxed to the employee, but the original Notice of Eligibility form must be mailed to the employee. Again, every effort should be made to provide the employee with the Notice of Eligibility form within five (5) business days of the employee's request for FMLA leave or the supervisor's determination that the leave may be FMLA qualifying.

### **Employee's Responsibilities**

When the supervisor has provided the FMLA packet to the employee, the employee completes the Request for Family and Medical Leave form and submits the request to his/her supervisor for signature. If the eligibility requirements have been met, the supervisor circulates the request for appropriate signatures. (If the employee cannot complete the request form, the supervisor must complete the form for him/her.)

The employee also ensures that the health care provider completes the 4-page certification form within 15 calendar days of the date the response form is completed.

## Supervisor's Responsibilities

After circulating the request form for appropriate signatures as stated above, the supervisor forwards (faxes) a copy of the Notice of Eligibility form with signatures and a copy of the Certification of Health Care Provider form to DFA OAS Human Resources.

The supervisor must also ensure that the leave request forms are completed appropriately, indicating whether the time off is paid or unpaid, continuous, or intermittent. The timekeeper should ensure that leave is keyed accurately to the automated payroll/time accounting system.

If clarification or authenticity of the Certification of Health Care Provider is needed, the supervisor should contact DFA OAS Human Resources immediately.

### **DO NOT CONTACT THE EMPLOYEE'S HEALTH CARE PROVIDER FOR ANY REASON.**

#### 4. **Holiday Leave**

Employees will be granted time off to observe the following regularly scheduled legal holiday, as authorized by Act 567 of 1975, As Amended:

- |  |                          |
|--|--------------------------|
| (1) New Year's Day   | (6) Labor Day            |
| (2) Dr. Martin Luther King, Jr.'s/<br>Robert E. Lee's Birthday | (7) Veteran's Day        |
| (3) George Washington's Birthday/<br>Daisy Gatson Bates' Day   | (8) Thanksgiving Day     |
| (4) Memorial Day   | (9) Christmas Eve        |
| (5) Independence Day   | (10) Christmas Day       |
|  | (11) Employee's Birthday |

The governor may issue an Executive Proclamation and proclaim additional days as holidays in observance of special events or for other reasons, such as inclement weather.

All regular and extra help employees are eligible to receive holiday pay in proportion to their work schedule if they are in pay status at least one (1) hour on their last scheduled work day before the holiday and at least one (1) hour on the first scheduled work day after the holiday.

Regular and extra help employees who work a schedule less than 40 hours per week will have their holiday leave granted in proportion to the hours worked in their regular schedule. For example an employee who works 20 hours per week; the 20 hours is divided by the 5-day workweek which equals 4 hours of holiday pay. Another example is an employee who works 24 hours per week; the 24 hours is divided by the 5-day workweek which equals 4.8 hours of holiday pay; the time is rounded to the nearest 15 minutes, so the employee's time will be entered as 4.75.

When a holiday occurs on an employee's regularly scheduled day off, the employee will be given equivalent time off at a later date. Employees who work holidays will be given equivalent time off.

Effective December 22, 2008, holidays and birthdays will not be forfeited if unused. Holidays accrued but not taken will be paid as a lump sum payment at the time of termination, not to exceed 30 total days of combined annual and holiday time.

Holidays that occur on a Saturday will be observed on the preceding Friday. Holidays that occur on a Sunday will be observed on the following Monday. In the case of an employee birthday that occurs on a Saturday or Sunday, the holiday may not be taken until the following Monday.

The minimum charge for absence due to holiday leave is 15 minutes. Accrued holiday leave must be requested and approved in advance.

5. **Military Leave**

Employees who are members of the National Guard or any of the Reserve Branches of the Armed Forces will be granted leave at the rate of 15 working days per calendar year, plus necessary travel time for annual training or other official training purposes. To the extent this leave is not used in a calendar year, it will accumulate to use in the succeeding calendar year for a maximum carry-over of 15 working days at the beginning of the calendar year. Prior year carry-over added to the current year accrual cannot exceed 30 working days. The leave will be granted without loss of pay and in addition to annual leave.

Personnel called to active duty in emergency situations by the Governor or the President will be granted paid military leave at the rate of 30 working days per calendar year upon the initial deployment. If additional military leave is needed during the calendar year, leave without pay will be granted. This leave will be given in addition to annual leave. If the employee's active duty begins in one calendar year and ends in another calendar year and the employee returns to active state employment and is subsequently re-deployed, the employee will be eligible for an additional 30 days of paid military leave in the new calendar year only in the case of an emergency situation.

Military orders will state "Active Duty," and contain the name of the commanding officer for purposes of verification. The supervisor will verify the validity of the orders and forward to DFA OAS Human Resources for processing in the system. The employee is required to provide contact information (phone number, etc.) for verification if it is not contained in the orders. The timekeeper will maintain a copy of the orders in the employee's official leave file.

Employees on military leave without pay will be eligible for a career service recognition payment if, and when, he/she returns to active employment status from leave of absence. The time spent in the leave of absence is to be counted the same as "time worked" for purposes of computing the career service recognition payment eligibility date.

6. **Disaster Service Volunteer Leave**

Employees who are trained and certified as disaster service volunteers by the American Red Cross may be granted leave from work with pay for not more than 15 working days in any calendar year to participate in specialized disaster relief. For employees to qualify, the Red Cross must request the specialized disaster relief services in connection with a disaster occurring within Arkansas or contiguous states, and consent must be obtained from the DFA Director. The Red Cross will provide pertinent information to DFA regarding certified volunteers.

An employee serving in this capacity will be compensated at the employee's regular rate of pay for those regular hours during which the employee is absent from work.

Additionally, the employee will not have a loss of seniority, annual or sick leave, compensatory time, or overtime wages. An employee serving in this capacity will not be deemed to be an employee of the State for the purposes of workers' compensation. Time sheets and leave request forms will reflect this type of leave if utilized.

**7. Leave Without Pay (LWOP)**

A state employee, upon written request and approval of the DFA Director or his designee, may be eligible to obtain a continuous leave of absence without pay up to six (6) months, for reasons other than the provisions granted for military leave. If the DFA Director or his designee determines that the employee's leave of absence without pay request would cause an undue hardship on the agency, the request may be denied. At the expiration of such leave, the employee will be reinstated in state service without loss of any benefits unless the director or his designee determines that reinstatement would cause an undue hardship on the agency or the position is no longer available due to a budgetary reduction in staff. A request to extend the leave of absence without pay up to an additional six (6) months may be granted unless the director or his designee determines that continuing the leave would cause an undue hardship on the agency or the position is no longer available due to a budgetary reduction in staff. Failure of the employee to report promptly at the end of the leave of absence except for satisfactory reasons submitted in writing in advance will be cause for dismissal. The DFA Director's designee is the appropriate Administrator or Director.

Employees must exhaust all compensatory, annual, and holiday leave (and sick leave in cases of illness) prior to using leave without pay, with the exception of maternity leave, military leave, disciplinary leave, inclement weather as designated by state policy, or due to necessary budget reductions as determined by the DFA Director.

All employees placed on LWOP for less than one (1) full pay period are considered to be in "dock status." If this is an authorized absence, the supervisor should so note on the leave request form and submit it to the timekeeper. The timekeeper will key the appropriate number of LWOP hours to the computerized time sheet to ensure deduction of those hours from the employee's pay.

If the absence is unauthorized, the same process will apply; however, the employee must be disciplined appropriately according to the procedures established in Administrative Memoranda 300.12 (Disciplinary Measures), 300.22 (Unauthorized Absences), 300.22.1 (Leave Abuse Policy), or 300.22.2 (Job Abandonment).

**8. Administrative Leave**

Administrative leave may be granted for various reasons at the discretion of the division/office administrator or the agency director or designee.

Administrative leave for the purpose of utilizing the Employee Assistance Program (EAP) is available to all DFA employees. If an employee chooses to use the benefits offered by the state, appointments with an EAP counselor can be covered by administrative leave, up to a maximum of eight (8) sessions per issue per calendar year. The employee may choose to request accrued leave for the appointments, or may request, through his/her supervisor, the use of administrative leave. The administrative leave provided will be one (1) hour, plus reasonable travel time to and from the appointment. If administrative leave is used, the employee must obtain a "Work Absence Verification" slip from the EAP and provide it to the supervisor to document attendance. All other

information will be kept confidential by EAP, and is not shared with the supervisor or any other DFA representative.

If an EAP counselor refers the employee to a counselor or provider outside the EAP, the appointments will not be covered by administrative leave and are the responsibility of the employee to handle with accrued leave.

9. **Court/Jury Duty Leave**

Effective July 1, 2003, Act 835 of 2003 authorizes court leave with pay only where an employee serves in cases that do not involve personal litigation. "Any employee serving as a juror or subpoenaed as a witness to give a deposition in a court or hearing, not involving personal litigation or service as a paid expert witness outside the scope of state employment, shall be entitled to full compensation in addition to any fees paid for such services, and such services or necessary appearances in any court shall not be counted as annual leave".

Certification from a court on official court stationery must be retained by the timekeeper in the employee's official leave file certifying the number of hours/minutes spent in court. Appropriate travel time should be considered, also. Leave for this purpose will be granted in 15 minutes increments.

10. **Compensatory Time/Overtime Pay**

Compensatory (comp) time is defined as time off earned for work performed in excess of 40 hours in a workweek, and is used as time off in lieu of cash payment for these hours. Timekeepers are required to maintain complete and accurate records regarding compensatory time earned and used.

In accordance with Act 820 of 1985, Section 1, Subsection (H):

Overtime. It is hereby declared to be the Policy of the State of Arkansas that overtime pay for State employees is the least desirable method of compensation for overtime work.

However, this Act further says that the State may pay overtime to its employees under the rules and regulations set out by the federal Fair Labor Standards Act (FLSA). Any overtime work necessary to the continued effective operations of the State will be managed in the most efficient and economic manner possible. (Reference Administrative Memorandum 300.18.1, Compensatory/Overtime Authorization and Use/Payment)

**Earning compensatory time**

Only non-exempt regular and extra help employees are eligible to earn comp time.

Note: Effective July 1, 1996, each office administrator may request a uniform determination regarding whether or not exempt employees within his/her office will be eligible for comp time at straight time.

Requests for determinations or any revisions will be made in writing to the DFA Deputy Director, copy to DFA OAS Human Resources. If exempt employees are determined to be eligible for comp time, those employees must follow the same procedures established for non-exempt employees.

Time worked will be recorded in 15 minute increments. When it is necessary to retain a non-exempt employee past his/her routine work schedule, it becomes comp time only when the time she/he is retained exceeds the standard 40 hour workweek. Comp time will be multiplied by the 1½ rate only for the number of hours (or partial hours) exceeding 40 that are physically worked in the week.

Time worked will be recorded as follows: for every 1 to 7 minutes, round back to the nearest quarter hour; for every 8 to 15 minutes, round up to the nearest quarter hour.

NOTE: The 7- 8 minute rule only applies for timekeeping purposes; if an employee is tardy, disciplinary action should be applied under Administrative Memorandum 300.22 (Unauthorized Absences).

Time worked in excess of the routine work schedule in any one day of a workweek may be offset by scheduling the employee to work a lesser work schedule on a day during the same workweek. This does not constitute comp time, only a readjustment in the employee's work schedule.

Comp time may be used in lieu of sick leave, annual leave, or holiday leave when requested by the employee or when required by the supervisor.

Non-exempt employees, including extra-help, may accrue no more than 240 hours of comp time at time and one-half and 100 hours of comp time at straight time. Any non-exempt employee who exceeds 240 hours of comp time at time and one-half will be paid overtime compensation. Any non-exempt employee who exceeds 100 hours of comp time at straight time will be paid overtime compensation.

Comp time will be calculated at the rate of time and one-half and/or straight time on the employee's time sheet during the week it is earned. Timekeepers are required to record comp time accrued and used by the employee on the comp time chart. The chart should be maintained in the employee's official leave file.

#### **Utilization of compensatory time**

It is usually the choice of the employee how and when comp time is requested. However, supervisors may request or direct employees to use their comp time during a period of time that has minimal impact on the work unit's operations. This action may be taken to reduce the accrued comp time balance and avoid cash payments. Employees who use comp time will need to complete the leave request form. The approved form will be attached to the employee's time sheet. Comp time will be shown as paid leave taken on the employee's time sheet.

The minimum charge for use of comp time is 15 minutes. Comp time must be requested and approved in advance, unless it is in lieu of sick leave.

Lump sum payments will be made for unused comp time whenever a non-exempt employee is separated from the agency.

It is the responsibility of each agency to compensate employees for accumulated comp time prior to their transfer to another agency or institution. If it is not financially feasible to do so, the agency may request an exception from the Office of Personnel Management. DFA will accept the transfer of comp time from another agency/institution

only when notified by the Office of Personnel Management regarding its approval of the exception.

An eligible employee who transfers anywhere within DFA will carry forward unused comp time, unless the employee transfers from a non-exempt position to an exempt position. In this case, a lump sum payment will be issued to the employee.

11. **Catastrophic Leave Bank Program**

Act 169 of 1991 established the Catastrophic Leave Bank Program and Act 1176 of 1999, Act 194 of 2003, and Act 870 of 2009 amended program eligibility. This program permits eligible, regular full-time employees to voluntarily donate annual and/or sick leave and receive catastrophic leave in the form of sick leave from the Catastrophic Leave Bank Program.

State agencies may establish their own leave bank or choose to participate in the DFA—Office of Personnel Management’s Catastrophic Leave Bank Program. DFA has chosen to participate in the DFA—Office of Personnel Management’s Leave Bank.

This program does not create any expectations or promises of continued employment and is merely considered as a means of assisting eligible employees to cope with medical emergencies, injuries, and illness, should they exhaust or expect to exhaust all other leave balances.

Employees should be made aware of this program and encouraged to participate; however, they also must be made aware of the following prohibition concerning coercion:

No employee of an agency participating in the Catastrophic Leave Bank Program shall directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any such employee with respect to donating, receiving, or using annual or sick leave.

Effective April 7, 1999, the Catastrophic Leave Bank Program was expanded. A catastrophic illness is a medical condition of an employee or the spouse or parent of the employee or a child of the employee which may be claimed as a dependent under the Arkansas Income Tax Act of 1929, as certified by a physician (or other individual as provided in Arkansas Code Annotated 21-4-201 et seq.), which requires the employee’s absence from duty for a prolonged period of time and which, except for the Catastrophic Leave Bank Program, would result in a substantial loss of income to the employee because of the exhaustion of all earned sick, annual, holiday, and compensatory leave time.

No employee will be allowed to be a donor of leave if such donation will reduce that employee’s combined accrued sick and annual leave balances to less than 80 hours. (Exception: an employee who is terminating employment may donate all accrued leave time and is not required to maintain the 80 hour leave balance.)

Annual and/or sick leave which has been donated to the Catastrophic Leave Bank Program may not be restored to the employee who donated the leave.

Employees must meet the following six (6) eligibility requirements to be considered as a catastrophic leave recipient:

- a. The employee must be a current state employee who has been employed with the state for at least two (2) years in a regular, full-time position. State service must be continuous. Act 870 of 2009, effective July 31, 2009, further allows a public school district or institution of higher education employee who has been employed for more than two (2) years to be eligible for catastrophic leave. An employee who has less than two (2) years of State service and who was employed by a public school district or state supported institution of higher education for more than two (2) years is also eligible to apply for catastrophic leave; however, the break between the public school/institution service and the state service cannot exceed six (6) months and the combined years of service must total more than two (2) years.
- b. The employee must not have been disciplined for leave abuse within the past two (2) years.
- c. The employee must have exhausted, or is expected to exhaust, all accrued leave. However, the employee, at the onset of the illness or injury, must have had to his/her credit at least 80 hours of combined sick and annual leave. Effective February 21, 2003, the "80-hour requirement" may be waived for an otherwise eligible employee if an "extraordinary circumstance" is declared by the DFA Director due to the applicant providing documentation that one (1) of the following conditions has occurred:
  - (1) The employee applying for catastrophic leave bank program benefits on or after February 21, 2003, had another medically documented catastrophic illness, during the previous two (2) year period, which was not compensated under any State Catastrophic Leave Bank Program and caused the exhaustion of all annual and/or sick leave, or
  - (2) The employee applying for catastrophic leave bank program benefits on or after February 21, 2003, had exhausted his/her sick and annual leave as a direct result of supplementing workers' compensation benefits, during the previous two (2) year period, which were received due to an on-the-job injury or illness with the State of Arkansas.
- d. The employee must have a current Physician's Certification of a medical condition which supports the employee's continued absence and setting forth that the employee is, and will continue to be, unable to perform the employee's duties due to a catastrophic illness of the employee or a qualifying family member.
- e. If the illness or injury is that of an employee and is covered by workers' compensation, the compensation based on catastrophic leave when combined with the weekly workers' compensation benefit received by the employee will not exceed the compensation being received by the employee at the onset of the illness or injury.
- f. No employee will be eligible for approved catastrophic leave in excess of (6) months (1,040 hours) unless it can be ascertained that the employee has been denied disability retirement or social security benefits. However, the employee has the option of re-applying for additional leave at the conclusion of the approved catastrophic leave period.

Catastrophic leave will not be awarded retroactively. Employees on catastrophic leave will continue to accrue leave in accordance with existing state leave policies and will



receive the normal state benefits, including agency contributions to insurance, retirement, etc. Leave earned while an employee is on catastrophic leave will be credited to the catastrophic leave bank.

Applications for catastrophic leave will be considered on a first filed, first reviewed basis. Catastrophic leave which would result in a negative balance in the leave bank will not be approved; approval does not guarantee that a catastrophic leave applicant will receive leave should there be a zero balance in the leave bank. For detailed information, reference the catastrophic leave bank forms.

12. **Workers' Compensation**

Workers' Compensation is a benefit provided to injured workers or their dependents in the event of the worker's death. It provides compensation when employees are unable to work because of a job related disability no matter who was at fault.

All DFA employees are covered by the Workers' Compensation System. The cost of this protection is paid by the employer. No contribution is made by the employee. Benefits are tax free and not subject to social security deductions.

**Public Employee Claims Division (PECD) is the state agency responsible for workers' compensation claims for state employees. This is the agency that determines eligibility and provides any medical or compensation benefits an injured worker is entitled to receive.**

To begin the process for filing a workers' compensation claim the supervisor contacts Geri Jones in DFA OAS Human Resources at 324-9063 to report work-related injuries and to obtain information regarding the necessary forms for filing a workers' compensation claim. Geri will assist the supervisor and employee in selecting a physician from the Arkansas Directory of Preferred Providers and in completing the forms and reporting the injury. If it is an emergency, the supervisor should direct the employee to use the nearest doctor or emergency room.

13. **Children's Educational Activity Leave**

Act 1028 of 2007 allows full-time state employees up to eight (8) hours of children's educational activity leave per calendar year. Children are defined as persons enrolled in prekindergarten through grade 12 and are related to the state employee as a natural child, adopted child, stepchild, foster child, grandchild, ward of the employee by legal guardianship or custodial rights, or any other legal capacity whereby the employee is acting as a parent for the child. Educational activity means any school-sponsored activity including a parent-teacher conference, participation in school-sponsored tutoring, participation in school-sponsored volunteer program, field trip, classroom program, school committee meeting, academic competition, and assisting with athletic, music, or theater programs. The unused leave may not be carried forward into a new calendar year and is not compensable at the time of retirement.