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ADMINISTRATIVE REGULATION
NUMBER 220

OPR: PERSONNEL

DEPARTMENTAL LEAVE POLICY

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes responsibilities, policies, and procedures for employee use of leave.

II. POLICY

It is the policy of the ADOC that compensation, allocation, and granting of employee work and leave time is administered in accordance with current merit system rules and regulations.

III. DEFINITIONS AND ACRONYMS

- A. **Annual Leave**: Leave accrued on a semi-monthly basis by employees in regular and permanent positions, including provisional appointments.
- B. **Bereavement Leave**: Leave advanced, in accordance with State Personnel Rules, to an employee who does **not** have accrued leave available to use for the death of an immediate family member or person related by blood.
- C. **Catastrophic Illness or Injury**: Illness or injury from which an individual will never fully recover the ability to work, is life threatening, or requires a recuperation period of approximately one (1) year or more.
- D. **Compensatory Leave**: Leave awarded to non-exempt employees in lieu of overtime pay for those hours physically worked over 40 hours in a week pursuant to the Fair Labor Standards Act.

- E. **Compensatory Time**: State policy granting compensatory time, rather than wages, to compensate employees subject to the provisions of the Fair Labor Standards Act (FLSA) for performing overtime work.
- F. **Donated Leave**: The contribution of sick leave, annual leave, or compensatory time from one state employee to another.
- G. **eSTART**: The time and attendance application utilized by the ADOC to manage employee time, attendance, and leave for the purpose of processing payroll.
- H. **Family and Medical Leave Act (FMLA)**: The act which establishes various medical reasons for job-protected leave.
- I. **Fair Labor Standards Act (FLSA)**: This act establishes the minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.
- J. **Health Care Provider**: Any physician, hospital, or other person which is licensed or otherwise authorized in this state to furnish health care services. This includes nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized under state law and who are performing within the scope of their practice as defined by state law.
- K. **Holiday Leave**: Time accumulated by an employee who works on a state holiday or when the holiday falls on a scheduled off day.
- L. **Immediate Family**: For the purpose of this AR, wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, daughter-in-law, and son-in-law.
- M. **Job Abandonment**: Three (3) consecutive days of unexcused absences where the employee fails to call in or report for duty and there is no supervisory contact with the employee.
- N. **Leave Without Pay (LWOP)**: Absence from duty without pay.
- O. **Mandatory Leave**: Placement of an employee on leave (Annual, Compensatory, and/or Holiday) by the Commissioner, or his/her designee, under certain circumstances when it is deemed that the employee's absence from work serves the best interest of the ADOC.
- P. **Military Leave**: Approved leave to be used by an employee with military obligations not to exceed 168 working hours per calendar year.

- Q. **Non-Essential Personnel**: Employees who are not necessary at a Facility/ Division to sustain operations during a specified period.
- R. **Other Types of Leave**:
1. **Blood Donations**: An employee shall be granted two (2) hours Blood Leave if they donate blood for special blood drives announced by the Governor's Office and/or blood drives coordinated at the Facility/Division with the Commissioner's approval, without charge or loss of pay.
 2. **Court Attendance**: An employee required to serve in the capacity as a juror shall be carried in work status to attend court.
 3. **Inclement Weather**: For the purpose of this regulation, any weather-related situation which may prevent employees in significant number from reporting for work or may necessitate the closing of ADOC offices in whole or in part.
 4. **Voting**: Leave authorized for the purpose of voting.
- S. **Personal Leave Day**: One (1) leave day accrued for individuals employed on January 1st of each year, except those employed in Baldwin and Mobile Counties.
- T. **Related by Blood**: Limited to within the fourth (4th) degree or "first cousin" of the employee.
- U. **Serious Health Condition**: An illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of employee's job or prevents the qualified family member from participating in the school or other daily activities of the employee's job.
- V. **Sick Leave**: The absence from duty of an employee because of: (1) illness; (2) bodily injury not incurred in the line of duty, or bodily injury or occupational illness incurred in line of duty, but for which special leave is not granted; (3) attendance upon members of the immediate family whose illness requires the care of such employee; (4) death in the immediate family of the employee.

IV. **RESPONSIBILITIES**

- A. The ADOC Personnel Director shall be responsible for ensuring that the leave practices of the ADOC are consistent with federal and state laws, and the Rules of the State Personnel Department.

- B. The Chief Financial Officer (CFO)/Payroll Unit Manager shall be responsible for ensuring accurate and timely processing of payroll for new, existing, and separating employees and ensuring compliance with relevant federal and state laws, and Rules of the State Personnel Department.
- C. The Wardens/Division Directors shall be responsible for developing their Facility or Division's Standard Operating Procedures (SOPs), as necessary, for the implementation of this AR.
- D. All ADOC employees are responsible for maintaining compliance with this AR.

V. PROCEDURES

- A. Annual Leave: Employees in regular, permanent positions, including provisional appointees, earn annual leave with pay based on 24 semi-monthly pay periods. Temporary and retired state employees, as well as certain hourly employees, are not eligible to accumulate annual leave.
 - 1. Annual leave for full time employees is accumulated according to the following schedule set forth in 670-X-13-.02 of the Alabama Administrative Code:

Total Service	Accumulation/ Pay Period	Accumulation Annually
Less than 5 years	4 hours 20 minutes	13 days
5 through 9 years	5 hours 25 minutes	16 days 2 hours
10 through 14 years	6 hours 30 minutes	19 days 4 hours
15 years through 19 years	7 hours 35 minutes	22 days 6 hours
20 years through 24 years	8 hours 40 minutes	26 days
25 years or more	9 hours 45 minutes	29 days 2 hours

2. Annual leave is not accrued to an employee until the completion of a pay period and cannot be used by the employee sooner than it is accrued. An employee must be in pay status 80% of his/her work schedule to receive leave accruals.
3. Annual leave with pay is not a right for which an employee may make a demand, but a privilege granted in accordance with prescribed rules and regulations, to which the ADOC may make exceptions as the best interest of the service demand. At the discretion of the Commissioner, or his/her designee, employees may be required to maintain a minimum number of annual leave hours.
4. Leave shall be used in no less than 15-minute increments.
5. An employee may use annual leave only with the prior approval of his/her supervisor. A leave request should be submitted in eSTART before the leave event for supervisory review and approval or disapproval.
6. An employee who is assigned to work at a facility is required to submit projected annual leave to his/her immediate supervisor at least thirty (30) days prior to the end of the calendar year for the next year.
 - a. The supervisor shall review the projected annual leave requests, and, using seniority, award each person on the shift leave in one (1) week increments until all persons assigned to the shift have had an opportunity to receive leave.
 - b. Projected leave shall not be guaranteed if an employee changes shifts/divisions.
7. An employee can accumulate more than 480 hours of annual leave during a calendar year; however, no more than 480 hours can be carried into the next calendar year.
 - a. An employee who fails to submit timely leave requests may be directed to take leave by his/her immediate supervisor.
 - b. Section 36-26-35(e), *Code of Alabama* (1975), states that any ADOC employee in a merit classification requiring certification as a correctional or law enforcement officer by the Alabama Peace Officers' Standards and Training Commission may receive payment for any accrued and unused annual leave hours in excess of 480 hours, up to a maximum of 80 hours per year. Payment shall be calculated using the employee's regular rate of pay (excluding pay differentials).

8. Upon separating from service, an employee is paid for the actual number of hours of annual leave he/she accumulated, up to a maximum of 480 hours. The leave payment is based on the base hourly pay rate the employee is earning at the time of separation. Should an employee return to service, his/her absence must be for a longer period than the amount of annual leave paid (excludes reemployment as a Retired State Employee). The maximum leave payout of 480 hours applies to the entirety of an employee's state service tenure. If an employee has already received a leave payout and subsequently returns to state service, they are only entitled to receive additional leave payouts totaling up to 480 hours in total. For instance, if an employee left state service and was paid for 300 hours of leave, they would only be eligible for a future leave payout of up to 180 hours should they rejoin state service.

B. Sick Leave:

1. An employee shall be entitled to accumulate four (4) hours and twenty (20) minutes of sick leave for each semi-monthly period of service.
2. Employees can accumulate over 1,200 hours of sick leave during the calendar year, however, no more than 150 days (1,200 hours) of sick leave can be carried over to the next calendar year. All sick leave earned exceeding 1,200 hours will be placed in an excess sick leave account at the end of the calendar year. Once sick leave is placed in the excess account, normal sick leave usages will not decrease the excess sick leave balance. In other words, all normal sick leave will be charged to the employee's regular sick leave, not the excess sick leave account. Sick leave placed in excess may be used at the request of the employee with the approval of the employee's appointing authority.
3. The Rules of the State Personnel Board define sick leave to mean the absence from duty of an employee because of: (1) illness; (2) bodily injury not incurred in line of duty, or bodily injury or occupational illness incurred in line of duty, but for which special leave is not granted; (3) attendance upon members of the immediate family whose illness requires the care of such employee; (4) death in the immediate family of the employee.

Immediate family is hereby defined to include wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, daughter-in-law, and son-in-law. Where unusually strong personal ties exist, due to an employee's having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case the employee concerned shall file with the ADOC Personnel Director, or his/her designee, through his/her chain of command, a written statement of the circumstances which justify an exception to the general rule.

4. Sick leave is not credited to an employee until the completion of a pay period and cannot be used by the employee sooner than it is credited. An employee must be in pay status 80% of his/her work schedule to receive leave accruals.
5. Sick leave with pay is not a right for which an employee may make a demand, but a privilege granted in accordance with prescribed rules and regulations, to which the ADOC may make exceptions as the best interest of the service demand. At the discretion of the Commissioner, or his/her designee, employees may be required to maintain a minimum number of sick leave hours.
6. An employee should secure advance approval for sick leave requests for scheduled doctor's visits (general physician, specialists, dentists, orthodontists, etc.); inpatient hospital stays; and planned medical tests and procedures. Such leave requests should be submitted using eSTART.
7. In the event the employee submits an "emergency" sick leave request (e.g., unexpected illness), the employee must directly notify his/her supervisor(s) as soon as possible.
8. If an employee has been absent from work due to sickness for three (3) consecutive days, the employee shall:
 - a. Provide a doctor's verification of sickness to their supervisor. Failure to provide medical documentation may result in the employee receiving LWOP and Employee Corrective Action for Unexcused Absences.
 - b. If an employee misses more than three (3) consecutive scheduled workdays, then see FMLA (Section M) for instructions.
9. Misuse/Abuse of Sick Leave:
 - a. The supervisor shall periodically review employee use of sick leave and be alert for possible misuse/abuse, which could include, but not be limited to:
 - (1) A low balance of sick leave in relationship to length of employment.
 - (2) The appearance of using sick leave as fast as it is accrued.
 - (3) Frequently using sick leave in conjunction with their off days, or scheduled leave days.

- (4) Other patterns of abuse.
 - b. Should the supervisor suspect abuse of sick leave by the employee, the supervisor shall submit a recommendation to the Warden/Division Director for review and disposition.
 - c. Based upon this review, the Warden/Division Director may require that the employee produce documentation to support all claims for the use of sick leave. Failure to provide medical documentation may result in the employee receiving LWOP and Employee Corrective Action for Unexcused Absences.
 - d. Calling in sick on a day previously requested as leave and subsequently disapproved by the supervisor may result in the employee receiving LWOP and Employee Corrective Action for Unexcused Absence, unless medical documentation is provided.
 - e. Calling in sick during special events, such as, but not limited to, sporting events (Super Bowl, Iron Bowl, classics, tournaments), weddings, etc. may result in the employee receiving LWOP and Employee Corrective Action for Unexcused Absence, unless adequate medical documentation is provided.
 - f. Upon review of the employee produced documentation and the Warden/Division Director determination that there is an abuse of sick leave, the employee shall be:
 - (1) Required to submit a doctor's excuse for each subsequent call-in and/or request for use of sick leave for a period of not less than six (6) months. At the end of the six (6) month period, the Warden/Division Director shall either discontinue or extend the requirement for doctor's excuses.
 - (2) Subjected to corrective action, when applicable, in accordance with AR 208, *Employee Corrective Action*.
 - g. Any employee calling in sick when scheduled for advanced mandated overtime may result in the employee receiving Employee Corrective Action for Unexcused Absence, unless medical documentation is provided.
10. Death of Employee's Immediate Family Member:
- a. In the case of a death of an employee's immediate family member, the employee may be granted sick leave from the day of death

through the day of the funeral, not to exceed a maximum of five (5) working days.

- b. Other leave time may be granted for travel and time required for settling the affairs of the deceased.
- c. Any leave time taken over the five (5) days sick leave must be charged as compensatory, holiday, annual, and/or LWOP, as approved by the immediate supervisor.
- d. In the case where the employee does not have accrued leave available to use for the death of an immediate family member, the employee may be advanced a maximum of three (3) days of bereavement leave per occurrence.
 - (1) Leave must be repaid in the form of leave days, including sick leave, annual leave, holiday leave, or compensatory leave, within one (1) calendar year.
 - (2) An employee that has separated from state service prior to repaying the leave shall have the remaining liability deducted from their final paycheck.

11. Death of a Person Related by Blood (other than immediate family member):

- a. In the case of death of a person related by blood through the fourth (4th) degree (or first cousin), but not considered as immediate family, the employee may be granted leave from the day of the death through the day of the funeral, not to exceed a maximum of three (3) working days.
- b. Additional leave may be granted for travel.
- c. In the case where the employee does not have accrued leave available, the employee may be advanced a maximum of three (3) days of bereavement leave per occurrence.
 - (1) Leave must be repaid in the form of leave days, including sick leave, annual leave, holiday leave, or compensatory leave, within one (1) calendar year.
 - (2) An employee who separates from state service prior to repaying the leave shall have the remaining liability deducted from their final paycheck.

12. Restoration of Sick Leave. An employee who separated from state service in good standing and is rehired by the ADOC within four (4) years from the separation date, may submit a request to the ADOC Personnel Division to have his/her accumulated sick leave balance restored. The request must also be made within the same four (4) years. Approvals for such requests must be obtained from the Commissioner, or his/her designee, and the State Personnel Director.
13. Donated Leave:
 - a. State law permits the donation of leave from one state employee to another state employee when certain conditions are met and upon the approval of the Commissioner, or his/her designee, and the State Personnel Director. The Commissioner, or his/her designee, has the discretion to allow or deny donated leave for an employee.
 - b. To be eligible to receive donated leave, the employee must have suffered a catastrophic illness or injury or be a caregiver for a member of their immediate family with a catastrophic illness or injury.
 - (1) A catastrophic illness or injury has been defined as one from which an individual will never fully recover the ability to work, is life threatening, or requires a recuperation period of approximately one (1) year or more.
 - (2) The catastrophic illness must be certified by a licensed physician and approved by the State Personnel Director.
 - (3) If an employee requests donated leave as the caregiver for an immediate family member, then the physician's statement must include verbiage to explain why the employee's presence is required and provide details about the family member's catastrophic illness/injury.
 - c. An employee eligible for maternity leave may qualify for donated leave. An employee may receive up to six (6) weeks of donated leave for a vaginal birth and up to eight (8) weeks of donated leave for a Cesarean-Section (C-Section) from date of delivery. Employees may also be eligible for donated leave for disabilities due to pregnancy. Examples of disability due to pregnancy are later-term miscarriage or bed rest due to a specific life-threatening situation. A physician's verification of the pregnancy or disability due to pregnancy is required.

- d. An employee may qualify for donated leave for adoption. The eligible employee may only receive up to two (2) weeks of donated leave per adoption. Donated leave for adoption can only be utilized after the adoption has been finalized by the court. Intermittent use of donated leave for adoption is not permitted.
- e. The following policies and procedures must be followed to comply with the State donated leave program:
 - (1) An employee may receive leave donations from another employee in an equal or higher pay grade.
 - (2) The employee may only receive donated leave after he/she exhausts all available leave balances. For donated leave requests for adoption, an employee may only receive donated leave after he/she exhausts all annual leave.
 - (3) For an employee in a lower pay grade to donate to employee in a higher pay grade, they must be immediate family (such as a parent/legal guardian, child, or spouse).
 - (4) Individuals who do not qualify as immediate family members are the employee's in-laws, siblings, ex-spouses, aunts, uncles, cousins, grandparents, grandchildren, and children over the age of 18 (unless the child has a serious health condition that prohibits the child from self-care).
 - (5) No employee may receive more than 480 hours of donated leave throughout his/her career with the State without the approval of the State Personnel Board.
 - (6) Leave shall be donated and taken in whole hours only.
 - (7) Employees may only donate annual, sick, or compensatory leave, but leave will be credited to the beneficiary employee as sick leave (employees cannot donate excess sick leave). Employees may only donate annual leave for the purpose of an adoption.
 - (8) An employee who is leaving state service is not allowed to donate more leave than he/she could take prior to separation date.
 - (9) Receiving and using donated leave does not protect an employee's job if he/she exhausts the 12-week period covered by FMLA.

- (10) If the employee is absent more than the time initially approved by State Personnel, a State Personnel Department Form 25, *Request for Donated Leave*, must be submitted with updated medical documentation from the treating physician certifying that the employee remains incapacitated with the same illness/injury.
 - (11) Employees are strictly prohibited from soliciting leave donations from co-workers. "Solicitation" for the purposes of this AR is defined as any communication in which a person(s) requests/suggests, or otherwise encourages, the donation of leave to/from individuals. All donations must be given freely, upon the sole initiation of the donating individual, without any influence from others.
- f. To request donated leave, the beneficiary employee must complete and submit State Personnel Department Form 25, *Request for Donated Leave*, along with the supporting physician's statement/documentation to the Facility/Divisional Payroll Clerk, who will forward the information to the ADOC Personnel Division for the review of the Director/designee, and then to the Commissioner/designee for final approval or disapproval.
 - g. ADOC Personnel will submit the donated leave request to the State Personnel Director for review and approval.
 - h. If approved by the State Personnel Director, ADOC Personnel will send notification to all ADOC facilities/staff. Notifications regarding executive level staff will only be sent to those employees at an equal or higher pay grade in order to limit the distribution of medical information.
 - i. ADOC employees who desire to donate leave should coordinate with the Payroll Clerk assigned to his/her respective facility/division to complete and submit State Personnel Form 25A, *Request to Donate Leave*.
 - j. Once the Form 25A, *Request to Donate Leave*, has been approved by the State Personnel Director, the leave no longer belongs to the donating employee.
 - k. Requests for donated leave and associated information shall be filed in the employee's medical file.

C. Holiday Leave/Duty

1. Holiday Leave: Legal holidays as established by Alabama law and on other days as the Governor may designate (e.g., Juneteenth). The following are legal holidays:

- a. New Year's Day - January 1
- b. Martin Luther King, Jr./Robert E. Lee's Birthday - 3rd Monday in January
- c. Mardi Gras Day - Mobile & Baldwin Counties*
- d. George Washington/Thomas Jefferson's Birthday - 3rd Monday in February
- e. Confederate Memorial Day - 4th Monday in April
- f. National Memorial Day - Last Monday in May
- g. Jefferson Davis' Birthday - 1st Monday in June
- h. Independence Day - July 4
- i. Labor Day - 1st Monday in September
- j. Columbus Day/Fraternal Day/American Indian Heritage Day - 2nd Monday in October
- k. Veterans' Day - November 11
- l. Thanksgiving Day - 4th Thursday in November
- m. Christmas Day - December 25

* Personal Leave Day for all other counties (See definition of Personal Leave Day)

2. An employee must be in pay status a minimum of half his/her workday before and after the holiday to be entitled to receive the holiday. This means employees who are on suspension or leave without pay before or after a holiday will not be eligible for the holiday leave benefit.

3. Full-time employees who work on a holiday shall accrue holiday time based on the number of work hours of their regularly assigned shift (i.e., 8-hour or 12-hour shift).
4. For a part-time employee, if the holiday falls on the employee's regular workday, then he/she may receive the amount of time for which he/she is normally paid.
5. An employee will accumulate holiday leave when a holiday falls on a day he/she works or has a scheduled off-day.
6. Holiday leave shall not accrue while an employee is on paid leave. Instead, the holiday is used.
7. Holiday Duty: Wardens/Division Directors are authorized to approve essential employees to work on official holidays as required to maintain ADOC operations and programs.
 - a. ADOC employees who are required to work on official state holidays will receive compensatory leave or paid compensation in accordance with state law and procedures.
 - b. An employee who works on a holiday shall be scheduled off within the quarter it was earned unless it is operationally infeasible to schedule the employee off due to extenuating circumstances (e.g., staffing shortage).
 - c. An employee who does not use a holiday in the quarter it was earned has the option to either be paid for the holiday or carry it forward for up to one year. Such a request must be in writing (specifying the holiday(s) to be paid) and sent directly to the ADOC Payroll Unit Manager for processing.
 - d. An employee shall not accrue more than 160 hours of holiday leave.
 - e. An employee who does not use holiday leave within one year of accrual shall receive payment following procedures established by the CFO/Payroll Unit Manager.

D. Personal Leave Day:

1. All ADOC employees, including full-time temporary employees, employed on January 1st and in pay status a minimum of half of his/her pay scheduled workday before and after January 1st will be granted a personal leave day (except those in Mobile and Baldwin counties who receive Mardi Gras Day).

2. Employees hired on or after January 1st are not eligible for the personal leave day during the calendar year in which they were appointed.
 3. An employee is required to use the personal leave day on the first full day of leave (non-sick leave event), and it must be used by the end of the calendar year.
 4. An employee should submit a leave request in advance to his/her supervisor for approval or disapproval.
 5. Full-time employees shall accrue a personal leave day that equals the number of hours of the employee's regular duty shift (i.e., 8-hours or 12-hours).
 6. Part-time employees accrue a personal leave day on a proportional rate to the number of hours they work.
 7. Paid compensation to employees who did not use their personal leave day by December 31 of any calendar year must be approved by the State Personnel Director.
- E. Compensatory Time: Leave granted an employee for work in excess of 40 hours per workweek.
1. The maximum amount of accumulated compensatory time allowed is 240 hours for non-law enforcement positions and 480 hours for law enforcement positions.
 2. Upon separation from state service, an employee is entitled to be paid for accumulated compensatory time at his/her regular rate of pay (excludes pay differential).
 3. Accumulated compensatory time obligations are not transferable from department to department. Accumulated compensatory time must be liquidated by the department in which the obligation was incurred.
 4. Employees promoted to an exempt FLSA job must have any compensatory time liquidated by payment at the last rate of pay earned in the FLSA non-exempt classification.
 5. Accumulated compensatory time is to be used before annual leave unless this would cause the loss of accumulated annual leave at the end of the calendar year. Supervisors are authorized to schedule the use of compensatory time for the employee.

6. Employees who have compensatory time and submit a request to use annual leave should be instructed to change his/her leave request to compensatory time rather than annual leave (eSTART makes automatic changes January 1 through July 31).
 7. See AR 212, *Overtime Work*, for specific regulations governing overtime work and compensatory time eligibility.
- F. Leave Cascade (Order of Leave Usage): Employee leave usage, other than qualifying sick leave, should be charged as follows:

January 1 – July 31

August 1 – December 31

Holiday Leave*	Personal Leave Day
Compensatory Time	Holiday Leave*
Excess Annual Leave	Excess Annual Leave
Annual Leave	Compensatory Time Annual Leave

*Scheduled by the supervisor as earned within the quarter or requested by the employee.

- G. Time Off for Interviews:
1. If an employee is interviewing for a promotional position within the ADOC, the employee shall be afforded only such time as is required to complete the interview, to include transit time. An employee shall not be compensated for interviews that occur during their non-duty hours or on their scheduled off-day.
 2. If an employee desires to laterally transfer from one Facility/Division within the ADOC, the employee shall schedule the interview on their scheduled off-day, or request time off.
 3. If an employee is interviewing for a position outside of the ADOC, the employee shall complete the process on their scheduled off-day, or request time off.
 4. In the case where abuse is suspected, the Warden/Division Director shall notify the employee in writing that he or she shall complete the process on their scheduled off-day, or request time off. A copy of this document shall be placed in the employee's personnel file.

H. Time Off for State Personnel Department Testing:

1. If an employee is testing for a promotional position within the ADOC, the employee shall be afforded only such time as is required to complete the test, to include transit time. An employee shall not be compensated for testing that occurs during their non-duty hours or on their scheduled off-day.
2. If an employee is testing for a position outside of the ADOC, the employee shall complete the process on their scheduled off-day, or request time off.
3. In the case where abuse is suspected, the Warden/Division Director shall notify the employee in writing that he or she shall complete the process on their scheduled off-day, or request time off. A copy of this document shall be placed in the employee's personnel file.

I. Work Time for Administrative Hearing:

1. During Scheduled Work Time: If an employee is scheduled to attend an administrative hearing/conference as a witness or participant during their scheduled work time, the employee shall be afforded only such time as their presence is required at the hearing/conference.
2. During Scheduled Off Time: If an employee is scheduled to attend an administrative hearing/conference as a witness or participant during their scheduled off time, the employee shall be compensated only for such time as their presence is required at the hearing (a minimum of two (2) hours).

J. Time Off for Blood Donations:

1. An employee is granted two (2) hours of Blood leave per sanctioned blood drive (American Red Cross or Life South), for donating blood.
2. The employee shall provide his/her immediate supervisor the document provided by the sanctioned blood drive vendor that they have donated blood.
3. The immediate supervisor shall:
 - a. Submit the original document to the institutional/ divisional Payroll Clerk.
 - b. The Payroll Clerk shall ensure that the employee is credited with two (2) hours of Blood leave in eSTART.

- c. A copy of the document shall be filed in the employee's personnel record.
 - 4. Blood donation leave is limited to four (4) hours per calendar year.
 - 5. The employee shall use these hours of leave by the end of the pay period following the date the blood donation was made.
- K. Voting Time: An employee shall, with reasonable notice to his/her supervisor, be permitted to take necessary time off from his/her work to vote in any municipal, county, state, or federal political party primary or election for which the employee is qualified and registered to vote on the day on which the primary or election is held. The necessary time off shall not exceed one (1) hour and if the hours of work of the employee commences at least two (2) hours after the opening polls or ends at least one (1) hour prior to the closing of the polls, then the time off for voting shall not be available.
- 1. Section 17-1-5, *Code of Alabama (1975)*, specifies that employees are not allowed additional time to vote "if the hours of work of the employee commence at least two (2) hours after the opening of the polls or end at least one (1) hour prior to the closing of the polls." Most schedules do not qualify employees to receive additional time off for voting.
 - 2. An employee whose schedule falls outside these parameters shall, with reasonable notice to his/her supervisor, be permitted to take time off from work (time shall not exceed one (1) hour) to vote in any municipal, county, state, or federal political party primary or election for which the employee is qualified and registered to vote on the day on which the primary or election is held.
- L. Court Attendance (Jury) Leave:
- 1. Pursuant to § 12-16-8, *Code of Alabama (1975)*, ADOC employees who receive a summons for jury duty shall be granted Court Attendance Leave with pay for the day(s) he/she must serve on a jury panel.
 - a. Hourly employees will take LWOP to attend jury duty, unless the jury duty falls at a time in which they are normally scheduled to work.
 - b. Employees must coordinate scheduling with their supervisors and submit/complete supporting documentation.
 - 2. An employee called for jury service is excused from work for the day(s) during which he/she is required to serve. In other words, until the employee is released from jury service (which includes the jury selection

process) his/her primary responsibility is to that service and he/she must be excused from work to perform that service.

- a. Employees who serve over six (6) hours are excused from work for the day during which the court releases them from jury service and must return to work for his/her next regularly scheduled shift.
 - b. Employees who serve less than six (6) hours can be excused from work only if he/she is excused by his/her supervisor and on authorized paid leave.
3. To help ensure employees are not exhausted from long work schedules when reporting for jury duty, the following applies:
 - a. Supervisors will adjust the work schedule of an employee required to perform jury duty to allow reporting at the earliest normal start time the day before he/she is set to begin service.
 - b. The combined time of jury duty and work hours will not exceed eight (8) hours total for that day. If an employee is required to report for jury duty the following day, the supervisor will not schedule that employee to work after 6:00 P.M.
 - c. Supervisors will minimize the period an employee would need to work to complete normal scheduled duty after the court releases the juror from jury duty for that day.
 - d. The employee is not required to reimburse the ADOC the jury expense allowance received from the courts.
4. As a Witness During Scheduled Work Time: If an employee is required to serve as a witness for an ADOC case during their scheduled work time, the employee shall be considered in work status; and, the employee is entitled to travel expenses and per diem. The employee must reimburse their witness fee to the ADOC.
5. As a Witness During Scheduled Off Time: If an employee is required to serve as a witness on an ADOC case during their scheduled off time, the employee shall be considered in work status; and, the employee is entitled to compensatory time for the time involved, travel expenses and per diem. The employee must reimburse their witness fee to the ADOC.
6. As a Witness in their Individual Capacity: If an employee is required to serve as a witness in their individual capacity, the employee shall be required to submit a leave request to be scheduled for the time off.

7. An employee who is subpoenaed to be present for the trial of a defendant charged with a criminal homicide related to the death of a law enforcement officer in the line a duty shall be granted paid leave for any time the employee is required to attend the trial. Likewise, when a state employee who is the parent of a deceased law enforcement officer is requested by either the district attorney or the Attorney General to be present for the trial of a defendant charged with criminal homicide related to the death of the law enforcement officer (i.e., the child of the state employee) killed in the line of duty, the state employee (i.e., the parent) will be granted paid leave for any time he/she is required to attend the criminal trial. (§ 36-26-36.4, Ala. Code 1975).

M. Family and Medical Leave Act, (FMLA):

1. It is the policy of the ADOC to not unlawfully interfere with, restrain, or deny the exercise of any right provided to its employees under the FMLA, and to not discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.
2. FMLA entitles eligible employees to take up to 12 weeks (26 weeks for certain military-related reasons) of unpaid, job-protected leave in a 12-month period for specified family and medical-related reasons (employee use of accrued leave balances runs concurrently with unpaid FMLA leave).
3. The following are terms and their definitions as applicable under the FMLA:
 - a. Chronic condition: A condition that requires periodic visits for treatment by a healthcare provider at least twice a year, continues over an extended period of time, includes recurring episodes of a single underlying condition, and may cause episodic incapacity rather than continuing incapacity.
 - b. Eligible employee: An employee who has been employed by the ADOC for at least 12 months, which need not be continuous, and has physically worked at least 1,250 hours for the ADOC over the past 12 months.
 - c. Family Member: An employee's spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term "parent" does not include a spouse's parent, or "in-law." The terms "son" and "daughter" do not include individuals 18 years of age or older, unless they are "incapable of self-care" because of a mental or physical disability that limits one or more of the "major life activities" as those terms are defined in regulations issued by the

Equal Employment Opportunity Commission ("EEOC") under the Americans with Disabilities Act ("ADA").

- d. Healthcare provider: Healthcare providers who may provide certification of a serious health condition include:
 - (1) Doctors of Medicine or osteopathy authorized by the State to practice medicine or surgery (as appropriate) in the area in which the doctor practices.
 - (2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as shown on an X-ray) authorized to practice in the State and who perform within the scope of their practice under State law.
 - (3) Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under State law and who perform within the scope of their practice as defined under State law.
 - (4) Any healthcare provider recognized by the employer or the employer's group health plan's benefits manager.
 - (5) A healthcare provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.
- e. Qualifying exigency: A non-medical activity directly related to the covered servicemember's active duty or deployment to a foreign country or call to duty. Qualifying exigencies include short-notice deployment (7 days), military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation (15 days), post-deployment activities (90) days, caregiver to military member's parents, and other considerations agreed upon by the ADOC and the employee.
 - (1) Time for childcare allows employees to arrange for alternative childcare, or to provide childcare on an urgent, immediate need basis, but not on a routine, regular, or everyday basis.
 - (2) Leave to handle qualifying exigencies is available to family members of the active members of the Armed Services as well as members of the Reserves or Guard.

- f. Serious health condition: An illness, injury, impairment, or physical or mental condition that involves:
- (1) Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.
 - (2) A period of incapacity requiring absence of more than three (3) consecutive calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a healthcare provider.
 - (3) Any period of incapacity due to pregnancy or for prenatal care.
 - (4) Any period of incapacity (or treatment for incapacity) due to a chronic condition (e.g., asthma, diabetes, epilepsy).
 - (5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases).
 - (6) Any absences to receive multiple treatments (including any period of recovery) by, or on referral by, a healthcare provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis).
 - (7) A serious health condition does not include routine physical examinations, eye examinations, dental examinations, common cold, flu, earaches, upset stomach, minor ulcers, or headaches with the exception of migraines, unless there is a complication. Unless there is a complication, FMLA does not cover cosmetic treatments such as plastic surgery. Moreover, an employee who is absent due to drug or alcohol use does not qualify for FMLA leave, unless the employee is absent for inpatient treatment of this condition.
- g. Traditional FMLA Entitlements:
- (1) Eligible employees may take up to 12 workweeks (480 hours) per 12-month period for one (1) or more of the following reasons:
 - (a) Birth of an employee's child, including but not limited to prenatal doctor appointments, morning sickness, bed rest,

childbirth, and care for the newborn child within the first 12 months after birth.

(b) Placement of a child with the employee for adoption or foster care, including but not limited to court appearances, social work home visits, attorney appointments, and to bond with the child within the first 12 months after placement.

(c) To care for an immediate family member who has a serious health condition.

(d) For a serious health condition that makes the employee unable to perform the essential functions of his/her job.

(2) The 12-month period is not a calendar year but rather a rolling year, which is measured 12 months backwards from the date an employee takes any FMLA leave. For each time an employee takes FMLA leave, the remaining leave entitlement will be the balance of the 12 weeks (480 hours) which the employee has not used during the immediate preceding 12 months. Certain circumstances allow FMLA leave to be applied retroactively.

(3) State holidays for which the employee is paid do not count toward the 12-week FMLA period (480 hours). Any leave an employee takes due to an on-the-job injury covered by the State Employee Injury Compensation Trust Fund ("SEICTF") may be concurrently designated as FMLA leave if the employee meets the FMLA criteria.

(4) Spouses employed by the State but in different agencies are each entitled to a maximum of 12 weeks (480 hours) for the birth or placement of a child for adoption or foster care. However, if ADOC employs both spouses, they are entitled to a combined maximum of 12 weeks (480 hours). Leave may begin prior to birth or placement, as circumstances dictate. If an employee's child or spouse is seriously ill, both the employee and his/her spouse each are entitled to 12 weeks (480 hours) of leave, whether they are employed in different agencies or the same agency.

h. Military FMLA Entitlements: Unless stated otherwise, the above procedures for traditional FMLA apply to Military FMLA.

- (1) To qualify for leave under the Military FMLA provisions, an employee must be eligible for Traditional FMLA leave and be either:
 - (a) The parent, spouse, child, sibling, grandparent, aunt, uncle, first cousin, or anyone designated by a service member in the Regular Armed Forces, National Guard, or a Reserve component of the Armed Forces, or of an Armed Forces retiree, who is on active duty (or has been notified of an impending call or order to active duty) in a foreign country; or
 - (b) The spouse, son, daughter, parent, or next of kin of a covered servicemember or a veteran who served within the last five (5) years and is undergoing medical treatment, recuperation, or therapy, who is otherwise in outpatient status, or is on the temporary disability retired list for a serious injury or illness. The serious illness or injury is one the member incurred in the line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating. A serious illness or injury can result from aggravating a pre-existing condition due to active duty, as well as the manifestation of a condition which requires treatment, recuperation, or therapy within five (5) years after the individual leaves the military.
- (2) Under the Military FMLA, eligible employees may be able to take:
 - (a) Up to 12 work weeks of leave in a 12-month period because of a qualifying exigency that arises out of the fact that a spouse, parent, or child is called to or is on covered active military duty, if they must be deployed to a foreign country; or
 - (b) Up to 26 work weeks of leave in a 12-month period to care for a covered servicemember who has a serious injury or illness. This 12-month period is measured forward from the beginning date of leave.
- (3) Eligible employees may take leave under Military FMLA when the illness or injury occurred in the line of duty, existed before active duty, or was aggravated by service in the line of duty and manifested before or after becoming a veteran and is:

- (a) A continuation of a serious injury or illness incurred or aggravated when the veteran served as a member of the Armed Forces, and which rendered the servicemember unable to perform the duties of his/her office, grade, rank or rating;
 - (b) A physical or mental condition for which the veteran received a service-related disability rating of 50% or greater and the leave is related to the condition;
 - (c) A physical or mental condition that substantially impairs the veteran's ability to work because of a disability related to military service or would do so absent treatment; or an injury, including a psychological injury, on the basis of which the veteran is enrolled in the VA Program of Comprehensive Assistance for Family Caregivers.
- (4) Employees may take a total combined leave of 26 weeks for qualifying reasons during the caregiver leave year – basically when the 2 leave years overlap. For example, if an employee takes 12 weeks of leave for the birth of a child, when he/she went on leave to care for a covered servicemember, a new leave year would begin. Servicemember care leave must be run on a measured forward basis, no matter what leave year is identified for the other reasons for leave.

i. Leave Usage:

- (1) The 12-week FMLA leave entitlement is to be charged concurrently with accumulated sick leave, personal leave day, annual leave, compensatory time, or leave without pay.
- (2) Any FMLA leave taken for a single condition should be taken all at one time. An employee may take FMLA leave intermittently or by reducing his/her work schedule to care for a family member with a serious health condition or for the employee's own serious health condition, only if medically necessary and with proper medical certification. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt ADOC operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

- (3) For the birth of a child, the employee must use sick leave for only the period of disability. Generally, six (6) weeks is the recovery period for the birth of a child. Additional time charged to sick leave must be documented by correspondence from a medical care provider. All other leave must be taken from any portion of available annual leave and personal leave day. In the event the employee does not have sufficient leave, the remaining time off will be leave without pay.
- (4) For the adoption of a child, the employee must use annual leave and his/her personal leave day. Additional time off must be leave without pay.
- (5) When an employee is on an FMLA-reduced work schedule, which the Commissioner, or his/her designee, must approve, time not worked during the work week will be charged against the employee's FMLA leave balance.

j. Employee Responsibilities:

- (1) Notice of Leave: The employee must submit a request to take FMLA leave to the same person(s) the employee ordinarily contacts to request other forms of leave, usually his/her supervisor. When an employee requests leave, he/she must:
 - (a) Supply sufficient information for the ADOC to be aware that FMLA may apply to the leave request, as well as information regarding the anticipated timing and duration of leave.
 - (b) Request FMLA-qualifying leave at least 30 days in advance of the need for leave, or as soon as possible. If 30 days' notice is not possible, such as a medical emergency, the employee must give his/her supervisor written notification within one (1) or two (2) business days of when he/she knows of the need for leave.
 - (c) Make a reasonable effort to schedule foreseeable leave that is least disruptive to work operations, subject to the doctor's approval.
 - (d) Cooperate with all requests for information regarding whether absences qualify for FMLA.

- (2) Leave Certification: All ADOC employees must certify his/her need for FMLA leave within 15 days of receiving notice of such requirement. If an employee refuses to provide a certification, the ADOC may deny his/her leave request, and the employee may be disciplined. There are separate certification forms for the different types of leave:
- (a) Leave to care for the employee's own serious health condition Form WH-380E, *Certification of Health Care Provider for Employee's Serious Health Condition under the Family and Medical Leave Act*.
 - (b) Leave to care for a family member's serious health condition Form WH-380F, *Certification of Health Care Provider for Family Member's Serious Health Condition*.
 - (c) Leave to handle a qualifying exigency due to active Military Duty Form WH-384, *Certification for Military Family Leave for Qualifying Exigency under the Family and Medical Leave Act*.
 - (d) Leave to care for a family member injured or made ill in the line of Military Duty Form WH-385, *Certification for Serious Injury or Illness of a Current Servicemember for Military Caregiver Leave under the Family and Medical Leave Act*.

If the employee provides an incomplete or insufficient certification, the ADOC Personnel Division will send the employee written notification of what edits or omission he/she needs to address on the certification, after which the employee has seven (7) days to provide a corrected certification. Employees who do not provide enough information to the ADOC regarding leave may risk the leave request being denied.

The ADOC Personnel Director, or his/her supervisor, at his/her discretion and at the expense of the ADOC, may require a second medical opinion if there is a reasonable question regarding the medical certification the employee provided with his/her request. The doctor who provides the second medical opinion cannot be regularly employed by the ADOC. If the first and second opinions differ, the ADOC, at its own expense, may require a third healthcare provider, approved jointly by the employee and the ADOC, to provide a binding opinion. In lieu of a second opinion, the ADOC Personnel Division, after

securing the employee's permission, may contact the healthcare provider to clarify a medical certification. ADOC Personnel Division and/or ADOC legal counsel, without the employee's permission, may contact the healthcare provider to authenticate any medical certification. The immediate supervisor may not contact the healthcare provider.

The ADOC Personnel Division may seek authentication and/or clarification of medical information but will not seek a second opinion or recertification for military caregiver leave. However, the ADOC Personnel Division, without the employee's permission, may contact the appropriate parties for verification that a covered military servicemember is on active duty or called to active-duty status.

The ADOC may require the employee to provide periodic recertification on a reasonable basis, generally 30 days, for chronic/long-term illness. The ADOC may request a recertification in less than 30 days if the employee asks for an extension of leave, circumstances have changed, or the ADOC has doubts about the employee's FMLA status. While on FMLA leave, as defined by the ADOC, the employee is required to report periodically on the status of the condition and/or intention to return to work.

- (3) Fitness for Duty Certifications: Because the ADOC wishes to ensure the wellbeing of all employees, any employee returning from FMLA leave for his/her own serious health condition will need to provide a fitness-for-duty certification signed by his/her healthcare provider indicating his/her ability to perform all essential functions of the position. An employee who fails to provide a fitness-for-duty certification will be prohibited from returning to work until he/she provides the certification and may be subject to Employee Correctional Action (ECA) up to and including termination from employment.

k. Employer Responsibilities:

- (1) Notice of Eligibility/Qualification: The ADOC Personnel Division will inform employees requesting leave whether they are eligible under FMLA by sending them a Form WH-381, *Notice of Eligibility and Rights and Responsibilities Form*. In addition to notifying the employee of his/her eligibility for leave, the notice also specifies any additional information required, as well as the employee's rights and responsibilities.

Once the employee provides sufficient information, the ADOC Personnel Division will notify the employee via a Form WH-382, *Designation Notice Form*, if the leave is FMLA-protected and the amount of leave available to be counted against the employee's leave entitlement, if such information is available. If the ADOC determines that the leave is not FMLA-protected, Form WH-382 will be used to notify the employee.

- (2) **Maintenance of Health Benefits:** During FMLA leave, the employee's individual group insurance benefits will be maintained at the same level and under the same conditions as if the employee is working. If an employee must take FMLA LWOP, there is no adjustment to his/her leave progression start date. The employee must pay standard employee premiums and dependent insurance coverage directly to the State Employees' Insurance Board. If an employee elects not to return to work after the approved leave concludes, or returns for less than 30 days, he/she may be required to reimburse the ADOC for the employer's portion of the premiums paid on his/her behalf during the leave period. Insurance premium reimbursement does not apply to employees who are unable to return to work due to the continuation, recurrence, or onset of a serious health condition, or if the employee retires immediately.
- (3) **Job Restoration:** An employee returning from FMLA leave must be restored to his/her original job, or to an equivalent job with equivalent pay, benefits, and other terms and employment conditions. Additionally, an employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.

Under specified and limited circumstances where restoring an employee to a position will cause substantial and grievous economic injury to its operations, an employer may refuse to reinstate certain highly paid "key" employees after they use FMLA leave. To refuse reinstatement to key employees, the ADOC must notify the employee in writing of the employee's status as a key employee and the reason(s) the ADOC is denying job restoration. The ADOC will provide the employee a reasonable opportunity to return to work after he/she is notified of his/ her status as a key employee.

In addition to denying reinstatement in certain circumstances to "key" employees, the ADOC is not required to continue FMLA

benefits or reinstate employees who would have been laid off or otherwise terminated if they continued to work during the FMLA leave period as, for example, due to a general layoff.

Employees who give unequivocal notice that they do not intend to return to work will lose their entitlement to FMLA leave. Employees who are unable to return to work and have exhausted their 12 weeks (480 hours) of FMLA leave in the designated "12-month period" no longer have FMLA protections of leave or job restoration.

Employees involved in disciplinary actions prior to using FMLA leave will still be under those actions after returning to work from an FMLA leave of absence.

- l. Enforcement: If an eligible employee has a complaint regarding an alleged FMLA violation, he/she should follow the complaint procedures for reporting discrimination and harassment violations (see AR 206, *Harassment and Discrimination Policy*). If the employee remains dissatisfied after pursuing this course of action, he/she may contact the State Personnel Department or the Wage and Hour Division of the U.S. Department of Labor. A notice approved by the Secretary of Labor explaining an employee's rights and responsibilities under the FMLA is displayed on bulletin boards throughout the ADOC.
- m. The State Personnel Department provides FMLA training for supervisors. The Warden/Division Director shall submit a request for supervisors to attend FMLA training to the ADOC Personnel Division. The ADOC Personnel Division shall inform the Warden/Division Director when the supervisor is scheduled to attend the FMLA training.

N. Inclement Weather and Emergency Situations:

1. An employee who is scheduled to work is expected to report unless otherwise notified by an authorized ADOC official. This is regardless of any inclement weather or emergency situation such as heavy snow or severe icing conditions, floods, severe storms, massive power failures, major fires, or serious interruptions to public transportation caused by incidents such as strikes or mass demonstrations.
2. The Governor of Alabama shall make decisions regarding the conditions necessitating the Emergency Closure of all State agencies or those within a geographic region.

3. The Commissioner shall have the discretion to make decisions regarding conditions affecting the ADOC and its responsibility to sustain operations at all its facilities.
4. The following standards apply during inclement weather/emergency situations:
 - a. The health and safety of employees in inclement weather/emergency situations is a matter of prime concern to the ADOC; yet facility operations cannot be suspended or interrupted even though it may be necessary to excuse non-essential employees for all or part of a day (essential employees are required to report to work).
 - b. Employees are required to make every reasonable effort to report for work as scheduled if operations are being maintained at the employee's work location. If reasonable attempts to report to work fail, the employee shall contact his/her supervisor prior to starting the workday to explain the circumstances that prevent him/her from working. Failure to provide timely notification and/or documentation supporting an absence could result in an unexcused absence and/or corrective action.
 - c. The Warden/Division Director, or his/her designee, shall make all reasonable efforts to notify non-essential employees of a date and time to return to work.
 - d. Employees who are assigned to work locations covered by an official Emergency Closure announcement and who are absent due to the Closure are not required to use accrued leave.
 - e. Employees who report to work when others fail to do so shall not receive compensatory or other time off.
 - f. Employees may not modify leave status already in effect upon an official closure announcement.
 - g. Temporary/part-time employees are paid only for time worked or if normally scheduled to work during an Emergency Closure and only for the time scheduled to work.
 - h. Standard policies governing attendance and pay will be in effect for tardiness and/or absenteeism due to weather or other emergency situations during any period not declared as an Emergency Closure. Absences due to an employee's personal circumstances require the employee to use accrued leave or, should paid leave be unavailable, leave without pay. An employee may not use sick leave to account for

such scenarios. Supervisors may require employees to provide verifying information to justify such absences.

- i. Employees not directly affected by the conditions warranting Emergency Closure, or who are not scheduled to work during such times, shall not accrue any right to, and shall not be compensated in any manner for, any absence that may be authorized for the employees directly affected.
- j. This policy only applies to an employee's principal place of residence. An employee who is not at his/her principal place of residence (i.e., beach, lake house, vacation) and is unable to report to scheduled duty due to any of the above conditions shall use accrued leave to cover his/her absence from work. Supervisors may require employees to provide verifying information to justify such absences.
- k. The guidelines prescribed in this AR are intended to cover the majority of situations and the majority of employees in any one location, regardless of the nature of employment. Nevertheless, no provisions of these guidelines may be applied in contravention of contractual agreements, agency instructions or guidelines.

O. Mandatory Leave:

- 1. The Commissioner, or his/her designee, with the approval of the State Personnel Director, may require an employee to use accumulated annual leave under certain circumstances when he/she deems the employee's absence from work to be in the best interest of the ADOC. Examples of circumstances where mandatory leave may be appropriate:
 - a. A period of time when the employee is under investigation to determine if there is a need for a corrective action proceeding.
 - b. The period of time pending a corrective action proceeding after the employee has received notice of such proceeding.
 - c. At such times as the employee is physically incapacitated from performing the work assignment, such as in a state of intoxication.
- 2. If a situation requiring mandatory leave arises during regular work hours, the Warden/Division Director, or his/her designee, should expeditiously contact the ADOC Personnel Director to advise him/her of the situation. The ADOC Personnel Director then must notify the State Personnel Director and obtain verbal authorization prior to placing the employee on mandatory leave. Once authorized, the employee will be notified of his/her

placement on mandatory leave by the Warden/Division Director or his/her designee.

3. This leave is requested and approved in ten (10) workday increments. The Commissioner, or his/her designee, may request from the State Personnel Director an extension of Mandatory Leave, also in ten (10) workday increments.
4. Mandatory Leave may require that employees use Annual, Compensatory and/or Holiday leave, or in cases where employees have exhausted their leave, they will be placed on Leave Without Pay.
5. Normal shifts and work schedules should not be adjusted to a Monday-Friday 8:00am-5:00pm schedule to apply mandatory leave. Mandatory leave is charged according to the employee's normal working shift and schedule.
6. Mandatory Leave without pay cannot be used unless preceded by a notice to the employee that such action is contemplated, and the employee has an opportunity to be heard in response to the notice.

P. Leave Without Pay (LWOP):

1. Employees are expected to remain in pay status and use paid leave to cover all absences from work. Unless FMLA covers the absence, employees who exhaust all forms of paid leave and use LWOP to cover an absence from work may be subject to Employee Corrective Action.
2. Should a situation arise where an employee must be out of work for an extended period and exhausts his/her annual leave balance, he/she can submit a written request for leave without pay, through his/her supervisory chain of command to his/her Associate/Deputy Commissioner, or his/her designee. The request will be forwarded to the ADOC Personnel Director, who will forward the request to the Commissioner for consideration. An employee who fails to obtain written approval for an extended leave of absence prior to beginning such leave may be subject to Employee Corrective Action.
3. The Commissioner, or his/her designee, must approve an employee's request for an extended leave of absence prior to the onset of such leave, and will approve or disapprove the request based upon what is best for the ADOC. According to Chapter 670-x-15.03 of the Alabama Administrative Code, the Commissioner may grant, in writing, a leave of absence without pay for a period not to exceed one (1) year, subject to final approval by the State Personnel Director, when the need for leave is not connected to a medical condition protected under the FMLA.

4. Employees should submit LWOP requests only when necessary and must not abuse such requests. An extended leave of absence will not be approved for employees to pursue other employment, work other jobs, go into business for oneself, or for discretionary leave purposes (e.g., vacation).
5. Unless the leave is protected under FMLA, any employee whose LWOP usage exceeds 19 consecutive days must pay their health insurance premium. Regardless of the reason the employee is on LWOP, the employee is responsible for paying the employee's portion of his/her health insurance premium, as well as any applicable dependent care coverage premiums. The employee's failure to maintain payment of health insurance premiums will result in cancellation of coverage. Consequently, upon returning to work, the employee must re-enroll for health insurance benefits under the same conditions required of a new employee.
6. Once such leave of absence expires, the ADOC shall reinstate the employee to a position in the classification he/she occupied at the time the leave was granted, even though this may require terminating the individual hired to perform the employee's duties during his/her leave of absence. The ADOC will interpret an employee's failure to report for duty promptly when his/her leave of absence expires as a voluntary resignation from state service.
7. Should operations necessitate such action, the ADOC may ask an employee who is on an approved leave of absence to return to work before his/her leave of absence expires. Should he/she fail to return to work as notified, the State Personnel Director shall declare the position vacant and will fill it by means prescribed for filling vacant positions.

Q. Call-in Procedures:

1. Every employee is responsible for reporting to work at the appropriate work site or duty post ready to begin work at the scheduled time.
2. If an employee is not able to report at the scheduled time, he/she is responsible for calling in prior to the beginning of the scheduled work period.
3. Security personnel shall call-in not less than two (2) hours prior to their beginning duty time.
4. Non-security personnel shall call-in not less than one (1) hour prior to their beginning duty time.
5. Employees are expected to personally make the required notification.

6. If an employee can't make it to work on time for their scheduled shift because of an unexpected event like a flat tire or car trouble, they need to advise their supervisor or designated contact right away, even if it's after the usual notification period. The employee should explain what happened and give an estimate of when they will arrive. Supervisors might ask for proof to confirm the reason for the absence.
7. Only in cases of extreme illness and/or emergencies which can be supported by documentation will someone else be allowed to call in for an employee.

R. Job Abandonment:

1. The Warden/Division Director shall notify the ADOC Personnel Division of an employee's separation after three (3) consecutive unexcused/unreported absences
2. The ADOC Personnel Director/Designee, on behalf of the Commissioner, shall compose and send a letter to the employee, formally accepting the employee's resignation via job abandonment. This letter will also notify the employee that he/she is not recommended for reemployment with the ADOC.
3. The Warden/Division Director/Designee shall contact the separated employee to coordinate the retrieval of any ADOC equipment or credentials that are unaccounted for, in accordance with AR 201, *Issue and Control of Employee Identification Cards*.
4. An employee who abandons his/her job shall not be allowed to return to work.

S. Military Leave and Reinstatement Rights:

1. Eligibility: Employees who take part in military duties are eligible for benefits under this policy. Such military duties include leaves of absence taken by members of the Uniformed Services, including the National Guard or Naval Militia, the Alabama State Guard organized in lieu of the National Guard, the civilian auxiliary of the U.S. Air Force (Civil Air Patrol), the National Disaster Medical System, or the reserve components of the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard. Subject to certain exceptions under applicable state laws, these benefits are generally limited to five (5) years' leave of absence.
2. Employee Procedures for Military Leave:

- a. The employee must submit a Military Leave Request on an Application for Military Leave (State Personnel Department's Form 14) at least ten (10) days in advance, except in extenuating circumstances.
- b. The employee must coordinate with supervisor, co-workers, and outside entities prior to military service to ensure they are aware of current and upcoming work responsibilities. For example, a law enforcement officer should notify local clerks' offices, district attorneys, judges, etc., of pending military service and request that his/her cases receive priority during upcoming court dates. A law enforcement officer also should close out any opened or ongoing investigations, inquiries, cases, reports, etc., or request that those responsibilities be re-assigned to a colleague.
- c. Various circumstances such as length of absence and Division operations may require a deploying employee to turn in his/her assigned equipment. The ADOC will re-issue the equipment to the employee upon his/her return from military service.
- d. The employee shall notify his/her supervisor of any change to military leave status/orders (e.g., change in service end date, anticipated return to work date) as far in advance as is reasonable under the circumstances. Written notice is preferred but not required. The supervisor will forward information relative to this change to the Facility/Divisional Payroll Clerk, who will then forward the information to ADOC Payroll Unit.
- e. To conserve time and facilitate shift scheduling, employees may submit applications for weekend drills covering several months at a time.
- f. Employees shall provide military orders as verification of call to and dates of active service. In addition, upon completion of that active service, employees shall provide a certificate of attendance OR a Leave and Earnings Statement (LES) to verify attendance.
 - (1) A copy of the military orders or certificate of attendance shall be maintained in the employee's Facility/Division file and the ADOC Personnel Division's files.
 - (2) Facility/Division Pay Clerks shall forward a copy of the employee's military orders and Application for Military Leave (State Personnel Department Form 14) to ADOC Payroll Unit.

- (3) Facility heads/Division Directors/ Designees must provide the names and numbers of activated employees to ADOC Payroll Unit on a weekly basis.
- g. APOSTC certified correctional and law enforcement officers will coordinate with appropriate ADOC staff to determine how to satisfy ADOC training requirements.
 - h. An employee may file an application in writing to the State Personnel Director for an indefinite leave of absence to honorably serve in any component of the U.S. Armed Forces, pursuant to § 36-26-31, Code of Alabama 1975.
- 3. Military Leave with Pay: Qualifying employees are entitled to receive up to 168 hours (21 days) of paid leave per calendar year. An employee who is activated under orders of the Governor of Alabama for state emergencies, such as a natural disaster and under executive orders of the United States of America for a national conflict during separate periods in the same year, may be eligible for an additional 168 working hours (21 days) of paid military leave.
- 4. Options for Using Accrued Leave for Military Leave: In addition to 168 hours of military leave with pay, employees may remain in pay status by using all or part of their accrued leave balances (excluding sick leave) during the period of absence due to military service.
 - a. For any calendar year, an active-duty employee shall be placed on paid military leave before the use of accrued leave or placement on military leave without pay.
 - b. An employee who chooses to use paid leave (e.g., annual, compensatory, holiday, and/or personal day) to remain in pay status must use the leave consecutively. Sporadic use of paid leave is not permitted.
 - c. An absence because of military duty shall not be deducted from an employee's accumulated annual, compensatory, holiday, or personal day leave balance except when elected by the employee.
- 5. Military Leave Without Pay: Employees shall be granted military leave without pay for the duty indicated in the military orders that is not covered by military leave with pay or by the employee's use of his/her accrued leave (e.g., annual, compensatory, holiday, and/or personal day).
 - a. An employee's service date is not affected by military leave without pay. However, after an employee has been on military leave without

pay more than 19 consecutive workdays, he/she will be placed in official leave without pay status. In such a scenario, the employee will need to coordinate with the State Employees' Insurance Board to ensure continuation of health-insurance benefits.

- b. Employees do not accrue leave while in military leave without pay status.
6. Differential Pay: An employee on military leave without pay (MLWOP) may receive compensation for the difference between his/her lower military basic pay and his/her higher state salary if called into active service for 30 or more consecutive days during the War on Terrorism which commenced in September 2001 (Act 2002-430).
- a. Requests for military differential pay must be made in accordance with the reinstatement requirements of Uniformed Services Employment and Reemployment Rights Act (USERRA), a federal law ensuring that employees who serve in the uniformed services are granted certain employment rights and protections, including the right to reemployment after military service, nondiscrimination based on military service, and entitlement to benefits and seniority as if they had been continuously employed.
 - b. Requests for military differential pay shall be made on the Military Leave/Differential Request Form (State Military Department's Form 1).
 - c. The employee shall provide the completed State Military Department Form 1 with the Notarized Release, a copy of his/her U.S. Military Form DD 214 and orders (if not already on file), and military payroll information (LES) to the Facility/Division Pay Clerk.
 - d. The Institutional/Divisional Pay Clerk forwards the Form 1 with Notarized Release, U.S. Military Form DD 214 and orders (if applicable), the employee's military payroll information (LES), and leave and work record as generated through the Labor Management System to ADOC Payroll.
 - e. ADOC Payroll Unit shall complete the Certificate of Military Service in accordance with Act 2002-430 (State Military Department's Form 2) and submit it along with the above documents to the State Military Department for certification that the duty performed was for War on Terrorism /Homeland Security.
 - f. ADOC Payroll Unit shall calculate the difference between the active-duty base pay and the state salary based on the number of days of

active service using the Military Differential Pay Worksheet (State Military Department's Form 4).

- g. ADOC Payroll Unit shall complete the Military Differential One Time Payment (1 PAY) (State Military Department's Form 3) and forward the total package to the State Personnel Department for processing.

7. Reinstatement Rights:

- a. Reemployment rights extend to persons who were absent from a position of employment for performing duty in the Uniformed Services. Upon an employee's oral or written prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending on the employee's period of military service:

(1) Less than 91 days of military service:

- (a) In a position the employee would have attained if military service had not interrupted his/her employment; or
- (b) If found not qualified for such position after reasonable efforts by the ADOC, in the position in which the employee had been employed prior to military service.

(2) More than 90 days and less than 5 years of military service:

- (a) In a position the employee would have attained if employment if military service had not interrupted his/her employment or a position of like seniority, status, and pay, the duties of which the employee is qualified to perform; or
- (b) If proven not qualified after reasonable efforts by the ADOC, in the position the employee left, or a position of like seniority, status, and pay, the duties of which the employee is qualified to perform.

- (3) Employee with a service-connected disability: If, after reasonable accommodation efforts by the ADOC, an employee with a service-connected disability is not qualified for employment in the position he/she would have attained or in the position that he/she left, the employee will be employed in:

- (a) Any other position of similar seniority, status, and pay for which the employee is qualified or could become qualified with reasonable efforts by the ADOC; or
 - (b) If no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.
- b. The cumulative length of service that causes a person's absences from a position may not exceed five (5) years. USERRA lists eight (8) categories of service that are exempt from the five (5)-year limitation:
 - (1) Service to complete an initial period of obligated service.
 - (2) Service from which the employee, through no fault of his/her own, cannot obtain a release within the five (5)-year limit (e.g., a service member on deployment at sea when the five (5)-year limitation expires).
 - (3) Required training for reservists and National Guard members.
 - (4) Service under an involuntary order for active duty during domestic emergency or national-security-related situations.
 - (5) Service on active duty because of a war or national emergency declared by the President or Congress (other than training).
 - (6) Active duty by volunteers supporting "operational missions" for which Reservists are ordered to active duty without their consent (other than for training).
 - (7) Service by volunteers ordered to active duty in support of a "critical mission or requirement" in times other than war or national emergency and when no involuntary call up is in effect.
 - (8) Federal service by members of the National Guard whom the President calls into action to suppress an insurrection, repel an invasion, or to execute the laws of the United States.
- c. Application for Reemployment: In order to be entitled to the reemployment rights set forth above, an employee who engaged in military service must submit an oral or written application for reemployment according to the following schedule:

(1) If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service): The employee must report for reemployment at the beginning of the first full regularly-scheduled working period on the first calendar day following completion of service and the expiration of eight (8) hours after a time for safe transportation back to the employee's residence.

(2) If service is for 31 days or more but less than 181 days:

The employee must submit a reemployment application with ADOC Payroll Unit within 14 days after completing service.

(3) If service is over 180 days:

The employee must submit a reemployment application with ADOC Payroll Unit within 90 days after completing service.

(4) If the employee is hospitalized or convalescing from a service-connected injury:

The employee must submit a reemployment application with ADOC Payroll Unit within two (2) years after he/she completes service.

d. Exceptions to Reemployment: In addition to the employee's failure to timely apply for reemployment, an employee is not entitled to reinstatement as described above if any of the following conditions exist:

(1) The ADOC's circumstances have changed such that reemployment is impossible or unreasonable;

(2) Reemployment would pose an undue hardship upon the ADOC;

(3) The employee's employment prior to the military service was a brief, non-recurrent period, with no reasonable expectation that the employment would have continued indefinitely or for a significant period;

(4) The employee did not receive an honorable discharge from military service.

8. Leave Restoration:

- a. An Attorney General's Opinion of § 31-12-8, *Code of Alabama* (1975), (2009 Cum. Supp.) (Section 8 of Act No. 2002-430), requires the State to reinstate annual leave that a reservist in State employment felt compelled or required to take under the circumstances and in the exercise of his/her independent judgment as a result of being called to active duty in the War Against Terrorism.
- b. An employee who meets the requirements of this law and uses annual leave in such a manner can submit a request to restore the leave. If qualified, any leave an employee used before or during activation that the employee certifies he/she used for this purpose will be restored to the leave balances.
- c. The employee must complete the Military Leave and Differential Request, Form 1, attach his/her military orders, and submit the package to ADOC Payroll Unit, which will verify the amount of annual leave used and submit the Military Leave/Differential Request (Form 1), the Certificate of Military Service Form (Form 2), military orders and the leave detail to the State Military Department.
 - (1) The employee shall provide the completed State Military Department's Form 1 with Notarized Release and a copy of his/her U. S. Military Form DD 214, Certificate of Release or Discharge from Active Duty, and orders (if not already on file) to the Institutional/ Divisional Pay Clerk.
 - (2) The Institutional/Divisional Pay Clerk shall forward the Form 1 with Notarized Release, U.S. Military Form DD 214, military orders (if applicable), and the employee's leave and work record generated from the Leave Management System to ADOC Payroll Unit.
 - (3) ADOC Payroll Unit shall complete the Certificate of Military Service Form in accordance with Act 2002-430, (State Military Department's Form 2). The total package shall be submitted to the State Personnel Department for approval and processing.
- d. Annual leave hours can be restored only once and will not be restored until the employee returns from active duty.
- e. Any annual leave restored that increases the employee's leave balance to more than 480 hours can be carried over to January 1 of the following year. The employee then has one (1) calendar year to use the excess annual leave. If the employee does not use the excess annual leave during this calendar year, he/she cannot carry it over a second time and will lose it.

- f. If an employee is reactivated, previously restored annual leave hours cannot be included in the calculation for restoring annual leave hours the employee used during the second or subsequent deployment. For example, if an employee has an annual leave balance of 480 hours and uses 400 hours during the initial activation, the 400 hours will be restored. If the employee is subsequently reactivated, he/she will be entitled to restore the 80 hours remaining from the original 480 hours, plus any annual leave time accrued during the 400 hours of annual leave usage.
- 9. Health and Related Benefits Upon Reinstatement:
 - a. Health Insurance Coverage: When the employee returns to state service, he/she shall complete a Health Insurance Enrollment Form. Employees may contact the State Employees' Insurance Board to obtain specific information regarding the re-enrollment process.
 - b. Retirement Credit: Employees reinstated to state service after active military duty are entitled to retirement service credit for periods of military leave without pay. Specific information regarding this process can be obtained by contacting the Employees' Retirement System of Alabama.
- 10. Other Provisions Associated with Military Leave:
 - a. The timeline for the probationary performance appraisal shall be frozen until the employee returns from active service.
 - (1) The Institutional/Divisional Pay Clerk shall immediately notify the ADOC Personnel Division when a probationary employee is activated and when he/she returns from activation.
 - (2) If the employee achieves permanent status, the permanent status date shall be backdated to reflect the date the employee would have completed probation but for his/her military service.
 - (3) Military employees on probation shall be terminated for cause only.
 - b. An annual raise date should not be adjusted due to an employee being on military leave without pay. An annual raise cannot be granted unless the Agency submits an annual performance evaluation.

- c. An employee's seniority shall not be reduced or affected in any way as a result of military service. Employees may bid for shift and off-days in absentia or upon return from military duty.
- d. Supervisors should use information from the previous review period to complete performance appraisals while the employee is on military leave. Since the employee is not available for signature, the supervisor should write "Military Leave" in the employee signature location on the appropriate appraisal form.
- e. Military employees returning within the timelines set by USERRA may request to take any current promotional examinations missed as a result of active service to the State Personnel Department.
- f. Military leave will not be considered hours worked for the purposes of computing overtime.
- g. Military leave is granted for both voluntary and mandatory service.

T. Living Donor Leave:

- 1. An employee with permanent status and at least one year of service may be granted Living Donor Leave (LDL) with pay for donating an organ or bone marrow. The employee does not have to exhaust his/her leave to request and receive LDL. The employee must submit verification of the donation by the physician performing the medical procedure. The employee may receive up to seven (7) days for donating bone marrow and up to thirty (30) days for donating an organ.
- 2. An employee requesting LDL must submit a copy of the physician's donation verification. Requests approved by the Commissioner will be sent to the State Personnel Director for review and approval. The State Personnel Director must approve LDL prior to the medical procedure.

VI. DISPOSITION

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

VII. ANNEXES AND FORMS

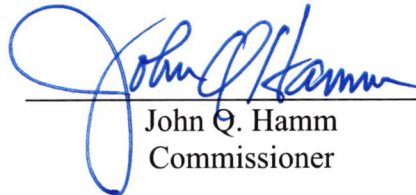
Forms mentioned in this AR are found in ADOC Share Point Document Center.

VIII. SUPERSEDES

This Administrative Regulation supersedes AR 200, *Military Services Benefits*, dated June 17, 2005, AR 203, *Holiday Duty*, dated June 27, 2005, and AR 220, *Departmental Leave Policy*, dated March 26, 2010, and any changes.

IX. PERFORMANCE

- A. Code of Alabama 1975 § 14-1-1.1, 31-12-8 *et seq.*
- B. Uniformed Services Employment and Reemployment Rights Act (USERRA)
- C. United States Department of Labor, Family and Medical Leave Act (FMLA) of 1993.
- D. United State Department of Labor, Employee Standards Administration, Wage and Hour Division.
- E. United States Department of Labor, The Fair Labor Standards Act (FLSA).



John Q. Hamm
Commissioner