

Wisconsin Human Resources Handbook

Chapter 740

Leave of Absence Without Pay

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Sec. 740.010 Introduction

The following handbook chapter provides technical and procedural information to assist appointing authorities in interpreting and administering the Leave of Absence Without Pay provisions for certain state employees. For represented public safety employees, the provisions of this chapter may be superseded by provisions in the collective bargaining agreement.

Sec. 740.020 Coverage

The provisions of this chapter:

1. are applicable to permanent classified employees;
2. have limited application to public safety employees covered by a collective bargaining agreement; and
3. **do not apply** to other employee groups, including unclassified employees or employees serving a project or limited term appointment.

NOTE: Family and/or medical leaves of absence are provided to eligible employees under the state and/or federal Family and Medical Leave Acts (FMLA). Employees not covered under this chapter may be eligible for a leave of absence under one or both of these laws. Refer to Chapter 724 – Family and Medical Leave, of the *Wisconsin Human Resources Handbook* for leave information and eligibility criteria.

Sec. 740.030 Statutory and Rule Authority

1. “Leave of absence with pay owing to sickness and leave of absence without pay, other than annual leave and leave under s. 103.10, shall be regulated by rules of the administrator, except that unused sick leave shall accumulate from year to year. After July 1, 1973, employees appointed to career executive positions under the program established under s. 230.24 or positions designated in s. 19.42 (10) (L) or 20.923 (4), (7), (8), and (9) or authorized under s. 230.08 (2) (e) shall have any unused sick leave credits restored if they are reemployed in a career executive position or in a position under s. 19.42 (10) (L) or 20.923 (4), (7), (8), and (9) or authorized under s. 230.08 (2) (e), regardless of the duration of their absence. Restoration of unused sick leave credits if reemployment is to a position other than those specified above shall be in accordance with rules of the administrator.” s. 230.35 (2), Wis. Stats.

2. Section ER 18.14, Wis. Adm. Code, provides the general policies for administration of leaves of absence without pay.

Sec. 740.040 Basic Concepts

1. **Formal Leave.**
 - a. *Eligibility.* Any classified employee, other than an employee serving a limited term or project appointment, may request a formal leave of absence without pay.
 - b. *Duration.* As provided in s. ER 18.14, Wis. Adm. Code, the appointing authority of each agency has the authority to grant formal leaves of absence without pay for a period of up to one year and to approve extensions to such leaves of absence on a year-to-year basis for an additional two years. No formal leave of absence shall exceed three years from the beginning date of the original leave, except as provided under (4), below.
 - c. *Condition of Approval.* Formal leaves of absence will be granted only when such leave will not result in prejudice to the interests of the state as an employer beyond any benefits to be realized upon the employee's return to the service.
2. **Maternity Leave.** Leave of absence without pay will be granted for maternity purposes for a period of time requested by the employee, not to exceed six consecutive months. Upon request of the employee, maternity leave of absence may be extended or renewed by the appointing authority for additional periods of time, not to exceed a total of six months. If the employee chooses to use accrued paid leave (i.e., sick leave [see note], annual leave, sabbatical leave, holiday leave, compensatory time, or anticipated annual leave subject to s. ER 18.02(6)(a), Wis. Adm. Code) and supplement it with leave without pay, the total period of absence from work granted to the employee shall not exceed six months unless an extension of the leave without pay is granted for up to an additional six months.

NOTE: Use of sick leave is authorized for maternity purposes when such leave is necessary for a medically related reason. As in all other medically related absences, the agency will grant use of accrued sick leave for maternity purposes if the employee requests permission to do so. However, the appointing authority will limit such usage to the period of time necessary to recover from the birth as verified by a doctor's certification, pursuant to s. ER 18.03(4)(a), Wis. Adm. Code

3. **Paternity, Adoption, and Pre-Adoptive Foster Care Leave.** Leave of absence without pay will be granted for paternity, adoption, or pre-adoptive foster care purposes for a period of time requested by the employee not to exceed six consecutive months. Upon request by the employee, such leave of absence may be extended or renewed by the appointing authority for additional periods of time, not to exceed a total of six consecutive months. If the employee chooses to use accrued paid leave (i.e., annual leave, sabbatical leave, holiday leave, compensatory time, or anticipated annual leave subject to s. ER 18.02(6), Wis. Adm. Code) and supplement it with leave without pay, the total period of absence from work granted to the employee shall not exceed six months unless an extension of the leave without pay is granted for up to an additional six months.
4. **Leave to Serve in a Project Appointment.** An employee who voluntarily accepts a project appointment may be granted a leave of absence without pay for not more than four years.

Sec. 740.050 Rights Upon Return from Leave

For restoration rights upon return from an approved leave of absence without pay, see s. ER-MRS 16.03(6), Wis. Adm. Code.

NOTE: Benefit accruals can vary depending on the type of leave without pay, and it is strongly recommended that agency payroll offices meet with employees prior to any commencement of leave to inform employees of benefit accrual policies.

Sec. 740.060 Procedures

1. **Agencies**

- a. Develop internal policies and procedures for administration of leave without pay in accordance with s. ER 18.14, Wis. Adm. Code.
- b. File a copy of the Leave of Absence form DOA-15308 (available via the Internet) in the employee's personnel file. Additionally, agencies should maintain a separate file for completed Leave of Absence forms, retaining the forms for three years.

NOTE: These timeframes are no longer specified by statute or rule but are merely suggested guidelines. Prior to 1981, administrative rules specified that employees had to file for approval of leave of absence without pay in excess of 174 hours (21 days). At that time, the form itself specified that completion of the form was required only when a leave of 15 or more days was requested.

- c. When a leave of absence extension is approved, use a new form DOA-15308 and identify the extensions by completing the "extension" block on the form. File a copy of the Leave of Absence form DOA-15308 in the employee's personnel file.
- d. If an employee is absent without leave or fails to return to work upon expiration of approved leave of absence, contact the employee to determine the reason for the absence. Take appropriate action as provided under s. ER 21.03, Wis. Adm. Code.
- e. Notify the employee in writing of action taken by the appointing authority, whether it be disciplinary or discharge, and the reason for it. Send a copy of the written notice to the Bureau of Compensation and Employment Relations, Division of Personnel Management.

2. **Division of Personnel Management**

On a selected basis, audit Leave of Absence Requests and actions taken by the appointing authority to assure consistent application of statutory and rule provisions and develop reports as needed.

NOTE: See the appropriate statutory section for information regarding a leave of absence and rights upon return from a leave of absence for the following:

- Leave to serve in the military service ss. 230.32, 230.35(3)(b), 230.35(3)(a), 230.315, 321.64, 321.65, Wis. Stats.
- Leave to serve in the unclassified service s. 230.33, Wis. Stats.
- Leave to run for a partisan political offices. 230.40, Wis. Stats.

Sec. 740.070 Referral of Questions

Questions concerning the provisions in this chapter should be directed to staff of the Bureau of Classification and Compensation.

Sec. 740.080 Administrative Information

This handbook chapter was initially issued August 1983 and was revised September 2004 to reflect change in standard bulletin formatting and reference material revisions.

This handbook chapter was revised February 2016 to generally remove distinctions between represented and non-represented staff, and to update military leave references and remove obsolete references. Pursuant to the changes introduced by 2015 Wisconsin Act 55, in July 2015, the Office of State Employment Relations was eliminated, and the functions were transferred into the newly created Department of Administration, Division of Personnel Management. This chapter was updated to reflect the changes in terminology that resulted from the organizational restructuring.

In June 2018, minor updates were made to ensure that the information is current and to update the formatting of the chapter to align with the *Wisconsin Human Resources Handbook* standards. In May 2017, the Bureau of Compensation and Labor Relations was modified to be the Bureau of Compensation and Employment Relations. Updates were made to reflect this name change.

Chapter 740 was updated in August 2018 to reflect organizational changes that occurred to the Division of Personnel Management in conjunction with the implementation of Shared Services. The Bureau of Compensation and Employment Relations was divided into two separate bureaus: The Bureau of Classification and Compensation and the Bureau of Employee Management.