
 Corrections and Community Supervision DIRECTIVE	TITLE		NO. 2209
	Allowable Absences With Pay		DATE 4/10/2020
SUPERSEDES DIR# 2209 Dtd. 03/25/19	DISTRIBUTION A	PAGES PAGE 1 OF 9	DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Executive Law, Labor Law, Public Health Law; ACA Expected Practices 4-4081, 4-4094, 4-JCF-6E-14, 1-ABC-1D-18; Directives. #2005, #2202, #2212; DOCCS Employees' Manual; OSC Travel Manual; DOCCS Employee Travel Manual; PEF Contract	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive describes when an employee may be absent without loss in pay and without charge to leave credits.
- II. ALLOWABLE ABSENCES**
- A. Jury Duty or Subpoenaed Appearance**
1. An employee who is required to appear in court under circumstances not covered by the provisions of this directive and for which absence with pay or compensatory time may be appropriate should consult with his or her Personnel Office.
 2. An employee who is required to appear as a witness or juror, in response to a Subpoena, a Court Order, or an Order of a quasi-judicial body, during the employee's regularly scheduled work hours shall be granted a leave of absence with pay with no charge to leave credits provided he or she is not a party to the action (e.g., defendant or plaintiff).
 3. An overtime eligible employee who is a party to the action (e.g., defendant or plaintiff), and who is required to appear as a witness in response to a Subpoena, a Court Order, or an Order of a quasi-judicial body during the employee's regularly scheduled work hours, must charge the absence to appropriate leave credits.
 4. An overtime ineligible employee who is required to appear as a witness in response to a Subpoena, a Court Order, or an Order of a quasi-judicial body for any period of less than a workweek is entitled to paid leave regardless of whether the employee is a party to the action (e.g., defendant or plaintiff).
 5. The employee must present proof of the call for jury duty or appearance as a witness pursuant to a Subpoena, a Court Order, or an Order of a quasi-judicial body to his or her supervisor attached to a time off request.
 6. At the completion of jury duty, an employee must submit a court clerk's statement, indicating the number of days and the hours each day that were served. Absences beyond the hours actually served must be charged to leave credits, with reasonable allowance being made for travel time.
 7. An employee who is required to appear as a party in a private legal action which is not job-related must charge the absence to appropriate accruals.

8. An employee on jury duty who works a shift other than the day shift will be reassigned to the day shift on any day in which he or she is directed to physically report to an assigned court.

An employee who is only "on call" for jury duty will continue to work his or her normal assigned shift, but will be responsible for contacting the court immediately upon daily posting of jury call-ins to determine if he or she must report to court on the next day. Employees who are on duty when that posting occurs will be given access to an outside telephone line to determine their reporting schedules for the next day. Costs for phone calls will be paid by the employees.

An employee who is called to physically report to court for jury duty on the next day must immediately inform the Watch Commander. The Watch Commander will reassign uniformed employees to the day shift and notify the supervisors of non-uniformed employees.

The other provisions of this directive (i.e., Sections II-A-2 and II-A-4 above) are applicable to employees reassigned to the day shift.

9. The regular days off for employees who are required to appear at legal proceedings or serve as jurors should not be rescheduled unless the following conditions are met:
 - a. The employee has served continuously on jury duty for a minimum of two weeks; and
 - b. The jury duty service is expected to continue for an indefinite period.
10. If called for jury duty, an employee who is assigned to a work location away from his or her normal work location may request a six-month postponement of service from his or her County Commissioner of Jurors. The employee may also request an additional temporary exemption over and above the six months should he or she wish to do so. An employee must report for duty on those workdays when he or she is not required for jury duty, regardless of the work location.
11. Any witness fees tendered to an employee in a job-related court appearance must be submitted to the financial officer (e.g., Institutional Steward or Head Account Clerk). An employee is not entitled to receive payment of the per diem allowance unless the court appearance or jury service is on the employee's pass day.

B. Job Placement Interview or Civil Service Examination

1. An employee who is interviewed for a job placement as a result of being canvassed from a Civil Service list shall be granted leave without charge to accruals if the employee provides his or her supervisor with reasonable notice. Such time off should include the actual time of the interview and travel time to and from the interview site.
2. An employee, who on his or her own initiative, arranges an interview to seek another position within the Department of Corrections and Community Supervision (DOCCS) or in another State agency, must charge the time spent on the interview to accruals other than sick leave.

3. If an employee notifies his or her supervisor of an impending Civil Service examination for a State position (including oral, written, physical, and performance examination), the employee will be permitted to be absent without charging accruals for the actual time of the examination and travel time to and from the nearest examination center.

NOTE: The Division of State Police (NYS Police) and the Unified Court System are not part of the Civil Service examination process, therefore, employees taking these exams are required to charge their accruals.

4. Time spent by an employee in reviewing and/or appealing a Civil Service examination must be charged to leave accruals other than sick leave.
5. In accordance with the Office of the State Comptroller Travel Manual and DOCCS Employee Travel Manual, all travel expenses associated with interviews for employment or promotion are the responsibility of the employee.
6. See Section III of this directive for documentation requirements.

C. Civil Defense Training

1. An employee may be granted leave with pay, without charge to accruals, for Civil Defense emergency training if he or she obtains prior approval from the appointing authority. Leave for Civil Defense drills is not mandatory.
2. To be eligible for Civil Defense leave an employee must be:
 - a. Enrolled as a Civil Defense volunteer; and
 - b. Required to perform Civil Defense duties pursuant to the State Defense Emergency Act.
3. Verification of these two conditions should be obtained from Civil Defense offices before approving Civil Defense leave.
4. Two weeks prior to the scheduled training, the employee must submit a written request that includes the type of training involved, an outline of the training course, as well as the duration of the training.
5. An employee may not be absent more than five days annually for this type of training.
6. Civil Defense leave with pay will not be granted to an employee who participates as a volunteer fireman in a Civil Defense drill.

D. Blood Donations

1. DOCCS will permit an employee to donate blood on six separate occasions during a calendar year without charge to leave accruals.
2. Each absence for this purpose must be recorded on the employee's timecard/timesheet so that the total may be monitored by the employee's supervisor.
3. Scheduling of such absence should be done so as to minimize the time lost from work. It would be expected that no more than one hour, plus travel time, would be necessary for a blood donation.
4. See Section III of this directive for documentation requirements.

- E. Military Service: An employee may receive leave with pay without charge to accruals while serving on active duty with the National Guard or a reserve component of the Armed Forces. See Directive #2212, "Military Leave."
- F. Military Leave for Combat-Related Health Care Services:
1. Section 242 of the Military Law was amended to entitle State officers and employees paid leave without charge to leave credits for up to **five** work days of paid leave annually for using any healthcare related services associated with an illness or injury sustained while in a combat theater or combat zone of operations.
 2. Military leave for combat-related healthcare services is not cumulative and expires at the close of business on the last day of each calendar year.
 3. Employees are entitled to a leave of absence with pay for any combat-related healthcare services scheduled during the employees' regular work hours. Employees who undergo combat-related healthcare services outside their regular work schedules do so on their own time.
 4. Employees must provide documentation that they served in a combat theater or combat zone of operations. Acceptable proof of service includes the employee's DD214, a certificate of release or discharge from active duty, or other department of defense document clearly indicating service in a combat theater or combat zone of operations.
 5. Additionally, employees must submit medical documentation, in accordance with Directive #2202, "Attendance Control Program," showing that the employee's absence was for the purpose of receiving healthcare services related to such duty. Combat-related healthcare services may include any medical or psychological treatment or testing, hospital services, blood work, or other laboratory tests.
- G. Professional Meetings, PS&T Employees
1. The employees in the Professional, Scientific, and Technical Services Unit may, subject to the prior approval of the appointing authority, attend conferences, seminars, or meetings of recognized professional organizations that are directly related to their profession or professional duties, and/or programs which are necessary for the employee to maintain or obtain licensure or accreditation in the employee's position with the State without charge to leave credits.
 2. The employees in this bargaining unit may be permitted to attend professional meetings without charge to leave credits to a maximum of three days each fiscal year.
 3. The granting of leave to attend professional meetings is contingent on the effect of such absences on normal DOCCS operations.
 4. The number of absences permitted under this agreement may be restricted to five percent of the staff in any one operating unit (facility, area office, or Central Office division) at a particular time (reference PEF Contract, "Leave for Professional Meetings").
 5. Leave to attend professional meetings is not cumulative. Unused leave is canceled at the close of each year.

6. Unused leave for professional meetings shall not be liquidated in cash at the time of an employee's separation, retirement, or death.
 7. See Section III of this directive for documentation requirements.
- H. Leave for Licensure/Certification for CSEA Employees:
1. At the sole discretion of the appointing authority, an employee in a position which requires certification or a professional license (excluding a "Class D" driver's license) as a minimum qualification, may be allowed up to three days leave per contract year, subject to the prior approval of the appointing authority, without charge to leave credits to attend a program or programs which are verified as required for the employee to maintain such license or certification for the employee's position with the State.
 2. Such leave shall not be cumulative and, if not used, will be canceled at the end of each year of the agreement. Unused leave in this category shall not be liquidated into cash at any time.
 3. This provision shall not be subject to the grievance procedure.
 4. See Section III of this directive for documentation requirements.
- I. Conference Attendance: Leave credits shall not be charged for attendance at a conference or meeting which an employee has been required to attend as a "work assignment."
- The applicability of leave credits to other conferences or meetings which an employee has been authorized to attend shall be determined on a case-by-case basis. See Directive #2005, "Request to Attend/Conduct Training/Conference."
- If a Regional Training Form (RTF) is submitted, no further documentation is required. If an RTF is not submitted, see Section III of this directive for documentation requirements.
- J. Training: Leave credits shall not be charged for attendance at a training course which an employee has been required to attend as a "work assignment." Training may be conducted by DOCCS, another governmental agency, or a recognized professional organization or academic institution.
- If an RTF is submitted, no further documentation is required. If an RTF is not submitted, see Section III of this directive for documentation requirements.
- K. Union Activity: Leave for union activity is covered under Employee Organizational Leave or Release Time as outline below.
1. Employee Organizational Leave – typically includes internal union committees, contract negotiations, Board meetings, conventions, etc. Leave credits shall not be charged as outlined in the provisions of the various negotiated agreements.
 - a. Union officials request excused leave through the Governor's Office of Employee Relations.
 - b. The Department's Bureau of Labor Relations notifies local managers when the request has been approved.

Documentation will be supplied by the Bureau of Labor Relations and/or the Governor's Office of Employee Relations. No further documentation for these absences is required.

2. Release Time – typically is for the purpose of local union leave such as:
 - a. A Taylor Law Improper Practice matter before the Public Employment Relations Board;
 - b. Representing an employee at an interrogation;
 - c. A disciplinary arbitration hearing;
 - d. A contract grievance proceeding; and
 - e. Agency-level and local-level labor management meetings, including time to prepare for such meeting.

A request for release time to engage in Union activity as described above that requires the Union representative to absent themselves from the workplace requires evaluation and approval by the Superintendent, Bureau Chief, Division Head, or designee. The designee must be at the supervisory level with a management/confidential designation. The evaluation must consider the date, time, and external location, travel time to and from, and a reasonable period of time to provide representation services. Upon conclusion of the activity the union representative is required to return to work immediately, as defined in the authorization, if there is time remaining prior to the end of their regularly scheduled workday.

Requests to engage in Union activity locally that do not require the Union representative to be absent from the workplace are not subject to these provisions since they are not absent.

- L. Special Activities: A special activity is any event scheduled with the permission of a Superintendent/Division Head primarily for the purpose of a luncheon or party for specific events such as Employee Recognition Award ceremonies, retirements, Administrative Professional's Day, etc. One hour of excused time, in addition to the normal lunch period, may be granted for these approved activities. All other time of absence on these occasions must be charged to appropriate leave credits (PL, AL, HOL, or Comp). In cases of excused time for such activities, it is the supervisor's responsibility to ensure adequate coverage to continue necessary business operations. Outside events other than luncheons, particularly those that begin before 4:00 p.m. should be carefully considered. Prior approval from the appropriate Deputy Commissioner is required for any outside event, other than a luncheon, that will begin before 4:00 p.m. and include one hour of excused time. Each request should include a reasonable justification. Special events related to any off-grounds facility-wide or Agency-wide activities like a holiday party, while permissible, need to be evaluated in light of the State's fiscal constraints and public perception toward State employees and/or this Agency.

Staff should be mindful of Employees' Manual Rule 2.11 that prohibits employees from consuming or possessing alcoholic beverages while on duty status, or to report to duty under the influence of intoxicants.

M. Pre-Retirement Seminar: Attendance at the GOER-sponsored pre-retirement seminar shall be allowed without charge to leave credits under the following circumstances:

1. The employee is within five years of retirement eligibility; and
2. The employee has never attended the GOER-sponsored pre-retirement seminar.

Individuals who do not meet these criteria will not be allowed to attend the seminar.

If an employee provides sufficient notice that he or she desires to attend the seminar during a time when scheduled to work a full shift other than a regular day shift, reasonable effort shall be made to change that employee's work schedule to a day shift. Schedule changes must take into account DOCCS' need to provide services. No documentation is required as verification of attendance is provided to the facilities with affected staff.

N. Allowable Absences for Travel Time Upon Transfer/Reassignment: It is the policy of DOCCS in all cases of *involuntary* transfer (i.e., those that are directed by DOCCS) to allow all necessary and reasonable travel time in accordance with DOCCS Employee Travel Manual from the employee's former work location to the new work location on the business days prior to the date he or she is required to report to his or her new work location.

It is the policy of DOCCS in all cases of *voluntary* transfer (i.e., those that are requested by the employee and are for the employee's benefit) to allow all necessary and reasonable travel time in accordance with the DOCCS Employee Travel Manual from the employee's former work location to the new work location when the report date to the new work location does not occur immediately after the employee's normally scheduled pass days or RDOs. When the report date occurs immediately after the employee's pass days, no time off for travel will be allowed.

NOTE: Reassignments occurring as a result of a negotiated reassignment policy will always be considered *voluntary* in nature.

O. Emergency Service Leave

1. An employee shall be granted leave with pay, without charge to accrued credits, to participate in specialized Red Cross disaster relief operations.
 - a. To be eligible for Red Cross Emergency Service Leave, an employee must be certified by the American Red Cross as a disaster volunteer.
 - b. The written request for such services must be made by the American Red Cross and be approved by the Director of Personnel.
 - c. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation leave, or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed 20 workdays in any calendar year.
2. During a State emergency pursuant to Section 28 of the Executive Law, an employee may request an authorized absence from his or her duties while engaged in the actual performance of his or her duties: (a) as a volunteer firefighter, or (b) while an enrolled member of a volunteer ambulance service pursuant to article 30 of Public Health Law.

- a. To be eligible for Emergency Service Leave, an employee must be a volunteer firefighter or a member of a volunteer ambulance squad, who has been called to duty during a state of emergency as described above.
 - b. The written request for such services must be made by the employee and be approved by the Director of Personnel.
3. All Emergency Service Leave must be properly documented.
- P. Chapter 465 of the Laws of 2001 amends sections of the Labor Law to allow leave for bone marrow donations and organ donations.
1. Employees will be allowed up to seven workdays of paid leave, without charge to accruals, to donate bone marrow in any one calendar year.
 2. Employees will be allowed up to 30 workdays of paid leave, without charge to accruals, to serve as an organ donor in any one calendar year.
 3. The Director of Personnel may require verification by a Physician regarding the purpose and length of each leave requested by the employee.
- Q. Quarantine: If an employee, who is not ill, is required to remain absent because of quarantine, and presents a written statement of the attending physician or local health office providing the necessity of such absence, the absence shall be allowed without charge against accumulated sick leave, vacation, or overtime credits. Prior to return to duty, the employee may be required to submit a written statement from the local health officer having jurisdiction, affirming that this return to duty will not jeopardize the health of other employees.
- Cancer Screening: Employees are entitled to take up to four hours of paid leave annually for screening of all cancers without charge to leave accruals. This benefit is not cumulative and expires at the close of business on the last day of each calendar year. Employees who undergo screenings outside of their regular work schedules do so on their own time. Cancer screening includes physical exams, blood work, or other laboratory tests for the detection of cancer. Travel time is included in the four hours. Absences beyond four hours must be charged to leave accruals. Satisfactory medical documentation indicating that the absence was for the purpose of cancer screening, including the time of the appointment, is required.
- R. Exposure to Blood or Bodily Fluids and Positive TB Readings: Employees who have been exposed to blood or bodily fluids in the course of performing their job duties or who have a positive TB reading will be allowed sufficient excused time for the initial treatment and a follow-up appointment by their personal physician (up to 4 hours for each of those two instances). Employee absences beyond the treatments noted above, must be supported by acceptable medical documentation, including a brief diagnosis, prognosis and a statement that the employee is disabled. Any such additional, legitimate time off will be charged to Workers' Compensation Leave.

III. DOCUMENTATION OF ABSENCE

- A. To be granted leave without charge to credits, an employee must submit documentation to verify attendance and participation within two days of return to duty. The optional [Form #2209A](#), "Verification of Attendance," may be used as documentation. If an alternate form of documentation is submitted, it at a minimum must indicate:

1. Name of employee;
 2. Date(s) and time(s) of attendance;
 3. Reason for absence;
 4. Sponsoring organization; and
 5. Signature and title of individual verifying attendance/participation.
- B. Verification of jury duty or subpoenaed appearances (Section II-A) shall be submitted in accordance with the provisions of Sections II-A-5 and II-A-6 of this directive.
- C. Verification of military leave shall be submitted in accordance with the provisions of Directive #2212, "Military Leave."