

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
322**

TYPES OF LEAVE AND LEAVE PROCEDURE

Supersedes: AR 322 (09/27/11, Temporary); 06/17/12; (07/01/2017, Temporary)
Effective Date: 05/15/18

AUTHORITY

NRS 284.350; 284.355; 284.358; 284.360; 264.362; 284.365; 281.390; 284.362; NAC 284.523 to 284.598 inclusive; NAC 284.228; Code of Federal Regulations (CFR) Pertaining to U.S. Department of Labor, Title 29, Chapter V, Part 825; Rules for State Personnel Administration and State of Nevada Employee Handbook, State of Nevada Division of Human Resource Management, Department of Administration; Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

PURPOSE

To ensure the accurate reporting of leave requests and reporting of leave, as well as establish a formal leave procedure to ensure Nevada Department of Corrections compliance with federal and state regulations.

RESPONSIBILITY

The Director is responsible to establish regulations for the Nevada Department of Corrections.

The Deputy Director of Support Services shall be responsible for overall administration of leave and compliance with federal and state regulations.

The Human Resources Administrator shall be responsible for the implementation and compliance with this regulation.

Each Deputy Director, Warden, Division Head, Supervisor and Appointing Authority shall be responsible to ensure employees, within their chain of command, do not violate the provisions of this regulation.

The Human Resources Division shall be responsible to maintain payroll and leave records, and to ensure the employee does not exceed their entitlement under the provisions of the Family and Medical Leave Act (FMLA).

All Department employees shall be responsible to comply with this regulation. Employees shall

be responsible to report to duty on a daily basis, call in absences, maintain proper leave usage, and to submit accurate timesheets within the appropriate pay period deadlines to their supervisor. Failure to comply may result in disciplinary action.

322.01 ANNUAL LEAVE

1. Annual leave for employees is accrued per the provisions of NRS 284.350 and NAC 284.538.
2. During the first six (6) months of employment of any employee in the public service, annual leave accrues as provided by NRS 284.350 Subsection 1, but no annual leave may be taken during that period.
3. Part-time employees are entitled to receive annual leave that is prorated based on the number of hours he or she is in paid status, excluding overtime pursuant to NAC 284.538. No annual leave may be taken for part-time employees during the first six (6) months.
4. Annual leave balances shall be carried forward from calendar year to the next calendar year, not to exceed 240 hours.
 - A. Annual leave that is accrued in excess of 30 working days (240 hours) must be used by January 1, after which it will be forfeited. To avoid forfeiture, a request for permission to take annual leave must be submitted to your supervisor by October 15. Annual leave in excess of the 30 working days, which is requested by this date but denied in writing, is eligible for payment. Payment for unused leave will be made by January 31st.
 - B. Annual leave in excess of 240 hours is forfeited on January 1 of each year, unless on or before October 15, leave is requested per standard procedure and the leave is denied. Employees who are in a 'use' or 'lose' situation at year end must ensure the supervisor is aware of this condition when submitting leave requests.
 - C. A denied leave request in excess of 240 hours shall be forwarded to the Department Payroll Office the first week of December. The payment for unused annual leave must be made no later than January 31.
5. The appointing authority shall determine when annual leave can be taken after considering the needs of the Department and seniority of the employee. Annual leave should be pre-approved.
 - A. Bids for annual leave for correctional officers are governed by AR 301.
 - B. Leave for officers, subsequent to the bid process, may be accommodated depending upon the availability of relief factor.

- C. Custody employees shall request annual leave initially during shift bidding and then throughout the calendar year, refer to AR 301.
 - D. Employees shall ensure a sufficient annual leave balance exists to support the request for annual leave, prior to the leave being granted. A request for annual leave may be made at any time.
 - E. A leave requests submitted without sufficient notice may not be accommodated.
 - F. An employee may not be prevented from using at least five consecutive days in a calendar year.
 - G. Approval or denial of a leave request should be given in writing before the date of the requested leave or within 15 working days of the request.
 - H. If a leave request is denied and the employee subsequently reports sick leave, a physician certificate may be required. Failure to provide a physician's certificate may result in the employee receiving AWOL (Absent Without Leave) for that absence.
 - I. NDOC supervisors or management shall not require any employee to take any specific future date as annual leave, unless employee has requested the day as annual.
6. Excluded classified or unclassified employees shall report absences of one or more full working days by utilizing the leave appropriate for the absence. All leave requests shall be documented.
 7. Upon separation of employment after six (6) months of continuous service, an employee must be paid a lump sum payment for any unused annual leave earned through the last day worked. Employees who have been employed for less than six months are not paid for accrued annual leave upon termination of employment.
 8. An employee who transfers from one State agency to another shall have their annual leave balance transferred to the new agency.
 9. Employees that transfer to or from another institution shall resubmit any approved leave requests. It will be the receiving supervisor's responsibility to determine whether the leave can be accommodated.
 10. An employee who returns to State service following a separation will accrue annual leave based on total State service after completion of three (3) years of continuous service.

322.02 SICK LEAVE

1. Accrual of sick leave is governed by NRS 284.5415 and NRS 284.542.
2. Authorized use of sick leave is governed by NAC 284.554.
3. Approval of sick leave is governed by NAC 284.566.
4. Sick leave shall not be approved for annual leave, and shall only be approved pursuant to the Nevada Administrative Code, Section 284.
5. An appointing authority may place an employee on sick leave as governed by NAC 284.568.
6. A statement from a health care provider may be required to allow an employee to return to work if the health condition is related to the employee's ability to perform one or more of the essential functions of his position.
7. If an employee is needed to provide care for a member of their immediate family with an illness or other authorized medical need, the employee may use their accumulated sick leave, not to exceed 120 hours in any one (1) calendar year.
 - A. An employee is not subject to the 120-hour limitation if the leave is approved under the Family and Medical Leave Act pursuant to NAC 284.5811.
 - B. Immediate family is defined pursuant to NAC 284.5235 to include the employee's parents, spouse, children, regardless of age, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren and stepparents; and if they are living in the employee's household, the employee's father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, granddaughter-in-law, nephew-in-law, niece-in-law, great-grandson-in-law, and great-granddaughter-in-law.
 - C. An employee is eligible to file an exception to the 120-hour limitation or the requirement that the immediate family member be living in the employee's household. To obtain such exception, the employee must submit the request in writing through their chain of command to the Human Resources Division, accompanied by a certification from a health care provider that substantiates the need for the employee's participation.
8. If a member of the employee's immediate family dies, he may use his accumulated sick leave, or request approval for catastrophic leave pursuant to NAC 284.576, not to exceed five working days for each death. If a reasonable amount of additional time is needed for

traveling related to funeral arrangements, the appointing authority shall approve an exception to this limitation.

9. Examples of sick leave abuse may include:
 - A. Consistently reporting sick in conjunction with regular days off.
 - B. Denial of annual leave and subsequently reporting sick leave.
 - C. Failure to provide supporting physician's documentation of need to use sick leave or family sick leave, when requested to provide documentation.
 - D. Use of more sick leave than an employee may accrue, absent documentation from a licensed medical provider.
10. When sick leave abuse is suspected, a supervisor should intervene.
 - A. A supervisor may issue a letter of instruction which documents the reason(s) for suspected sick leave abuse.
 - B. The letter should address the expectation of future sick leave usage and can include a requirement for a physician's documentation of illness. Proper documentation will include the health care provider's name, signature, address, telephone number, the dates the employee was/is unable to work and the justification, without violating health information privacy standards as a requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
 - C. Progressive discipline should be taken if the letter of instruction is ineffective in correcting the problem.
11. Instances of an employee falsely reporting sick leave shall result in disciplinary action up to and including termination, defined as using sick leave for non-authorized reasons. Authorized reasons for sick leave are inability to work because of illness or injury, incapacity due to pregnancy or childbirth, medical and dental appointments, family illness (subject to limitations), and death in the immediate family (up to five working days) as defined in NAC 284.554, 284.568.
12. An employee who transfers from one State agency to another without a break in service, shall have their sick leave balance transferred to the new agency.
13. When an employee is rehired, they are not entitled to restoration of accrued and unused sick leave balances which remained at the time of their separation.

14. An employee who is separating from State employment earns sick leave through their last working day.
15. Employees who retire or terminate employment are entitled to their unused sick leave according to their number of years of public service as governed by NRS 284.355.
16. Employees terminated due to cause or disciplinary action, are not entitled to their unused sick leave.

322.03 FAMILY MEDICAL LEAVE ACT (FMLA)

The Nevada Department of Corrections follows the provisions of the federal Family & Medical Leave Act (FMLA) and follows regulations established by the Nevada Department of Administration, the Division of Human Resource Management. Implementation of the FMLA is governed by NAC 284.581.

322.04 CATASTROPHIC LEAVE

1. The use and administration of catastrophic leave is governed by NAC 284.576.
2. The basic requirements for catastrophic leave are governed by NRS 284.362 through NRS 284.3626, inclusive, which is a serious life-threatening illness or accident which will require a lengthy convalescence (exceeds 10 consecutive weeks) as defined by an attending physician or a death in the employee's immediate family.
3. Employees must have exhausted all accrued sick leave, annual leave, and compensatory time, and received approval from your appointing authority or the Committee on Catastrophic Leave to be eligible for catastrophic leave donations. The maximum number of hours of catastrophic leave you can be approved to use in a calendar year is 1,040.
4. Employees shall be responsible for giving written notice of the need for catastrophic leave by completing the Request to Use Catastrophic Leave Form PAY-23. The Human Resources Division shall notify the employee when their request to use catastrophic leave has been acted upon by the Catastrophic Leave Committee.
5. Requests to use catastrophic leave which do not meet the basic requirements for approval will be denied by the Human Resources Division without submission to the Catastrophic Leave Committee.
6. The NDOC Catastrophic Leave Committee is appointed by the Director. The Payroll Manager has the responsibility of determining whether or not an event meets the qualifying criteria.

- A. The committee does not meet according to a specific schedule.
 - B. There are no deadlines for submission of requests for catastrophic leave.
 - C. Requests are reviewed by each member of the committee.
7. Membership of the Committee includes:
- A. The three (3) appointed designees from NDOC divisions appointed by the Director;
 - B. The Human Resources Division Administrator or designee.
8. The NDOC Catastrophic Leave Committee must have approved the catastrophic leave request and the employee's leave balances must be exhausted prior to the employee using donated leave.
9. An employee may sign a "Permission to Request Catastrophic Leave Donations" form DOC-10104, allowing the NDOC Payroll Manager to broadcast on behalf of the employee. This is a one-time only broadcast and no personal medical information will be disclosed. An employee may solicit their own catastrophic leave donations. Donated leave will be utilized in order of receipt and any unused leave will be returned to the donor in order of receipt.
10. Employees will not accrue sick or annual leave and will not be eligible for holiday pay or shift differential pay while utilizing catastrophic leave. Catastrophic leave is paid at the recipient's rate of pay on the date the leave is used. Donations will be allowed between employees of the Department and employees of other State agencies.
11. A denial of catastrophic leave by the Committee may be appealed to the State of Nevada Department of Administration, Division of Human Resource Management (DHRM), Committee on Catastrophic Leave, utilizing the appeal form Pay-23 B.
12. The catastrophic leave bank for the Department shall be administered by the Human Resources Division under the direction of the Payroll Manager.

322.05 MILITARY LEAVE

- 1. Military leave is governed by NRS 284.359 and NAC 284.5875.
- 2. Employees who are members of the Armed Forces of the United States shall be granted a leave of absence with pay to serve under official orders, not to exceed 15 working days in any one calendar year.

- A. Employees who are called to active duty shall provide a copy of the military orders to their Supervisor and the Division of Human Resources.
 - B. It is the employee's responsibility to properly code their timesheets by utilizing the UMIL code.
 - C. Military leave which exceeds 15 days may be taken as annual leave, leave without pay, or compensatory time.
 - D. If leave without pay or other leave is utilized, military should be recorded under the remark section of the timesheet.
 - E. The supervisor shall ensure the timesheets are accurately completed prior to approval and submission.
 - F. Employees on active duty are entitled to the 15-calendar days of military leave. It is the employee's responsibility to notify their supervisor or the Human Resources Division within the current calendar year.
 - G. Employees should contact the Public Employees Retirement System (PERS) prior to going on active duty to discuss their retirement benefit options. Upon their return from active duty, employees on employee/employer paid retirement are responsible for their portion of the retirement contribution during active duty.
 - H. Accrual of annual and sick leave cease when an employee goes on unpaid military leave. However, the period of time the military is on unpaid leave is considered for the purpose of qualifying for higher leave accrual.
3. Employees in public service who perform active military duty in the Armed Forces of the United States or any other category of persons designated by the President of the United States or any other State, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war (NRS 284.358) or emergency is entitled to civil leave with reduced pay pursuant to NAC 284.587 for the period of such service.
- A. The pay that such an employee is entitled to receive pursuant to NAC 284.587 is the difference between the pay he would have otherwise received as a State employee and his pay for active military service. If his pay for active military service is greater than the pay he would have otherwise received as a State employee, the employee will not receive any additional pay while in active military service. It is the employee's responsibility to supply the Human Resources Division with military pay stubs in order to receive military pay differential.

- B. Any employee who is called to military duty, is eligible to return to the status of appointment held at the time military leave was initiated.
- C. All requirements remain constant including any required probationary time that must be completed.
- D. Under USERRA, once the employee completed the remaining portion of the probation period, the employee's status shall reflect both the pre and post service time in probationary status.
- E. The employee's permanent status shall be awarded retroactively to the date the employee would have attained permanent status, if it had not been for the return to active duty status.
- F. Extended military leave, as defined by USERRA as military leave without pay, is considered as time worked under the Family and Medical Leave Act (FMLA), if the hours worked for the State during the period of military service would have met the FMLA eligibility threshold.

322.06 OTHER LEAVE

1. Civil Leave may be authorized as follows:
 - A. Jury duty (NAC 284.582);
 - B. Court appearances as a witness (NAC 284.582);
 - C. Voting (NAC 284.586); and
 - D. Acting as a fireman or meeting other emergency (NAC 284.587).
2. Administrative Leave may be granted as designated in NAC 284.589.
 - A. Employees who are mandated to attend an appointment scheduled through the Risk Management Division of the Department of Administration may be placed on administrative leave pending the results pursuant to the provisions of the NAC. If the employee chooses their own health care provider, they shall use their accrued leave.
 - B. Employees who are directed to obtain clarification, not through the Risk Management Division, shall use their accrued leave.
3. Parental Leave may be granted up to four (4) hours per school year per child to a parent,

guardian or custodian of a child enrolled in public or private school to attend conferences, or school related and/or sponsored activities or events during regular school hours.

- A. Employees shall submit a leave request to their supervisor for approval at least five (5) school days before the leave is taken.
- B. Employees shall be required to use annual and/or compensatory leave and exhaust the balances prior to requesting the use of Leave With Out Pay (LWOP).
- C. Employees may be requested to provide documentation to their supervisors that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity.
- D. Parental leave is not limited to one parent if both parents are employed with the department.

4. Overtime compensation is governed by NAC 284.250.

- A. Overtime should be kept to an absolute minimum and may only be worked after securing approval from a supervisor, utilizing the standard request procedure.
- B. Employees must sign an Over Time Compensation Policy (DOC-1048) acknowledging the overtime compensation policy.
- C. Overtime compensation (payment of wages versus accrual of compensatory time) for overtime services on non-holidays is exclusively at the discretion of the appointing authority. Overtime compensation for overtime services on holidays is exclusively at the discretion of the employee. The form of compensation must be announced prior to any overtime services being performed.

5. Compensatory time should be utilized prior to the utilization of annual leave, unless the employee may lose annual leave at the end of the calendar year (is determined to be in a 'use' or 'lose' situation).

- A. Compensatory time may not be accrued in excess of 120 hours unless an agreement entered into pursuant to 29 Code of Federal Regulations (CFR) Section 553.23 for compensating a nonexempt employee for overtime with compensatory time in lieu of cash payment, provides for the accrual of additional hours of compensatory time, not to exceed 240 hours.
- B. Overtime incurred in excess of the 240-hour limit must be paid (NAC.284.250).
- C. The Department may pay for accrued compensatory time only if sufficient funding is available, and approved by the Director.

6. Leave without pay (LWOP) may be considered authorized or unauthorized.
 - A. A Division Head or Appointing Authority may approve or deny a request for leave without pay.
 - B. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority, unless the employee is on workers' compensation and the Leave Choice Option Form identifies UWCLP.
 - C. Absenteeism that results in excessive use of leave without pay may be grounds for disciplinary action.
 - D. Employees must be in paid status for a minimum of 80 hours in a calendar month to have their Public Employees Benefit Program (PEBP) benefits covered. If the employee is not in paid status for at least 80 hours in a calendar month, they are responsible to pay their insurance premium to PEBP, unless the employee is on workers' compensation. If the employee is on workers' compensation, then they must pay their insurance premium to PEBP after 9 months. The Department Payroll Office will submit the appropriate form to PEBP and will identify on the form that the employee's coverage will remain as what the employee last elected through PEBP. It will be the responsibility of the employee, if they wish to change their coverage during a time when they are not in paid status for at least 80 hours in a calendar month, to contact PEBP.

7. An absence reported, but not authorized, or an unreported absence, shall be coded Absent With Out Leave (AWOL) on the timesheet and a deduction from pay shall be made.
 - A. AWOL absences may be grounds for disciplinary action, up to and including termination.
 - B. AWOL absences of three consecutive working days will result in dismissal from State service.
 - C. At the conclusion of three (3) working days of AWOL, the employee is to be summarily dismissed from State service.
 - D. For permanent employees, the Human Resources Division must prepare a specificity of charges for summary termination.
 - E. Probationary employees may be rejected utilizing the procedure set forth in AR 313.

322.07 NOTIFICATION OF ABSENCES

1. An employee must notify their supervisor, or appointed designee, of an absence from duty in a prompt manner.
 - A. This notice should be prior to the start of the shift, but no later than one half hour after the start of the shift.
 - B. The institutional staff must speak directly to the available supervisor.
 - C. Central staff must speak to the supervisor, or appointed designee, when the work day starts.
 - D. Employees should personally notify the shift supervisor unless physically unable to do so.
2. Employees are expected to report to duty on time each day.
 - A. Employees are expected to be at their assignment location and ready to work at the start of the shift.
 - B. Delays should be reported as soon as practical.
 - C. Failure to notify or excessive tardiness will result in progressive disciplinary action.

322.08 SUBMISSION OF LEAVE FORMS, OVERTIME REQUESTS, AND TIMESHEETS

1. Requests for leave must be submitted and approved on the Authorization for Leave and Overtime request Form DOC-1000 or in NEATS as directed by the Human Resources Administrator.
 - A. Leave requests should be submitted and approved well in advance of the requested leave.
 - B. Leave is not authorized until approved and economic commitments should not be made by the employee until approval is obtained.
2. Requests for Overtime must be submitted and approved on the Authorization for Leave and Overtime Request Form DOC-1000 or in NEATS as directed by the Human Resource Administrator.
3. All leave and overtime must be recorded on the State of Nevada NEATS timesheet.

- A. All timesheets must be processed through the State of Nevada NEATS system.
 - B. Every employee must complete and submit a timesheet at the conclusion of each pay period.
 - C. Employees shall identify their shift and regular days off (RDO) on the timesheet.
 - D. Leave is to be recorded on timesheets by hours and/or minutes.
 - E. An employee must account for all hours in the pay period.
 - F. An exempt employee shall submit a timesheet when there are full-day exceptions to the workweek. Documentation of approvals of these exceptions must be attached to the timesheet in NEATS.
 - G. Supervisors shall approve employees' NEATS timesheets under their authority.
 - H. Supervisors or the Human Resources Division may change an entry on a timesheet for the correction of errors.
 - I. Employees are to use the notes or comments section of the timesheet to identify when they are not at their regular duty station, to include the time of day and the type of leave being used or overtime being accrued.
 - J. Supervisors are to complete and submit timesheets for employees who are on extended leave. The supervisor must print the timesheet and have the employee sign it upon their return. The signed timesheet is to be sent to the designated timekeeper of their facility.
3. An employee who falsifies a timesheet will be subject to disciplinary action pursuant to AR 339.
- A. The supervisor is responsible for ensuring accurate entries on their employees' timesheets prior to approval.
 - B. A supervisor who is negligent in reviewing the accuracy of a timesheet may be subject to disciplinary action.
 - C. When changes are made on a timesheet the supervisor or Human Resources Division must notify the employee.
 - D. If the employee contests the change on the timesheet, they will receive only base pay for the pay period until the issue is resolved.

322.09 SHIFT TRADING

1. Employees shall be allowed to enter into a Shift Trade Agreement pursuant to NAC 284.228.
2. Conditions of agreement applicable to each party states:
 - A. By entering into this agreement, I understand that I will be paid my normal pay for the shift that is worked by the other party to the agreement. No additional compensation of benefits will be accrued by working the other party's shift under this agreement.
 - B. In the event that I cannot fulfill my responsibility under the agreement, I am responsible for finding a qualified replacement to work the agreed shift. If a replacement cannot be found, the party who was originally scheduled to work the shift prior to the shift trade agreement must work the scheduled shift or use annual leave or compensatory time to account for the absence during the shift. If the employee does not have annual or compensatory time, they will be placed on leave without pay.
3. The Shift Trade Agreement (TS-133) shall be signed by both the party instituting agreement and the second party to the agreement. It also shall have the approval of the appointing authority. Once both employees fulfill the agreement the dates of the traded shifts shall be noted in the time from and to section of the timesheets and (Shift trade-ON shift) or (Shift trade-OFF shift) noted in notes/comments. A copy of the trade agreement shall be attached to the timesheet where the trade occurred for each employee and shall be maintained by the supervisor and the employee.
4. Requests to trade shift must be submitted no less than one (1) week in advance.

APPLICABILITY

1. This AR requires an Operational Procedure for the Department Human Resources Division, and shall be implemented at each institution, facility, and division.
2. This AR applies to all Department employees.
3. This regulation requires an audit.


James Dzurenda, Director

5-15-18
Date