

GENERAL ADMINISTRATION MANUAL

VOLUME 3: HUMAN RESOURCE POLICIES

TITLE: DISCRETIONARY LEAVE WITHOUT PAY (formerly Leave without Pay)

EFFECTIVE: Amended March 21, 2012

1 SCOPE

1.1 Authority

This policy is issued under the authority of Cabinet Minute No. 94-40 (October 27, 1994) and amended under the authority of the Deputy Ministers Review Committee meeting on March 6, 2012 and July 30, 2013.

1.2 Application

1.2.1 The policy applies to all persons hired under the *Public Service Act* except for casual employees. It does not apply to persons hired under the *Education Act*.

1.2.2 The policy covers the administration of discretionary leave requests only. It does not apply to non-discretionary leave without pay entitlements as outlined in the collective agreement, Management Plan, Conditions of Employment for the Management Group, *Public Service Act* or other human resource policies. Nor does it apply to disciplinary actions.

1.3 Purpose

The purpose of this policy is to establish the criteria and parameters for granting discretionary leaves without pay.

1.4 Principles

1.4.1 Yukon government employees have access to a variety of paid leave entitlements including but not limited to vacation leave, compensatory leave and manager's leave. Employees are expected to manage their absences from the workplace within these allotments.

1.4.2 While the employer recognizes that there may be unintended or unforeseen circumstances in which an employee exceeds their available leave or desires an extended leave for personal reasons, there is no employer obligation to approve discretionary leave without pay requests.

- 1.4.3 Where possible, managers and deputy ministers are encouraged to balance consideration for operational requirements with the benefits of being a flexible employer in terms of recruitment, retention and the creation of development opportunities (acting and temporary assignments) for other employees.
- 1.4.4 Discretionary leave without pay shall not be authorized for the sole purpose of extending an employee's effective date of retirement.

1.5 Definitions

Discretionary leave:

Refers to leave requests of a personal nature such as family, community and volunteer activities and other personal pursuits which the employer is not under any obligation to approve.

Accrued leave:

Refers to earned but unused leave including vacation, compensatory leave, long service, travel status and manager's leave.

Manager:

Refers to employees in the MG occupational group, or specific supervisory positions designated by the Deputy Minister.

2 *Discretionary Leave without Pay Requests*

General

- 2.1 Employees may request a discretionary leave without pay of up to two years, including extensions. Deputy Ministers may, at their discretion, approve a longer leave where circumstances warrant (for example, leave for education).
- 2.2 Employees must first use any accrued leave (see definition) prior to accessing discretionary leave without pay.
- 2.3 Employees will retain the right to their substantive position for leaves of up to one year. Where the leave exceeds one year, the deputy minister may opt to either return the employee to their substantive position or an equivalent position.
- 2.4 In exceptional circumstances, departments may vary the return to work provisions outlined in 2.3 for leaves that exceed one year. This must be undertaken in consultation with the Public Service Commission and the implications clearly communicated in the leave agreement signed by both the department and the employee.

- 2.5 Discretionary leave without pay is not intended as a means to achieve a reduction in work hours on a recurring basis or a temporary reduction to part-time status. Flexible work arrangements such as compressed work week and flex time are more appropriate options to explore.
- 2.6 Employees on a leave without pay must continue to abide by the Conflict of Interest policy and may not use the leave to accept a full-time position elsewhere, except where the deputy minister has given prior approval. Employees also continue to be subject to the Speaking in Public and Writing for Publication Policy and all other terms and conditions of employment.
- 2.7 If a reorganization within the department or the government results in changes to a position which is guaranteed to an employee who is on leave without pay, the employee shall be treated as though he/she were at work with respect to assignment of new duties, reclassification, abolition or transfer. The employee will be notified in a letter to his/her last known address of these changes before they occur.

3 *Assessing leave requests*

- 3.1 Managers and deputy ministers will consider leave requests in the context of this policy and specific operational requirements. See 4.3 and 4.8 for more on operational requirements.
- 3.2 Managers and deputy ministers may also consider the employment history, length of time the employee has been in their current position, and other leaves that the employee has been granted.

4 *Process*

- 4.1 Employees are expected to submit leave without pay requests reasonably in advance of the leave date. In unforeseen situations or emergencies where it is not possible to obtain advance approval, written application and authorization should be concluded as soon as practicable.

Leaves of 30 calendar days or less

- 4.2 Managers have the authority to approve leaves of 30 calendar days or less via a standard leave request form processed according to internal department practice.

- 4.3 In assessing discretionary leave without pay requests, managers will consider operational requirements including:
- a) ability to backfill the position;
 - b) any current or upcoming priority projects requiring continuity and/or that rely upon the employee's particular skills and expertise;
 - c) staffing levels in the unit and impact on workload;
 - d) any potential conflicts of interest associated with the requested leave; and,
 - e) other specific operational considerations pertaining to the work unit.
- 4.4 If a manager decides not to approve a leave without pay request, the manager will indicate the reason on the leave application and submit it to the department human resource branch for retention.

Leaves exceeding 30 calendar days

- 4.5 Leaves longer than 30 calendar days require a recommendation from the employee's manager and authorization from the deputy minister. Deputy ministers may choose to delegate approval authority to another position.
- 4.6 For leave without pay requests exceeding 30 calendar days, employees must submit a leave application form accompanied by a written proposal indicating:
- a) requested leave period;
 - b) general purpose of requested leave;
 - c) whether or not there are any potential conflict of interest considerations, particularly where leave is related to other employment or community and volunteer activities; and,
 - d) whether or not they have consulted with Compensation and Classification Branch and are aware of potential impacts on benefits.
- 4.7 Employees are required to submit their written leave proposal to their manager for a recommendation well in advance of the requested leave date. Managers will then forward their recommendation along with the original proposal to the deputy minister or delegate for a final decision.

- 4.8 In assessing discretionary leave without pay requests, managers and deputy ministers will consider the employee's proposal, including the purpose of the leave, in the context of operational requirements including:
- a) ability to backfill the position;
 - b) any current or upcoming priority projects requiring continuity and/or that rely upon the employee's particular skills and expertise;
 - c) staffing levels in the unit and impact on workload;
 - d) any potential conflicts of interest associated with the requested leave;
 - e) any additional costs to the department in terms of continued employer benefit contributions, and
 - f) other specific operational considerations pertaining to the work unit.
- 4.9 The deputy minister or delegate shall consider the employee's proposal and the manager's recommendation and issue a decision in a timely fashion.
- 4.10 Where approved, the deputy will issue a response in the form of a leave agreement to be signed by the deputy and the employee. The agreement will outline conditions for the leave; including provisions for the employee's return (see 2.3 and 2.4). Where the leave request is not approved, the written response should indicate the operational requirements and/or other considerations for denying the request.
- 4.11 The original proposal and the leave agreement or department response will be retained in the employee's personnel file, with a copy to the department human resource file. This information may be used for evaluating the effectiveness of the policy.
- 4.12 Where approved, a copy of the Application for Leave form shall be provided to the PSC Compensation and Classification Branch which will issue a letter to the employee outlining applicable benefits impacts and options.

Impact on benefits

- 4.13 For leaves exceeding 30 calendar days, employee benefits will be affected. Employees contemplating a leave are responsible for consulting with Compensation and Classification Branch, PSC about impacts on and options for continuation of benefits.

5 Roles and Responsibilities

5.1 Managers and deputy ministers are responsible for:

- a) familiarizing themselves with this policy;
- b) responding to and administering discretionary leave without pay requests in a manner consistent with this policy;
- c) communicating decisions to employees in a clear and timely fashion;
- d) consulting with their human resources branch if they are unclear about aspects of this policy such as: application of operational requirements, and conflict of interest considerations; and
- e) ensuring requests are filed in accordance with this policy

5.2 Employees are responsible for:

- a) familiarizing themselves with this policy;
- b) ensuring requests are in accordance with this policy;
- c) consulting with Compensation and Classification Branch, PSC to familiarize themselves with potential impacts on benefits;
- d) ensuring they continue to comply with the provisions of this policy while on a leave without pay; and
- e) providing the department with current contact information while on leave.

5.3 The Public Service Commission is responsible for:

- a) providing advice to departments about the application of this policy where requested;
- b) providing information about pension and benefits; and,
- c) conducting periodic assessments of the effectiveness of the policy with input from departments.

References:

Public Service Act

YG-PSAC Collective Agreement

Management Plan, Conditions of Employment for the Management Group

Conflict of Interest Policy

Speaking in Public and Writing for Publication Policy