

- (1) The employee applying for catastrophic leave had, during the previous one (1) year period, another medically documented illness or injury which was not compensated under an approved Catastrophic Leave Bank Program, but was documented under the Family and Medical Leave Act (FMLA) as a qualifying event, and caused the exhaustion of all sick and annual leave, or
 - (2) The employee applying for catastrophic leave had, during the previous one (1) year period, exhausted his or her sick and annual leave as a direct result of supplementing workers' compensation benefits, which were received as a result of an on-the-job illness or injury with the State of Arkansas.
- E. If the medical condition is due to illness/injury or for maternity purposes and the employee is covered by workers' compensation, the compensation based on approved catastrophic leave, when combined with the weekly workers' compensation benefit received by the employee, shall not exceed the compensation being received by the employee at the onset of the illness/injury or maternity leave.
- F. The employee has not received a documented disciplinary action for leave abuse during the past one (1) year period from the date of application. This requirement does not apply for maternity purposes.
- G. An employee shall not be approved for catastrophic leave unless that employee is, or is reasonably expected to be, on leave-without-pay (LWOP) status as a result of the catastrophic illness/injury. This requirement does not apply for maternity purposes.
- H. An employee is eligible for approved catastrophic leave due to injury/illness for a maximum of six (6) months (1,040 hours) within a five (5) year period. Additional requests within the five (5) year period may be submitted for review and determination by the OPM Catastrophic Leave Bank Committee and State Personnel Administrator. This requirement does not apply for maternity purposes.
- I. The combination of catastrophic leave for the stated medical conditions, due to illness/injury or for maternity purposes, received by an employee may not exceed one thousand, two hundred (1,200) hours in a calendar year (1,040 hours for illness/injury and 160 hours for maternity purposes).
- J. The Catastrophic Leave Bank Committee shall not grant an employee catastrophic leave beyond the date certified by a physician or other appropriate healthcare provider for the employee to return to work.
- K. An employee shall not be approved for catastrophic leave for a medical emergency unless that employee has provided an acceptable medical certificate

from a physician or other appropriate health care provider supporting the continued absence and setting forth that the employee is, and will continue to be unable to perform the employee's duties due to a catastrophic illness/injury of the employee or a qualifying family member. The employee is responsible for providing information regarding his/her assigned job duties to the physician in order to have a more accurate medical certification. This requirement does not apply for maternity purposes.

- L. An employee shall not be approved for catastrophic leave for a maternity purpose unless the employee has provided acceptable proof of the birth or placement. For the birth of an employee's biological child, acceptable proof includes a hospital announcement with the mother's name and/or the biological child's name, hospital discharge papers with the mother's name and the biological child's name, or a birth certificate of the biological child.
- M. For the placement of an adoptive child in an employee's home, acceptable proof includes a formal document from the placement entity with the mother's name and the child's name, or legal guardianship papers with the mother's name and the child's name. The acceptable proof will be maintained by the agency submitting the request but certified as part of the application process or as follow-up to the application using the Maternity Purposes Eligibility Date Verification form.

1007.5.4 Donations of Leave to the OPM Catastrophic Leave Bank

The agency director or designee shall screen leave donated by the employees of that agency to ensure that the following criteria are met:

- A. Accrued leave may only be donated to the OPM Catastrophic Leave Bank in one (1) hour increments. Donations of leave shall be granted hour-for-hour and not dollar-for-dollar.
- B. No employee of an agency shall be allowed to donate leave to the OPM Catastrophic Leave Bank if such donation reduces that employee's accrued sick and annual leave balance to less than eighty (80) hours. This restriction does not apply to employees who are terminating employment.
- C. Annual and/or sick leave which has been donated to the OPM Catastrophic Leave Bank may not be restored to the employee who donated the leave time.
- D. Approved donations of leave shall be transmitted to the OPM Catastrophic Leave Bank by submitting the Donation of Annual and Sick Leave form.

1007.5.5 OPM Catastrophic Leave Bank Committee

- A. Membership: The OPM Catastrophic Leave Bank Committee encompasses employees of various agencies. The Committee members shall be comprised of

a rotating registry of agency employees with the majority having a medical (licensed) or medically related background. Members shall elect a Committee chairperson.

- B. Responsibility: The purpose of the Committee is to review all medical emergency catastrophic leave requests and make recommendations for approval, denial or pending for additional information or clarification. The Committee will reconsider applications submitted by the State Personnel Administrator as requested by an agency director or as deemed appropriate.

1007.5.6 Catastrophic Leave Bank Program Administration

- A. Donations to or applications for catastrophic leave and related forms and documentation shall be submitted to the employee's human resources office or to the employee's agency director/designee for review and completion of the donation or application for eligibility and forwarded to OPM by confidential methods. The completeness and accuracy of information and supporting documentation is the responsibility of the agency.
- B. The OPM Catastrophic Leave Bank Coordinator and/or designee will be responsible for the following:
 - (1) Donations of annual and sick leave or accrued annual and sick leave to the Catastrophic Leave Bank
 - (a) Review and record keeping of annual and sick leave submitted by donors; and,
 - (b) Review and record keeping for return of accrued annual and sick leave and approved unused leave.
 - (2) Applications for Catastrophic Leave for Medical Emergencies due to illness/injury
 - (a) Application review for completeness, eligibility and coordination of the information to be presented to the Committee chairperson and members for review and determination;
 - (b) Creation of agenda and minutes for each meeting;
 - (c) Record keeping of determinations; and,
 - (d) Distribution of Committee determinations.
 - (3) Applications for Catastrophic Leave for Maternity Purposes
 - (a) Application review for completeness, eligibility and coordination of the information;
 - (b) Record keeping of the determinations; and,
 - (c) Distribution of the determinations.

- C. If an agency director does not agree with any of the determinations, an appeal may be made to the State Personnel Administrator for reconsideration by the Committee.
- D. Agency directors shall not grant catastrophic leave to an employee prior to the OPM approval or catastrophic leave exceeding the OPM approval.
- E. Catastrophic leave is granted or donated in one-hour increments only, not on a monetary basis.
- F. Catastrophic leave shall not be awarded retroactively; for maternity purposes, catastrophic leave may be awarded up to twelve (12) weeks after the birth of a biological child or placement of an adoptive child, but shall not begin prior to February 16, 2017, and shall not exceed four (4) continuous weeks.
- G. Catastrophic leave which would result in a negative balance in the OPM Catastrophic Leave Bank shall not be approved.
- H. Employees in a catastrophic leave status, for a medical emergency due to illness/injury, during a period of ten (10) or days in a month, will have the accrued annual and sick leave for the month returned to the OPM Catastrophic Leave Bank; if the employee in a catastrophic leave status, for a medical emergency due to illness/injury, accrues holiday and birthday leave during that time, the accrued holiday and birthday leave will be removed through a quota correction and the days will be reflected as paid catastrophic leave. Holiday and birthday leave will not be returned to the OPM Catastrophic Leave Bank.

The leave codes and categories for catastrophic leave due to a medical emergency are CATL – Catastrophic Leave and FMLT – Family Medical Leave Catastrophic.

- I. Employees in a catastrophic leave status, for maternity purposes, during a four (4) week period, will have the accrued annual and sick leave removed for the month the catastrophic leave status begins through time evaluation; if the employee in a catastrophic leave status, for maternity purposes, accrues birthday leave during that time, the accrued birthday leave will be removed at the time of the birthday through time evaluation; if the employee in a catastrophic leave status, for maternity purposes, accrues holiday leave during that time, the holiday leave will have to be manually removed through a quota correction for non-exempt employees. Birthday and holiday leave during the catastrophic maternity leave period will be reflected as paid catastrophic leave. No accrued leave, annual, sick, holiday and/or birthday leave, will be returned to the OPM Catastrophic Leave Bank.

The leave codes and categories for catastrophic leave due to maternity purposes are CATM – Catastrophic Leave Maternity and FMMLC – Family Medical Leave Maternity Catastrophic Leave.

- J. Employees receiving catastrophic leave for a medical emergency due to illness/injury or for maternity purposes will receive their normal rate of pay and normal state benefits, such as agency contributions to insurance and retirement.
- K. The use of catastrophic leave for medical emergencies or maternity purposes will not change an employee's merit eligibility date.
- L. In the event an employee receiving catastrophic leave for a medical emergency due to illness/injury, returns to work, terminates, retires, or dies prior to expiration of previously approved catastrophic leave, all approved unused catastrophic leave shall be returned to the OPM Catastrophic Leave Bank.
- M. An employee may be dismissed if such employee fails to report to work promptly at the expiration of the period of approved catastrophic leave. Nothing, however, shall prevent the agency from accepting satisfactory reasons provided by the employee, in advance of the date the employee is scheduled to return to work, and from granting leave without pay status to an employee prior to or after the expiration of such catastrophic leave if, in the view of the agency director, such action is warranted. Supervisors should not take disciplinary action for such leave until the application has been formally approved or denied.
- N. Alleged or suspected abuse, misrepresentation or fraud of the OPM Catastrophic Leave Bank Program shall be investigated by OPM and the employee's agency, and on a finding of wrongdoing, an employee shall repay all of the leave hours awarded from the OPM Catastrophic Leave Bank and shall be subject to such other disciplinary action as recommended by the State Personnel Administrator and determined by the agency director.
- O. Approved catastrophic leave for a medical emergency or for maternity purposes shall be applied concurrently with the Family and Medical Leave Act, if the employee is eligible.
- P. Recommendations of the OPM Catastrophic Leave Bank Committee or the State Personnel Administrator are not subject to grievance, arbitration or litigation.

1007.5.7 Record Keeping

The OPM Catastrophic Leave Bank record keeping procedure shall track the following:

- A. The amount of leave donated by each employee, the rate of pay, and dollar value of such donated leave at the time of donation;
- B. The amount of catastrophic leave awarded and returned, including the name of the recipient, position number, rate of pay and personnel number; and,

- C. Any other such data as required by the DFA Director or the State Personnel Administrator.

1007.5.8 Prohibition of Coercion

An employee may not directly or indirectly intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, another employee for the purpose of interfering with that employee with respect to donating, receiving or using annual or sick leave. Any report of such described instances shall be reported in writing to the director/head of the participating agency/institution. All written reports of such described instances shall be investigated thoroughly and appropriate disciplinary action may be taken for any substantiated violation.

1007.6.0 MATERNITY LEAVE

Maternity leave is treated as any other leave for sickness or disability, with the exception that an employee may elect to take LWOP rather than exhaust accumulated leave.

An employee may request catastrophic leave to receive paid maternity leave. If an employee is eligible for both catastrophic leave for maternity purposes and family medical leave for maternity purposes, the two shall run concurrently.

Refer to the DHS Policy on “Catastrophic Leave” for more details.

1007.7.0 LEAVE FOR BONE MARROW OR ORGAN DONATION

1007.7.1 In any calendar year an employee is entitled to the following leave in order to serve as an organ donor or a bone marrow donor.

- A. No more than seven days of leave to serve as a bone marrow donor
- B. No more than thirty days of leave to serve as an organ donor

1007.7.2 To qualify for leave for bone marrow or organ donation an employee must:

- A. Request the leave in writing;
- B. Provide written verification by the physician performing the transplantation that the employee is to serve as a human organ or bone marrow donor;
- C. Provide written verification by the physician performing the transplantation that the employee did serve as a human organ or bone marrow donor.

1007.7.3 An employee may use leave as provided in this section without loss or reduction in pay, leave, or credit for time of service and without penalty for requesting or obtaining the leave.

1007.8.0 COURT AND JURY DUTY LEAVE

1007.8.1 This policy clarifies when a DHS employee must turn in annual leave time for court appearances as required by state law (Ark. Code Ann. § 21-4-213).

1007.8.2 Court and jury leave is not annual leave. It is not accrued, either, but is made available only for mandated court appearances. It is not to be used for personal legal matters. If an employee has a court appearance for personal or family reasons, an appropriate annual leave form must be submitted to his or her supervisor.

1007.8.3 Court and Jury Leave Includes Absences Due to the Following

- A. The employee is summoned as a juror in either a criminal or civil proceeding; or,
- B. The employee is summoned as a witness, outside his or her state employment, to give a deposition or testimony in a state or federal court, or at a hearing, or before any body with power to issue a subpoena, and the employee is neither a paid expert witness nor a party to the matter. Parents of juveniles are considered parties in juvenile court petitions (Ark. Code Ann. § 9-27-311(a)(1-3),(c)(1).

A copy of the letter summoning an employee or a letter from the attorney is to be placed in the employee's personnel file in the Personnel Office.

1007.8.4 State Employee as a Juror

- A. If a DHS employee serves as a juror in court, the employee:
 - 1. is entitled to receive his or her regular salary in addition to any fees paid for such jury service;
 - 2. will not be charged annual leave; and,
 - 3. will need to notify his or her supervisor of the jury duty and submit a request for leave form within one business day of learning that attendance will be required. Failure to do so will be viewed as a failure to follow reasonable work related instructions. In determining the level of discipline, the supervisor must consider the scope and severity of any disruption to departmental activities.
- B. Each time the employee serves as a juror, the employee is to attach the note received from the Court Bailiff to his or her time sheet or the "Request for Leave" form. If the required information is not attached, it will be considered an unauthorized leave.

- C. Employees who work night shifts and are required to serve jury duty during the day shall be allowed to take court and jury leave on the night shift of the day on which they served.

1007.8.5 State Employee as a Witness

- A. A DHS employee who is subpoenaed as a witness to testify about matters within the scope of his or her state employment will not turn in any kind of leave if the appearance is during his or her work hours.
- B. A DHS employee serving as a witness will not retain any witness fees or mileage in connection with the subpoena. The employee receiving such fees must surrender the fees by endorsing the check to the DHS Accounts Receivable department and mailing it with a copy of the subpoena, and a DHS-1018 Receipt Coding Slip to:

DHS Accounts Receivable
P.O. Box 8181
Little Rock, AR 72203-8181

- C. A DHS employee may retain witness fees if one or both of the following conditions are met:
 - 1. The matter to which the employee is subpoenaed is outside the scope of his or her state employment; and/or,
 - 2. The employee is a party to the matter other than as a representative of DHS.
- D. Mileage may be retained if the matter to which the employee is subpoenaed is outside the scope of his or her employment, though the employee must not use a state-owned vehicle for travel in obeying a subpoena that is issued regarding a matter outside the scope of the employee's state employment.
- E. If the employee is subpoenaed as a witness outside the scope of his or her state employment, whether as a paid expert witness or a party to the matter, but not as a representative of DHS, then the employee shall take annual leave.
- F. Employees who work night shifts and are subpoenaed as a witness to give a deposition in a court or hearing, not involving personal litigation or service as a paid witness outside the scope of state employment, shall be allowed to take court and jury leave on the night shift of the day on which they served. Night shift employees who must appear in court during the day on personal matters unrelated to work must turn in annual leave time.

1007.9.0 HOLIDAY LEAVE TIME

1007.9.1 Legal Holidays observed by the DHS

New Year's Day	January 1
Dr. Martin Luther King, Jr.	3rd Monday in January
George Washington's Birthday and Daisy Gatson Bates Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Christmas Eve	December 24
Christmas Day	December 25
Employee's Birthday (An employee is granted one holiday to observe his or her birthday)	

- A. The Governor may issue an Executive Proclamation and proclaim additional days as holidays in observance of special events or for other reasons.
- B. The DHS division offices located in Pulaski County must remain open when a holiday occurs during a general or special session of the legislature. These division offices must maintain the minimum number of employees required to conduct state business. These offices may be permitted to close by Resolution of the General Assembly.
- C. Holidays falling on a Saturday will be observed on the preceding Friday. Holidays falling on a Sunday will be observed on the following Monday.
- D. A holiday is defined as a "day." For example, employees on a compressed work schedule who work a ten-hour day will receive the equivalent 10 hours holiday leave. Employees on an eight-hour standard work schedule will receive the equivalent 8 hours holiday leave. The AASIS Payroll system is programmed to handle these work schedules and the equivalent hours.
- E. A compressed or modified work schedule is defined as a schedule where an employee who would normally work 5 eight-hour days each week works 4 ten-hour days.
- F. All approved compressed or modified work schedules will remain in effect during workweeks that include a holiday observed by state policy. Any request for exceptions from this rule to allow employee work schedule changes during a holiday workweek (such as changing from 4 days/10 hours schedule back to 5 days/8 hours for one week) must be approved by the Division Director and the DHS Chief Financial Officer.

1007.9.2 Eligibility for Holiday Pay and/or Equivalent Time Off

- A. All "regular salary" and "extra help" employees are eligible to receive holiday pay only if they are in pay status on their last scheduled work day before the holiday and at least fifteen (15) minutes on the first scheduled work day after the holiday. An employee on leave of absence without pay is not in pay status and is not eligible to receive holiday pay.
- B. When a holiday occurs while an employee is on annual or sick leave, that day will be considered a holiday and will not be charged against the employee's annual or sick leave.
- C. When a holiday occurs on an employee's regularly scheduled day off, the employee will be given equivalent time off.
- D. The following provisions apply to employees who cannot take holidays as scheduled:
 - 1. Employees must work on holidays when the needs of the divisions/offices/institutions require it. The division director or designee will determine this need. All employees are eligible to receive hour for hour compensation when required to work on a holiday.
 - 2. Days off in lieu of holidays worked may be taken at a time approved by the employee's supervisor (Such time off is to be taken as soon as is practical).
 - 3. Holiday or Birthday leave does not expire and may be retained past one year.
 - 4. When a holiday falls on a regularly scheduled day off, employees who work less than full time will receive holiday time in proportion to their time worked.
 - 5. Upon termination of employment, the maximum amount of annual and holiday leave to be paid out in a lump sum remains 240 hours.
 - 6. The minimum holiday leave amount an employee can use is fifteen (15) minutes. No smaller amount shall be authorized or used.

1007.10 LEAVE WITHOUT PAY (LWOP)

This policy provides guidance regarding the administration of Leave Without Pay (LWOP) in compliance with Arkansas Code Annotated § 21-4-210 and Arkansas Department of Finance and Administration, Office of Personnel Management Policy Section 105, Subsection 8.0.

1007.10.1 Use of Leave Without Pay

- A. Employees may not take leave without pay until all their accumulated annual leave has been exhausted, except in cases of:

1. Maternity Leave
 2. Military Leave
 3. Inclement Weather as designated by state policy
 4. Budget Reductions as determined by the DHS Director
 5. Agency Disciplinary Actions
- B. Like all leave requests, an employee's supervisor (or Division Director, Office Chief, or designee) must approve Leave Without Pay (LWOP) prior to the employee using it. Notification may be necessary prior to the start of the workday to obtain the approval of the supervisor designated to authorize LWOP.
- (1) Failure to obtain supervisor approval prior to use of LWOP may be considered unauthorized leave which is subject to disciplinary action, including dismissal.
 - (2) When it has been determined that an employee is on LWOP, the supervisor must immediately notify the next higher level of management and insure the LWOP is reported properly on the employee's time sheet. In the case of maternity leave, such employee may elect to take leave without pay, without exhausting accumulated annual and sick leave; refer to DHS Policy 1007.6.0.
- C. In the case of maternity leave, an employee may elect to take leave without pay, without exhausting accumulated annual and sick leave; refer to DHS Policy 1007.6.0.
- D. In the case of Workers' Compensation, refer to DHS Policy 1007.11.0.
- E. In the case of leave without pay for military service and/or specialized training, refer to DHS Policy 1007.12.0.
- F. In the case of disciplinary actions, DHS may place an employee on disciplinary leave without pay status in accordance with the written and publicized personnel policies of DHS, refer to DHS Policy 1084, Employee Discipline: Conduct/Performance.

1007.10.2 Continuous Leave Without Pay

- A. The DHS Director or designee may grant continuous leave without pay. Any such period shall not exceed six months. Each request for leave without pay is to be considered on a case-by-case basis. Upon expiration of any six (6) month period of LWOP additional extensions up to six (6) months each may be requested by the employee if updated justification with appropriate documentation is provided.

- B. Approval or disapproval of requests for leave without pay as an accommodation should be determined based upon the impact of the operation and mission of DHS, and whether approval would create an undue hardship on DHS.
- C. “Undue hardship” is defined as “an action requiring significant difficulty or expense” when considered in relation to a number of factors. These factors may include, but not necessarily be limited to, the nature of the position occupied by the employee and cost of the request in relation to the size, resources, nature and structure of DHS’s operation and mission. Thus, whether or not an accommodation request would create an undue hardship focuses on the resources and circumstances of DHS in relation to the cost or difficulty of providing a specific leave request. Undue hardship refers not only to financial difficulty, but also to requests that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature of operation of DHS.
- D. The DHS Director or designee should assess, on a case-by-case basis, whether a particular request for leave without pay would cause undue hardship. Every request should be evaluated separately to determine if it would impose an undue hardship on DHS, taking into account:
 - 1. the nature and cost of the request
 - 2. the overall financial resources of DHS
 - 3. the number of persons employed by DHS
 - 4. the effect on expenses and resources of DHS
 - 5. the impact of the request on DHS
- E. The DHS Director or designee may declare an undue hardship where a leave request accommodation would be unduly disruptive to other employees’ ability to work efficiently. For example, if granting leave would prevent other employees from doing their jobs, then the significant disruption to the operations of the agency constitutes an undue hardship. In some situations, an employee may be able to provide only an approximate date of return because treatment and recuperation do not always permit exact timetables. If DHS is able to show that the lack of a fixed return date imposes an undue hardship, then DHS can deny the leave. An undue hardship could result if the agency can neither plan for the employee’s return nor permanently fill the position. In other situations, DHS may be able to be flexible.

1007.10.3 Leave Accrual and Insurance Coverage During Leave Without Pay Status

- A. An employee who accumulates 80 or more hours of leave without pay during any one calendar month loses the leave accrual (annual and sick) for that month only. That would be 10 LWOP days for a regular work schedule or 8 LWOP days for a compressed work schedule. The days do not have to be consecutive.

- B. Employees may continue to participate in agency or institution group insurance programs during the period of leave without pay status. Employees who choose this option must pay the total cost (employee deduction and employer matching) of the coverage. However if an employee is on FMLA or Workers' Compensation related leave, agencies are required to remit the employer's matching portion of coverage.

1007.10.4 Leave Accrual and Insurance Coverage Upon Returning to Work from Leave Without Pay Status

- A. The employee will be reinstated with full rights at the end of the period of leave without pay status. An employee who is on LWOP and returns within the required six months continues to earn credited service toward the next rate in the leave accrual schedule just as the employee who had never gone on LWOP. A returning employee's leave accrual rate will not be affected by periods of LWOP, nor will the time of entitlement to a change in leave accrual rate be adjusted because of LWOP. If the position the employee left is no longer available due to a budgetary reduction in staff, the employee will have no options and cannot be reinstated.
- B. Employees having kept their group insurance in effect while on Leave Without Pay status are to be fully reinstated in insurance programs when they return to duty. However, employees on FMLA leave are eligible for reinstatement in the insurance program even if the employee failed to pay their premium while on FMLA leave. Upon return from FMLA LWOP (FMLL), employees are responsible for payment of the total amount of premiums that are in arrears. Employees who receive less than ten hours of pay in a given pay period and who do not have Workers' Compensation Leave, Military Leave, or FMLA Leave approved for that pay period will be responsible for the employee premium as well as the employer portion of their medical insurance.

1007.10.5 Employee's Increase Eligibility Date Upon Returning to Work from Leave Without Pay Status

- A. The employee's Increase Eligibility Date will not change.
- B. However, the award of the next merit salary increase will be delayed beyond the anniversary date for the same number of work days as the employee was on leave without pay status.

1007.10.6 Extension of Leave Without Pay Status and Failure to Return from Leave Without Pay Status

Employees may be dismissed if they fail to report to work promptly at the expiration of the period of leave without pay. However, the DHS Director or designee may accept satisfactory reasons provided by the employee in advance of the date to return to work and extend the LWOP period accordingly.

1007.11.0 WORKERS' COMPENSATION

- 1007.11.1 Employees who are absent from work due to a temporary occupational injury or illness and who are entitled to Workers' Compensation benefits may utilize their accrued sick leave as a supplement to such benefits or they may use their accrued annual, holiday, FLSA compensatory time and LWOP. This is not to exceed the leave period authorized under Section 1007.8.3 of this policy. NOTE: When the employee elects to utilize sick leave to supplement Workers' Compensation benefits, the sick leave must be exhausted in accordance with Section 1007.9.2 of this policy.
- 1007.11.2 The combination of Workers' Compensation benefits and sick leave pay shall not exceed the employee's normal pay period salary. Workers' Compensation is responsible for notifying the Payroll Office of the amount of employee benefits.
- 1007.11.3 The option will reduce the employee's accrued sick leave on a proportional basis. For example, an employee's normal salary is \$150 per week. The employee receives \$75 Workers' Compensation benefits and elects to receive an additional \$75 per week in sick leave payments. Thus the employee uses sick leave at a rate of one-half, which is equivalent to two and a half (2 ½) days of sick leave for each week of disability.
- 1007.11.4 Leave used will be reinstated in reverse order from which absence, due to sick leave, is charged for that portion of time taken that was covered by Workers' Compensation. For example, absence due to sick leave is charged in the following order: earned sick leave, earned FLSA compensatory time, earned annual leave, earned holiday, LWOP. Reinstated leave will then be earned holiday, earned annual leave, earned FLSA compensatory time, and earned sick leave.
- 1007.11.5 Employees who receive benefits for a permanent work related disability may receive full sick leave payments.
- 1007.11.6 Whenever an employee is injured on the job, it is necessary for the supervisor/manager or designee to immediately file a claim with the Workers' Compensation Commission, Public Employees Claims Division, from which the forms to file the claim should be obtained.

1007.12.0 MILITARY LEAVE

- 1007.12.1 Annual Training Duty
- A. Permanent, full time employees who are members of the National Guard or any of the reserve branches of the U.S. Armed Forces will be granted paid leave at the rate of fifteen (15) working days per calendar year plus necessary travel time. The fifteen (15) working days per calendar year plus travel time are for "annual training requirements." The employee must attach a copy of his or her military orders to each request for military leave.
- B. The military leave granted to an employee will accumulate for use in succeeding calendar years until it totals fifteen (15) days at the beginning of the

calendar year, for a maximum of thirty (30) military leave days available in any one calendar year.

1007.12.2 Active Duty for Military Service

A permanent, full time employee who is drafted or called to active duty in the Armed Forces of the United States or who volunteers for military service shall be placed on extended military Leave without Pay (LWOP). All unused sick leave at the time of military leave will be reinstated at the time the employee returns. All accrued, unused annual leave, FLSA compensatory time and holiday leave at the time of military leave will be reinstated at the time the employee returns to work unless the employee requested and received a lump-sum payment for the accrued, unused leave when placed on the extended military leave.

1007.12.3 Active Duty for Purpose of Specialized Training

In cases where an employee volunteers or is ordered to active duty for the purpose of special training, the employee has the option of using military leave or LWOP for the period of training unless the employee elects to use his accrued annual leave. This leave is given in addition to annual training. The employee retains eligibility rights including accumulated annual leave (unless the above option has been exercised) and any sick leave not used at the time the employee begins the training. The employee does not accumulate annual or sick leave during the LWOP period, and the annual leave accrual rate will be calculated as though there had been no period of absence.

1007.12.4 Reinstatement Rights

- A. When an employee is released from active duty, he or she shall be reinstated to the position vacated or an equivalent position for which he or she is qualified in the same division/office or its successor in interest.
- B.
 - 1. Employees performing active military service for fewer than thirty-one days must report for re-employment on the first regularly scheduled workday within eight hours after discharge from military services.
 - 2. Employees serving more than thirty (30) but less than 181 days must report within fourteen (14) days after discharge.
 - 3. Those serving more than 180 days must report for reemployment within ninety days after discharge from military service.
- C. In the case of an employee ordered to an initial period of active duty in a branch of the military reserves for training of not less than three consecutive months, these returning Reservists are entitled to reinstatement rights for a period of thirty one (31) days after release from active duty, subject to the same terms and conditions as returning veterans. In both cases, provisions stated in the Veteran's Re-Employment Rights Statute may extend this eligibility for re-employment rights.

- D. The reinstated employee shall not lose any seniority rights with respect to leave accrual rates, pay increases, reduction-in-force policies, or other benefits and privileges of employment.

1007.12.5 Extended Reenlistments

Former employees returning to state service after military service, but who extended their enlistment or re-enlisted for additional military service beyond the initial period for more than a period of four (4) years (or five (5) years when re-enlistment was at the request of the military) will lose all seniority rights for reduction in force actions, or other benefits and privileges of employment and will be considered a re-hire.

1007.12.6 Emergency Situations

- A. Permanent, full time employees who are called to active duty in emergency situations as declared by the Governor or President shall be granted leave with pay. The period of leave with pay will not exceed thirty working days. Periods beyond the thirty-day limit may be charged to annual leave at the employee's option and, if necessary, to LWOP. Military leave for emergency situations is granted in addition to annual military leave for training purposes and normal annual leave.
- B. If an employee's active duty in emergency situations begins in one calendar year and ends in the next calendar year and the employee is subsequently deployed due to an emergency situation, the employee is eligible for thirty days paid leave in the new calendar year. To be eligible for emergency active military duty paid leave, the employee must be actively employed by DHS and submit a copy of military orders for each emergency deployment.

1007.12.7 Record Keeping for Military Leave

When an individual is called to active military service, personnel records shall reflect the following information:

- A. The beginning date and expected return date.
- B. Whether leave is for fifteen (15) working days for annual training, active duty for military service, active duty for specialized training and/or active duty for emergency situations as declared by the Governor or President of the United States.
- C. Whether or not the employee has elected to use accrued annual leave or LWOP.

1007.12.8 Military Leave for Service Connected Disabilities

- A. All DHS employees, who have been rated by the United States Department of Veterans Affairs (VA) to have incurred a military service-connected disability and have been scheduled by the VA to be reexamined or treated for the disability shall be entitled to a leave of absence with pay for a period not to exceed six (6) days for that purpose during any one calendar year.

- B. The employee shall be entitled to his or her regular salary during the time the employee is away from duty during the leave of absence. The leave of absence shall be in addition to the regular annual leave and sick leave. During a leave of absence, the employee preserves all rights, privileges, and benefits to which he or she has become entitled.
- C. For purposes of entitlement to retirement benefits, the period of the leave of absence shall be deemed continuous service.
- D. The state shall continue to contribute its portion of any life or disability insurance premiums during the leave of absence on behalf of the employee, if requested, so that continuous coverage may be maintained.

1007.13.0 EDUCATIONAL LEAVE

See DHS Policy # 1120, Educational Leave and Assistance, for information.

1007.14.0 DISASTER VOLUNTEER AND RESCUE SERVICE LEAVE

1007.14.1 A DHS employee may be granted up to fifteen (15) working days of paid leave (“Disaster Volunteer Service”) in a twelve (12) month calendar year period to participate in specialized disaster relief, if the employee meets the following qualifications:

- (a) Is trained and certified as a disaster service volunteer by the American Red Cross;
- (b) Has specialized disaster relief services that are requested by the American Red Cross in connection with a disaster; and,
- (c) Obtains consent from the DHS Director.

1007.14.2 Disaster Volunteer Service Leave shall be granted only for disaster relief services occurring within the State of Arkansas or for disaster relief services occurring within states contiguous to Arkansas.

1007.14.3 DHS shall grant Disaster Volunteer Service Leave at the qualified employee’s regular rate of pay for those regular work hours during which the employee is absent from work.

1007.14.4 A DHS employee who is a member of one or more of the following groups is entitled to fifteen (15) working days of paid leave (“Rescue Service”) in a calendar year to participate in a training program or in emergency and rescue services:

- (a) The United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary. The leave must be at the request of the employee’s wing commander, the wing commander’s designated representative, or District 15 Captain; or,

(b) The National Disaster Medical System, a Disaster Mortuary Operational Response Team, or a Disaster Medical Assistance Team, of the Office of Emergency Management of the Office of the Assistant Secretary of Preparedness and Response of the United States Department of Health and Human Services. The absence must be in response to a United State Department of Health and Human Services National Disaster Team Alert Order.

1007.14.5 The leave of absence for disaster and rescue services shall be in addition to the regular vacation time allowed to the employee.

1007.14.6 An employee deemed to be on Disaster Volunteer Service or Rescue Service leave shall not be deemed to be an employee of the State for the purposes of Worker's Compensation.

1007.14.7 A DHS employee who qualifies for leave under this section will not lose pay, annual leave, sick leave, compensatory time, offset time, overtime wages (if applicable), retirement privileges, disability insurance benefits, seniority, or any other rights, privileges, or benefits to which the employee has become entitled.

1007.14.8 An employee granted leave under this section shall be deemed continuous services and entitled to his or her regular salary during the time the employee is away from his or her duties during the leave of absence.

1007.15.0 FAIR LABOR STANDARDS ACT COMPENSATORY TIME

1007.15.1 Non-Eligible Employee

Those employees classified as exempt are not eligible to earn FLSA compensatory time. Although exempt employees have defined work schedules, frequent deviations from those schedules are expected.

1007.15.2 Eligible Employee

Only DHS employees who are non-exempt according to the provisions of DHS Policy 1031 - Fair Labor Standards Act are eligible to earn FLSA compensatory time.

1007.15.3 Accrual

A. FLSA compensatory time will be earned at the rate of one and one-half (1 ½) hours for each full hour worked in excess of the employee's regularly scheduled workweek. (See DHS Policy 1031, Fair Labor Standards Act.) Compensatory time is earned only if the employee has worked in excess of a 40-hour week, otherwise any overtime worked is considered straight time. (Those employees who are authorized to work the 8/80 Plan will earn compensatory time at a rate of one and one half (1 ½) hours for each full hour worked in excess of eight (8) hours per day or 80 hours per pay period, whichever is greater.)

B. Compensatory time is earned when the supervisor has knowledge of the time worked. If a supervisor has knowledge of an employee working time over the

regular schedule, has not specifically approved the time, yet does not stop the employee from working, the employee is eligible for compensatory time.

- C. It is management's responsibility to assure that employees do not engage in work activity that exceeds their regularly scheduled work hours or workweek without supervisory approval.
- D. It is the employee's responsibility to obtain prior supervisory approval before engaging in work exceeding his or her regularly scheduled work hours.
- E. Eligible employees may accrue FLSA compensatory time only when the supervisor finds that time worked in excess of normal work hours is necessary.
- F. Earned FLSA compensatory time must be recorded as a separate category from other leave categories and according to the Federal FLSA.
- G. The maximum FLSA compensatory time that may be accrued by any affected employee shall be 240 hours, except those engaged in public safety or emergency response activities (Security and Fire Protection). They may accrue 480 hours. Employees who have accrued the maximum 240 or 480 hours will be paid for all additional hours earned until their balances are reduced to the allowed number of hours.

1007.15.4 Use of FLSA Compensatory Time

- A. FLSA compensatory time will be deducted from the employee's accrued FLSA compensatory time in increments of not less than 15 minutes. This time may not be taken before it is earned.
- B. A U.S. Supreme Court decision allows states to direct the use of FLSA compensatory time before use of annual leave. DHS employees with both earned FLSA compensatory time and earned regular annual leave will be given the option to select the type of leave they want to use. The employee may be required to propose a plan for using the two leaves. The supervisor, however, will have both the final authority to determine if the request will interfere with the work flow, and to direct the employee to use FLSA compensatory time when needed. Circumstances such as an employee's earned compensatory time or earned annual leave being close to the 240-hour limit may affect which should be used first.
- C. An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation in cash for any additional overtime hours of work.
- D. At the time of termination, lump sum payment of accrued FLSA compensatory time will be at a rate of not less than:
 - 1. The average regular rate received by an employee during the last three (3) years of his or her employment or
 - 2. The final rate received by an employee, whichever is higher.

- E. At the time of transfer from one (1) state agency/institution to another, all FLSA compensatory time is a liability of DHS and should be paid the employee upon transfer.

1007.16.1 HEALTHY EMPLOYEE LIFESTYLE PROGRAM LEAVE TIME

Per Act 724 of 2005, DHS employees who participate in the Healthy Employee Lifestyle Program (HELP) can exchange earned points for up to three days leave per calendar year. Each participant's calendar year is established by going back 365 days from the date the employee started the program. Points can be redeemed in the following increments:

- 600 points = 1 hour (up to 4 hours in a calendar year)
- 4,750 points = 1 day
- 5,320 points = 2 days
- 5,890 points = 3 days

- 1007.16.2 Employees wishing to utilize points for time off should print a redemption certificate, which will be numbered. The redemption certificate should be attached to a completed Employee Request for Leave. The leave code "HELP" should be entered under "Other" along with the increment of time the employee is requesting. Both forms should be submitted to the employee's supervisor for approval. Supervisors should verify that each numbered redemption certificate is only utilized once. A copy of the redemption certificate should be given to the division HELP Coordinator.

- 1007.16.3 Division timekeepers should enter HELP leave time on the weekly CAT2: Timesheet as "HELP." No quota will need to be set up nor will a quota be shown for HELP leave on the PT 50: Quota Overview screen. Supervisors and Time Specialists who will utilize PT 64, Attendance/Absence Data Overview, can monitor the use of HELP leave time.

1007.17 CHILDREN'S EDUCATIONAL ACTIVITY LEAVE

- 1007.17.1 This policy establishes the Children's Educational Activity Leave program as mandated by Ark. Code Ann. § 21-4-216.

- 1007.17.2 Policy

- (a) A full-time state employee is entitled to eight total hours of leave, regardless of the number of children, during any one calendar year for the purpose of engaging in and traveling to or from the educational activities of his or her child or children.
- (b) The employee's supervisor must approve the leave request prior to the time the leave is taken. The leave shall be granted if the employee's time off will not interfere with the efficient operation of the office.

- (c) The minimum leave an employee may request is a period of fifteen minutes. The AASIS Code for Children’s Educational Activity Leave is “CEAL” on the DHS 1120 Form, “Employee Request for Leave.”
- (d) An employee’s “child” includes a natural child, adopted child, stepchild, foster child, or a grandchild, as well as a ward of the state employee by virtue of the state employee’s having been appointed the child’s legal guardian or custodian, or any other legal capacity in which the employee is acting as a parent. (Refer to Ark. Code Ann. § 21-4-216 if more specific details are needed.)
- (e) An “educational activity” includes any pre-kindergarten through 12th grade school-sponsored activity such as:
 - (1) Attending a parent-teacher conference or school committee meeting of the school in which the child is enrolled;
 - (2) Participating in school-sponsored tutoring of the child or in a volunteer program sponsored by the school in which the child is enrolled;
 - (3) Attending a field trip with the child;
 - (4) Attending a school-sponsored program or ceremony in which the child is a participant (awards, scholarship presentations, graduations, homecoming, parents’ or grandparents’ breakfasts or lunches, or a classroom party); or,
 - (5) Attending an academic or athletic competition or a music or theater program in which the child is participating.
- (f) Leave that is unused may not be carried over to the next calendar year. Employees will not be compensated for the leave at the time of employment separation.

1007.18.0 EMERGENCY PAID LEAVE

- 1007.18.1 The DHS Director may grant up to 40 hours of Emergency Paid Leave for DHS employees who suffered the loss of, or substantial damage to, their principle place of residence due to tornadoes, high winds, rain, flooding, or other severe weather conditions.
- 1007.18.2 Emergency leave shall be limited to employees whose principal place of residence which is a home in which they reside daily, is located in a county that has been declared a disaster area by the Governor as a result of severe weather.
- 1007.18.3 DHS will maintain records of the amount of emergency paid leave claimed and forward those reports to the Department of Finance and Administration’s (DFA) Office of Personnel Management (OPM).

1007.18.4 Employees may use their own earned leave time (excluding sick leave) in addition to the emergency paid leave if approved by the employee's supervisory chain of command.

(Reference: EO 08-09)

1007.19.0 STATE EMPLOYEE ATTENDANCE AT RETIREMENT SEMINARS AND COUNSELING SESSIONS

1007.19.1 Employee attendance at APERS/ATRS retirement seminars will be treated as any other type of employee benefit presentation, provided those attending have at least a minimum of five years credited service in a state sponsored retirement system. Attendance at retirement seminars does NOT necessarily require employees to take any type of leave.

1007.19.2 Attendance at retirement seminars will be as follows:

- A. Employees are allowed to attend a retirement seminar once every five years without the use of accrued leave.
- B. Employees within five years of retirement are allowed to attend a retirement seminar once a year without the use of accrued leave.
- C. Employees within one year of retirement or DROP are not required to use accrued leave to attend retirement seminars or scheduled sessions with retirement counselors.

1007.19.3 Employees must schedule the attendance so that their absence will not hinder the work of their agency. Appointments require prior approval from the employees' supervisor.