

City of Red Bluff
Administrative Policies & Procedures – Personnel Manual

Subject: Leave without Pay		Number: 22-37
		Effective Date: 10/17/2023
Departments Affected: All		Supersedes (Number/Date):
Authority: Section 2.82-A. Red Bluff City Code	File References:	
	Approved: Approved by City Council on: 10/17/2023	

Overview: Leave without pay (LWOP) is an approved temporary absence from duty in a non-pay status that is requested by an employee. Granting LWOP is a matter of City Manager discretion and is limited by this rule. Suspension, furlough, industrial injury leave, FMLA/CFRA, any Disability Leave, or absence without approved leave (AWOL), is not considered LWOP under this rule.

Applicable to: All employees (Employees in a non-paid status while on an approved job protected leave of absence, such as industrial injury leave or other leaves granted under a Memorandum of Understanding due to an employee’s own or a qualifying family member’s serious medical condition, are not limited under this rule. This rule also does not apply to safety receiving industrial disability leave on the terms and conditions required by the California Labor Code Section 4850.)

Guidelines: An employee may make a request specifically for leave without pay for circumstances allowed under this rule. Requests for leave without pay may only be approved by the City Manager.

An employee may not be in Leave Without Pay status for more than 10 workdays in a rolling 12-month period, with exceptions for emergency responders as described in this rule. The City Manager may grant less than the full 10 days of leave when applicable.

LWOP shall be limited to when an employee does not have sufficient leave balances to cover an approved absence. An employee may not choose to go into LWOP status in lieu of using vacation, compensatory time, administrative leave, or any other accrued leave.

Circumstances when LWOP may be appropriate are listed below.

- Plans made prior to hire – A new employee requires time off for a pre-planned event such as a wedding, pre-paid trip, etc.
- New hire illness/emergency - A new employee requires time off due to an illness, unavoidable emergency, hospitalization, or bereavement.
- Victims of domestic violence – An employee requires time off under City of Red Bluff AP&P: 22-41: Accommodations & Leave for Victims of Domestic Violence.

City of Red Bluff
AP&P 22-37 Leave without Pay

- Personal legal matters and victims of crime – An employee requires time off to attend judicial proceedings or address personal legal matters (see AP&P 22-45 Leave for Legal Matters)
- Child's school related activities – An employee who is a parent/guardian requires time off for school related activities such as enrollment, discipline issues, school closure, etc. Under the labor code, the employee may use up to 40 hours per year of vacation, administrative leave, or compensatory time for this purpose. The employee may use time off without pay for this purpose, but only to the extent made available under this rule.
- Emergency Services Duty or Emergency Services Training – An employee requires time off to attend emergency services duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel or emergency services training related to their duties as a volunteer firefighter, reserve peace officer, or emergency rescue personnel. Under the labor code, the employee may take a temporary unpaid leave of absence not to exceed an aggregate of 14 days per calendar year for this purpose. The employee may elect to use vacation, administrative leave, or compensatory time in lieu of leave without pay. However, should the employee's paid leave not be sufficient to cover the 14 days, the employee may use time off without pay for this purpose after other leave is exhausted, but not to exceed 14 days total.
- Spouse on leave from military deployment – An employee requests time off to spend time with a spouse on leave (see AP&P 22-43 Military-Related Leave).
- Educational purposes – An employee requests time off to attend specific training as part of career development efforts.
- Other circumstances as authorized by the Department Head with consultation with Human Resources.

The Department Head may require substantiation for LWOP, either before leave is taken, or upon the employee's return to work. An employee who does not provide substantiation as requested may be considered absent without leave (AWOL).

Time Off Approved Prior to Exhaustion of Leave

If an employee requests time off and is approved when there is leave available, and then exhausts available leave, the original time off request may be retroactively denied. Or if the employee no longer has sufficient leave accrued to cover the full period of the request for leave, the leave granted may be restricted to the actual amount of accruals available.

Leave Accruals

Sick Leave and vacation do not accrue during periods of unpaid leave. Sick Leave and vacation will be adjusted and prorated accordingly for any unpaid absences within a pay period. At no time should an employee receive full leave accruals for pay periods that contain Leave Without Pay.

If an employee is in LWOP status the day before and the day following a holiday (as listed in the respective MOU), the employee does not receive pay for the holiday.

City of Red Bluff
AP&P 22-37 Leave without Pay

Seniority, Pension, and Benefits

LWOP shall be without accrual of seniority hours.

Employees on leave without pay for an entire month will not receive service credit for retirement for that month.

Employees in unpaid status for a full pay period are not eligible for the City match for deferred compensation for that pay period (if applicable).

Subject to Discipline

Excessive absences may be subject to disciplinary action in accordance with the MOU and AP&P 22-29: Work Hours & Attendance.

Failure to report for duty after a LWOP has expired or has been revoked may be considered absence without leave and subject to disciplinary action, at the discretion of the Department Head and City Manager. Additionally, an employee who fails to return to work within three (3) working days of the expiration of the employee's approved leave shall be deemed to have tendered an automatic resignation. The Department Head will acknowledge the resignation in writing and send the notification to the employee's last known address.

An employee who is in LWOP status for more than 10 workdays in a rolling 12-month period under the provisions of this rule is subject to discipline, up to and including termination.

References: Govt. Code §12945.1-12945.6: California Family Rights Act; Health and Safety Code §1799.107; Govt. Code §19702.3 Family Care Leave; Govt. Code §21150-21153; Code of Regulations Title 2 §11087-11098 California Family Rights Act; United States Code Title 29 §2601-2654 Family and Medical Care Leave Act of 1993; Code of Federal Regulations Title 29 §825.100-825.800 Family and Medical Leave Act of 1993; Family Sick Leave CAL Labor Code §230.3 and §2800.2; Consolidated Omnibus Budget Reconciliation Act (COBRA); Health and Safety Code §1373.621; Insurance Code §11512.03.