

ILLINOIS STATE POLICE DIRECTIVE PER-036, LEAVE OF ABSENCE

RESCINDS: PER-036, 2022-085, revised 02-28-2022.	REVISED: 01-03-2023 2023-113
RELATED DOCUMENTS: PER-025, PER-027, PER-038, PER-040, PER-045, PER-101	RELATED CALEA STANDARDS (6th Edition): 22.1.2, 22.1.3

I. POLICY

The Illinois State Police (ISP) will honor a request for a leave of absence (LOA) from an employee based upon the merits of the request and the needs of the Department.

II. AUTHORITY

- II.A. 775 ILCS 5/1-101, et. seq., "Illinois Human Rights Act"
- II.B. 820 ILCS 151/1, et. seq., "Family Military Leave Act"
- II.C. 225 ILCS 60/1 et. seq., "Medical Practice Act of 1987"
- II.D. 29 U.S.C. 2601, et. seq., "Family and Medical Leave Act"
- II.E. 29 U.S.C. 794, et. seq., "Americans with Disabilities Act," Title II
- II.F. 38 U.S.C. 43, et. seq., "Uniformed Services Employment and Reemployment Rights Act"

III. DEFINITIONS

- III.A. Immediate family - includes spouse; parents; step-parents; parents-in-law; grandparents; adopted, natural and step-children; grandchildren; brothers and sisters; brothers and sisters-in-law; nieces; nephews; aunts; uncles; or any relative or person living in the employee's household for whom the employee has custodial responsibility or where such person is financially and emotionally dependent on the employee and where the presence of the employee is needed.
- III.B. Leave of Absence – a period in which an employee is unable to perform his/her regularly assigned duties.
- III.C. Medical documentation - written verification by a doctor, dentist, or other professional medical practitioner licensed by a government body, regarding the physical or mental condition of an employee. See the Medical Evaluation form, ISP 2-379, or Physician's Statement, CMS-95.
- III.D. Permanent Disability - An employee who is permanently unable to perform the essential functions of the position as determined by a qualified health care professional.

IV. PROCEDURES

IV.A. LOA

- IV.A.1. A LOA may be granted to any department employee.
 - IV.A.1.a. The LOA will be from the rank/position held at the time permission is granted.
 - IV.A.1.b. Such LOA may be granted whether the employee has or has not completed the probationary period; however, upon return, the employee who leaves while on probation will be required to complete the probationary period.
- IV.A.2. Sworn officers on any LOA (except military service) will not be permitted to participate in the sworn application process regarding posted positions.
- IV.A.3. A LOA, except military service, may be requested for one year or less with the privilege of requesting an extension 30 days prior to the expiration of the first LOA. The Director will only grant a LOA after reviewing the recommendation of the appropriate Deputy Director.

- IV.A.4. An employee on a LOA who accepts a position other than that for which the LOA was granted, without prior approval of the Director, will be deemed to have resigned. An employee who fails to return to the same position or to obtain a LOA extension prior to the expiration of the first LOA will be deemed to have resigned by failing to return from a LOA.
- IV.A.5. A LOA may be granted for the following reason(s):
- IV.A.5.a. Illness of the requesting employee or a member of the employee's immediate family
 - IV.A.5.b. Employment in another office in state government
 - IV.A.5.c. Family responsibility, defined as the duty or obligation to provide care, full-time supervision, custody or non-professional treatment for a member of the employee's immediate family or household under circumstances temporarily inconsistent with uninterrupted employment in state service
 - IV.A.5.d. The Family Medical and Leave Act (FMLA) provides eligible employees up to 12 work weeks of FMLA protection during the 12-month period measured forward from the date an employee's first FMLA related absence occurs. For more information, see Addendum 1.
 - IV.A.5.e. Education in a college or junior college
 - IV.A.5.f. Military service with the United States Armed Forces or National Guard. (See ISP Directive, PER-040, "Military Leave," for the terms and conditions of this type of LOA.)
 - IV.A.5.g. Disabilities substantiated by medical documentation
 - IV.A.5.h. Jury duty
 - IV.A.5.i. Such other causes as are found acceptable by the Director
- IV.A.6. Personnel requesting a LOA will complete an Officer Action Request (OAR), ISP 2-94, or a Personnel Action Request (PAR), ISP 2-39, and forward it along with any supporting documentation through the chain-of-command to the appropriate Deputy Director.
- IV.A.6.a. When requesting a disability LOA, a written Authorization for Disability Leave and Return to Work, Physician's Statement, form CMS-95, or a Medical Evaluation form, ISP2-379, confirming the nature and extent of the disability and stating the expected date of return, will accompany this request. When a date of return is not included, a CMS-95 must be submitted every 30 days.
 - IV.A.6.b. The reviewing Deputy Director will forward a recommendation of approval/denial to the Director.
- IV.A.7. If the Director approves the LOA, the original OAR/PAR with the approval signature(s) will be forwarded to the Office of Human Resources (OHR) for processing.
- IV.A.8. If the LOA is denied by the Director, the original OAR/PAR stating the reason for denial will be returned through the chain-of-command to the employee. A copy of the form will be forwarded to the OHR for retention in the employee's personnel file.
- IV.A.9. If the LOA is granted because of a non-service connected personal illness or injury, all permitted non-service connected sick time must be exhausted before the LOA begins.
- IV.A.10. Jury duty LOA with pay
- IV.A.10.a. If the jury duty is during the employee's scheduled work days, the employee is entitled to receive full pay during the period of the jury duty, provided the employee submits the warrant, or its equivalent, to his/her cost center for transmittal to the Office of Finance for deposit in the State Treasury. (Troop 15 employees submit fees to the Toll Highway Authority.)
 - IV.A.10.a.1) The employee will advise his/her immediate supervisor as soon as possible of his/her call to jury duty.
 - IV.A.10.a.2) If applicable, the supervisor will change the employee's work shift to allow schedule of jury duty.

- IV.A.10.b. An employee may elect to fulfill such call by using accumulated time, i.e., compensatory time, holidays, vacation, personal leave and retain the full amount received for such service.
- IV.A.11. Political office
 - IV.A.11.a. Employees will notify the Department prior to running for office.
 - IV.A.11.b. An employee who runs for political office will not be required to take a LOA.
 - IV.A.11.c. An employee who attains political office will not be required to take a LOA unless the Director determines with good cause that the holding of such office interferes with or is incompatible with the performance of the duties of his/her position.
- IV.A.12. Organ/Blood Donor LOA with pay
 - IV.A.12.a. Organ Donor Leave
 - IV.A.12.a.1) Employees, employed for a period of six months or more, may be entitled to up to six weeks of Organ Donor Leave, with pay, in any 12-month period to serve as a bone marrow donor or to serve as an organ donor.
 - IV.A.12.a.2) Medical documentation of the proposed organ or bone marrow donation is required before the LOA will be approved. The documentation will consist of a written statement by a physician or medical practitioner licensed under the Medical Practice Act of 1987 or similar laws of Illinois or another state or country.
 - IV.A.12.a.3) This LOA does not apply to time off taken for the purpose of preliminary compatibility testing and/or screening for organ or bone marrow transplant.
 - IV.A.12.b. Blood Donor Leave
 - IV.A.12.b.1) Employees may be entitled to up to one hour to donate or attempt to donate blood every 56 days, and up to two hours to donate or attempt to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave to donate blood platelets may not be granted more than 24 times in a 12-month period.
 - IV.A.12.b.2) Medical documentation for purposes of donating blood or platelets will consist of a written statement from the American Red Cross or blood bank indicating the employee donated or attempted to donate blood or blood platelets. This documentation will be submitted to the donor's supervisor.
 - IV.A.12.c. The employee is not required to use accumulated sick or vacation time before using organ/blood leave time.
- IV.A.13. Family Military Leave without Pay
 - IV.A.13.a. An employee, who has been employed for at least 12 months, and has at least 1,250 hours of service during the immediate 12 month period, who is the spouse or parent of a person called to military service lasting longer than 30 days with the state or United States pursuant to the orders of the Governor or the President of the United States is eligible for Family Military Leave.
 - IV.A.13.b. Family Military Leave shall consist of up to 30 days of unpaid leave to an employee during the time federal or state deployment orders are in effect.
 - IV.A.13.c. The employee must exhaust all accrued vacation, personal, and compensatory time before a Family Military Leave is granted.
 - IV.A.13.d. The employee shall give at least a 14 calendar-day notice of the intended date upon which the Family Military Leave will commence if the LOA will consist of five

or more consecutive work days. If less than five consecutive work-days, the employee will give as much advance notice as practicable.

IV.A.13.e. When possible, the employee will schedule the LOA so as to not unduly disrupt operations.

IV.A.13.f. Certification from the proper military authority to verify the employee's eligibility shall be required before the LOA is approved.

IV.A.14. Director's approval of LOAs

IV.A.14.a. The Director will approve/disapprove the following code employee LOAs:

- IV.A.14.a.1) Personal leaves
- IV.A.14.a.2) General leaves
- IV.A.14.a.3) Educational leaves
- IV.A.14.a.4) Organ donor leaves
- IV.A.14.a.5) Family military leaves
- IV.A.14.a.6) Family responsibility leaves
- IV.A.14.a.7) Military training leaves BEYOND the two-week mandatory training

IV.A.14.b. The Director need not approve/disapprove the following code employee LOAs, (the respective Deputy Director as applicable approves these):

- IV.A.14.b.1) Service connected disability leaves
- IV.A.14.b.2) Non-service connected disability leaves
- IV.A.14.b.3) Mandatory two-week military annual training leaves

IV.A.14.c. The Director will approve/disapprove ALL sworn employee LOAs EXCEPT for paid military leave as outlined in ISP Directive PER-040, "Military Leave."

IV.A.15. State-owned items of issue will be collected pursuant to ISP Directive EQP-013, "Return of State-Owned Items of Issue," when appropriate.

IV.B. Return from LOA

IV.B.1. An employee granted a LOA will normally return to the same rank/title and position held at the time the LOA was granted if said job is available and the employee returns within six months.

IV.B.1.a. Return from LOAs of more than six months duration will be based upon operational needs and the employee's abilities/qualifications.

IV.B.1.b. An OAR/PAR will be submitted 30 days prior to the expiration if an employee is requesting an extension of the LOA.

IV.B.1.c. An OAR/PAR will be submitted as soon as the documentation returning the employee from leave is available.

IV.B.2. Employees who are returning from a medical LOA due to illness or injury will submit an OAR/PAR in addition to a Medical Evaluation Form (ISP 2-379) or Physician's Statement (CMS-95) in accordance with ISP Directive PER-038, "The Medical Review Board and Medical Duty."

IV.B.3. Upon return from a LOA, the individual must immediately complete the annual ethics training if not previously completed.

IV.C. Inability to Return from LOA/Permanent Disability

IV.C.1. Sworn officers who are deemed to be permanently disabled (either physically or psychologically), and generally cannot perform the duties of an ISP sworn officer, will be encouraged to resign/retire.

NOTE: See ISP Directive PER-045, "Wellness Program," for departmental procedures on responding to officers who cannot perform/pass the annual PFIT or PAT and are not fit for duty.

IV.C.2. In the event an officer does not resign/retire, the Department will seek termination.

| Indicates new or revised items.

-End of Directive-

**ILLINOIS STATE POLICE DIRECTIVE
PER-036, LEAVE OF ABSENCE
ADDENDUM 1, THE FAMILY AND MEDICAL LEAVE ACT**

RESCINDS: PER-036, Addendum 1, 2022-085, revised 02-28-2022.	REVISED: 01-03-2023 2023-113
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I. DEFINITIONS

I.A. Family Medical Leave Act (FMLA) - A federal law that allows eligible employees to balance their work and family life by taking reasonable job protected time off for certain family and medical reasons. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers, and minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and women.

I.A.1. FMLA Coordinator - An employee of the Office of Human Resources (OHR), with primary responsibility for coordinating all FMLA related activities. This person has the authority to review and approve or deny all FMLA requests.

I.A.2. FMLA Eligibility

I.A.2.a. The employee must have worked for the state of Illinois for at least 12 months and have worked at least 1,250 hours (physically present at work) during the 12-month period preceding the start of the protected absence.

I.A.2.b. Employees, who meet the requirement in paragraph I.A.2.a., are eligible for up to a total of 12 work-weeks/60 days/450 hours of FMLA protection during the 12-month period measured forward from the date an employee's first FMLA approved absence occurs.

I.A.2.c. FMLA permits all eligible employees to choose to substitute accrued vacation or personal time for FMLA time. However, employees must exhaust all sick time prior to the approval of any dock time.

I.A.2.d. Allowable reasons for using protection under the FMLA are:

I.A.2.d.1) The birth of the employee's child and in order to care for such a child (within 12 months following the birth of the child)

I.A.2.d.2) The placement of a child with the employee for adoption or foster care (within 12 months of the placement of the child)

I.A.2.d.3) Taking care of your spouse, child, or parents if they have a serious health condition

I.A.2.d.4) A serious health condition that makes the employee unable to perform the functions of his/her job

I.A.2.e. If the employee's spouse works for the state of Illinois and both become eligible for a leave of absence (LOA) under paragraphs I.A.2.d.1), I.A.2.d.2), or I.A.2.d.3), the two together will be limited to a combined total of 12 work-weeks of protection in the 12-month period measured forward from the date FMLA use begins. However, this limitation does not apply if the time off is needed to care for a spouse or a child with a serious health condition.

I.B. Health Care Provider - Providers who may furnish certification of a serious health condition include:

I.B.1. Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices

I.B.2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice under state law

- I.B.3. Nurse practitioners, nurse-midwives, and clinical social workers authorized to practice under state law and performing within the scope of their practice as defined under state law
- I.B.4. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts
- I.B.5. Any health care provider recognized by the employer or the employer's group health plan's benefits manager
- I.B.6. A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country
- I.C. Intermittent FMLA Use - Periodic time taken to tend to an FMLA qualifying condition.
 - I.C.1. If certified as medically necessary for the serious health condition of either the employee or the employee's spouse, child, or parent, protection may be used on an intermittent or reduced schedule.
 - I.C.1.a. Employees needing intermittent FMLA protection must attempt to schedule their time off so as not to disrupt the employer's operation.
 - I.C.1.b. If protection is requested on this basis, however, the employee may be required to transfer temporarily to an alternative position that better accommodates recurring periods of absence or to a part-time schedule, provided the position offers equivalent base pay and benefits.
- I.D. Key employee - A salaried employee who is among the highest paid 10 percent of employees at a particular location, or any location within a 75-mile radius.
- I.E. Re-certification - The process of requiring an employee to have his/her health care provider complete an additional Medical Certification form re-evaluating the employee's current medical condition. (The Medical Certification form is available from the FMLA Coordinator.) The employer may request periodic re-certification no more often than 30 days and only in connection with an absence, unless:
 - I.E.1. Circumstances described by the previous certification have changed significantly.
 - I.E.2. The employer receives information that casts doubt upon the employee's stated reason for the absence.
 - I.E.3. The minimum duration of the period of incapacity noted on the certification is more than 30 days.

NOTE: The employee must provide the requested re-certification to the employer within 15 calendar-days after the employer's request unless it is not practicable under the particular circumstances to do so despite the employee's diligent good faith efforts.
- I.F. Serious health condition - An illness, injury, impairment, or physical or mental condition as defined in 29 C.F.R. § 825.114. This information can also be located at www.dol.gov/esa/whd/fmla.

II. RESPONSIBILITIES

- II.A. All ISP Commanders/Supervisors/Managers shall:
 - II.A.1. Notify the FMLA Coordinator, OHR, via email, when an employee uses more than three (3) consecutive sick days or when Commanders/Supervisors/Managers become aware of a situation that might qualify for FMLA, even if the employee is not currently absent from work.
 - II.A.2. Report, via e-mail, all FMLA time used by an employee to the FMLA Coordinator for tracking in the FMLA database. All FMLA time can be requested in the same time increments utilized

by the ISP Timekeeping System. (See ISP Directive PER-025, "Timekeeping," for additional information.)

II.A.3. Monitor the appropriate use of FMLA designated time. Supervisors can inquire as to whether the FMLA absence is related to an office visit, therapy, or a flare up of the condition.

II.B. Employees will:

II.B.1. Indicate all FMLA approved time off when calling in or giving notice through the Time Request System.

II.B.2. Provide notice to the supervisor "as soon as practicable" when the need to take FMLA time off is not foreseeable.

III. PROCEDURES

III.A. Medical certification and reporting requirements

III.A.1. All FMLA qualifying absences under paragraphs I.A.2.d.3) or I.A.2.d.4) will require a Medical Certification form completed by the treating health care provider.

III.A.2. All FMLA qualifying absences under paragraphs I.A.2.d.1) or I.A.2.d.2) will require completion of the Certification of Pregnancy and Expected Due Date form, ISP 2-496. This form must be submitted to the Office of Finance (OOF) Payroll Section and will serve as the FMLA Medical Certification for FMLA protected absences related to the pregnancy. Accordingly, maternity/paternity leave will be deducted from the employee's annual FMLA entitlement if eligibility is met.

III.A.2.a. ISP Directive PER-027, "Sick Time – Sworn," should be reviewed for additional procedures related to I.A.2.d.1 or I.A.2.d.2 above.

III.A.3. Each medical condition requires a separate Medical Certification form completed by the treating health care provider. The Medical Certification form must be provided within 15 days of the request from OHR.

III.A.4. Medical Certification forms should be submitted directly to the FMLA Coordinator at the ISP Office of Human Resources, 801 South Seventh Street, Springfield, Illinois 62703-2487. All information related to the employee's health condition will remain confidential except for the following:

III.A.4.a. Supervisors and managers may be informed:

III.A.4.a.1) Of frequency, duration, and whether the employee's need for time off is for their own condition or that of a family member.

III.A.4.a.2) Whether the time off is needed for medical appointments, therapy, and/or flare ups of the condition.

III.A.4.a.3) Regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

III.A.4.b. First-aid and safety personnel may be informed if the employee's physical or medical condition might require emergency treatment.

III.A.4.c. Government officials investigating compliance with the FMLA (or other pertinent law) shall be provided relevant information upon request.

III.A.5. If a Medical Certification form is not fully completed by the health care provider, the form will be returned to the employee to be properly completed within seven calendar-days.

- III.A.6. The FMLA Coordinator will review and approve all medical certifications submitted by employees. If approved, a letter will be mailed to an employee's home address. If denied, the employee will also be notified in writing and may reapply in the event the circumstances for the denial have changed.
- III.B. At its discretion, the state may require a second medical opinion at the beginning of each new qualifying year. If the first and second opinions differ, a third opinion can be obtained from a health care provider jointly approved by both the employee and the ISP. The employer pays for the second and third opinion.
- III.C. Returning from FMLA protected LOA
 - III.C.1. Upon return from a LOA that has extended no longer than a total of 12 work-weeks, the employee will be restored to the same or to an equivalent position as the one held when the absence started.
 - III.C.2. Employees have no greater right to reinstatement or to other benefits and conditions of employment than if they had been continuously employed during the absent period.
 - III.C.3. If the LOA was due to the employee's own serious health condition, the employee is required to submit a written statement from the employee's physician stating that the employee can resume normal work assignments.
 - III.C.4. Failure to return to work at the expiration of the approved LOA may result in discipline up to, and including, termination.
- III.D. Certain highly compensated key employees may be denied reinstatement when necessary to prevent "substantial and grievous economic injury" to ISP operations. Employees will be notified of their status as a key employee, when applicable, after they request protection under FMLA. The ISP will notify a key employee if it intends to deny restoration to employment upon completion of the absence.
- III.E. Coordination with other LOA policies
 - III.E.1. If the employee otherwise qualifies for any type of LOA meeting FMLA requirements, that LOA must be taken concurrently with the FMLA protection. All time missed from work that qualifies for both family and medical leave and for worker's compensation (code employees only) will be deducted from the balance of the employee's 12 weeks of FMLA protection.
 - III.E.2. Employees' LOAs protected under the FMLA will comply with the employer's usual and customary notice and procedural requirements for requesting leave.
- III.F. Employee benefits during an LOA protected under the FMLA
 - III.F.1. Employees will be permitted to maintain health insurance coverage for the duration of the absence under the same conditions coverage would have been provided if the employee had remained actively at work.
 - III.F.2. The employee is responsible for making arrangements for the continuation of and payment of the employee's portion of insurance premiums before going on unpaid leave status.
 - III.F.3. If the employee does not return to work after the absence, or if the employee fails to pay his/her portion of the premiums, the employee will be required, in most cases, to reimburse the state for the premiums paid to insure the employee during the absence.
- III.G. An absence protected under the FMLA will not affect the continuity of employment. The employee's date of employment remains the same for seniority purposes. However, the employee will not accrue any benefits during the period he/she is on this LOA, except as provided by another leave policy.

- III.H. Employees will not be granted the LOA protection of the FMLA for the purpose of seeking or taking employment elsewhere or to operate a private business. Unauthorized work while absent will result in disciplinary action up to, and including, termination.
- III.I. In the event there is a conflict between this directive/addendum and the FMLA, the Act will prevail.

-End of Addendum-