



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

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ALAN G. DAVIS
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POLICY DIRECTIVE 12-243 (REV)

TO: ALL JUSTICES OF THE PEACE COURT EMPLOYEES

FROM: ALAN G. DAVIS
CHIEF MAGISTRATE *AGD*

DATE: AUGUST 15, 2023

RE: USE OF SICK LEAVE AND ANNUAL LEAVE

Scope:

This Policy Directive establishes procedures for judicial branch employees relating to the accrual, request process, and usage of sick and annual leave. It also provides guidelines for accountability for leave usage.

Justice of the Peace Court Policy:

Employee attendance is a necessary foundation for the effective operation of the Justice of the Peace Court. As such, employees are expected to report to work when scheduled and use accrued sick and annual leave appropriately. This policy sets forth the procedure for requesting leave and accountability guidelines for determining when leave usage becomes excessive or abusive. Pursuant to the Federal Family and Medical Leave Act (FMLA), all FMLA requirements supersede this policy. If any portion of this policy is contrary to the Judicial Branch Personnel Rules, the Judicial Branch Personnel Rule shall prevail.

Policy Directives Affected:

On May 2, 2023, all judicial branch employees were unified under the Judicial Branch Personnel Rules to simplify matters of personnel administration for the judicial branch by having

one consistent set of rules and processes to apply to all judicial branch employees. This revision to Policy Directive 12-243 removes references to the Merit Rules, and inserts references to the Judicial Branch Personnel Rules. No other policy directive is directly affected by this policy or revision.

Effective Date:

This policy shall take effect immediately and continue until further notice.

Discussion:

I. Leave Accrual

Employees shall accrue sick leave and annual leave pursuant to the Judicial Branch Personnel Rules 8.2 and 8.3 Pursuant to Judicial Branch Personnel Rules 8.2.1 and 8.3.1, accrued annual leave and sick leave for each completed month of service is available the first of the following month.

II. Procedure for requesting leave:

Annual Leave:

Employees shall complete and submit a leave request form to their direct supervisor¹ for approval as soon as practicable. All annual leave is subject to the approval of a supervisor, who will consider the employee's current and previous requests, operating requirements during the requested leave time, and seniority. Leave requests shall be approved or denied as soon as practicable. Annual leave may not be taken in excess of hours earned.

Emergency Leave:

Use of annual leave for emergency situations other than illness will be determined on a case-by-case basis with appropriate documentation to support the request.

Sick Leave:

Requests for sick leave shall be submitted in advance when practicable. In instances of unanticipated use of sick leave, employees shall notify their supervisor as specified below. Failure to properly notify their supervisor or otherwise obtain approval shall result in denial of that particular sick leave request. Accrued annual leave may not be used for sick leave once accrued sick leave is exhausted. Pursuant to Judicial Branch Personnel Rule 8.3.2, supervisors may require documentation which justifies sick leave absences or verifies the ability to return to work. Regardless of justification, leave may be considered unauthorized if it becomes excessive and the operational need of the Court is affected.

- a. **Shift Employees**²: Employees shall speak with their supervisor or designee by direct verbal communication when an emergency or sudden illness arises and the employee

¹ If applicable, the supervisor's designee may be substituted for the supervisor. A supervisor's designee is any person appointed by the supervisor to assume supervisory duties due to the inaccessibility of the supervisor.

² Shift employees are those employees who work shifts *other than* 8am-4pm Monday-Friday.

cannot report to work. In such a situation, the Employee shall speak with their supervisor as soon as possible, but preferably at least seven (7) hours prior to the start of their shift, giving reason for their absence.

b. Non-Shift Employees³: Employees shall speak with their supervisor or designee by direct verbal communication when an emergency or sudden illness arises and the employee cannot report to work. In such a situation, the employee shall speak with their supervisor as soon as possible, but at the latest within the first hour of absence, or as soon as practicable thereafter, giving reason for their absence.

Other leave with or without pay:

Requests for other types of leave, with or without pay, shall be submitted in advance. Employees shall submit a leave request form and supporting documentation to their supervisor. This request, along with supporting documentation, will be submitted to the Court Administrator and/or Chief Magistrate for approval.

III. Tardiness and Abandonment of Post:

Employees are required to be at their assigned work location at the beginning of their scheduled shift and ready to begin work. If the employee is not at his/her work location at the scheduled time, it will be considered tardiness. Likewise, employees shall not leave their post without supervisory approval during an assigned shift. If an employee leaves his/her designated work location without approval, it will be considered abandonment of the work location.

IV. Use of Leave During Probationary Period:

During an employee's probationary period, leave usage will be monitored for abuse and assessed as part of the employee evaluation for continued employment after the probationary period.

V. Accountability:

Employees are accountable for keeping records of their sick leave and annual leave accrual and usage. Managers/Chiefs/Supervisors shall verify employees' annual and sick leave balances before approving any leave. The managers/chiefs/supervisors are responsible for reviewing employees' attendance and timeliness on a regular basis and for consideration when completing performance reviews. In doing such a review, manager/chiefs/supervisors shall be mindful of looking for patterns of abuse, tardiness or a record of excessive sick or annual leave usage. Examples of patterns, abuse or excessive use include, but are not limited to *repeated* or *continual* use in the following scenarios:

- use of leave during assigned weekends to work,
- use of leave before or after a weekend off or a holiday,
- use of leave on an assigned holiday to work,
- use of leave before or after vacation time,

³ Non-Shift employees are those employees who consistently work 8am-4pm Monday through Friday.

- use of leave on the same day of the week
- using more leave than has been accrued.

Patterns of abuse, tardiness or excessive leave use should be brought to the attention of the Human Resources Department and appropriate progressive discipline applied.

Conclusion:

This policy sets forth the procedures and guidelines for sick and annual leave accrual and requests. Likewise, this policy sets forth expectations concerning accountability of employees, managers, chiefs, and supervisors regarding leave usage to ensure the needs of the Court and public are effectively met. The Justice of the Peace Court cannot operate effectively if appropriate staffing cannot be maintained. Excessive absenteeism and leave abuse cause a hardship to the Court and the services provided to those whom the Court serves.

cc: Honorable Collins J. Seitz, Jr.
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Honorable Jan R. Jurden
Honorable Carl C. Danberg
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