

Vermont Catholic Charities, Inc.,
Residential Care Homes Policies and Procedures

SUBJECT: Leaves of Absence	Policy Number HR 00014
	Section: Human Resources
	Employment Practices
	Approved Date: March 1, 2010 Updated: October 1, 2017

INTRODUCTION

Vermont Catholic Charities, Inc. recognizes that there are times when employees may need extended time off from the workplace for various reasons. This policy will provide the guidelines for consideration, approval and administration of this time off.

This policy includes the following types of leaves:

- A. Educational Leave
- B. Jury Duty
- C. Military Leave
- D. Family and Medical Leave Act (FMLA) and Vermont Parental and Medical Leave Act

**A. EDUCATIONAL LEAVE
POLICY**

An Educational Leave is a leave that is necessitated by a full time regular employee and/or the Organization to obtain specific training for the benefit of the employee and the Organization.

PROCEDURE

1. This leave is unpaid for the period of time granted for the educational pursuit. The employee must document in writing the request for the leave and benefit to the Organization.
2. The employee must receive written approval for their educational leave from the Director of Human Resources three months prior to the leave.
3. Approval for the leave will be based on the following:
 - Type of course material and its relationship to the employee’s position and the Organization’s current or future goals
 - Effect on the operation of the department
 - Length of service
 - Previous performance and attendance record
 - Length of time required to complete the course
4. The employee may choose to use Paid Time Off to subsidize this unpaid leave, by placing this in writing to the attention of the Human Resources Department.

The employee will be eligible to retain the Organization provided benefits (i.e. health), if the absence is less than thirty (30) days and the employee continues the employee contribution to those applicable benefits. If the leave should exceed thirty (30) days, the Director of Human Resources will determine the status of the benefits. The employee must submit a check for benefit contribution monthly.

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**B. JURY DUTY
POLICY**

Vermont Catholic Charities, Inc., complies with all federal and state regulations regarding jury or witness duty. Jury duty is an important civic obligation, which may require a leave.

PROCEDURE

1. Employees summoned by the Court should inform their Department Manager and Administrator upon notification. (The employee must provide a copy of the court order directive to their Department Manager and Administrator.)
2. The employee should report to work as scheduled any time they are not actually engaged in jury duty.

PAYMENT

- A. To eliminate hardship for the employee, the Organization will continue a full-time employee's regular base pay during this absence. If the employee should receive compensation for participation on the jury, the employee should bring receipt of the payment to the Administrator (who will send it to the payroll department). The salary for that period would be the difference between the regular base pay for the period of the absence and the compensation received from the external source.
- B. In the event the jury leave exceeds thirty-one (31) days, the Administrator with Human Resources will determine the status of wages for that period.
- C. Part-time employees can receive up to one paid shift, but if the employee is paid by the court, the employee will then receive the difference between the paid shift and the court pay.

**C. MILITARY LEAVE
POLICY**

Vermont Catholic Charities, Inc. recognizes the employee's right to have a leave for active employment to fulfill military service obligations. Any full-time or part-time regular employee that is called for training or active duty in the uniformed services of the United States will be eligible for military leave, with appropriate notification prior to the leave. The Uniformed Services Employment and Reemployment Rights Act (USERRA) prohibits discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services.

ELIGIBILITY

Employees with a minimum of ninety (90) days service with Vermont Catholic Charities, Inc., are eligible to use their PTO, while absent due to a service obligation with the Military Reserve or National Guard unit.

Eligible employees will be offered an opportunity to continue specific benefits with the payment of the normal employee contribution.

PAYMENT

The employee is eligible for supplemental pay equivalent of the amount that the employee's straight time pay exceeds the military pay. *In the event the military pay would exceed the amount of the employee's straight time pay,*

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the employee would not be eligible for supplemental pay from Vermont Catholic Charities, Inc. All deductions (benefits related) will be taken from the paycheck unless instructed otherwise (or unless employee does not receive a check. If there is no check, the employee must provide the benefit contribution.)

ACTIVE DUTY

Employees who enlist for up to five years of active duty in the United States military or who are absent from work because of Reserve or National Guard training, or are “called” to active duty in the United States military, will be granted a military leave of absence. Vermont Catholic Charities, Inc., will attempt to provide a position of equal salary grade and compensation, upon their return to the civilian workforce.

EMPLOYEE RESPONSIBILITIES

1. Employees are expected to provide a written request for the military leave with a copy of their orders to be eligible for military leave consideration.
2. During an unpaid military leave of absence, the employee will be covered with the regular health plan for up to thirty (30) days. They also can arrange to purchase healthcare benefits under COBRA. Employees choosing COBRA are responsible for paying the full premium and additional administrative costs.
3. Employees on military leave are not eligible to accrue PTO time. However, the employee will continue to accrue years of service for eligibility purposes.
4. Employees are not required to use their PTO while on unpaid military leave.

Military Leave Act (UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT)

How should the 12-month FMLA requirement be calculated for returning service members?

USERRA requires that a person reemployed under its provisions be given credit for any months he or she would have been employed *but for* the military service in determining eligibility for FMLA leave. A person reemployed following military service should be given credit for the period of military service towards the months-of-employment eligibility requirement. Each month served performing military service counts as a month actively employed by the employer.

How should the 1250 hours-of-service requirement be calculated for returning service members?

An employee returning after military service should be credited with the hour’s of-service that would have been performed *but for* the period of military service in determining FMLA eligibility. Accordingly, a person reemployed following military service has the hours that would have been worked added to any hours actually worked during the previous 12-month period to meet the 1250 hour requirement. In order to determine the hours that would have been worked during the period of military service, the employee’s pre-service work schedule can generally be used for calculations.

D. FAMILY AND MEDICAL LEAVE (FMLA) POLICY

An employee may request time off without regular pay, for a defined period with job protection and no loss of accumulated service if the employee returns to work. This policy applies to all family and medical leaves of absence. Based on the conditions set forth below.

PROCEDURE

A family and medical leave of absence is defined as an approved absence available to eligible employees for up to 12 weeks of unpaid leave per calendar year with continued benefits under particular circumstances (noted below)

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that are critical to the health of the employee or their family members. The year is measured using the “rolling” calendar so eligible employees cannot exceed 12 weeks of time in any 12 month period. The Human Resources Office should be consulted to verify eligibility.

Leave may be taken:

- On the birth of an employee’s child;
- On the placement of a child for adoption or foster care with an employee;
- When an employee is needed to care for a child, spouse, or parent who has a serious health condition; or
- When an employee is unable to perform as least one of the essential functions of his or her position because of the employees own serious health condition;
- Because you are the spouse, child, parent, or next of kin of a covered service member with a serious injury or illness.

LENGTH AND CONDITIONS OF LEAVE

To be eligible for leave under this policy, an employee must have been employed for at least 12 months, must have worked at least 1,250 hours during that 12 month period immediately preceding the leave, and be employed at a worksite at which VCCI employs at least 50 or more employees within a 75 mile radius.

In the case of a qualifying exigency you may take up to 26 weeks of military caregiver leave during a 12 month period on a per-covered service member, per-injury basis.

It is important that you give reasonable written notice to VCCI that you want to take a leave, including when you want the leave to start, and when you plan to return to work (Mandatory forms must be completed).

When you return to work, you are entitled to the same or comparable job that you left; unless VCCI can show that you as the employee were terminated or denied reinstatement for reasons unrelated to the leave.

The Organization will require medical certification to support a claim for leave for an employee’s own serious health condition or to care for a seriously ill child, spouse, or parent. For the employee’s own medical leave, the certification must include a statement that the employee is unable to perform at least one of the functions of his or her position. For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the time that the employee is needed to provide care. The Organization may require a second medical opinion and periodic recertifications at its own expense. If the first and second opinions differ, the Organization may require the binding opinion of a third health care provider, approved jointly by the Organization and the employee and paid for by the Organization.

Leave may be taken on an intermittent or reduced-leave schedule if it is medically necessary for a serious health condition of the employee or his or her spouse, child, or parent. If leave is requested on this basis, however, the Organization may require the employee to transfer temporarily to a part-time schedule or an alternative position that better accommodates recurring absences. The alternative position will have equivalent pay and benefits.

Spouses who are both employed by the Organization are entitled to a total of 12 weeks leave (rather than 12 weeks for each spouse) for the birth or placement in adoption or foster care of a child or for the care of a sick family member.

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STATUS OF EMPLOYEE BENEFITS DURING LEAVE OF ABSENCE

Health insurance. Group health care coverage will continue for employees on leave as if they were still working. Employees who are granted an approved leave of absence under this policy are advised to arrange to pay employee portion of premiums during the absence. If the leave is paid, premiums will continue to be paid through payroll deductions. If the leave is unpaid, employees are responsible for making sure the Organization receives premium payments by the normal payroll dates. The Human Resources Department will provide a schedule of payment amounts and due dates at the beginning of any unpaid leave of absence.

Recovery of premiums. If an employee chooses not to return to work (meaning: stay for 30 calendar days) after an approved unpaid leave of absence, the Organization may recover from the employee the cost of any payments made to maintain the employee's health insurance, unless the failure to return is due to a serious health condition or reasons beyond the employee's control. Benefit entitlements based on length of service will be calculated as of the last paid work day before the start of the unpaid absence.

PROCEDURES

Request form. A Request for Family and Medical Leave of Absence Form must be completed in duplicate by the employee. This form must be completed in detail, signed by the employee, submitted to the Human Resources Department for proper approval. The form should be submitted 30 days before the effective date of the leave along with a physician's certification request letter.

Paid Time-Off. Under Vermont law, the employee has the choice whether to submit vacation or discretionary hours for pay while on leave. Any submission by the employee must be done on a payroll cycle through the Home Administrator.

Addendum: The Vermont Statutes Online

Title 21: Labor, Chapter 5: EMPLOYMENT PRACTICES: 21 V.S.A. § 472.

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks:

(1) For parental leave, during the employee's pregnancy and following the birth of an employee's child or within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption.

(2) For family leave, for the serious illness of the employee or the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse or parent of the employee's spouse.

(b) During the leave, at the employee's option, the employee may use accrued sick leave or vacation leave or any other accrued paid leave, not to exceed six weeks. Utilization of accrued paid leave shall not extend the leave provided herein.

(c) VCCI shall continue employment benefits for the duration of the leave at the level and under the conditions coverage would be provided if the employee continued in employment continuously for the duration of the leave.

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The employee must contribute to the cost of the benefits during the leave at the existing rate of employee contribution.

(d) VCCI has posted and maintains in a conspicuous place printed notices of the provisions provided by the commissioner of labor.

(e) An employee shall give reasonable written notice of intent to take leave. Notice shall include the date the leave is expected to commence and the estimated duration of the leave. In the case of the adoption or birth of a child, VCCI does not require that notice be given more than six weeks prior to the anticipated commencement of the leave. In the case of serious illness of the employee or a member of the employee's family, VCCI may require certification from a physician to verify the condition, amount, and necessity for the leave requested. An employee may return from leave earlier than estimated upon approval. An employee shall provide reasonable notice to VCCI of his or her need to extend leave to the extent provided by this chapter.

(f) Upon return from leave taken, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, or any other term or condition of the employment existing on the day leave began. This shall not apply if prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This shall not apply if the employer can demonstrate by clear and convincing evidence that:

(1) During the period of leave the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the condition for which the leave was granted; or

(2) The employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to the employer to prevent substantial and grievous economic injury to the employer's operation.

(h) Except for serious illness of the employee, an employee who does not return to employment with VCCI after leave was provided, shall return to VCCI the value of any compensation paid to or on behalf of the employee during the leave, except payments for discretionary or vacation leave.

****This policy replaces, revokes, and rescinds all former policies including HR 028, 029, 030, 031, 032, 033, and 034, therefore, any modifications or changes to the utilization and administration of those policies is superseded by this new plan.***