

CHAPTER 604a. SEPARATION OF EMPLOYEES FROM THE CLASSIFIED SERVICE

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Authority

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Source

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Subchapter A. LEAVES OF ABSENCE

Sec.	
604a.1.	Leaves of absence generally.
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604a.4.	Leave of absence for Senior Management Service employment.

§ 604a.1. Leaves of absence generally.

(a) *Request.* An employee seeking a leave of absence shall submit a written request for a leave of absence to the appointing authority. The written request shall state the date on which the leave will start, the date on which the leave will end and the reason for the request.

(b) *Approval.* A leave of absence may be granted at the discretion of the appointing authority in accordance with the act and this subpart.

(c) *Duration.* Approved leaves of absence shall be for a definite period, up to a 2-year increment of time.

(d) *Extension.* Upon the written request of the employee, a leave of absence may be extended at the discretion of the appointing authority in 2-year increments and for a maximum continuous duration of 12 years. If after a leave of absence consisting of 12 continuous years the employee does not return to a position in accordance with subsection (e), the employee shall be deemed to have resigned from their position on the date the approved leave of absence terminates.

(e) *Right of return.* Upon the expiration of an employee's approved leave of absence, or after an employee requests to return from an approved leave of absence in writing to the appointing authority, the employee shall have the right

to return to employment in the classified service with the same appointing authority, subject to the following:

(1) An employee shall have the right to return to a vacant position, which the appointing authority is filling, in the same job classification from which the leave of absence was approved and shall retain the same status as they held prior to taking the leave of absence.

(2) If there are no vacant positions in the same job classification from which the employee took a leave of absence, the employee shall have the right of return to any of the following:

(i) A vacant position, which the appointing authority is filling, in a job classification previously held and shall retain the same status as they held prior to taking the leave of absence.

(ii) A vacant position, which the appointing authority is filling, in a job classification with the same maximum hourly salary and shall retain the same status as they held prior to taking the leave of absence, provided the employee meets the minimum qualifications for the job classification.

(iii) A vacant position, which the appointing authority is filling, in a lower-level job classification and shall retain the same status as they held prior to taking the leave of absence, provided the employee meets the minimum qualifications for the job classification.

(3) If there is no vacancy to which the employee on leave can be returned, or if the employee returned to a lower-level job classification in accordance with paragraph (2) (relating to leaves of absence generally), the employee's name shall be placed on a preferred reemployment list, for a period of 1 year, for employment in the job classification from which the leave of absence was approved.

(f) *Preferred reemployment lists.* Certifications from a preferred reemployment list shall take precedence over all other eligible lists and referrals from internal recruitment methods.

(g) *Scope.* This section shall not apply to leaves of absence for military service and leaves of absence for employment in the Senior Management Service.

Cross References

This section cited in 4 Pa. Code § 601a.3 (relating to definitions).

§ 604a.2. Leaves of absence for military duty.

(a) *Generally.* An appointing authority shall grant a leave of absence to an employee for military duty.

(b) *Request.* An employee seeking a leave of absence for military duty shall submit a written request for a leave of absence for military duty to the appointing authority as soon as possible prior to the military duty commencing or as soon as possible after the military duty begins. An employee shall include with their writ-

ten request all documents necessary to establish that the employee is, or will be, on military duty during the relevant period of time.

(c) *Duration.* The duration of the leave of absence shall coincide with the duration of the employee's military duty and any delayed return to work as prescribed by the Uniformed Services Employment and Reemployment Rights Act, as amended (38 U.S.C. §§ 4301—4335).

(d) *Right of return.* An employee on a leave of absence for military duty shall have a guaranteed right of return in accordance with the act, this subpart, and the Uniformed Services Employment and Reemployment Rights Act, as amended.

Cross References

This section cited in 4 Pa. Code § 604a.3 (relating to vacancies due to leaves of absence for military duty).

§ 604a.3. Vacancies due to leaves of absence for military duty.

(a) *Vacancies filled.* When an employee in the classified service is granted a leave of absence for military duty, the position vacated shall be left vacant or otherwise filled by a substitute employee, provided the position vacated is a permanent position.

(b) *Return of incumbent.* Upon return of the incumbent under § 604a.2(d) (relating to leaves of absence for military duty), the substitute employee shall be required to vacate the position.

(1) Substitute employees who held regular status or probationary status in a job classification immediately prior to accepting the substitute appointment or substitute promotion shall have the right to return to their previously held position and status.

(2) A substitute employee who did not hold regular status or probationary status in a job classification immediately prior to accepting the substitute appointment shall be separated.

(c) *Permanent appointment or promotion.* A substitute appointment or substitute promotion shall be converted to a permanent appointment or promotion when the incumbent who was granted the leave of absence for military duty fails to return to the position within the applicable time frame prescribed by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §§ 4301—4335).

(d) *Rights of substitute employee.* A regular or probationary employee who accepts a substitute appointment or substitute promotion shall maintain the same rights and privileges to which entitled if the employee had continued to serve in the previous position with the same status. The substitute appointment or substitute promotion will not prejudice the employee's rights to promotion, transfer, reemployment or retention in service.

§ 604a.4. Leave of absence for Senior Management Service employment.

(a) *Generally.* An employee who accepts a Senior Management Service position shall be granted a leave of absence upon starting employment in the Senior Management Service position.

(b) *Duration.* The duration of leave of absence shall coincide with the duration of the employee's employment in the Senior Management Service.

(c) *Return.* Upon leaving employment in a Senior Management Service position, the employee shall have the right to return to a position at the same pay scale group as the last classified service position held prior to employment in the Senior Management Service position, at the same status held, and in the same appointing authority in which the Senior Management Service position was located. If a position does not exist at the time the employee leaves the Senior Management Service position, the appointing authority shall create such a position and place the employee in it.

Subchapter B. FURLOUGH

Sec.
604a.5. Furlough.

§ 604a.5. Furlough.

(a) *Reasons.* Furloughs shall occur only because of a lack of funds or a lack of work.

(b) *Furlough units.* Furloughs will be conducted within approved furlough units. For purposes of this section, a furlough unit shall be defined as all employees in the job classification within an affected institution, division, office, bureau or a combination of the institutions, divisions, offices, or bureaus within an appointing authority. Each appointing authority will submit recommended furlough units to the Office of Administration. Once approved by the Office of Administration, the furlough units will be used for subsequent furloughs. Changes to approved furlough units shall be submitted to and approved by the Office of Administration prior to use in subsequent furloughs.

(c) *Provisional employees, temporary employees and emergency employees.* An appointing authority shall remove all emergency employees, temporary employees and provisional employees within the designated furlough unit before furloughing a probationary employee or regular employee in the designated furlough unit.

(d) *Order of furlough.* Furloughs shall occur in the following order:

(1) *Probationary employees.* An appointing authority will not furlough a regular employee while a probationary employee is employed in the designated furlough unit. An appointing authority shall furlough probationary employees

in the inverse order of seniority. Seniority for this purpose shall be the length of continuous service in the classified service if there has been no break in service.

(2) *Regular employees.* When it is necessary to furlough regular employees in a designated furlough unit, the last annual or probationary performance evaluations, as applicable, of the regular employees in the furlough shall be converted to categories or relative ranks. The regular employees will be placed into quarters, and those in the lowest quarter will be furloughed or returned under subsection (e), in the inverse order of seniority. Seniority for this purpose shall be the length of continuous service in the classified service if there has been no break in service.

(e) *Rights before furlough.* Upon notification of furlough, and until the effective date of it, a regular employee to be furloughed shall have a right of return to vacant positions in the appointing authority in any job classification and status previously held, or to any job classification and status in the same or lower job classification, if the employee meets the minimum qualifications and provided the appointing authority is filling the vacancy. A probationary employee will be returned to the job classification previously held if the probationary status resulted from promotion.

(f) *Mandatory reemployment after furlough.* A furloughed employee who is unable to exercise their right of return under subsection (e) will be given a mandatory 1-year preference for reemployment in the same job classification and appointing authority from which they were furloughed. The preference does not apply to vacancies that an employee on leave of absence has priority of return, or to a filled position which has been reclassified to a higher-level job classification after the effective date of furlough.

(g) *Optional reemployment after furlough.* A furloughed employee who is unable to exercise their right of return under subsection (e) will, for 1 year, be placed on optional reemployment lists for the job classification from which furloughed and for equal and lower-level job classifications for which they are qualified, for certification to all appointing authorities.

(h) *Reemployment certification.* The following requirements apply to certifications of reemployment lists of furloughed employees:

(1) A certification from a mandatory reemployment list shall preclude issuance of a certification otherwise applicable to available vacancies except for a certification from a preferred reemployment list, which shall take precedence over all other eligible lists. Certification from optional reemployment lists shall be considered equally with all other employment or promotion certifications issued for available vacancies.

(2) Furloughed employees shall be certified from mandatory reemployment lists according to their stated availabilities. The appointing authority will give reemployment preference to those on mandatory reemployment lists with higher overall performance evaluations. In cases of identical performance

evaluations, furloughed employees with greater continuous classified service seniority will have reemployment preference.

(3) Furloughed employees shall be certified from optional reemployment lists according to their stated availabilities. The appointing authority may select any furloughed employee from the optional reemployment list, in accordance with merit principles.

(i) *Refusal of reemployment from mandatory reemployment list.* A furloughed employee who refuses reemployment from a mandatory reemployment list in a county other than the county from which they were furloughed, shall retain mandatory reemployment rights solely to the county from which they were furloughed. Furloughed employees who accept or refuse mandatory reemployment in the county from which they were furloughed shall lose all mandatory and optional reemployment rights and consideration.

(j) *Refusal of reemployment from optional reemployment list.* A furloughed employee who refuses appointment from an optional reemployment list in the same job title from which they were furloughed or in a job title with the same pay grade as the job title from which they were furloughed shall forfeit all optional reemployment preference, but shall retain mandatory preference for reemployment. A furloughed employee who refuses appointment from an optional reemployment list in a job title with a pay grade lower than the job title from which they were furloughed shall retain reemployment preference for job titles with pay grades higher than the job title to which reemployment is offered and equal to the job title from which they were furloughed. Reemployment preference is forfeited for all job titles with pay grades equal to and lower than the job title to which reemployment is offered. If preferences subsequently are not, or cannot be, exercised, the furloughed employee shall be considered as having voluntarily resigned as of the furlough effective date.

(k) *Labor agreements.* If there is a labor agreement covering the employees to be furloughed, the terms of the agreement as to furlough and reemployment procedures shall be controlling.

Cross References

This section cited in 4 Pa. Code § 601a.3 (relating to definitions); and 4 Pa. Code § 602a.2 (relating to recruitment methods).

Subchapter C. REMOVAL AND SUSPENSION

Sec.
604a.6. Removal.
604a.7. Suspension.

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§ 604a.6. Removal.

Just cause for removal of a regular employee must be based on at least one merit-related reason.

§ 604a.7. Suspension.

(a) *Generally.* An appointing authority may suspend an employee for good cause, which shall be based on at least one merit-related reason.

(b) *Suspension pending investigation.* An appointing authority may, for the purpose of ascertaining an employee's fitness for continued employment, suspend an employee pending the outcome of an internal or external investigation.

(1) When an investigation has not revealed cause for disciplinary action, the suspension shall be retracted and expunged from all records, and the employee shall receive back pay for the full period of suspension.

(2) When an investigation has revealed cause for disciplinary action, the suspension shall be converted, either in whole or in part, to a disciplinary action.

(c) *Duration of suspension.*

(1) A suspension, including during a pending internal investigation, may not exceed 60 working days in 1 calendar year.

(2) A suspension pending investigation by external agencies may be maintained up to 30 working days after conclusion of the external investigation.

(3) A suspension under 71 Pa.C.S. § 2705(f) (relating to political activity) may not exceed 120 working days.

Subchapter D. DESIGNATION

Sec.

604a.8. Notice of resignation.

604a.9. Effective date of resignation.

604a.10. Acceptance or rejection of resignation.

§ 604a.8. Notice of resignation.

Notice of resignation shall consist of a voluntary termination of employment evidenced by an affirmative statement, either written or oral, of the employee's intent to resign.

Cross References

This section cited in 4 Pa. Code § 606a.2 (relating to notice of personnel actions).

§ 604a.9. Effective date of resignation.

(a) When an employee gives notice of the effective date of resignation, the resignation shall take effect on the specified date.

(b) When an employee does not specify an effective date of resignation, the resignation shall take effect immediately.

(c) A resignation submitted during or at the termination of a leave of absence shall be effective on the date submitted.

Cross References

This section cited in 4 Pa. Code § 606a.2 (relating to notice of personnel actions).

§ 604a.10. Acceptance or rejection of resignation.

(a) *Response to notice of resignation.* An appointing authority shall respond to an employee's notice of resignation, in writing, within 15 calendar days after the appointing authority's receipt of the notice of resignation. The appointing authority's response shall state whether the employee's resignation is accepted or rejected by the appointing authority. An appointing authority may not reject a resignation unless the employee is being investigated or removal action is pending.

(b) *Removal after notice of resignation.* The acceptance of a resignation will not bar an appointing authority from thereafter removing an employee for causes that occur or become known during the period between the acceptance and the effective date of the resignation.

(c) *Withdrawal of resignation.* An employee's resignation may not be withdrawn without the written consent of the appointing authority once the resignation has been accepted by the appointing authority. A resignation that has not been accepted by the appointing authority may be withdrawn by the employee at any time prior to acceptance or the effective date.

(d) *Rescission of acceptance after resignation.* Upon notice to the former employee, an appointing authority may rescind its acceptance of a resignation after the effective date for just cause and convert the resignation to a removal.

Cross References

This section cited in 4 Pa. Code § 606a.2 (relating to notice of personnel actions).

Subchapter E. SENIORITY

Sec.
604a.11. Break in service.

§ 604a.11. Break in service.

(a) *Generally.* For purposes of seniority, the following shall constitute a break in service:

- (1) Removal for just cause.
- (2) Resignation.
- (3) Retirement.

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- (4) Failure to accept an offer to return after furlough under 71 Pa.C.S. § 2602(b)(1) (relating to furlough) and this subpart.
 - (5) Failure to accept an offer to return after a leave of absence under 71 Pa.C.S. § 2608(b) (relating to leave of absence) and this subpart.
 - (6) Expiration of mandatory, preferred or optional reemployment rights.
 - (7) Failure to report after a leave of absence.
- (b) *Effect on seniority.* If a break in service occurs, the employee shall lose accrued seniority.
- (c) *Furlough and leave.* Periods of furlough and leaves of absence shall be deemed continuous employment for seniority purposes, except that during the period of furlough or leave of absence, the employee shall not accrue credit towards seniority.
- (d) *Involuntary demotion.* A demotion under § 602a.31 (relating to voluntary demotion) shall terminate seniority in the job classification from which demoted.

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