

CHEROKEE NATION

POLICY CHAPTER:	Time-Off Benefits	CHAPTER #:	V
SUBJECT:	Leaves of Absence	SECTION SUBSECTION:	E
EFFECTIVE DATE:	<i>3/23/23</i>	SUPERSEDES MATERIAL DATED:	<i>7/1/2021</i>
APPROVED BY:		DATE:	<i>3/23/23</i>

PURPOSE

To establish guidelines for employee leaves of absence and the conditions under which leaves of absence are paid or unpaid.

POLICY

It is the policy of Cherokee Nation to grant leaves of absence for certain situations, conditions and circumstances provided they meet the guidelines as set forth in the following procedures.

PROCEDURE

A. ADMINISTRATIVE LEAVE FOR INCLEMENT WEATHER

1. Administrative leave for inclement weather or disaster may be granted only by the Principal Chief or his/her written designee; every effort shall be made to keep the main tribal complex open and to maintain minimum operations with a skeleton crew, if necessary. The guidelines/procedures for implementing administrative leave during inclement weather are as follows:
 - a) In cases of extreme weather, the decision to close the main tribal complex in Tahlequah shall be made early the morning of the day in question, when possible.

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- b) Closings for the main complex may not affect field operations, (see “j” below).
- c) A public announcement of the administrative decision to close the main tribal complex shall be scheduled by the Cherokee Nation Communications Services to be delivered with the school closings through various media avenues.
- d) Weather closing announcements shall also be recorded on the tribal complex automated answering service; employees may phone (918) 453-5000 or the toll-free 1-800-256-0671 for information.
- e) If the Cherokee Nation tribal complex is not included in the list of closings or the appropriate message is not recorded, employees should make every effort to report to work, exercising sound judgement about travel to the complex from their homes.
- f) On the days that an administrative decision is made to close the main tribal complex, administrative leave shall be granted. In the event a decision is made after the beginning of normal working hours, employees who chose not to travel due to the weather will be granted the same administrative leave opportunity afforded to those employees who did report to work.
- g) If a decision is made to delay opening of the main tribal complex, non-exempt employees who reported to work at their regularly scheduled time or prior to the delayed opening time will be allowed to leave early (administrative leave) on that business day based on business necessity at the discretion of the department Executive Director. Exempt employees will not be granted administrative leave in this circumstance. Employees who choose not to report to work on a day with a delayed-opening will be granted the same Administrative leave opportunity afforded those employees who did report to work. The balance of their absence will be recorded as Annual Leave.
- h) On a day on which Administrative leave is granted, employees who do not report due to previously scheduled Annual or Sick Leave will not be granted administrative leave for the closing or delayed opening of the Tribal Complex, but will have their absence recorded as Annual or Sick Leave.

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- i) Administrative leave shall not apply to essential positions at 24-hour facilities, e.g. Sequoyah High School, Talking Leaves Job Corps and Jack Brown Center.
- j) Decisions for closing field operations, including sub-offices, clinics and Head Start, shall be made independently of the main tribal complex and it shall be the responsibility of the highest ranking administrative employee at each facility to determine closing and to make appropriate announcements.

B. OTHER ADMINISTRATIVE LEAVE

- 1. Administrative leave may be granted by Executive Directors for various purposes which may arise from time to time, not to exceed eight (8) hours in a given pay period.
- 2. Administrative leave for reasons associated to employment may be granted by the Human Resources Executive Director.
- 3. Upon the request of the Principal Chief or his/her written designee, the Executive Director of Human Resources shall grant administrative leave to any employee temporarily displaced from the worksite by emergency circumstances.

C. MILITARY LEAVE OF ABSENCE

The Cherokee Nation will grant military leave of absence as required by law and will provide certain benefits to employees granted such leave. Temporary employees are not eligible for this benefit.

1. Long-Term Tour of Duty

- a) Any employee called to military active duty in excess of (10) ten working days shall notify his or her supervisor immediately and shall be granted a leave of absence from Cherokee Nation. The leave of absence shall not exceed five (5) years' duration.
- b) A regular, full-time employee who is called to active duty for a period of one month or more and who is granted a leave of absence will be eligible for continuation of employee and dependent health insurance benefits through COBRA provisions. Group Life Insurance will be kept in force for up to 12 weeks for regular, full-time employees called to active duty. Regular, full-

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time employees will be eligible to continue supplemental life products for up to 12 weeks providing premiums are paid.

- c) A regular, full-time employee, who is called to active duty will be paid the difference between their regular pay and their military base pay for up to a period of one (1) year from their activation date.

2. Short-Term Military Leave of Absence

An employee who is a member of the National Guard or of any of the reserve components of the Armed Forces of the United States shall be granted a military leave of absence from assigned duties for as many as ten (10) working days in any one calendar year to participate in military training. Such leave shall be with full pay minus that which the employee received from the military for service while on military leave.

- a) The employee must submit, for the purpose of claiming administrative pay for military leave, a copy of the military payroll check to the payroll division of the Cherokee Nation accounting department.
- b) Such employees shall furnish their Department/Program Director with certification, normally copies of official military orders that they were called to duty by proper authority.

D. JURY DUTY OR COURT LEAVE OF ABSENCE

- 1. A regular employee who is summoned to serve court or jury duty shall be granted a leave of absence for the period in which he/she is required to be present for duty at the court house. Cherokee Nation shall pay the employee the difference between the employee's regular pay and the amount received from the courts for serving as a juror (excluding any transportation allowance he or she may receive).
- 2. A temporary employee shall be given time off without pay while on jury duty.
- 3. Any employee called to serve on jury duty or appear in court because of their employed position with the tribe or regarding a case related to Cherokee Nation business shall be granted a leave of absence for that purpose.
 - a) The employee shall present his or her supervisor the original summons or subpoena from the court in order to be granted leave.

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- b) The employee shall also, at the conclusion of the duty, present to his/her supervisor a signed statement from the clerk of the court showing the dates of attendance.
 - c) In order to be fully compensated during the period of service to the court, the employee shall present a copy of any check or other remuneration received for the court appearance to Cherokee Nation's payroll accounting department. Cherokee Nation shall pay the difference between the employee's regular pay and the amount received from the courts for the court appearance.
4. An employee testifying in a case which is unrelated to their employed position with the tribe or regarding a case unrelated to Cherokee Nation business shall not be eligible for court leave and must request annual leave. If annual leave is not available, the absence shall be designated as leave without pay.

E. VOTING LEAVE

1. It is the policy of the Cherokee Nation to encourage eligible employees, to vote in all public elections--city, county, state, federal or tribal.
2. Should employees need time off during working hours to vote, leave shall be in accordance with the provisions of this section as prescribed by state law:
 - a) An employee eligible to vote in an election may be granted up to two (2) hours leave from work with pay between the hours of 7:00a.m. to 7:00p.m. on an election day provided, however, that the employee cannot utilize other than working hours for this purpose.
 - b) If it is necessary for any employee to vote during working hours, he or she shall inform his or her supervisor, either verbally or in writing, of his or her intentions prior to the day of the election.
 - c) The supervisor in charge shall then select the time that the employee may take to vote; the supervisor may also seek proof that the employee voted during the designated absence before the employee is paid for voting leave.
 - d) Voting leave shall not apply to those employees whose workday begins two (2) hours or more after the opening of the polls, or which ends two (2) hours or more prior to the closing of the polls. All polls open at 7:00a.m. and close at 7:00p.m.

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- e) A Department/Program Director may alter the working hours of an employee requesting voting leave on Election Day so as to allow the two (2) hours subsequent to the opening of the polls, or two (2) hours prior to the closing of the polls.

F. BEREAVEMENT LEAVE

1. In the event of the death of an employee immediate family member, his or her Executive Director may grant a leave of absence up to four (4) working days.
2. In the event an employee, or employee's spouse has a miscarriage or stillbirth, his or her Executive Director may grant a leave of absence up to four (4) working days.
3. Such leave shall not be charged to other types of leave but shall be granted in addition to those. However, bereavement leave will run concurrent with any applicable Family Medical Leave.
4. Immediate family member are defined as the following:
 - * Spouse or domestic partner
 - * Parent or Stepparent
 - * Brother or Sister
 - * Child (birth, foster, adopted, step, grandchildren and great-grandchildren)
 - * Grand or great grandparent
 - * In-law (mother, father, son, daughter, brother, sister)
 - * Aunt or uncle (including great aunt or great uncle)
 - * Niece or nephew (including great niece or great nephew)
 - * Any other relative who has been directly dependent upon the employee
 - * Any other relative residing within the household
5. In the event of the loss of extended family member or close friends, employees are provided one (1) day of paid time off for bereavement leave for other loved ones. This includes any person unspecified as immediate family and considered "other loved one".
6. Department/Program Directors may require verification of death and the relationship of the deceased to the employee.
7. If additional time is needed, employees can request additional time off through their supervisor using accrued paid time off or by taking unpaid leave.

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G. MEDICAL LEAVE OF ABSENCE

1. A regular employee may request a medical leave of absence by completing the form found on page 10 of this policy. With concurrence of the Executive Director of Human Resources, an Executive Director or Director may grant a Medical Leave of Absence for a specified period of time.
2. Medical leaves of absences may be granted when it is in the best interest of the tribe. Medical leaves of absence run concurrently with other types of paid leave and with approved Cherokee Nation sponsored Short-term Disability coverage. A Medical Leave of Absence without Pay (LWOP) may be granted if an employee has exhausted all other types of paid leave, including Short-term disability coverage.
3. If a Medical Leave of Absence is denied by the requesting department, the department must send the Medical Leave of Absence to the Chief of Staff, Secretary of State, or his/her written designee for signature. A Medical Leave of Absence denied by the requesting department, but approved by the Chief of Staff, Secretary of State, or his/her written designee will be considered approved by the Cherokee Nation.
4. At the expiration of a Medical Leave of Absence, the employee may be reinstated in the position he or she vacated or in another vacant position in the same class requiring substantially the same qualifications, provided such a position is available. If no such position is available, Human Resources will make all reasonable attempts to consider the eligible employee for job openings that are compatible with their qualifications. If there is not a position available, the employee will be placed on lay-off status.
5. An employee shall not receive pay for holidays or any administrative leave while on a Medical Leave of Absence without pay (LWOP). The employee is responsible for paying insurance premiums during a Medical Leave of Absence.
6. If an employee fails to report at the expiration of a Medical Leave of Absence, the employee is deemed to have voluntarily resigned.

H. DOMESTIC VIOLENCE LEAVE

When an employee demonstrates, either through the filing of criminal or civil proceedings in a court of law or by such other method satisfactory to the employer, that she/he has been the victim of domestic violence and that such violence contributed to her/his

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absence(s) from work or tardiness at work for a period of up to seven days over the course of a year, it shall be a violation of this policy for any employer to terminate or otherwise discipline any employee who has missed work or is tardy.

I. PERSONAL/PROFESSIONAL LEAVE OF ABSENCE

A regular employee may request a Personal/Professional leave of absence for requests that pertain to education, internships, or personnel exchanges with other federal, state, or private agencies when it is in the best interest of the Tribe.

1. To request a Personal/Professional Leave of Absence an employee must complete the form found on page 10 of this policy. With concurrence of the Executive Director of Human Resources, and the Chief of Staff, Secretary of State, or his/her written designee, an Executive Director or Director may grant a Personal/Professional Leave of Absence without pay (LWOP) for specified period of time. Personal/Professional leaves of absences may be granted when it is in the best interest of the Tribe to do so.
2. If a Personal/Professional Leave of Absence is denied by the requesting department, the department must send the Personal/Professional Leave of Absence to the Chief of Staff, Secretary of State, or his/her written designee for signature. A Personal/Professional Leave of Absence denied by the requesting department, but approved by the Chief of Staff, Secretary of State, or his/her written designee will be considered approved by the Cherokee Nation.
3. At the expiration of a Personal/Professional Leave of Absence (LWOP), the employee may be reinstated in the position he or she vacated or in another vacant position in the same class requiring substantially the same qualifications, provided such a position is available. If no such position is available, Human Resources will make all reasonable attempts to consider the eligible employee for job openings that are compatible with their qualifications. If there is not a position available, the employee will be placed on lay-off status.
4. An employee shall not receive pay for holidays or any administrative leave while on a Personal/Professional Leave of Absence. The employee is responsible for paying insurance premiums during a Personal/Professional Leave of Absence unless the employee is on a personnel exchange with a federal, state, or private

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agency. In this case an employee may elect to pay his/her insurance premiums or elect to be covered by the receiving agency's insurance.

5. If an employee fails to report at the expiration of a Personal/Professional Leave of Absence, the employee is deemed to have voluntarily resigned.
6. During the employee's Personal/Professional Leave of Absence for Education, the Cherokee Nation may make reasonable efforts of encouragement and accommodation to the employee such as consideration for temporary employment, data sharing for projects, and other requests deemed in the best interest of the Cherokee Nation.

J. ADMINISTRATIVE LEAVE FOR MENTAL HEALTH

All regular full-time employees, and regular part-time employees, should be allowed to use mental wellness leave at their personal discretion as outlined below.

1. Employees shall be allowed use of mental wellness leave, not to exceed two (2) hours per month for full-time employees and one (1) hour per month for part-time, and will expire at the close of each month's final pay period.
2. Leave shall be used in increments of one (1) hour.
3. Employees must request leave through their normal process as required by their Executive Director and/or their managing supervisor.
 - a) Executive Directors should report any denial of leave, in written form, to their direct cabinet-level supervisor within one (1) business day of the action.
4. Cherokee Nation's Mental Wellness Leave cannot be shared, does not accumulate and has no monetary value.
5. The leave should be used at the employee's discretion to better their mental health for reasons including but not limited to; family time, to receive counseling, exercise or physical activity.
6. Mental Wellness Leave runs concurrent with Family Medical Leave.

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Leave of Absence Request

This request is to be used for all leaves of absence except Family Medical Leave (FMLA). Contact Cherokee Nation Benefits for Family Medical Leave procedure.

Name of Employee _____ Employee # _____ Date _____

Position _____ Department _____

Name of Supervisor _____ Title _____ Group _____

Hire Date _____ Status ☐ Regular/Full-Time ☐ Regular/Part-Time

Details of Request for Leave

Date Requested Leave of Absence begins: _____ Date Requested Leave of Absence ends: _____

Type of Leave ☐ Medical ☐ Education ☐ Military ☐ Personal/Professional

Have you exhausted all available paid Leave? ☐ Yes ☐ No

If request is for a medical LOA, have you exhausted all Family Medical Leave? ☐ Yes ☐ No ☐ N/A

List the number of times you have requested a leave of absence for this same condition prior to this request _____

Note: If leave request is for medical reasons and the employee is eligible for FMLA, the employee must exhaust all FMLA before requesting a Leave of Absence

Reason for Leave: _____

***** Please attach any and all appropriate documentation that may apply *****

Conditions for Leave of Absence

In cases other than military leave or jury duty, this Request for Leave of Absence is made with full understanding of the following:

1. My current position may be eliminated during my absence
2. Another employee may temporarily fill the vacancy created by my absence.
3. In the event that my current position is eliminated or filled by another employee, I may be considered for other positions within Cherokee Nation, if available.
4. In the event that no such position is or becomes available at the expiration of this leave of absence, the employee will be placed on lay-off status.
5. In the event I do not report for work on the expected return date, I will be considered to have voluntarily resigned.

By signing this form, I acknowledge that I have read and understand these conditions.

Employee Signature _____ Date _____

Required Signatures

Director of Requesting Dept. _____ ☐ Approved ☐ Denied Date _____

Executive Director of Requesting Dept. _____ ☐ Approved ☐ Denied Date _____

Executive Director of HR Signature _____ ☐ Approved ☐ Denied Date _____

Additional Notes: _____

Signature of Chief of Staff, Secretary of State, or his/her written designee is required for denial of Medical Leave of Absence or the approval or denial of Personal/Professional Leave of Absence.

Chief of Staff or Secretary of State ☐ Approved ☐ Denied Date _____

Additional Notes: _____