

GAM 3.27 - Discretionary Leave without Pay

Frequently asked questions for employees and managers

Last updated November 2022

Questions for all employees

1. What types of leave are covered under the Discretionary Leave without Pay policy?

The policy outlines criteria for discretionary leave requests of a personal nature such as family, community, volunteer activities and other personal pursuits.

2. Who does the policy apply to?

The policy applies to *Public Service Act* employees, except for casual employees. It doesn't apply to Yukon Association of Education Professionals (YAEP) employees as they are covered under Article 25a of the YAEP Collective Agreement.

3. What's the difference between discretionary and non-discretionary leave without pay?

Discretionary leave without pay requests are for personal reasons that the employer is not obligated to approve. Examples include travel, personal development and time with family.

Non-discretionary leave is leave that employees are entitled to under the collective agreement, Section M, *Public Service Act* and specific human resource policies. Examples of non-discretionary leave without pay are maternity, parental and adoption leave, compassionate care leave, leave for reservists, long term disability and political leave.

4. Where can I find out about non-discretionary leave without pay provisions?

To see other types of non-discretionary leave without pay options, refer to:

- YG PSAC Collective Agreement (maternity, parental, adoption, compassionate care)
- Terms and Conditions for Managers (Section M)
- Public Service Act (political leave)

- General Administration Manual (leave for reservists, 3.11, accommodating employees with disabilities, GAM 3.59)

5. Does the policy apply to leave related to illness, disability and reintegration?

No. Leave related to illness, disability and reintegration are administered according to collective agreements and other legislation and policies. This is considered non-discretionary leave and is not covered in the revised policy.

6. What is the maximum length of time for a discretionary leave without pay?

Employees may be eligible for a leave of up to two years, including extensions. Deputy ministers have the discretion to grant a longer leave where circumstances warrant, e.g. for education leave.

7. Can an employee access discretionary leave without pay under the policy and still retain accrued leave?

Employees need to use up all of their accrued discretionary leave (earned but unused) that they have available to them, as of the beginning of their leave, before accessing discretionary leave without pay under this policy. Applying this rule consistently across departments will create a level playing field for everyone.

Discretionary leave without pay is for situations when there is no other leave available.

8. What's the process for applying for discretionary leave without pay?

a) Leave of 30 days or less

Managers can approve leave requests of 30 calendar days or less. Employees submit their request through the standard leave form that is processed according to usual department practice.

Managers will indicate on the form whether the leave is approved or denied and submit it to the human resource branch. If a request cannot be approved, managers will explain their reasons to the employee directly.



b) Extended leave requests

For requests longer than 30 days, employees will submit an application for leave accompanied by a written proposal that outlines the general purpose of the leave, length of time requested and identifying any potential conflicts of interest.

Managers will consider the proposal and forward their recommendation to the deputy minister for a final decision. Where approved, this will be communicated in the form of an agreement outlining conditions for the leave.

If the leave cannot be approved, the department response will outline the reasons for denying the request. A copy of the proposal and department response is kept on file.

9. Do employees retain the right to their substantive position?

Employees who take discretionary leave without pay for up to one year will keep their substantive position. For longer leaves, the deputy has the discretion to return the employee to their substantive or a similar position. In exceptional circumstances, the deputy may, after consulting with the Public Service Commission, establish other return to work provisions. This should be clearly stated on the leave agreement signed by the employee and the deputy.

10. Are there impacts on pay and benefits?

Employees who request leave without pay should anticipate a resulting impact on their pay. You may have to repay any overpayments that occur if the request was not submitted far enough in advance.

For leave exceeding 30 days, benefits will be impacted. Employees contemplating an unpaid leave should consult with the Compensation and Classification Branch, PSC.

11. What if an employee feels they were unfairly denied leave without pay for operational reasons?

Yukon government employees have access to a variety of non-discretionary paid and unpaid leave. The policy encourages departments to be flexible, but this type of leave is not an entitlement, and is subject to operational and other considerations.

If you've requested a leave but were not approved, you can ask your manager or deputy minister to explain the rationale if you feel this hasn't been clearly communicated.



12. Specific leave situations:

a) I would like to shorten my work week during the summer months. Can I do this through leave without pay?

Leave without pay is for situations when all other leave has been exhausted. It's not intended to be used to reduce your work hours or change to part-time status. If you would like to make a change to your hours/schedule, talk to your supervisor about what flexible work options may be available.

b) Can I work for another employer while on a leave without pay?

While on a leave, you're still a Yukon government employee. All terms and conditions of employment, including those laid out in the Conflict of Interest Policy, still apply to you. While that policy does allow for the possibility of taking on other work opportunities, there are rules in place around that.

If you intend to work for another employer while on a leave without pay, you must indicate this in your leave application. Discretionary leave without pay should not be used as a means to retain your Yukon government job while "trying out" another job opportunity elsewhere.

Questions for managers

13. How are managers defined in the policy and what role do they play?

A manager is defined as an employee in the MG occupational group or an employee in a supervisory position who has been authorized by a deputy minister to approve discretionary leave without pay requests.

Managers are responsible for considering leave requests based on the criteria and processes outlined in the policy, and for communicating their decisions to employees in a clear and timely manner.

14. Why should I consider granting discretionary leave without pay requests?

Employees are asked to manage absence from work within the leave options available to them, but the reality is, life happens.



There may be times when an employee has exhausted their available leave and requires leave without pay to cover for an unanticipated shortfall. Similarly, an employee may seek an extended leave to pursue the experience of a lifetime or to address a personal situation.

Depending on the circumstances, leave may create opportunities for others in the unit or the department in the way of development or acting assignments.

Managers are encouraged to be flexible in considering leave requests where they can be managed operationally. When they cannot grant leave without pay, they will clearly explain the reasons. Flexibility and open communications go a long way towards supporting employee engagement and retention.

15. What criteria should I use in determining whether an extended leave request can be approved?

As outlined in the policy, managers should consider whether the employee's absence can be accommodated in the context of the unit's operational requirements. For example:

- Are there any current or upcoming priority projects that depend upon staffing continuity or that rely on the employee's particular skills and expertise?
- Is the unit currently understaffed?
- Can a suitable person be found to backfill for the position (if necessary)?
- Are there any potential conflicts of interest associated with the leave?
- Are there additional costs to the department in terms of staffing and continued employer benefit contributions?

Departments may also take into consideration the employment history, length of time the employee has been in their current position and other leave the employee has been granted.

