

State of California

MEMORANDUM

To: Personnel Management Liaisons Date: January 13, 1989
Reference Code: 88-116

THIS MEMORANDUM SHOULD BE DIRECTED TO PERSONNEL AND EMPLOYEE
RELATIONS OFFICERS

From: Department of Personnel Administration

Subject: Proposed Rule on Administrative Time Off During State of
Emergency

The Department of Personnel Administration is proposing a rule on Administrative Time Off for State employees during a state of emergency. The regulatory notice, initial statement of reasons and rule text are attached. These materials are also being sent to State employee organizations.

The rule outlines the State's policy regarding Administrative Time Off when the Governor has declared a state of emergency and the employee works or resides in that county; and when a State agency requires the services of a State employee who is a registered volunteer worker during an emergency situation.

A rule hearing has not been scheduled at this time. However if any interested person desires a hearing on this rule, they must submit a written request. Comments and questions on the proposed rule, as well as requests for a hearing, should be directed to Mary S. Fernandez, Department of Personnel Administration, 1515 - S Street, North Building, Suite 400, P.O. Box 944236, Sacramento, CA 94244-2360. Her telephone number is (916) 324-9408, ATSS 454-9408.



George P. Lloyd II
Chief, Classification and Compensation Division

Attachments

PUBLIC NOTICE

Department of Personnel Administration Proposed Regulation Administrative Time Off

The Department of Personnel Administration proposes to adopt Rule 599.785.5 regarding Administrative Time Off for State employees.

Notice of Public Comment Period

The Department of Personnel Administration (hereinafter "DPA") invites all persons interested in the adoption of the regulation noted above governing specified conditions of employment for State employees, to submit written comments related to these actions by no later than March 6, 1989 in order for such comments to be considered by DPA prior to the adoption of this rule. All written arguments, statements or other comments on this proposed action should be addressed to: Mary S. Fernandez, Department of Personnel Administration, 1515 S Street, North Building, Suite 400, P.O. Box 944236, Sacramento, CA 94244-2360, or (916) 324-9381.

Public Hearing

DPA has not scheduled a public hearing on its proposed rule, pursuant to the Administrative Procedure Act (California Government Code Section 11346.5). If any interested person desires a public hearing on the proposed DPA regulation, such interested person must submit a written request that DPA conduct such a public hearing, pursuant to California Government Code Section 11346.8, by no later than February 20, 1989.

The request for a public hearing must be submitted to Mary S. Fernandez, Department of Personnel Administration, 1515 S Street, North Building, Suite 400, P.O. Box 944236, Sacramento, CA 94244-2360. Only if the written request is timely will DPA schedule a public hearing. If a hearing is held it will be on March 10, 1989 at the Department of Personnel Administration, 1515 S Street, Suite 400, Sacramento, in Conference Room A at 10:00 a.m.

Informative Digest

Currently, Government Code Section 19991.10 grants appointing powers the discretion to approve paid leaves of absences of five days or less. In 1986 and 1988, when emergency situations have occurred, DPA issued temporary guidelines for appointing powers to follow in determining whether a paid leave of absence is appropriate. Governor's Executive Order D-25-83 provides for State employees to perform volunteer services for State agencies in emergency situations.

DPA proposes to adopt a rule to make such guidelines permanent. This rule would provide the State's policy in granting leaves of absence of five days or less in disaster situations.

Authority to Repeal/Amend Rule

The Department of Personnel Administration proposes to adopt this rule under the authority granted by Government Code Sections 19815.4(d) and 19816. The purpose of this regulation is to implement, interpret and make specific Government Code Section 19991.10.

Initial Statement of Reasons and Text of Proposed Regulation

An initial statement of reasons for this rule action has been prepared by the DPA. The statement includes the specific reasons for this action. This initial statement of reasons is available upon request. The text of the proposed regulation is available for public inspection at DPA and may be obtained upon request.

Adoption of Proposed Rule

Following the close of the public comment period and public hearing, if necessary, DPA may act on the proposed regulation substantially as described below. Alternatively, DPA may act on the regulation with modifications if the regulation as modified is sufficiently related to the original text made available to the public. If such modifications are made, they will be available for public review at least 15 days prior to the date upon which DPA adopts the regulation. A request for a copy of any regulation as modified may be addressed to Mary S. Fernandez, Department of Personnel Administration, 1515 S Street, North Building, Suite 400, P.O. Box 944236, Sacramento, CA 94244-2360, (916) 324-9381. DPA will accept written comments of the regulation as modified for 15 days after the date on which it is made available.

Substantial Changes Will Require New Notice and Hearing

If after the public comment period and/or public hearing, if any, DPA intends to act on this rule with modifications not sufficiently related to the original text so as to place the public on notice that such modification could result from the originally proposed rule, the modified text will not be adopted without complying anew with the notice and hearing requirements of the Administrative Procedure Act.

Rulemaking File

Pursuant to California Government Code Sections 11347.3, DPA is maintaining a rulemaking file for the proposed regulatory action. The file currently contains a copy of:

1. The proposed rule action
2. This notice
3. The initial statement of reasons for the proposed action

4. Governor's Executive Order D-25-83

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for inspection at DPA during normal business hours.

Submission of Comments: Receipt of Documents and Additional Information

Requests for the Initial Statement of Reasons, written comments on the proposed rule and questions concerning proposed adoption of this rule should be addressed to: Mary S. Fernandez, Department of Personnel Administration, 1515 S Street, North Building, Suite 400, P.O. Box 944236, Sacramento, CA 94244-2360, (916) 324-9381.

Local Mandate

The proposed action does not impose any mandate on local agencies or school districts.

Fiscal Impact

The proposed action imposes no new cost to any State agency, no cost to any local agency or school district requiring reimbursement under Part 17, 17500 of Division 4, Government Code, no other nondiscretionary cost or savings to local agencies, and no cost or savings in federal funding to the State.

The Administrative Procedure Act requires DPA to determine that no alternative considered by DPA would be more effective in carrying out the purpose of this proposed rule action or would be as effective and less burdensome to affected private persons than this proposed rule action.

Small Business Impact

The proposed action has no adverse impact on small businesses.

Private Persons/Business Impact

The proposed action creates no cost impact on private persons or businesses as there are no such persons or businesses directly affected.

Housing Costs

The proposed action has no effect on housing costs.

DEPARTMENT OF PERSONNEL ADMINISTRATION
INITIAL STATEMENT OF REASONS
Adoption of Rule 599.785.5

California Code Sections 19815.4(d) and 19816 authorizes the Department of Personnel Administration to adopt rules governing State personnel management. Government Code 19991.10 provides appointing powers the authority to grant paid leaves of absences not to exceed five working days. The proposed rule specifies the standards for implementing Government Code 19991.10 during a State of Emergency.

Specific Purpose

The specific purpose of Section 599.785.5 is to provide guidelines for Administrative Time Off during a State of Emergency.

Factual Basis

Government Code 19991.10 states, "Where there exists no statutory authority to grant a paid leave of absence, no paid leave of absence shall exceed five working days without prior approval of the department. This section shall not be construed to provide or create any classification of paid leave of absence."

In recent years, when emergency situations have occurred, the Department of Personnel Administration has issued temporary guidelines for appointing powers to follow in determining whether a paid leave of absence is appropriate. Previously the practice of the State was to only allow the use of Administrative Time Off in situations when the employee's absence was dictated by an action of the State, such as a temporary closure of the employee's place of business. These memoranda have applied to specific emergencies only. This rule action will provide guidelines for use in any situation when the Governor has proclaimed a state of emergency in the county where the employee lives or works.

Governor's Executive Order D-25-83 and the State Emergency Services Act authorizes the registration of State employees with special skills to provide emergency services. The proposed rule provides that these employees may be granted administrative time off when asked by State agencies to respond to disaster situations outside the county in which they work or reside.

Recent legislation (effective January 1, 1989), Government Code 19844.5, has provided for specific time limits on periods of Administrative Time Off for volunteers participating in the California Explorer Search and Rescue Team, Drowning Accident Rescue Team, Wilderness Organization of Finders, California Rescue Dog Association, and California Wing of the Civil Air Patrol. Volunteers participating in these mission assignments are excluded from the proposed rule.

In accordance with Government Code 19991.10, Administrative Time Off which exceeds five working days must be approved by the Department of Personnel Administration.

DEPARTMENT OF PERSONNEL ADMINISTRATION

Article 13. Absences

599.785.5 Administrative Time Off - During State of Emergency

(a) Employees may be granted a paid leave of absence of up to 5 days by their appointing authority when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor and the appointing power determines that at least one of the following conditions exist:

(1) The employee's normal place of business is closed temporarily, during their normal work shift, due to the effects of the emergency.

(2) The emergency effectively precludes the employee's ability to find reasonable routes of transportation from their normal residence to work.

(3) The emergency presents an immediate and grave peril to the employee's own safety, that of an employee's immediate family member, or the employee's principal residence.

(4) The employee is actively involved in a formal, organized effort to protect the health and safety of the general public; such as, the employee is a member of the auxiliary fire or police department or the employee is asked by local authorities to assist with sandbagging efforts.

(5) The employee needs to take time off to apply for disaster assistance from the Federal Emergency Management Agency (FEMA) because the employee is unable to apply for assistance before or after their normal work shift.

(b) An employee may be granted a paid leave of absence up to 5 days by their appointing authority regardless of the location of the disaster when the employee is pre-registered with, and providing volunteer service to, a State agency as authorized by the Governor's Executive Order D-25-83. The volunteer workers are required to notify their appointing authority of their affiliation with the volunteer services and to establish prior arrangements regarding the notification of the appointing authority in the event the employee is asked to participate in the State disaster response. The appointing authority will release the employee to provide volunteer service when an emergency occurs unless there is a critical departmental operating reason to prevent such a release.

(c) No paid leave of absence shall exceed five working days without the prior approval of the appointing authority and the prior approval of the Department of Personnel Administration. The Department of Personnel Administration will grant approval of a leave of absence in excess of five working days based on its finding that one of the criteria above continues to be met.

(d) State employees called into service as specified in Government Code 19844.5 are excluded from the above standards.

NOTE: Authority cited: Sections 19815.4(d) and 19816, Government Code.
Reference: Section 19991.10, Government Code