

# **Online Human Resources Manual Policy**

## **2121 Administrative Time Off (ATO)**

### **Policy Number**

2121

### **Category**

Leave

### **Subcategory**

Administrative Time Off (ATO)

### **Owned By**

#### **Division**

Personnel Management Division

#### **Program**

Personnel Services Branch

### **Audience**

- Employee Relations Officers
- Personnel Officers
- Personnel Transactions Supervisors

### **Synopsis**

This policy

- Defines Administrative Time Off (ATO) and explains why it is needed.
- Outlines the ATO approval policy.
- Identifies ATO documentation requirements.
- Outlines appropriate uses for ATO.
- Outlines the process departments must follow to request extensions of ATO.

### **Introduction**

The purpose of this policy is to provide departments with information on ATO, including appropriate use, delegated authority, extension request procedures, and required documentation.

## **Statement**

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. ATO can also be granted when employees need time off for reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events.

### **ATO Approval Policy**

Appointing authorities are authorized to approve ATO for up to five (5) working days under Government Code section 19991.10, and have delegated authority to approve up to 30 calendar days. Any ATO in excess of 30 calendar days must be approved in advance by the Department of Human Resources (CalHR). In most cases, if approved, the extension will be for an additional 30 calendar days. The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave.

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. ATO may not be used and will not be granted for an indefinite period. If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

### **ATO Documentation Requirements**

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO.

For example, if a department director grants his or her employees one hour of ATO to supplement their lunch hour in order to attend a team-building office event, documentation must be maintained that explains the amount of leave authorized, the number of employees affected, the nature of the event, and why allowing paid administrative leave for the time period confers a benefit on the department and the state.

### **Other Uses for ATO**

It is the policy of the State of California to allow ATO for the following reasons:

- State of Emergency
- Precinct Election Board
- Voting on Election Day
- Blood Donation
- Organ Donation

## **State of Emergency**

California Code of Regulations, title 2, section 599.785.5 allows for up to 5 days of ATO during a Governor-declared state of emergency for those employees that meet the provisions of the rule. In addition to the 5 days of ATO, departments are delegated the authority to approve ATO for up to a total of 30 calendar days.

ATO is authorized during a state of emergency as outline below (Cal. Code Regs., tit. 2, § 599.785.5):

(a) Employees may be granted a paid leave of absence of up to five days by their appointing power 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 exists:

(1) The employee's normal place of business is closed temporarily, during the employee's 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 the employee's normal residence to the work place.

(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 the employee's normal work shift.

(b) An employee may be granted a paid leave of absence up to five days by the employee's appointing power regardless of the location of the disaster when the employee is preregistered with, and providing volunteer service to, a state agency carrying out its responsibilities under the Governor's Executive Order D-25-83. The employees providing volunteer service are required to notify their appointing power of their affiliation with the volunteer services and to establish prior arrangements regarding the notification of the appointing power in the event the employee is asked to participate

in the state disaster response. The appointing power shall 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 power and the prior approval of the Department of Human Resources. The Department of Human Resources shall grant approval of a paid 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 section 19844.5 are excluded from the above standards.

### **Precinct Election Board**

Pursuant to Government Code section 19844.7, California Code of Regulations, title 2, section 599.930, and most bargaining unit contracts, all state employees are entitled to receive paid time off for Precinct Election Boards (poll worker).

An employee who is appointed as a member of a Precinct Election Board and takes approved time off from state employment to serve as a member of that Precinct Election Board on Election Day shall receive payment of his or her regular wages or salary for that Election Day. The employee does not forfeit any compensation received for his or her service as a Precinct Election Board member.

Eligibility to receive time off is subject to approval by the employee's manager or supervisor. Employees shall provide sufficient notice to ensure departmental operational needs are met. Departments may require employees to provide verification of service from the Registrar of Voters, including the name of the employee serving and the date of the election. Time off will be recorded as ATO for time keeping purposes, and employees should note Precinct Election Board in the comments section of their timesheet.

### **Voting on Election Day**

This provision is governed by the California Election Code sections 14000 and 14001.

If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time that, when added to the voting time available outside of working hours, will enable the voter to vote.

However, no more than two hours of time taken off for voting shall be without loss of pay. The time off for voting shall be only at the beginning or the end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.

If the employee, on the third working day prior to the day of election, knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give the employer at least two working days' notice that time off for voting is desired, in accordance with this section.

Election Code section 14001 requires that not less than ten days before every statewide election, every employer shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their work, a notice setting forth the provisions of Election Code section 14000.

There are several factors concerning these provisions which all departments should note:

1. Election Code section 14001 requires that notices stating the provisions of Election Code section 14000 be prominently posted at least ten days before every statewide election.
2. Election Code section 14000 requires that employees be given paid time off to vote only if the employee does not have sufficient time to vote outside of working hours. Since the polls are normally open from 7 a.m. to 8 p.m., in most cases, state employees will be able to vote outside of working hours and thus should not be given paid time off. It is only in special cases, such as when an employee is required to work overtime, the polls are open only for a limited time, or some other equally good reason that state employees would need to be given paid time off to vote. Departments should realize, however, that when a good reason does exist, an employee is entitled by law to paid time off to vote.
3. Employees can be given as much time as needed to vote, but only a maximum of two hours is paid.
4. Time off to vote should be given at the beginning or end of a work shift.
5. Employees are normally required to give a department two days' notice if they want time off to vote.

It will be up to each department to meet the requirements of Election Code sections 14000 and 14001 by posting the necessary notices and determining which, if any, employees need to have time off to vote. Voting notices are available at the Secretary of State's Office.

## **Blood Donation**

If an employee does not have sufficient time outside of working hours to make their blood donation, the employee may be allowed up to two hours without loss of pay.

Efforts should be made to schedule these appointments in a manner that creates the least disruption to the work setting, preferable at the beginning or end of the work day. Historically, state employees have generously donated to the state's blood banks. Departments should continue to be flexible in adjusting employee work schedules to allow employees to make blood donations.

## **Organ Donation**

Government Code section 19991.11 provides that a state employee, who has exhausted all available sick leave, is eligible for paid time off for the purpose of donating an organ or bone marrow to another person. Paid leave for the purpose of donating an organ or bone marrow is called "Donor Leave."

Donor Leave is currently available to all permanent and probationary employees who are either excluded from collective bargaining or represented by bargaining units that contain language in their Memorandum of Understanding (see specific bargaining unit contracts).

An employee who donates an organ to another person is eligible for up to 30 workdays of Donor Leave in any one-year period. An employee who donates bone marrow to another person is eligible for up to five workdays of Donor Leave in any one-year period. The one-year period for an organ donation is separate from the one-year period for bone marrow donation.

Workdays are defined as eight hours for full-time employees and are proportional for part-time employees (e.g., four hours for half-time employees). The one-year period is measured from the date the employee's leave begins and shall consist of 12 contiguous months. Paid holidays are included in the 30- or 5-day Donor Leave period.

Intermittent, daily, hourly, and temporary employees are eligible for Donor Leave if they are scheduled to work when they become donors. If Donor Leave is approved, these employees will be paid for the time they would have worked during the 6 contiguous calendar weeks following an organ donation or the single calendar week following a bone marrow donation. The 6- or 1-week period is measured from the date the employee's leave begins. Payment for holidays that occur during the Donor Leave period will be according to the current pay plan.

To qualify for Donor Leave, an employee must exhaust all of his or her sick leave. The employee must provide written verification to the appointing power that he or she will be an organ or bone marrow donor and that there is a medical necessity for the donation. This benefit does not apply to employees who donate organs after their deaths.

An employee on Donor Leave shall continue to be eligible for salary adjustments and shall receive credit for annual leave, vacation, sick leave, or any other benefit that would normally accrue during such a work period.

Prior to donating an organ or bone marrow, a person may be required to undergo medical, psychological, psychological, or other tests. Donor Leave may not be used for these purposes. Absences for such purposes must be requested and approved in advance in the same manner as required to use sick leave or annual leave for sick leave purposes, and the time shall be deducted from the employee's accrued leave.

If, for medical reasons, an employee is unable to return to work beyond the time or period granted following a donation, the employee is subject to existing leave and retirement provisions provided in the laws, rules, and collective bargaining agreements.

## **Application**

### **Procedures for ATO Requests Beyond 30 Calendar Days**

Address all ATO extension request memoranda to the Personnel Services Branch and submit to [psb@calhr.ca.gov](mailto:psb@calhr.ca.gov) at least five (5) working days prior to the expiration of the initial 30 calendar days of ATO. Extension requests must include the following:

1. Employee Information
  - Name
  - Collective Bargaining ID
  - Classification and job/working title
  - Is the employee a peace officer? Y/N
  - Initial date ATO commenced
  - Requested extension duration, if less than 30 calendar days
2. ATO Justification
  - Explain why ATO is the best alternative under the circumstances.
  - Explain why the employee is unable to return to work.
  - Indicate whether a temporary reassignment had been considered.
  - Explain why a temporary reassignment was rejected.
  - Indicate whether the employee can work from home.
3. Projected ATO Duration
  - If the investigation or fit-for-duty evaluation is underway, indicate when it is expected to be concluded.
  - If the original deadline needs to be extended, explain why.
  - Explain what progress has been made.
4. Department Contact Person
  - Name

- Email
  - Phone Number
5. Label the request “Confidential”
- Specific details of ongoing investigations are not required as part of the ATO extension request. Rather, include the potential harm or risk of returning the employee to work (e.g., Department is investigating allegations of theft and the employee’s job duties involve unlimited access to funds with no ability to secure funds.)

CalHR will respond to all requests in writing. If the request is approved, a new ATO expiration date will be identified. Most approvals will be for an additional 30 calendar days. If the request is denied, CalHR will explain the reason(s) for the denial and will work with the department to either determine if reconsideration is merited or if the employee must be returned to work.

## **Authorities**

- [Bargaining / Contracts](#) – Applicable Agreements
- [California Code of Regulations, title 2, section 599.785.5](#) – Administrative Time Off – During State of Emergency
- [California Code of Regulations, title 2, section 599.930](#) - Time Off - Precinct Election Board - Excluded Employee
- [Elections Code section 14000](#) – Special Elections
- [Elections Code section 14001](#) – Privileges of Voters
- [Government Code section 19844.7](#) – Miscellaneous Compensation, time off for precinct board member
- [Government Code section 19991.10](#) – Absences, approval for five working days
- [Government Code section 19991.11](#) – Absences, organ/bone marrow donor

## **Resources**

### **PMLs**

- 2015-025 Administrative Time Off – During State of Emergency 9/14/2015
- 2015-023 Administrative Time Off – During State of Emergency 7/31/2015
- 2014-022 Paid Time-Off – Precinct Election Board (Poll Worker) 9/4/2014
- 2012-008 Administrative Time Off (ATO) - Policy, Procedure and Documentation Requirements 4/11/2012
- 2007-026 Delegation of Personnel Management Functions Update 9/25/2007
- 2005-032 Hurricane Relief Leave Program 9/22/2005
- 2003-036 Time Off for Voting on Election Day 9/26/2003
- 2003-031 Paid Leave for Organ Donation by State Employees 9/11/2003
- 2002-007 Excluded Employee Paid Time-Off - Precinct Board Member, Election Day 2/1/2002

- 2001-034 Time Off for Blood Donations 9/13/2001
- 1983-006 Paid Leaves of Absence 4/18/1983

## **Contact Person**

Personnel Services Branch

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## **Authorized By**

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