Office of Human Resources
State of Louisiana
Division of Administration

JOHN BEL EDWARDS
GOVERNOR

JAY DARDENNE
COMMISSIONER OF ADMINISTRATION

DIVISION OF ADMINISTRATION

PERSONNEL POLICY NO. 90

EFFECTIVE DATE: **February 6, 2009**

REVISED DATE: **October 17, 2016**

SUBJECT: **Non-Disciplinary Removal for Unscheduled Absences**

AUTHORIZATION:

Barbara Goodson, Deputy Commissioner

I. POLICY:

The philosophy of the Division of Administration (DOA) is to encourage responsible leave usage in order to maximize public service and reduce the negative impact of absenteeism on productivity. This policy shall be administered uniformly and as equitably as possible without regard to race, color, religion, sex, sexual orientation, gender identity, pregnancy, national origin, political affiliation, disability, age, military service, veteran's status, sickle cell trait, protected genetic information, marital status, job classification, job status or other non-merit factor.

This policy serves to implement Civil Service Rule 12.6(a)2 which provides for the non-disciplinary removal of an employee from state service based upon a history of unscheduled absences. This Rule, within Chapter 12 of Civil Service Rules, states:

"12.6 Non-disciplinary Removals

(a) Absence from work

An employee may be non-disciplinarily removed under the following circumstances:

1.....

2. When, after the employee has been given written notice that his attendance requires improvement and a copy of this rule, an employee has seven or more unscheduled absences during any consecutive twenty-six week period. The employee shall also be given written notice each time he incurs a sixth unscheduled absence during a consecutive twenty-six week period. An unscheduled absence occurs when an employee is absent from work without having obtained approved leave prior to the absence. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled. A continuous absence for the same reason is one unscheduled absence, regardless of its duration."

II. APPLICABILITY:

This policy applies to all DOA employees serving with permanent status who have been placed on notice, in writing, via counseling letter or supervisory plan, that their absenteeism has become problematic. In such event, the employee will be provided a copy of this policy and advised that his/her attendance requires improvement.

III. DEFINITIONS:

- An "unscheduled absence" is defined as an absence from duty without having secured permission, in advance, from an authorized supervisor. Such absences include:

  (a) An employee's failure to report for work at the designated time at the beginning of the workday, regardless of duration;

  (b) An employee's departure from work before the end of the scheduled workday, regardless of duration; and

  (c) An employee's failure to timely return to work at the end of a designated break or meal period, regardless of duration.

- "Advance" permission is defined as authorization, by close of business the day prior to leave usage, to be off from work, late for work, extend a break or meal period, or leave work early.

> **NOTE:** Approval to use accrued leave after-the-fact in coding an unscheduled absence identified as an occurrence under this policy shall not prevent the absence from being considered unscheduled.

IV. NOTICE:

The non-disciplinary removal authorized by Rule 12.6(a)2 applies only to an employee who has been given formal notice that his/her attendance requires improvement and a copy of this policy. Such notice will be in writing in the nature of a counseling letter or supervisory plan authorized by the appointing authority.

The employee will receive an Unscheduled Absenteeism Notice (copy attached) within ten (10) days of each unscheduled absence declaring the absence to be an occurrence under this policy. This notice will likewise include:

(a) The number of occurrences thus far accumulated within the consecutive twenty-six (26) week period;

(b) The manner in which the absence was coded (annual, sick, compensatory or leave without pay); and

(c) A description of the nature or circumstances of the absence from duty.

Upon accrual of each sixth occurrence, the employee also will be given a formal Letter of Counseling advising him/her of the sixth occurrence and reiterating the possibility of non-disciplinary removal upon accrual of a seventh occurrence as authorized by Civil Service Rule 12.6(a)2.

In compliance with Civil Service Rule 12.7, no permanent employee will be non-disciplinarily removed under this policy until he/she has been given oral or written notice of the proposed action, the reason therefor, a description of the evidence supporting the proposed action and a reasonable opportunity to respond.

V. CLARIFICATIONS:

1) The appointing authority has the right to place an employee on leave without pay for the duration of any unscheduled absence.

2) The appointing authority has the right to discipline an employee for any unscheduled absence regardless of the applicability of Civil Service Rule 12.6(a)2.

3) The appointing authority has the right to discipline an employee for failing to adhere to agency leave policy or practice.

4) The appointing authority has the right to require a doctor's certificate or other acceptable documentation to verify an employee's need to be off from duty.

5) The appointing authority has the right to terminate a probationary, restricted or temporary job appointment at any time.

NOTE: When an employee is removed under Rule 12.6(a)2, the adverse consequences of Rule 6.5(c); 11.18(b); 17.23(e)4; 22.4(d); 23.13(b); and 23.16(a)4 shall not apply.

VI. EXCEPTIONS:

1) Leave that is approved for use under the Family and Medical Leave Act (FMLA) and leave granted for the purpose of accommodation under the American with Disabilities Act (ADA) will not be considered an unscheduled absence. However, employees are expected to comply with departmental policy and practice regarding notice to supervisory personnel when such absences will be necessary.

2) The appointing authority, in consultation with the Human Resources Director, retains the right to excuse, for a business reason which furthers the interests of the DOA, any absence which otherwise would be deemed unscheduled under this policy.

VII. QUESTIONS:

Questions regarding the interpretation and enforcement of this policy should be addressed to the Office of Human Resources.

DIVISION OF ADMINISTRATION

NON-DISCIPLINARY REMOVAL FOR UNSCHEDULED ABSENCES POLICY

UNSCHEDULED ABSENTEEISM NOTICE

TO: EMPLOYEE

FROM: SUPERVISOR

DATE:

RE: **NOTICE OF OCCURRENCE**

On _____, you were absent from work from _____ to _____ without having secured permission in advance from an authorized supervisor. This absence constitutes an occurrence under the DOA's Non-Disciplinary Removal For Unscheduled Absences Policy.

REASON GIVEN FOR ABSENCE: _____

_____

_____

This absence, totaling ____ hours, was coded as:

Annual Leave: _____ Compensatory Leave: _____

Sick Leave: _____ Leave Without Pay: _____

As of this date, this is your _____ occurrence under this policy within the applicable twenty-six week period.

You are again reminded that this policy, as authorized by Civil Service Rule 12.6(a)2, provides for the non-disciplinary removal of an employee who has seven or more unscheduled absences during any consecutive twenty-six week period.

c: Human Resources Director