

LIST OF REASONS FOR ADMINISTRATIVE SEPARATION

Reasons for administrative separation include, but are not limited to, the following:

1. **Employment Ineligibility Due to Pre-Existing Permanent Medical Condition (does not include separation due to expiration or disapproval of LWOP-Medical):**

An employee may be administratively separated from employment if the employee accepts a conditional offer of employment but is unable to perform the essential functions of the position because of a permanent medical condition that existed at the time of the conditional offer.

2. **Ineligibility for Employment in the U.S.:**

An employee must be eligible for employment in the U.S., and an employee shall not continue to be employed by the TDCJ if the employee's eligibility for employment expires.

3. **Failure to Meet the Basic Eligibility Criteria for Employment:**

An employee shall be recommended for administrative separation if it is determined the employee did not meet the TDCJ's basic eligibility criteria for employment at the time of employment. If falsification of records is involved, the employee shall be subject to disciplinary action in lieu of administrative separation.

4. **Failure to Meet Conditions of Employment:**

An employee shall be recommended for administrative separation if, due to a reason other than a medical-related reason or permanent medical condition incurred after employment, the employee does not meet the conditions of employment as set forth: (1) in documents provided to the employee prior to employment in the current position, such as job postings and position descriptions; (2) as agreed to by the employee orally during the interview; or (3) as agreed to by the employee in documentation provided by the employee, such as the job application packet. If falsification of records is involved, the employee shall be subject to disciplinary action in lieu of administrative separation.

Failure to meet conditions of employment includes, but is not limited to, the following:

4a. An employee is in a position requiring a valid driver's license and the employee's driver's license is suspended or revoked.

4b. An employee is in a position requiring a professional license or certification and:

4b(1). The employee does not possess the required license or certification;

4b(2). The required license or certification is revoked or expired; or

- 4b(3).** The employee did not obtain this credential within the time period agreed upon at employment.
- 4c.** An employee indicated willingness to work days other than Monday through Friday on the employee's job application but refuses to do so for any reason, except a religious reason.
- 4d.** An employee is in a position requiring a college degree and it is determined the institution from which the employee claimed to have a college degree is not accredited by an organization recognized by the Council for Higher Education Accreditation (CHEA) or the United States Department of Education (USDE).
- 4e.** An employee is in a position requiring the employee to be able to use firearms and the employee refuses to use firearms or the employee is unable to qualify with firearms in accordance with AD-12.45, "Annual Firearms Qualification."
- 4f.** An employee is in a position requiring the employee to be able to use firearms and the employee can no longer possess a firearm due to a probation order that is not related to domestic violence.
- 4g.** An employee is in a position requiring the employee to be able to use firearms and the employee can no longer possess a firearm due to a conviction involving domestic violence.
- 4h.** An employee is in a position requiring the employee to be able to use firearms and the employee is the subject of a protective order that prohibits the possession or use of a firearm.
- If the protective order identifies a date that a determination shall be made as to whether the protective order becomes permanent, a PERS 443, Recommendation for Administrative Separation, shall not be completed or submitted. Pending the determination of permanence, the employee shall be placed in a leave with pay or LWOP status in accordance with the procedures in Section IV.B of this directive. Upon the protective order becoming permanent, a PERS 443 shall be completed and submitted for approval.
- 4i.** An employee has a warrant still outstanding 30 calendar days after the employee was notified in writing that the employee would be administratively separated if the warrant was not resolved.

If the employee is arrested as a result of the warrant, the employee's status shall be determined in accordance with the procedures in PD-27, "Employment Status Pending Resolution of Criminal Charges or Protective Orders." If the employee is convicted, the employee shall be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

4j. An employee in a position requiring completion of annual in-service training fails the in-service training examinations conducted in accordance with AD-12.20, "Implementation and Operation of the TDCJ In-Service Training Program for Uniformed and Non-Uniformed Employees."

4k. An employee is no longer able to perform a position's essential functions.

5. **Failure to Resolve a Nepotism Violation:**

An employee shall be administratively separated if the employee has received a PERS 581, Notification of Nepotism Violation, in accordance with PD-26, "Nepotism," has failed to resolve the situation, and no other solution is acceptable.

6. **Working Full Time for Another State Agency:**

An employee shall be administratively separated if the employee is working full time for another state agency.

7. **Failure to Provide Health Care Provider's Statement:**

An employee who has been appropriately notified of the requirement to provide a current health care provider's statement to support the employee's continued absence and claim of illness or injury shall be administratively separated if all of the following conditions are met:

- a. The employee is in a leave status and has not returned to duty;
- b. The employee is not currently on Family and Medical Leave (FML) or State Parental Leave, or has exhausted the FML or State Parental Leave entitlement to 12 workweeks of job-protected leave; and
- c. The employee fails to provide a current health care provider's statement within the required timeframes in accordance with the applicable TDCJ leave policy.

8. **Disapproval of LWOP-Medical**

An employee who has been disapproved for LWOP-Medical may be administratively separated if all of the following conditions are met:

- a. The employee is in a leave status and has not returned to duty;
- b. The employee is not currently on Family and Medical Leave (FML) or State Parental Leave, or has exhausted the FML or State Parental entitlement; and

- c. The warden or department head has disapproved the employee's request for LWOP-Medical and provided written justification for the disapproval.

Human resources representatives shall continue to follow the separation from employment procedures in accordance with the applicable TDCJ leave policy when an employee does not return to work immediately after exhaustion of LWOP-Medical (including employees who have requested an accommodation), LWOP-Other, LWOP-State Parental, or LWOP-Military. It is not necessary to recommend the employee for administrative separation.

9. Decision of Executive Director Regarding Direct Report

A direct report of the executive director may be administratively separated from employment at the discretion of the executive director.