

Geography covered: Canada
Team Members Covered: All Team Members
Effective date: 1/7/16
Related Document(s):
Leave of Absence (“LOA”) Procedure

BACKGROUND

Michaels recognizes that Team Members may occasionally need to be absent from the workplace for an extended time. If a Team Member is eligible and an absence would be appropriate in the circumstances, an unpaid, job-protected Leave of Absence (LOA) may be granted. Approval for an LOA permits a Team Member to remain off work for an extended period of time for reasons such as welcoming a new family member, providing care and support for sick family members, recovering from an illness or injury, donating an organ, military service, personal emergencies, and more.

If you require four (4) or more days away from work, discuss your situation with your Store Manager to determine if there is a LOA that fulfills your needs. The three main classes of LOA are:

- Family LOA
- Personal Health
- Pregnancy and Parental LOA

Each province has different LOAs available and different rules and requirements for eligibility.

This policy outlines the Rules that apply to LOAs and how the LOAs are administered, with the exception of:

1. Jury Duty;
2. Military Leave for Reservists;
3. Crime-Related Death or Disappearance of a Child;
4. Short Term Disability;
5. Long Term Disability;
6. Unlegislated, provincial “Common Law” leaves; and
7. Declared Emergency Leave

What exactly is a Leave Of Absence?

An LOA is an unpaid and “job-protected” period of time in which a Team Member may be away from work. “Job protected” means that, while a Team Member is away on a LOA they will not be fired or punished in any way for being absent or planning to be absent.

When a Team Member returns to work after an LOA they will be returned to the same position they held before they took a LOA if it still exists. If their position no longer exists they will be returned to a position comparable to the one they held prior to their LOA. In the event that the Team Member will return to work in a different position from the one previously held they will be notified prior to the end of their LOA.

The LOAs that are discussed in this policy are based on provincial labour and employment laws. As a result, different leaves are available in each province and, where two or more provinces have similar categories of LOA, the details may vary. Additionally, the entitlement requirements may not be the same. As a result, for each category of LOA, a chart has been provided to outline the applicable rules for each province.

Relevant Definitions:

Accommodation	<p>If a Team Member is not totally disabled but is unable to perform the essential duties of their employment on a continual basis, Michaels will make reasonable efforts to provide accommodation. The Team Member is expected to participate fully in the attempt to find an acceptable accommodation.</p> <p>Accommodation will vary based on the situation and may include limiting hours, a graduated return to work, or an alternate position for which the Team Member is qualified.</p>
CBML	<p>CBML is the third-party administrator that manages the LOA Policy as an agent of Michaels. In its role as a third party administrator, CBML manages requests and makes recommendations to the Company. Any decisions are made by Michaels in their sole discretion.</p>
Confidentiality	<p>CBML may require information from health care providers in support of LOA management. An example of this is the health information contained in a medical certificate provided in support of a Team Member's return to work. Only information related to the Team Member's ability to work, expected return date, or with respect to accommodation of illness or disability will be shared with Michaels. CBML will not provide medical information, including diagnoses, to Michaels or any other third party without written consent, except when in the opinion of CBML, the information is required for reasons affecting the health and safety of the Team Member or the workplace, or as may be required by law.</p>
Consent	<p>All Team Members must give written Consent to permit the sharing of information, including medical information, between CBML, CBML's agents, Michaels, and any of the employee's health care providers. This requirement for written Consent is satisfied when a Team Member completes and returns the LOA Application form.</p>

Early Return	Requests for early return from LOA may be made with appropriate notice. This notice period will depend on the LOA and the province and is provided in the charts that follow each Policy. This required notice period is expressed as the number of weeks before the end of the LOA that the Team Member must provide notice.
Eligibility	<p>All Team Members are entitled to apply for a LOA on their first day of employment. This includes Full-time, Part-time, Seasonal, Contract, temporary and permanent Team Members.</p> <p>Some LOAs require that the Team Member has worked for Michaels for a minimum amount of time in order to be eligible. This requirement depends on the type of LOA and the province in which the Team Member makes the request.</p>
Essential Duties	Essential duties are the ones that are basic and necessary to the Team Member's occupation. If a duty is performed infrequently or doesn't require the training or skills possessed by the Team Member, it is unlikely to be seen as essential.
Evidence	Some LOAs require that the Team Member provide proof of the situation that grounds their entitlement. This may take the form of a medical certificate, or any other evidence that is appropriate in the circumstances. The existence of this requirement depends on the type of LOA and the province in which the request is made.
Extension	<p>Requests to extend a LOA will be treated procedurally like a new request. Outside of an emergency situation, appropriate notice and evidence must be provided. The requirements will depend on the type of LOA and the province in which the request is made. For example, a parent on a parental LOA may extend their LOA by providing written notice a minimum of four weeks before the last day of their original LOA.</p> <p>LOAs and LOA extensions will be denied where a Team Member's absence is a result of their decision not to participate in a reasonable return to work program that accommodates medical limitations after an illness or injury.</p>
Frequency	A Team Member is entitled to take any and all LOAs to which they are entitled. There is no maximum number of LOAs that may be requested or taken per year if the Team Member is entitled to more than one.
Group Benefits	The rules governing payment of benefit premiums while on LOA differ per province. Depending on the province, the Team Member may be required to continue paying their own portion of the premium payments and also pay Michaels portion while they are

	<p>on a LOA. Alternatively, they may only have to continue paying their own portion according to the usual schedule.</p> <p>The Team Member must ensure that they are aware of the details in their province of residence before they leave on a LOA or, in the case of an emergency, as soon as possible after their absence begins.</p>
Impairment	Impairment is any loss or abnormality of psychological, physiological, or anatomical structure or function.
Maximum LOA	Unless prohibited by law, the maximum combined time that a Team Member will be granted under this policy is one year, with the exception of Quebec.
Medical Certificate	A medical certificate is documentary evidence of the opinion of a medical practitioner. Depending on the province, Medical Certificates may only be accepted from specified practitioners. An example of this is a requirement for a “Physician’s Certificate” or a Midwife’s Report, rather than a Medical Certificate.
Non-Compliance	Team Members are expected to comply with the LOA Policy and Procedures. If they do not, they will be viewed as non-compliant. Non-compliance with the policy, procedures, or the accommodation process may result in the denial of the LOA request and/or disciplinary action, up to and including termination.
Notice Period	<p>For many types of LOA there is a minimum amount of notice that must be given outside of an emergency. These minimum notice periods vary by LOA and by province. For example, a Team Member who lives in British Columbia is meant to provide four weeks’ notice, in writing, prior to starting a Pregnancy or Parental LOA. The notice required for the same type of LOA in Alberta is six weeks, though team members will be eligible to leave “as soon as is reasonable,” even if this is less than two weeks.</p> <p>Michaels request that, in the absence of a provincial minimum notice period, Team Members provide notice a minimum of two weeks before they intend to start a LOA.</p> <p>A minimum amount of notice must also be provided where a Team Member wishes to return to work earlier than the date stated on their original application for LOA.</p>
Physician	“Physician” may be read to include physicians, dentists, and clinical psychologists only. The health care practitioner must be accredited by the appropriate College.

Return to Work	<p>Team Members may be required to provide medical documentation indicating that they are fit to return to work before their LOA ends. If an accommodation or restrictions are requested, further medical evidence may be required in order to facilitate the accommodation process.</p> <p>In the event that the Team Member on Unpaid LOA does not return to work on the agreed upon return date, the Team Member will be deemed as having resigned their employment.</p>
Start of LOA	<p>The date on which CBML determines the leave to have started. In some cases this is the first full day of absence. In other types of LOA, the Start of LOA is the first day of the week in which the first day of absence occurred.</p>
Sick Days	<p>Team Members accrue paid sick days based on service. These sick days are not related to the Personal Health LOA referred to in the LOA Policy. Though Team Members must provide notice when they are or will be absent, they needn't request a LOA based on personal illness or injury unless they will be absent for greater than 3 days.</p>
Termination of LOA	<p>LOA will be suspended or terminated when:</p> <ul style="list-style-type: none"> • the Team Member is no longer eligible for any LOA; • in the absence of a continuing emergency, the Team Member does not provide sufficient evidence to support entitlement to an LOA; • the Team Member is not complying with the LOA Policy; • the maximum LOA duration has been reached; • Michaels becomes aware that the Team Member is doing work for wage or profit, unless otherwise approved; • The Team Member quits; • the Team Member retires; or • the Team Member passes on.
Transition	<p>A Team Member may be eligible for more than one type of LOA. If this is the case and the Team Member intends to take advantage of their entitlement, they must apply for each LOA separately. If their entitlement changes are they become eligible for another type of LOA, any request to transition from one LOA to another will be treated as a new request. This means that a separate application will be required, along with whatever evidence is required to support entitlement to the new LOA.</p>

In What Circumstances May a LOA be Taken?

Though different types of LOA are available in each province, the LOAs to which this Policy applies break down into three categories. Leaves related to pregnancy, adoption and parenthood; leaves related to personal health and wellbeing; and leaves related to family responsibility. Details will be provided for each of these three categories, including service requirements, maximum leave duration, and any rules regarding when a leave must commence or end.

Who May Take a LOA?

A Team member may take a Leave of Absence if they are eligible to apply for the leave and their application is approved.

All Team Members may be considered for unpaid leaves, regardless of whether they are full-time, part-time, seasonal, permanent, or contract/seasonal Team Members. All leaves are subject to approval by Michaels HR. Approval will depend on whether or not the Team Member satisfies the eligibility requirements of the LOA and provides the required documentation within the allotted period of time.

Team Members must provide notice of their intention to take an LOA. Ideally this notice would be given long before the intended leave is to begin and there are timing requirements in some jurisdictions for some leaves. Michaels is aware, however, that the circumstances surrounding an LOA request are sometimes beyond the control of the Team Member. In these cases, the Team Member must provide notice as soon as possible and may be required to provide a satisfactory explanation as to why advance notice was not possible.

Depending on the province and LOA, the Team Member may be required to provide documentary evidence to prove their entitlement. This may take the form of a medical certificate or evidence that is reasonable in the circumstances that they are eligible for an LOA. What is “reasonable” in the circumstances will depend on the facts of the situation, such as the duration of the leave requested, whether the Team Member has a pre-existing pattern of absences, whether any evidence is available, and the possible cost of the evidence.

Where a medical certificate is required, the certificate must come from a health practitioner qualified under the circumstances (which depend on the type and reason for the leave), must name the individual in question, and state that they fulfill the requirements of the type of LOA. The Team Member may be required to provide a copy of this medical certificate prior to the approval of the requested leave.

Pay While on LOA

The LOAs governed by this Policy are all unpaid, with any exceptions noted in the charts provided. If you have paid time off (sick time or vacation time) available, you may use it to receive pay during your LOA. You will need to coordinate this with your manager as payment of paid time off is not automatic.

Paid time off may be used in the following ways:

- Vacation time may be used for Pregnancy and Parental LOA
- Vacation time and/or sick time may be used for either Personal Health LOA, or for a Family LOA that requires a Team Member to be absent from work in order to care for a seriously ill child, spouse, or parent.

Depending on the province, a variety of benefits may be available to a Team Member on leave. It is the responsibility of each Team Member to ensure that they know their options.

Short Term Disability (“STD”) Benefits and Pay

If a Team Member is requesting a LOA for their own serious health condition and is enrolled in STD coverage, they should apply for STD benefits as well as a LOA. If approved, STD Benefits provide 66 2/3% of a Team Member’s normal pay while on LOA. STD starts after a 7-day waiting period. The waiting period is zero if due to an accidental injury caused by an unforeseen event, and your total disability will begin within 30 calendar days of your initial injury.

STD benefits amount to less than a Team Member’s normal income and may be supplemented using available sick, vacation, and/or personal time off. STD benefits are subject to normal taxation.

For more information on your STD Benefits, call SunLife at 1-800-361-6212.

WSIB and LOA

A Team Member who experiences a job-related injury or illness must report to their supervisor and Risk Management right away.

If eligibility for an LOA is a result of a work-related injury or illness, a Team Member may be eligible for Workers' Compensation. If an LOA is approved, this will run concurrently with a leave of absence for an on-the-job injury covered by Worker’s Compensation, as allowed by the applicable law. As with STD benefits, Worker’s Compensation Benefits may be supplemented with available sick, vacation or personal time off to a maximum of 100% of a Team Member’s pay.

For information regarding Workers’ Compensation claims, please contact your Injury Counselor at 972-409-1300.

Entitlements and Benefits while on LOA

Depending on where a Team Member lives their entitlements while on LOA will vary.

Team Members on LOA may have a right to continue to take part in benefit plans, including pension plans, life insurance plans, and extended health and dental plans. In some

provinces the Team Member will be required to pay the portion of the premiums that is contributed by Michaels during active service. In some provinces a Team Member will only be required to continue paying their own portion of the premiums according to the normal schedule.

In some provinces, all service-related entitlements (vacation time accrual, seniority, period of employment) continue during an LOA. In other provinces these entitlements are “rested” while the Team Member is away.

Where any leave of absence without pay has been granted, the Team Member will normally be required to pay the usual benefit premiums, pension contributions and other deductions that would normally be taken, but for the LOA.

Once CBML receives a Team Member’s an application for a LOA, a letter that includes information about premiums due will be mailed by Michaels to the Team Member’s home. Cheques should be made payable to Michaels Stores Inc. and should be mailed to: **Michaels Stores Inc., PO Box 847342, Dallas, TX 75284-7342, USA.**

Team Members have a 30-day grace period in which to make premium payments. Michaels will provide written notification at least 15 days prior to the cancellation date to allow the Team Member to send payment. If payment is not received, benefits may be canceled.

If Team Members fail to pay their portion of insurance premiums while on a LOA, these premiums will be recovered from the Team Member on their return to active employment, unless prohibited by law. If a Team Member who has failed to pay their health premiums does not return from a LOA, Michaels leave, we will pursue legal remedies to recover any premiums paid by the company on the Team Member’s behalf during any unpaid LOA.

Roles and Responsibilities

It is Michaels’ responsibility to:

- Attempt to return a Team Member to work at the end of an approved leave to the same position held immediately prior to the leave;
- If business needs require the position to be filled during the leave, the returning Team Member will be offered a comparable position that they are qualified to perform. If the Team Member declines the comparable position, this will be considered a voluntary resignation; and
- If a Team Member requires accommodation due to disability on their return to work, Michaels will make efforts to find an accommodation as required by law that is acceptable to the Team Member Team Member and Michaels.

It is the responsibility of the Team Member to:

- Provide notice of the impending absence and the reason for their absence using

the Leave of Absence Procedure;

- In an emergency, provide notice and any relevant evidence as soon as possible;
- In a case where the Team Member must be absent starting immediately, they must make an effort to communicate with their Store Manager and share the reason for their absence and anticipated return date;
- Comply with the LOA policy and procedure;
- Where applicable, provide a Medical Certificate or other evidence, as is appropriate in the circumstances;
- Where there is a cost associated with obtaining supporting documentation, the Team Member is responsible for this cost;
- Provide Consent for CBML to collect use, and disclose medical certificates and other documentation relevant to administering the LOA;
- Obtain and share requested or pertinent information with CBML during their LOA;
- Where a LOA is intermittent, the Team Member is responsible for communicating with CBML each time they will need to be absent from work;
- Make LOA requests in good faith for bona fide needs only and understand that any misrepresentation of absence from work or entitlement may be grounds for disciplinary action, up to and including termination of employment;
- Where possible, ensure that they are aware of the implications that taking a LOA will have on service-related entitlements and benefits prior to submitting a request. This information is available through Human Resources;
- If a Team Member is on a LOA for illness, injury, or organ donation, and they are asked to provide evidence confirming their ability to safely return to work, they must provide a medical certificate or Doctor's Note prior to returning to work;
- Return to work on the first work day following the expiration of the LOA, and understand that a failure to return to work will be interpreted as the Team Member voluntarily terminating their employment ;
- Participate in any attempt to accommodate continuing disabilities;
- Cooperate with any recommendations for a safe return to work. Failure to cooperate may result in disciplinary action, up to and including termination; and
- Cooperate with any attempts at accommodation of functional work limitations.

It is the responsibility of the Store Manager to:

- Advise Team Member of LOA Policy if asked;
- If a Team Member advises the Store Manager that they will require a LOA but can't immediately comply with the LOA Procedure, the Store Manager may initiate the LOA application on the Team Member's behalf;
- Advise Human Resources, if applicable, of any position left unfilled during an LOA; and
- Consult CBML for support in the event that any Team Member on a LOA fails to return to work on the agreed upon return date.

It is the responsibility of CBML to:

- Ensure that requests are adjudicated in a timely manner;
- Ensure that Team Member requests are adjudicated according to the LOA policy; and
- Answer questions and concerns expressed by Team Members.

How to Apply for a LOA

The procedure for requesting an unpaid LOA is set out in the Leave of Absence Procedure document that accompanies this Policy.

Please Note:

The Canadian Federal government provides benefits to financially assist workers on unpaid leave in a variety of situations. Some of these include maternity and parental leave, compassionate care leave, and benefits for parents of critically ill children.