

## Restoration of Unused Sick Leave (USL) for Retired Employees

### Quick reference scenarios:

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| <b>PERS Retiree</b> returning to work as a retiree           | The unused sick leave reported to PERS at the time of retirement is considered used and cannot be reinstated.  |
| <b>PERS Retiree</b> returning to active service (unretiring) | The unused sick leave reported to PERS prior to retirement is used in the benefit calculation and cannot be reinstated, even if the employee returns to active service.                                |
| <b>OPSRP Retiree</b>   | Under ORS Chapter 238A, unused sick leave is not used as part of the OPSRP retirement calculation. The unused sick leave is available to be reinstated based on appointment type per policy 60.000.01. |

### Policy Reference:

DAS Sick Leave Policy 60.000.01 <https://www.oregon.gov/das/Policies/60-000-01.pdf>  
 OAM 45.060.00 <https://www.oregon.gov/das/Financial/Acctng/Documents/45.06.00.pdf>  
 ORS 238.350 [https://oregon.public.law/statutes/ors\\_238.350](https://oregon.public.law/statutes/ors_238.350)  
 OAR 459-017-0060 (14) [https://oregon.public.law/rules/oar\\_459-017-0060](https://oregon.public.law/rules/oar_459-017-0060)

The OAM recommends that unused sick leave (USL) for PERS Tier 1 & 2 retirees be reported to PERS at termination, and then adjusted to zero after 60 days. The sick leave is reported to PERS via the monthly CPERS file. For accurate reporting, agencies need to ensure all outstanding leave requests are approved prior to processing the termination.

OPSRP retirees are not subject to the sick leave reporting program. OPSRP retirees that return to work may have their sick leave restored per policy.

**The remainder of this document is applicable to PERS Tier 1 and 2 only.**

### PERS Tier 1 & 2 Sick Leave Program Information

#### **PERS Sick Leave Program**

PERS participating public employers who joined PERS before August 29, 2003, have the option to participate in the PERS Unused Sick Leave Program, or not.

**The State of Oregon participates in this program for PERS employees in all service types. (PERS general Service & Police & Fire)**

The Unused Sick Leave Program was created so employees with unused sick leave at the time of retirement could recoup benefits from unused sick leave they had accumulated with various employers over the course of their service. At the time of termination, any unused sick leave is reported to PERS.

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**Sick Leave Program Rules**

Oregon Revised Statute (ORS 238.350) and Oregon Administrative Rule (459-011-0500) provide that an employer that participates in the Unused Sick Leave Program will report any unused sick leave to PERS at the time the employee terminates from service.

Using the unused sick leave in the calculation of retirement benefits is based on compliance with statute and is a standard practice for PERS.

This is not something that an individual employee can request or not request. If they are a Tier 1 or Tier 2 retiree who worked for an employer who participates in the sick leave program, any unused sick leave will be used in their retirement calculation to increase their final average salary and increase their retirement benefit. The sick leave is considered used regardless of the type of retirement calculation that was used (full formula, money match, etc.).

The amount of unused sick leave per year cannot exceed 8 hours per month for a total of 96 hours per year, or the lowest rate that is in effect for the employer if that rate is less than 8 hours per month. For example, if an employee worked for 30 years (360 months X 8 = 2,880), no more than 2,880 hours of unused sick leave could be accumulated for purposes of increasing an employee's final average salary.

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**Use of Sick Leave in Retirement Benefit Calculation**

Upon review of an employee's employment history when they apply for retirement benefits (early retirement, disability retirement or normal retirement), PERS staff will look for any reported unused sick leave from employment segments with employers who participate in the USL Program. When a retirement application is received PERS sends the employer (DAS CPERS) a Sick Leave Verification form to complete to ensure they have accurate hours.

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**Reinstatement of Unused Sick Leave**

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**Use of Sick Leave in Retirement Benefit Calculation**  
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Once DAS CPERS reports all the accrued eligible USL hours to PERS (subject to any applicable caps described above under "Unused Sick Leave Program Rules"), PERS will perform a conversion in which PERS multiplies all the USL hours by the employee's last hourly rate to create a total monetary value. PERS then uses 50% of the monetary value to increase a retiring employee's final average salary.

If the employee does not agree with the USL value used in their final average salary calculation, they can contest the number of hours used once they receive their Notice of Entitlement from PERS, after the benefit has been calculated.

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**Ability to  
Reinstate  
Unused Sick  
Leave**

Once the unused sick leave is reported, it is used for the calculation of retirement benefits, and it is considered used and exhausted. **It cannot be reinstated if the employee returns to work as a retiree.**

Even though only one-half of the monetary value of the total accumulated USL hours is used in the benefit calculation, all the hours are considered used. To get the monetary value of one-half of the total hours, you need to consider the whole number.

So, if an employee had 1,000 hours of unused sick leave at retirement, they will all be reported to PERS. Then, according to ORS 238.350, PERS will use the monetary value of one-half of the total hours in the benefit calculation. 1,000 hours reported, all hours used in the calculation to determine the appropriate monetary value to use for the employee's final average salary, 0 hours remaining.

Oregon Administrative Rule (459-011-0500) tell us that employers cannot reinstate unused sick leave to retired employees who come back to work as an active employee or as a retiree.

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