

SUBJECT: Sick Leave with Pay **NUMBER:** 60.000.01

DIVISION: Chief Human Resources Office **EFFECTIVE DATE:** 4/01/2022

APPROVED: Signature on file with the Chief Human Resources Office

POLICY STATEMENT: Sick leave with pay is granted to eligible employees to provide time off from work to tend to the employee's or a family member's illness or injury.

AUTHORITY: ORS; 236.610; 240.145(3); 240.551; 326.113, 328.350, 659A.150 through 659A.186; 659A.272, 653.601 through 653.661; OAR 839-007-0000 through 839-007-0120

APPLICABILITY: All employees when not in conflict with an applicable collective bargaining agreement

ATTACHMENTS: None

DEFINITIONS: **Employee:** A person holding a permanent, limited duration or seasonal position in state service.

Immediate Household: All persons residing in an employee's primary residence who are not paying the employee for room and board.

Temporary Employee: Person hired to a temporary non-status appointment (see Temporary Appointments Policy 40.025.01)

Consecutive Scheduled Workdays: Days during which the employee is expected to work, excluding weekends, holidays and other scheduled days off.

Also refer to State HR Policy 10.000.01 Definitions

POLICY

- (1) Employee Accrual Rate
 - (a) Full-time employees accrue eight hours per month.
 - (b) A part-time employee or a full-time employee who has leave without pay during the month accrues sick leave on a pro rata basis. When determining the pro rata accrual of sick leave each month, the agency counts actual time worked and all leave with pay.
- (2) Employee Eligibility: An employee may use accrued sick leave with pay on or after the first of the month following the month in which it is accrued.

- (3) Employee Transfer of Sick Leave Hours
- (a) When an employee laterally transfers, demotes or promotes to another agency or university with an independent governing board with whom the agency has an intergovernmental agreement, the employee's unused sick leave hours transfer to the gaining agency (see [Movement of Employee Into the Executive Branch](#) matrix).
 - (b) When an employee of a school district or an education service district leaves the district to become employed by the Department of Education (ODE), the ODE may accept unused sick leave, according to ORS 326.113. The employee may use the transferred sick leave according to this policy.
- (4) Disposition of Sick Leave Accrual Upon Employee Separation or Retirement
- (a) An employee receives no compensation for unused sick leave upon separation except as provided in ORS 238.350.
 - (b) Upon retirement, agencies report all of the employee's unused sick leave hours to the Public Employees Retirement System (PERS). As of the effective date of retirement, all sick leave will be considered "used" for purposes of this policy for those employees who receive retirement benefits based on the full formula and formula plus annuity calculations.
 - (c) Sick leave hours are not restored to a PERS retiree who subsequently returns to work except as noted below in (10).
- (5) Restoration of Sick Leave Upon Employee Rehire
- (a) Except for PERS retirees described above in (4)(b), all unused sick leave hours are restored to an employee returning to state service within two years of separation.
 - (b) Unused sick leave hours accrued in an exempt position (other than legislative) in a manner comparable to this policy, may be restored upon appointment to a classified unrepresented, management service, or unclassified position if the appointment occurs within two years of separation from the exempt position.
 - (c) Unused sick leave hours accrued in an exempt position in the legislative branch are restored according to ORS 173.005.
- (6) An employee on leave and receiving short-term disability payments may reserve 60 hours of sick leave. If an employee receives disability payments while on Family and Medical leave refer to State HR Policy 60.000.15 Family and Medical Leave regarding use of paid leave.
- (7) Temporary Employee Accrual Rate
- (a) A Temporary employee accrues up to 6.14 hours of sick leave per month.
 - (b) Temporary part-time employees or temporary full-time employees who have leave without pay during the month accrue sick leave on a pro rata basis. When determining the pro rata accrual of sick leave each month, the agency counts actual time worked and all leave with pay.

- (8) Temporary Employee Eligibility
- (a) A temporary employee may use accrued sick leave with pay beginning on the 91st day of temporary employment.
 - (b) A temporary employee may use up to 40 hours of sick leave within the calendar year.
- (9) Temporary Employee Disposition of Sick Leave Upon Separation: A temporary employee receives no compensation of unused sick leave upon separation.
- (10) Temporary Employee Restoration of Sick Leave Upon Rehire: Except for PERS retirees described above in (4)(b), all unused sick leave hours are restored to temporary employees returning to state service within 180 days of separation.
- (11) Permissible Use of Sick Leave
- (a) Eligible employees may use paid sick leave for any of the following:
 - (A) For an employee's mental or physical illness, injury or health condition; need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or need for preventive medical care.
 - (B) For care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, treatment of a mental or physical illness, injury or health condition; or preventive medical care.
 - (C) For purposes specified in ORS 659A.159. See Family & Medical Leave Policy 60.000.15.
 - (D) For purposes specified in ORS 659A.272. See Statutorily Required Leaves With and Without Pay Policy 60.000.12.
 - (E) For emergency repair of personal assistive devices medically necessary for the employee to perform assigned duties; or
 - (F) Dental care
 - (G) In the event of a public health emergency, as described in ORS 653.616(6)
 - (H) During an emergency evacuation order of level 2 (SET) or level 3 (GO) issued by a public official with the authority to do so, if the affected area subject to the order includes either the location of the employer's place of business or the employee's home address.
 - (I) When a determination is made by a public official with the authority to do so that the air quality index or heat index are at a level where continued exposure to such levels would jeopardize the health of the employee.
 - (J) (H) and (I) do not apply to employees who are first responders.

- (b) Family member includes the employee's spouse or domestic partner, and the following for the employee and their spouse or domestic partner:
 - (A) Parent (includes one who stood in *loco parentis* (in place of a parent) when the employee was a child)
 - (B) Child (and spouse) (includes a child for whom the employee stood in *loco parentis*)
 - (C) Sibling (and spouse)
 - (D) Grandparent
 - (E) Grandchild
 - (F) The above include step, adoptive and foster
 - (G) A parent-in-law
 - (H) Members of the immediate household

(12) Requesting Sick Leave

- (a) Agencies may require employees and temporary employees to comply with the agency's usual and customary notice and procedural requirements for requesting sick leave.
- (b) If the need to use sick leave is foreseeable, the employee or temporary employee shall make a request to the agency at least 10 days in advance.
- (c) If the need to use sick leave is unforeseeable, the employee or temporary employee shall provide notice to the agency as soon as practicable.
- (d) Employees and temporary employees shall make reasonable efforts to schedule the use of sick leave so as not to unduly disrupt agency operations.
- (e) Verification: Except for the reasons under section 11(a) (E) and (F), employees who use sick leave for more than three consecutive scheduled workdays for a purpose provided in this policy may be required to provide verification from a health care provider.

(13) Family and Medical qualifying leave: Agencies may require medical certification by the employee's or family member's medical provider verifying the need for sick leave. In addition, see State HR Policy 60.000.15 Family and Medical Leave and statutes governing Workers' Compensation regarding medical certification in those situations.

(14) Coordination with Workers' Compensation: An employee may choose to use sick leave to make up the difference between the Workers' Compensation for lost time and the employee's regular salary rate. In such instances, the agency prorates charges against the employee's accrued sick leave. An employee who exhausts sick leave may choose to use other accrued leave to equal the difference between Workers' Compensation for lost time and the employee's regular salary rate. In such instances the agency prorates charges against the accrued leave. Using leave while receiving time loss benefits is not required.

(15) Prohibited Behavior:

- (a) The agency must not deny, interfere with, restrain or fail to pay for sick time to which an employee is entitled.
- (b) The agency must not retaliate or in any way discriminate against an employee with respect to any term or condition of employment because the employees has inquired about the use of sick leave, or submitted a request for sick leave.
- (c) The agency must not apply an absence control policy that includes sick leave absences as absences that may lead to or result in an adverse employment action against the employee.