

Rule 2-45

SICK LEAVE

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§ 2-45-005 PURPOSE

The purpose of this policy is to establish guidelines and procedures for administration of sick leave rights as guaranteed by state law, this policy, and to establish standards for the equitable and consistent administration of paid sick leave across all County departments.

§ 2-45-010 APPLICABILITY

This policy applies to all non-represented regular and temporary management and executive employees, including limited duration, on-call and probationary management and executive employees and elected officials' staff. This policy applies to employees subject to a collective bargaining agreement to the extent the rule's provisions are consistent with the terms of such agreement.

§ 2-45-015 QUALIFIED USE

(A) Sick leave may be used by an employee for the following non-occupational conditions involving the employee or to care for a member of the employee's immediate household such as; spouse, parent, or children as defined in the federal Family and Medical Leave Act (FMLA); parents-in-law, grandparents or grandchildren as defined in the Oregon Family Leave Act (OFLA); the employee's domestic partner as designated in an Affidavit of Domestic Partnership submitted to the Employee Benefits Unit; or the children and parents of such domestic partner.

(1) 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 time off needed for preventative care;

(2) Medical, dental or employee assistance program appointments;

(3) Any qualified condition under Family Medical Leave, as defined by state or federal law, regardless of whether the employee meets statutory eligibility requirements;

(4) For any qualified purpose allowed under Oregon’s domestic violence, harassment, sexual assault, or stalking law;

(5) Quarantine based on non-job related exposure to contagious disease; or

(6) In the event of public health emergency, including upon an order of a general or specific public health emergency.

(B) Employees are required to follow departmental work rules and call in procedures related to reporting illness.

§ 2-45-020 REPRESENTED EMPLOYEES

Employees covered by a collective bargaining agreement will be granted Paid Sick Leave in accordance with applicable collective bargaining agreements. Temporary and on-call represented employees whose collective bargaining agreement does not provide alternate provisions shall follow the provisions set forth in §2-45-025 (A) Non-Exempt Employees.

§ 2-45-025 NON-REPRESENTED EMPLOYEES

Non-represented employees are regular or temporary employees not covered by a collective bargaining agreement, including limited duration, on-call and probationary employees. Non-represented employees who are eligible for overtime under the Fair Labor Standards Act (FLSA) are classified as non-exempt, and non-represented employees who are not eligible for overtime under FLSA are classified as exempt. Sick leave benefits correspond to an employee’s FLSA status as listed below:

(A) Non-Exempt (Overtime Eligible) Employees

(1) Accrual

(a) Non-exempt employees begin accruing sick leave immediately upon hire at the rate of 0.0461 hours of paid leave for each straight time hour worked. For example, an On-Call employee who works 25 hours in a pay period will accrue 1.1525 hours of sick leave for that pay period.

(b) Sick leave accruals may only be used for time that is not compensable under Workers' Compensation.

(c) There is no maximum limit on the amount of sick leave that an employee may accrue.

(d) Protected sick time as outlined under Oregon’s state sick leave law, ORS 653.601-653.661, is limited to the first forty (40) hours of sick leave taken in a calendar year. Sick time taken in excess of forty (40) hours each calendar year is considered regular sick time.

(e) Accrued sick leave is not converted/paid out to an employee when the employee separates from County employment.

(f) Employee accrued and unused sick leave balances will be provided at the end of each pay period on employee pay stubs.

(g) PERS eligible employees who separate from County service will have all accrued and unused sick leave reported to PERS for the purpose of determining the pension benefits.

(2) Charging of Sick Leave

(a) Non-exempt employees shall use accrued sick leave time in quarter-hour increments.

(b) Non-exempt employees may use sick leave only for hours they have already been scheduled to work. Non-exempt employees not scheduled to work an assigned shift may not use sick leave for not-yet-scheduled shifts (e.g., at the time an On-Call employee is called and asked whether they want to accept a shift).

(c) Use of leave without pay in lieu of paid sick leave for non-FMLA and non-OFLA qualifying conditions is subject to the approval of management.

(B) Exempt (Not Overtime Eligible) Employees

(1) Accrual

For accrual purposes, "day" is defined as a unit of eight (8) hours. Sick leave for exempt employees will accrue each pay period on the following schedule:

(a) Exempt employees regularly scheduled to work 1.0 FTE will accrue sick leave at the rate of four (4) hours per pay period for a total of twelve (12) eight-hour days per year, or ninety-six (96) hours.

(b) Exempt employees regularly scheduled to work .5 through .99 FTE will accrue sick leave on a pro rata basis. For example, an employee regularly scheduled to work .5 FTE will earn two (2) hours per pay period for a total of six (6) eight-hour days, or forty-eight (48) hours per year.

(c) Sick leave accruals may only be used for time that is not compensable under Workers' Compensation.

(d) Protected sick time as outlined under Oregon's state sick leave law, ORS 653.601-653.661, is limited to the first forty (40) hours of sick leave taken in a calendar year. Sick time taken in excess of forty (40) hours each calendar year is considered regular sick time.

(e) There is no maximum limit on the amount of sick leave that an employee may accrue.

(f) Accrued sick leave is not converted/paid out to an employee when the employee separates from County employment.

(g) Employee accrued and unused sick leave balances will be provided at the end of each pay period on employee pay stubs.

(h) PERS eligible employees who separate from County service will have all accrued and unused sick leave reported to PERS for the purpose of determining the pension benefits.

(i) Regular status exempt full-time employees new to county service will receive twelve (12) days sick leave upon appointment in lieu of accruing sick leave during the first year. Thereafter, sick leave will accrue as stated in the above section.

(2) Charging of Sick Leave

(a) For Exempt employees, accrued sick leave will be charged only for full-day absences. Partial day absences due to intermittent leave as provided by OFLA/FMLA will not be counted against sick leave entitlements, however partial day absences for FMLA/OFLA will be charged against the employee's OFLA/FMLA leave entitlement.

(b) Use of leave without pay in lieu of paid sick leave for non-FMLA and non-OFLA qualifying conditions is subject to the approval of management.

§ 2-45-030 REINSTATEMENT OF SICK LEAVE ACCRUALS

(A) Any employee who leaves County employment and is subsequently re-employed as a regular status employee within one hundred eighty (180) days is entitled to credit for all sick leave accrued up to the last day of prior employment. Sick leave shall not accrue during the period between leaving County employment and re-employment.

(B) Any employee who leaves County employment and is subsequently re-employed as a temporary or on-call status employee within one hundred eighty (180) days is entitled to credit for sick leave accrued up to the last day of prior employment up to a maximum of eighty (80) hours. Sick leave shall not accrue during the period between leaving County employment and re-employment.

(C) Any employee who is re-employed after more than one hundred eighty (180) days is not entitled to credit for sick leave that accrued during prior County service. Sick leave will begin accruing anew in accordance with applicable accrual sections.

(D) Employees who are laid off and recalled from a recall list, will have their sick leave balance restored at the time they are recalled.

(E) Employees who retire from County service under PERS full formula or formula plus annuity and are subsequently re-employed by the County will not be entitled to credit for sick leave accrued during prior County service. Sick leave will begin accruing anew in accordance with applicable accrual sections.

(F) Employees who retire under PERS money match or OPSRP who are subsequently reemployed by the County within one hundred eighty (180) days of their retirement date will be entitled to credit for all sick leave accrued up to the last day of prior employment. Sick leave shall not accrue during the period between leaving County employment and re-employment.

(G) Any employee who is re-employed after more than one hundred eighty (180) days following retirement is not entitled to credit for sick leave accrued during prior County service. Sick leave will begin accruing anew in accordance with applicable accrual sections.

§ 2-45-035 SEQUENCING OF LEAVES

The use of vacation leave, saved holiday time, compensatory time, and leave without pay is subject to approval by management. However, unless otherwise required by law, forms of leave shall be used and exhausted in the following sequences for illness and injuries:

(A) Leave for illness or injury, that does not qualify for FMLA will be taken in the following order:

(1) Sick leave until it is exhausted;

(2) Vacation leave, saved holiday time, or compensatory time, sequenced at the employee's option, until they are exhausted;

(3) Leave without pay.

(B) Employees who take leave that qualifies under FMLA or OFLA will be required to exhaust all paid leave before taking leave without pay; employees will determine what order paid leave is used.

§ 2-45-040 COUNTING AGAINST FMLA, OFLA ENTITLEMENTS

(A) Sick leave and any other forms of paid or unpaid leave used for FMLA qualifying conditions, or absence due to a deferred or approved Workers Compensation claim based on such conditions, or partial day absences pursuant to 2-45-015 (1) and (3) above, will be counted against an employee's annual FMLA leave entitlements.

(B) Sick leave and any other forms of paid or unpaid leave used for OFLA qualifying conditions, or partial day absences pursuant to 2-45-015 (1), (3) and (4) above, will be counted against an employee's annual OFLA leave entitlement. Absence due to a deferred or approved Workers Compensation claim based on such conditions will not be counted against an employee's annual OFLA leave entitlements.

(C) Intermittent Leave. When the intermittent use of accrued sick leave or other paid or unpaid leave used in lieu of sick leave interferes significantly with an employee's ability to perform the duties of their job, management may do the following (subject to the requirements of law, including, but not limited to, OFLA/FMLA):

(1) Require the employee to take continuous leave; or

(2) Change the employee's work assignment for six (6) months or until use of intermittent leave ends, whichever comes sooner.

§ 2-45-045 USE AND MISUSE OF LEAVE FOR SICK PURPOSES

Sick leave is available to all employees for legitimate and qualified conditions pursuant to MCPR 2-45-015. Rules concerning misuse of sick leave are set out in MCPR 3-55.