

Policies



Subject Sick Leave for non-represented employees
Section Human Resources
Approved by Marissa Madrigal, Chief Operating Officer
Approved on October 13, 2023
Replaces Sick Leave for Non-Represented Benefits-Eligible Employees, Adopted 8/1/17; Sick Leave for Non-represented Variable Hour and Temporary Employees, Adopted 7/1/16; and Sick Leave Transfer, Excerpt from Executive Order 88 (2005)

Policy Purpose: To provide paid sick leave for use by employees or qualifying family members in the event of illness and as otherwise allowed by law.

Policy

1. This policy is applicable to all non-represented employees unless stated otherwise or if the provision is negotiated in a collective bargaining agreement. Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of the collective bargaining agreement will prevail.
2. Definitions: Please refer to Appendix A for a list of terms and definitions for this policy.
3. Accruals: Non represented employees will accrue sick leave with pay at a rate of .05 per hours paid. Regular full-time employees will earn approximately 104 hours per year. Employees working less than full time will have leave accruals prorated based on hours paid. There is no limit on an employee’s maximum accrued sick leave balance.
4. Use of Sick Leave. Employees shall be eligible to use sick leave immediately upon accrual and may use accrued sick leave for the following reasons:
 - a. For mental or physical illness, injury or health condition, medical care, diagnosis and treatment, or preventive medical care of a mental or physical illness, injury or health condition, for themselves or for a qualifying family member or for any reason required by law.
 - b. When leave is for a purpose specified by FMLA or OFLA.
 - c. To address domestic violence, harassment, sexual assault, or stalking in accordance with state law and Metro’s Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections Policy.
 - d. In the event of a public health emergency which includes closure of the school or place of care of the employee’s child, or by order of a public official due to a public health emergency.
 - e. Misuse of sick leave may be grounds for discipline, up to and including termination. Metro shall not conclude that any employee has misused sick leave without first notifying the employee in writing that the employee appears to be misusing sick leave, and giving the employee an opportunity to respond.

5. Employee Notification Requirements: When using sick leave, employees will:
 - a. For foreseeable absences, employees should request notice at least 10 days' notice in advance.
 - b. For unforeseen absences, employees unable to report to work shall contact their supervisor and report the reason for their absence pursuant to their department notification procedures, unless it is not practicable to provide notice. Employees are then required to provide notice as soon as practicable.
6. Documentation
 - a. An employee's supervisor may require the employee to provide a note from a health care provider or other professional supporting the need for leave in the following situations:
 - i. If the employee takes more than three consecutive scheduled workdays of sick time.
 - ii. If the employee is suspected of misusing and/or abusing sick time.
 - b. Medical verification will be provided within 15 calendar days after Human Resources requests the verification. Metro will pay any reasonable costs for providing medical verification or certification. Failure to provide requested documentation may result in disciplinary action, up to and including termination.
7. Sick Leave Administration
 - a. Rate of Pay: Sick leave will be paid at the employee's regular rate of pay for that job, for the hours the employee was scheduled to work on that day.
 - b. Reinstatement: Employees re-employed within 180 calendar days of termination will have their accrued sick leave balance restored.
 - c. Reporting of Sick Leave to PERS: Metro shall participate in the PERS unused sick leave program. Metro shall report the number of unused sick leave hours to PERS as provided in ORS 238.350. As a result, once an employee is terminated from the agency, there is no carry-over of sick leave hours should the employee be rehired at a later date except as provided in the paragraph above regarding reinstatement within 180 calendar days.
 - d. Unused Sick Leave at Termination: No payment for accrued sick leave shall be provided for any employee upon termination, resignation, retirement or other separation from employment for any reason. Metro shall participate in the PERS unused sick leave program as provided in ORS 238.350. Metro shall report the number of unused sick leave hours to PERS for use in the calculation of the employee's final average salary.
 - e. Sick Leave Use in Conjunction with Workers' Compensation: An employee on a Workers' Compensation claim may elect to receive full net wages in paid sick leave while also receiving time loss payments. Employees who are receiving Workers' Compensation payments for an injury or illness may use sick leave to equal the difference between the Workers' Compensation payments for lost time to bring the employee to full net take-home pay for the pay period. In such instances, Metro will prorate charges against the employee's accrued sick leave. When an employee receives payments from Workers' Compensation and sick leave that exceed the employee's net pay, the employee will reimburse Metro for the overpayment of sick leave paid. Metro and the employee will work out a repayment plan for reimbursement. Upon repayment of the total amount of the excess, the employee's sick leave account shall be credited with that portion of the sick leave repaid.
 - f. Leave under this policy is distinct from unpaid protected sick leave for which the employee may be qualified under the Oregon Family Leave Act, federal Family and

Medical Leave Act, or other laws. If leave granted under this policy is also covered by OFLA/FMLA, the two types of leave will run concurrently as allowed by law.

8. Sick Leave Transfer

- a. Sick leave is provided as a benefit to each employee as insurance for period of illness. Under normal circumstances benefits are not transferable; however, upon written request of a regular employee to the Chief Operating Officer the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:
 - i. Requests must be due to a catastrophic, long-term, or chronic illness of the requesting employee only.
 - ii. Each request will be reviewed and approval granted or denied on a case-by-case basis by the Chief Operating Officer.
 - iii. The requesting employee must have no more than 40 hours combined accrued sick leave hours and accrued vacation leave hours at the time of the request.
 - iv. The requesting employee may request sick leave donations be solicited either agency-wide or only within their home department.
 - v. Upon approval by the COO, the Human Resources department may initiate a request to Metro employees for the voluntary transfer of accrued sick leave hours. The request will not disclose the name of the requesting employee(s).
 - vi. Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee(s) may do so only as follows:
 1. The transferring employee's Department Director must authorize the transfer of hours by signature. Such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.
 2. The transferring employees cannot transfer more than 40 hours of sick leave per employee for each fiscal year.
 3. Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave at the time the voluntary transfer of sick leave hours to another employee occurs.
 - vii. Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.
 - viii. Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.
 - ix. Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division, for implementation and to the office of human resources.

9. Requirements

- a. Supervisors:
 - i. Address misuse of sick leave with employees in a timely manner, consulting with Human Resources as needed.
 - ii. Approve or deny advance requests for sick leave and notify the employee as soon as possible. You may not deny, interfere with, restrain or fail to authorize sick time to which an employee is entitled.

- iii. May not require employees using accrued sick leave to find replacement for or make-up their scheduled hours.
 - iv. May not retaliate or in any way or discriminate against an employee with respect to any term or condition of employment because the employee has inquired about, requested or taken sick time, nor interfere with an employee's right to take accrued sick leave.
 - v. Ensure that leave is coded appropriately in Metro's timekeeping system.
- b. Employees:
- i. Make a reasonable attempt to schedule the use of sick time in a manner that does not unduly disrupt Metro's operations.
 - ii. Code leave appropriately in Metro's timekeeping system.
 - iii. For full-time exempt employees, absences of four hours or more will be tracked in the leave management system and covered through the use of available sick leave accruals.
 - iv. Part-time exempt employees and those on a flex schedule, must enter sick leave in the leave management system when they need to be absent for one-half (1/2) or more of their regularly scheduled shift for qualifying absences.
- c. Human Resources
- i. Provide guidance and information as needed.
- d. Finance (Payroll)
- i. Provide notification on employees' pay statements of the amount of accrued and unused sick time available for use by an employee.

References

Metro Family and Medical Leave policy
Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections Policy
Oregon Family Leave Act, ORS 659A.150 – 659A.186.
Family and Medical Leave Act, 29 USC Ch. 28
<http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>
<https://www.oregon.gov/boli/TA/docs/OFLA-Poster.pdf>

Conformity with State Law

The application of this policy is intended to comply with state law. Human Resources will notify employees of changes in guidelines/procedure for use of sick leave pending issuance of state regulations.

Appendix A

Definitions:

Limited Duration Employee: A budgeted full-time or part-time position, is required to pass a probationary period, and is created for a predetermined, fixed period of time; see the relevant Collective Bargaining Agreement for time limits on represented limited duration positions.

Qualifying Family Member: For the purpose of this policy as it relates to sick leave, a qualifying family member shall be defined as the following: An employee's spouse or domestic partner; biological, adopted or foster parent or child; child or parent of a domestic partner; parent-in-law; stepparent, grandchild, grandparent and grandparent-in-law; sibling and any other person for which the employee is a legal guardian or is in a relationship of in loco parentis; or as otherwise required by law.

Non-Represented Variable Hour Employee: Employees who are: a) hired and scheduled for work as needed to staff and support events throughout Metro; b) required to complete a probationary period; c) hired to fulfill unbudgeted additional staffing needs as they arise; or d) hired to fulfill seasonal needs; e) and who are not represented by a labor union. Work schedules for employees in Non-Represented Variable Hour positions will be determined by business needs; schedules may vary widely with no guaranteed minimum number of work hours.

Regular Full-Time Employee: An employee who is selected to fill a budgeted position, is required to pass a probationary period, and whose scheduled hours of work are at least 32 hours per week/1664 hours per year (.8 FTE).

Regular Part-Time Employee: An employee who is selected to fill a budgeted position, is required to pass a probationary period, and whose scheduled hours of work are less than 32 hours per week (.8 FTE).