

STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

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TITLE: SICK LEAVE

**POLICY
REFERENCE NUMBER:** 8-3-102

**DIVISION OF
RESPONSIBILITY:** Human Resource Services

DATE OF LAST REVISION: July 9, 2020

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM. THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION/THE SC TECHNICAL COLLEGE SYSTEM RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. ELIGIBILITY

Sick leave shall be granted to and accrued by:

- A. Full-time employees in full-time equivalent (FTE) positions and temporary grant employees, if provided through the grant.
- B. Part-time employees in FTE positions and temporary grant employees, if provided through the grant, who are scheduled to work at least one-half (1/2) the workweek of the agency on a twelve (12) month basis or who are scheduled to work the equivalent of one-half (1/2) the workweek during the full school or academic year of nine (9) months or more.

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II. SICK LEAVE EARNINGS

A. Computation

1. Employees who are in pay status for at least one-half or more of the workdays of the month shall earn sick leave for the full month. If they are in pay status for less than one-half the workdays, they shall earn no sick leave.
2. Employees shall earn sick leave while on sick leave, annual leave, or other authorized leave with pay. Employees shall not earn sick leave while on leave without pay.
3. Employees' sick leave earnings are computed based on the number of hours in the employee's workday.

B. Rate of earnings

1. Five-day workweek schedule of 37.5 or 40 hours per week

All employees in FTE positions shall earn sick leave beginning with the date of employment at the rate of one and one-quarter (1 $\frac{1}{4}$) workdays per month of service not to exceed fifteen (15) days per year. (S.C. Code Ann. § 8-11-40) To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (5) (regardless of the number of days the employee actually reported to work).

2. Schedules other than a five-day workweek of 37.5 or 40 hours per week

To calculate the sick leave earnings for employees working schedules other than a five-day workweek of 37.5 or 40 hours per week (including part-time, variable, and nonstandard work schedules), the System Office/college must determine what a workday is for each such employee.

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To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (5) (regardless of the number of days the employee actually reported to work). Examples of such schedules could include:

- a. Law enforcement employees who are regularly scheduled to work forty-three (43) hours per week. Forty-three (43) divided by five (5) equals a workday of eight-point-six (8.6) hours;
- b. Fire protection employees who are regularly scheduled to work fifty-three (53) hours per week. Fifty-three (53) divided by five (5) equals a workday of ten-point-six (10.6) hours;
- c. Part-time employees who are regularly scheduled to work twenty (20) hours per week. Twenty (20) hours divided by five (5) equals a workday of four (4) hours; or
- d. Full-time employees who are regularly scheduled to work thirty-nine (39) hours per week. Thirty-nine (39) hours divided by five (5) equals a workday of seven-point-eight (7.8) hours.

C. Maximum accrual and carryover

Full-time and part-time employees in FTE positions shall be permitted to earn up to one hundred and ninety five (195) workdays. (S.C. Code Ann. § 8-11-40) Full-time and part-time employees in FTE positions shall carryover from one calendar year to the next any unused earned sick leave up to a total maximum carryover of one hundred and eighty (180) workdays.

Exceptions

1. Any employee, who prior to January 1, 1969, earned and carried over unused sick leave in excess of one hundred and eighty (180) workdays pursuant to the System Office/college policy at the time, shall not forfeit the excess, but shall retain such excess leave which shall become the maximum amount the employee may carryover into future years.

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If the employee subsequently reduces the amount of sick leave carried over to one hundred and eighty (180) workdays or less, one hundred and eighty (180) workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover; or

2. An employee who changes from being full-time to part-time or from part-time to full-time, without a break in service, shall retain the sick leave hours previously earned. If this change results in the employee having a maximum accumulation in excess of one hundred and eighty (180) workdays, as of the effective date of the change, the employee shall not forfeit the excess. The employee shall retain this excess leave which shall be the maximum amount the employee may carryover into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of one hundred and eighty (180) workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to one hundred and eighty (180) workdays or less, one hundred and eighty (180) workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover. During the calendar year, an employee may earn sick leave in excess of one hundred and eighty (180) workdays; however, an employee may only carry over one hundred and eighty (180) days into the next year.

III. ADDITIONAL SICK LEAVE MAY BE GRANTED

- A. The System/College President may grant up to fifteen (15) workdays of additional sick leave to an employee in extenuating circumstances.
- B. The System/College President may grant this leave only upon documentation from a authorized health care provider/practitioner that the employee is expected to return to work within that period of time.
- C. Upon return to work, the employee will have all earned sick leave applied to the leave deficit at the rate of one and one quarter (1 ¼) days per month (or if part-time, the monthly earning rate) until the deficit has been eliminated.
- D. If an employee separates from employment before satisfying the leave deficit and returns to state employment, the leave deficit will need to be satisfied upon reemployment.

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IV. USING AND SCHEDULING LEAVE

A. Leave taken under this section may qualify as Family Medical Leave Act (FMLA) leave and, if so, will run concurrently.

B. Reasons an employee shall be allowed to use sick leave:

1. Personal illness or injury incapacitating the employee to perform duties of the position.
2. Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees, when certified by a licensed authorized health care provider/practitioner.
3. Appointment for medical or dental examination or treatment when such appointment cannot reasonably be scheduled during non-work hours. To the degree possible, examination appointments must be approved in advance by the approving authority.
4. Sickness during pregnancy or other temporary disabilities.

To the extent permissible, the date on which sick leave for disability is to begin shall be at the request of the employee based on the determination and advice of a doctor. In no event shall such date be prescribed unilaterally by an approving authority except on the basis of professional medical opinion that the employee is physically incapable of performing normal duties or that continuing to perform normal duties would be hazardous to the health of the employee.

5. Treatment of substance abuse:

Sick leave may be charged by an employee for the purposes of participating in public and/or private treatment and rehabilitation programs which have been approved by the South Carolina Department of Mental Health.

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6. Caring for ill members of immediate family:

Employees may use not more than ten (10) days of their earned sick leave annually to care for sick members of their immediate families. For purposes of this section, the employee's 'immediate family' means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren.

7. Caring for an adopted child:

An adoptive parent may use up to six (6) weeks of his accrued sick leave to take time off for purposes of caring for the child after placement. The leave authorized by this section may be requested by the employee only if the employee is the person who is primarily responsible for furnishing the care and nurture of the child. The System Office/college shall not penalize an employee for requesting or obtaining time off according to this section.

C. Verification:

The use of sick leave shall be subject to verification. When there is reason to believe that sick leave is being abused, the approving authority may, before approving the use of sick leave, require a certificate of a authorized health care provider/practitioner or other acceptable documentation verifying the need for sick leave and giving the inclusive dates. The System Office/College may require documentation from an authorized health care provider/practitioner for an employee who is out three (3) or more days.

D. Increments for Use of Sick Leave:

Sick leave shall be used in quarter-hour increments as determined by the System Office/college.

E. Use of Sick Leave Before Going on Leave Without Pay:

In qualifying sick leave situations, the employee shall use all sick leave before going on leave without pay unless the System/College President or his designee grants an exception at the employee's request.

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F. Holiday During Sick Leave:

When a holiday is observed by the System Office/college while an employee uses sick leave, the day shall be considered a holiday, not a day of sick leave for the employee.

G. Sickness During Annual Leave:

When sickness occurs during a period of annual leave, sick leave may be granted to cover the length of illness and a authorized health care provider's practitioner's certificate may be required.

This application for sick leave must be made within two (2) days after their return from annual leave. If sick leave is exhausted, the employee may be placed on leave without pay or may use any accrued annual leave.

V. **TRANSFER**

A. Between State Agencies

Employees, with the exception of temporary grant employees, who transfer without a break in service from one State agency to another shall transfer their accumulated sick leave up to the total amount accrued adjusted to the scheduled workweek of the gaining agency. In the case of any employee transferring from an agency under whose system the employee has, prior to January 1, 1969, a maximum accumulation in excess of that currently authorized by the gaining agency, the total shall be transferred.

If the employee subsequently reduces the amount of sick leave carried over to 180 workdays or less, 180 workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover.

B. Between a State Agency and a School District:

An employee of a State agency transferring to a school district of the State or a school district employee transferring to a State agency, without a break in service, is permitted to transfer to and retain at his new employer all sick leave he accumulated at his former employer regardless of his employment status at the new employer.

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VI. TERMINATION OF EMPLOYMENT

A. Upon Separation Other than Retirement:

Upon separation from employment, an employee shall forfeit all earned sick leave or voluntarily donate the allowable amount to the System Office/college sick leave pool.

B. Upon Retirement:

Upon retirement, an employee who is a Class Two member of the SC Retirement System or the Police Officer Retirement System shall receive service credit for not more than ninety (90) days of his/her unused sick leave at no cost to the employee. The leave must be credited at a rate where twenty (20) days of unused sick leave equals one (1) month of service. This additional service credit may not be used to qualify for retirement.

C. Upon entering into TERI:

Upon entering into TERI retirement, an employee may apply up to ninety (90) days of unused sick leave towards his/her retirement service credit. The employee's sick leave balance will be reduced by the amount of leave the employee elects to use towards their retirement service credit.

D. Reduction in Force Rights:

An employee who is reinstated within one year of the date of separation shall have his/her sick leave restored in accordance with the Division of State Human Resources Regulations (DSHR) Section 19-719.04 B. 4. d.

E. Up to Six Month Exception to Break in Service:

An employee who has received prior approval for an extension to the 15-day break in service shall have his/her sick leave restored if transferred or appointed to another FTE position within the approved time period. (Refer to DSHR Regulations Section 19-719.01 B. 2. (Exception).)

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VII. SICK LEAVE RECORDS

A leave record shall be maintained by the employing System Office/college for each employee eligible for sick leave. These records shall be subject to audit by DSHR and the State Board for Technical and Comprehensive Education.

Failure to report leave taken is considered a falsification of work/time records and could be construed as being paid for hours not worked in violation of S.C. Code Ann. § 8-11-30 and may be subject to disciplinary action up to and including termination.

Such records shall include at a minimum:

- A. Indicate the number of sick leave hours earned and used during the current calendar year.
- B. Indicate the number of sick leave hours carried forward from the previous calendar year, but not exceeding the maximum accrual authorized.
- C. Indicate the number of hours in the employee's official workweek and workday.
- D. Be reviewed by or reported to the employee not less than once per calendar year and be supported by individual leave requests. It is acceptable for employee leave requests to be created, approved and maintained via a secure (password protected) electronic system. If such a system is used, approval through the system will be considered the required signature of the employee and supervisor. Employees shall be able to view and print the leave records.