

Sick Leave

Introduction

An employee is eligible to take accrued sick leave effective the first date of employment with the Comptroller's office.

Sick leave may be taken when illness, injury, or pregnancy and confinement prevent the employee's performance of duty or when the employee is needed to care and assist a member of the immediate family who is sick. An employee who must be absent from duty because of illness, appointments with medical doctors, injury, or pregnancy and confinement shall notify his or her supervisor or cause him or her to be notified of that fact at the earliest practicable time. The agency may, as needed, require medical documentation for absence due to illness.

HIV/AIDS

Employees with HIV/AIDS-related illnesses are entitled to the same leave benefits under established leave policies as any other employee.

Immediate Family

Sick leave may be taken when a member of an employee's immediate family is ill or requires medical attention.

For purposes relating to regular sick leave, an immediate family member is (1) someone related by kinship, adoption, or marriage who lives in the same household; (2) foster children who reside in the same household; (3) minor children and those for which the employee has been appointed by the court as legal guardian, regardless of whether the child lives in the same household. An immediate family member is also the employee's spouse, parent or child, regardless of whether they live in the same household, if they require the employee's care and assistance for a documented medical condition.

Family Members Not Residing in the Same Household

Use of sick leave for family members **not residing in the employee's household** is strictly limited to the time necessary to provide care and assistance to a spouse, child, or parent of the employee who needs such care and assistance as a direct result of a documented medical condition.

Parent-In-Law

An employee cannot use sick leave to care for a parent-in-law if the in-law does not reside in the same household as the employee.

Prior Approval for Sick Leave

When the use of sick leave is foreseeable, such as in the case of a scheduled doctor or dental visit or scheduled surgery, the employee must request prior approval. If that is not possible, communicate with your management as soon as you're aware you'll be out sick.

Leave Accruals While Out of the Office

An employee who is on leave the first day of the month will receive his or her leave accruals for the month when he or she physically returns to work at their regularly scheduled place of employment. If the employee has been approved to telework, working from home will allow them to earn their leave accruals. Accruals cannot be used retroactively.

Medical Release

An employee who has been absent from duty due to a documented medical condition must provide a written doctor's statement indicating fitness for duty and any work restrictions that apply.

The doctor's statement must be provided to the Special Leave Coordinator in Human Resources.

Annual Leave in Lieu of Sick Leave

An employee may request to use annual leave in lieu of using sick leave. Requests are approved at the discretion of management.

Illness While on Annual Leave

An employee who becomes ill while on annual leave and can provide medical documentation for the illness may have the absence charged to sick leave for the period of the illness. An employee who is on leave on the first day of a month may not use sick leave that the employee accrues for that month until after a return to duty.

Educational Activities

An employee may use up to eight hours of sick leave each fiscal year to attend educational activities of the employee's children who are students attending grades from pre-kindergarten through 12th grade. An employee shall give reasonable advance notice of the employee's intention to use the sick leave to attend an educational activity.

"Educational activity" means a school-sponsored activity, including a parent-teacher conference, tutoring, a volunteer program, a field trip, a classroom program, a school committee meeting, an academic competition, and an athletic, music, or theater program.

To utilize sick leave for educational activities, the employee must be a parent to the children involved. "Parent" means a person standing in parental relation (*in loco parentis*).

Employee Responsibility

An employee absent from duty because of illness must notify his or her supervisor no more than **15 minutes** after the employee's regular start time (due to the WALT program, times may vary). If absent for more than one day, the employee should notify the supervisor of his or her status each morning unless other arrangements are made, i.e., an employee is on parental leave and plans to return on a specific date.

The employee must leave a phone number where he or she can be reached during the period of illness. An employee who cannot be reached must provide an adequate explanation of his/her whereabouts during the period of absence.

In the absence of an adequate explanation and/or medical documentation, the employee may be required to take annual leave rather than sick leave and may be subject to disciplinary action.

Outside Employment or Business

An employee who is on sick leave may not engage in any previously approved outside employment, business or activity while on sick leave without prior approval from his or her management, after consultation with Human Resources.

Whether it is appropriate for an employee to continue with outside employment, business or other activities depends on the reason for the leave, the type of leave (regular, reduced schedule or intermittent), the duration of the leave and other factors.

Sick Leave Approval

To be eligible for accumulated sick leave with pay for a continuous period of more than three working days, an employee must submit a doctor's certificate.

If an illness results in the absence of three working days or less, the employee's division director has the discretion to require documentation of the illness.

In the absence of a doctor's certificate, an acceptable statement of facts showing the nature of the illness must be submitted to the division manager for approval. Employees at the level of division manager and above must submit such statements to their next level of management.

Low Leave Balance and Payroll

Employees with a low leave balance, which is defined as less than 24 hours of cumulative leave on or before three working days before the end of the month (the direct deposit payroll processing date), may not receive their paycheck via direct deposit. For more details, please refer to the [Direct Deposit Policy](#) in Chapter 8.

Family Medical Leave Act Provisions

Chapter 661, The Texas Government Code, requires that state employees exhaust all paid leave prior to being eligible for unpaid Family and Medical Leave Act (FMLA) leave benefits. In order for the agency to be in compliance with FMLA provisions, there must be a determination of whether the employee's use of paid leave for injury/illness qualifies as FMLA leave.

FMLA Compliance

In order for the agency to be in compliance with the FMLA, upon notification of a serious illness, the agency may request medical documentation.

Sick Leave Accrual

An employee accrues sick leave from the first day of employment through the last day of duty, i.e., the last day the employee actually worked.

Full-Time Sick Leave Accrual

A full-time employee accrues eight hours of sick leave on the first day of each month. There is no limitation on the amount to be carried forward into the next fiscal year.

Part-Time Sick Leave Accrual

A part-time employee accrues sick leave at a rate proportionate with that of a full-time employee.

Holidays Not Charged

Any state holiday that falls within a time period when an employee is on sick leave will not be charged against the accrued sick leave.

Transfer of Sick Leave

When an employee transfers from one state agency to another without a break in service, the employee should contact the Payroll section in the Budget & Internal Accounting Division and request that the unused sick leave be transferred to the receiving agency. If the transfer is effective on the first day of the month, the receiving agency will credit the sick leave accrual.

Termination

Once an employee terminates employment with the state, the employee is **not** entitled to payment for any sick leave accrual.

Sick Leave Balance Restored

An employee who terminates employment as a result of a reduction in force shall have their sick leave balance restored if re-employed by the State within 12 months of termination.

An employee who separates from employment with the state for other reasons is entitled to have their sick leave balance restored if:

- Reemployed by the same state agency or institution of higher education within 12 months after termination, but only if there has been a break in employment with the state of at least 30 calendar days; or
- Reemployed by a different state agency or institution of higher education within 12 months after termination.

Employees Retirement System (ERS) retirees who return to state employment will not have their sick leave balances restored as there is no provision that allows a retiring employee to store or bank accumulated sick leave for use after retirement. See [Sick Leave Guide](#), State Auditor's Office, published online July 11, 2014.

Retirement Benefit

An employee who retires directly from state employment is eligible to receive additional benefits as a result of the unused accumulated sick leave remaining to his or her credit at the end of employment. One month of creditable service shall be given for each 160-hour increment of unused sick leave.

Estate

A deceased employee's estate is entitled to payment for one-half the accumulated sick leave or 336 hours, whichever is less.

Sick Leave Donations and Requests

An employee may voluntarily donate any amount of their accrued sick leave to another employee who:

- Is employed at CPA, and
- Has exhausted all accrued sick leave, including any time the employee may be eligible to withdraw from the sick leave pool and/or extended sick leave.

All sick leave donations must be voluntary. CPA employees may not directly solicit other employees for a donation of sick leave. The donor employee may not receive gifts or compensation in exchange for the donation. No employee will be rewarded or retaliated against based on his or her decision to donate. Employees may donate sick leave to more than one recipient. The donation must be dated on or after September 2, 2015. If the donor is separating employment with CPA, the donation must occur prior to the effective date of their termination.

An employee who wishes to donate sick leave must submit their request in writing to Human Resources by completing the [Special Leave Request – Sick Leave Donation Form](#). The donation will be approved by HR and the Deputy Comptroller.

An employee may only receive donated sick leave when their sick leave, sick leave pool, and extended sick leave balance is zero. Employees must have applied for both Extended Sick Leave and Sick Leave Pool to determine eligibility, prior to being granted sick leave donations. If the employee carries a balance for any reason they are considered ineligible and any donated leave will be returned to the donor. An employee who receives donated sick leave must only use the leave when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty or when the employee is needed to care for and assist a member of the employee's immediate family who is sick. Immediate family member is defined in the "Immediate Family" section of this policy.

In the event an employee who receives donated sick leave separates employment with CPA, unused donated sick leave will not be restored to the donor. If the employee resigns from CPA, transfers to another agency; or dies, all unused donated sick leave will expire. Donated sick leave will not transfer to another agency and will not be paid to the deceased employee's estate. An employee that separates from State of Texas employment, that regains employment within 12 months will not be entitled to have their donated sick leave restored. Unused donated sick leave cannot be used by the employee as service credit in the Employee's Retirement System of Texas.

An employee who voluntarily discloses medical information to his or her coworkers should understand that information may not be kept confidential; it may not be protected by any federal or state law and might be disclosed to other unintended recipients.