

Benefits and Leaves: Annual Vacation Leave

Subject:	Financial Services and Human Resources
Policy:	Annual Vacation Leave
Effective Date:	March 2021
Review Date:	Three (3) years from Effective Date above
Responsible Party:	Financial Services and Human Resources
Applicability:	This policy applies to the categories of employees as referenced and does not apply to student employees or short-term workers

1. INTRODUCTION AND PURPOSE

This policy describes the rules related to the accrual and use of annual vacation leave for employees eligible to earn such leave.

The Board of Regents has adopted the Department of Administration Annual Leave policy for nonfaculty employees in [BOR Policy 708.1.1](#) and has adopted a Vacation Leave policy for employees with academic rank in [BOR Policy 801.14.1](#). This policy is intended to be consistent with these policies. The terms “annual vacation leave,” “vacation leave” and “annual leave” are used in the various policies to refer to paid time off described in the above-referenced policies.

2. FACULTY WITH ACADEMIC RANK

Faculty with academic rank who are appointed on fiscal year contracts are eligible to accrue and use vacation leave as set forth in [BOR Policy 801.14.1](#). Faculty members who are appointed on academic year contracts or for summer sessions accrue no vacation leave.

3. NONFACULTY EMPLOYEE ELIGIBILITY

Classified and contract employees are eligible to earn annual vacation leave. Accrual of leave begins on the first day of employment.

- a. Employees must complete a waiting period of six (6) calendar months of continuous employment to be eligible to take annual leave or receive cash compensation for leave accrued upon termination. In the event of a break in service, an employee must complete a new waiting period.

b. Seasonal employees may count time worked in consecutive seasons as continuous employment. Time worked by a seasonal employee is applied towards the six (6)-month waiting period provided the employee reports for work on the date and time the department specifies. Failure to report will result in a break in service.

c. An approved leave of absence of sixteen (16) working days or longer does not count towards the six (6)-month waiting period. However, an approved leave of absence of fifteen (15) working days or less does count towards the six (6)-month waiting period. In either case, an approved leave of absence is not a break in service. All time worked prior to the approved leave of absence shall count towards the six (6)-month waiting period and the employee will not lose any previously accrued leave.

4. ACCRUAL

Annual leave accrual is calculated and credited each pay period. Accrual is based on both the employee’s total years of service with the State of Montana and the time paid at the regular rate in a pay status. Annual leave may not be advanced or taken retroactively.

a. Annual leave accrues on time paid at the regular rate in a pay status. Annual leave does not accrue on time worked and paid as overtime or when on an approved leave of absence. The accrual rates are indicated in the chart below. Employees begin accruing at the higher rate the first of the month in which the higher rate is achieved.

b. No employee shall earn more than the statutory full-time accrual rate outlined in the chart below. Part-time employees accrue annual leave on a pro-rated basis. Employees in a leave without pay status do not accrue annual leave. (Section [2-18-611](#) and [612](#),MCA).

Completed Years of Service	Days earned per month	Hours earned per month	Days earned per year	Maximum full-time accrual per year (hours)
0-10	1.25	10.0	15	120
10-15	1.50	12.0	18	144
15-20	1.75	14.0	21	168
20 +	2.00	16.0	24	192

5. DETERMINING YEARS OF SERVICE

In accordance with [Section 2-18-612, MCA](#), employees are credited with one (1) year of service for each period of:

- a. 2080 hours of service following the initial date of employment. Employees are credited for each pay period in which they are in a pay status or are on an authorized leave of absence without pay regardless of the number of hours worked.
- b. Twelve (12) calendar months in which the employee was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any 1 month.
- c. Classified employees will be credited with 1 year of service if the employee is employed for an entire academic year.
- d. Employees may also receive credit towards years of service for military service or previous public employment.
 - i. Military service qualifies when an employee is ordered to active duty in the armed forces. The employee must have been employed by the state immediately prior to serving with the armed forces and must return to state service within ninety (90) days following separation or discharge from the armed forces.
 - ii. Previous public employment qualifies when the previous employing agency was a constituted department, board, or commission of state, county, or city government in Montana or any political subdivision of the state as defined in [Section 2-18-601, MCA](#).
 - iii. Employees must produce documentation of military service and/or previous public employment to receive credit towards years of service for annual leave accrual purposes. Employees begin earning leave at the adjusted rate the first day of the next pay period following the receipt of documentation for previous eligible service. Leave balances and accrual rates may not be adjusted retroactively for previous military or public employment.

6. MAXIMUM ACCRUAL AND CARRY-OVER LIMITS

Employees may accumulate annual leave balances up to two (2) times the eligible accrual rate per year in accordance with [Section 2-18-617, MCA](#). Balances exceeding the two (2) times annual limit are considered "excess." Except as provided in this policy, excess annual vacation leave will be forfeited unless used within ninety (90) calendar days from the last day of the calendar year in which the excess leave was earned.

- a. Departments are responsible for actively managing annual vacation leave for employees by "providing reasonable opportunity for an employee to use rather than forfeit accumulated annual vacation leave" as provided in [Section 2-18-617, MCA](#).
- b. Departments will work with employees who have excess vacation leave balances as early as possible when it appears that an employee may accrue excess annual leave to make arrangement for the employee to use the leave.
- c. Employees are responsible for requesting use of excess annual leave during the ninety (90)-day grace period.

- d. The employee's supervisor may approve all, some, or none of the employee's request for leave. The supervisor must provide a written response within five (5) working days from the receipt of the request.
- e. If the original request is not approved, management and the employee may negotiate alternate leave dates during the ninety (90)-day grace period.
- f. If management denies all, or any portion, of the leave request, the department and the employee must work together to ensure that the employee may use the excess annual leave before the end of the calendar year. Any excess annual leave not used by the end of the calendar year in which the grace period was extended must be forfeited.
- g. The Payroll office will calculate excess annual leave and report to the departments the pay period in which December 31 payroll is processed.
- h. Employees in exempt positions who have excess annual vacation leave balances at the end of the calendar year must use annual leave before using any accrued exempt compensatory time. Employees in exempt positions must continue using excess annual vacation leave until the balance equals or falls below the two (2) times annual accrual limit. This provision applies only to excess annual leave balances extended into the grace period following the end-of-year calculations.

7. ANNUAL LEAVE REQUESTS

Each department must provide reasonable opportunity for employees to use rather than forfeit accumulated annual leave. Employees must request permission to take annual leave using the procedures established by their department. Approval or denial of leave is based on the department's and the employee's interests. The department may deny the request or reduce the amount of annual leave approved in combination with time worked to maintain an employee's regular schedule in a workweek.

8. ANNUAL LEAVE USE

Annual vacation leave is paid at the employees' regular pay rate at the time leave is taken. Annual leave must be taken in no less than half-hour increments.

9. HOLIDAYS

Employees who take annual vacation leave overlapping an observed state holiday will receive holiday benefits up to eight hours. Employees may request to use annual leave to cover regularly scheduled work hours exceeding the eight-hour holiday benefit. An agency may deny this request if it would result in the accrual of compensatory time or overtime.

10. ILLNESS OR INJURY DURING LEAVE

Absences due to illness may not be charged against an employee's annual leave balance unless approved by the employee. If an employee becomes ill during a scheduled vacation, sick leave should be paid unless the employee requests the use of annual leave. Injured employees may use annual leave without affecting their eligibility for temporary or total disability benefits as provided in [Section 39-71-736, MCA](#).

11. TRANSFERS

When employees transfer employment from one state agency to another, or from one department to another, without a break in service, the unused annual leave accrual transfers with the employee and the receiving agency assumes the liability.

12. CHANGE TO INELIGIBLE STATUS

An employee who converts from an employment category eligible for annual leave to one ineligible for annual leave will receive a lump sum payment for accrued annual leave at the time of change.

13. TERMINATION OF EMPLOYMENT

Employees who terminate employment shall receive cash compensation at their regular rate for the unused annual leave balance unless:

- a. The employee has not met the six (6)-month waiting period.
- b. The termination was for a reason "reflecting discredit" on the employee as provided in [Section 2-18-617, MCA](#).