

# Benefits and Leaves: Sick Leave

**Subject:** Human Resources

**Policy:** Sick Leave

**Effective Date:** March 2021

**Review Date:** Three (3) years from Effective Date above

**Responsible Party:** University Human Resources

**Applicability:** This policy applies to all employees eligible to accrue and use sick leave and does not apply to student employees or short-term workers

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## 1. INTRODUCTION AND PURPOSE

This policy provides uniform rules for the accrual and use of sick leave by eligible university employees in accordance with [Section 2-18-601, MCA](#). Sick leave is paid leave that is granted to eligible employees as outlined in this policy. The Board of Regents has adopted the Department of Administration Sick Leave policy for nonfaculty employees and the university applies this policy to faculty. This policy is intended to be consistent with the Department of Administration Sick Leave policy to the extent it is applicable to university employees. Any [collective bargaining agreement](#) providing greater sick leave benefits supersedes this policy.

## 2. APPROPRIATE USE OF SICK LEAVE

Sick leave is granted to eligible employees as a paid leave of absence for:

- a. time off when an employee is unable to perform job duties because of physical or mental illness, injury, or disability.
- b. maternity-related disability, including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child;
- c. parental leave as provided in [Section 2-18-606, MCA](#);
- d. quarantine resulting from exposure to a contagious disease.
- e. consultation, examination, or treatment by a licensed health care provider.
- f. short-term attendance to an immediate family member because of physical or mental illness, injury, disability, examination, or treatment until other care can reasonably be obtained.

g. necessary care of a spouse, child, or parent with a [serious health condition](#), as defined in the *Family and Medical Leave Act of 1993*; and

h. death or funeral attendance of an immediate family member or, at the supervisor's discretion, another person.

Sick leave is paid at the employee's regular rate of pay at the time leave is taken. Sick leave must be used in half-hour increments.

### **3. ELIGIBILITY FOR ACCRUAL AND USE**

a. Classified employees, contract employees, temporary employees, and faculty employees are eligible to earn sick leave. Accrual of sick leave credits begins on the first day of employment.

b. Employees must complete a waiting period of ninety (90) calendar days of continuous employment to be eligible to use sick leave or to receive cash compensation for sick leave credits upon termination. In the event of a break in service, an employee must complete a new ninety (90) day waiting period.

### **4. ACCRUAL**

a. Sick leave accrual is calculated and credited at the end of each pay period. It is based on the number of hours paid at the regular rate in a pay status. Sick leave credits may not be advanced or taken retroactively.

b. Eligible employees accrue sick leave at a rate of .046125 hours for each hour in a pay status excluding overtime. Sick leave does not accrue on overtime worked, and no employee may earn more than the statutory full-time accrual rate of twelve (12) days per year.

c. Employees in a leave-without-pay status do not accrue sick leave ([Section 2-18-618, MCA](#)).

d. No limit exists for the number of sick leave hours an employee may accrue.

### **5. SICK LEAVE REQUESTS AND REPORTING**

a. An employee requiring unscheduled sick leave shall notify the supervisor as soon as possible on the first day of absence. Scheduled sick leave shall be cleared in advance with the supervisor.

b. Departments may establish specific procedures for the request and approval of sick leave. Sick leave notification and requests should contain sufficient detail to assure that requested sick leave is not an improper use of sick leave.

c. Departments may deny sick leave requests if they result in the accrual of overtime.

d. Absences improperly charged to sick leave may be corrected by charging another qualifying leave, provided the reason for the absence qualifies under the corresponding leave policy. If the

employee has no other qualifying leave, the absence will be charged to leave without pay. Improper use of sick leave may be subject to disciplinary action.

e. Sick leave taken will be reported on the employee's timesheet.

## **6. MEDICAL CERTIFICATION**

After consultation with University Human Resources, the supervisor may require medical certification to confirm the appropriate use of sick leave, including the need to care for an ill or injured immediate family member, using the procedures approved by University Human Resources.

## **7. HOLIDAYS**

Employees who take sick leave overlapping an observed state holiday will receive holiday benefits for up to eight (8) hours. An employee who is absent for qualifying sick leave reasons may request to use sick leave to cover regularly scheduled work hours exceeding the eight (8)-hour holiday benefit, if applicable. The university will deny this request if it results in the accrual of compensatory time or overtime.

## **8. USING SICK LEAVE DURING ANNUAL LEAVE**

An employee taking approved annual vacation leave may substitute accrued sick leave for annual leave if circumstances arise qualifying for the use of sick leave. The employee must make the request to substitute sick leave for annual leave within five (5) business days of reporting to work.

## **9. SICK LEAVE CONCURRENT WITH OTHER LEAVE**

### **a. Family and Medical Leave**

Eligible employees may take FMLA concurrently with sick leave when the reason for leave qualifies under both this policy and the [FMLA Policy](#).

### **b. Maternity and Parental Leave**

Eligible employees may take maternity and parental leave concurrently with sick leave when the reason for leave qualifies under both this policy and the [Maternity and Parental Leave Policy](#). State law limits the use of sick leave during parental leave to fifteen (15) days for birth fathers and adoptive parents unless the additional absence qualifies for use of sick leave for another reason ([Section 2-18-606, MCA](#)).

## **10. TRANSFERS**

When employees transfer employment from one state agency to Montana State University Billings, or from one position to another, without a break in service, any unused sick leave balance transfers with them.

## **11. TERMINATION OF EMPLOYMENT**

Employees who terminate employment shall receive cash compensation at their regular rate for one-fourth (1/4) of their unused sick leave balance unless:

- a. The employee has not met the ninety (90)-calendar-day waiting period.
- b. The termination reason was “abuse of sick leave.”
- c. The employee voluntarily donates all or a portion of the unused leave to the [Donated Sick Leave Pool](#).

Employees transferring to another agency of the State of Montana without a break in service exceeding five (5) working days shall receive no cash compensation for unused sick leave. In such transfers, the receiving agency assumes the liability for the employee's sick leave balance.

## **12. PAYROLL RECORDS**

The department must retain and maintain any documentation related to the use of sick leave. The Payroll office maintains records of employees’ sick leave accrual and usage.

## **13. ABUSE OF SICK LEAVE**

Sick leave abuse occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reason for charging an absence to sick leave. Sick leave abuse is cause for dismissal and forfeiture of the lump sum payment ([Section 2-18-618, MCA](#)).

Abuse may also occur when an employee establishes a pattern of sick leave usage over a period of time. Chronic, persistent, or patterned use of sick leave may be subject to discipline and correction of the sick leave records.

Any charges of sick leave abuse that result in an employee’s dismissal and forfeiture of the lump-sum payment are subject to the appropriate employee grievance procedure.

## **14. WORK-RELATED ACCIDENT, INJURY, OR ILLNESS**

An employee who suffers an on-the-job accident, injury, or work-related illness may be eligible for workers’ compensation benefits. An injured or ill employee may not receive wage-loss benefits if the employee is receiving sick leave benefits, except:

- a. Sick leave may be used and counted toward the required waiting period, which is the lesser of thirty-two (32) hours or four (4) days.

b. An employee may use sick leave to augment workers' compensation temporary total disability benefits pursuant to a [collective bargaining agreement](#) as provided in [Section 39-71-736, MCA](#).