

MontanaTech

Procedure: **Sick Leave**

References: 3-0310 M.O.M.; 2-18-601, 606, 618, M.C.A.; Policy 241.0; ARM 2.21.5007(9); ARM 2.21.141; ARM 2.21.804-2.21.822; MUS Policy 801.7.1; Grant leave Project Pool Overview, August 1993; Collective Bargaining Agreements; HRS Policies

Sick Leave, as provided in 2-18-601, M.C.A., is defined as: "a leave of absence with pay for a sickness suffered by an employee or his immediate family or for a permanent employee who is eligible for parental leave under the provisions of 2-18-606, M.C.A.." In addition, it includes the following conditions: illness, injury, medical disability, maternity/paternity-related absence including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child; quarantine resulting from exposure to contagious disease; medical, dental, or eye examination or treatment; care of or attendance to an immediate family member or, at the supervisor's discretion, for another person; death or funeral attendance for an immediate family member or, at the supervisor's discretion, for another person.

Abuse of Sick Leave is the result of misrepresentation of the actual reason for charging an absence to sick leave, using sick leave for unauthorized purposes, failure to report sick leave, and may include chronic, persistent, or patterned use of sick leave.

Break in Service, as provided in 2-18-601, M.C.A., means "a period of time in excess of five working days when the person is not employed and that severs continuous employment." A break in service could result from a termination or resignation or could result from an absence of more than five working days in a row without approval.

Continuous Employment, as provided in 2-18-601, M.C.A., means "working within the same jurisdiction without a break in service of more than five working days or without a continuous absence without pay of more than 15 working days." An approved continuous leave of absence without pay exceeding 15 working days does not constitute a break in service.

Immediate Family includes the employee's spouse or partner, any member of the employee's household, or any parent, child, sibling, grandparent, grandchild, or corresponding in-law, including stepfamilies and family members of the employee's partner.

Qualifying Period is a 90 calendar-day period during which an employee must be continuously employed to be eligible to use sick leave credits or to be eligible for a lump sum payment upon termination for a portion of unused sick leave credits. This definition also refers to temporary employees.

Grant Leave Pool is a sponsored program (grant) leave pool developed to pay for all leave taken on sponsored program (grant) accounts as well as termination payoffs.

A. Accrual

Eligible employees earn sick leave credits from the first day of employment. Sick leave credits are earned at the full-time rate of one eighth (8) hours for each month of service. There is no restriction on the number of days that can be accumulated.

Accrual credits are pro-rated according to regular hours worked and no credits accrue for an employee on leave without pay. Sick leave is not earned on overtime hours.

Sick leave credits are automatically retroactive to first working day for:

1. Temporary employees who move into permanent positions without a break in service, and
2. Temporary employees whose employment exceeds 90 days.

B. Charges

Upon completion of the qualifying period, eligible employees are entitled to use sick leave credits earned, as appropriate.

Advancing sick leave after an employee's earned leave has been expended is prohibited. It is the responsibility of the employee and the supervisor to assure proper reporting of the use of sick leave.

With the approval of the supervisor, an employee may charge an absence due to illness to annual leave, leave without pay, and/or compensatory time. This practice is normally used after all sick leave is exhausted.

C. Reporting Responsibility

Any illness, medical appointment, or emergency, which necessitates the use of sick leave, must be reported to the supervisor as soon as possible. An employee's supervisor may require a physician's certificate or other evidence to substantiate a sick leave request.

D. Holidays

Holidays that fall during a period when an employee is on sick leave will be charged as holiday pay rather than sick leave. If an employee is sick during scheduled annual leave, sick leave may be substituted for time employee is sick upon proper notification and approval of the supervisor.

E. Termination Payoff

Employees who discontinue employment and who have completed the qualifying period with the University are entitled to a lump sum payment equal to one-fourth (1/4) of their unused, accumulated sick leave credits.

Employees of the College of Technology who discontinue employment, and who have completed the qualifying period, are entitled to a lump sum payment equal to the following: one-half (1/2) of their unused, accumulated sick leave credits earned prior to 1989 and one-fourth (1/4) of their unused, accumulated sick leave credits earned after 1988.

Pay attributed to the accumulated sick leave is computed on the basis of the employee's salary at the time of termination.

Although no payment is made for credits earned prior to July 1, 1971, those credits are available to the employee to charge as sick leave during employment.

F. Transfer

If an employee transfers from one department to another or from one sponsored program to another with no break in service, no cash payment is made at the time of the transfer. The receiving department assumes the liability for the accrued sick leave credits.

If an individual transfers from a state agency to the University, the University may elect whether or not to assume the liability for the accrued sick leave, unless there is at least a five-day break in service. If a break in service occurs, the employee receives a lump sum payment from their former department and must begin again the qualifying period for use of leave.

If an employee transfers to any other campus of the university system, the employee shall not receive cash compensation for unused sick leave. The receiving campus shall assume the liability for accrued sick leave.

G. Abuse

Abuse of sick leave is cause for dismissal. An employee may be dismissed for abuse, that is substantiated by the employer and may forfeit the lump sum payment to which he/she would otherwise be entitled to upon termination.

H. Layoff

When an employee has been laid off and has been allowed to maintain sick leave credits the employee shall not take any accrued sick leave credits during the layoff period. The employee may take those sick leave credits if reinstated or reemployed or if employed by a state agency that agrees to accept the sick leave credits. If the employee is not reinstated or reemployed within one year of layoff, the employee shall receive a lump sum payoff, at the salary rate the employee earned at the effective date of layoff.

H. Work-related Accident

An employee who is injured in a work-related accident may be eligible for workers' compensation benefits. Use of sick leave must be coordinated with receipt of workers' compensation benefits on a case-by-case basis.

I. Certification

When accrued sick leave charges are used, an employee must appropriately complete a departmental leave request form reflecting the charges and submit it to his/her supervisor for approval and signature. The supervisor signing the leave request form certifies that the sick leave charges are correct and accurate. Any questions regarding the departmental payroll reporting and recorded charges will be directed to the supervisor, rather than the employee, for verification and action.

J. Sick Leave Fund/DIRECT GRANT

The Sick-Leave Fund allows University employees to share accumulated sick leave with other eligible employees according to guidelines developed by the Board of Regents to comply with 2-18-618, M.C.A.

Employees may contribute sick-leave credits to the Sick-Leave Fund for use by fund members or transfer sick-leave credits by making a direct grant to a specific employee who suffers an extensive illness or accident.

1. Contribution means the number of hours of accrued personal sick leave which an employee must donate to the Sick-Leave Fund to become or to remain a participant in the fund.

2. Direct grant means the extension to an employee, who may or may not be a participating employee, of up to 160 hours of sick leave in a 12-month period which is donated by other University system employees, who may or may not be participating employees, for the specific use of the employee.

3. Grant means the extension to a participating employee of sick leave from the Sick-Leave Fund or through a direct grant.

4. Maximum allowable benefit means no more than 160 hours of sick leave in any continuous 12-month period received as either grants from the Sick-Leave Fund or as direct grants.

5. Participating employee means an employee of the University assigned to a position which has been designated as permanent or seasonal who has joined the Sick-Leave Fund by making the initial contribution of the number of hours required by this policy and who has contributed any hours subsequently requested by the Personnel Office.

6.Sick-Leave Fund means a pool established to accumulate and disperse voluntarily and irrevocably contributed accrued personal sick leave from Montana Tech employees for the purpose of providing sick leave to participating employees.

To enroll in the Sick-Leave Fund, employees must meet the following requirements:

1. Complete a Sick-Leave Fund contribution form.
2. Complete the 90-day qualifying period for use of sick leave.
3. Maintain a minimum balance of 40 hours of sick-leave credits following each contribution.
4. Contribute a minimum of 8 sick-leave hours to the fund.
5. Continue to contribute 8 sick-leave hours annually to the fund after becoming a member. Human Resource Services will automatically transfer these hours annually to the Sick-Leave Fund unless the employee requests in writing to discontinue membership in the fund or terminates employment.

All contributions are voluntary, irrevocable, and automatic after initial enrollment. Employees may resign from the fund at any time by notifying Human Resource Services in writing. They may later rejoin the fund if they meet all eligibility requirements.

Sick leave accrued prior to July 1, 1971, may not be contributed to the Sick-Leave Fund. Employees may contribute no more than 40 hours in a 12-month period.

A minimum sick leave Fund balance of 400 hours shall be maintained. On March 1 each year, all members of the Sick Leave Fund must transfer an additional eight (8) hours to the fund. Human Resource Services will make the transfer automatically unless written notice is received from an employee who no longer wishes to participate in the Sick Leave Fund.

If the fund is depleted below the minimum 400 hours, Human Resource Services will request additional contributions of at least eight hours from fund members. If an employee does not contribute the additional credits within 45 days of the request, the employee's membership in the fund will be discontinued. Participating members of the fund who are exhausting or have exhausted sick leave due to an extensive illness or accident at the time of the request will not be required to contribute the additional sick-leave credits.

To be eligible to receive a grant of sick leave from the sick leave Fund, an employee must meet the following criteria:

1. Complete the 90-day qualifying period to take sick leave,
2. Suffer from an extensive illness or accident that results in absence from work of at least 10 consecutive working days,
3. Be ineligible for workers' compensation benefits,
4. Exhaust all personally accrued sick, annual leave and compensatory time,
5. Have taken 5 days leave without pay in addition to exhausting all other paid leave,
6. Provide the supervisor with a physician's certificate documenting extensive illness or accident,

7. Receive approval from the supervisor for a leave of absence and approval from the Dean/Director and Director of Human Resource Services to receive a grant of sick leave from the fund, and
8. Be a member of the Sick Leave Fund for at least 90 days.

Participation in the Sick Leave Fund or meeting the eligibility requirements does not guarantee that receipt of sick leave shall be approved.

An employee may request a grant from the Sick Leave Fund to provide "necessary care of or attendance to an immediate family member ... until other attendance can reasonably be obtained" (ARM 2.21.132). Immediate family member is defined as the employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild or corresponding in-law who is suffering from an extensive illness or accident.

If an employee is incapacitated and unable to apply for leave of absence and a grant from the Sick Leave Fund, another person may do so on behalf of the employee.

Employees do not have to be participating members in the Sick-Leave Fund in order to give or receive direct grants. Employees may make a direct grant of sick leave to an employee who is suffering from an extended illness or accident that results in an absence from work of at least 10 consecutive days. To be eligible to make a direct grant, an employee must have completed the 90-day qualifying period for use of sick leave and have a minimum balance of 40 hours of accrued sick leave following the contribution, credited to his/her personal balance. An employee may grant a maximum of 40 hours of sick leave in a 12-month period through the direct grant program.

An employee may contribute no more than a combined total of 40 hours of sick leave to either the Sick Leave Fund or as direct grants in any 12-month period. The 12-month period is calculated from the first day an employee makes a direct grant or contribution to the Sick-Leave Fund. All contributions are irrevocable.

An employee may receive no more than a maximum of 160 hours of sick leave in any continuous 12-month period in direct grants. The 12-month period is calculated from the first day the employee takes sick leave that is a direct grant or a grant from the Sick-Leave Fund. To be eligible to receive a direct grant of sick leave, an employee must meet the following criteria:

1. Have met the 90-day qualifying period to take sick leave,
2. Suffer an extensive illness or accident that results in absence from work of no less than 10 consecutive working days,
3. Exhaust all personally accrued sick leave, annual leave, and other accrued paid leave and compensatory time,
4. Take 5 days of leave without pay following exhaustion of all accrued leave and compensatory time,
5. Receive approval from the supervisor for leave,
6. Receive approval from the Dean/Director and Director of Human Resource Services, and
7. Provide a physician's certificate to supervisor.

An employee may receive a direct grant of sick leave to provide necessary care of or attendance to an immediate family member until other attendance can reasonably be obtained.

An employee may receive a combined total of no more than 160 hours of sick leave from the fund or direct grants in any 12-month period.

The department employing the recipient of a grant from the Sick Leave Fund or a direct grant of sick leave shall pay all costs of the use of that sick leave.

Forms for requesting use of the Sick Leave Fund and for donating leave hours are available from Human Resource Services.

Permanent part-time employees are eligible to contribute and use sick leave, as defined above, on a pro-rated basis according to FTE.

Exceptions to this policy may be granted with the approval of the appropriate Executive Officer and Director of Human Resource Services.