

# State Human Resources Policy #E24-104.02

## Sick Leave

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY 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.**

### **DEFINITIONS**

Agency – The South Carolina Military Department/Office of the Adjutant General

Employee - Any person in the service of an agency who receives compensation from the agency and where the agency has the right to control and direct the employee in how the work is performed.

Extenuating Circumstances - Emergency situations or unforeseen occurrences of a non-routine nature that would preclude the employee from performing the job responsibilities of their position.

Full-Time Equivalent (FTE) - a numerical value expressing a percentage of time in hours and of funds related to a particular position authorized by the General Assembly.

Immediate Family - 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 (see SC Code § 8-11-40(C) and State Human Resources Regulations, Section 19-710.04, paragraph B.6.).

Temporary Employee - A full-time or part-time employee who does not occupy an FTE position, whose employment is not to exceed one year, and who is not a covered employee.

Temporary Grant Employee - A full-time or part-time employee who does not occupy an FTE position and is hired to fill a position specified in and funded by a federal grant, public charity grant, private foundation grant, or research grant and who is not a covered employee.

Time-Limited Employee - A full-time or part-time employee who does not occupy an FTE position who is hired to fill a position with time-limited project funding approved or authorized by the appropriate State authority, and who is not a covered employee.

### **FORMS**

All forms noted for use in accordance with this Policy may be found at <https://scmd.sc.gov/state-operations/forms> under the "Leave and Attendance" Section.

### **POLICY**

1. Where this policy is in conflict with current or future Federal or State statutory provisions, or is in conflict with applicable State regulations, the statutory and/or regulatory provisions will govern conduct of this Agency and its personnel.
2. An employee may apply for Sick Leave for the reasons specified in governing statutes and regulations. Under provisions of the SC Code of Laws and State Human Resources Regulations, the Agency may grant Agency employees/FTEs Sick Leave for the following reasons:

- Personal illness or injury that incapacitates the employee's ability to perform the duties of the position
- Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees
- Appointment for medical or dental examination or treatment when such appointment cannot be reasonably scheduled during non-work hours
- Pregnancy or other temporary disabilities (see paragraph 6)
- Treatment for alcoholism (see paragraph 7)
- Caring for ill members of immediate family (see definition of "immediate family" above, and paragraph 8)
- Caring for an adoptive child (see paragraph 9)

3. Leave taken under this Section may qualify as leave under the Family and Medical Leave Act (FMLA) and/or the Americans with Disabilities Act (ADA).

a. The South Carolina Military Department State Human Resources Officer (HRO) or his designee will review the documentation submitted with the Sick Leave request to determine eligibility and possible qualification within the FMLA and/or ADA guidelines.

b. If the leave meets the guideline of FMLA or ADA, the leaves will run concurrently.

4. Employees will submit Sick Leave requests, and supervisors will approve Sick Leave requests, through SCEIS.

5. Unless for an emergency or unscheduled event, employees will have Sick Leave approved prior to being away from the workplace. Employees who fail to have leave approved prior to being away from the workplace may be subject to the Agency's Progressive Discipline Policy.

6. If possible, the date on which Sick Leave for pregnancy or other temporary disabilities is to begin shall be at the request of the employee based on the determination and advice of a health care practitioner.

7. The Agency will grant Sick Leave for the purpose of participating in public and private treatment and rehabilitation programs for alcoholism which have been approved by the South Carolina Department of Mental Health (see SC Code § 8-11-110(g)).

8. Employees earning Sick Leave may use not more than 10 days of Sick Leave annually to care for ill members of their immediate family (see SC Code § 8-11-40(C) & SC State HR Regulations 19-710.04.B.6).

9. An adoptive parent who is employed by the Agency may use up to six (6) weeks of their earned Sick Leave for purposes of caring for the child after placement provided that the Agency employee is the one "primarily responsible" for the care and nurture of the child (see State HR Regulations 19-710.04.B.7). The Agency will not penalize an employee for requesting leave relating to an adoption.

10. In qualifying Sick Leave situations, the employee shall use all accrued Sick Leave before going on Leave without Pay (LWOP) unless the employee requests LWOP and the Adjutant General or his designee grants approves the employee's request.

11. When the Agency observes a holiday while an employee uses Sick Leave, the day is considered a holiday, not a day of Sick Leave for the employee.

12. Sick Leave is Subject to Verification

a. The Department Head, Program Manager, or the supervisor who is responsible for approving the leave may require the certificate of a health care practitioner verifying the need for Sick Leave and giving the inclusive dates before approving the use of Sick Leave.

b. When the use of Sick Leave is related to a condition which has been previously certified by a physician and is on-going for a specified period of time, a physician's statement is not required for each absence during the specified time period. However, the Agency reserves the right to request an updated physician's statement no less than every thirty (30) days in connection with an absence by the employee unless the condition will last for more than 30 days.

(1) For conditions that are certified as having a minimum duration of more than 30 days, the Agency must wait to request a recertification until the specified period has passed, except that in all cases the employer may request recertification every six (6) months in connection with an absence by the employee.

(2) The Agency may request recertification in less than 30 days if the employee requests an extension of leave, the circumstances described in the previous certification have changed significantly, or if the employer receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

(3) The Agency may request a new medical certification each leave year for medical conditions that last longer than one year. Such new medical certifications are subject to second and third opinions at the expense of the Agency.

13. Requirement for Doctor's Release. Employees who are absent for the below reasons are required to provide a release from their physician authorizing them to return to work prior to being allowed to start work:

- Care requiring a hospital admission
- Absence over three days due to health or medical reasons on the part of the employee (to include pregnancy)
- Absence as the result of FMLA leave due to the employee's own serious health condition

14. Sick Leave Accrual (See State HR Regulations 19-710.01)

a. Employees earn Sick Leave based on the number of hours in the employee's average workday provided they are in pay status for one-half ( $\frac{1}{2}$ ) or more of the workdays of the month.

b. Employees shall earn Sick Leave beginning with the date of employment at the rate of  $1\frac{1}{4}$  work days per month or 15 days per year.

c. Employees continue to accrue Sick Leave earnings while on authorized Annual Leave, Sick Leave, or other authorized leave with pay.

15. Carry Over of Sick Leave. Employees may carry over from one calendar year to the next any unused Sick Leave up to a total accumulation of 180 workdays.

16. Advanced Sick Leave (See State HR Regulations 19-710.03)

a. The Agency may advance up to 15 workdays of additional Sick Leave to an employee in extenuating circumstances.

b. The Agency may advance this Sick Leave only upon documentation from a health care provider that the employee is expected to return to work within that period of time.

c. The employee is responsible for submitting a *Request for Advanced Sick Leave Form* through their supervisory channels to the State HRO.

d. The State HRO or his designee is the approval authority for Advanced Sick Leave.

e. An employee who uses Sick Leave in an unauthorized manner may be subject to the Agency's Progressive Discipline Policy up to and including Termination.

## 17. Change of Status

### a. Full-Time Equivalent (FTE) Employees

(1) FTE employees who transfer without a break in service from one State Agency FTE position to a FTE position in the same or another State agency, or a State agency to a school district or vice versa, can transfer their accumulated Sick Leave up to the maximum amount allowed.

(2) FTE employees who transfer with a break in service or from a State Agency FTE position to a non-FTE position (i.e., temporary grant, temporary or time limited) will forfeit any accrued Sick Leave.

b. Temporary Grant or Time Limited Employees who transfer from one State Agency to a different State Agency or change employment status within the Agency will forfeit any accrued Sick Leave.

c. Temporary Grant Employees who transfer from one Grant funded program to a different Grant funded program within the Agency will forfeit any accrued Sick Leave.

## **PROCEDURE**

1. An employee's authorized Sick Leave will be charged in quarter hour ( $\frac{1}{4}$ ) increments when away from the workplace.

### 2. Submission and Approval

a. Employees will submit all requests for Sick Leave (both whole and partial days) through SCEIS. Those employees who use the *Weekly Permanent/Grant Employment Leave and Attendance Record Forms* (paper time worksheets) will complete the form for the approved leave period.

b. Supervisors will approve Sick Leave requests through SCEIS. For those employees who use the *Weekly Permanent/Grant Employment Leave and Attendance Record Forms* (paper time worksheets), the supervisor will validate the days noted as Sick Leave prior to approving the Record.

c. Should a situation arise whereby an employee is not able to complete a Sick Leave request prior to the absence, the employee will notify their supervisor as soon as possible (NLT COB of the first day of the absence) of their request for Sick Leave, the reason and the anticipated date of return to work. The employee will submit their Sick Leave request as soon as they have access to the internet or NLT COB of the day of their return to work.

### 3. Recoupment of Advanced Sick Leave (see SC State HR Regulations 19-710.03.C & D).

a. Upon return to work, the employee will have all earned Sick Leave applied to the leave deficit at the rate of  $1\frac{1}{4}$  days per month (or if part-time, the monthly earning rate) until the deficit has been eliminated.

b. If an employee separates from State employment before satisfying the leave deficit and returns to State employment at a later date, the leave deficit will need to be satisfied upon reemployment.

4. Review of Employee Leave Records. Employees can review and print their record of Sick Leave use, Sick Leave balances, and Leave Statements through SCEIS. The Leave Statements in SCEIS reflect prior month totals.

5. Corrections

a. To request a correction to a leave record, employees will submit a *Request for Leave Adjustment Form* no later than two weeks after the end of the month through their Department Head/Program Manager or their designated representative to the State HRO. The employee will include all supporting documentation with the request.

b. The State HRO or his designated representative will evaluate each request and supporting documentation on a case-by-case basis, and make a determination on approval/disapproval.

c. The State HRO or his designated representative will make any necessary corrections to the SCEIS records, as needed, and forward the determination through the chain to the affected employee.