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## State of Oregon LEGISLATIVE BRANCH PERSONNEL RULES

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### **Legislative Branch Personnel Rule 16: Paid Sick Leave**

**APPLICABILITY:** This rule applies to all employees of the Legislative Branch, where not in conflict with an applicable bargaining agreement or law. This rule does not apply to members of the Legislative Assembly.

**(1) Monthly accrual.**

(a) Full-time continuing status positions. An employee in a full-time continuing status position accrues sick leave at the rate of eight hours for each full calendar month employed, credited to the employee when the leave is earned.

(b) Part-time continuing status positions. Sick leave accrual for an employee in a part-time continuing status position is calculated on a prorated basis, using the number of hours the employee works in a month, credited to the employee when the leave is earned.

(c) Introductory period. During an introductory period, an employee is eligible to accrue and use sick leave.

(d) Temporary status employees. A temporary status employee begins accruing sick leave on the first day of employment at the rate of eight hours for each full calendar month, pro-rated based on hours worked.

(e) Crediting sick leave. Sick leave is credited to an employee when the leave is earned.

(f) Partial month accrual. Sick leave accrual for an employee working less than a full calendar month in a pay period due to hire, termination or leave without pay is computed using the number of hours the employee worked in that month.

**(2) Maximum accumulation.** Sick leave accrues without limitation, subject to other policies.

**(3) Notification.**

(a) It is an employee's responsibility to notify the employee's immediate supervisor of the need to use sick leave. If the employee's absence is unanticipated, the employee shall contact the immediate supervisor at the beginning of each missed day's regularly scheduled work time unless other arrangements are approved by the supervisor.

(b) When the employee's absence is an emergency, the employee shall notify the supervisor of the need for leave as soon as practicable.

(c) For use of sick leave that is foreseeable, an employee shall provide notice as prescribed in paragraph (a) of this subsection. Except as specified in LBPR 15, Family and Medical Leave and absences when receiving Paid Leave Oregon benefits, a supervisor or appointing authority may not require notice to be given more than 10 calendar days before the first day of sick leave begins.

(d) For notifications specific to protected leave under the Oregon Family Leave Act (OFLA), refer to LBPR 15, Family and Medical Leave and for other leaves, refer to LBPR 17, Other Types of Leave.

(4) **Holiday during sick leave.** If a holiday occurs while an employee is on sick leave, the holiday is not deducted from the employee's accrued sick leave.

(5) **Use of accrued sick leave.**

(a) Availability. Sick leave is available to an employee for use when the leave is earned.

(b) Qualifying absence. An employee may use accrued sick leave:

(A) For the employee's mental or physical illness, injury or health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care.

(B) For care of a family member, spouse, domestic partner or an individual who is related by affinity to the employee as defined by OAR 839-009-0210, with a mental or physical illness, injury or health condition, needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care.

(C) For a purpose specified in ORS 653.616, 659A.093, 659A.159, 659A.162, 659A.174, 659A.198, 659A.272, 659A.285 or 839-007-0020.

(D) To supplement any benefits paid by Paid Leave Oregon up to and including the employee's regularly scheduled hours for that day.

(E) In the event of a public health emergency.

(6) **Use of other leave.**

(a) An employee eligible to take OFLA leave is entitled to use accrued paid sick leave, personal leave, vacation leave or any other paid leave for which the employee qualifies during the period of OFLA leave or if OFLA leave is exhausted. Accrued paid sick leave does not include disability insurance, Paid Leave Oregon benefits or disability benefits.

(b) Use of leave without pay. An employee who is absent due to family or medical leave under LBPR 15 shall be allowed to use leave without pay if the employee so elects. An employee may elect to receive leave without pay while receiving disability income or Paid Leave Oregon benefits. A supervisor may require the employee to provide evidence of such benefits.

(c) When an employee receives benefits through Paid Leave Oregon, an employee may supplement the Paid Leave Oregon benefit amount using accrued sick leave in any amount not to exceed their regularly scheduled day. Example: An employee scheduled to work eight hours per day is able to record a maximum of 8 hours of accrued leave per day of leave regardless of Paid Leave Oregon benefit amount.

(7) **Medical verification.**

(a) Need to be absent. Under certain circumstances, the appointing authority may require an employee to submit substantiating evidence for the use of sick leave and request additional information pursuant to state and federal law.

(b) Job limitations. Employee Services or an appointing authority may require an employee returning from a paid or unpaid leave of absence due to a health or medical event to provide information about any limitations on the employee's ability to perform the employee's job if the employee did not receive a full duty work release to return to work or if employee requests a change of duty or work schedule. Unless otherwise required by state or federal law, an appointing authority may modify an employee's work assignment or schedule in response to the stated limitations for the purpose of meeting operational needs.

(c) Cost of obtaining certification. The legislative agency, Legislative Assembly or parliamentary office shall reimburse an employee for any out-of-pocket costs incurred in obtaining medical certification when it is required as a result of a limitation as stated in paragraph (b) of this subsection.

(d) Examinations and inquiries. An appointing authority may not require that an employee submit to a medical examination, may not make inquiries of an employee as to whether the employee has a disability, and may not make inquiries of an employee as to the nature or severity of any disability of the employee, unless the examination or inquiry is shown to be job-related and consistent with business necessity.

(e) Voluntary examinations and inquiries.

(A) Notwithstanding paragraph (d) of this subsection, an appointing authority may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at the Capitol. An appointing authority may make inquiries into the ability of an employee to perform job-related functions.

(B) Information obtained under subparagraph (A) of this paragraph relating to the medical condition or history of any employee is subject to the same restrictions applicable to information acquired from medical examinations authorized under ORS 659A.133.

#### **(8) Workers' compensation claims.**

(a) Reporting requirements.

(A) An employee who is injured on the job or becomes ill or develops or aggravates a condition because of the job shall immediately report the occurrence to the employee's supervisor.

(B) The employee's supervisor shall respond to this report by completing an *Safety Incident Report* (available in Workday).

(b) Use of leave. An employee who is absent because of an injury, illness or condition that was incurred or aggravated on the job and who is receiving time loss payments for that absence may either take leave without pay or prorate the use of accrued sick leave as described in paragraph (d) of this subsection. An employee may also prorate the use of other available paid leave. Such leave may be requested in lieu of sick leave or when sick leave is exhausted, but it may not be counted against an employee for the purpose of available OFLA leave.

(A) An employee who takes leave without pay receives no compensation other than the time loss payments authorized by the workers' compensation insurance carrier.

(B) An employee who is absent because of an injury, illness or condition that was incurred or aggravated on the job and who is not receiving time loss payments for that absence may take leave in accordance with this rule.

(c) Reinstatement.

(A) An employee who is absent as a result of an injury, illness or condition incurred or aggravated on the job for which a workers' compensation claim has been filed, and who has sought medical treatment for the injury, illness or condition, must request reinstatement or reemployment pursuant to ORS 659A.043 or 659A.046.

(B) This subsection is not intended to apply to an employee who incurs a single or intermittent absence for a medical appointment or treatment that is related to a compensable injury, as defined in ORS 656.005, but who is not disabled from performing the duties of the employee's position or otherwise in a circumstance that requires reinstatement or reemployment under ORS 659A.043 and 659A.046.

(d) An employee who chooses to prorate the use of accrued leave shall do so by using, for

every hour absent, one-third of one accrued leave hour and two-thirds of one hour of leave without pay. The amount of leave taken without pay must represent the amount of time loss compensation received.

**(9) Sick leave upon termination.**

(a) Employees are not compensated for unused sick leave upon termination of employment. Unused sick leave is placed in the State's accrual clearinghouse for two years following the employee's termination of employment, available to be restored to the employee if the employee is reinstated within those two years.

(b) Except for PERS retirees as described in paragraph (c) of this subsection, all unused sick leave hours are restored to temporary employees who are reinstated within 180 days of separation.

(c) The Legislative Branch shall report unused sick leave to the Public Employees Retirement System (PERS). According to statute, sick leave, once reported by the employer to PERS for retirement purposes, is considered used and is therefore not subsequently available for restoration.

**(10) Effect of rehire.**

(a) A non-temporary employee hired back within two years from the employee's date of separation shall have any unused, accrued sick leave restored upon rehire.

(b) A PERS retired employee hired back after retirement does NOT receive restored sick leave.

(c) A prior temporary employee hired back within 180 days from the temporary employee's date of separation shall have any unused, accrued sick leave restored upon rehire.

**(11) Effect of movement within Legislative Branch.** When an employee transfers, promotes or demotes from one appointing authority to another within the Legislative Branch, all the employee's accrued sick leave shall transfer.

**(12) Employees hired from a State of Oregon agency.** If, within two years of separation, a former State of Oregon agency employee is hired by the Legislative Branch, the employee's previously accrued unused sick leave shall be transferred.

**(13) Employees hired from an Oregon university or governing board.** If an individual who previously worked for an Oregon university or governing board as defined by ORS 352.054 is hired into a Legislative Branch position, the employee's previously accrued unused sick leave from the Oregon university or governing board may not be transferred.

**(14) Use of donated vacation leave for sick leave purposes.** An employee may receive paid sick leave that has been converted from vacation leave donated by other employees in accordance with LBPR 14, Vacation Leave to be used for a qualifying purpose.

Approved: DRAFT