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## State of Oregon LEGISLATIVE BRANCH PERSONNEL RULES

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### Legislative Branch Personnel Rule 16: Leaves

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

#### LEAVE REQUESTS.

- (1) All requests for paid leave granted by an agency or office subject to this rule shall be submitted to Employee Services either via the approved electronic timekeeping application or in writing.
- (2) Except as otherwise provided in rule or law, leave with pay is granted at the discretion of the appointing authority or the employee's immediate supervisor.

#### ADMINISTRATIVE LEAVE

- (1) Administrative leave is paid leave awarded by an appointing authority and is not classified as any other specific type of leave. This leave is not applicable to temporary employees.
- (2) The appointing authority may grant paid administrative leave to an employee who is ineligible for overtime compensation. The appointing authority may grant paid administrative leave to an employee who is eligible for overtime compensation provided the leave is not in lieu of payment for overtime.
- (3) Administrative leave must be used within 11 months after the date in which the leave is granted. Employees exhaust all unused administrative leave by the last day of the 11<sup>th</sup> month from the date the leave was granted. Example: Administrative leave granted on April 11<sup>th</sup> must be used before or by March 31<sup>st</sup> or it will be lost.
- (4) Administrative leave is non-compensable. No cash payment in lieu of paid leave may be made for administrative leave.

- (5) Use of administrative leave is subject to approval by the appointing authority and the employee's immediate supervisor.
- (6) Employee Services shall maintain records of the amount of administrative leave granted and used.
- (7) All awards of administrative leave must comply with pay equity laws. See LBPR 4, Compensation and Salary Administration for further guidance.

#### **BEREAVEMENT LEAVE.**

- (1) At the request of the employee, an appointing authority shall grant up to 24 hours or the equivalent of three full days of scheduled work for paid bereavement leave after the death of a qualifying family member as defined by ORS 659A.150(4)(a) to (h) and the Oregon Family Leave Act (OFLA) or a domestic partner as defined by Oregon law. This leave is not applicable to temporary employees.
- (2) At the discretion of the appointing authority, an employee may be granted up to 24 hours or the equivalent of three full days of scheduled work for paid bereavement leave after the death of any other relative, any in-law or any person residing in the same household as the employee. In determining the amount of time to grant in subsection (a) through (c) of this section, the appointing authority shall consider the need for travel time.
- (3) At the request of the employee, bereavement leave may be taken concurrently if more than one family member dies during the one-year period. An appointing authority shall not require an employee to take multiple periods of bereavement leave concurrently if more than one family member dies during the one-year period (ORS 659A.162).
- (4) With the prior approval of the appointing authority, accrued leave may be used to cover time spent beyond the designated bereavement leave.
- (5) In addition to the paid leave in subsection (1) and (2) of this section, an eligible employee may also be eligible for two weeks per family member for a maximum of four weeks total of OFLA protection. For more information and eligibility, see LBPR 15: Family Medical Leave.

#### **DOMESTIC VIOLENCE, HARRASSMENT, SEXUAL ASSAULT OR STALKING.**

##### **Leave to address domestic violence, harassment, sexual assault or stalking.**

- (1) This leave is applicable to any employee who is a victim of or at risk of domestic violence, harassment, sexual assault, or stalking regardless of the length of time worked at the Legislative Branch or the number of hours worked per week.

- (2) An eligible employee who is a victim of or at risk of domestic violence, harassment, sexual assault as described in ORS 659A.270 to 659A.285 or stalking shall be granted up to 160 hours leave with pay in each calendar year. Leave with pay authorized in this section is in addition to all other paid or unpaid leave available to an eligible employee. An eligible employee must exhaust all other forms of paid leave before the employee is eligible to use the paid leave established in this rule.
- (3) An employee may use the 160 hours of employer-paid leave to seek legal or law enforcement assistance, to seek medical treatment, to assist a minor child in obtaining counseling, to obtain services from a victim services provider or to relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent.
- (4) An employee seeking leave under this rule must give reasonable advance notice. In an unanticipated or emergency situation, oral or written notice must be provided as soon as is practicable.
- (5) **Certification.** An eligible employee may be required to provide documentation when a reasonable safety accommodation is requested or when the use of leave is to address issues of domestic violence, harassment, sexual assault or stalking, or any other designation as a victim.
  - (a) Documentation from an attorney, law enforcement officer, judicial officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the eligible employee or the employee's minor child or dependent was undergoing treatment or counselling, obtaining services, or relocating because of domestic violence, harassment, sexual assault, or stalking will suffice. Unless otherwise required by law documents provided shall be kept confidential in Employee Services and may not be released without an employee's express consent.
  - (b) An appointing authority or supervisor shall not require a medical verification nor certification for use of leave to include an explanation of the nature, illness, or details related to domestic violence, sexual assault, harassment, or stalking. All health information is confidential and if received accidentally shall be sent to Employee Services.
  - (c) If a supervisor or appointing authority becomes aware of or has knowledge, or reasonably should have knowledge, that an employee is a victim of or at risk of domestic violence, harassment, sexual assault or stalking and becomes aware of any direct or indirect communication to or about the employee related to the victimization of the employee either made or attempted in the workplace, the supervisor or appointing authority shall immediately notify Employee Services. Employee Services shall immediately inform the employee and offer to report the communication to law enforcement.

**(6) It is unlawful employment practice to:**

- (a) Seek to obtain or to use genetic information of an employee or of a blood relative of the employee to distinguish between or discriminate against or restrict any right or benefit otherwise due or available to an eligible employee; or
- (b) Discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an eligible employee with regard to promotion, compensation or other terms, conditions, or privileges of employment; or
- (c) Refuse to make a reasonable safety accommodation when requested because the employee is a victim of or at risk of domestic violence, harassment, sexual assault or stalking.

**FAMILY AND MEDICAL LEAVE (OFLA).**

An eligible employee may be absent for reasons that qualify under OFLA. For details specific to eligibility and qualifying conditions, see LBPR 15, Family and Medical Leave (OFLA) for further guidance.

**JURY DUTY AND WITNESS LEAVE.**

- (1) This leave applies to all employees of the Legislative Branch, except temporary employees.
- (2) An employee who is summoned to jury duty on a day within the employee's regular work schedule shall receive normal pay for such service. The employee shall waive juror fees but may keep all mileage fees or any extraordinary expenses paid to the employee for jury duty or for appearing as a witness.
- (3) An employee who is subpoenaed to appear as a witness, other than as a party in the action, in a court or other forum on a day within the employee's regular work schedule shall receive normal pay for such service.
- (4) An employee shall receive no additional compensation (i.e., overtime) for juror or witness service that extends beyond an employee's regular work schedule.
- (5) An employee who is summoned to serve as a juror or who is subpoenaed to appear as a witness on the employee's regularly scheduled day off may not receive pay for that day but may keep any juror or witness fees paid.
- (6) Employees shall not be required to use any paid leave for time spent responding to jury summons.

## **LEAVE WITHOUT PAY.**

- (1) An employee shall submit a written request to use leave without pay to the employee's appointing authority. The request must specify the duration and purpose of the leave. This leave is not applicable to temporary employees.
- (2) Except as otherwise provided by a Legislative Branch Personnel Rule (LBPR) or law, any request for leave without pay must be submitted in advance of the leave, and approval or denial of the request is at the discretion of the appointing authority. Typically, leave without pay may not be granted until all other designated available paid leave has been exhausted.
- (3) Time off reported on an employee's timesheet in excess of available paid leave will be charged to leave without pay by Employee Services.
- (4) Vacation and sick leave accrual for an employee who worked less than a full calendar month in a pay period because of leave without pay is computed on a prorated basis using the number of available work hours, based on the employee's regular schedule, in that month.
- (5) **Effect on salary eligibility date.** As otherwise provided by law, for each period of leave without pay that is of more than 15 consecutive calendar days, the employee's salary eligibility date shall be permanently adjusted by adding to the salary eligibility date the number of calendar days absent without pay, thereby making the salary eligibility date later than it would have been if leave without pay had not been taken. This subsection does not apply to unpaid leave authorized under LBPR 15.
- (6) **Effect on introductory period.** Leave without pay of more than 15 consecutive calendar days may not be considered for fulfillment of an introductory period.
- (7) **Effect on PERS.** Leave without pay totaling 11 or more working days in a calendar month may affect an employee's creditable service calculation under PERS. It is an employee's responsibility to contact PERS for more detailed information.
- (8) Leave without pay is not applicable to temporary employees.

## **MILITARY LEAVE.**

An employee's eligibility and entitlement for leave during military service is provided in ORS 408.240 through 408.290, ORS 659A.086 and under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 to 4335 ("USERRA"). See LBPR 16 – Vacation, Sec. 11 for additional information on donated military leave.

## **OFFICIAL BUILDING CLOSURE.**

### **Leave during official building closure.**

- (1) Leave described under this subsection may be claimed only for periods of time during which Legislative Branch operations are officially curtailed or closed under LBPR 29.
- (2) Employees who are unable to work due to an official curtailment or closure shall be granted leave with pay during the time of the curtailment or closure. Employees who are otherwise on approved paid or unpaid leave during the official curtailment or closure shall code time based on the appropriate leave. Overtime-eligible employees shall record time worked during an official curtailment or closure as regular hours.
- (3) Temporary employees are not eligible for paid leave during an official building closure; however, may work from a remote location with supervisor or appointing authority approval.
- (4) For further assistance, refer to the Temporary Interruption of Employment Guide (TIE Guide) located on the Employee Services intranet page.
- (5) Overtime-eligible essential employees required by the appointing authority to work during an official building closure shall record time worked as regular hours and shall accrue compensatory time at the rate of time and one half for each hour worked during the official building closure.
- (6) When a hazardous condition does not result in official curtailment or building closure, but an employee does not wish to remain on site, the employee has the option of using available paid leave or leave without pay. Employees are ultimately responsible for their own safety decisions and no employee will be required to remain if the employee feels unsafe. An employee may be eligible to work from an alternate location with supervisory approval.

### **OTHER STATUTORILY PROVIDED LEAVE WITH PAY.**

The Legislative Branch shall grant all other leave with pay for which an employee is eligible under state or federal law.

### **PAID LEAVE OREGON.**

#### **Use of leave and Paid Leave Oregon Benefits.**

- (1) An eligible employee may use any amount of accrued leave to supplement Paid Leave Oregon benefits not to exceed the employee's regularly scheduled workday. An employee cannot record more accrued leave than they would work but for being on leave. Example: An employee scheduled to work eight hours per day can only record a maximum of 8 hours of accrued paid leave or leave without pay per day of leave regardless of Paid Leave Oregon benefit amount received. The use of leave is not applicable to temporary employees.

- (2) The appointing authority or supervisor may require an employee to report-in periodically during a period of Paid Leave Oregon medical leave including the employee's intention to return to work. ORS 657B.060.
- (3) Before restoring an employee to a position, the appointing authority may require a certification from the employee's health care provider certifying that the employee is able to resume work after a period of Paid Leave Oregon medical leave. ORS 657B.060.

## **PERSONAL BUSINESS LEAVE**

- (1) Twenty-four hours of paid personal business leave is awarded each fiscal year (July 1 to June 30) to eligible employees. This leave is not carried over from year-to-year, is not cumulative from year- to- year nor compensable in any form other than leave and cannot be cashed out upon separation from the Legislative Branch. This leave is not applicable to temporary employees.
- (2) Personal business leave is granted to eligible employees in full or part-time status positions and can be used for any purpose after completion of 6 full months of State service. Eligible employees in part-time status positions are granted paid personal business leave on a prorated basis. Six full months of State service is required and, barring unforeseen or extenuating circumstances, could take an employee more than 6 consecutive months to complete.
- (3) An eligible employee who completes 6 full months of State service; and later separates from the Legislative Branch; and, within the same fiscal year, returns to employment at the Legislative Branch, is eligible for reinstatement of any unused personal business leave. If an eligible employee does not complete the full 6 months of State service prior to separation from the Legislative Branch, the eligible employee must complete the remainder of the full 6 months of State service prior to having access to or use personal business leave.
- (3)(4) Use of personal business leave is subject to approval by the employee's immediate supervisor.
- (4)(5) Any unused personal business leave of an employee who transfers from another branch of State government or within the Legislative Branch shall be transferred and available for use within the same fiscal year.

## **SICK LEAVE**

### **Paid Sick Leave**

- (1) This leave is applicable to all employees.
- (2) The Legislative Branch shall report accrued unused sick leave for full and part-time employees 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.

- (3) **Sick leave accrual.** Employees accrue sick leave based on the number of hours or full calendar month worked. Sick leave is credited and available for use when earned.
  - (a) **Full-time status positions.** An employee in a full-time status position accrues 8 hours of sick leave for each full calendar month worked.
  - (b) **Part-time status positions.** An employee in a part-time status position accrues sick leave on a prorated basis, calculated using the number of hours worked in a month.
  - (c) **Temporary status employees.** A temporary status employee begins accruing sick leave on the first day of employment at the rate of 8 hours per calendar month worked, or ~~pre-rated~~prorated based on the hours worked.
  - (d) **Introductory period.** An employee is eligible to accrue, and use earned sick leave during the introductory period.
  - (e) **Partial month accrual.** An employee working less than a full calendar month in a pay period due to hire, termination or leave without pay accrues sick leave based on the number of hours worked in the month and no less than 1 hour for every 30 hours worked or one and one third hours for every 40 hours worked in the month.
- (4) **Maximum accumulation.** Sick leave accrues without limitation, subject to other policies.
- (5) **Notification.** Employees are responsible for notifying the immediate supervisor of the need to use sick leave.
  - (a) **Unanticipated absence.** The employee shall contact and notify the immediate supervisor of an unanticipated absence prior to and no later than the beginning of each missed day's regularly scheduled work time unless other arrangements are approved by the supervisor.
  - (b) **Emergencies.** In the event of an emergency, the employee shall notify the supervisor within 24 hours of the need for leave or as soon as practicable. Notice may be provided by another person on behalf of the employee.
  - (c) **Foreseeable or planned absences.** The employee shall provide notice to the immediate supervisor of the use of foreseeable or planned sick leave no later than 10 calendar days before the first day sick leave begins, except as specified in LBPR 15, Family and Medical Leave ~~—OFLA and when receiving Paid Leave Oregon benefits.~~OFLA. A supervisor or appointing authority may not require notice more than 10 calendar days in advance of the first day sick leave begins.



(d) Paid Leave Oregon Medical Leave. The appointing authority or supervisor may require an employee to report-in periodically during a period of Paid Leave Oregon medical leave including the employee's intention to return to work. ORS 657B.060. Before restoring an employee to a position, the appointing authority may require a certification from the employee's health care provider certifying that the employee is able to resume work after a period of Paid Leave Oregon medical leave. ORS 657B.060.

(d)(e) Family Medical Leave – OFLA. Refer to LBPR 15 for notifications specific OFLA protection.

- (6) **Leave request.** All requests for paid or unpaid leave granted by an agency or office subject to this rule shall be submitted to Employee Services either via the approved electronic timekeeping application or in writing.
- (7) **Holiday during sick leave.** When a holiday occurs while an employee is on sick leave, the holiday is not deducted from the employee's accrued sick leave.
- (8) **Use of accrued sick leave.**

(a) Sick leave may be used for ~~the~~:

- 1 The medical care, treatment, diagnosis, or preventive care of any health condition, mental or physical illness, injury, or medical diagnosis of the employee, the employee's spouse or partner, the employee's family member, or individuals related to the employee by affinity. Spouse, domestic partner, family member, and related by affinity used herein is as defined in ORS 653.601 to 653.661 and OAR 839-009-0210-; or
- 2 Blood donation that is made in connection with a voluntary program for the donation of blood that is approved or accredited by the American Association of Blood Banks or the American Red Cross. ORS 653.616.

(b) Accrued paid sick leave does not include disability insurance, Paid Leave Oregon benefits or disability be~~3~~enefits.

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

(a) **Family Medical Leave – OFLA.** OFLA is **unpaid** unless the employee has accrued paid leave to cover the leave of absence. An eligible may choose to use accrued paid sick leave, personal business leave, vacation leave, any other paid leave, or leave without pay while on OFLA designated protection.

(b) **Leave without pay.** Leave without pay, at an employee's request, shall be granted a for absences due to family medical leave under LBPR 15. An employee may elect to receive leave without pay while receiving disability income or Paid Leave Oregon benefits from

the Oregon Employment Department. An employee who has exhausted all accrued paid leave may be eligible to request donated leave unless the employee is receiving Paid Leave Oregon or disability income.

- (c) **Effect on the salary eligibility date.** Except as otherwise provided by law, for each period of leave without pay that is more than 15 consecutive calendar days, the employee's salary eligibility date shall be permanently adjusted by adding to the salary eligibility date the number of calendar days absent, thereby making the eligibility date later than it would have been if leave without pay had not been taken. This subsection does not apply to unpaid leave authorized under LBPR 15.
- (d) **Donated paid leave.** Legislative Branch employees may voluntarily donate accrued unused vacation leave to benefit another eligible Legislative Branch employee.
- (e) **Use of donated vacation leave for sick leave purposes.** An eligible employee may request, receive and use donated paid leave. Donated paid vacation leave shall be converted from vacation leave donated by other employees to donated leave in accordance with LBPR 16 – Vacation, Sec. 10. Donated paid vacation leave can only to be used for its intended qualifying purpose.
- (f) **Use of paid sick leave or leave without pay may be used to supplement:**
  - (A) **Paid Leave Oregon Benefits.** An eligible employee may use accrued paid sick leave in any amount, to supplement Paid Leave Oregon benefits not to exceed their regularly scheduled day. An employee cannot record more accrued leave than they would work but for being on leave. Example: An employee scheduled to work 8 hours per day can only record up to a maximum of 8 hours of accrued paid sick leave or leave without pay per day regardless of the amount of Paid Leave Oregon benefit received.
  - (B) **Workers' compensation benefits.** An employee with an accepted compensable workers' compensation claim, who is receiving temporary total disability time loss payments from the identified workers' compensation insurance carrier may use accrued paid sick leave or leave without pay to supplement the amount received. Accrued approved leave shall be prorated to make whole the employee's regular pay and shall not exceed the employee's regular rate of pay. Example: 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.
  - (C) An absence in the event of a public health emergency.

(10) **Medical verification and certification.**

- (a) -An appointing authority may require an employee to provide a medical verification from a health care provider for the use of accrued sick leave, Paid Leave Oregon medical leave, or leave without pay for absences of three consecutive scheduled worked days or more to care for a family member suffering from a serious or non-serious health condition, or for the employee to recover from or seek treatment for a serious health condition. Failure to provide medical verification when requested may subject the employee to stipulations under LBPR 9. This subsection does not apply to leave covered under OFLA ~~or Paid Leave Oregon.~~
- (b) An appointing authority may require an employee to provide certification for use of leave to address issues of domestic violence, harassment, sexual assault or stalking or any other designation listed as a victim under ORS 649A.805. Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider that the eligible employee or the employee's minor child or dependent was undergoing treatment or counselling, obtaining services, or relocating because of domestic violence, harassment, sexual assault, or stalking will suffice.
- (c) An appointing authority shall not require a medical verification or certification for use of leave to include an explanation of the nature, illness, or details related to domestic violence, sexual assault, harassment, or stalking. All health information is confidential and if received accidentally shall be sent to Employee Services.
- (d) **Job limitations.** An employee returning from a paid or unpaid leave of absence due to their own health or medical event may be required by Employee Services to provide medical verification or information about any limitations that could impact the employee's ability to perform the essential functions of the job. Unless otherwise required by state or federal law and in order to meet operational needs, an appointing authority may modify an employee's work assignment or schedule in response to an employee's stated limitations.
- (e) **Cost of obtaining medical verification or certification.** The legislative agency, Legislative Assembly or parliamentary office shall reimburse an employee for any out-of-pocket costs incurred in obtaining a medical verification or certification when it is required.
- (f) **Medical examinations and inquiries.** An appointing authority may not inquire whether an employee has a disability nor about the nature or severity of any disability or require an employee to submit to a medical examination unless the inquiry or medical examination is job-related and consistent with business necessity. Employee Services may inquiry about an employee's job-related ability to perform the essential functions of the employee's job with or without accommodations.

(11) **Sick leave upon separation.**

Employees are not compensated for unused sick leave upon separation from employment. Except as provided for temporary employees in section (11) subsection (c), sick leave is placed in the State's accrual clearinghouse for two years following the employee's separation from employment.

(12) **Accrued sick leave upon rehired.**

- (a) An eligible former employee hired back within 24 months from the employee's date of separation shall have any unused, accrued sick leave restored upon rehire.
- (b) A PERS retiree rehired after retirement is **NOT** eligible for restoration of unused sick leave. Per ORS 238.350 the monetary value of unused sick leave is used for retirement benefits calculation at the time of retirement and therefore not eligible for restoration.
- (c) A former eligible temporary employee hired back within 180 days from the employee's date of separation shall have any unused, accrued sick leave restored upon rehire.

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

(14) **Employees hired from a State of Oregon agency.** A former State of Oregon agency employee hired by the Legislative Branch within 24 months from the date of the employee's separation, may transfer previously accrued unused sick leave.

(15) **Employees hired from an Oregon university or governing board.** A former Oregon university or governing board employee, as defined by ORS 352.054, hired into a Legislative Branch position, may not transfer accrued unused sick leave from the Oregon university or governing board.

(16) **Prohibited conduct.** It is an unlawful employment practice to:

- (a) Deny, interfere with, restrain, or fail to pay for sick time to which an employee is entitled;
- (b) Apply an absence control policy that includes sick time absences covered under ORS 653.601 to 653.661 as an absence that may result in an adverse employment action against the employee; or
- (c) Retaliate or in any way discriminate against an employee because the employee has:
  - (i) Inquired about the provisions of ORS 653.601 to 653.661;
  - (ii) Submitted a request for sick time;
  - (iii) Taken sick time; or
  - (iv) Invoked any provisions of ORS 653.601 to 653.661.

**SPECIAL HOLIDAY LEAVE.**

- (1) When granted by the presiding officers, full time employees received 8 paid hours of special holiday leave. The amount of leave is prorated for part-time employees and is based on the same percentage of a month as the employee is regularly scheduled to work. This leave is not applicable to temporary employees.
- (2) The special holiday leave is available between the Wednesday before Thanksgiving through January 2 and does not carry over after that date.
- (3) The special holiday leave may be taken on any working day from the day before Thanksgiving through New Year's Eve, subject to prior approval by the appointing authority or direct supervisor.

## **VACATION.**

**APPLICABILITY:** This rule applies to all employees of the Legislative Branch, except for temporary status employees, and members of the Legislative Assembly.

### **(1) Monthly accrual.**

- (a) Full-time employees. An employee with a full-time schedule shall accrue vacation leave at a rate based on each full calendar month for which the employee has been employed in accordance with the following schedule and based on the employee's recognized service date:

Duration of employment	Vacation leave accrued per month	Total annual vacation leave accrual
First month through 60th month	10.00 hours	120 hours (15 days)
61st month through 120th month	11.34 hours	136 hours (17 days)
121st month through 180th month	13.34 hours	160 hours (20 days)
181st month through 240th month	15.34 hours	184 hours (23 days)
241st month through 300th month	17.34 hours	208 hours (26 days)
After 300th month	19.34 hours	232 hours (29 days)

- (b) **Part-time employees.** An employee with a part-time schedule shall earn vacation leave on a prorated basis. If the employee is paid on an hourly basis, vacation leave shall be prorated using the number of available work hours, based on the employee's schedule, in that month. If the employee is paid on a salaried basis, vacation leave shall be prorated on the basis of the percentage of workdays in the month that the employee worked.

- (c) **Introductory period.** An employee is able to use vacation leave upon accrual during the introductory period.
  - (d) **Recognized service date.** Except as otherwise provided by law, leave without pay in excess of 15 consecutive calendar days results in a permanent adjustment of the employee's recognized service date. An employee's recognized service date is adjusted by adding to it the number of calendar days absent without pay, thereby making the recognized service date later than it would have been if leave without pay had not been taken.
  - (e) **Crediting of vacation.** Vacation leave shall be credited to an employee on the first day of the calendar month following the calendar month in which it was earned.
  - (f) **Partial month accrual.** Vacation leave accrual for an employee working less than a full calendar month in a pay period due to hire, schedule change, separation, or leave without pay shall be computed on a prorated basis. If the employee is paid on an hourly basis, vacation leave shall be prorated using the number of available work hours, based on the employee's schedule, in that month. If the employee is paid on a salaried basis, vacation leave shall be prorated on the basis of the percentage of working days in the month that the employee worked.
  - (g) **Restoration of vacation accrual rate upon rehire.** An employee who separates from and returns to the Legislative Branch within 24 months from the employee's date of separation may be granted credit towards the employee's vacation schedule accrual rates for service prior to separation. Vacation leave accrual in the Legislative Branch shall be restored in accordance with ORS 173.005.
- (2) **Maximum accumulation.** An employee may accrue a maximum of 350 hours of vacation leave. An employee who accrues 350 hours must take vacation leave by the end of the month during which the employee's vacation leave accrual exceeds 350 hours or forfeit payment for, or use of, additional hours earned that would cause the employee's vacation leave balance to exceed 350 hours.
  - (3) **Scheduling of vacation leave.** Unless otherwise protected by law, collective bargaining agreement, rule or Legislative Branch policy, an employee may use accrued vacation leave with prior approval from the employee's supervisor. The supervisor may deny a vacation request based on the needs of the Legislative Branch.
  - (4) **Vacation Leave requests.**
    - (a) All requests for paid leave granted by an agency or office subject to this rule shall be submitted to Employee Services whether via the approved electronic timekeeping application or in writing.

- (b) Except as otherwise provided in rule or law, leave with pay is granted at the discretion of the appointing authority or the employee's immediate supervisor.

**(5) Illness during vacation leave.**

- (a) When an employee is on vacation and circumstances arise that would qualify the employee to use accrued sick leave, the employee may use sick leave, with supervisory approval and in accordance with LBPR 16 (5), accrued sick leave instead of vacation leave.
- (b) The appointing authority or supervisor may require an employee to report-in periodically during a period of Paid Leave Oregon medical leave including the employee's intention to return to work. ORS 657B.060.
- (c) Before restoring an employee to a position, the appointing authority may require a certification from the employee's health care provider certifying that the employee is able to resume work after a period of Paid Leave Oregon medical leave. ORS 657B.060.

**(5)(6) Effect of movement between legislative agencies or offices.**

- (a) When an employee transfers, promotes or demotes within the Legislative Branch, all the employee's accrued vacation leave shall be transferred.
- (b) Notwithstanding paragraph (a) of this subsection, when an employee transfers, promotes or demotes within the Legislative Branch to a leadership office or a caucus office, a maximum of 100 hours of accrued vacation leave shall transfer. More hours may transfer at the discretion of the appointing authority in the leadership office or caucus office receiving the employee. All remaining hours are paid out to the employee by the current agency prior to the employee transferring to the new agency.

**(6)(7) Employees hired from a State of Oregon agency.** When an employee from another branch of state government is employed by the Legislative Branch without a break in service, a maximum of 100 hours of accrued vacation leave shall transfer. More hours may transfer at the discretion of the appointing authority in the Legislative Branch. The employee's recognized service date shall be used to determine the monthly vacation accrual rate.

**(7)(8) Vacation pay upon separation.**

- (a) Upon termination an employee, or, in the case of the death of the employee, an employee's beneficiary or estate, shall be compensated for up to 300 hours of unused vacation leave.
- (b) If the employee leaves to accept another position in another branch of State government, the employee can request transfer of all, or a portion of the employee's accrued vacation leave with the approval of the receiving agency. Any vacation leave liability shall be deducted from the maximum hours available for compensation, as set forth in paragraph (a) of this subsection.

- (c) The rate of pay for vacation leave shall be the employee's current rate of pay at the time of separation, including all differentials the employee is being paid under LBPR 4 section (28), except shift differential. If, at the time of separation, the employee holds more than one position, each with a different rate of pay, the distribution between rates shall be as determined by the appointing authority(ies).

~~(8)~~(9) **Payment for vacation leave in lieu of time off.**

- (a) **Eligibility.** An employee with either a full-time or part-time schedule may request to be paid for up to a maximum of 120 hours vacation leave in lieu of time off once per fiscal year provided the employee maintains a balance of at least 40 hours of accrued vacation leave after the payout. The approval to pay vacation leave is:
  - (A) At the discretion of both presiding officers, in the event the employee receiving payment is an agency head.
  - (B) At the discretion of the presiding officer of the chamber in which the employee serves, in the case of the employee receiving payment is a parliamentarian, leadership office staff member or caucus office staff member.
  - (C) At the discretion of the appointing authority, in all other instances, including unrepresented personal staff in a member's office.
- (b) **Available funds.** Vacation leave payment is determined based on the availability of funds in the appropriate Legislative Branch budget.
- (c) **Request and approval.** To request payment for vacation leave in lieu of time off, an employee shall submit a *Request for Payment for Vacation Leave in Lieu of Time Off* form, (available in Employee Services), to the appointing authority. The decision of the appointing authority to grant or deny the request is final and may not be appealed. Within 15 calendar days of receipt of a request for payment for vacation leave in lieu of time off, the appointing authority shall:
  - (A) Return the request to the employee noting whether the request has been approved, denied or approved with modifications; and
  - (B) Provide a copy of the request, if approved, to Employee Services.
- (d) **Rate of compensation.** The rate of compensation for payment of vacation leave in lieu of time off shall be at the employee's current rate of pay at the time the request is submitted to the appointing authority, including all differentials the employee is paid per LBPR 4 section (28), except shift differential.

~~(9)~~(10) **Donation of vacation leave for sick leave purposes.**



(a) A Legislative Branch employee may voluntarily donate accrued vacation leave in full hour increments to another Legislative Branch employee, provided the employee to whom the leave is to be donated is not in a temporary status position, and:

(A) Is absent from work due to their own serious health condition;

(B) Is absent from work due to parental leave; or

(C) Is absent from work due to the employee's spouse or partner or family member's serious health condition; and

(D) Has exhausted all available paid leave, including benefits paid by Paid Leave Oregon or safe leave paid under ORS 659A.283; and

(E) Is not eligible for or receiving workers' compensation time loss benefits.

(b) A Legislative Branch employee may receive donated vacation leave under this rule in an amount that does not exceed the employee's regular rate of pay.

(A) Donated vacation leave shall be transferred to the receiving employee's donated leave accrual and applied as used by the receiving employee, to the extent that the amount used does not exceed the employee's regular rate of pay.

(B) All requests for and donated vacation leave shall be sent to Employee Services.

(C) Unused donated vacation leave shall be returned to the employee who donated the leave.

(D) All requests from the receiving employee and the donating employee must be made in writing.

(c) Under this subsection, "serious health condition," "parental leave", "spouse or partner" and "family manner" have the meaning as defined in ORS 659A.157, ORS 659A.159(1)(a) through (d).

No transfer of funds shall occur between branches of government unless otherwise authorized by the Legislative Administrator when vacation leave is donated under this subsection.

(d) ~~No transfer of funds shall occur between branches of government unless otherwise authorized by the Legislative Administrator when vacation leave is donated under this subsection.~~ See Exceptions under LBPR 1(10).

~~(10)~~(11) **Donation of vacation leave for military leave purposes.**

(a) A Legislative Branch employee may voluntarily donate accrued vacation leave in full hour increments to another Legislative Branch employee, provided the employee to whom the leave is to be donated is not in a temporary status position, and:

- (A) Is on leave without pay to perform active military duty, whether voluntarily or involuntarily ordered;
- (B) Has exhausted all accrued vacation leave;
- (C) Provides a copy of the military orders to Employee Services;
- (D) The total gross military compensation received while on active-duty status (including allowances or special pay) is less than the employee's gross pay (including differentials and annual average overtime pay, if any, for the employee's classification) received as a Legislative Branch employee at the time the military leave without pay began;
- (E) Provides a copy of the employee's monthly Leave and Earning Statement to Employee Services as verification of all military compensation received for the month in which donated leave is to be used.

(b) A Legislative Branch employee is ineligible to receive donated vacation leave under this rule if the employee is on paid military training duty or has been released from active duty but has not yet reported back to work.

(c) A Legislative Branch employee may receive donated vacation leave under this rule in an amount that does not exceed the compensation received as a Legislative Branch employee and based on the last full month of Legislative Branch employment and pay received prior to the beginning of the employee's military service.

(d) Donated vacation leave shall be transferred to the receiving employee's donated leave accrual and applied as used by the receiving employee, to the extent that the amount used does not exceed the limit established under paragraph (c) of this subsection.

(e) Unused donated vacation leave shall be returned to the donating employee.

No transfer of funds shall occur between branches of government unless otherwise authorized by the Legislative Administrator when vacation leave is donated under this subsection.

(f) ~~No transfer of funds shall occur between branches of government unless otherwise authorized by the Legislative Administrator when vacation leave is donated under this subsection.~~ See exception under LBPR 1(10).

#### ~~(11)~~(12) **Use of vacation leave and Paid Leave Oregon benefits.**

(a) An eligible employee may use any amount of accrued leave to supplement Paid Leave Oregon benefits. An employee cannot record leave in excess of the hours regularly worked when not on leave. 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 received.

Adopted: ~~September 25, 2024~~