

Leave Accrual Statutes and Administrative Rules

§74-840-2.20. Leave benefits - Emergency and permanent rules.

A. The Director of the Office of Management and Enterprise Services shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Director of the Office of Management and Enterprise Services, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave shall be accrued based upon hours worked, paid leave, and holidays, but excluding overtime, not to exceed the total possible work hours for the pay period. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule below, provided that such excess is used during the same calendar year in which it accrues or within twelve (12) months of the date on which it accrues, at the discretion of the appointing authority. If an employee whose job duties include providing fire protection services, law enforcement services or services with the Department of Corrections is unable to use excess leave as provided for in this paragraph because the employee's request for leave is denied by the employee's appointing authority and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee's regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used;

2. From November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

	ACCRUAL RATES			ACCUMULATION LIMITS
	Cumulative Years of Service	Annual Leave	Sick Leave	Annual Leave
Persons employed 0-5 yrs	= 15 day/yr	15 days/yr	30 days	
5-10 yrs	= 18 day/yr	15 days/yr	60 days	
10-20 yrs	= 20 day/yr	15 days/yr	60 days	
over 20 yrs	= 25 day/yr	15 days/yr	60 days	

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority;

4. Employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section;

5. The Director of the Office of Management and Enterprise Services and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Director of the Office of Management and Enterprise Services is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations;

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick leave accrued at the time of termination of employment restored if they return to state employment, provided that the state employees' enter-on-duty dates for reemployment occur on or before two (2) years after their termination of employment and they are eligible to accrue sick leave before the two (2) years expire;

7. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties;

8. Employees who are reserve municipal police officers pursuant to Section 34-101 of Title 11 of the Oklahoma Statutes and who miss work in performing their duties in cases of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve municipal police officer duties; and

9. Employees who are reserve deputy sheriffs pursuant to Section 547 of Title 19 of the Oklahoma Statutes and who miss work in performing their duties in case of emergency shall not have to use any accrued leave or need to make up any time due to the performance of their reserve deputy sheriff duties.

B. Nothing in the Oklahoma Personnel Act is intended to prevent or discourage an appointing authority from disciplining or terminating an employee due to abuse of leave benefits or absenteeism. Appointing authorities are encouraged to consider attendance of employees in making decisions regarding promotions, pay increases, and discipline.

C. Upon the transfer of a function in state government to an entity outside state government, employees may, with the agreement of the outside entity, waive any payment for leave accumulations to which the employee is entitled and authorize the transfer of the leave accumulations or a portion thereof to the outside entity.

Excerpt from Administrative Rules – Leave Accruals

260:25-15-10

(a) Permanent and probationary classified employees and regular unclassified employees are eligible for annual leave and sick leave with full pay according to law and the rules in this Chapter. Temporary employees and other limited term employees are ineligible to accrue, use or be paid for sick leave and annual leave [74:840-2.20(A) (3)].

(b) The tables in Appendix B of this Chapter list leave accrual rates and accumulation limits. OAC 260:25-15-11 and 260:25-15-12 also govern annual and sick leave.

(c) Annual and sick leave accrual rates and accumulation limits are based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes [74:840-2.20(A) (1)]. For purposes of this Subchapter and the longevity pay program, cumulative service shall be calculated as prescribed in this subsection.

(1) State employment with any classified or unclassified agency in any branch of state government including service under the administrative authority of the Regents for Higher Education and the Department of Vocational and Technical Education shall be qualifying for purposes of calculating cumulative service. Cumulative service includes periods of part-time qualifying employment in excess of 2/5 time that were continuous for at least 5 months and any period of full-time employment described in (A) through (G) of this paragraph:

(A) Employment as a permanent classified employee;

(B) Employment as a probationary classified employee;

(C) Employment as a regular unclassified employee;

(D) Temporary or other time-limited unclassified employment;

(E) Paid leave;

(F) Leave without pay of 30 continuous calendar days or less; and

(G) Leave without pay in excess of 30 calendar days taken under Section 840-2.21 of Title 74 of the Oklahoma Statutes. Any other leave without pay in excess of 30 calendar days shall not be counted as cumulative service.

(2) Periods of service that are described in (1) of this subsection, shall be combined for purposes of determining cumulative service and the total shall be expressed in whole years. Partial years, less than 12 months, are dropped.

(d) Annual leave and sick leave shall accrue only when an employee is actually working, on authorized leave with pay, or during the time the employee is using paid leave to supplement workers compensation benefits under Section 332 of Title 85. Leave shall not accrue after the last day the employee works.

(e) An employee using paid leave to supplement workers compensation benefits under Section 332 of Title 85 of the Oklahoma Statutes shall be in leave without pay status.

(f) An Appointing Authority may terminate an employee who is absent from work after the employee has exhausted all of his or her sick and annual leave accumulations unless the absence is covered by 260:25-15-45 or 260:25-15-49. Termination of a permanent classified employee under this subsection is subject to the pretermination hearing requirements of Section 840-6.4 of Title 74 of the Oklahoma Statutes. This subsection does not prevent an Appointing Authority from granting leave without pay according to 260:25-15-47.

[Source: Added at 31 Ok Reg 1346, eff 9-12-14]

260:25-15-11. Annual leave

- (a) Annual leave is intended to be used for vacations, personal business, and other time off work not covered by other paid leave or holiday provisions. An employee may charge family and medical leave, taken in accordance with 260:25-15-45, against annual leave accumulations.
- (b) Eligible employees shall accrue annual leave based upon hours worked (excluding overtime), paid leave, and holidays [74:840-2.20] in accordance with 260:25-15-10 and the provisions in this subsection, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number of work hours in the current year. Annual leave earned during one pay period shall not be available for use until the beginning of the following pay period.
- (1) Annual leave shall be applied for by the employee and shall be used only when approved by the Appointing Authority.
- (2) Part-time employees shall accrue annual leave in an amount proportionate to that which would be accrued under full-time employment [74:840-2.20].
- (3) Annual leave earned during a pay period shall be prorated based upon the number of hours (excluding overtime hours) an employee is on the payroll [74:840-2.20].
- (4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be required to reduce accrued annual leave below 5 days. An Appointing Authority shall not apply this rule in lieu of 260:25-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 260:25-11-120.
- (5) Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in 260:25-15-10 or at the discretion of the Appointing Authority, employees may accrue up to the accumulation limit plus the accrual for one year. If employees are permitted to accumulate above the accumulation limit, such excess must be used during the same calendar year in which it accrues or within twelve months of the date on which it accrues. Employees shall not be paid for excess leave above the accumulation limit; if an employee was transferred to an agency by statute or executive order all accumulated leave will be transferred.
- (6) Annual leave shall not be taken in advance.
- (7) An employee who transfers to another agency may have accrued annual leave transferred at the option of the Appointing Authority to which transferred. The maximum amount transferrable is limited to amount accrued but no more than the accumulation limits plus the accrual for one year, or such Appointing Authority may require that all or a portion of the annual leave be paid by the agency from which the employee is transferred before the transfer. The amount of annual leave paid by the agency from which the employee is transferred shall not exceed the accumulation limits except as established in Section 840-2.20 of Title 74 of the Oklahoma Statutes and the amount of annual leave transferred with the employee shall not exceed the accumulation limits plus the accrual for one year
- (8) Any employee who is separated from the state service shall be paid or shall have payment made to the employee's estate for any annual leave accumulated up to and including the accumulation limit except as otherwise provided in the Merit Rules. At no time shall any employee resigning from one position to accept another position within the same agency be paid for accrued annual leave unless there has been a break in service of more than thirty days.
- (9) Annual leave shall be charged against an employee's annual leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays falling within a period of annual leave shall not be charged to annual leave.

(10) Any probationary or permanent employee who leaves the employ of an agency shall receive payment for the accrued number of hours of annual leave in accordance with the hourly rate. Payment may only be withheld pending settlement of a legal debt to the agency. If a person is reemployed by the State within a period of 30 calendar days from the date of separation, any portion of the accumulated annual leave which has not yet been paid may be reinstated.

[Source: Added at 31 Ok Reg 1346, eff 9-12-14]

260:25-15-12. Sick leave

Eligible employees shall accrue sick leave based upon hours worked (excluding overtime) , paid leave, and holidays [74:840-2.20(A) (1)] according to 260:25-15-10 and this Section, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number or work hours in the current year. Sick leave earned during one pay period shall not be available for use until the beginning of the following pay period.

(1) Sick leave means a period when the employee cannot work because of sickness, injury, pregnancy, or medical, surgical, dental or optical examination, or treatment, or where the employee's presence at work would jeopardize the health of the employee or others. An employee may charge family and medical leave, taken in accordance with 260:25-15-45, against sick leave accumulations.

(2) An employee shall not use sick leave for annual leave.

(3) An employee shall not use sick leave before it is accrued.

(4) Immediately on return to work, an employee who has been absent on sick leave shall give the Appointing Authority a signed statement that the absence was due to reasons listed in (1) of this Section. If an absence exceeds 3 working days, the employee shall give the Appointing Authority a physician's statement unless the Appointing Authority waives it. For shorter absences, the Appointing Authority may require the employee to supply proof the absence was consistent with (1) of this Section. Sick leave shall not be granted until approved by the Appointing Authority. An Appointing Authority shall approve sick leave unless there are facts to show that an employee abused sick leave privileges or the employee failed to supply requested evidence of illness.

(5) Sick leave shall be charged against an employee's sick leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays, or the scheduled days off for holidays, occurring within a period of sick leave shall not be charged to sick leave.

(6) Sick leave earned during a pay period shall be prorated according to the number of hours (excluding overtime) an employee is on the payroll [74:840-2.20(A) (1)].

(7) Part-time employees shall accrue sick leave in an amount proportionate to that which would have accrued under full-time employment [74:840-2.20(A) (1)].

(8) When an employee transfers from one agency to another, the Appointing Authority of the receiving agency shall give the employee credit for all unused sick leave accumulations.

(9) Employees shall not be compensated for accumulated sick leave when they separate from state service.

(10) If an absence because of illness or injury extends beyond the sick leave an employee has accumulated, the Appointing Authority may charge additional absence to the employee's annual leave accumulations.

(11) Unless it is against the law, an Appointing Authority shall approve sick leave when an employee is absent due to illness or injury and receiving Oklahoma State Workers Compensation benefits.

(12) If an employee leaves the state service on or after October 1, 1992, and is reemployed within a period of 2 years from the date of separation, the Appointing Authority may reinstate all or a part of the unused sick leave accumulated during the previous period of continuous employment with the state [74:840-2.20(A) (6)].

(13) There is no limit on sick leave accumulations.

[Source: Added at 31 Ok Reg 1346, eff 9-12-14]