

SICK LEAVE
Revised July 2013

SECTION: 26

A. PURPOSE

In order to minimize the financial hardships that may result from absences from work, Tooele City provides sick leave benefits to qualifying employees who are approved to be absent from work for certain qualifying purposes.

B. LEAVE ACCRUAL

1. Regular and Appointed status employees whose contemplated work schedule is 40 hours per week accrue up to 3.7 hours of sick leave per pay period. Eligible employees whose contemplated schedule is less than 40 hour per week accrue sick leave on a prorated basis according to the number of hours they work each pay period.
2. Employees whose compensation from Tooele City payroll falls below their regular bi-weekly salary (i.e., an employee is off work due to short-term disability) accrue sick leave on a prorated basis according to the number of hours for which they receive payment from Tooele City payroll.
3. There is no maximum accrual limit for sick leave.

C. ELIGIBLE USES

Use of sick leave is a privilege extended to employees by their supervisor and its use is not an acquired right. Established attendance policies apply regarding approval for absences. Once accrued, sick leave may be used for the following reasons:

Reasons Relating to Employee	
Eligible Uses	Examples of Ineligible Uses or Abuse Indicators
<ul style="list-style-type: none"> • Temporary incapacity due to illness or injury making the employee unable or unfit to perform the duties of his/her job; • Infection with, or verified exposure to, a contagious illness or disease such that his or her presence on the job might jeopardize the health of others; • Incapacity due to hospitalization, surgery, medical recovery, or home bound restriction; • Employee's medical appointments that cannot reasonably be scheduled during non-work hours; • Maternity prenatal care, birth, or recovery from birth; or, • Temporary incapacity following death if employee is also approved for FMLA as a qualifying serious medical condition. If not approved for FMLA, sick leave may not be used to cover the absence. 	<ul style="list-style-type: none"> • Mental health days not otherwise protected by FMLA; • General irresponsibility such as oversleeping in the morning or not hearing an alarm; hangovers; sunburn, worn out; etc.; • Taking more sick leave than needed such as taking 8 hours of sick leave when the appointment could be completed in 4 hours; • Sick leave use that appears to follow an unjustified pattern or is excessively on certain days such as Monday or Friday; • Requesting to use sick leave when the original absence was otherwise not due to sickness such as proclaiming to have gotten sick while on an out-of-area vacation; • Inability to produce satisfactory verification of need for leave when requested; • Conflicting or changing verifications of need for leave from employee or medical provider; • Using sick leave after giving notice of resignation; or, • Engaging in activities that conflict with the stated need for leave (i.e. home bound but is seen shopping).

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Reasons Relating to Employee's Family	
Eligible Uses	Examples of Ineligible Uses or Abuse Indicators
<ul style="list-style-type: none"> • When the employee is needed to attend to the employee's spouse or dependent children (under age 18 or permanently disabled adult child dependent upon parent and claimed on taxes) as a result of scheduled medical appointments that cannot reasonably be scheduled during non-work hours; hospitalization, medical recovery, illness, or infection with exposure to contagious disease; or, • When the employee is needed to provide for medical care and/or attendance to medical issues for a member of the employee's family living in the employee's household. 	<ul style="list-style-type: none"> • Lack of day care provider; • Taking more sick leave than needed such as taking 8 hours of sick leave when the appointment could be completed in 4 hours but employee took the rest of the day off (4 hours annual leave should be used); or, • Sick leave use that appears to follow an unjustified pattern or is excessively on certain days such as Monday or Friday.

Reasons Approved as FMLA-Protected Leave May Run Concurrently With Sick Leave	
Eligible Uses	Examples of Ineligible Uses or Abuse Indicators
<ul style="list-style-type: none"> • FMLA-protected mental health absences; • Bonding with a newborn or newly adopted child under age 18, for up to the first six months of life or up to the first six months from date of placement; • For the employee acting as the primary caregiver for a wounded armed services member who is a spouse, child (no age limitation), or biological, step-, or in-law parent when no other primary caregiver support resources are practical; or, • When the employee is needed to provide for medical care of an ailing and/or aging biological or step parent when no other resources are practical. FMLA does not apply to in-law parents. This includes the need to be present to assist with making medical decisions or to assist with understanding during scheduled medical appointments, to provide transportation for scheduled medical appointments, or to provide care during recovery from a serious medical condition. 	<ul style="list-style-type: none"> • Lack of day care • Attending to in-law parent as this is not FMLA-protected leave; • Attending to a parent in locus may be FMLA-approved leave but does not qualify for concurrent sick leave use; • Misrepresenting need for leave as sick leave as FMLA-protected; or, • Sick leave use that appears to follow an unjustified pattern or is excessively on certain days such as Monday or Friday.

Other Reasons that May Run Concurrently with Disability Insurance and/or FMLA	
Worker's Compensation	Employees who are absent from work due to an approved workers' compensation claim, and remain active on Tooele City payroll, may use accrued leave to supplement the workers' compensation benefit to receive a combined total not exceeding 100% of pre-injury/illness pay. Sick leave balances are forfeited if an employee is no longer active on Tooele City payroll.
Short-term Disability (STD)	Employees who miss work due to an approved STD claim, and remain active on Tooele City payroll, may use accrued leave to supplement the STD benefits to receive a combined total not exceeding 100% of pre-injury/illness pay. Leave balances are forfeited if an employee is no longer active on Tooele City payroll.
Long-term Disability (LTD)	Employees receiving LTD benefits are evaluated on a case-by-case basis including consideration pursuant to the requirements of the American's with Disabilities Act, if applicable. The specific facts relevant to the employee's disability, approved leave, ability to return to work, etc. are considered. Sick leave balances are forfeited if an employee is no longer active on Tooele City payroll due to LTD approval.

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D. LIMITATION ON USE WITH OUTSIDE EMPLOYMENT

Sick leave may not be used to cover absences when an employee is working outside employment and performing duties that are similar to those performed for Tooele City. Tooele City does not wish to discourage employees from seeking outside employment but must ensure that employees are not misrepresenting their need to be absent or abusing sick leave benefits. An employee may request to use sick leave in such circumstance by showing that the duties of the outside employment are dissimilar and that a condition requiring absence from City employment does not preclude outside employment. If permission is not given or verification is requested by Tooele City and the employee does not provide it, the employee will be deemed to be misrepresenting their need for leave and may be subject to disciplinary action, up to and including separation.

E. REQUIREMENT TO USE

1. When an employee is absent for eligible reasons and has a sick leave balance, Tooele City will reduce his/her available leave balance by an amount equivalent to 100% of the normal bi-weekly pay less equivalent payments made by a City-sponsored insurance provider, if applicable. Employees may opt-out of the reduction requirement if the absence is covered by available annual leave, due to military leave or, if the employee is receiving full or partial wage replacement from the City's worker's compensation or disability insurance provider.
2. For a part-time employee, the calculation for required leave reduction is the normal bi-weekly rate of pay or the established benefit eligibility hours, whichever is less.

F. ABUSE / LEAVE RESTRICTION / VERIFICATION

Tooele City reserves the right to ensure that sick leave is being used according to this Section, in a manner that is not abusive, and in a manner that does not adversely impact the work environment. Tools that managers may use include, but are not limited to:

1. **Leave Restriction Notice.** When work is or has the potential to be adversely impacted, or when sick leave abuse is suspected, supervisors may issue a leave restriction notice to an employee as a tool to address leave concerns. Putting an employee on a leave restriction is a matter of management discretion but the human resource office should be consulted prior to issuing a leave restriction to ensure that FMLA or other legally protected rights are not adversely impacted. Such leave restrictions are a corrective action tool and are non-punitive. Leave restriction notices may also be issued when necessary to meet business needs such as limited staffing, special projects, seasonal work requirements, emergencies, etc.
2. **Verification.** Any employee using sick leave to cover an absence which exceeds five working days should be supported by a medical certification deemed acceptable to Tooele City, unless the employee has been approved for FMLA-protected leave for the absence. When excessive or recurring sick leave is being used or when Tooele

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City suspects misuse or abuse, a doctor's diagnosis or other evidence of the need for leave may be required for absences of less than five days. Tooele City reserves the right to use tools available under the Family and Medical Leave Act to verify the need for leave, including obtaining 1st, 2nd, and 3rd opinions as well as all other tools required by insurance providers.

3. **Denial.** An employee found to be misrepresenting their need for leave or using leave for ineligible purposes may be denied payment of sick leave.
4. **Discipline.** Employees may be disciplined consistent with Tooele City's disciplinary procedures.

G. SAME DAY AS HOLIDAY

A holiday that falls on a regular working day within a period when sick leave is being taken will be credited as a holiday and not as a day of sick leave.

H. REINSTATEMENT OF SICK LEAVE IF REHIRED AFTER REDUCTION IN FORCE

Accrued sick leave available to an employee at the time of a reduction in force is again available if rehired within twelve months from the reduction.

I. SICK LEAVE ADVANCE

If short-term disability benefits are not in effect and in the event of an extended eligible need, the Mayor may grant an advance of sick leave equivalent to the amount that would be accrued through the end of the calendar year. The following are instances that may justify the extension of sick leave: (1) Absence due to injury; (2) Extended absence due to major illness or surgery; or (3) Other reasonable absences due to sickness or injury when no pattern of absence or abuse of the sick leave privilege has been demonstrated.

J. SICK LEAVE ANNUAL PAY-OUT

During January, employees may elect to be paid for one-fourth (25%) of the sick leave they accumulated during the prior calendar year but did not use. For example: an employee who accumulates 3.7 hours per pay period, worked 26 pay period, and used 15 hours sick leave during the calendar year would be paid out 20.3 hours ($3.7 \times 26 = 96.2$, $96.2 - 15 = 81.2$, $81.2 \times 25\% = 20.3$ hours).

K. PROVISIONS RELATING TO SEPARATION FROM EMPLOYMENT

An employee separating from Tooele City is not compensated for unused sick leave except that accrued sick leave available to an employee at the time of separation is again available to him or her upon returning to service as long as the employee returns within 12 months of separation from service.

L. PROVISIONS RELATING TO RETIREMENT

See Section 30: Retirement, herein this Policies and Procedures Manual, for specific provision relating to retiree sick leave conversions.