**R477. Government Operations, Human Resource Management.**

**R477-7. Leave.**

**R477-7-1. Conditions of Leave.**

(1) An employee is eligible for a leave benefit when:

(a) in a position designated by management as eligible for benefits; and

(b) in a position which normally requires working a minimum of 40 hours per pay period.

(2) An eligible employee accrues annual, sick, and holiday leave in proportion to the time paid as determined by DHRM.

(3) An employee shall use leave in no less than quarter hour increments.

(4) An employee may not use annual or sick leave before it is accrued. Leave accrued during a pay period may not be used until the following pay period.

(5) An employee may not use annual leave, converted sick leave used as annual leave, or use excess or compensatory hours without advance approval by management.

(6) Management may not require employees to maintain a minimum balance of accrued leave.

(7) An employee may not use any type of leave except military and jury leave to accrue excess hours.

(8) Any leave used for purposes described in Subsection R477-7-4(2) is subject to the requirements of Subsections R477-7-4(6) and (7).

(9) An employee transferring from one agency to another retains any accrued annual, sick, and converted sick leave at the new agency.

(10) Management shall make a lump sum payment to an employee separating from state service or changing from a benefited to a non-benefited position for:

(a) annual leave hours;

(b) excess leave hours;

(c) compensatory hours earned by a FLSA non-exempt employee; and

(d) converted sick leave if the employee is not retiring under Title 49, Utah State Retirement and Insurance Benefit Act.

(11) Management may not approve the use of leave after an employee's last day worked except for:

(a) leave without pay;

(b) administrative leave;

(c) leave granted under the FMLA; or

(d) leave granted for other medical or pregnancy related reasons that management approved before the commencement of the leave period.

(12) Management may separate an employee from employment after 18 workweeks cumulative leave in a 24 month period regardless of paid leave status unless prohibited by state or federal law. This rule incorporates by reference 29 CFR 825.205 (March 21, 2021) for purposes of calculating workweeks. The agency head shall make the decision to separate the employee in consultation with DHRM.

(13) Management may not pay contributions to benefits on cashed out leave, other than FICA tax, except as it applies to converted sick leave in Subsection R477-7-5(2) and the retirement benefit in Section R477-7-6.

(14) Management may not deny a leave request from a member of the State Legislature who requests leave under Section 63A-17-513.

**R477-7-2. Holiday Leave.**

(1) The following dates are paid holidays for eligible employees:

(a) New Year's Day -- January 1;

(b) Dr. Martin Luther King Jr. Day -- third Monday of January;

(c) Washington and Lincoln Day -- third Monday of February;

(d) Memorial Day -- last Monday of May;

(e) Juneteenth -- observed as follows:

(i) June 19 if that day is on a Monday;

(ii) If June 19 is on a Tuesday, Wednesday, Thursday, or Friday, the holiday is observed on the immediately preceding Monday; or

(iii) If June 19 is on a Saturday or Sunday, the holiday is observed on the immediately following Monday.

(f) Independence Day -- July 4;

(g) Pioneer Day -- July 24;

(h) Labor Day -- first Monday of September;

(i) Columbus Day -- second Monday of October;

(j) Veterans' Day -- November 11;

(k) Thanksgiving Day -- fourth Thursday of November;

(l) Christmas Day -- December 25; and

(m) any other day designated as a paid holiday by the Governor.

(2) If a holiday falls or is observed on a regularly scheduled day off, management shall grant an eligible employee equivalent time off or excess hours, not to exceed eight hours.

(a) Except as described in Subsection (1)(e), if a holiday falls on a Sunday, the following Monday shall be observed as a holiday.

(b) Except as described in Subsection (1)(e), if a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.

(3) If an employee is required to work on an observed holiday, management shall grant the employee appropriate holiday leave or excess hours.

(4) Management may not grant holiday pay to a new hire before the employee is in a paid status.

(5) Management may not grant holiday pay to a separating employee unless the employee is in a paid status on or after the holiday.

**R477-7-3. Annual Leave.**

(1) An eligible employee accrues leave based on the following years of benefits eligible state service:

(a) less than five years -- four hours per pay period;

(b) at least five and less than ten years -- five hours per pay period;

(c) at least ten and less than 20 years -- six hours per pay period; or

(d) 20 years or more -- seven hours per pay period.

(2) The following employees shall accrue seven hours of annual leave per pay period, effective from the day the employee is appointed through the duration of the appointment:

(a) schedule AB employees;

(b) agency deputy directors;

(c) division directors appointed to career service exempt positions; and

(d) an employee who is schedule A, FLSA exempt, and who has a direct reporting relationship to an executive director, deputy director, commissioner, or board.

(3) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on any eligible employment in which the employee accrued leave.

(4) An employee's personal preference day under Subsection 63G-1-301(1)(d) is taken as annual leave, subject to all annual leave procedures.

(5) Management may not restrict the use of annual leave used in a calendar year to less than the amount the employee accrues in the year.

(6) An employee forfeits unused accrued annual leave time exceeding 320 hours during year end processing for each calendar year unless the DHRM Division Director authorizes an extension to this timeframe for a specific number of hours.

(7) An agency may payout an employee's annual leave hours under conditions not connected with separation from employment with authorization from the DHRM Division Director and GOPB.

**R477-7-4. Sick Leave.**

(1) An eligible employee accrues sick leave, not to exceed four hours per pay period. Sick leave accrues without limit.

(2) Management may approve the use of sick leave when:

(a) an employee becomes a parent as described in Subsection R477-7-20(5);

(b) an employee is absent from duty because of illness, injury, or disability of the employee, their spouse, their child, their parent, or any individual for whom the employee is a legal guardian;

(c) any individual listed in Subsection (2)(b) receives preventive health or dental care; or

(d) a qualifying FMLA purpose.

(3) Agency management may approve the use of sick leave for other unique medical situations.

(4) When management approves the use of sick leave, an employee may use any combination of Program I, Program II, and Program III sick leave.

(5) An employee shall contact management before the beginning of the scheduled workday the employee is absent due to illness or injury.

(6) Management shall require an employee to produce administratively acceptable evidence to support any request for leave to cover an absence that exceeds three consecutive working days.

(7) Management may require an employee to produce administratively acceptable evidence regardless of the number of leave hours used for the reasons in Subsection (2) or (3) if there is reason to believe that an employee is using the leave for reasons not listed in Subsection (2) or (3).

(8) An employee separating from state employment forfeits any unused sick leave without compensation unless the leave is utilized for the sick leave retirement benefit under Section R477-7-6.

(a) Management shall reinstate forfeited sick leave when an employee is rehired into a benefited position within one year of separation due to a reduction in force. Sick leave shall be reinstated as Program I, Program II, and Program III as accrued before the reduction in force.

(b) Management shall reinstate forfeited sick leave when an employee is appointed to a benefits eligible position within one year of leaving a benefits eligible position for reasons other than a reduction in force. Reinstated sick leave shall be Program III sick leave.

(c) Management may not reinstate forfeited sick leave when an employee retires from state service under Title 49, Utah State Retirement and Insurance Benefit Act and is rehired.

**R477-7-5. Converted Sick Leave.**

(1) An employee may not accrue converted sick leave hours on or after January 3, 2014. Converted sick leave hours accrued before January 3, 2014 may be used for retirement under Subsection R477-7-5(6) or cashed out if the employee leaves employment.

(a) Converted sick leave hours accrued before January 1, 2006 shall remain Program I converted sick leave hours.

(b) Converted sick leave hours accrued after January 1, 2006 shall remain Program II converted sick leave hours.

(2) An employee may use converted sick leave as annual leave or as regular sick leave.

(3) When management approves the use of converted sick leave, an employee may use any combination of Program I and Program II converted sick leave.

(4) Employees retiring from LTD who have converted sick leave balances still intact may use these hours for the unused converted sick leave retirement program when they become eligible for retirement.

(5) Upon retirement under Title 49, Utah State Retirement and Insurance Benefit Act, management shall place 25% of the value of an employee's unused converted sick leave, but not to exceed Internal Revenue Service limitations, in the employee's 401(k) account as an employer contribution.

(a) Management shall place converted sick leave hours from Program II in the 401(k) account before hours from Program I.

(b) The employee may use any remaining converted sick leave for:

(i) the purchase of health care insurance and life insurance under Subsection R477-7-6(3)(a) if the converted sick leave was accrued in Program I ; or

(ii) a contribution into the employee's PEHP health reimbursement account under Subsection R477-7-6(6)(b) if the converted sick leave was accrued in Program II.

(6) Upon retirement under Title 49, Utah State Retirement and Insurance Benefit Act, an employee may not suspend or defer for future use any Program I converted sick leave hours. This includes retired employees who reemploy with the state and choose to suspend their defined benefit payments and employees participating in phased retirement.

**R477-7-6. Sick Leave Retirement Benefit.**

Upon retirement from active employment or LTD under Title 49, Utah State Retirement and Insurance Benefit Act, including when a retirement eligible employee passes away, management shall grant an employee or surviving spouse an unused sick leave retirement benefit under Sections 63A-17-507 and 63A-17-508.

(1) An employee in the Tier I retirement system or the Tier II hybrid retirement system becomes eligible for this benefit when actively retiring under Title 49, Utah State Retirement and Insurance Benefit Act.

(2) An employee in the Tier II defined contribution system becomes eligible when terminating employment on or after the retirement date established by the Utah Retirement Systems. This date reflects service time accrued by the employee as if the employee were in the Tier II hybrid retirement system.

(3)(a) Sick leave hours accrued before January 1, 2006 shall be Program I sick leave hours.

(b) Sick leave hours accrued on or after January 1, 2006, but before January 4, 2014, shall be Program II sick leave hours.

(c) Sick leave hours accrued on or after January 4, 2014, shall be Program III sick leave hours, which shall have no benefit upon retirement.

(4) Management may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive retirement benefits. Any decision whether or not to participate in this program shall be agency wide and shall be consistent through an entire fiscal year. If management decides to withdraw for the next fiscal year after initially deciding to participate, management shall notify its employees at least 60 days before the new fiscal year begins.

(5) The Unused Sick Leave Retirement Options Program I provides an employee in a participating agency the following benefit.

(a) Management shall place 25% of the value of the unused sick leave and converted sick leave, but not to exceed Internal Revenue Service limitations, in the employee's 401(k) account as an employer contribution.

(b) Management shall place sick leave hours from Program II in the employee's 401(k) account before hours from Program I.

(c) After the 401(k) contribution, management shall use the remaining Program I sick leave hours and converted sick leave hours from Subsection R477-7-5(5)(b)(i) to provide the following benefit:

(i) The purchase of PEHP health insurance, or a state approved program, and life insurance coverage for the employee until the employee reaches the age eligible for Medicare.

(A) Health insurance is the same or lower level than the level the employee has when they retire pursuant to Section 63A-17-507.

(B) The purchase rate is eight hours of sick leave or converted sick leave for the state paid portion of one month's premium.

(C) The employee shall pay the same percentage of the premium as a current employee on the same plan. The premium amount shall be determined from the approved PEHP retiree rate and not the active employee rates.

(D) The life insurance provided is the minimum authorized coverage provided for state employees when the employee retires.

(ii) When the employee becomes eligible for Medicare, the employee may purchase a Medicare supplement policy provided by PEHP at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(iii) When the employee becomes eligible for Medicare, the employee may purchase a PEHP health insurance policy, or another state approved policy, for a spouse until the spouse is eligible for Medicare.

(A) The purchase rate is eight hours of sick leave or converted sick leave for one month's premium.

(B) The employee shall pay the same percentage of the premium as a current employee on the same plan. The premium amount shall be determined from the approved PEHP retiree rate and not the active employee rates.

(iv) When the spouse reaches the age eligible for Medicare, the employee may purchase a Medicare supplement policy provided by PEHP for the spouse at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(v) In the event an employee is killed in the line of duty, the employee's spouse is eligible to use the employee's available sick leave hours for the purchase of additional medical coverage under Section 63A-17-804.

(d) Employees retiring from LTD who have sick leave balances still intact may use these hours for the unused sick leave retirement program when they become eligible for retirement.

(e) Upon retirement under Title 49, Utah State Retirement and Insurance Benefit Act, an employee may not suspend or defer for future use any Program I sick leave hours. This includes retired employees who reemploy with the state and choose to suspend their defined benefit payments and employees participating in phased retirement.

(6) The Unused Sick Leave Retirement Option Program II provides an employee the following benefit:

(a) Management shall place 25% of the value of the unused sick leave and converted sick leave, but not to exceed Internal Revenue Service limitations, in the employee's 401(k) account as an employer contribution.

(b) After the 401(k) contribution, management shall deposit the remaining sick leave hours and the converted sick leave hours from Subsection R477-7-5(5)(b)(ii) in the employee's PEHP health reimbursement account at the greater of:

(i) the employee's rate of pay at retirement; or

(ii) the average rate of pay of state employees who retired in the same retirement system in the previous calendar year.

(c) A retired employee who is reemployed in a benefited position with the state is not eligible for a benefit calculated on any Program II sick leave hours unless:

(i) the employee voluntarily suspends their pension;

(ii) the employee was separated for one year or more;

(iii) the employee was reemployed before January 2, 2014; and

(iv) the employee works for two years or more after reemployment to receive this benefit.

(7) A retired employee who is reemployed in a benefited position with the state after January 3, 2014 accrues Program III sick leave, which has no benefit upon subsequent retirement.

**R477-7-7. Administrative Leave.**

(1) Management may grant administrative leave to any employee consistent with agency policy for the following reasons:

(a) administrative;

(i) governor approved holiday leave;

(ii) during management decisions that benefit the organization;

(iii) when no work is available due to unavoidable conditions or influences; or

(iv) other reasons consistent with agency policy;

(b) protected;

(i) suspension with pay pending hearing results;

(ii) personnel decision-making before discipline;

(iii) removal from adverse or hostile work environment situations;

(iv) fitness for duty or employee assistance; or

(v) other reasons consistent with agency policy;

(c) reward in lieu of cash;

(i) the agency head or designee may grant paid administrative leave up to one day per occurrence;

(ii) management may not grant administrative leave exceeding one day without written approval from the agency head;

(iii) management may not grant more than 40 hours of administrative leave per fiscal year as a reward in lieu of cash;

(iv) management may grant administrative leave as a reward in lieu of cash to employees of another agency if both agency heads agree in advance; or

(d) employee education assistance.

(2) Management shall grant an employee up to two hours of administrative leave to vote in an official election if the employee has fewer than three total hours off the job between the time the polls open and close, and the employee applies for the leave at least 24 hours in advance. Management may specify the hours when the employee may be absent.

(3) Management shall include employees who are on leave under the FMLA or military leave under USERRA in a grant of administrative leave for non-performance based purposes if the leave would have been given had the employee been in a working status.

(4) Administrative leave taken shall be documented in the employee's leave record.

(5) Administrative leave is not an employee right and management may grant it disparately within its workforce depending on agency needs.

**R477-7-8. Jury Leave.**

(1) An employee is entitled to a leave of absence from a regularly scheduled work day with full pay when answering a jury summons or serving on a jury and may choose:

(a) to use their own accrued leave and keep juror's fees; or

(b) to use jury leave and return any juror's fee to agency finance or agency payroll staff for deposit with the State Treasurer.

(2) An employee on jury leave may accrue excess hours in the same pay period during which the jury leave is used.

(3) An employee who participates in a court or administrative proceeding in any capacity as part of the employee's position, in obedience to a subpoena, under direction by proper authority, or as directed by management, shall record such time as work time and may not use jury leave.

(4) An employee may not use work time or jury leave when absent to litigate matters unrelated to state employment.

**R477-7-9. Bereavement Leave.**

Upon request from the employee, management shall grant at least three work days of bereavement leave per occurrence with pay following the death of a member of the employee's immediate family or when a pregnancy ends in miscarriage or stillbirth under the conditions set forth in Section 63A-17-106.

(1) "Immediate Family" means relatives of the employee or spouse including in-laws, step-relatives, or equivalent relationship as follows:

(a) spouse;

(b) parents;

(c) siblings;

(d) children;

(e) any level of grandparents; or

(f) any level of grandchildren.

(2) Management may grant bereavement leave for other unique family relationships.

(3) Management may not charge bereavement leave against an employee's accrued leave balances.

**R477-7-10. Military Leave.**

Under Section 71A-8-102, management shall grant up to 160 hours of paid military leave each calendar year to a benefited or non-benefited employee who is a member of the National Guard or Military Reserves and is on official military orders. Military leave for part-time employees is prorated to be no more than the average hours worked in the last 12 months, or if employed less than 12 months, the average hours worked since the date of hire.

(1) An eligible employee may use any combination of military leave, accrued leave, or leave without pay under Section R477-7-13.

(2) An eligible employee may only use accrued sick leave if the reason for leave meets the conditions in Section R477-7-4.

(3) An employee on military leave is eligible for any service awards or non-performance administrative leave the employee would otherwise be eligible to receive.

(4) An employee shall notify management of official military orders as soon as possible.

(5) Upon an employee's release from official military orders under honorable conditions, management shall place the employee in a position in the following order of priority.

(a) If the period of service was for less than 91 days, management shall place the employee:

(i) in the same position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in the same position the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(b) If the period of service was for more than 90 days, management shall place the employee:

(i) in a position of like seniority, status, and salary, of the position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in a position of like seniority, status, and salary the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(c) When a disability is incurred or aggravated while on official military orders, the employing agency shall adhere to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301, et seq.

(d) An employee is entitled to reemployment rights and benefits including increased pension and leave accrual to which the employee would have been entitled had the employee not been absent due to military service. An employee entering military leave may elect to have payment for annual leave deferred.

(6) To be reemployed, an employee shall present evidence of military service, and:

(a) for service less than 31 days, return at the beginning of the next regularly scheduled work period on the first full day after release from service unless impossible or unreasonable through no fault of the employee;

(b) for service of more than 30 days but less than 181 days, submit a request for reemployment within 14 days of release from service, unless impossible or unreasonable through no fault of the employee; or

(c) for service of more than 180 days, submit a request for reemployment within 90 days of release from service.

**R477-7-11. Disaster Relief Volunteer Leave.**

(1) An agency head or designee may grant an employee leave from work with pay for an aggregate of 15 working days in any 12-month period to participate in disaster relief services for a non-governmental disaster relief organization. An employee is not eligible for disaster relief volunteer leave unless they are certified as a disaster relief volunteer and file a written request with the employing agency. The request shall include:

(a) a copy of a written request for the employee's services from an official of the disaster relief organization;

(b) the anticipated duration of the absence;

(c) the type of service the employee is to provide; and

(d) the nature and location of the disaster where the employee's services will be provided.

(2) Management may not dismiss an employee who is absent from or late to work if the absence or tardiness was a result of the employee acting as an emergency services volunteer as defined in Section 34-55-102.

(a) Management may request a written statement to verify the employee's status as an emergency services volunteer.

(b) An emergency services volunteer is not entitled to paid leave except as provided in Subsection (1), but may use their own accrued leave or leave without pay.

**R477-7-12. Organ Donor Leave.**

Management shall grant an employee who serves as a bone marrow or human organ donor paid leave for the donation and recovery as follows:

(1) up to seven days of paid leave for donation of bone marrow; and

(2) up to 30 days of paid leave for donation of a human organ.

**R477-7-13. Leave Without Pay.**

(1) An employee shall apply in writing to management and receive management's approval before taking leave without pay.

(2) Management may not grant leave without pay unless the employee is expected to return to work.

(3) Management may deny a request for leave without pay when documentation from one or more qualified healthcare providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position unless by state or federal law requires the leave to be granted.

(4) An employee who receives no compensation for a complete pay period shall be responsible for payment of the full premium of state provided benefits.

(5) Management shall place an employee who returns to work on or before the expiration of leave without pay in a position with comparable pay and seniority to the previously held position.

(6) Upon request, an employee who is granted this leave shall provide a monthly return to work status update to the employee's supervisor.

**R477-7-14. Furlough.**

Management may furlough employees as a means of saving salary costs in lieu of or in addition to a reduction in force. The agency head shall approve furlough plans subject to the following conditions:

(1) Furlough hours count for purposes of annual, sick, and holiday leave accrual.

(2) Management pays for any state paid benefits:

(a) at the full rate for benefits with fixed costs, regardless of how many days an employee is furloughed; and

(b) as a percentage of actual wages for benefits paid as a percentage of actual wages, including a pay period with no actual wages.

(3) An employee who is furloughed is responsible to pay the employee portion of any benefits. Voluntary benefits remain entirely at the employee's expense.

(4) An employee shall return to the current position.

(5) Management shall apply the furlough equitably to any person in a given class, program staff, or organization.

**R477-7-15. Family and Medical Leave.**

(1) An eligible employee may take up to 12 workweeks of family and medical leave each calendar year for any of the following qualifying reasons:

(a) birth of a child;

(b) adoption of a child;

(c) placement of a foster child;

(d) a serious health condition of the employee;

(e) care of a spouse, child, or parent with a serious medical condition; or

(f) a qualifying exigency arising as a result of a spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces.

(2) An eligible employee may take up to 26 workweeks of family and medical leave during a 12-month period to care for a spouse, son, daughter, parent, or next of kin who is a covered servicemember as defined by the National Defense Authorization Act.

(3) An employee on FMLA leave continues to receive the same health insurance benefits the employee was receiving before the commencement of FMLA leave provided the employee pays the employee share of the health insurance premium.

(4) An employee on FMLA leave receives any administrative leave given for non-performance based reasons if the leave would have been given had the employee been in a working status.

(5) An employee is eligible for family and medical leave when the employee:

(a) has been employed by the state for at least 12 months; and

(b) has worked 1,250 hours or more, as determined under FMLA, during the 12-month period immediately preceding the commencement of leave.

(6) To request FMLA leave, the employee or an appropriate spokesperson shall notify management of the need for leave:

(a) thirty days in advance for foreseeable needs; or

(b) as soon as practicable in emergencies.

(7) An employee may use accrued annual leave, sick leave, converted sick leave, excess hours and compensatory time before going into leave without pay status for the designated period of family and medical leave.

(a) An employee who chooses to use accrued annual leave, sick leave, converted sick leave, excess hours, and compensatory time before going into leave without pay status for the family and medical leave period shall notify the direct supervisor.

(b) If an employee fails to notify the direct supervisor under this subsection, accrued leave will be used to pay the employee's payroll deductions in the following order:

(i) first, Program III sick leave;

(ii) second, compensatory time, excess leave, or annual leave; and

(iii) third, converted sick leave, Program II sick leave, or Program I sick leave.

(8) When an employee chooses to use FMLA leave, management shall designate as FMLA leave any absences related to that qualifying event which occurred when the employee was eligible for FMLA.

(9) An FMLA eligible employee with a serious health condition covered under workers' compensation may use FMLA leave concurrently with the workers' compensation benefit.

(10) If an employee has gone into leave without pay status and fails to return to work after FMLA leave has ended, management may recover, with certain exceptions under 29 CFR 825.213, the health insurance premiums paid by management on the employee's behalf. An employee is considered to have returned to work if the employee returns for at least 30 calendar days.

(11) When leave is taken after childbirth or placement of a healthy child for adoption or foster care, an employee may not take leave intermittently or on a reduced leave schedule unless the employer agrees.

(12) Medical records created for purposes of FMLA and the Americans with Disabilities Act, 42 U.S.C. 12102 are subject to the confidentiality requirements set forth in Section R477-2-5.

**R477-7-16. Workers' Compensation Leave.**

(1) An employee may use accrued leave benefits to supplement the workers' compensation benefit.

(a) The combination of paid leave, wages, and workers' compensation time-loss benefit may not exceed the gross pay the employee would have received if the accident had not intervened.

(b) An employee may not use accrued leave to supplement the workers' compensation benefit when:

(i) the employee is declared medically stable by a licensed medical authority;

(ii) the workers compensation fund terminates the benefit;

(iii) the employee refuses to accept appropriate employment offered by the state; or

(iv) the employee is notified of approval for Long Term Disability or Social Security Disability benefits.

(c) An employee shall refund to the state any accrued leave paid which exceeds the gross pay the employee would have received if the accident had not intervened.

(2) Workers' compensation hours count for purposes of annual, sick, and holiday leave accrual while the employee is receiving a workers' compensation time-loss benefit for up to six months from the last day worked in the regular position.

(3) Health insurance benefits continue for an employee on leave without pay while receiving workers' compensation benefits. The employee is responsible for the payment of the employee share of the premium.

(4) If an employee can return to work in the employee's regular position, management shall place the employee in the previously held position or a similar position at a comparable salary range.

(5) If an employee cannot return to work in the regular position, or if documentation from one or more qualified health care providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position, management may separate the employee from state employment unless prohibited by state or federal law. Exceptions may be granted by the agency head in consultation with DHRM.

(6) Management shall take disciplinary action under Rule R477-11 when an employee files a fraudulent workers compensation claim.

**R477-7-17. Long Term Disability Leave.**

(1) Upon approval of an LTD claim:

(a) Management shall stop biweekly salary payments to the employee.

(b) Management shall pay the employee for any remaining balances of annual leave, excess hours, and compensatory hours earned by FLSA non-exempt employees in a lump sum payment unless the employee requests in writing to receive it upon separation from state employment. Upon return to work from an approved leave of absence, the employee may buy back annual leave at the current hourly rate.

(c) An employee with a converted sick leave balance when they are approved for LTD may choose to receive a lump sum payout of any part of the balance or to keep the balance intact to pay for health and life insurance upon retirement. The payout shall be at the employee's wage rate when they are approved for LTD.

(d) An employee who has been separated from state employment but retires under Title 49, Utah State Retirement and Insurance Benefit Act while receiving LTD may utilize unused sick leave for health and life insurance under Section R477-7-6 when the employee is otherwise eligible for the sick leave retirement benefit.

(2) An employee in the Tier I retirement system shall continue to accrue service credit for retirement purposes while receiving long term disability benefits.

(3) An employee who was not separated from employment may return to work following long term disability when they provide an administratively acceptable medical release allowing a return to work.

(4) Long term disability benefits are provided to eligible employees under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

**R477-7-18. Disabled Law Enforcement Officer Amendments.**

(1) When a law enforcement officer or state correctional officer, as defined in Section 63A-17-512, is injured in the course of employment, as defined in Section 63A-17-512, management shall approve a leave of absence with 100% of the officer's regular monthly salary and benefits:

(a) during the period the employee has a temporary disability; or

(b) in the case of a total disability, until the employee is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act or reaches the retirement age of 62 years, whichever occurs first.

(2) The eligible employee shall disclose to management any time-loss benefit amounts received by, or payable to, the employee, from outside sources, as soon as the employee is made aware. These amounts do not include benefits received from sources in which the employee pays the full premium.

(3) Management shall apply Section R477-7-16, workers compensation leave, and Section R477-7-17, long term disability leave rules first. Management then adds any benefit amounts received under Subsection (2). If the total of these benefits is less than 100% of the employee's monthly salary and benefits, management shall make arrangements through payroll to pay the employee the difference.

(4) DHRM shall work with the Division of Risk Management, Workers' Compensation, and the Public Employee's Health Program on a periodic and case-by-case basis to assure that eligible employees receive full benefits. If at any time it is discovered that the employee is receiving less than 100% of their regular monthly salary and benefits, management shall make up the difference to the employee.

(5) If an employee discloses other time-loss benefits received under Subsection (2) after these additional payments by the agency have been made, the employee shall reimburse the agency for salary and benefits paid in overage.

**R477-7-19. Leave Bank.**

An agency head may approve the establishment of a leave bank program.

(1) A leave bank program shall include an agency policy with the following provisions.

(a) A statement that access to the leave bank is not an employee right and shall be authorized at management's discretion.

(b) A requirement that any application for leave from the leave bank be supported by administratively acceptable medical documentation.

(c) A provision prohibiting leave donors, supervisors, managers, or management teams from reviewing any employee's medical certifications or physician statements.

(d) A requirement that an employee may not receive donated leave until any individually accrued leave is exhausted.

(e) A statement that leave is accrued if an employee receives sick leave donated from an approved leave bank program.

(f) A requirement that employees using donated leave request and receive written consent from the agency head to work a second job.

(g) A statement that only compensatory time earned by an FLSA non-exempt employee, annual leave, excess hours, and converted sick leave hours may be donated to a leave bank.

(h) A statement that only employees of agencies with approved leave bank programs may donate leave hours to another agency with a leave bank program and only if both agencies agree to allow the donation.

(2) Any medical records created for leave bank program purposes are subject to the confidentiality requirements of Section R477-2-5.

**R477-7-20. Parental and Postpartum Recovery Leave.**

(1) An employee is eligible for parental or postpartum recovery leave when the employee:

(a) is eligible for benefits under Subsections R477-6-8(1) and R477-7-1(1);

(b) is not reemployed post retirement as defined in Section 49-11-1202; and

(c) is not an employee of an independent entity as defined in Section 63E-1-102.

(2) An employee or a spokesperson shall notify management of their plan to use parental or postpartum recovery leave:

(a) thirty days in advance; or

(b) as soon as practicable in emergencies.

(3) Management may not charge parental or postpartum recovery leave against any accrued leave balance on the employee's record.

(4) Excess leave may be paid out as necessary to comply with this section.

(5) No person may interfere with an employee's intent to use parental or postpartum recovery leave or retaliate against an employee who receives parental or postpartum recovery leave.

(6) Parental leave is administered as follows:

(a) An employee is qualified for parental leave when the employee is assuming a parental role for a child or incapacitated adult and:

(i) is the child's biological parent;

(ii) is the spouse of the person who gave birth to the child;

(iii) is the adoptive parent of the child, unless the employee is the spouse of the pre-existing parent;

(iv) is the intended parent of a child born under a valid gestational agreement;

(v) is appointed the legal guardian of a child or incapacitated adult; or

(vi) is the foster parent of the child;

(b) Management shall grant up to three weeks of paid parental leave to an employee who gives notice that they intend to use paid parental leave;

(c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken parental leave.

(d) An employee may use parental leave within the six months immediately following the qualifying event from Subsection (6)(a); and

(e) An employee may use parental leave intermittently when:

(i) the employee and management have written mutual consent for intermittent use; or

(ii) a health care provider certifies the need for intermittent leave due to the child's serious health condition.

(f) Parental leave:

(i) runs concurrently with leave under the FMLA;

(ii) runs consecutively with postpartum recovery leave pursuant to Subsection (6)(f)(ii);

(iii) is limited to three weeks within any 12-month period;

(iv) does not increase when:

(A) more than one child is born from the same pregnancy;

(B) more than one child is adopted;

(C) the employee is appointed legal guardian of more than one minor child or incapacitated adult; or

(D) more than one foster child is placed in the employee's care.

(7) Postpartum recovery leave is administered as follows:

(a) An employee is qualified for postpartum recovery leave when the employee gives birth at 20 weeks or greater gestation;

(b) Management shall grant up to three weeks of paid postpartum recovery leave to an employee who gives notice that they intend to use paid postpartum recovery leave;

(c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken postpartum recovery leave;

(d) Postpartum recovery leave begins on the date the employee gives birth unless a health care provider certifies the medical necessity of an earlier start date;

(e) An employee shall use postpartum recovery leave in a single continuous period, unless otherwise authorized in writing by the director of the division; and

(f) Postpartum recovery leave:

(i) runs concurrently with leave under the FMLA;

(ii) runs consecutively with parental leave under Subsection (6) with postpartum recovery leave used first pursuant to restrictions in Subsection (d); and

(iii) does not increase when more than one child is born from the same pregnancy.

**R477-7-21. Safe Leave.**

(1) An employee is eligible for safe leave when the employee:

(a) is eligible for benefits under Subsections R477-6-8(1) and R477-7-1(1);

(b) is not reemployed post retirement as defined in Section 49-11-1202; and

(c) is not an employee of an independent entity as defined in Section 63E-1-102;

(d) is not an employee of the State Board of Education; and

(e) the employee has exhausted all annual, compensatory, and excess leave.

(2) An employee shall notify management of the intended start and stop dates of safe leave:

(a) seven days in advance; or

(b) as soon as practicable when circumstances beyond the employee's control prevent seven days of notice.

(3) Management may not charge safe leave against any accrued leave balance on the employee's record.

(4) No person may interfere with an employee's intent to use safe leave or retaliate against an employee who receives safe leave.

(5) Safe leave is administered as follows:

(a) An employee is qualified for safe leave when the employee or their immediate family member is the victim of domestic violence, sexual assault, stalking, or human trafficking. Immediate family members are parents, spouse, child, sibling, or any other individual whom the employee may claim as a dependent for purposes of state or federal income tax.

(b) Management shall grant up to one week of paid safe leave to an employee who gives notice that they intend to use safe leave.

(c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken safe leave.

(d) An employee may not use safe leave more than two years after the qualifying event from Subsection (5)(a) except to participate in a criminal proceeding related to the event.

(e) An employee may use safe leave intermittently.

(f) Safe leave:

(i) runs concurrently with leave under the FMLA, if applicable;

(ii) is limited to one week within a calendar year; and

(iii) does not increase when more than one qualifying event occurs in a single calendar year.

**KEY: holidays, leave benefits, vacations**

**Date of Last Change: July 1, 2025**

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