

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 the agency 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 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) An employee transferring from one agency to another retains any accrued annual, sick, and converted sick leave at the new agency.
- (9) An agency shall make a lump sum payment to an employee separating from state service 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.
- (10) 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 was approved prior to the commencement of the leave period.
- (11) 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.
- (12) An agency 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.

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) Independence Day -- July 4;
 - (f) Pioneer Day -- July 24;
 - (g) Labor Day -- first Monday of September;
 - (h) Columbus Day -- second Monday of October;
 - (i) Veterans' Day -- November 11;
 - (j) Thanksgiving Day -- fourth Thursday of November;
 - (k) Christmas Day -- December 25; and
 - (l) 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) If a holiday falls on a Sunday, the following Monday shall be observed as a holiday.
 - (b) 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 shall accrue leave based on the following years of benefits-eligible state service:
 - (a) less than 5 years -- four hours per pay period;
 - (b) at least 5 and less than 10 years -- five hours per pay period;

- (c) at least 10 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) The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.
- (5) Agency 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 in excess of 320 hours during year end processing for each calendar year.

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) Agency management may approve the use of sick leave for:
 - (a) preventive health and dental care;
 - (b) maternity;
 - (c) paternity;
 - (d) adoption care; or
 - (e) absence from duty because of illness, injury, or disability of:
 - (i) the employee;
 - (ii) a spouse;
 - (iii) children;
 - (iv) parents;
 - (v) an individual for whom the employee is a legal guardian; or
 - (vi) 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 prior to 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 sick 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 sick hours used if there is reason to believe that an employee is using sick leave for reasons not listed in Subsections (2) and (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 prior to 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 prior to 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 at the time 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 prior to 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) An agency 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 an agency decides to withdraw for the next fiscal year after initially deciding to participate, the agency 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 plan the employee has at the time of retirement.

(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 at the time 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 at the time 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 prior to 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 in excess of one day without written approval from the agency head;

(iii) management may not grant more than 40 hours of administrative leave 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) With the exception of administrative leave used as a reward under Subsection R477-7-7(1)(c), only the agency head or designee may grant paid administrative leave.

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

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

R477-7-8. Witness and Jury Leave.

(1) An employee is entitled to a leave of absence from a regularly scheduled work day with full pay when, in obedience to a subpoena or direction by proper authority, the employee is required to:

(a) appear as a witness as part of the employee's position for the federal government, the State of Utah, or a political subdivision of the state;

(b) serve as a witness in a grievance hearing under Section 63A-17-602 and Title 67, Chapter 19a, Grievance Procedures; or

(c) serve on a jury.

(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 choosing to use accrued leave while on jury duty is entitled to keep juror's fees;
- (4) An employee who chooses to take a leave of absence from a regularly scheduled work day with full pay while on jury duty shall return any juror's fee to agency finance or agency payroll staff for deposit with the State Treasurer.
- (5) An employee may not use work time or witness and jury leave when absent in order to litigate matters unrelated to state employment.

R477-7-9. Bereavement Leave.

Management may grant a maximum of three work days of bereavement leave per occurrence with pay following the death of a member of the employee's immediate family. Management may not charge bereavement leave against an employee's accrued sick or annual leave.

(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) Agency management may grant bereavement leave for other unique family relationships.

R477-7-10. Military Leave.

Under Section 39-3-2, management shall grant up to 120 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) In order 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 of Absence Without Pay.

- (1) An employee shall apply in writing to agency management and receive management's approval before taking a leave of absence 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 of absence 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.

Agency 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) The agency 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 prior to 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 prior to 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 prior to going into leave without pay status for the family and medical leave period shall notify the agency.
 - (b) If an employee fails to notify the agency 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, the employing agency 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, an agency may recover, with certain exceptions under 29 CFR 825.213, the health insurance premiums paid by the agency 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 leave benefit, wages, and workers compensation benefit may not exceed the employee's gross salary.
 - (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 employee's gross salary for the period for which the benefit was received.
- (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 is able to return to work in the employee's regular position, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.
- (5) If an employee is unable to 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, the agency 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) An agency shall cease biweekly salary payments to the employee.
 - (b) An agency 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 at the time of LTD eligibility 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 at the time of LTD eligibility.
 - (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 the agency 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) The agency shall apply Section R477-7-16, workers compensation leave, and Section R477-7-17, long term disability leave rules first. The agency then must consider 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, the agency 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, the agency 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. Postpartum Recovery Leave.

Postpartum recovery leave means leave hours a state employer provides to an eligible employee to recover from childbirth.

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

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

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

(c) the employee gives birth to a child; and

(d) the employee is not an employee of:

(i) the State Board of Education; or

(ii) an independent entity as defined in Section 63E-1-102.

(2) Agency management shall grant up to three weeks of paid leave to an eligible employee who requests postpartum recovery leave.

(a) Management shall calculate three weeks of paid leave based on the employee's normal work schedule, including normally scheduled work hours in excess of 40 hours per week. The amount of leave does not change if there are multiple births from a single pregnancy.

- (b) 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.
- (c) An employee may not use postpartum recovery leave intermittently.
- (d) Postpartum recovery leave runs concurrently with leave under the Family Medical Leave Act.
- (e) Management may not charge postpartum recovery leave against any accrued leave balance on the employee's record.
- (f) To request postpartum recovery leave, the employee or an appropriate spokesperson notifies management of the need for leave:
 - (i) thirty days in advance; or
 - (ii) as soon as practicable in emergencies.
- (3) No person may interfere with an employee's intent to use postpartum recovery leave or retaliate against an employee who receives postpartum recovery leave.

KEY: holidays, leave benefits, vacations

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