

**EXECUTIVE BRANCH AGENCY POLICY  
SECTION 3: SICK LEAVE**

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**3A. General Information**

Employees shall earn sick leave and be eligible to take sick leave in accordance with Idaho Code § [67-5333](#), [59-1603](#), [59-1605](#), and [IDHR Rule 240](#).

**3B. Eligibility**

Employees must meet the criteria to qualify as eligible for benefits in order to accrue or use sick leave. Some employees are ineligible for sick leave, such as:

- Employees who regularly work less than 20 hours per week; or
- Employees who are in non-pay status (i.e. on unpaid leave of absence); or
- Temporary employees who are hired to work less than five months, regardless of number of hours worked per week.

An employee who is originally not expected to work five months but who does so is entitled to receive sick leave benefits retroactively in accordance with the above accrual rates.

**3C. Accrual**

Sick leave shall accrue at the rate of .04615 hours per hour worked or paid (with the exception of paid compensatory leave).

To calculate your sick leave accrual in any one pay period, take the number of hours paid to you (excluding compensatory time taken) and multiply it by 0.04615. For example, an employee who works 80 hours (ACT) in a pay period earns 3.7 hours of sick leave (calculated by multiplying 80 by 0.04615).

Employees earn sick leave while on paid leave except with compensatory time off.

Sick leave accrues without limit.

### 3D. Use of Sick Leave

Employees must meet the eligibility criteria, per section 3B, in order to use sick leave. Sick leave may only be used in cases of the employee's actual illness or disability or other health reasons necessitating the employee's absence from work or Employee Assistance Program (EAP) appointments. In addition, an employee may also use sick leave when needed to attend to a family member's medical appointments, serious illness, disability, or death and funeral in the family. Eligibility to use sick leave includes self, spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage or legal guardian. (Ref. IDHR Rule 240.03)

When possible, employees are expected to plan time away from work by notifying their supervisor in advance prior to the absence. For example, when scheduling a routine doctor's appointment or planned surgery an employee's supervisor should be consulted. Employees must use some type of paid leave for these circumstances (i.e. sick, vacation, or compensatory time).

#### 3D1. Limitations on Sick Leave Use.

3D1a. Employees may not use sick leave for time off due to adoption or foster care placement unless the child has a medical condition requiring care.

3D1b. Sick leave cannot be used in lieu of vacation leave. If an employee exhausts accrued sick leave, the employee must use other accrued leave balances prior to the employee receiving leave without pay (unless the employee is on approved Family and Medical Leave or absent due to a work-related illness or injury).

3D1c. Sick leave cannot be taken in the same pay period in which it is earned.

3D1d. Sick leave may not be utilized if it will result in pay in excess of the employee's normally scheduled workweek. For example, if a full-time employee calls in sick on Monday, then works 9 hours per day on Tuesday through Friday, that employee's timesheet would reflect:

	SUN	MON	TUE	WED	THUR	FRI	SAT	TOTAL
ACT			9	9	9	9		36
SIC		4						4
								40

3D2. Use Parameters for Executive Employees Only. Employees designated as Executive shall not use accrued sick leave in less than half day increments. For example, if an Executive employee works for 6 hours, and takes the remainder of that day off due to a qualifying illness, no accrued sick leave is used. Conversely, if an Executive employee works for 2 hours, and takes the remainder of the day off due to a qualifying illness, then 6 hours of accrued sick leave is used.

3D3. Managing Sick Leave. Patterns or excessive absences can negatively impact individual performance and the Agency's services. Therefore, a supervisor who suspects an employee is abusing sick leave may (Ref. IDHR Rule 240.07):

- Require the employee to provide a doctor's note justifying the absence; or
- Investigate an employee's suspected sick leave abuse and address any misuse or abuse as necessary.

3D3a. Any employee who is on approved sick leave and is found to be working at another job, or is otherwise misusing sick leave, shall be subject to disciplinary action up to and including dismissal.

### **3E. Inability to Return from Medical Leave**

Employees off work due to their own or a family member's illness or injury are required to keep the Agency informed as to their health status and intent to return. During that time period, sick leave or other accrued leaves may be used.

3E1. Required Physician Notes. During the employee's medical leave, the Agency may require updated physicians' statements regarding the employee's expected date of return to work.

3E2. Employee Unable to Return to Work. If an employee is unable to return to his regular work duties (with or without accommodation) after twelve (12) weeks or after exhausting accrued sick leave, whichever is longer, the employee will be medically laid off. (Ref. IDHR Rule 241.02)

3E1a. Employees may not use leave without pay or time spent in a light or alternate duty position, to extend the medical layoff date.

### **3F. Effect of Transfers on Accrued Sick Leave**

Accrued sick leave transfers with employees when they transfer from one State agency to another.

### **3G. Effect of Separation on Accrued Sick Leave**

When employees leave State service, all accrued and unused sick leave will be forfeited, except as provided in Idaho Code § 67-5333 (i.e., separation due to retirement).

3G1. Reinstatement of Sick Leave. If an employee returns to credited state service within three (3) years of separation, and is rehired into a benefited position, all sick leave forfeited at time of separation will be reinstated for the employee to use. [Ref. Idaho Code § 67-5333(1c)]

### **3H. Special Sick Leave for Temporary Non-Benefitted Employees Assigned to State Facilities or Contracts Subject to Federal Executive Order 13706, 29 CFR Subtitle A, Part 13 (SSL-FEO):**

The State of Idaho has occasion to enter into contracts or leases with the United States Government subject to the provisions of Federal Executive Order 13706 which proscribes mandatory paid sick leave. Employees assigned to federal contracts may be temporary and non-benefitted. Accordingly, the DHR Administrator provides, pursuant to IC 67-5333(g), additional requirements for sick leave benefits to accrue eligible temporary non-benefitted employees only as follows:

3Ha. SSL-FEO provides 1 hour of paid sick leave for every 30 hours worked only to eligible temporary non-benefitted state employees who are assigned work subject to Federal Executive Order 13706 as set for the in 29 CFR Subtitle A, Part 13. An example of a state contract subject to Federal Executive Order 13706 is Dworshak State Park.

3Hb. Sick leave must only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage, or legal guardian.

3Hc. Sick leave may be used in conjunction with the Family and Medical Leave Act (FMLA) only if employee meets the FMLA eligibility requirements.

3Hd. Unused accrued sick leave under section 3H shall be forfeited at the time of separation from state service and no employee shall be reimbursed for accrued sick leave at the time of separation. Unused sick leave accrued under 3F may be reinstated pursuant to 3G1 herein.

3He. Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned and shall only be taken in pay periods after being earned.

3Hf. Agencies utilizing SSL-FEO shall maintain these sick leave records along with employee payroll and personnel files as required by State law and policy.

3H1. Sick Leave Abuse. A predictable and reliable level of attendance is an essential function of all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made.