

Chapter: Leave Benefits	Effective Date: 7/1/13 Page: 1 of 5 Replaces: PRS.28.07, 12/1/11
Title: Sick Leave	
ACA: 4-JCF-6C-06	

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) grants sick leave to its employees in accordance with state law.

(b) **Resources.**

The following resources contain additional information regarding sick leave:

- (1) [PRS.11.01](#) (Exit Process) explains the status of sick leave accruals upon separation from employment.
- (2) [PRS.27.01](#) (Attendance) establishes call-in requirements for unplanned absences; contains provisions regarding abuse of leave, unauthorized absence, and job abandonment; and establishes additional medical certification requirements.
- (3) [PRS.28.02](#) (Use of Leave Benefits) establishes the order in which an employee may use available leave balances with certain restrictions and contains procedures regarding an employee's elections for use of leave.

(c) **Definitions.**

Except as noted below, see the PRS Glossary for definitions of certain terms used in this policy.

- (1) **Medical Certification** – A written statement from an attending health care provider identifying the following: (1) the medical fact(s) associated with the injury/illness; (2) the expected duration of the injury/illness; and (3) if the statement is for the care of a family member, the type and duration of assistance required from the employee and projected date that the employee's assistance will no longer be required.
 - A “medical fact” is a description of a condition identifying the cause or nature of the illness or injury (e.g., viral illness, internal bleeding, back pain, upper respiratory infection).
 - A procedure identifying the body part (e.g., hysterectomy, appendectomy, or tonsillectomy) is sufficient information to serve as a “medical fact.”
 - Terms such as “under my care,” “surgery,” or “stress” are not acceptable as medical facts.
 - A medical fact does not require a diagnosis.
- (2) **Immediate Family Member** – For the purpose of sick leave, an immediate family member includes:
 - (A) an individual residing in the same household as the employee and related to the employee by kinship, adoption, or marriage;
 - (B) a foster child of the employee residing in the same household as the employee and who is under the conservatorship of the Texas Department of Family and Protective Services; and
 - (C) an employee's minor child, regardless of whether the child lives in the same household.

- (3) **Educational Activity** – A school-sponsored educational activity of an employee's child attending pre-kindergarten through 12th grade, including:
- a parent-teacher conference
 - tutoring
 - a volunteer program
 - a field trip
 - a classroom program
 - a school committee meeting
 - an academic competition
 - an athletic, music, or theater program
- (4) **Release to Return to Work** – A written statement from an employee's attending health care provider identifying a date the employee may return to work.

Note: A medical certification may meet the requirements for a release to return to work; however, a release to return to work does not automatically meet the requirements for medical certification.

(d) **Procedures.**

(1) **General Provisions.**

- (A) An employee begins accruing sick leave on the first day of employment, continues accruing sick leave on the first calendar day of each following month of paid employment, and stops accruing sick leave on the employee's last physical day on the job.
- (i) A full-time employee accrues eight (8) hours of sick leave for each month of paid employment.
 - (ii) A part-time employee accrues sick leave prorated to the hours worked (e.g., an employee working 20 hours per week accrues four (4) hours per month).
- (B) An employee on unpaid leave for an entire calendar month will not accrue sick leave for the month of unpaid leave.
- (C) An employee who is on leave the first workday of a month may not use that month's sick leave accrual until he/she returns to work.
- (D) Employees are not allowed to use sick or other leave on an observed holiday. If an employee misses work on an observed holiday due to an absence qualifying for sick leave, the time off will count as holiday leave taken and not worked.

(2) **Absences Qualifying for Use of Sick Leave.**

(A) **Medical Conditions / Appointments.**

An absence qualifies for use of sick leave when:

- (i) an employee's sickness, injury, or pregnancy and confinement prevents his/her performance of duty;

Note: An employee may be required to use sick leave (or other leave if the employee has no accrued sick leave) if Human Resources management and the Office of

General Counsel (OGC) determine, based on a supervisor's observations, there is sufficient reason to believe that the employee is unable to perform essential functions due to a medical condition.

- (ii) an employee needs to care for and assist a member of his/her immediate family who is sick;
- (iii) an employee needs time to provide care and assistance to a spouse, child, or parent who is not described in the definition of immediate family and who needs the care and assistance as a direct result of a documented medical condition; or
- (iv) the employee or a member of the employee's immediate family requires a medical, dental, optical, or similar examination.

(B) Adoption.

An employee may use sick leave for up to six (6) weeks after he/she adopts a child under age three.

(C) Using Sick Leave While on Vacation.

If an employee is on vacation and becomes ill or another event qualifying for use of sick leave occurs, the employee may use sick leave, instead of vacation leave, for the qualifying days of absence. To use sick leave, the employee must comply with the call-in and any medical certification requirements applicable to a regularly scheduled workday.

(D) Use of Sick Leave for Educational Activities.

An employee may use up to eight hours of sick leave each fiscal year to attend educational activities. The employee must give reasonable advance notice of the employee's intention to use sick leave to attend an educational activity.

(3) Medical Certification.

An employee must provide medical certification to the local human resources administrator (HRA):

- (A) when he/she misses more than three consecutive days of work because of an absence qualifying for sick leave;
- (B) when a significant change in the circumstances described by the most recently provided medical certification occurs; and
- (C) every 30 calendar days of absence qualifying for sick leave.

Note: If the absence is designated as leave under the Family Medical Leave Act (FMLA) policy or the Non-FMLA Medical Leave policy, the employee must provide medical certification as required by the applicable policy.

(4) Release to Return to Work.

- (A) An employee may not return to work until after he/she provides the local HRA with a release to return to work if the employee:
 - (i) missed work for more than three consecutive days due to the employee's own medical condition; or

- (ii) was required to use leave based on a determination by Human Resources and OGC in accordance with (d)(2)(A) above and was instructed to provide a release before returning to work.

Note: The agency may require the employee to obtain a release from a health care provider selected by the agency.

- (B) A medical certification is acceptable as a release to return to work only if it indicates the ending date of a medical condition.
 - (C) If the employee has been absent due to a work-related illness or injury, the completed DWC FORM-73, Texas Workers' Compensation Work Status Report, may be accepted as a release to return to work.
 - (D) If the release does not identify any restrictions or limitations, the release will be considered an unconditional release to return to work.
 - (E) If an employee provides a release to return to work with restrictions temporarily limiting the performance of the employee's essential duties, the agency may require the employee to continue taking leave until the employee provides the local HRA with a release to return to work that does not include such restrictions.
- (5) **Supervisor's Responsibilities.**
- (A) A supervisor must notify the local HRA within one business day of learning that a supervised employee is absent or will be absent:
 - (i) for more than three consecutive calendar days due to any medical reason, including illness or injury, whether incurred on or off the job;
 - (ii) to obtain inpatient care in a hospital, hospice, or other residential care facility;
 - (iii) due to pregnancy or prenatal care;
 - (iv) due to a chronic medical condition;
 - (v) to care for a family member with a serious health condition;
 - (vi) for the birth or adoption of a child or the placement of a child in foster care with the employee; or
 - (vii) due to a qualifying exigency or military caregiver leave per [PRS.28.10](#).
 - (B) If a supervisor observes an employee's inability to perform essential functions due to what appears to be a physical or mental incapacity, the supervisor must notify the chief local administrator, the local HRA, or their designees as soon as practicable. The supervisor may be requested to provide information regarding the observations to Human Resources management and the OGC.
 - (C) When an employee is required to provide a release to return to work in accordance with (d)(4)(A) above, the supervisor must receive written notification (e.g., email) from the local HRA or designee that the employee may return to work before allowing the employee to return to work.
 - (D) When an employee returns to work after an absence of more than three days for a reason other than the employee's own medical condition, which does not require a release to return to work, the supervisor must provide the local HRA or timekeeper verbal or written notice of the employee's return to work on the same calendar day or shift that the employee returns to work.

Note: Supervisors are prohibited from contacting the employee's health care provider. Only an HRA or other human resources specialist may contact the employee's health care provider.
