

Chapter: Leave Benefits	Effective Date: 3/15/23
Title: Sick Leave	
References: Attorney General opinion, JM-1203 (1990)	Page: 1 of 4
	Replaces: PRS.28.07, 7/1/13

(a) **Policy.**

TJJD grants sick leave to its employees in accordance with state law.

(b) **Resources.**

The following policies contain additional information about sick leave:

- (1) [PRS.11.01](#) (Exit Process) explains how accrued sick leave is handled when an employee separates from employment with TJJD.
- (2) [PRS.27.01](#) (Attendance) establishes call-in requirements for unplanned absences, addresses unauthorized absences and job abandonment, and establishes additional requirements for medical certification.
- (3) [PRS.28.02](#) (Use of Leave Benefits) establishes the order in which an employee may use available leave balances and contains procedures explaining an employee's options for using 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 or illness; (2) the expected duration of the injury or 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 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 who resides 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.

(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 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 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 the employee returns to work.
- (D) Employees are not allowed to use sick leave 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.

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

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

An absence qualifies for use of sick leave when:

- (i) an employee's sickness, injury, or pregnancy and confinement prevents the employee's 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 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 health condition.

- (ii) an employee needs to care for and assist a member of the employee's 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.

Note: An employee who has exhausted FMLA-covered leave is entitled to use any available sick leave for the reasons given in (i) – (iv) above.

(B) Adoption.

An employee may use sick leave for up to six weeks after the employee 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 that would apply 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 of the employee's child(ren). 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 human resources administrator:

- (A) when the employee misses more than three consecutive scheduled workdays 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 and Medical Leave Act (FMLA) policy or the Non-FMLA Medical Leave policy, the employee must provide medical certification as required by those policies.

(4) Release to Return to Work.

- (A) An employee may be required to provide a release to return to work when the leave is due to an on-the-job injury or illness or is due to an FMLA or non-FMLA qualifying absence. See [PRS.23.03](#), [PRS.28.09](#), and [PRS.28.10](#).
- (B) An employee may not return to work until after the employee provides the human resources administrator with a release to return to work if the employee was required to use leave based on a determination by Human Resources and the Office of General Counsel in accordance with (d)(2)(A) above and was instructed to provide a release before returning to work.

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

- (C) A medical certification is acceptable as a release to return to work only if it indicates the ending date of a medical condition or the date the employee is allowed to return to work.
 - (D) 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.
 - (E) If the release does not identify any restrictions or limitations, the release will be considered an unconditional release to return to work.
 - (F) If a release to return to work contains restrictions that temporarily limit an employee from performing essential job functions, TJJJD may require the employee to continue taking leave until the employee provides the human resources administrator with a release that does not include those restrictions.
- (5) **Supervisor's Responsibilities.**
- (A) A supervisor must notify the human resources administrator within one business day after learning that a supervised employee is absent or will be absent:
 - (i) for more than three consecutive scheduled workdays 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 under [PRS.28.10](#).
 - (B) If a supervisor observes an employee's inability to perform [essential job functions](#) due to what appears to be a physical or mental incapacity, the supervisor must immediately notify the [chief local administrator](#) and the human resources administrator or their designees. The supervisor may be asked to provide information regarding the observations to Human Resources management and the Office of General Counsel.
 - (C) When this policy requires an employee to provide a release to return to work, the supervisor may not allow the employee to return to work until the supervisor receives written notification (e.g., email) from the human resources administrator or designee that the employee may 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 health condition, the supervisor must provide the human resources administrator or schedule administrator 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 a human resources administrator or other Human Resources specialist may contact the employee's health care provider.