

Chapter: Leave, Time and Attendance	Effective Date: 3/15/23
Title: Sick Leave Pool and Donated Sick Leave	Page: 1 of 5
Statutes: Gov't Code §§661.002–661.008, 661.207, 661.252	Replaces: PRS.28.08, 7/15/14 Admin. Directive #2 FY16

(a) **Policy.**

- (1) TJJJ operates a sick leave pool to assist employees in dealing with catastrophic illnesses or injuries that force employees to exhaust all of their available leave. Contributions to the sick leave pool are voluntary. The pool is administered by the director of human resources.
- (2) Donations of sick leave may also be made from one employee to another employee who has exhausted all sick leave, including any time the recipient employee may be eligible to withdraw from a sick leave pool.

(b) **Resources.**

The following policies contain additional information about the sick leave pool.

- (1) [PRS.11.01 \(Exit Process\)](#) contains information about donations to the sick leave pool by employees who leave TJJJ employment.
- (2) [PRS.11.05 \(Death of an Employee\)](#) explains what happens to unused sick leave pool hours upon an employee's death.

(c) **Definitions.**

Except as noted below, see the [PRS glossary](#) for definitions of certain terms used in this policy.

- (1) **Catastrophic Illness/Injury**--a severe condition or combination of conditions affecting the mental or physical health of the employee or the employee's immediate family member. The severe condition(s) must:
 - (A) require the services of a licensed practitioner for a prolonged period of time (see minimum time frames below);
 - (B) force the employee to exhaust all paid leave and lose compensation from TJJJ; and
 - (C) result from one or more of the following:
 - (i) a life-threatening physical illness or injury;
 - (ii) an extreme, debilitating physical illness or injury; or
 - (iii) a severe mental illness.
- (2) **Life-Threatening Physical Illness or Injury**--a physical illness, injury, or condition that:
 - is expected to cause premature death if not successfully treated; **and**
 - for at least 20 workdays within a 12-month period:
 - has prevented or is expected to prevent the employee's performance of work duties; or
 - has required or is expected to require the employee's absence to care for and assist a member of the employee's immediate family.

- (3) **Extreme, Debilitating Physical Illness or Injury**--a physical illness, injury, or condition that:
- involves serious weakening of the body's energy, strength, or ability to carry on with activities of daily living; **and**
 - for at least 20 workdays within a 12-month period:
 - has prevented or is expected to prevent the employee's performance of work duties; or
 - has required or is expected to require the employee's absence to care for and assist a member of the employee's immediate family.
- (4) **Severe Mental Illness**--a mental illness that requires some combination of inpatient treatment, partial hospitalization, and/or intensive outpatient treatment that, for at least 20 workdays within a 12-month period:
- has prevented or is expected to prevent the employee's performance of work duties; or
 - has required or is expected to require the employee's absence to care for and assist a member of the employee's immediate family.
- (5) **Immediate Family Member**--The following persons are considered members of an employee's immediate family for purposes of sick leave pool eligibility:
- (A) an individual residing in the same household as the employee and related to the employee by kinship, adoption, or marriage;
 - (B) an employee's foster child 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 spouse, child, or parent, regardless of whether the individual lives in the same household as the employee.
- (6) **Licensed Practitioner**--a practitioner or physician licensed by the person's respective state.

(d) **Pool Administrator's Responsibilities.**

The pool administrator is responsible for:

- (1) approving or denying, within 10 working days, all properly completed requests (as determined by a member of the Central Office Human Resources Division) to withdraw hours from the sick leave pool and all appeals of denied requests; and
- (2) determining the number of hours an approved employee may withdraw from the sick leave pool.

(e) **Sick Leave Pool Donations by Active Employees.**

- (1) An employee who is not separating from employment must have a sick leave balance greater than 240 hours to donate hours to the sick leave pool. Only hours in excess of the 240-hour balance may be donated.
 - (A) A full-time employee's donation must be in eight-hour increments.
 - (B) A part-time employee's donation must be:
 - (i) in increments equal to the employee's monthly sick leave accrual; and
 - (ii) rounded up to a whole-hour increment.

- (2) When donating to the sick leave pool, the donating employee may not designate a particular employee to receive the donated hours. A separate process exists for donating sick leave directly to a particular employee.
- (3) There is no means for an employee to reverse a donation to the sick leave pool. Subsection (f)(2) below sets out an employee’s eligibility to withdraw sick leave the employee donated to the sick leave pool for the employee’s own use.
- (4) To donate to the sick leave pool, the employee provides a completed [Sick Leave Pool Donation form, HR-117](#), to the human resources administrator or designee.

(f) Withdrawals from the Sick Leave Pool.

(1) Eligibility to Withdraw Hours Donated by Others.

To withdraw sick leave pool hours that the employee did not donate, the employee may not be receiving benefits through TJJJ workers’ compensation insurance and must:

- (A) have at least one year of TJJJ service from the employee's last TJJJ hire date;
- (B) have exhausted all paid leave; and
- (C) need additional sick leave hours for a catastrophic illness/injury of the employee or an immediate family member.

(2) Eligibility to Withdraw Employee's Own Previously Donated Hours.

An employee is eligible to withdraw sick leave hours that the employee has donated to the sick leave pool since the last hire date if the employee:

- (A) has not already withdrawn the sick leave hours;
- (B) has exhausted all paid leave; and
- (C) needs to withdraw the donated sick leave hours for an absence that would qualify for the use of accrued sick leave. A catastrophic illness/injury is not required.

(3) Withdrawal Limitations for Hours Donated by Others.

- (A) An employee may withdraw hours donated by others to the sick leave pool for only one catastrophic illness or injury per rolling 12-month period. The total withdrawal for the illness or injury is limited to one-third of the sick leave pool balance or the number of hours identified in the table below, whichever is less. The hours awarded will be based on the estimated duration of the injury/illness as identified on the [Sick Leave Pool Withdrawal Request Supplement \(Certification of Licensed Practitioner\), HR-115b](#).

Years of Service from Last Hire Date*	Maximum Number of Donated Pool Hours
At least one but less than five years	200 Hours
At least five but less than 10 years	240 Hours
At least 10 but less than 15 years	300 Hours
15+Years	400 Hours
*Determined based on most recent hire date with TJJJ or predecessor agencies	

- (B) If the employee requests fewer hours than the maximum allowed and then needs additional hours, the employee must reapply for additional sick leave pool hours in order to have more granted.

- (C) If an employee is using leave on an intermittent basis (e.g., for chemotherapy treatments), the employee must use all paid leave accruals each month before using granted sick leave pool hours.
- (D) The maximum hours that may be granted to a part-time employee are:
 - (i) determined using the chart above but in proportion to the employee’s regular weekly work hours; and
 - (ii) rounded up to a whole-hour increment.

(4) Requirement to Return Unused Hours.

Sick leave pool hours donated by others that were withdrawn by an employee but remain unused will be returned to the pool within five workdays after any of the following events:

- (A) the employee separates from employment for any reason;
- (B) the employee returns to work and intermittent leave is not needed; or
- (C) the medical need for intermittent leave has been resolved.

Note: The estimated end date provided on the [HR-115b](#) is used to determine when the medical need for intermittent leave has been resolved unless a new HR-115b has been received.

(5) Procedures for Submitting a Request or Appeal.

- (A) To request hours from the sick leave pool, the employee must submit the form(s) listed in the table below to the human resources administrator or designee at least 10 workdays before exhausting all paid leave balances unless circumstances prevent submission by this deadline.

Type of Request	Form(s)
Request to withdraw hours donated by others	<ul style="list-style-type: none"> • Sick Leave Pool Withdrawal Request, HR-115a; and • Sick Leave Pool Withdrawal Request Supplement (Certification of Licensed Practitioner), HR-115b
Request to withdraw the employee's own previously donated hours	<ul style="list-style-type: none"> • Sick Leave Pool Withdrawal Request, HR-115a

- (B) To appeal a disapproved request, an employee must submit the forms listed in the table below to the local Human Resources Office no later than five workdays after receiving the disapproved HR-115a form.

Type of Disapproved Request	Form(s)
Request to withdraw hours donated by others	<ul style="list-style-type: none"> • Appeal of Disapproved Sick Leave Pool Withdrawal Request, HR-115c; and • Completed HR-115b form. <p style="margin-left: 20px;">Note: If there has been a change in the employee's medical status, a newly completed HR-115b from the same practitioner who completed the original HR-115b is required. Otherwise, the original HR-115b will suffice.</p>
Request to withdraw the employee's own previously donated hours	<ul style="list-style-type: none"> • Appeal of Disapproved Sick Leave Pool Withdrawal Request, HR-115c.

(6) Recertification Requirements.

Requirements for submitting medical recertification in [PR.S.28.10](#) and [PR.S.28.09](#) apply to an employee using leave from the sick leave pool that is also FMLA- or non-FMLA-covered leave. Those same requirements continue to apply if the employee continues to use leave from the sick leave pool after FMLA- or non-FMLA-covered leave expires.

(g) Direct Donation of Sick Leave to Another Employee.**(1) General Provisions.**

- (A) An employee may donate sick leave directly to another TJJJ employee who has expended all sick leave, including any leave from the sick leave pool for which the receiving employee was eligible.

Note: Retiring employees who have sick leave hours that will not be used toward credit with the Employees Retirement System (ERS) and who wish to donate the unused hours may donate the unused hours only to the sick or family leave pools but may not donate directly to another employee.

- (B) Neither the employee donating the leave nor the employee receiving the leave may provide or receive compensation or a gift in exchange for a sick leave donation.
- (C) Because of potential tax implications, the donating employee may wish to consult with a tax advisor before donating to an eligible TJJJ employee.
- (D) Provisions of [PR.S.28.07](#) regarding sick leave apply to the use of donated sick leave except that donated sick leave may be used only for the reasons listed in PR.S.28.07 (d)(2)(A).
- (E) Employees who receive donated sick leave and return to work before the donated leave is exhausted must use their own accrued sick leave, if any, before using any remaining donated hours.
- (F) Employees who receive donated sick leave hours do not receive ERS service credit for any donated hours that are unused upon retirement.

(2) Procedures.

- (A) To donate sick leave to another employee, the donating employee fills out the [Donation of Sick Leave to a TJJJ Employee form, HR-118](#).
- (B) Central Office Human Resources verifies the recipient's eligibility.
- (C) The human resources administrator or designee:
- (i) approves or denies the donation and makes appropriate adjustments to each employee's sick leave balance;
 - (ii) provides a copy of the completed HR-118 form to the donor; and
 - (iii) notifies the recipient of the outcome.
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