

GEORGIA DEPARTMENT OF JUVENILE JUSTICE	Transmittal # 12-09	Policy # 3.61
Applicability: {x} All DJJ Staff {x} Administration {x} Community Services {x} Secure Facilities (RYDC's and YDC's)	Related Standards & References: State Personnel Board Rule 478.1-.16 O.C.G.A §45-7-9; §45-20-16 Americans with Disabilities Act of 1990 Americans With Disabilities Act Amendments Act of 2008 DJJ 3.16, 3.21, 3.27, 3.28, 3.83, 5.9	
Chapter 3: PERSONNEL	Effective Date: 4/1/12 Scheduled Review Date: 4/1/14	
Subject: SICK LEAVE AND SPECIAL SITUATIONS	APPROVED:	
Attachments: A – Leave Request Form B – Application for Restoration of Divested Sick Leave C - Attending Physician's Statement of Functional Capability	 <hr/> L. Gale Buckner, Commissioner	

I. POLICY:

The Department of Juvenile Justice shall administer sick leave in accordance with applicable laws, rules, and regulations.

II. DEFINITIONS:

Break in Service: At least one work day for which an employee is not in employment status and does not receive pay.

Immediate Family: For the purposes of this policy, the employee's spouse, child, parent, brother and sister or any other person who resides in the employee's household and is recognized by law as a dependent of the employee.

III. PROCEDURES:

A. This policy applies to classified and unclassified employees with the following exceptions:

- Part-time salaried employees who work less than twenty (20) hours per week;
- Temporary and hourly paid employees; and
- Employees receiving service, disability, or involuntary separation benefits under the Employees' Retirement System of Georgia.

B. Sick Leave Accrual:

1. DJJ will not grant an employee the use of sick leave before such leave is earned, as provided for in this policy.
2. A full-time employee will earn 5 hours of sick leave at the end of each semi-monthly pay period, provided the employee is in pay status for at least 40 hours during the pay period.
3. A part-time salaried employee who works 20 or more hours per week will earn

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leave as specified in this policy, but prorated by the percentage of time worked, which will be determined by dividing the employee's standard hours by 40.

4. An employee may accumulate no more than 720 hours of sick. Any sick leave earned in excess of 720 hours at the end of any month will be forfeited, but may be restored to the employee as provided in Section III. G. of this policy.

C. Use of Sick Leave:

1. Supervisors will not approve the use of sick leave until all available deferred holiday time and Fair Labor Standards Act (FLSA) compensatory time has been exhausted.
2. Employee absences will be charged as sick leave only on days that they would otherwise work and receive pay. Prior authorized sick will not be reduced because of late openings, early releases, or unanticipated closings that occur during the period of leave.
3. An employee absent on official department business will not be charged leave for a work-related absence.
4. Except as specified for certain injuries incurred in the line of duty, an employee will not be allowed to use any type of paid leave if he/she receives any form of state funded wage substitutes, including, but not limited to Workers' Compensation.
5. Upon approval of the immediate supervisor, an employee may use accrued sick leave for absences due to the following reasons:
 - Personal illness or disability;
 - Adoption of a child by the employee where the employee's presence is required for health-related reasons;
 - Dental or medical care;
 - Illness or accident in the employee's immediate family which requires the employee's presence; or
 - Death in the employee's immediate family which requires the employee's presence; however, sick leave used for this purpose will be limited to 40 hours.
6. The employee must notify his/her supervisor as soon as the need for sick leave is recognized. The employee will use the Leave Request Form (Attachment A) to document the sick leave.
7. The supervisor may require the employee to contact him/her via telephone each day to authorize the continued absence.
8. The employee may be required to furnish evidence satisfactory to the immediate

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supervisor for the use of accrued sick leave. However, the employee will not be required to provide evidence for the use of less than 2 scheduled work days of sick leave in any 30 day period unless he/she has demonstrated excessive or abusive use of sick leave. Establishment of a pattern of excessive or abusive use of sick leave will include, but not be limited to, the following indicators:

- Frequent use of sick leave in conjunction with holidays, scheduled off days, or distribution of pay checks;
- Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak work load;
- Requesting sick leave for an absence for which annual leave has previously been denied;
- Frequent occurrences of illness during the work day;
- Peculiar and increasingly improbable excuses;
- Repetitive use of less than 2 scheduled work days of sick leave in 30 day periods; and
- Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave.

9. Each supervisor will review the sick leave usage records of all employees under his/her supervision for evidence of excessive or abusive use of sick leave as often as necessary, but not less than once each year. Supervisors will counsel those employees whose records appear excessive or abusive on the necessity of not misusing sick leave.
10. Excessive or abusive leave practices may subject an employee to disciplinary action, up to and including termination.
11. Bereavement (death in the immediate family): An employee may use up to 40 hours of sick leave, if available, for an absence due to death in the employee's immediate family. Any additional period of absence will be charged to available annual leave, personal leave, state compensatory time, or as leave without pay.
12. If an employee is ill for 3 workdays or more during a period of annual leave, the period of illness may, upon presentation of satisfactory written evidence, be charged as sick leave. The charges against annual leave will then be reduced accordingly, provided the request for substitution of sick leave for annual leave is filed with the immediate supervisor within 2 weeks after the employee has returned to duty. (See Attachment A, Leave Request Form) No substitution will be allowed for illness that does not last for 3 workdays or more.

D. Credit for Leave upon Transferring to the Department of Juvenile Justice:

1. Provided there is no break in service, an employee moving from a position entitled to leave in another state agency or department to a position entitled to earn leave in DJJ will be given credit for unused sick and personal leave. The

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record of forfeited leave of an employee transferring to DJJ will be transferred, but such leave will not be restored to the employee except as provided for in this policy.

2. Provided there is no break in service, an employee moving from a position entitled to leave in a state authority to a position entitled to earn leave in DJJ will be given credit for unused sick leave. The employee shall not be given credit for more sick leave than the employee could have earned had the employee been continuously employed by DJJ. The record of forfeited leave of an employee transferring to DJJ will be transferred, but such leave will not be restored to the employee except as provided for in Section III. G. of this policy.
3. An employee transferring to DJJ from another agency is not entitled to payment for accumulated annual leave from that agency. If the employee erroneously received payment for such leave, the employee will not be permitted to accrue or use annual, sick, or personal leave until the other agency is reimbursed for the erroneous payment. Once DJJ receives confirmation that the reimbursement has occurred, the employee will receive credit with all leave and service time that would have otherwise have accrued to the employee. DJJ will not reimburse an employee for any leave without pay that may have occurred during the period before receiving notification from the other agency.
4. An individual moving from a position with a public school system or the Board of Regents to a position in DJJ will not receive credit for any annual, sick, personal or forfeited leave earned while employed by the public school system or Board of Regents.

E. Credit for Leave on Return from Leave of Absence or Layoff:

A DJJ employee, upon returning from a leave of absence without pay, or upon returning to the Department within one year of being laid off by means of a reduction in force, will be given credit for previously accumulated and unused sick leave. The record of forfeited leave at the time of a layoff or at the beginning of the leave of absence will be re-established, but the leave will not be restored to the employee except as provided for in Section III. G. of this policy.

F. Dual Employment

In circumstances in which an employee is simultaneously employed in more than one position entitled to earn leave, the employee will, independently in each position, accrue, use, and be compensated for leave in accordance with applicable provisions of this policy. The provisions of this paragraph will not apply if the employee is simultaneously employed in two positions in the same department. If employment is terminated in one, but not both positions, all leave accrual will be combined and available in the remaining position. Employment in another agency is subject to the approval of DJJ (see DJJ 3.16, Other Employment).

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G. Restoration of Forfeited Leave:

1. In the event of illness or disability that exhausts available paid leave, the Director of Human Resources may restore as much forfeited leave as is required by the circumstances of the illness or disability. This restoration will be limited to the leave forfeited during the current period of employment.
2. A written request for restoration of forfeited leave must be submitted to the Director of Human Resources. The request must outline the circumstances supporting the need for such restoration.
3. Under qualifying circumstances, forfeited leave may be calculated as creditable service for retirement purposes. For specific information, contact the Employees' Retirement System of Georgia.

H. Recovery of Previously Forfeited Leave:

Any employee of a state agency who lost accumulated sick leave because of separation from employment and who returns to employment with a state agency on or after July 1, 2003 will be entitled to regain such divested sick leave after the employee remains in service for a period of two consecutive years. Any leave forfeited prior to the separation from employment will not be restored. An employee who requests to regain previously divested sick leave will be required to present satisfactory evidence of the existence of such leave along with an Application for Restoration of Divested Sick Leave (Attachment B).

I. Compensation for Unused Sick Leave Upon Separation from Employment:

DJJ will not pay an employee for unused sick leave at the time of separation from employment.

J. Special Situations of Illness and/or Disability:

For the purpose of this provision, the following definitions apply:

- Full-time: An employee who regularly works 30 hours or more each week.
- Injured in the line of duty: An injury that arises out of or in the course of employment. Going to and from work will not be considered in the line of duty. (See DJJ 3.28, Injury in the Line of Duty)

K. Compensable Injury or Disease:

1. An employee will not use accrued leave for absences due to an accidental injury or occupational disease that is compensable under the Georgia Workers' Compensation Act, until the employee elects in writing to use accrued leave in lieu of Workers' Compensation benefits. (See DJJ 3.27, Workers Compensation)

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2. The leave granted for this purpose will be credited on a day-for-day basis as compensation against any indemnity award by the State Board of Workers' Compensation.

L. Conditions for Return from Period of Illness and/or Disability

1. The immediate supervisor will require any employee who is absent from duty because of personal illness or disability and returning with limitations to provide an Attending Physician's Statement of Functional Capability Form (Attachment B). The form must indicate that the employee is able to return to duty and the extent to which the employee is able to perform the essential functions of his/her position. An employee who does not provide the necessary documentation will not be allowed to return to work and will be placed on unauthorized leave without pay. If the documentation is not provided within 5 business days, the employee may be terminated as a presumptive resignation.
2. An employee who has been on approved sick leave, exclusive of approved Family and Medical Leave, for more than 10 work days and who fails to return to duty at the end of the approved leave may be separated from employment as a Failure to Return From a Leave of Absence (see DJJ Policy 3.83, Separation from Employment).

M. Accommodation for Medical Condition:

If an employee is disabled as defined by the Americans with Disabilities Act Amendments Act of 2008 and the employee obtains a medical release or certification to return to restricted duty, the Department will comply with applicable laws and regulations to make reasonable effort to accommodate the employee's medical condition in accordance with DJJ 3.21, Americans with Disabilities Act.

N. Maintenance of Leave Records:

Each office/facility/program will designate an individual to maintain the official departmental leave records for employees in that office/facility/program. The designated leave-keeper will not be permitted to maintain his/her own official leave records.

O. Confidentiality:

1. Health information of employees and their family members will be considered confidential. Only Human Resources and Legal Services staff who need this information to perform their job duties will be given access to the information.
2. Managers, supervisors, and human resources staff will not provide other staff the reason for the absence or any other information regarding the absence. Only the following information will be provided:

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- The anticipated begin and end dates or anticipated duration of the leave; and
 - Approval or denial of sick leave has been provided to an employee.
3. Health information will be maintained in the employee's health record. (See DJJ 5.9, Personnel Records)

IV. LOCAL OPERATING PROCEDURES REQUIRED: YES