

Sick and Vacation Leave FAQ

Sick Leave

1. What is happening to personal leave?

The 40-hour cap (called Personal Leave) in sick leave an employee is allowed to use for the temporary care of the employee's family has been removed to provide more flexibility for the care of the employee's family. Previously, an employee was allowed to use sick leave for the following reasons: personal illness; pregnancy; the birth or the placement for adoption or foster care of a child, in order to bond with a child within one year of the child's birth or placement; exposure to contagious diseases that would endanger the health of fellow employees; required eye and dental care; required medical examination; or inpatient or outpatient treatment in approved centers for alcohol, drug abuse, psychiatric, or counseling care. These reasons continue to be appropriate uses of sick leave.

The intent of expanding the use of sick leave was to provide employees with greater access to their sick leave balance.

Employees may now use sick leave for their own illness, health care, or medical needs as well as those of their immediate family, including the temporary care of family. This includes using up to five days of sick leave as bereavement leave for the loss of an immediate family member.

2. Do school or daycare closures qualify for the use of sick leave?

When no other suitable option for childcare is available, employees may use sick leave for **unexpected and unplanned** school and/or daycare closures. Examples include when schools close due to weather or daycare closes due to personal illness.

For expected and planned closures, vacation leave is generally the appropriate leave to use. However, for planned closures, with prior supervisor approval, a single day of sick leave per event may be available to the employee if there is no other suitable option for childcare. In state institutions, appropriate staffing is critical for the well-being of the patients, residents, and inmates. Those employees may be asked to switch shifts with others in order to maintain appropriate staffing levels.

3. We have allowed parents and grandparents to use personal leave to take care of children/grandchildren when a daycare provider closes for a day or so. Can they now use sick leave for this?

Yes. As noted in the previous question, this is generally for unexpected closures..

4. May I only use sick leave for my own personal illness, medical appointments, and health needs?

No, employees may use sick leave due to an immediate family member's personal illness and health care needs. Please see #9 below for the definition of immediate family member.

5. What does "temporary care" of an immediate family member mean?

In addition to caring for a child due to unplanned school/daycare closures, temporary care means assisting an immediate family member suffering from an illness or dealing with health-related or medical issues. Examples include assisting aging parents or disabled family members with a move to a care facility, taking a family member to medical appointments and procedures, or caring for a family member who has serious health-related concerns.

Generally, if an absence qualified for personal leave previously, it is now an appropriate use of sick leave.

It is important to note that this is not meant to be used as a substitute for vacation leave. A vacation requires the use of vacation leave.

6. My child and their spouse are going on vacation. May I use sick leave to care for my grandchildren?

No, vacation leave is most appropriate in this situation.

7. Is bereavement leave available for the loss of each immediate family member or is it five total days annually for the losses of family members?

An employee may use up to five sick days (40 hours) as bereavement leave for each loss of an immediate family member.

8. Do the five days of bereavement need to be used consecutively?

Generally, the days should be used consecutively. In certain circumstances, and with the prior approval of your supervisor, you may use the days non-consecutively. For example, a family member's memorial service is held six months after their death. In this situation, an employee may use a few days of bereavement leave immediately following the death and the remaining days six months later to attend the service. However, an employee must use the days within a year after the death. If an employee uses the bereavement leave and needs additional time off, they may be allowed to use vacation leave with supervisor approval.

9. Who is considered an immediate family member?

Per ARSD 55:09:01:01, an immediate family member is the employee's spouse, children, mother, father, mother-in-law, father-in-law, daughter-in-law, son-in-law, brothers, sisters, grandparents, grandchildren, stepbrothers, stepsisters, stepchildren, and stepparents, and, for the purposes of § 55:09:04:12, foster children.

10. May sick leave be denied when requested to care for an immediate family member?

Yes. When sick leave is used for a reason other than your own personal illness, a supervisor may deny or restrict the number of days allowable based on an employee's workload or other work-related factors. For example, an employee may be allowed to use sick leave to help a parent move into an assisted living facility if the employee's workload allows and the time is requested in advance. That same request may be denied if the employee does not provide ample notice to cover his or her shift.

As allowed in ARSD 55:09:04:02, employees may be required to provide doctor's notes to support their request for sick leave. Additionally, employees qualifying for FMLA will need to provide the appropriate, required documentation.

If your agency has an attendance policy, you remain accountable for following the policy.

11. Can an employee be disciplined for excessive use of sick leave even if absences are an appropriate use of sick leave?

Yes, employees still need to meet the expectations of their position. Employees who are not meeting these expectations, and whose absences impact their department negatively, are subject to discipline, up to and including termination.

12. What will happen to my personal leave balance?

With the expansion of sick leave, the need for personal leave has been eliminated. Your personal leave balance will no longer appear after July 1, 2020. However, your personal leave came out of your sick leave balance so you are not losing any accrued leave.

Vacation Leave

13. What changes have been made to our vacation leave?

New employees are now allowed to use accrued vacation leave immediately, subject to supervisor approval. New employees no longer need to wait six months to use accrued vacation leave. However, employees are still not eligible for payout of accrued vacation if they leave employment before completing six months of service.