



Employer Announcement 88 Accumulated Unused Sick Leave

Purpose

An employer participating in the PERS unused sick leave program may allow accumulated unused sick leave to be included in a Tier One or Tier Two member's final average salary determination (Oregon Revised Statutes (ORS) 238.350 and Oregon Administrative Rules (OAR) 459-011-0500) for a PERS retirement.

Employer reporting practices pertaining to accumulated unused sick leave accrual have been inconsistent and, at times, noncompliant with ORS and OAR. There are also calculation issues among employers in reporting net unused sick leave. In some cases, transferred sick leave was not subtracted correctly or unused sick leave hours were capped at the wrong step in the calculation.

For most employers, sick leave accrual for inclusion in a final average salary determination is limited to a maximum of eight hours per month, but could be less based on the employee's monthly accrual rate. While it may seem reasonable to use a shift-for-shift prorated basis for unused sick leave in excess of eight hours per month, this method of converting sick leave hours is not allowed under statute.

This announcement addresses these issues and shows an example of the correct way to calculate net unused sick leave that is consistent with statute. It also provides definitions of terms used in the reporting documents. Employers are responsible for educating their employees on this issue. The correct calculation of accumulated unused sick leave is specific to each employer because of its individual contractual agreements.

Instructions

For PERS purposes, the **maximum sick leave accrual rate** is the lowest rate of accrual for any employee of the employer who is entitled to sick leave, but by statute **may not exceed eight hours per month**. This is referred to as "capping" sick leave pursuant to the statutory requirements. If an employer has different accrual rates for different groups of employees, the allowed accrual rate would be the lowest accrual rate for any employee (full time or part time). If they have one accrual rate available to all employees, but prorate the accrual rate based on hours actually worked or are scheduled to work, then the accrual rate would be the rate for the full time employees or eight hours per month, whichever is less.)

- ***Note:** If the lowest sick leave accrual rate is six hours per month for an employee group that is covered under the sick leave policy, then the maximum rate is six hours per month. If the lowest*

sick leave accrual rate is 12 hours per month for an employee group that is covered under the sick leave policy, then the maximum rate is limited by law to eight hours per month.

Total **actual sick leave used** must be deducted from the balance of sick leave accrued at the appropriate PERS maximum accrual rate. Below is an example of a compliant calculation of allowable (capped) sick leave hours for sick leave accumulations of greater than eight hours per month.

Example: Applicable if the actual sick leave monthly accrual is greater than the PERS allowable amount of eight hours per month.

	Monthly Sick Leave Accrual Rate		Number of Months	=	Total Hours
Actual sick leave hours accrued	12	x	12	=	144
Maximum accrual rate allowed by statute for USL	8	x	12	=	96
Actual sick leave hours used					-24
Allowed accumulated unused sick leave hours					72

Example of a calculation of net unused sick leave that is consistent with statute

Unused sick leave for PERS purposes is the difference between the employee’s sick leave accrued at the appropriate PERS allowed rate and actual sick leave used over the course of employment. Below is an example of a calculation of net unused sick leave hours to be reported for an employee who accrues 12 hours per month and worked 12 months.

Employer Responsibility:		Hours
A	Accrued sick leave before capping <i>(Capping is required if sick leave accrual is other than eight hour per month)</i>	144
B	Accumulated sick leave (after capping when required)	96
C	Add transferred in and reinstated unused sick leave	100
D	Total sick leave at termination <i>(Capped accumulated, transferred in and reinstated sick leave)</i>	196
E	Less actual sick leave used <i>(Do not use pro-rated or converted sick leave in this calculation)</i>	60
	The result is Gross Unused Sick Leave Hours* ((B+C=D)-E=Gross Unused SL)	136

Report to PERS:		Hours
1	Gross Unused Sick Leave Hours* <i>(To be reported on the request for Unused Sick Leave)</i>	136
2	Less sick leave transferred in and reinstated sick leave <i>(To be reported on the request for Unused Sick Leave under Transferred Unused Sick Leave Hours*)</i>	100
3	NET Unused Sick Leave Hours* (1-2=Net Unused SL) <i>(To be reported on the DTL1-02/Termination)</i>	36

* see definitions for more information

Reporting Unused Sick Leave Hours to PERS

Each employer should report its own net unused sick leave hours on the DTL1-02/Termination record. This ensures that each employer is only charged for the hours of unused sick leave accumulated while the member was in its employ.

If the Net Unused Sick Leave hours reported is zero or cannot be reconciled, PERS will send a request for Unused Sick Leave so the calculation can be verified as correct.

Definitions for the terms on the request for Unused Sick Leave

1. **Last Day Service:** The last day a member is physically on the job or is on paid leave, whichever is later.
2. **Term/End Date:** The date an employee has discontinued employment and the employer/employee relationship ceases to exist.
3. **Gross Unused Sick Leave Hours:** Accumulated total of unused sick leave, up to the PERS allowed limit (which is the lowest rate of accrual for any employee of the employer who is entitled to sick leave; may not exceed eight hours per month and may be less), includes all transferred in, reinstated, and accumulated unused sick leave hours remaining at termination.
4. **Transferred Unused Sick Leave Hours:** The accumulated unused sick leave hours that were transferred in from a former PERS employer to a current PERS employer or reinstated sick leave. The hours must be available for use by the employee. The amount of unused sick leave hours a hiring employer will accept, if any, is based on the hiring employer's personnel policies or union contract agreements.
5. **Net Unused Sick Leave Hours:** Gross unused sick leave hours minus the transferred in unused sick leave hours.

Other Definitions

1. **PERS Maximum Unused Sick Leave Accrual Rate:** The lowest rate of accrual for any employee of the employer who is entitled to sick leave, which by law may not exceed eight hours per month. If an employer has different accrual rates for different groups of employees, the allowed accrual rate would be the lowest accrual rate for any employee (full time or part time). If they have one accrual rate available to all employees, but prorate the accrual rate based on hours actually worked or are scheduled to work, then the accrual rate would be the rate for the full time employees or eight hours per month, whichever is less.) If the lowest sick leave accrual rate is six hours per month for an employee group that is covered under the sick leave policy, then the maximum rate is six hours per month. If the lowest sick leave accrual rate is 12 hours per month for an employee group that is covered under the sick leave policy, then the maximum rate is limited by law to eight hours per month (**Please Note: Separate rules apply to community college employees as described in ORS 238.355**).

Data Corrections

Please compare your current accumulated unused sick leave calculation and capping practice with the information and the examples above. If your application of unused sick leave does not comply with ORS 238.350 and OAR 459-011-0500, you may use the examples above or other methods to bring your calculations into compliance.

If you determine that unused sick leave records need to be corrected, please submit a DCR for the data correction.

PERS will not review past data for accuracy. Prospectively, we will apply the correct standard for accumulated unused sick leave in our audits (from the date of this announcement).

Please contact your ESC Account Team representative if you have questions.