

CHAPTER 47

LEAVE PROGRAMS IN THE PUBLIC SECTOR

Introduction

Leave, or paid time off from work, is a particularly significant benefit for public-sector workers. These workers are entitled to slightly more paid holidays and vacations on average than their private-sector counterparts, and annual and sick leave often play a somewhat different role in their total benefits package.

Sick Leave

Public employees rely on accumulations of paid sick leave to provide income during periods of illness and temporary disability. In 2007, 87 percent of employees had access to paid sick leave (U.S. Department of Labor, 2008). All federal government employees have access to paid sick leave (U.S. Office of Personnel Management, 2008). By contrast, 57 percent of employees in private industry had access to paid sick leave benefits (U.S. Department of Labor, 2007). Most public employees accrue sick leave on an annual basis (the rate of accrual may vary by service) and sometimes are entitled to carry forward unused sick leave balances. Although most cumulative plans have a limit on the number of days that can be carried over to the following year, long-service employees who have enjoyed reasonably good health can have large sick leave accumulations during the later years of their careers.

In some jurisdictions, employees are compensated for their unused sick leave on termination of employment. However, a more common practice is to compensate them for this unused leave at the time of retirement. This compensation can take several forms. Some states and the federal Civil Service Retirement System (CSRS) credit unused sick leave for purposes of calculating their service credits used in computing retirement annuities. Except for individuals who transferred to the Federal Employees Retirement System (FERS) with a CSRS annuity component, this sick leave credit does not apply to annuity calculations of federal employees covered by FERS (*Federal Employees News Digest Inc*, 2001)

Annual Leave

Annual leave (vacation time) is generally accrued according to length of service, with average accruals in 2006 for state employees of 12.6 days after one year of service, 18.4 days after 10 years of service, 23.0 days after 20 years of service (Workplace Economics, 2006). Federal employees accrue 13 days of annual leave during their first three years of employment, 20 days during years three through 14, and 26 days thereafter (*Federal Employees News Digest Inc.*, 2001). This compares with 8.8 days at one year of service, 16.0 days at 10 years of service, 18.3 days at 20 years of service, and 19.1 days at 25 years of service that workers in the private-sector accrued in 2003 (U.S. Department of Labor, 2005).

Unused annual leave can usually be carried forward to subsequent years, although the amount that can be carried forward is generally subject to a maximum. Most federal and state and local employees are able to carry over 30 days of annual leave. Three states (Indiana, Louisiana, and Mississippi) allow leave to be carried over without limit. Among states specifying a maximum, Hawaii allows the greatest accumulation, at 90 days. Accumulated leave is generally cashed out on termination or retirement, although the cashout may be subject to a limit that is different from that imposed on accumulation (Workplace Economics, 2006).

Leave Sharing/Leave Banks, and Compensatory Time

Since public employees often have accumulation in excess of their own needs, some jurisdictions have undertaken programs whereby employees can transfer leave to colleagues in need. Nineteen states currently maintain some form of “sick leave pool.” In addition, other states allow employees to donate their annual leave to fellow employees in need of sick leave, subject to specific limitations under certain guidelines (Workplace Economics, 2006).

The federal government also has several leave-sharing programs. Under the Federal Employees Leave Sharing Amendments Act of 1993, all federal agencies are required to operate a leave-transfer program. The act also allows agencies to establish leave banks at any time. Employee participation in either program is strictly voluntary (Federal Employees News Digest Inc., 2001).

Under the leave-transfer program, employees who have exhausted all of their leave and are in need of additional leave (due to medical or family emergencies) can accept annual leave donations from fellow employees.

Under the leave bank program, employees who are in need of additional leave and who have previously become leave bank members by contributing a portion of their own annual leave to the agency’s leave bank are eligible to apply for a withdrawal of annual leave from the bank, should a medical

or family emergency arise. Banked leave can also be distributed to fellow employees in much the same way as under the leave transfer program.

Compensatory time (“comp-time”) is another form of leave used in the public sector. It is a method employers in the public sector can use to compensate employees for overtime work. Under the Fair Labor Standards Act, public employers are able to provide compensatory time off instead of monetary overtime compensation, providing there is an agreement between the employer and the employee. When compensatory time off is provided as an alternative to overtime pay in the federal government, the amount of “comp time” authorized is computed at the rate of one hour of compensatory time for each hour of overtime worked.

Family and Medical Leave

Paid Leave—Apart from annual and sick leave accumulations—leave that may be used expressly to care for children is rare in the public sector. However, under the federal Family and Medical Leave Act of 1993, employers are required to provide 12 weeks of unpaid, job-protected leave each year to eligible employees for the birth or adoption of a child or for the serious illness of the employee or the employee’s child, parent, or spouse. In addition to the federally mandated Family and Medical Leave Act, most states have their own family leave laws that apply to public-sector workers (Federal Employees News Digest Inc., 2001). For example, many states provide up to a year of unpaid parental leave, while other states provide employees with some paid parental leave. In 2006, 48 states reported that some amount of paid parental leave is available for mothers, and in 40 states, for fathers. Many states allow either parent to use accumulated annual leave, personal leave, compensatory leave, or other accrued paid leave. All states now report that adoption leave is available (Workplace Economic, 2006).

Military Leave—Military leave is granted to individuals who are in the National Guard or other reserve components of the armed forces. Such employees may need leave time to maintain their military status. In 2006, all states provided paid military leave to their employees (Workplace Economics, 2006). The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provides that an employee is entitled to a leave of absence to perform military service, and re-employment following the service, so long as the person provides advance notice (unless impossible to do so or precluded by military necessity). In addition, the cumulative period of service may not exceed five years, the nature of the service is not dishonorable or otherwise disqualifying, and the person returns to work or applies for re-employment in a timely manner following completion of the service. There are several specified types of military duty that do not

count toward the five-year limit, including required training performed by guard and reserve members, and duty during a war or because of various contingencies, including the current mobilization for Operations Noble Eagle (a multi-agency effort within the borders of the United States to uncover terrorists and their plans for disruption), Enduring Freedom (all anti-terrorism military operations underway outside the borders of the United States), and Free Iraq (the war in Iraq).

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Additional Information

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