ADMINISTRATIVE DIRECTIVE

| SICK LEAVE | NUMBER 2.01-7B | PAGE 1 of 6 |
|---|---|---|
| | EFFECTIVE DATE March 16, 2020 | |

## I. PURPOSE

To provide paid time off for illness of an eligible employee or an eligible family member.

## II. POLICY

### A. Eligibility to Accrue Sick Leave

The following employees are eligible to accrue Sick Leave:

1. Permanent or probationary employees who work 40 or more hours per pay period, and;

2. Benefits-eligible appointees who work 40 hours or more per pay period.

### B. Rate of Sick Leave Accrual

Eligible employees accrue Sick Leave in accordance with Tucson Code Chapter XXII, Article V.

1. Eligible full-time employees accrue four (4) hours of Sick Leave each pay period, or 13 days per year (104 hours), except as otherwise provided by ordinance for commissioned public safety personnel.

2. Eligible part-time employees who work 40 hours or more per pay period accrue a pro-rated amount of Sick Leave, according to the actual hours worked and hours of paid leave used per pay period.

**EXAMPLE:**

| Part-time hours worked: | Sick Leave accrual Pro-ration: | Per pay period |
|---|---|---|
| 30 hours per week | 60/80 x 4 hours = | 3 hours |

3. Permanent, part-time employees, who work less than 40 hours per pay period, as well as non-permanent employees, do not accrue Sick Leave.

4. Employees on unpaid leave for up to one-half (1/2) of a pay period will accrue Sick Leave on a pro-rated basis for that pay period based on actual hours worked and hours of paid leave used. Additionally, employees on unpaid leave for more than the equivalent of one-half (1/2) of a pay period do not accrue Sick Leave for that pay period (A.D. 2.01-1, Compensation Administration).

5. Sick Leave is cumulative, with no maximum accrual.

6. Sick Leave may not be used for non-medical purposes.

## III. SICK LEAVE REQUEST

**A.** Employees should request leave in advance for pre-arranged optical, medical, or dental appointments. However, if the absence is unplanned, the supervisor must be notified prior to the time scheduled to report for duty, or in accordance with department policy, unless there are extenuating circumstances which prevent the employee from doing so. Failure to follow proper leave requesting procedures may result in the leave being designated as Absent Without Leave (AWOL).

**B.** If the employee requests Sick Leave or is absent due to a medical condition for more than the equivalent of two (2) consecutive workweeks, the supervisor will notify Human Resources so that Family and Medical Leave (FML) and/or Medical Leave or Parental Leave notifications can be sent to the employee on a timely basis. The employee will be required to submit a completed Certification of Health Care Provider form to Human Resources within 15 days (A.D. 2.01-7C, Family & Medical Leave; A.D. 2.01-7D, Medical Leaves and Parental Leave).

**C.** If an employee is not available to sign a Request for Leave of Absence form (i.e. Leave Card) because of absence due to illness, the employee's supervisor must complete the form for that employee and include a signed notation explaining why the employee's signature is missing. The employee must also sign this form upon returning to work.

**D.** Employees on a Work Improvement Plan for attendance may be required to submit a Health Care Provider Note for all unscheduled absences, regardless of the number of hours or days absent.

## IV. SICK LEAVE USE

**A.** Employees serving their initial probationary period may use Sick Leave after they have been employed one (1) month with the City. For example: an employee who starts on January 10 may use Sick Leave beginning February 10; an employee who starts on January 29, 30 or 31 may use Sick Leave beginning March 1.

**B.** Sick Leave accrued within a pay period may not be used in that pay period.

**C.** Sick Leave must be used in 10-minute increments, and may only be used on a day the employee would otherwise have worked.

**D.** Long–Term Disability will be paid only after the employee's Sick Leave and Vacation Leave are exhausted.

**E. Accrued Sick Leave may be used for**:

1. **Attending the birth of the employee's child** – Or other circumstances covered by authorized Parental Leave. (A.D. 2.01-7C, Family and Medical Leave, A.D. 2.01-7D, Medical Leaves and Parental Leave).

2. **Attending to the health condition or following the death of an employee's immediate family member** – Will be permitted subject to the department director's discretion and the needs and operational requirements of the department. An employee who is needed to care for an immediate family member with a serious health condition may be eligible for FML. (A.D. 2.01-7H, Bereavement Leave; A.D. 2.01-7C, Family and Medical Leave; A.D. 2.01-7G, Military Leave). Definitions of Immediate Family Member as they apply to Bereavement, FML, or Military Family Leave, can be found in A.D. 2.01-7, Employee Leaves.

3. **Bereavement-related absences** – Or if death is other than the employee's immediate family member.

4. **Contagious or pandemic preparedness** – When a supervisor observes an employee exhibiting flu or other symptoms of a potentially contagious illness, the supervisor may place the employee on Sick Leave and require the employee to seek medical attention and provide a Health Care Provider Note before the employee can return to work.

5. **Fitness for Duty** – If, in the opinion of the department director/designee, the employee is unable to perform the assigned duties, or may create a direct threat to self or others, the department director will contact the Human Resources Director/Designee to request that the employee submit to an examination by the City Physician. If appropriate, HR will arrange an exam by the City Physician. If the report indicates that the employee creates a direct threat to the safety or health of self or others in the performance of assigned duties, or is unable to perform assigned duties, the employee may be placed on Sick Leave by the HR Director/Designee or department director/designee.

6. **Illness, injury, or disease** – Which prevents the employee from performing assigned duties.

7. **Medical, dental, or optical treatments, examinations, or fittings** – Which must be made during working hours. Sick Leave may not be used for insurance examinations, pension examinations, etc., which are not connected with City employment.

8. **Off-the-job accident or injury** – Which prevents the employee from performing assigned duties.

9. **On-the-job accident or injury** – Sick Leave may not be used while an employee is receiving Worker's Compensation and/or Accident Compensation benefits, except to supplement the Worker's Compensation benefit when the maximum benefit is less than the employee's regular salary. In no case will the use of Sick or Vacation Leave, combined with Worker's Compensation or Accident Compensation benefits, exceed the employee's gross regular base salary (A.D. 3.04-2, Occupational Safety and Health Manual).

F. An employee may donate Sick Leave to another employee for use as Sick Leave when the other employee is determined to be eligible to receive Donated Leave under A.D. 2.01-7E, Donated Leave.

G. Employees are required to use Sick Leave when off work due to unscheduled, non FML medical absences, for self or eligible family member.

H. When an employee has exhausted their Sick Leave, and is off work due to unscheduled, non-FML medical reasons, Vacation Leave (if eligible), Compensatory Time, Floating/Birthday Holiday, and/or Personal Leave must be exhausted before unpaid leave can be approved.

1. **Exempt employees** – A salaried employee who is exempt from overtime and has exhausted all paid leave may have Leave Without Pay (LWOP) posted for absences of less than one day due to illness (to the extent permitted under the Fair Labor Standards Act (FLSA)). An exempt employee who has exhausted all paid leave and is absent for one or more days (in whole day increments) is to be placed on LWOP, if approved by the employee's department director/designee. Unapproved leave once paid leave is exhausted may be coded as AWOL.

2. **Non-exempt employees** – Who are eligible for overtime are to be placed on LWOP (if approved by the employee's department director/designee) for any hours not at work when all other accrued paid leave has been exhausted. Unapproved leave once paid leave is exhausted may be coded as AWOL.

I. Employees on Sick Leave will be paid their regular salaries and will continue to accrue normal Sick Leave and Vacation Leave.

J. Employees who have an approved leave for a non-work-related illness or injury and have exhausted all paid leave including, but not limited to: Sick Leave, Vacation Leave, Compensatory Time, Floating/Birthday Holiday, and Personal Leave, may apply for Donated Leave until eligible to receive Long-Term Disability (LTD). For information on LTD, employees may call HR Employee Benefits (A.D. 2.01-7E, Donated Leave).

K. Employees returning from continuous, unpaid leave will begin accruing Sick and Vacation Leave when they have returned to work.

## V. EMERGENCY LEAVE (PAID NEGATIVE LEAVE)

In the event of a pandemic or declared public health emergency, employees who have exhausted all their accrued paid leave including: sick leave, vacation leave, compensatory time, administrative leave, and floating holiday, will be permitted to use up to 104 hours paid negative leave. Paid negative leave may be used by an employee to remain home due to illness and to provide care in the event schools, daycare etc, are closed due to a declared emergency. Upon return to work employees will repay any negative leave usage through subsequent sick leave accruals.

Paid Negative leave usage will not count towards actual hours worked for purposes of overtime calculation.

Employees will not accrue either vacation leave or sick leave when using paid negative leave.

Employees who separate employment from the City of Tucson prior to repaying all paid negative leave will have the balance owed deducted from their final paycheck.

## VI. TRANSFER OF SICK LEAVE TO VACATION LEAVE

Annually, at the end of the Leave Year (the calendar year), any unused portion of the first seven (7) days (not to exceed 56 hours) of Sick Leave (since the beginning of the Leave Year), will be transferred to Vacation Leave unless the employee requests in writing that their leave not be transferred. Employees may elect to retain the days as Sick Leave or delay transfer for up to one (1) year. If the annual transfer of Sick Leave to Vacation Leave results in the employee exceeding the maximum 288 hours, no transfer will be processed.

## VII. SICK LEAVE ALTERNATE

Employees whose Vacation Leave accruals reach 288 hours during any pay period will not accrue additional Vacation Leave for that pay period. However, the hours of Vacation Leave that would normally have accrued (if not for the 288-hour cap) will be credited to the employee as Sick Leave Alternate accrual that pay period. Employees may receive a maximum 56 hours of Sick Leave Alternate accrual each Leave Year, except as authorized by ordinance or labor agreement for commissioned public safety personnel.

Sick Leave Alternate will be transferred to an employee's Sick Leave balance during the annual Sick Leave to Vacation Leave transfer process. In the event that all paid leave has been exhausted before this process, the department will request Sick Leave Alternate to be transferred to Sick Leave before posting any unpaid leave for an employee.

## VIII. SICK LEAVE AT SEPARATION

**A.** Employees who are laid-off, discharged, or resign will not be compensated for unused accrued Sick Leave; however, accrued Sick Leave will be reinstated for an employee who is laid-off, if the employee accepts reemployment with the City - in accordance with Rule VIII, Section 2 of the Civil Service Rules and Regulations - within two (2) years of the date of layoff.

**B. Retiring Employees**:

**1.** An employee taking normal, early, or permanent disability retirement will be paid for unused, accrued Sick Leave as follows, except as otherwise authorized by ordinance for commissioned public safety personnel:

| Accrued Sick Leave Hours | Payment |
|---|---|
| 0 through 240 | 0% |
| Over 240 through 480 | 25% |
| Over 480 through 720 | 35% |
| Over 720 | 50% |

Sick Leave payout at retirement will be paid based on a percentage of the employee's current base rate of pay, as illustrated above.

**2.** Any payment for unused accrued Sick Leave will not be considered salary for the purpose of making Tucson Supplemental Retirement System (TSRS) contributions. Unused accrued Sick Leave can be used to achieve eligibility for TSRS retirement, and will be counted when computing length of service for employees hired prior to July 1, 2011. This inclusion in determining pension will not be construed as giving an employee any vested rights to payment.

State law establishes the manner and method in which benefits will be calculated for Public Safety Personnel Retirement System participants.

**C. Deceased Employees**

The City will provide a special death benefit in an amount equal to all of the unused, accrued Sick Leave to the survivor(s) of any employee who dies while still employed by the City. "Survivor(s)" will be those who are indicated as the beneficiary of the employee's pension or as otherwise provided by law.

It is the intent of the City that such monies be used to assist in the payment of the employee's funeral expenses.

**Appendices (Forms)** All forms may be obtained through the Human Resources Department.

**References** (for a complete list of references for the entire AD Leaves series, please see AD 2.01-7)

2.01-7 Employee Leaves
2.01-7C Family and Medical Leave (FML)
2.01-7D Medical Leaves and Parental Leave
2.01-7G Military Leave
2.01-7H Bereavement Leave
Tucson Code

**Review Responsibility and Frequency** The Human Resources Director will review this directive as needed.

**Authorized**

City Manager
Michael J. Ortega

3/17/2020
Date