

## CHAPTER 4-07-13 SICK LEAVE

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### **4-07-13-01. Scope of chapter.**

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

**History:** Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

### **4-07-13-02. Definitions.**

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 54-06, 54-44.3, and 54-52.4, except:

1. "Eligible family member" means the employee's spouse, parent (natural, adoptive, foster, and stepparent), child (natural, adoptive, foster, and stepchild), or any other family member who is financially or legally dependent upon the employee or who resides with the employee for the purpose of the employee providing care to the family member.
2. "Sick leave" means an approved absence from work, with pay, for use in accordance with section 4-07-13-07.

**History:** Effective September 1, 1992; amended effective November 1, 1996.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

### **4-07-13-03. Sick leave accrual.**

Employees eligible for sick leave begin to accrue leave from the day of hire.

**History:** Effective September 1, 1992; amended effective November 1, 1996.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

### **4-07-13-04. Sick leave accrual rate.**

State agencies are advised that the following sick leave accrual schedule is required for use by each state agency subject to this chapter:

Years of Service	Hours Earned Per Month
Zero to all	Eight

A local government agency subject to the North Dakota merit system adopting or using a different accrual schedule shall promptly file a copy of that schedule with human resource management services.

**History:** Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-06-14, 54-44.3-12(1)

**4-07-13-05. Accrual for fractional months.**

An employee accrues sick leave for employment for a fraction of a month. The number of sick leave hours earned by an employee for employment for a fraction of a month must be in proportion to the total number of straight time hours the employee actually worked compared to the total number of working hours in a month.

**History:** Effective September 1, 1992.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

**4-07-13-06. No limit on sick leave carryover.**

An employee may not be limited in the number of unused earned sick leave hours that may be carried over from one calendar year to another.

**History:** Effective September 1, 1992.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

**4-07-13-07. Uses of sick leave.**

Sick leave may be used by an employee when:

1. The employee is ill or injured and is unable to work.
2. The employee has an appointment for the diagnosis or treatment of a medically related condition.
3. The employee wishes to attend to the needs of the employee's eligible family members who are ill or to assist them in obtaining other services related to their health or well-being.
  - a. Sick leave used for these purposes may not exceed eighty hours per calendar year.
  - b. ~~Upon approval of the agency appointing authority or designee, t~~The employee may, per calendar year, take up to an additional ~~ten percent~~ four hundred eighty hours of the employee's accrued sick leave to care for the employee's child, spouse, or parent with a serious health condition. The employer may require the employee to provide written verification of the serious health condition by a health care provider.
4. During the first six months following the birth or placement of a child, an employee may use up to six weeks of the employee's accrued sick leave to care for the employee's newborn child or to care for a child placed with the employee for adoption or placed with the employee as a precondition to adoption. This does not prevent an employee from using sick leave for the employee's illness, medical needs, or health needs following the birth of a child or from using leave under section 54-52.4-03.

5. The employee is seeking services, or assisting the employee's spouse, parent, child, or sibling in obtaining services, relating to domestic violence, a sex offense, stalking, or terrorizing. At the discretion of the employee's supervisor, the sick leave hours used for this purpose may be limited to forty hours per calendar year.

46. It is appropriate as a participant in an employee assistance program.

**History:** Effective September 1, 1992; amended effective January 1, 2012; January 1, 2017.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1), 54-52.4-03

#### **4-07-13-08. Sick leave taken in increments.**

Repealed effective January 1, 1993.

#### **4-07-13-09. Sick leave and pregnancy.**

Repealed effective November 1, 1996.

#### **4-07-13-10. Temporary employment.**

A temporary employee may not be credited with any accrued sick leave hours.

**History:** Effective September 1, 1992; amended effective July 1, 2008.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

#### **4-07-13-11. Sick leave and reemployment.**

An employee who leaves his or her employment and who is rehired within one year must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid. An employee affected by a reduction in force and rehired within two years must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid.

**History:** Effective September 1, 1992.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)

#### **4-07-13-12. Assumption of accrued sick leave.**

A state agency appointing authority employing an individual from another state agency shall accept all of the employee's accrued sick leave hours. State agencies covered by the North Dakota merit system shall accept all accrued sick leave hours of a county social service employee in a position classified by human resource management services.

A county social service board may accept all of accrued sick leave hours an employee requests to transfer from another county social service board or a state agency, if the employee occupies a position classified by human resource management services.

**History:** Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

**General Authority:** NDCC 54-44.3-12

**Law Implemented:** NDCC 54-44.3-12(1)