



California Public Employees' Retirement System
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Retirement Benefits

Circular Letter

June 1, 2022

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To: All CalPERS Public Agency and School Employers
Subject: Common Issues Reporting Unused Sick Leave Days at Separation

Purpose

The purpose of this Circular Letter is to provide information and increase awareness of the proper way to report unused sick leave when members separate employment. This information is to ensure stakeholder understanding of relevant government codes pursuant to the California Public Employees' Retirement Law (PERL), reporting is in accordance with a Memorandum of Understanding (MOU) and/or Labor Agreement, and the timely and accurate payment of retirement benefits.

Defining Unused Sick Leave

Unused Sick Leave – School Member, School Safety Member, or Local Member
(As Specified)

Pursuant to Government (Gov.) Code section 20963.5, on or after January 1, 2020, a school member, a school safety member, or a local member employed by a contracting agency that is a school district, county office of education, or community college district, whose effective date of retirement is within four months of separation from employment with the employer subject to this section that granted the sick leave credit, shall be credited at the member's retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer.

Gov. Code section 20963.5 further specifies that only those days of unused sick leave that were accrued by the member during the normal course of the member's employment should be reported to the board and shall not include any additional days of sick leave for the purpose of increasing the member's retirement benefit. For purposes of this subdivision, sick leave shall include sick leave granted by the employer subject to this section and any sick leave transferred to that employer pursuant to section 44979, 45202, 88783, or 88202 of the Education Code.

Unused Sick Leave – Local Members

Pursuant to Gov. Code section 20965, a local miscellaneous and a local safety member whose effective date of retirement is within four months of separation from employment with the employer that granted the sick leave credit shall be credited at the member's retirement with 0.004 year of service credit for each unused day of sick leave certified to the board by the employer.

Gov. Code section 20965 further specifies that the certification shall report only those days of unused sick leave that were accrued by the member during the normal course of the member's employment and shall not include any additional days of sick leave reported for the purpose of increasing the member's retirement benefit.

Gov. Code section 20965 further clarifies that this section shall not apply to any contracting agency nor to the employees of a contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts, except that an election amount the employees is not required, or, in the case of contracts made after September 26, 1974, by express provisions in the contract making the contracting agency subject to this section. This section applies only to members who retire after the effective date of the contract amendments.

Additional Information

Conversion of Sick Leave Credits

Pursuant to Gov. Code section 20962, employees earn one year of service credit:

- Daily employee = 215 days to earn one year of service credit
- Hourly employee = 1,720 hours to earn one year of service credit
- Monthly employee = 10.000 months to earn one year of service credit

All employees, regardless of their work schedule (6.6 hours, 10/4/40, 9/8/80, 56 hours, etc.), shall have the reported hours of unused sick leave, for the purpose of converting to service credit, divided by **eight** to determine the number of days reported to CalPERS.

The divisor of an eight-hour day is derived by Gov. Code section 20962 where the number of full-time hours divided by full time days for service credit is equal to eight hours ($1,720 \div 215 = 8$).

The accrual of sick leave credits must be consistent for members of the same group or class who work like or similar hours pursuant to Gov. Code section 20630. Service credit which was not earned through the accrual of a sick leave policy may not be credited on an individual basis for the purpose of enhancing the retirement benefit. Unused sick leave for which a member receives compensation (cash out or transfer to health saving plan) should not be reported to CalPERS. Unused sick leave days remaining after a cash out can still be reported to CalPERS pursuant to an employer's MOU or Labor Agreement.

Common Reporting Errors

- When reporting unused sick leave to CalPERS for the purpose of converting unused sick leave days to service credit, you must divide the total reportable hours by eight and report total number of days to CalPERS.

For example, a member has 480 hours of accrued unused sick leave at time of separation. The employer must report a value of 60 days when separating the member's appointment ($480 \div 8 = 60$). Reporting a value of 480 will place the employer out of compliance when audited and the retirement benefits may be adjusted where improper reporting is found.

- You must certify to CalPERS and report only those days of unused sick leave that were accrued by the member during the normal course of employment. Additional hours of unused sick leave granted by a member's employer for the purpose of increasing a retirement benefit is prohibited. Additional hours that are not reportable include, but are not limited to, bonus hours granted at time of hire, incentive sick leave hours beyond the normal accrued amount, other leave balance types (vacation, annual leave, etc.), or COVID-19¹ supplemental sick leave hours.

For example, at time of retirement, a member had 320 hours of accrued unused sick leave. In addition, they received an additional 12 hours of sick leave credit for not calling in sick during a fiscal year, 250 hours of accrued vacation leave, and 80 hours of unused COVID-19 supplemental sick leave. At time of separation, the employer may only report 40 days ($320 \div 8 = 40$) of unused sick leave to CalPERS.

- Individuals who elect to be compensated for unused sick leave may not have those same hours reported to CalPERS for the purpose of increasing their retirement benefit. Only hours that are not cashed out and meet the criteria of Gov. Code section 20963.5 or 20965 may be reported to CalPERS.

For example, a member has 1,800 hours of accrued unused sick leave at time of retirement. They elect to cash out 1,000 hours. Pursuant to a contracting agency's MOU, up to 100 days of unused sick leave (800 hours) may be reported to CalPERS.

¹ Circular Letter 200-023-21 provides information regarding COVID-19 supplemental paid sick leave under the existing Healthy Workplaces, Healthy Families Act of 2014 and Senate Bill 95 chaptered March 19, 2021.

- Pursuant to Education (Ed.) Code section 44979, 45202, 87783, or 88202, any certificated or classified employee of a school district, county superintendent of schools, or community college district may transfer their unused sick leave from one school district, county superintendent of schools, or community college district to another. Unused sick leave may not be transferred between a school district, county superintendent of schools, or community college district and a separate joint powers authority (JPA) as defined by Education Code section 41980. In addition, unused sick leave credits may not be transferred to another state (i.e., CSU) or contracting public agency.

For example, a member was first hired by a JPA affiliated with a school district in Northern California and accrued 120 hours of sick leave. They later transferred to a school district in Southern California. At time of separation, the member accumulated 480 hours of sick leave with the Southern California district. When submitting the separation, the school district may report 60 days of unused sick leave (480 hours) not the 120 hours from the school district in Northern California.

Impacts for Employers & Members

Unused sick leave is one of the factors that may be used to calculate a member's retirement benefit. Therefore, misreported unused sick leave may result in overpaid retirement benefits to the member. This overpayment must be paid by the member and/or the respective employer to accurately account for funding contributions and benefits, ensure compliance with the law, and reduce risk to the pension fund.

Questions

It is your responsibility to comply with all terms and conditions set forth in your contract with CalPERS and to ensure all reportable information is compliant with the PERL.

For questions or concerns, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Kimberlee Pulido, Chief
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