

**CPPW makes the following counter proposal on Sick Leave on October 30, 2024. CPPW reserves the right to modify or adjust as negotiations continue so long as no TA has been reached.**

**NOTE: Most of this language is drawn from the PROTEC contract between the City of Portland and PROTEC.**

**ARTICLE \_\_\_\_\_ SICK LEAVE**

**Section 1, General.**

- (a) Sick leave shall be available for all eligible uses under state law including but not limited to an employee's own illness, injury, or mental health, for medical and dental appointments, leave related to domestic violence, harassment, sexual assault, bias or stalking, in the event of a public health emergency, and when either an employee's home or workplace is in a Level 2 or 3 evacuation zone.
- (b) Sick leave may also be used to care for a family member as provided in the City's Human Resource Administrative Rules and/or by state and federal law.
- (c) Members shall earn sick leave from their date of hire.
- (d) Employees, including those in probationary status, shall be eligible for use of earned sick leave after 30 days employment with the City.
- (e) Full-time employees shall accrue four (4) hours of sick leave for each two (2) weeks of service unless the employee is in non-pay status for an entire pay period.
- (f) Sick leave credits shall be allowed to accrue during the first twelve (12) months of any continuous absence due to an accepted worker's compensation claim.

(g) Non-protected Dependent Sick Leave. In situations where an employee's family member (spouse, domestic partner, parent, grandparent, grandparent in-law, step child, child in-law, grandchild, sibling, step sibling, step parent, step grandparent, sibling in-law, parent in-law, and equivalent relative of an employee with a domestic partner, and individuals related by close affinity, including relationships such as unmarried partners, household members, "chosen family", and any person with whom the employee has a significant personal bond that is like a familial relationship, regardless of biological or legal relationship) becomes ill or injured and alternate means of transporting or caring for such person cannot be arranged immediately by the employee, the employee shall be permitted to use leave in accordance with HRAR 6.05 and the Paid Oregon Family Leave Act. Employees who use dependent care leave under this Article on more than three (3) occasions in a calendar year may be informed about their rights to apply for FMLA/OFLA.

**Section 2, Sick Leave Use.**

- (a) Employees shall be entitled to use up to five (5) workdays of consecutive sick leave before their supervisor may ask for a certification by a medical provider. If an employee is on sick leave prior to regular weekly scheduled days off, the scheduled days off will not be counted for the purpose of requiring a doctor's certificate.
- (b) If medical certification is requested, subject to state law, the City is required to pay any associated costs for the employee to obtain and provide medical certification, including lost wages that are not paid under a health benefit plan in which the employee is enrolled.
  - i. The City may not require that the certification explain the nature of the illness or details related to domestic violence, sexual assault, harassment, or stalking that necessitates the use of sick time.
- (c) Employees are allowed to use the entirety of their sick leave bank, prior to the City taking any corrective or disciplinary action concerning potential misuse of sick leave.

- (d) Management must have a reasonable basis for providing counseling on sick leave usage and/or for taking corrective or disciplinary action on potential misuse of sick leave.
- (e) Prior to taking any corrective or disciplinary action concerning sick leave usage, management will meet with the employee to discuss the employee's absences and provide counseling. The purpose of this meeting is to:
  - 1. Notify the employee there are concerns related to their sick leave use;
  - 2. Assist the employee in reducing the amount of sick leave if/when possible;
  - 3. And inform the employee about alternative/additional leaves available to them.
- (f) The employee is not required to disclose to management why they have used sick leave. The City must notify the Union Representative when an employee has/will be counseled for sick leave usage. The Union may request that a representative is present during sick leave usage counseling. The employee must provide consent and may decline the presence of a Union Representative during a counseling meeting.
- (g) When counseling an employee for sick leave usage, management will provide a basis for concern and an explanation of the impact the absences have had. CPPW members shall not be evaluated against the City-wide average.

**Section 3, Sick Leave Conversion.**

- (a) If an employee has a balance of one hundred (100) hours or more of sick leave at the end of the calendar year and has used less than one-half their annual sick leave accrual (Ex. 51 or fewer hours for full-time employees, 25.5 hours for half-time employees) in that calendar year, that employee is eligible to have up to 25% of their remaining sick leave accrued in that calendar year converted to vacation leave. Requests for conversion may be made once per calendar year and must be made during the period between the first pay period and June 30<sup>th</sup> of the calendar year following the calendar year in which the conversion is made. Eligibility for part-time employees is pro-rated to their Standard Hours Designation.

- (b) Sick leave used for one or more of the following reasons shall be excluded for purposes of determining attendance for sick leave conversion:
1. An absence which qualifies under the FMLA and/or OFLA and/or Paid Leave Oregon; or
  2. An absence due to disability under the ADA which does not qualify under the FMLA and/or OFLA and/or Paid Oregon Leave, provided the absence is requested by the employee and approved by the Bureau as a reasonable accommodation under the ADA.
- (c) For sick leave protected as reasonable accommodation under the ADA to be excluded from sick leave conversion eligibility, the employee must notify the bureau that the absence qualifies under an exclusion.
- (i) The employee will notify their Bureau of Human Resources representative of their request for the sick leave to be excluded within ten (10) business days of their return to work from leave.
  - (ii) The bureau must approve the exclusion within ten (10) business days of receipt. The bureau may request medical documentation to verify the exclusion only if no ADA accommodation exists.

**Section 4, Industrial Leave.**

During an absence for an industrial accident or disease which has been accepted by the Office of Risk Management or determined by the Workers Compensation Department to be compensable, the City shall maintain the employee's health and welfare benefits for the duration of the time of lost payments, provided the employee was eligible for City-paid benefits at the time of the accident or disease and remains employed by the City during the absence.

**Section 5, Maximum Accumulation.**

Sick leave and dependent sick leave accumulation shall be unlimited.

**Section 6, Unused Sick Leave on Retirement.**

The City agrees to convert unused sick leave credits, upon retirement, to a PERS Supplement, as contemplated by Chapter 238 or 238A of the Oregon Revised Statutes.

## **Section 7, Supplemental Pay.**

- (a) During an absence due to an industrial accident which has been accepted by the Risk Management Division, any employee covered by this agreement shall be entitled to receive an income supplement from the City for as many days as the employee had accrued sick leave prior to the accident. The amount of supplement is designed to provide the employee with no more net compensation while on time loss than they would have received while working their regular hours.
- (b) On an employee's date of hire, the employee shall be credited with a total of fifteen (15) days of industrial accident leave. Such leave shall be available for time lost because of industrial injury for two years from the employee's date of hire. Such leave credits shall be used prior to the supplement outlined in subsection (a) above.
- (c) Payments made by the City under subsections (a) and (b) shall not be charged to accrued sick leave.

## **Section 8, Offset for Dual Payments of Sick Leave and Time Loss.**

The City and the Union agree that no employee should receive full wages in paid sick leave while also receiving time loss payments on a workers' compensation claim. The parties therefore agree as follows:

- (a) Where the dual payment results from the employee filing a claim for time loss payments for an injury or disease after the employee has taken paid sick leave for the same condition, the City may recoup the sick leave paid, either by deductions from gross wages per pay period in an amount not exceeding 20% gross wages until the total overpayment is recouped, or the City and the employee may, by mutual agreement, provide for some other means for repayment. Upon repayment of the total amount of the excess, the employee's sick leave account shall be credited with the sick leave used.
- (b) Where the dual payment results from the City's denial of a worker's compensation claim which ultimately is determined to have been compensable, the overpayment may not be recovered by the City through

payroll deductions, nor may the sick leave used be recredited to the employee's account, unless the City and employee agree and arrange, in writing, for recovery and recrediting.