

ARTICLE 25
WORK-INCURRED INJURY / ILLNESS

A. General Provisions

This Article defines the application of sick leave and vacation for employees who are unable to work due to a work-incurred injury or illness compensable under the California Workers' Compensation Act, and provides extended sick leave benefits for such employees when sick leave is exhausted and employees are still unable to work because of such injury or illness.

1. An employee unable to perform the normal duties of his/her job due to a work-incurred injury or illness compensable under the California Workers' Compensation Act may be granted leave for the duration of a verified disability not to exceed a predetermined date of separation, if one exists.
2. An approved leave of absence for work-incurred injuries or illnesses shall not be considered a break in service.
3. Employees who are unable to work due to a work-incurred injury or illness compensable under the California Workers' Compensation Act are eligible to use accrued sick leave and vacation as provided below. When sick leave is exhausted and when employees are still unable to work because of such illness or injury, employees may use extended sick leave or leave without pay as provided below.
4. An employee with a work-incurred injury or illness is entitled to leave without pay for all or part of the period during which the employee receives temporary disability payments under the California Workers' Compensation Act.
5. Leaves provided under this article may run concurrently with Family and Medical Leave.
6. An employee shall notify his/her supervisor of the need for leave for a work-incurred injury or illness as soon as practicable after the need for such leave is known. This notification shall include written medical certification of the need for such leave and the anticipated return to work date.

B. Return from Work-Incurred Injury or Illness Leave

1. Prior to returning to work, an employee granted leave under this article must provide the University with certification from her/his licensed health care practitioner of the employee's ability to return to work. When possible, ten (10) calendar days' notice shall be provided advising of the employee's ability to return to work. If a return to work certification specifies restrictions, the University will consider what accommodation, if any, will reasonably be made, in accordance with Article 30: Reasonable Accommodation.

2. If the position held has been abolished during the leave, the employee shall be afforded the same considerations which would have been afforded had the employee been on pay status when the position was abolished.

C. Use of Sick Leave and Vacation

1. An employee who accrues sick leave and vacation shall be permitted to use accrued sick and/or vacation leave to supplement income received under the California Workers' Compensation Act to reach the equivalent of his/her full salary. Sick leave and vacation payments shall be the difference between the amount payable to the employee under the Workers' Compensation Act and the employee's regular salary.
2. An employee shall exhaust their accrued sick leave prior to using their accrued vacation.
3. The additional payment made to an employee to provide the employee with full salary prior to receipt of disability payments shall be deemed an advance temporary disability payment within the Workers' Compensation Act. An employee who receives advance temporary disability payment shall reimburse the University for such payment. The reimbursement is used to restore proportionate sick leave and vacation credit as appropriate.

D. Eligibility for Extended Sick Leave and Payments

1. An employee who is receiving temporary disability payments and who has exhausted all accrued sick leave shall receive extended sick leave payments from the University in an amount equal to the difference between the payments from Workers' Compensation and eighty percent (80%) of the employee's salary, inclusive of any differentials that the employee would have otherwise received. If such an employee returns to part-time University duties, the earnings plus any temporary disability payments, if less than eighty percent (80%) of salary, inclusive of any differentials that the employee would have otherwise received, shall be supplemented to eighty percent (80%) by extended sick leave payments, provided the employee continues to be medically authorized for Workers' Compensation temporary disability. Total extended sick leave payment shall not exceed twenty-six (26) weeks for any one (1) injury or illness.
2. An eligible employee who does not have sufficient accrued sick leave to cover the three (3) calendar days waiting period for receiving Workers' Compensation payments shall receive extended sick leave payment to cover any part of the waiting period not covered by sick leave. Payment shall be made only after determination that the injury or illness is compensable under Workers' Compensation.

3. An employee who elects not to use all of her/his sick leave is not eligible for extended sick leave benefits.

E. Effect on Pay Status and Accruals

1. Supplemental Leave

An employee who is receiving temporary disability payments and is using sick leave or vacation to supplement the temporary disability payments as described in §C., above, is considered on regular pay status for purposes of application of the provisions of this Agreement, except completion of the probationary period. Sick leave and vacation accrued during this period may be used as soon as they accrue.

2. Extended Sick Leave

An employee who is receiving temporary disability payments and extended sick leave benefits as described in §D., above, is considered to be on regular pay status for purposes of application of the provisions of this Agreement, except completion of the probationary period. Sick leave and vacation accrued during this period is credited to the employee only upon return to work. However, if an employee separates without returning to work, the employee shall be paid for vacation accrued during the period the employee received extended sick leave payment.

3. Leave Without Pay

An employee on leave without pay and receiving temporary disability payments accrues sick leave and vacation on the same basis as if regularly employed, but such accrual is credited to the employee only upon return to work. If an employee separates without returning to work, no payment shall be made for such vacation credit.

F. Extensions of Work-Incurred Injury or Illness Leave

1. In the event an employee requires an extension to his/her work-incurred injury or illness leave, s/he shall provide the University with a certification from her/his licensed health care practitioner of the need for the extension and the anticipated return to work date.
2. When possible, such certification must be provided seven (7) calendar days prior to the date the employee was previously scheduled to return to work.
3. In the event prior notice is not provided in accordance with §§F.1. and F.2. on or before the previously scheduled return to work date, the University will not make extended sick leave payments to the employee for the period between the previously scheduled return to work date and the date the statement is received.

G. Separation

An employee shall not use vacation, sick leave, or extended sick leave to supplement Workers' Compensation payments beyond a predetermined date of separation or leave without pay. Any vacation credit remaining on the date of separation shall be paid on a lump-sum basis.

H. Modified Duty or Alternative Work

Subject to operational considerations and budgetary constraints, the University will endeavor, on a case by case basis, to modify duties consistent with documented medical restrictions, for employees who have experienced work related injuries or illnesses. This Section shall not be construed as a guarantee of a specific form of accommodation nor shall the modified duty provided in one case establish a precedent for similar or dissimilar circumstances.