

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-50 (rev. 8), “SICK LEAVE POOL”
JANUARY 1, 2011
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Attachment A, PERS 205, Sick Leave Pool Contribution (12/10)

Attachment B, PERS 206, Sick Leave Pool Application for Withdrawal (12/10)



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-50 (rev. 7)
November 1, 2005

EXECUTIVE DIRECTIVE

SUBJECT: SICK LEAVE POOL

AUTHORITY: Texas Government Code §§ 661.001-.008, 661.202; 37 Texas Administrative Code § 151.52; Texas Human Resources Management Statutes Inventory

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

The TDCJ shall administer a sick leave pool to benefit employees of the TDCJ who suffer a catastrophic injury or illness, or who are required to take leave due to an immediate family member's catastrophic injury or illness. Operation of the sick leave pool shall be in accordance with guidelines established in this directive.

DEFINITIONS:

"Catastrophic Injury or Illness" is a severe condition or combination of conditions affecting the mental or physical health of an employee or a member of the employee's immediate family requiring the services of a licensed practitioner for a prolonged period of time.

"Employee" is any person employed by the TDCJ on a full-time, part-time, or temporary basis.

“Immediate Family” includes individuals who reside in the same household with an employee and are related by kinship, adoption, or marriage, as well as foster children certified by the Texas Department of Family and Protective Services. Minor children of an employee, whether or not living in the same household, shall be considered immediate family for the purpose of pool leave. An employee’s use of pool leave for family members not residing in the employee’s household is strictly limited to the time necessary to provide care and assistance to a spouse, adult child, or parent who needs such care and assistance as a direct result of a documented medical condition.

“Licensed Practitioner” is a Doctor of Medicine or Doctor of Osteopathy, other than a hospital resident or intern, who is acting within the scope of license.

“Licensed Practitioner’s Statement,” for the purpose of this directive, is a statement of the attending licensed practitioner and shall contain the description of the catastrophic injury or illness, date of the onset or initial diagnosis, prognosis for recovery, and anticipated date of return to active duty. If the statement is for the care of an immediate family member, it shall also include the type and duration of assistance required from the employee and the projected date of recovery. This statement must be dated within 30 days of the requested leave.

“Pool Leave” is sick leave covered by withdrawals from the sick leave pool.

“Release to Return to Work” is a licensed practitioner’s statement listing any restrictions or limitations and whether the illness or injury is of a temporary or permanent nature. If no restrictions or limitations are listed, the release shall be considered an unconditional release to return to work.

“Sick Leave” is when injury, illness, or pregnancy and confinement prevent an employee’s performance of duty (essential functions) or when an employee is needed to care for and assist a member of the employee’s immediate family who is sick.

“Sick Leave Pool” is accrued sick leave voluntarily contributed by TDCJ employees to benefit TDCJ employees who suffer a catastrophic injury or illness or who are required to take leave due to an immediate family member’s catastrophic injury or illness.

“Sick Leave Pool Administrator” is the human resources director or designee.

“State Service” means the total months of service with the state; such service is not required to be continuous months of service.

“Workdays,” for the purpose of this directive, are Monday through Friday, excluding state and national holidays for which the TDCJ’s administrative offices are closed and days when offices are closed at the direction of the executive director (e.g., due to adverse weather).

PROCEDURES:

I. Contributing to the Sick Leave Pool

A. General Provisions

1. All contributions to the sick leave pool are voluntary.
2. An employee who contributes to the sick leave pool may not designate the contributed hours for use by another specific employee.
3. Any hours donated to the pool shall not be reinstated. An employee who contributes to the sick leave pool shall meet the eligibility criteria in Section II of this directive to withdraw the contributed hours of pool leave.
4. There is no limitation for frequency of donations.

B. Employee Responsibilities

An employee who wishes to contribute to the sick leave pool shall complete a PERS 205, Sick Leave Pool Contribution (Attachment A), and submit the completed PERS 205 to the employee's human resources representative.

1. Active Employees

Active employees may contribute accrued sick leave to the sick leave pool.

- a. The minimum contribution a full-time active employee may make to the sick leave pool is eight hours, and contributions shall be in eight-hour increments.
- b. The minimum contribution a part-time active employee may make to the sick leave pool is four hours, and contributions may be on a proportionate basis (e.g., an employee who works 20 hours per week may contribute accrued sick leave in increments of four hours).

2. Retiring Employees

a. Employees Hired Prior to September 1, 2009

After a retiring employee has designated the number of accrued sick leave hours to be used for retirement credit, the retiring employee may donate any excess number of accrued sick leave hours to the sick leave pool.

b. Employees Hired On or After September 1, 2009

Upon meeting retirement eligibility, a retiring employee's sick leave balance may be used to enhance the employee's retirement annuity. Any excess number of accrued sick leave hours may be donated to the sick leave pool.

c. All Retiring Employees

There is no minimum contribution requirement and the contributed hours do not need to be in eight-hour increments.

Sick leave accrued by an employee prior to the employee's retirement from the TDCJ shall not be restored to the retiree's sick leave balance upon reemployment with the state, regardless of whether the employee donates the hours to the sick leave pool.

3. Other Separating Employees

A separating employee is encouraged to contribute accrued sick leave hours to the sick leave pool at the time of separation from state employment. The minimum contribution a separating employee may make to the sick leave pool is eight hours, and contributions shall be in eight-hour increments. Any hours of sick leave contributed to the sick leave pool shall not be restored to the employee's sick leave balance upon reemployment with the state, even if the reemployment occurs within 12 months of separation.

C. Human Resources Representative Responsibilities

1. Upon receipt of a completed PERS 205, Sick Leave Pool Contribution, the human resources representative shall key the number of donated hours into the TDCJ Payroll and Personnel System (PPS) on the Sick Leave Pool Contribution (SKPCU) screen unless the employee is separating and the payroll status change (PSC) has already been entered into the PPS. In such instances, the human resources representative shall forward a copy of the PERS 205 form to Employee Services Section – Leaves, Human Resources Division, and Employee Services Section – Leaves shall enter the hours into the PPS.
2. The human resources representative shall provide a copy of the PERS 205, Sick Leave Pool Contribution to the employee and place the original PERS 205 in the employee's unit/department human resources file.

NOTE: If an employee has used all paid sick leave and it is past the day required to report time reporting errors (after the 25th day of the following month), manual time adjustments shall not be processed to give the employee sick leave hours to contribute to the sick leave pool or to meet the required 56 hour sick leave balance.

II. Withdrawing From the Sick Leave Pool

A. General Provisions

1. An employee who withdraws from the sick leave pool is not required to pay back the used pool leave.
2. Any sick leave pool time granted shall count as medical and parental leave if applicable. (For additional information see PD-46, "Medical and Parental Leave.")

B. Eligibility Criteria

In order to be eligible to withdraw from the sick leave pool, an employee shall meet all of the following eligibility criteria.

1. The employee shall:
 - a. Be on the TDCJ's active payroll;
 - b. Have completed a minimum of 12 months of TDCJ service since the employee's most recent hire date at the time the request is made;
 - c. Have donated a minimum of eight hours to the sick leave pool during the current fiscal year;
 - d. Have had a minimum balance of 56 hours of sick leave accrued at the onset or initial diagnosis of the current catastrophic injury or illness since the employee's most recent hire date (the balance may be less than 56 hours at the time of application for sick leave pool hours); and
 - e. Have exhausted all accrued paid leave entitlements (compensatory, holiday, overtime, sick leave, and vacation) and be subject to loss of compensation from the state. (However, an eligible employee shall use withdrawal from the sick leave pool prior to using extended sick leave in accordance with PD-46, "Medical and Parental Leave.")

2. Another family member may not currently be accessing the sick leave pool for the same catastrophic illness or injury.
3. The employee may not have previously accessed pool hours for the same catastrophic injury or illness.
4. The employee may not have been previously approved to receive hours from the sick leave pool during the current fiscal year. For eligibility purposes, provisionally approved hours that extend into a new fiscal year shall be applied to the fiscal year in which they were originally granted.

C. Computation of Maximum Allowable Hours

The maximum amount of pool leave that may be granted for each catastrophic injury or illness may not exceed the lesser of:

1. One-third of the total balance of hours in the sick leave pool; or
2. The number of an eligible employee's allowable hours computed as indicated below:

POOL LEAVE	Number of Hours Contributed During Current Fiscal Year		
	8	16	24
Months of State Service	Allowable Hours		
13-24	160	240	320
25-48	240	320	400
49-60	320	400	480
61-96	400	480	560
97+	560	640	720

D. Submission of a PERS 206, Sick Leave Pool Application for Withdrawal

1. Employee Responsibilities
 - a. Initial Request

To initially request withdrawal of sick leave pool hours, an employee shall submit a PERS 206, Sick Leave Pool Application for Withdrawal (Attachment B), with required attachments identified below, to the human resources representative. The PERS 206 shall be submitted at least 10 workdays, but not more than 30

calendar days, prior to the exhaustion of all accrued paid leave entitlements. The following attachments to the PERS 206 are required:

(1) Employee's Catastrophic Injury or Illness

A licensed practitioner's statement shall be submitted containing a description of the catastrophic injury or illness, date of the onset or initial diagnosis, a prognosis for recovery, and anticipated date of return to active employment.

(2) Immediate Family Member's Catastrophic Injury or Illness

A licensed practitioner's statement shall be submitted containing a description of the catastrophic injury or illness, date of the onset or initial diagnosis, a prognosis for recovery, and amount of required assistance to the family member by the employee.

b. Subsequent Requests

An eligible employee provisionally approved for more than 240 hours shall only be granted up to 240 sick leave pool hours at one time. At least five workdays prior to the exhaustion of a 240-hour increment, such an employee shall submit an updated licensed practitioner's statement dated within 30 calendar days of the request that meets the same criteria required for the initial PERS 206, Sick Leave Pool Application for Withdrawal (see Section II.D.1.a) to the human resources representative to receive any remaining provisionally approved hours.

If the employee fails to submit the required documentation, the employee shall not be eligible to receive the remaining provisionally approved hours, and the employee shall be provisionally placed on leave without pay (LWOP) – Medical in accordance with the procedures in PD-46, "Medical and Parental Leave." A delay beyond five workdays shall be accompanied by clear and convincing evidence that the delay in submission was beyond the employee's control.

For example: An employee is provisionally approved for 560 sick leave pool hours based on the initial PERS 206. The employee shall only initially receive 240 hours. Prior to exhausting the first 240-hour increment, the employee shall submit an updated licensed practitioner's statement in order to receive a second 240-

hour increment. Prior to exhausting the second 240-hour increment, the employee shall submit another updated licensed practitioner's statement in order to receive the remaining 80 hours.

2. Human Resources Representative Responsibilities

a. Initial Request

Upon receipt of the PERS 206, Sick Leave Pool Application for Withdrawal and licensed practitioner's statement, the human resources representative shall date stamp the statement and obtain the warden/department head or designee's signature on the PERS 206. The warden/department head or designee's signature only verifies the employee meets the criteria relating to months of service and hours contributed to the sick leave pool during the current fiscal year. The signature does not verify the employee meets the catastrophic injury or illness criteria. The human resources representative shall then forward the PERS 206 to the Employee Services Section – Leaves, Human Resources Division.

b. Subsequent Requests

Upon receipt of the updated licensed practitioner's statement, the human resources representative shall date stamp the statement and forward the statement and a copy of the previously approved PERS 206, Sick Leave Pool Application for Withdrawal to the Employee Services Section – Leaves, Human Resources Division. The warden/ department head is not required to approve a subsequent request for additional sick leave pool hours.

E. Review by Sick Leave Pool Administrator

The Employee Services Section - Leaves shall forward all completed initial or subsequent PERS 206, Sick Leave Pool Application for Withdrawal forms to the sick leave pool administrator for approval. The sick leave pool administrator shall:

1. Consider each PERS 206, Sick Leave Pool Application for Withdrawal on a first-come, first-serve basis. If two or more PERS 206 forms are received on the same day, the PERS 206 forms shall be prioritized based on months of total state service. If the months of total state service are the same, the PERS 206 forms shall then be prioritized based on months of TDCJ service;
2. Approve all or part of the request, or deny the request; and

3. Return the PERS 206, Sick Leave Pool Application for Withdrawal to the Employee Services Section - Leaves, Human Resources Division.

The decision of the sick leave pool administrator is final and may not be submitted as a grievance or appealed to a higher level.

F. Employee Notification of Approval or Disapproval

1. Approval

Upon receipt of an approved initial or subsequent PERS 206, Sick Leave Pool Application for Withdrawal from the sick leave pool administrator, the Employee Services Section - Leaves shall immediately notify the human resources representative and the Payroll Department of the approval.

- a. The human resources representative shall also be notified:

- (1) The number of hours requested are available; or
- (2) If the requested number of hours are not available:

- (a) Whether the employee should request extended sick leave pending the availability of the pool hours; or
- (b) The employee is not eligible for extended sick leave and must wait until sick leave pool hours become available.

- b. The human resources representative shall immediately notify the employee of the PERS 206, Sick Leave Pool Application for Withdrawal approval and availability of pool hours.

- c. The Employee Services Section - Leaves shall provide a copy of the approved PERS 206, Sick Leave Pool Application for Withdrawal to the human resources representative when the sick leave pool hours become available. The human resources representative shall provide a copy of the approved PERS 206 form to the employee.

2. Disapproval

If the sick leave pool administrator does not approve the PERS 206, Sick Leave Pool Application for Withdrawal, the Employee Services Section - Leaves shall provide a copy of the disapproved PERS 206 to the human resources representative and the employee within 10 workdays from receipt of the PERS 206.

An employee may resubmit a disapproved PERS 206 form with additional medical information within 14 calendar days of the date Employee Services Section - Leaves sends the disapproved PERS 206 to the employee.

G. Transfer of Pool Leave

If the PERS 206, Sick Leave Pool Application for Withdrawal was approved, the Employee Services Section - Leaves shall arrange for the transfer of approved pool leave to the requesting employee's sick leave balance when the hours become available.

If the employee used extended sick leave pending the availability of sick leave pool hours, the Employee Services Section - Leaves shall coordinate with the Payroll Department and the employee's human resources representative to ensure the time previously reported as extended sick leave is replaced with sick leave pool hours. Such an employee may use the remaining balance of sick leave pool hours granted and then apply for extended sick leave in accordance with PD-46, "Medical and Parental Leave."

H. Use of Accrued Leave While on Pool Leave

An employee who uses pool leave for a full calendar month shall accrue paid leave for that month. However, the employee shall be eligible to use such accrued leave only if the employee returns to work:

1. Before or immediately following expiration of the granted pool leave; or
2. Before or immediately following the expiration of any subsequently approved extended sick leave or LWOP.

I. Return to Work

An employee on pool leave for the employee's catastrophic illness or injury who is released to return to full duty shall report to work on the employee's next regularly scheduled workday. The employee shall submit a release to return to work to the employee's human resources representative.

1. If the employee or the employee's family member needs continued medical treatment for the catastrophic injury or illness for which sick leave pool hours were granted (e.g., chemotherapy), any unused pool hours may be used by the employee after return to work. When the employee uses such hours, the employee shall provide the human resources representative with a statement from a licensed practitioner containing:

- a. A description of the catastrophic injury or illness for which the pool hours were granted; and
 - b. The intervals and duration of continued treatment (e.g., two hours once a week for a two-month period).
2. If the employee has not used all the sick leave pool hours granted and the employee or the employee's family member does not need continued medical treatment for the catastrophic injury or illness for which the sick leave pool hours were granted, the human resources representative shall send an e-mail to the Employee Services Section – Leaves, identifying the number of unused hours to be returned to the sick leave pool.
- J. Deceased Employee's Estate

The estate of a deceased employee is not entitled to payment for unused sick leave pool hours. Any unused sick leave pool hours shall be returned to the sick leave pool effective the date of the employee's death. Upon notification of the employee's death, the human resources representative shall send an e-mail to the Employee Services Section – Leaves, identifying the number of unused hours to be returned to the sick leave pool.

Brad Livingston
Executive Director

**Texas Department of Criminal Justice
Sick Leave Pool Contribution**

NAME: _____ Please Print: Last Name First Name	MONTH/DATE OF BIRTH: _____ (mm/dd)
UNIT/DEPT: _____	MONTHS OF STATE SERVICE SINCE MOST RECENT HIRE DATE: _____
POSITION TITLE: _____	SALARY GROUP: _____

1. Current Accrued Sick Leave Balance: _____

2. Number of hours **CONTRIBUTING** to Sick Leave Pool: _____

(Minimum contribution for a full-time active or separating employee is eight hours, and contributions shall be in eight-hour increments. Minimum contribution for a part-time active or separating employee is four hours, and contributions shall be in four-hour increments. There is no minimum requirement for retiring employees, and the contribution does not have to be in eight or four-hour increments.)

Contributions may not be designated for any specific employee.

Employee Signature

Date (MM/DD/YYYY)

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

DISTRIBUTION:
Original: Unit/Department Human Resources File – Activity Section
Copy: Employee

**Texas Department of Criminal Justice
Sick Leave Pool Application for Withdrawal**

NAME: _____ SSN : _____
Please Print: Last First MI

UNIT/DEPT: _____ MONTHS STATE SERVICE SINCE
MOST RECENT HIRE DATE: _____

POSITION TITLE: _____ SALARY GROUP: _____

1. Date accrued leave(s) is exhausted:
Initial Request: _____ First Subsequent Request: _____ Second Subsequent Request: _____
2. Number of hours contributed to sick leave pool this fiscal year (eight-hour increments for full-time employees and four-hour increments for part-time employees): _____
3. Number of hours requested from sick leave pool: _____
Hours requested should not exceed eligibility based on months of state service or previous contribution.
4. Withdrawal:
Request withdrawal due to catastrophic injury or illness.
____ Employee
____ Immediate Family Member.
Relationship: _____
Where family member resides: _____
If not in employee's household, include a statement indicating to what extent the family member is totally dependent upon the employee on a continuing basis: _____

____ Reconsideration with additional medical information attached.
5. Required documentation attached:
____ Attending licensed practitioner's statement to contain description of injury or illness, date of the onset or initial diagnosis, prognosis for recovery and anticipated date of return to active duty. If family member, include the amount of assistance required from the employee.

Employee Signature

Date (MM/DD/YYYY)

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

Employee meets employment eligibility criteria and the PERS 206, Sick Leave Pool Application for Withdrawal is being forwarded to the sick leave pool administrator for further consideration of the employee's medical condition:

Warden/Dept. Head or Designee's Signature

Date (MM/DD/YYYY)

Note: The warden/dept. head or designee's signature verifies only that the employee meets the criteria relating to months of service and hours contributed to the pool during the current fiscal year. This does not verify that the employee meets the catastrophic injury or illness criteria.

The initial request has been Approved Disapproved.

A total of _____ hours have been provisionally approved based on eligibility.

The number of hours granted at this time are _____ (240 maximum)

Pool Administrator Signature Date (MM/DD/YYYY)

Subsequent Requests	Licensed Practitioner's Statement Attached	Approved	Disapproved	Hours Granted (240 Maximum)	Pool Administrator Initials	Date
First						
Second						

DISTRIBUTION:

- Original: Employee Master Human Resources File
- Copy: Employee Unit/Department Medical File (Sick Leave Related Section)
- Copy: Employee