

**Article 3: Civil Service**

**Division 11: Leaves of Absence**

**§23.1101 General Requirements**

Eligible employees shall be entitled to holidays and annual leave, and shall be allowed other special leaves of absence as hereinafter in this rule provided. In addition, employees may be eligible for other types of leave approved by the City Council. All leaves of absence, whether with or without pay, shall be submitted in writing on prescribed forms, and shall be subject to the provisions of this Rule and/or any applicable section of the Personnel Manual or Administrative regulations. All leaves contained in this Rule, except as hereinafter provided in the case of Compulsory Leave, Court Leave, and Special Meetings, must meet the approval of the appointing authority and Commission. Except in the case of leave credits used for illness, family emergency, or military leave, the time during which any leave of absence shall be taken by an employee shall be designated by the appointing authority. Leaves of absence shall be indicated on the payroll time sheets submitted to the Personnel Director for certification. Failure to submit leave requests prior to the date on which pay warrants are released will result in withholding the warrants until such requests have been submitted and approved.

*(Amended 7-27-1981 by O-15553 N.S.; effective 9-4-1981.)*

**§23.1102 Holidays**

An eligible employee shall be entitled, without loss of pay, to the holidays defined in the Municipal Code of The City of San Diego, or to compensatory time off. All eligible employees shall be entitled to the same number of holidays.

*(Amended 11-25-1958 by O-8012 N.S.)*

**§23.1103 Annual Leave**

(Rule X, Section 3 of the Rules of the Civil Service Commission)

The intent of annual leave is to provide compensation to employees who are absent from duty because of illness, injury, death in the family, medical or dental care appointments, or personal business, or who utilize the time off as personal vacation.

- (a) Full-time Active Service: A full-time eligible employee shall be entitled to an annual leave with full pay as follows:

- (1) Seventeen workdays each fifty–two weeks, credited biweekly during the first through fifth years of active service.
  - (2) Twenty–two workdays each fifty–two weeks, credited biweekly, during the sixth through fifteenth years of active service.
  - (3) Those classifications designated by the Commission and the Council as eligible for the Management Benefits Plan shall be entitled to twenty–two workdays, credited biweekly each fifty–two weeks, during the first through fifteenth years of active service.
  - (4) Twenty–seven workdays each fifty–two weeks credited biweekly, during the sixteenth and succeeding years of active service.
  - (5) Employees shall accrue and may use annual leave as earned if approved by the employee’s appointing authority.
  - (6) Eligible employees may be granted pay in lieu of annual leave as provided in the Personnel Manual.
  - (7) Employees may accumulate annual leave credits up to the maximum determined by the Civil Service Commission as provided in the Personnel Manual.
- (b) Part–time Employees Paid on A Biweekly Basis: Eligible employees who are paid regularly one–half or three–quarters of the biweekly salary for their class shall be entitled to the prorated number of days of annual leave specified in paragraph (1) above, at their usual rate of pay. Accrual limits for all employees shall be the same as those for full–time employees.
- (c) Annual Leave Pay Upon Termination: Upon termination of City employment for any reason, an eligible employee is entitled to pay in lieu for the number of accumulated annual leave days credited to his or her account under the provisions of this rule. At the time of retirement, an eligible employee may elect to place himself or herself on terminal annual leave, and the period of terminal annual leave shall be considered in computing currently earned annual leave. The following employees are not eligible for terminal annual leave:
- (1) Effective May 23, 2010, employees represented by Local 127, American Federation of State, County, and Municipal Employees; employees represented by the San Diego Police Officers Association; and classified unrepresented employees are not eligible for terminal annual leave upon termination of City employment for any reason.

- (2) Effective June 30, 2011, employees represented by the California Teamsters Local 911 are not eligible for terminal annual leave upon termination of City employment for any reason.
- (3) Effective July 1, 2011, employees represented by the San Diego City Firefighters, International Association of Fire Fighters, Local 145, and employees represented by the San Diego Municipal Employees' Association are not eligible for terminal annual leave upon termination of City employment for any reason.
- (d) Annual Leave — Workers' Compensation: Those employees who are absent from duty because of a temporary disability which is defined as industrial under the Workers' Compensation Act, but who are not granted industrial leave may use annual leave credits; provided, however, that any such employee who receives a temporary disability allowance, as provided by the Workers' Compensation Law, must reimburse the City Auditor and Comptroller in the amount of the authorized compensation, in which case, only that amount of the employee's accumulated annual leave credits as when added to said disability allowance will result in a payment of not more than the employee's full salary or wages shall be charged against said accumulated annual leave credits.
- (e) Nonapplicability: Hourly employees shall not be eligible to earn annual leave credits.

*(Amended 10-11-1993 by O-17994 N.S.)*

*(Amended 4-23-2010 by O-19945 N.S.; effective 5-23-2010.)*

*(Amended 6-2-2011 by O-20057 N.S.; effective 7-2-2011.)*

#### **§23.1104 Sick and Emergency Leaves**

- (a) Sick Leave Intent, Definition, Provisions: The intent of this section is to allow continued use of sick leave credits accrued prior to September 4, 1981, for those employees who are unable on account of illness or injury to perform the duties of their positions or who would expose fellow workers or the public to contagious disease and are thereby forced to be absent from employment, and to provide necessary time off from work for medical and dental care, subject to administrative regulations designed to prevent malingering or abuse of these privileges.
  - (1) Sick Leave Definition: Sick leave is defined as the necessary absence from duty of an employee on account of illness, injury or exposure to contagious disease suffered by the employee, or the serious disability of the employee while on a scheduled leave, or absence authorized for medical or dental care.

- (2) Sick Leave — Workers’ Compensation: Those employees who are absent from duty because of a temporary disability which is defined as industrial under the Workers’ Compensation Act, but who are not granted industrial leave may use sick leave credit; provided, however, that any such employee who receives a temporary disability allowance, as provided under the Workers’ Compensation Law, must reimburse the City Auditor and Comptroller in the amount of the authorized compensation; in which case, only that amount of the employee’s accumulated sick leave credits as when added to said disability allowance will result in a payment of not more than the employee’s full salary or wages shall be charged against said accumulated sick leave credits.
  
- b) Emergency Leave Intent, Definition, Provisions: The intent of this Section is to allow continued use on a limited basis, of sick leave credits accrued prior to September 4, 1981, by an employee who is confronted with serious emergency illness, injury, or death in the employee’s immediate family.
  - (1) Emergency leave is defined as the necessary absence from duty of an employee because of emergency illness of a member of the employee’s immediate family requiring the attendance of the employee upon said member until professional or other attendance can be obtained, or the absence from duty of an employee because of the death of an immediate family member.
  
  - (2) An eligible employee may be granted emergency leave with pay chargeable to accumulated sick leave credits not to exceed a total of 5 workdays for each instance of emergency illness or death in the employee’s immediate family. In the case of illness followed by death, an employee may be granted a maximum of 10 consecutive workdays of emergency leave chargeable to sick leave credits.

*(Amended 7-27-1981 by O-15553 N.S.; effective 9-4-1981.)*

**§23.1105 Evidence of Cause of Absence**

In all cases of absence because of sickness or injury of the employee, or illness or death in the immediate family, the employee may be required to furnish the appointing authority satisfactory evidence substantiating the facts justifying such leave. Failure to furnish such evidence upon request shall be sufficient reason for denying the leave of absence with pay.

*(“Evidence of Cause of Absence” added 7-27-1981 by O-15553 N.S.; effective 9-4-1981.)*

**§23.1106 Transfer of Leave Credits**

When an employee moves from one department or major division to another by transfer, promotion, or demotion, the accrued annual leave and sick leave (if applicable) credit shall be assumed by the receiving department or division. (*“Transfer of Leave Credits” renumbered from Sec. 23.1105 and amended 7-27-1981 by O-15553 N.S.; effective 9-4-1981.*)

**§23.1107 Military Leave**

In addition to the leaves of absence provided in this rule, City officers or employees who are also members of the armed services or militia or organized reserves of this State or Nation, shall be entitled to the leaves of absence and the employment rights and privileges provided by the Military and Veterans’ Code of the State of California. City officers or employees who have had not less than one year of regular City employment immediately prior to the beginning of requested military leave, shall receive their regular City compensation during the military leave, not to exceed a period of 30 calendar days in any fiscal year. (*“Military Leave” renumbered from Sec. 23.1106 on 7-27-1981 by O-15553 N.S.; effective 9-4-1981.*)

**§23.1108 Compulsory Leave**

If, in the opinion of the department head, an employee is incapacitated for work on account of illness or injury, such employee may be required, for a period not to exceed 2 workdays, to absent himself from duty. If said incapacity may reasonably be expected to extend beyond 2 workdays, the department head shall require the employee to undergo an examination by a physician designated or approved by the Commission. If the report of the physician shows the employee to be in an unfit condition to work, the appointing authority shall have the right, subject to Commission approval, to compel such employee to take sufficient leave of absence, not to exceed one year of leave without pay, so as to become fit for the proper performance of assigned duties. (*“Compulsory Leave” renumbered from Sec. 23.1107 and amended 7-27-1981 by O-15553 N.S.; effective 9-4-1981.*)

**§23.1109 Special Without Pay**

(Rule X, Section 8 of the Rules of the Civil Service Commission)

An employee whose work record has been satisfactory and who, for any reason considered good by the appointing authority and the Commission, desires to secure leave from regular duties, may be granted special leave of absence without pay for a period not exceeding one year. For good cause, such leave may be extended, upon approval of the appointing authority and the Commission, when such leave is granted to enable an employee to take a position in the Unclassified Service, the Commission may, upon request, grant a leave of absence for the period of actual service of the employee in such Unclassified position. An employee asking for special leave without pay, shall submit a request on prescribed forms with a transmittal letter, stating the reasons for the request.

The appointing authority who endorses such request shall recommend and the Commission shall determine whether the employee shall be entitled to the same position upon return from such leave or whether the employee's name shall be placed on the eligible list for the class or classes as determined by the Commission. If appropriate, the employee's return shall be subject to passing the prescribed City medical examination.

*("Special Without Pay" renumbered from Sec. 23.1108 on 7-27-1981 by O-15553 N.S.; effective 9-4-1981.)*

**§23.1110 Court Leave**

An employee, other than one paid on an hourly basis, who is required by court order to serve as a juror, or as a witness who is not a party to a court action, shall be granted leave for such purpose upon presentation of proof of the period of his required attendance to the appointing authority and the Personnel Director. The employee shall receive full pay for the time he serves on court duty. Request for such leave shall be made upon leave of absence forms.

*(Amended 10-11-1993 by O-17994 N.S.)*

**§23.1111 Special Meetings**

Officers and employees may be granted special permission, without loss of pay, to attend professional or technical institutes or conferences, or other meetings as may contribute to the effectiveness of their service to the City. Such special permission is subject to the approval of the appointing authority or the City Council, whichever is applicable. Evidence of such special permission to attend said conferences or meetings shall be furnished promptly by the department head to the Personnel Director. Officers and employees granted said special permission shall be considered to be in duty status.

*(“Special Meetings” renumbered from Sec. 23.1110 on 7-27-1981 by O-15553 N.S.; effective 9-4-1981.)*

**§23.1112 Hourly Sick Leave (A.B. 1522)**

- (a) Eligibility: Hourly employees, regardless of classification, who receive no paid Annual Leave or other paid leave under this Rule, are entitled to a paid sick leave benefit, consistent with that provided by State of California Assembly Bill 1522 (A.B. 1522), which enacted the Healthy Workplaces, Healthy Families Act of 2014, set forth at California Labor Code, Division 2, Part 1, Chapter 1, Article 1.5, sections 245 through 249. These employees are referred to as Eligible Employees in this Section. The benefit they receive is referred to as Hourly Sick Leave (A.B. 1522), under the conditions set forth in this Section. Hourly Sick Leave (A.B. 1522) is a different benefit, subject to different conditions, than Sick Leave, which accrued prior to September 4, 1981, and Annual Leave.
- (b) Accrual: Effective July 1, 2015, Eligible Employees will accrue Hourly Sick Leave (A.B. 1522) at a rate of one hour for every 30 hours worked, up to a maximum accrual of 48 hours. Eligible Employees begin accruing Hourly Sick Leave (A.B. 1522) at the commencement of employment, but may not use the accrued leave until the 90th day of employment, which is measured by 90 actual days worked. Any amount of time spent working on a day counts as one day toward the 90-day employment period. Any unused, accrued Hourly Sick Leave (A.B. 1522) will carry over to the following fiscal year, up to a maximum accrual of 48 hours. After an Eligible Employee has worked 90 actual days, he or she may use accrued Hourly Sick Leave (A.B. 1522) up to the maximum accrual.

- (c) Permitted Use: Eligible Employees may use up to 24 hours of Hourly Sick Leave (A.B. 1522) in any fiscal year for:
  - (1) Diagnosis, care, or treatment of an existing health condition of, or preventative care for, the Eligible Employee or family member; or
  - (2) If the Eligible Employee is a victim of domestic violence, sexual assault, or stalking, to take time off from work to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding; obtain or attempt to obtain any relief, including a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child; seek medical attention for injuries caused by domestic violence, sexual assault, or stalking; obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking; obtain psychological counseling services related to an experience of domestic violence, sexual assault, or stalking; or participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.
  - (3) For purposes of this subsection, family member means:
    - (A) the Eligible Employee’s biological, adopted, or foster child, stepchild, legal ward, or a child to whom the Eligible Employee stands in loco parentis regardless of age or dependency status of the child;
    - (B) the Eligible Employee’s biological, adoptive, or foster parent, stepparent, or legal guardian of an Eligible Employee or the Eligible Employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the Eligible Employee was a minor child;
    - (C) the Eligible Employee’s spouse;
    - (D) the Eligible Employee’s registered domestic partner;
    - (E) the Eligible Employee’s grandparent;
    - (F) the Eligible Employee’s grandchild; or
    - (G) the Eligible Employee’s sibling.

- (4) The City may require Eligible Employees to provide documentation substantiating the facts justifying the use of Hourly Sick Leave (A.B. 1522), to the extent permitted by California law. This requirement does not limit or affect any laws guaranteeing the privacy of health information or information related to domestic violence, sexual assault, or stalking, regarding an Eligible Employee or an Eligible Employee's family member. That information will be treated as confidential and not disclosed to any person except to the affected Eligible Employee, or as required by law.
- (d) **Pay Rate:** Eligible Employees will be compensated for use of Hourly Sick Leave (A.B. 1522) at the Eligible Employee's current hourly pay rate for regular work hours. If an Eligible Employee, in the 90 days of employment before using accrued Hourly Sick Leave (A.B. 1522), had different hourly pay rates, then the Eligible Employee will be compensated at the highest hourly pay rate, not including overtime premium pay, earned during the prior 90 actual days of employment.
- (e) **Notice:** If the need for Hourly Sick Leave (A.B. 1522) is foreseeable, Eligible Employees must provide reasonable advance notice to their supervisors, in writing or verbally. If the need for Hourly Sick Leave (A.B. 1522) is unforeseeable, Eligible Employees must provide notice of the need for Hourly Sick Leave (A.B. 1522) as soon as practicable.
- (f) **No Cash Value:** Eligible Employees may not cash out Hourly Sick Leave (A.B. 1522) while employed or upon termination, resignation, retirement, or other separation from City employment. However, if an Eligible Employee separates from City employment and is rehired within one year from the date of separation, the City will reinstate previously accrued and unused Hourly Sick Leave (A.B. 1522). Eligible Employees may immediately use any previously accrued and unused Hourly Sick Leave (A.B. 1522), and accrue additional Hourly Sick Leave (A.B. 1522) upon rehire, up to the maximum accrual of 48 hours. If an Eligible Employee does not return to City service within one year from the date of separation, all accrued and unused Hourly Sick Leave (A.B. 1522) will be forfeited.
- (g) **Change of Employment Status:** If an Eligible Employee moves into a position or status, which entitles him or her to paid Annual Leave, then the employee will no longer be an Eligible Employee under this section, and any accrued, unused Hourly Sick Leave (A.B. 1522) will be held during employment, but not available for use, unless the employee returns to a position or status in which the employee is no longer eligible for paid Annual Leave.

- (h) Records: The City will maintain records for three years documenting the hours worked and Hourly Sick Leave (A.B. 1522) accrued and used by an Eligible Employee, and will make these records available to an Eligible Employee or the State of California Labor Commission as required or permitted by California law.
- (i) Enforcement: Retaliation or discrimination against an Eligible Employee for requesting or using Hourly Sick Leave (A.B. 1522), consistent with this Section, is prohibited. An Eligible Employee has the right to enforce the provisions of this Section, in a manner consistent with California law.
- (j) The Hourly Sick Leave (A.B. 1522) benefit under this Section accrues concurrently with any additional sick leave benefit authorized by the City or approved by voters in the future, meaning the accumulated leave amounts under this Section and any future ordinance will not be added together to create a more generous benefit, unless a future ordinance specifies otherwise.

*(“Hourly Sick Leave (A.B. 1522)” added 5-28-2015 by O-20487 N.S.; effective 6-27-2015.)*