

OKLAHOMA COUNTY CLERK'S OFFICE

ORACLE HRIS REQUIREMENTS

Business Case

Update Employee Handbook to Clarify Excess Annual Leave Accruals

Current business practice:

- Employees can accrue unused annual leave to a maximum of:
 - a. 30 days (240 hours) for those employees less than five (5) years of cumulative service;
 - b. 45 days (360 hours) for those employees with five (5) years or more but less than ten (10) years of cumulative service;
 - c. 60 days (480 hours) for those employees with ten (10) or more years of cumulative service.
- The Employees Handbook provides “**there shall be no accumulation of annual leave in excess of the above stated limits**”. Language was added effective 6-30-03 that “**Annual leave in excess of established limits will be lost if not used by the end of the fiscal year (June 30)**”.
- The Employees Handbook also provides that “**Any employee who is terminated from their job shall be paid for any unused annual leave accumulated to their credit.**”

Problems created from the current policy:

- Title 19 O.S. § 1301 provides in part, “**Any leave plan adopted by a county shall not extend benefits to any employee in excess of leave benefits available to a regular state employee in the classified service.**”
- Title 74 O.S. § 840-2.20 provides state employees annual accrual rate limits are **thirty (30) days for employees with up to five (5) years experience or sixty (60) days for employees with more than five (5) years experience.**
- Title 74 O.S. § 840-2.20 provides in part, “**Employees may accumulate more than the maximum annual leave accumulation limits ... provided that such excess is used during the same calendar year in which it accrues or within twelve (12) months of the date on which it accrues, at the discretion of the appointing authority.**”
- Attorney General Opinion 1999 OK AG 9, answers in part, “**a county’s formal leave plan may not provide for the payment of unused annual leave days upon an employee’s termination greater than the thirty (30) or sixty (60) day maximum accumulation limits which are permitted State employees.**”

OKLAHOMA COUNTY CLERK'S OFFICE

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Business Case

Update Employee Handbook to Clarify Excess Annual Leave Accruals

- The Oklahoma Office of Personnel Management's policy for state employees is, as follows: "Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in 530: 10-15-10, except as provided in this paragraph. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule, provided that such excess is used during the same calendar year in which it accrues or within twelve months of the date on which it accrues, at the discretion of the Appointing Authority. Employees shall not be paid for excess leave above the accumulation limit, such excess accumulations shall be used for leave purposes in the agency where it was accrued or, if an employee was transferred to an agency by statute or executive order, in the agency to which the employee was transferred regardless of where the leave was accrued only while the employee is continuously employed."
- Oklahoma County's annual leave accrual plan is not clear and not being interpreted uniformly.
- Oklahoma County's annual leave accrual plan seems to permit excess annual leave to be paid when an employee terminates which would be a benefit greater than the state allows.

Recommendations:

Amend the County Employees Handbook to read: **Any employee who is terminated from their job shall be paid for any unused annual leave accumulated to their credit. However, employees shall not be paid for excess leave above the accumulation limits stated herein. Such excess accumulations shall be used for leave purposes only.**



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Title 19. Counties and County Officers

Oklahoma Statutes Citationized

Title 19. Counties and County Officers

Chapter 31 - Vacation and Sick Leave

Section 1301 - Vacation and Sick Leave Plan

Cite as: O.S. §, ___

Each county may develop and maintain a formal plan for vacation and sick leave for all regular employees. No person chosen by election or appointment to fill an elective office shall be subject to any leave plan, nor shall such person be eligible for accrual of any leave benefits.

Any leave plan adopted by a county shall not extend benefits to any employee in excess of leave benefits available to a regular state employee in the classified service.

Historical Data

Added by Laws 1979, c. 220, § 1, emerg. eff. May 30, 1979.

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Oklahoma Attorney General's Opinions	
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1999 OK AG 9,	Question Submitted by: The Honorable Richard C. Phillips, State Representative, District 100
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Title 74. State Government

Oklahoma Statutes Citationized

Title 74. State Government

Chapter 27A - Oklahoma Personnel Act

Section 840-2.20 - Promulgation of Rules Regarding Leave

Cite as: O.S. §, ___

A. The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Administrator of the Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1: Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave shall be accrued based upon hours worked, paid leave, and holidays, but excluding overtime, not to exceed the total possible work hours for the pay period. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule below, provided that such excess is used during the same calendar year in which it accrues or within twelve (12) months of the date on which it accrues, at the discretion of the appointing authority. If an employee whose job duties include providing fire protection services, law enforcement services or services with the Department of Corrections is unable to use excess leave as provided for in this paragraph because the employee's request for leave is denied by the employee's appointing authority and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee's regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used.

2. From November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

Cumulative Years of Service	ACCRUAL RATES		ACCUMULATION LIMITS
	Annual Leave	Sick Leave	Annual Leave
Persons employed 0-5 yrs =	15 day/yr	15 days/yr	30 days
5-10 yrs =	18 day/yr	15 days/yr	60 days
10-20 yrs =	20 day/yr	15 days/yr	60 days
over 20 yrs =	25 day/yr	15 days/yr	60 days

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave

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and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority.

4. Employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section.

5. The Administrator of the Office of Personnel Management and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Administrator of the Office of Personnel Management is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations.

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick leave accrued at the time of termination of employment restored if they return to state employment, provided that the state employees' enter-on-duty dates for reemployment occur on or before two (2) years after their termination of employment and they are eligible to accrue sick leave before the two (2) years expire.

7. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties.

B. Nothing in the Oklahoma Personnel Act is intended to prevent or discourage an appointing authority from disciplining or terminating an employee due to abuse of leave benefits or absenteeism. Appointing authorities are encouraged to consider attendance of employees in making decisions regarding promotions, pay increases, and discipline.

C. Upon the transfer of a function in state government to an entity outside state government, employees may, with the agreement of the outside entity, waive any payment for leave accumulations to which the employee is entitled and authorize the transfer of the leave accumulations or a portion thereof to the outside entity.

Historical Data

Added by Laws 1985, SB 74, c. 203, § 113, emerg. eff. July 1, 1985; Amended by Laws 1988, SB 496, c. 85, § 1, emerg. eff. July 1, 1988; Amended by Laws 1992, HB 1973, c. 367, § 3, eff. July 1, 1992; Renumbered from 74 O.S. § 840.7a by Laws 1994, HB 2331, c. 242, § 54; Amended by Laws 1994, SB 911, c. 283, § 11, eff. September 1, 1994; Amended by Laws 1995, SB 672, c. 358, § 11, emerg. eff. June 9, 1995; Amended by Laws 1996, HB 2463, c. 320, § 1, emerg. eff. June 12, 1996; Amended by Laws 1998, HB 2860, c. 235, § 2, eff. July 1, 1998 (superseded document available); Amended by Laws 1998, SB 974, c. 399, § 1, eff. July 1, 1998 (superseded document available); Amended by Laws 1999, HB 1169, c. 21, § 1, emerg. eff. April 5, 1999 (superseded document available); Amended by Laws 2001, SB 571, c. 348, § 3, eff. November 1, 2001 (superseded document available); Amended by Laws 2003, SB 647, c. 145, § 1, emerg. eff. July 1, 2003 (superseded document available); Amended by Laws 2004, SB 1385, c. 312, § 7, emerg. eff. July 1, 2004; Amended by Laws 2004, SB 965, c. 401, § 1, emerg. eff. July 1, 2004 (superseded document available); Amended by Laws 2005, SB 315, c. 437, § 1, emerg. eff. July 1, 2005 (superseded document available); Amended by Laws 2006, SB 1581, c. 230, § 2, emerg. eff. July 1, 2006 (superseded document available); Amended by Laws 2009, SB 232, c. 423, § 1, emerg. eff. July 1, 2009 (superseded document available).

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Title 74. State Government

Cite	Name	Level
<u>74 O.S. 840-2.20.</u>	<u>Promulgation of Rules Regarding Annual and Sick Leave - Leave Benefits</u>	Cited
<u>74 O.S. 840-2.20.</u>	<u>Promulgation of Rules Regarding Annual and Sick Leave - Leave Benefits</u>	Cited
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Question Submitted by: The Honorable Richard C. Phillips, State Representative, District 100
1999 OK AG 9
Decided: 04/15/1999
Oklahoma Attorney General

Cite as: 1999 OK AG 9, ___

¶0 This office has received your request for an Attorney General Opinion in which you ask, in effect, the following questions:

1. If a county government establishes a maximum amount of hours of annual leave an employee can accrue and carry forward into the next fiscal year, can the county also set maximum accumulation limits for annual leave?
2. If employment with a county government is terminated for any reason prior to the end of the fiscal year and the employee has earned annual leave in excess of the county's policy limits, is the employee entitled to compensation at termination for the excess hours earned or is compensation limited to the policy maximum for accrual?

I.

¶1 Your first question asks if a county government establishes a maximum amount of hours of annual leave an employee can accrue and carry forward into the next fiscal year, can the county also set maximum accumulation limits for annual leave?

¶2 Title 19 of the Oklahoma Statutes authorizes counties to establish leave plans for their employees as follows:

Each county may develop and maintain a formal plan for vacation and sick leave for all regular employees. No person chosen by election or appointment to fill an elective office shall be subject to any leave plan, nor shall such person be eligible for accrual of any leave benefits.

Any leave plan adopted by a county shall not extend benefits to any employee in excess of leave benefits available to a regular state employee in the classified service.

19 O.S. 1991, § 1301.

¶3 Title 74 O.S. Supp.1998, § 840-2.20 provides accrual rates for annual and sick leave for all employees of State government, including the classified service, which varies depending upon the number of years of service and the employee's entry date of service. In the State service, annual leave may be used for vacation purposes, OAC 530:10-15-11(a), and is synonymous with "vacation leave" as used in 19 O.S. 1991, § 1301. Germane here are the accumulation limits. State employees with up to five (5) years of service may accumulate thirty (30) days of annual leave; those with over five (5) years of service may accumulate sixty (60) days of annual leave. 74 O.S. Supp.1998, § 840-2.20. There are no sick leave accumulation limits for State employees. *Id.* Thus, pursuant to 19 O.S. 1991, § 1301, each county in Oklahoma may provide its employees through a formal plan with vacation and sick leave using accrual rates and accumulation limits which do not exceed those provided in 74 O.S. Supp.1998, § 840-2.20.

¶4 In response to your first question, a county, through a formal employee leave plan, may limit the maximum accumulation of vacation leave as long as such plan does not provide for accumulations of vacation leave in

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excess of thirty (30) days for employees with up to five (5) years experience or sixty (60) days for employees with more than five (5) years experience.

II.

¶5 Your second question asks, if employment with a county government is terminated for any reason prior to the end of the fiscal year and the employee has earned annual leave in excess of policy limits, is the employee entitled to compensation at termination for the excess hours earned or is compensation limited to the policy maximum for accrual?

¶6 As discussed above, a county may not grant leave to its employees greater than the leave benefits available to State employees. 19 O.S. 1991, § 1301.

¶7 Under 19 O.S. 1991, § 1301, a county's formal leave plan may not provide for the payment of unused annual leave days upon an employee's termination greater than the thirty (30) or sixty (60) day maximum accumulation limits which are permitted State employees under 74 O.S. Supp.1998, § 840-2.20. Because a county may adopt a formal leave plan with maximum accumulation limits smaller than those for State employees, the answer to your second question would depend upon factual matters specific to the county's formal plan and, in such event, would not be appropriate for an Attorney General Opinion. 74 O.S. Supp.1998, § 18b(A)(5).

¶8 It is, therefore, the official Opinion of the Attorney General that:

1. A county, through a formal employee leave plan, may limit the maximum accumulation of vacation leave as long as such plan does not provide for accumulations of vacation leave in excess of thirty (30) days for employees with up to five (5) years experience or sixty (60) days for employees with more than five (5) years experience pursuant to 19 O.S. 1991, § 1301 and 74 O.S. Supp.1998, § 840-2.20.
2. Under 19 O.S. 1991, § 1301, a county's formal leave plan may not provide for the payment of unused annual leave days upon an employee's termination greater than the thirty (30) or sixty (60) day maximum accumulation limits which are permitted State employees under 74 O.S. Supp.1998, § 840-2.20.

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 JOHN CRITTENDEN
 ASSISTANT ATTORNEY GENERAL

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<u>19 O.S. 1301,</u>	<u>Vacation and Sick Leave Plan</u> Discussed at Length
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<u>74 O.S. 18b,</u>	<u>Duties of Attorney General - Counsel of Corporation Commission as Representative on Appeal From Commission</u> Cited
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