ARTICLE 9 SICK LEAVE

1. Paid Sick Leave

A. Definition and Allowable Use

Sick leave is a leave of absence with pay which may be used when the employee is directly affected by any of the health conditions listed below, or when specified others are affected by the conditions listed, and require the employee’s care. As used in this Article, “protected sick time” refers to sick leave protected under the Oregon State Sick Leave Law, ORS 653.601(6), et seq. The first forty (40) hours per year of “paid sick time,” as defined under ORS 653.601(6), are protected under Oregon’s State Sick Leave Law. Accrued sick leave taken in excess of forty (40) hours per year is not covered or protected under the state sick leave law, but may be considered protected leave under other state and federal laws.

1. Specified others

a. Members of the employee’s immediate household; or

b. The employee’s spouse, parents, or children as defined in the federal Family and Medical Leave Act (hereafter referred to as the “FMLA”); or

c. The employee’s parents-in-law as defined in the Oregon Family Leave Act (hereafter referred to as “OFLA”); or

d. The employee’s domestic partner as designated in an Affidavit of Domestic Partnership submitted to Employee Benefits; or

e. The children and parents of such domestic partner, defined as if the domestic partner was the employee’s spouse.

2. Covered health conditions

a. Mental or physical illness, injury, or health condition; need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition, or time off needed for preventative
b. Any qualified condition covered by FMLA or OFLA, regardless of whether the employee meets statutory eligibility requirements; or

c. Any other illness, injury, or quarantine based on exposure to contagious disease; or

d. Medical, dental, and employee assistance program appointments; or

e. Any qualified purpose allowed under Oregon’s domestic violence, harassment, sexual assault or stalking law; or

f. In the event of public health emergency, including upon an order of a general or specific public health emergency.

3. Parental leave

Sick leave may be used by employees during Parental Leave as defined by FMLA and/or OFLA, except that the amount of leave taken by the other parent of the employee’s child will not affect the amount of Parental Leave available to the employee.

4. Occupationally related conditions

Use of sick leave for occupationally related conditions is limited to the provisions of Article 12, Workers Compensation.

5. Covid Related Leave

Due to the ongoing nature of covid and its variants, the parties agree to continue an emergency paid sick leave (EPSL) bank of eighty (80) hours that will go into effect July 1, 2022. The parties also agree to continue the emergency family medical leave act (E-FMLA), which provides an additional 12 weeks of protected leave.
B. Accrual

1. Employees shall accrue sick leave at the rate of .0461 hours for each straight time hour worked or on paid leave. Straight time hours worked includes paid holidays and leaves with pay taken during the workweek.

2. Sick leave may be accrued on an unlimited basis.

C. Reporting of Sick Leave

1. An employee who must be absent for any reason listed in Section 1.A. of this article must follow the call-in procedures for their program/clinic (i.e. notify the supervisor on duty or the supervisor’s designee(s), leave a message on the designated call-in phone number, etc.) at least three (3) hours for employees in Corrections Health and one (1) hour for employees in all other programs/clinics, before the beginning of their shift, that they will be out of office, so that coverage options can be identified.

2. Employees who fail to report may be subject to discipline and result in loss of pay for the work time missed.

3. The provisions of this section do not apply if the employee is unable to follow the call-in procedures for their program/clinic, due to incapacity or is on an approved leave of absence.

D. Use of Sick Leave During Leave

Sick leave may not be used during the term of any unpaid leave of absence. Sick leave may not be used during vacation except when the employee notifies the supervisor of the interruption of the employee’s scheduled vacation and presents reasonable evidence of a bona fide illness or injury upon returning to work.

2. Use and Misuse of Leave for Sick Leave Purposes

A. Counting Against FMLA, OFLA Entitlements Sick leave and any other forms of paid or unpaid leave used for FMLA and/or OFLA qualifying conditions, or absence due to a deferred or approved Workers Compensation claim based on such conditions, will be counted against an employee’s annual FMLA and/or
OFLA leave entitlements.

B. Legitimate Use

Protected sick time is limited to the first forty (40) hours of sick time taken by an employee each calendar year. Sick leave taken in excess of forty (40) hours each calendar year is not considered protected sick time. Reliable and consistent attendance is an expectation of all county employees. Employees must only use sick leave for legitimate purposes as defined in Section 1.A. of this article.

1. Verification of use

a. Pursuant to Multnomah County policy, Management must require the completion of a certification form by the employee’s health care provider and any other verifications required for under the provisions of the FMLA, OFLA, or their successors.

b. The County may require an employee to submit written medical verification from a health care provider due to non-FMLA and non-OFLA covered illness or injury under the following conditions:

i. The employee has been absent for more than three (3) consecutive works days; or

ii. The employee has requested leave that is scheduled to last more than three (3) scheduled work days; or

iii. The employee has exhausted all sick leave; or

iv. The employee commences sick time without providing prior notice required by the County, unless medical circumstances prevent the employee from providing notice prior to commencing sick time and the employee provides notice to the County as soon as is practicable; or

v. When the employee has exceeded the amount of sick leave protected under the Oregon Sick Leave Law and has had five (5) or more events with less than twenty-four (24)
hours’ notice in a six (6) month period; or

vi. Management suspects that an employee is abusing sick time, including engaging in a pattern of sick leave abuse. “Pattern of sick leave abuse” includes, but is not limited to, repeated use of unscheduled sick time on or adjacent to weekends, holidays, vacation days, or paydays.

After an employee has exceeded the amount of sick leave protected under the Oregon Sick Leave Law, an employee may be required to submit written medical verification when management reasonably believes that the absence may not be bona fide. If medical verification is requested, the County will pay any and all reasonable costs, including lost wages, associated with obtaining medical verification that are not covered under the employee’s health benefit plan in which the employee is enrolled.

2. Discipline

Subject to the limitations of law, including but not limited to those of the FMLA, discipline may be imposed under the following conditions:

a. Abuse of sick leave

Misuse of leave, violation of orders, directives, or contractual requirements concerning the use of sick leave and other forms of leave used in lieu of sick leave are cause for disciplinary action.

b. Use of accrued sick leave

i. Use of accrued sick leave, without abuse of such leave, will not be cause for discipline.

ii. When the intermittent use of accrued sick leave or other paid or unpaid leave used in lieu of sick leave interferes significantly with an employee’s ability to perform the duties of the employee’s job, management may do the following (subject to the requirements of law, including, but not limited to, the FMLA and the Oregon Sick Leave Law):

   (a) Require the employee to take continuous
(b) Change the employee’s work assignment for six (6) months or until use of intermittent leave ends, whichever comes sooner.

c. Excessive absenteeism
The parties recognize that every employee has a duty to be reliably present at work, and that failure to confine sick leave usage to accrued and available sick leave raises the possibility of discipline for excessive absenteeism.

Such cases, however, are subject to just cause review and require systematic examination of relevant factors, including but not limited to:

i. Any legal requirements, including, but not limited to those of the FMLA, OFLA, Oregon Sick Leave Law or the ADA;

ii. The tenure and work history of the employee, specifically to include whether there have been previous instances of this pattern of absenteeism;

iii. Whether there is a likelihood of improvement within a reasonable period of time based on credible medical evidence;

iv. The particular attendance requirements of the employee’s job;

v. The pattern of use, and whether the absences are clearly for bona fide sick leave purposes.

C. Sequencing of Leaves
The use of vacation leave, saved holiday time, compensatory time, and leave
without pay is subject to approval by management according to the requirements
of Articles 7, 8, 10, and 16, respectively. However, unless otherwise required by
law, forms of leave shall be used and exhausted in the following sequences:

1. Leave for illness or injury, that does not qualify for FMLA will be
taken in the following order:
   a. Sick leave until it is exhausted;
   b. Vacation leave, saved holiday time, or compensatory time,
      sequenced at the employee’s option, until they are exhausted;
   c. Leave without pay.

2. Leave that qualifies under FMLA will be taken in the following order:
   a. Paid leave, excluding compensatory time, until it is
      exhausted; employees will determine what order paid leave is used;

3. Leave for other purposes will be taken in the following order:
   a. Vacation leave, saved holiday time, or compensatory time,
      sequenced at the employee’s option (to the extent allowed by
      vacation sign-up provisions) until they are exhausted;
   b. Leave without pay.

D. Reinstatement of Sick Leave Accruals

1. Any employee who leaves County employment and is subsequently
   re-employed as a regular status employee within one hundred eighty (180)
days is entitled to credit for all sick leave accrued up to the last day of prior
   employment. Sick leave shall not accrue during the period between
   leaving County employment and re-employment.

2. Any employee who leaves County employment and is subsequently
   re-employed as a temporary status employee within one hundred eighty
   (180) days is entitled to credit for sick leave accrued up to the last day of
   prior employment up to a maximum of eighty (80) hours. Sick leave shall
   not accrue during the period between leaving County employment and re-
employment.

3. Any employee who is re-employed after more than one hundred eighty (180) days is not entitled to credit for sick leave that accrued during prior County service. Sick leave will begin accruing anew in accordance with Section 1.B. of this article.

4. Employees who are laid off and recalled from a recall list, will have their sick leave balance restored at the time they are recalled.

5. Employees who retire from County service under PERS full formula or formula plus annuity and are subsequently re-employed by the County will not be entitled to credit for sick leave accrued during prior County service. Sick leave will begin accruing anew in accordance with Section 1.B. of this article.

6. Employees who retire under PERS money match or OPSRP who are subsequently re-employed by the County within one hundred eighty (180) days of their retirement date will be entitled to credit for all sick leave accrued up to the last day of prior employment. Sick leave shall not accrue during the period between leaving County employment and re-employment.

E. Limitations on the Use of Leave Withod Pay in Lieu of Sick Leave Use of leave without pay in lieu of sick leave for non-FMLA and non-OFLA qualifying conditions is subject to the approval of management and further subject to the following provisions:

1. Continuous leave

In the event of a continuous leave of absence without pay in excess of any legal requirement of the FMLA or OFLA, the County may require from the employee’s physician, and/or arrange for the employee to see a physician selected by the County to examine the employee and provide a statement of the disability, current condition, and the anticipated length of current absence. If the County requires the employee to see a physician it has selected, it will pay the costs. If deemed necessary by the County, such an
examination shall be repeated every thirty days. If management
determines that continued leave would not be in the best interest of the
County, then any resulting termination would be subject to review under
the just cause standard as to the reasonableness of this determination.
Following six months of leave without pay, to include time spent on unpaid
FMLA and/or OFLA leave, any extension of the leave shall be deemed
permissive on the part of the County and if the employee’s leave is not
extended, and the employee does not return to work, the employee will be
deemed to have resigned.

2. Intermittent leave
Intermittent leave without pay used in lieu of sick leave is not subject to
the six month entitlement provided for above. When such leave
significantly affects an employee’s job performance and is not subject to
the requirements of law (including but not limited to the FMLA),
management may evaluate the employee’s use of leave according to the
criteria of “Section B.2.c” above. Medical information as provided for in
“Section D.1” above may be required for the evaluation. After completing
the evaluation management may do one of the following:

   a. Approve a similar pattern of intermittent use of unpaid leave
      for a specified period followed by another evaluation; or

   b. Put the employee on a work plan to manage the use of leave
      without pay, followed by disciplinary action if the plan is not
      successfully completed; or

   c. Proceed with the disciplinary process.

3. Fitness for Duty
The parties recognize that employees have the responsibility to report to
work fit for duty. To ensure such fitness, management may send
employees for medical or psychological examination when the supervisor
reasonably believes that the employee is not fit for duty or may be a
danger to themselves or others. Any such examinations will be at County
expense.
4. Occupational Exposure

Due to the occupational exposure to communicable disease, new employees shall be allowed to use up to five (5) days of their first year's sick leave immediately upon employment. If the employee terminates prior to accruing adequate sick leave to cover that used, the County shall deduct from the final settlement check one (1) hour's gross pay for each hour of sick leave used beyond that earned.

5. Other Sick Leave Provisions

Sick leave shall be charged in one-quarter hour increments in accordance with the uniform time charging provisions of Article 15.6.