



Montana Operations Manual

Policy

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July 15, 2010

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Issuing Authority

Department of Administration, State Human Resources Division

Annual Vacation Leave Policy

I. Purpose

This policy establishes uniform procedures for managing employee annual vacation leave time in Montana state government.

II. Scope

This policy covers Montana's executive branch employees, except those employed by the Montana State Fund and the Montana university system, as well as student interns, short-term workers, elected officials, the personal appointed staff of elected officials, and other employees exempt from policy under 2-18-103, -104, and -601(6), MCA.

Any collective bargaining agreement providing greater annual leave benefits supersedes this policy.

III. Procedures:

Annual vacation leave is paid at the employees' regular pay rate at the time leave is taken. Annual leave must be taken in half-hour increments.

The terms "annual vacation leave" and "annual leave" are interchangeable terms under this policy.

A. Eligibility

1. All permanent, seasonal, and temporary employees are eligible to earn annual vacation leave. Accrual of leave begins on the first day of employment.
2. Employees must complete a waiting period of six calendar months of continuous employment to be eligible to take annual leave or receive cash compensation for leave accrued upon termination. In the event of a break in service, an employee must complete a new waiting period.

3. Seasonal employees may count time worked in consecutive seasons as continuous employment. Time worked by a seasonal employee is applied towards the six-month waiting period provided they:
 - a. return to work for the same agency; and
 - b. report for work on the date and time the agency specifies.
4. Failure to report will result in a break in service.
5. An approved leave of absence of 16 working days or longer does not count towards the six-month waiting period. However, an approved leave of absence of 15 working days or less does count towards the six-month waiting period.
6. In either case, an approved leave of absence is not a break in service. All time worked prior to the approved leave of absence shall count towards the six-month waiting period and the employee will not lose any previously accrued leave.

B. Accrual

1. Annual leave accrual is calculated and credited each bi-weekly pay period. Accrual is based on both the total years of service and the time paid at the regular rate in a pay status. Annual leave may not be advanced or taken retroactively.
2. Annual leave accrues on time paid at the regular rate in a pay status. Annual leave does not accrue on time worked and paid as overtime or when on an approved leave of absence.
3. No employee shall earn more than the statutory full-time accrual rate outlined in the chart below. Employees in a pay status less than 80 hours in a bi-weekly pay period accrue annual leave on a pro-rated basis. Employees in a leave-without pay status do not accrue annual leave. (2-18-611 and 612, MCA)
4. The accrual rates are indicated in the chart below.

<i>Completed Years of Service*</i>	<i>Days Earned Per Year</i>	<i>Maximum Full-Time Accrual Per Year (Hours)</i>	<i>Hourly Accrual</i>
<i>1 day – 10 years</i>	<i>15</i>	<i>120</i>	<i>.05775 x hrs wkd</i>
<i>10 – 15 years</i>	<i>18</i>	<i>144</i>	<i>.06925 x hrs wkd</i>
<i>15 – 20 years</i>	<i>21</i>	<i>168</i>	<i>.08075 x hrs wkd</i>
<i>20 years +</i>	<i>24</i>	<i>192</i>	<i>.09225 x hrs wkd</i>

*Years of service need not be consecutive.

5. Employees who work in two or more positions in the same agency or in different agencies shall accrue annual leave based on time worked in each position. Annual leave time shall be approved and used only for the position for which the leave was earned. Employees may earn no more than the maximum accrual for a full-time employee.
6. **Determining Years of Service.** In accordance with 2-18-612, MCA employees are credited with one year of service for each period of:
 - a. 2080 hours of service following the initial date of employment. Employees are credited with 80 hours of service for each bi-weekly pay period in which they are in a pay status or are on an authorized leave of absence without pay regardless of the number of hours actually worked.
 - b. 12 calendar months in which the employee was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any 1 month. An employee of a school district, a school at a state institution, or the university system must be credited with 1 year of service if the employee is employed for an entire academic year.
7. Employees may also receive credit towards years of service for military or previous public employment.
8. Military service qualifies when an employee is ordered to active duty in the armed forces. The employee must have been employed by the state immediately prior to serving with the armed forces and must return to state service within 90 days following separation or discharge from the armed forces.
9. Previous public employment qualifies when the previous employing agency was a constituted department, board, or commission of state, county, or city government in Montana or any political subdivision of the state as defined in 2-18-601, MCA.
10. Employees must produce documentation of military service and/or previous public employment to receive credit towards years of service for annual leave accrual purposes. If specific records for months or hours of employment are not readily available, the agency may approximate total service time.
11. Employees begin earning leave at the adjusted rate the first day of the next pay period following the receipt of documentation for previous eligible service. Leave balances and accrual rates may not be adjusted retroactively.

C. Maximum Accrual and Carry-over Limits

1. Employees may accumulate annual leave balances up to two times the eligible accrual rate per year in accordance with 2-18-617, MCA. Balances exceeding the two times annual limit are considered "excess." Except as provided in this policy, excess annual vacation leave will be forfeited unless used within 90 calendar days from the last day of the calendar year in which the excess leave was earned.
2. Agency heads are responsible for actively managing annual vacation leave for employees by "providing reasonable opportunity for an employee to use rather than forfeit accumulated annual vacation leave" as provided in 2-18-617, MCA.
3. To avoid forfeiture of annual leave, management is encouraged to work with employees who have excess vacation leave balances as early as possible in the 90-day grace period or at an earlier time, if the employee's leave balance is projected to exceed two times the annual vacation accrual rate.
4. Employees are responsible for making a reasonable written request to use excess annual leave during the 90-day grace period. Agency management may approve all, some or none of the employee's request by written response within five working days from the receipt of the request. If the original request is not approved, management and the employee may negotiate alternate leave dates during the 90-day grace period.
5. If management denies all or any portion of the written request, agency management and the employee must work together to ensure that the employee may use the excess annual leave before the end of the calendar year. Any excess annual leave not used by the end of the calendar year in which the grace period was extended must be forfeited.
6. Agency human resource or payroll staff calculate excess annual leave based on reports provided by the Department of Administration. These reports are available after the pay period in which December 31 payroll is processed.
7. Effective January 1, 2011, employees in exempt positions who have annual vacation leave balances in excess of two times their annual accrual limit at the end of the calendar year must use annual leave before using any accrued exempt compensatory time. Employees in exempt positions must continue using excess annual vacation leave until the balance equals or falls below the two times annual accrual limit. This provision applies only to excess annual leave balances extended into the grace period following the end-of-year calculations.

D. Annual Leave Requests

1. Each agency must provide reasonable opportunity for employees to use rather than forfeit accumulated annual leave.
2. Employees must request to take annual leave according to the procedures established by their agency. Approval or denial of leave is based on the agency's and the employee's interests. Management reserves the right to deny the request.
3. Management may reduce the amount of annual leave approved in combination with time worked to maintain an employee's regular schedule in a workweek. Management may, in limited circumstances and when it is in the best interest of the agency, approve annual leave in combination with time worked resulting in more than the employee's regularly scheduled hours in a pay status for a workweek.
4. At no time may the total number of annual leave hours approved exceed the number of hours an employee is regularly scheduled to work in a workweek.

E. Holidays

1. Employees who take annual vacation leave overlapping an observed state holiday will receive holiday benefits up to eight hours. Employees may request to use annual leave to cover regularly-scheduled work hours exceeding the eight-hour holiday benefit. An agency may deny this request if it would result in the accrual of compensatory time or overtime.

F. Illness or Injury During Leave

1. Absences due to illness may not be charged against an employee's annual leave balance unless approved by the employee. If an employee becomes ill during a scheduled vacation, sick leave should be paid unless the employee requests the use of annual leave.
2. Injured employees may use annual leave without affecting their eligibility for temporary or total disability benefits as provided in 39-71-736, MCA.

G. Transfers

1. When employees transfer employment from one agency to another or from one position to another, without a break in service, the unused annual leave accrual transfers with the employee and the receiving agency assumes the liability.

H. Termination of Employment

1. Employees who terminate employment shall receive cash compensation at their regular rate for the unused annual leave balance unless:
 - a. the employee has not met the six-month waiting period;
 - b. the termination was for a reason “reflecting discredit” on the employee as provided in 2-18-617, MCA;
 - c. the employee is a member of a VEBA plan and the agreement requires a contribution of unused annual leave at termination; or
 - d. the employee voluntarily donates all or a portion of the unused leave to the Sick Leave Fund;
2. Employees who work for more than one agency and terminate employment with only one agency may transfer the unused annual leave balance to the remaining agency upon approval of the remaining agency. Otherwise, cash compensation is the responsibility of the terminating agency.
3. The same rules apply to employees who work in two or more positions in the same agency and terminate employment in only one position within the agency.

I. Payroll Records

1. Records for employees’ annual leave accrual and usage are maintained by the central payroll office in the State Human Resources Division.

IV. Resources:

A. Montana Code Annotated:

1. Accumulation of Leave - Cash for Unused - Transfer - 2-18-617, MCA.
2. Annual Vacation Leave – 2-18-611, MCA.
3. Compensation -- from what dates paid - 39-71-736, MCA
4. Absence because of illness not chargeable against vacation unless employee approves – 2-18-615, MCA

B. State Policy:

1. Holiday Policy –
<http://hr.mt.gov/content/hrpp/docs/Policies/MOM/3-0325.pdf>

V. Definitions:

All definitions under 2-18-101, MCA apply to this policy. The following definitions also apply.

Break in service: A period of time in excess of five working days when the employee is not working, is not on an approved leave of absence, and terminates the employment relationship.

Continuous employment: For purposes of the waiting period, working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days as provided in 2-18-601, MCA. An approved leave of absence without pay exceeding 15 working days is not a break in service.

Grace period: The first 90 calendar days from the last day of the calendar year in which the excess leave was accrued. The grace period may be extended to the end of the calendar year if an employee makes a reasonable written request to use excess vacation leave and the employing agency denies all or any portion of the request.

Pay status: The employee is being paid for hours worked or for annual leave, sick leave, or other paid leave, sick leave fund grants, holidays, or compensatory time.

Reasonable: Sufficient notice to take the excess annual vacation leave off before the forfeiture deadline.

Termination: The employment relationship is severed either voluntarily by the employee or involuntarily by the agency. A termination is considered a break in service, as defined in 2-18-601(4), MCA, for purposes of longevity, sick leave and annual leave, and therefore ends permanent status.

Transfer: A change of employment from one agency to another agency in the same jurisdiction without a break in service, as provided in 20180601, MCA.