

It is the policy of the South Dakota Science and Technology Authority (SDSTA) that all leave accruals shall commence from the employee's first date of service.

A. Vacation leave

1. Only full-time employees (including probationary full-time employees) will accumulate leave credits of 4.62 hours per bi-weekly pay period and may accumulate a maximum of twice the annual accrual. When an employee completes 15 years of service, the employee will receive 6.16 hours of leave credits per bi-weekly pay period, and may accumulate a maximum of twice the annual accrual. Vacation leave may be granted for vacation or to supplement other permitted and authorized leaves of absence.
2. Salaried employees will not be required to use vacation leave while traveling when the purpose of the trip is specifically for SDSTA business. When SDSTA business is incidental to the trip, vacation leave will be required.
3. Upon retirement or resignation, only full-time employees with 180 days of continuous service will be paid for accumulated vacation leave. Vacation cannot be used to extend employment beyond the last actual day of work.

B. Sick leave

1. Full-time employees accumulate sick leave credits of 4.32 hours per bi-weekly pay period without a maximum limitation. Sick leave may be granted for personal illness or disability, pregnancy of the employee or the employee's spouse, exposure to a contagious disease that would endanger the health of co-workers, eye and dental care, required medical examinations, counseling or treatment at approved centers for alcohol or drug abuse or psychiatric care. There is no minimum period of employment before sick leave may be used. If an employee gives notice of resignation and uses any sick leave hours during the notice period, a doctor's note will be required before the employee is compensated for time otherwise compensated for as sick leave.

C. General provisions for the accumulation and use of vacation and sick leave

1. Effective June 23, 2011, for all new hires, accumulated hours of sick leave can be carried over from the State of South Dakota to the SDSTA only at the discretion of the Executive Director. With approval, only those hours that have not been paid out by the State of South Dakota will be credited as a beginning balance at the SDSTA. Documentation to verify hours not paid by the state must be provided in writing to the SDSTA. These hours will be used only after hours accrued through employment with the SDSTA have been used.
2. Requests for leave must be submitted to the employee's supervisor in advance and in writing. When the circumstances do not permit the prior submission of requests for leave, the request must be submitted as soon as is conveniently possible upon the employee's return to work.

3. Employees terminated during the probationary period will not be paid accrued vacation leave.
4. Employees may not use more vacation leave than they have accumulated.
5. Requests for leave other than sick leave must be approved by the employee's immediate supervisor prior to the requested departure time.
6. Employees must notify their supervisor of illness prior to the start of their work shift.
7. Any time absent from the job without prior authorization or notification may at the supervisor's discretion be considered absence without leave, for which the employee may not use sick or vacation leave and will not be paid. Unauthorized or unreported absences may be cause for disciplinary action.
8. Upon an employee's resignation, retirement or dismissal from employment because of reduction in staff, 25 percent of accumulated sick leave, up to a maximum of 480 hours, will be paid to such employee but only if the employee has been employed with the SDSTA continuously for at least 7 years, measured from the first date of employment. The accumulated leave will be paid at the pay rate as of the employee's last date on the payroll. In the case of dismissal other than a reduction in staff, no payment for accumulated sick leave will be made. For the purpose of this subsection, employment with the State of South Dakota immediately preceding employment with the SDSTA shall count toward the 7-year requirement for payment of accumulated sick leave.

D. Personal leave

If necessary, full-time employees may use up to 40 hours per year (state fiscal year, July 1–June 30) of accumulated sick leave for personal leave. The leave may be used for:

1. A death in the immediate family (defined as father, mother, spouse, children, mother-in-law, father-in-law, son-in-law, daughter-in-law, brothers, sisters, grandparents, grandchildren, step-children, step-parents or foster children).
2. The temporary care of members of the immediate family.
3. The birth or adoption of a child.
4. Volunteer police or rescue work.
5. A call to active duty of military reserve or National Guard members.

E. Administrative Leave

Administrative leave is an administratively authorized absence from normal duty without loss of pay and benefits or use of other types of leave. Administrative leave may be approved in cases of reaction to natural, human-made or health-related emergencies. An emergency includes but is not limited to: inclement weather, utility

failure, fire, terrorism, other forced evacuations or state of emergency. Administrative leave is not an entitlement, and SDSTA is not required to grant it. Only the Executive Director may approve a grant of administrative leave.

E.F. Family and Medical Leave Act (“FMLA”):

The Family and Medical Leave Act of 1993 provides eligible employees with up to 12 weeks of unpaid, job-protected family and medical leave (“FML”) during a calendar year for certain family and medical reasons or up to 26 weeks for a family caregiver of an injured or ill service member. Employees are eligible if they have worked for at least one year and for 1,250 hours over the previous 12 months.

1. Reasons for taking leave.

FML must be granted for any of the following reasons:

- a. To care for the employee’s child after birth or placement for adoption or foster care (the employee is eligible to use this leave anytime within 12 months of the birth or placement);
- b. To care for the employee’s spouse, son or daughter (who is under eighteen years old, unless the son or daughter is not capable of self-care due to mental or physical disability), or parent, who has a serious health condition;
- c. For a serious health condition that makes the employee unable to perform the employee’s job;

- e. Due to circumstances arising out of the fact that a covered military member (a spouse, son, daughter or parent) is on active duty or called to active duty status (e.g.: short-notice deployment, military events and related activities, childcare and school activities, making financial and legal arrangements, counseling, rest and recuperation, and post-deployment activities); or
- f. To care for a family member (spouse, son, daughter, parent or next of kin) who incurred a serious injury/illness as a result of active military service (up to 26 weeks combined FML leave in a single 12-month period).

2. Paid versus unpaid leave.

- a. **Non-Worker's Compensation:** Employees are required to use their paid leave, up to a maximum of 12 weeks, prior to taking leave under FML. FML will follow consecutively for an additional 12 weeks (and up to 26 weeks for a family caregiver of an injured or ill service member). If the employee has less than 12 weeks of paid leave available, the FML period will start once the paid leave is exhausted. If the employee has paid leave remaining available after the initial 12 weeks required to be used, the employee may use the remaining available paid leave during the FML period. To use paid leave before or during the FML period, the employee must have leave available and must meet all the leave requirements of that particular type of paid leave; for example, sick leave can only be used for the employee's *own* illness.
- b. **Worker's Compensation:** Employees receiving temporary partial disability or temporary total disability benefits may take up to 10 hours of paid leave per week in addition to their worker's compensation benefits; provided, however, that the sum of the net (after payroll deductions) paid leave and workers compensation benefits may not exceed the net (after payroll deductions) salary to which the employee would be entitled if the employee were not receiving worker's compensation benefits. If the condition giving rise to the payment of workers compensation benefits constitutes a qualifying serious illness or injury under FML, then the absence shall be deemed leave under FML and the employee shall be so notified in writing. If after the FML 12-week period, the employee is unable to return to work, the employee's job is no longer protected pursuant to the FML.

3. Advance notice and medical certification

Except as otherwise provided herein, employees must provide advance notice of request for FML and appropriate proof of need for leave relating to a medical condition. Leave may be denied or delayed if these requirements are not met. The employee ordinarily must provide 30 days advance notice when the leave is foreseeable. In other circumstances, the notice must be given as soon as practicable. The SDSTA may require medical certification to support a request for leave because of a serious health condition, second or third opinions, periodic recertification, periodic reports regarding the employee's status and intent to return to work, and a fitness for duty report to return to work. Failure to

provide this information may result in the denial of leave or other disciplinary action.

4. Job benefits and protection
 - a. During FML, the SDSTA will maintain the employee's health insurance coverage at the same cost to the employee as if the employee was on the job. Any other benefits for which the employee may be eligible will also be maintained, but the employee shall remain responsible for the usual cost of such benefits. If the employee is on leave without pay, the employee must contact the Human Resources Office to make arrangements for the timely payment of premiums.
 - b. Upon return from FML, employees other than certain highly-compensated employees will be restored to their original position or a position with equivalent pay, benefits and other employment terms.
 - c. The use of FML will not result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
 - d. The SDSTA may recover its share of insurance premiums if the employee fails to return after taking leave under certain circumstances.
5. Failure to return to work—If an employee fails to return to work after FML is exhausted, the employee may be subject to disciplinary action or termination due to inability to perform the essential functions of the job.
6. To the extent any provision of this Section E is inconsistent with the terms of the Family and Medical Leave Act as applicable at the time of the FML, the terms of the Family and Medical Leave Act shall govern.
7. Within five days of a request for FML leave or when SDSTA acquires knowledge that leave may be for an FML-qualifying reason, the SDSTA shall give persons whose leave is deemed FML leave eligibility notice and rights and responsibilities notice as required by FML.

F.G. Court and jury leave

Full-time and probationary employees are eligible for court and jury leave. The employee shall immediately notify the employee's supervisor if the employee expects to be absent from work due to the court and jury obligations. Absences will be administered as follows:

1. Testifying in official capacity—If the employee is subpoenaed by either party to testify in any civil or criminal proceeding because of the employee's official capacity or is instructed by the supervisor to testify in an official capacity without being subpoenaed, the employee shall receive the employee's regular salary without loss of leave credits and may receive actual expenses according to state rates, but may not receive witness fees. The employee's supervisor and the SDSTA shall determine if the employee is testifying in an official capacity.

2. Subpoenaed to testify in non-official capacity—If an SDSTA employee is subpoenaed to testify in court in a non-official capacity and is not a party to the case, the employee shall receive the employee's regular salary from the SDSTA without loss of leave credits for the time spent testifying during regular working hours and may receive in accordance with SDCL 19-5-1 or any comparable federal law, witness fees and mileage from the party who issued the subpoena. However, the employee may not take court and jury leave for travel time or time when the employee is not reasonably expected to testify regardless of whether the employee has been subpoenaed for that period of time. If the employee is absent from the workplace while not testifying, the employee must use vacation leave or leave without pay. This leave must be requested in advance and is subject to the supervisor's approval.
3. Party or witness not subpoenaed to testify—If an employee is a party to or witness who has not been subpoenaed, the employee must use vacation leave or leave without pay. This leave must be requested in advance and is subject to the supervisor's approval.
4. Service on jury—If an SDSTA employee is summoned to serve on a jury, the employee shall receive the employee's regular salary without loss of leave credits for the time spent on jury duty during regular working hours and shall be entitled to retain the per diem and mileage provided for by SDCL 16-13-46 or any comparable federal law.
5. The Executive Director is the final arbiter of whether an employee is eligible for court and jury leave.

G.H. Military training leave

Full-time employees are entitled to military training leave of up to 15 days per calendar year. Employees requesting military training leave must obtain a written certification from the commander of their reserve or National Guard unit indicating dates of the training period. This notice is to be submitted to the employee's supervisor at least 15 calendar days prior to the date of the employee's departure for training.

H.I. Leave of absence without pay

Prior permission must be obtained from the employee's supervisor to take a leave of absence without pay. If an employee has paid leave accumulated, the employee must use that before leave without pay is granted (see the Absenteeism and Tardiness Policy). While on leave without pay, employees will not accumulate leave credits and they must make provisions to pay for their own voluntary payroll deductions.

I.J. Absence without leave

Unauthorized and unreported absences may result in a deduction of pay and may be cause for disciplinary action. Employees must report the reason for any absence to their supervisor as soon as possible.

J.K. Exceptions

1. The Executive Director may grant specific employees leave in addition to or different than that provided for in this policy if the Executive Director deems such changes necessary to hire or retain a key employee. All exceptions will be made in writing.
2. Vacation leave granted by the Executive Director may be accumulated to a maximum of twice the annual accrual.