



December 1, 2023

Memorandum to LGERS Employers Regarding “Additional Sick Leave”

The Retirement Systems Division (RSD) has been informed about “additional sick leave” policies adopted by certain local governments for their employees. Although the details may vary, the basic concept appears to be that in addition to sick leave under pre-existing policies, employees will accrue large amounts of additional sick leave, but only in certain selective years of their career. Employers who have already adopted such policies, or may adopt them, are encouraged to review this letter thoroughly. We invite you to contact RSD with any questions or concerns, as described in the “Conclusion” section below.

Summary

Some media reports have indicated that local governments adopting “additional sick leave” policies view them as substantially increasing employees’ creditable service upon retirement under the Local Governmental Employees’ Retirement System (LGERS).

RSD wishes to remind LGERS employers of the provision of G.S. 128-26(e), allowing certain accrued unused sick leave to be counted as creditable service under LGERS:

*“Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of... if the member has sick leave standing to the member’s credit upon retirement on or after July 1, 1971, one month per 20 days or portion thereof, but not less than one hour.... Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction.... **Days of sick leave standing to a member’s credit at retirement shall be determined by dividing the member’s total hours of sick leave at retirement by the hours per month such leave was awarded under the employer’s duly adopted sick leave policy as the policy applied to the member when the leave was accrued.**”*

The LGERS retirement application (Form 6, “Claiming Your Retirement Benefit,” or the online equivalent) requires the employer to certify the number of days of sick leave for use in the calculation of creditable service. Section H, Item 3, provides the employer with instructions mirroring the statutory provision emphasized above: “When converting sick leave hours to days, divide hours by the monthly sick leave accrual rate when the hours were earned.” RSD relies on employers to certify this information accurately for each retiring employee.

Local governments may, of course, allow employees to use the days or hours of sick leave that their policies define. However, when it comes to calculating creditable service for LGERS retirement purposes, G.S. 128-26(e) does not allow the employer’s policy to define the “days of sick leave standing to a member’s credit at retirement.” Rather, it must be calculated in a particular way – namely, by (1) determining the total hours of sick leave standing to the member’s credit and (2) dividing that total number of hours by the hours per month that the sick leave was awarded.



Example

In this example, a local government allows employees to accrue 1 day of “basic sick leave” per month of work. Under “additional sick leave,” the employees accrue 5.44 days per month during only their 8th and 15th years of work, and 10.88 days per month during only their 25th year of work. Employees do not accrue “additional sick leave” during years 1-7, 9-14, 16-24, or 26+ of their employment.

Assuming an employee works for 30 years and never actually uses their sick leave, by the end of 30 years they will accrue the following amount of sick leave that they could use for a qualifying reason under the employer’s sick leave policy:

Days Accrued During	Basic Sick Leave	Additional Sick Leave	Basic + Additional
Years 1-7 (7 years)	1 x 12 = 12 per year; 12 x 7 = 84 for 7 years	None	84 days
Year 8	1 x 12 = 12	5.44 x 12 = 65.28	77.28 days
Years 9-14 (6 years)	1 x 12 = 12 per year; 12 x 6 = 72 for 6 years	None	72 days
Year 15	1 x 12 = 12	5.44 x 12 = 65.28	77.28 days
Years 16-24 (9 years)	1 x 12 = 12 per year; 12 x 9 = 108 for 9 years	None	108 days
Year 25	1 x 12 = 12	10.88 x 12 = 130.56	142.56 days
Years 26-30 (5 years)	1 x 12 = 12 per year; 12 x 5 = 60 for 5 years	None	60 days
Total Over 30 Years	360 days	261.12 days	621.12 days

However, if the employee retires after 30 years of service, the employer should **not** simply report 621.12 days of unused sick leave on the employee’s LGERS retirement application, without first doing the calculation required by G.S. 128-26(e). The employer must determine the number of hours of sick leave, and divide it by the number of “hours per month such leave was awarded... when the leave was accrued.” For example, if a day of work corresponded to eight hours of work when the leave was accrued, the employer might determine the days of sick leave standing to the member’s credit, for LGERS purposes, as follows:

Accrued During	Hours Accrued	Hours Awarded / Month	Days Standing to Member’s Credit
Years 1-7 (7 years)	84 days = 672 hours	1 day = 8 hours	672 / 8 = 84
Year 8	77.28 days = 618.24 hours	6.44 days = 51.52 hours	618.24 / 51.52 = 12
Years 9-14 (6 years)	72 days = 576 hours	1 day = 8 hours	576 / 8 = 72
Year 15	77.28 days = 618.24 hours	6.44 days = 51.52 hours	618.24 / 51.52 = 12
Years 16-24 (9 years)	108 days = 864 hours	1 day = 8 hours	864 / 8 = 108
Year 25	142.56 days = 1,140.48 hrs.	11.88 days = 95.04 hrs.	1,140.48 / 95.04 = 12
Years 26-30 (5 years)	60 days = 480 hours	1 day = 8 hours	480 / 8 = 60
Total Over 30 Years			360 days



North Carolina
Total Retirement Plans



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

In this example, although the employee could have taken up to 621.12 days of sick leave for illness or another qualifying reason under the employer's policy, the number of days standing to the member's credit for retirement purposes must be calculated separately, using a methodology similar to the example above, which calculated it as 360 days.

The large difference between 621.12 days and 360 days in this example is due to the fact that G.S. 128-26(e) takes into account not only the total amount of sick leave accrued, but also the rate at which it accrued. During certain selective years of this local governmental employee's career, they were accruing sick leave at a rapid rate – more than a week of sick leave (and sometimes more than two weeks) for every month they worked.

RSD recognizes that one simplifying aspect of the example is that it assumes the employee never used any sick leave during their career. If they did use sick leave, the employer would presumably need to have a policy or practice in place for defining which type of sick leave was being depleted ("basic" or "additional") and keeping track of it during the employee's career, so that the correct amount of unused sick leave is reported to LGERS upon retirement.

Conclusion

It is the responsibility of each local government to calculate "days of sick leave standing to the member's credit" and report that information accurately on each retirement application. However, RSD is available to assist local governments with understanding G.S. 128-26(e) as it applies to their own current, or contemplated, sick leave policies.

If your local government is concerned that you have incorrectly calculated the "days of sick leave standing to the member's credit" for any employees who have already retired after earning "additional sick leave," please contact RSD immediately. We will work with you on correcting the reported figures and retirement benefit calculations. It would be important for such corrections to occur promptly, to minimize overpayments of benefits that could become a significant burden for retirees.