

Wisconsin Human Resources Handbook

Chapter 704

Annual Leave Options

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Sec. 704.010 Introduction

Employee decisions regarding optional use of annual leave accrued during a calendar year must be made prior to the end of that year. In addition to use of annual leave during the calendar year, these options may be in the form of termination leave credits, sabbatical leave credits, and cash payments. The purpose of this chapter is to provide guidance in determining these other annual leave options for eligible nonrepresented employees.

Except for employees in the Building Trades, Milwaukee Graduate Assistants Association and the Teaching Assistants' Association bargaining units, represented employees also have these leave options. Annual leave and options for some represented employees are very similar to those of nonrepresented employees, but the applicable collective bargaining agreement should always be referenced for specific language regarding the options available to them. The proration and notification processes established in this chapter will also apply to represented employees unless otherwise provided for in the applicable collective bargaining agreement.

Sec. 704.020 Statutory and Rule Authority for Non Represented Employees

1. “(a) Employees at the 160-hour, 176-hour, or 184-hr rate under s 230.35 [sub. \(1\)](#) or (1m) may, in the year earned, elect to receive not more than 40 of those hours of earned annual leave as credit for termination leave or as accumulated sabbatical leave.
(b) Employees at the 200-hour rate under [sub. \(1\)](#) or (1m) may, in the year earned, elect to receive not more than 80 of those hours of earned annual leave among one or more of these options:
 1. Not to exceed 40 hours in cash;
 3. As credit for termination leave;
 4. As accumulated sabbatical leave.
Employees at the 216-hour rate under [sub. \(1\)](#) or (1m) may, in the year earned, elect to receive not more than 120 of those hours of earned annual leave among one or more of these options:
 1. Not to exceed 40 hours in cash.
 2. As credit for termination leave.
 3. As accumulated sabbatical leave.
(c) Employees with less than the 160-hour rate under [sub. \(1\)](#) or (1m) who have accumulated, at any time during the employee's continuous state service, a minimum of 520 hours of sick leave may elect to receive not more than 40 hours of earned annual leave as credit for termination leave or as accumulated sabbatical leave or both. An election under this paragraph shall be made in the year in which the annual leave is earned.”
s. 230.35(1p), Wis. Stats.
2. Provisions similar to those in s. 230.35(1p), Wis. Stats., are provided in s. ER 18.02(5)(a), (b), and (bm), Wis. Adm. Code. However, at the time of this chapter's publication the Code is not yet revised for the changes

regarding the 184-hour rate that were made to the statutes in 2005 Wisconsin Act 21 or associated leave option changes made to the statutes in 2007 Wisconsin Act 142.

3. “The number of hours available for use under [pars. \(a\)](#), (b) and (bm) shall be prorated at the pertinent annual leave rate or rates for employees who work less than 2088 hours during the calendar year.” (These are references to Adm. Code provisions, not the statutory paragraphs quoted in 1., above.)
s. ER 18.02(5)(c), Wis. Adm. Code.

Sec. 704.030 Definitions

1. **Base Pay:** “The pay rate excluding any overtime or supplemental compensation.”
s. ER 1.02(5), Wis. Adm. Code
2. **Employee:** “Any person who receives remuneration for services rendered to the state under an employee-employer relationship in the classified and unclassified civil service except:
 - (a) Elected officials;
 - (b) Unclassified staff of the university of Wisconsin system not identified under s. 20.923(4), Stats.;
 - (c) Unclassified staff of the legislature not identified under s. 20.923(4), Stats.;
 - (d) Unclassified staff of a legislative services agency under subch. IV of ch. 13, Stats.;
 - (e) One stenographer employed by each elective constitutional officer under s. 230.08(2)(g), Stats; and
 - (f) Staff of the state court system.”
s. ER 18.01(2), Wis. Adm. Code
3. **Sabbatical Leave:** “Annual leave which was deferred during the year earned to be used in a subsequent year to extend the annual leave, unless used as termination leave.”
s. ER 18.01(7), Wis. Adm. Code
4. **Termination Leave:** “Annual leave which was deferred during the year earned to be used in a subsequent year to extend an employee’s termination date or for payment in a lump sum upon termination.”
s. ER 18.01(8), Wis. Adm. Code

Sec. 704.040 Eligibility

The annual leave options covered in this chapter are only applicable to individuals who meet the definition of “employee” in section 704.030 of this handbook chapter. In addition, Limited Term Employees are not eligible for annual leave benefits.

All nonrepresented employees who earn annual leave at or above the 160-hour rate, and employees at less than the 160-rate who have accumulated a minimum of 520 hours of sick leave, are eligible to exercise annual leave options.

To gain eligibility by accumulating sick leave, the employee must have a sick leave balance of at least 520 hours at the end of the October “B” payroll period in the current year. Once an employee gains eligibility in this manner, the eligibility continues even if the employee’s accumulated sick leave balance subsequently drops below 520 hours. If the employee moves to another agency, the employee should be identified as “eligible” on the Personnel Transfer Record (OSER-DMRS-24).

An employee who gained eligibility by accumulating sick leave does not gain an additional 40 hours after attaining the 160-hour rate of earned annual leave.

The options for which a represented employee is eligible will be determined based on the provisions of the applicable collective bargaining agreement on the date eligibility is determined. If an employee holds positions in more than one bargaining unit on that date, the provisions of the collective bargaining agreement that provides the greatest option flexibility will be used (and may require a manual adjustment by agency payroll staff).

Sec. 704.050 Available Annual Leave Options

Annual leave options available to eligible nonrepresented employees are those provided in s. 230.35(1p), Wis. Stats. (See section 704.020 of this handbook chapter.) Options available to eligible represented employees will be similar, but see the applicable collective bargaining agreements for variance from the statutory provisions.

Decisions on annual leave options must be made by an employee prior to the end of the calendar year. If an employee fails to meet this deadline, the annual leave shall be treated as though the options were not available. If an employee chooses the cash option, the amount should be included in the last paycheck of the calendar year.

Note: Section 40.02(22)(b)(11), Wis. Stats., excludes cash payments as leave options and lump sum payments at termination for unused leave credits (including sabbatical and termination leave credits) from the definition of “earnings” for retirement purposes. Therefore, no retirement earnings or service credits are generated on such payments. However, when sabbatical and termination leave credits are used as deferred annual leave or to extend an employee’s termination date, the leave does generate retirement earnings and service credits.

Except for represented Teachers, cash-out payments shall be based on an employee’s **base pay rate** as of December 31 of the calendar year for which the option is taken. Cash payments to represented Teachers shall be calculated using the employee’s base pay rate plus any teacher add-on the employee is receiving for relevant college or university credits.

Note: Hours of annual leave designated for termination and/or sabbatical leave in more than one bargaining unit are placed in a combined account. They are not kept as separate totals.

Sec. 704.060 Proration

In accordance with s. ER 18.02(5)(c), Wis. Adm. Code, annual leave options of eligible nonrepresented employees “shall be prorated at the pertinent annual leave rate or rates for employees who work less than 2088 hours during the calendar year.” A proration of leave options is required if a nonrepresented employee works part-time or has been on an unpaid leave of absence during the calendar year. Most collective bargaining agreements also require such a proration for represented employees who work less than full-time, **except** when the represented employee’s option is based on accumulation of 520 hours of sick leave.

Proration for **all** eligible full-time employees may be necessary anytime a new annual leave rate is reached during a calendar year. However, no proration is necessary for full-time employees if eligibility is based on the accumulation of 520 hours of sick leave. Also, no proration is necessary in the calendar year a full-time employee reaches the 160-hour rate if the employee is also eligible due to sick leave accumulation.

Employees who begin a calendar year at a level not allowing a cash-out but reach a cash-out level during the calendar year may convert to cash only those hours generated for use after reaching the cash-out level.

To determine the number of annual leave hours available for use under various options, Central Payroll or UWS Payroll performs the following calculation:

1. Estimate regular hours worked (excluding overtime and compensatory time) based on leave allocation hours.
2. Multiple the result of step 1 by the following conversion factors for full-time positions:
 - a. 40 divided by 2088 = 0.019157
 - b. 60 divided by 2088 = 0.028736
 - c. 80 divided by 2088 = 0.038314
 - d. 120 divided by 2088 = 0.57471
 - e. Round the hours calculated to whole hours by dropping all fractions of an hour.

However, these proration calculations often need manual adjustments by agency payroll staff to reflect a more accurate estimate of hours based on information that is unavailable to Central Payroll or UWS Payroll or cannot be included in their system's calculation.

The following chart provides examples of nonrepresented annual leave option prorations.

| | Hrs worked at 184 hr rate | Hrs avail for use at 184 hr option | | Hrs worked at 200 hr rate | Hrs avail for use at 200 hr option | | Max hrs term/sabb option* | Max hrs cash option* |
|------------|---------------------------|------------------------------------|--|---------------------------|------------------------------------|--|---------------------------|----------------------|
| Employee A | 1044 | 20 | | 1044 | 40 | | 60 | 40 |
| Employee B | 1566 | 30 | | 522 | 20 | | 50 | 20 |
| Employee C | 522 | 10 | | 0 | 0 | | 10 | 0 |
| Employee D | N/A | N/A | | 1044 | 40 | | 40 | 40 |

* Total combined hours used under the termination/sabbatical options and the cash payment option may not exceed the **lesser** of the following amounts:

- a. Whole hours available for utilization under the applicable contract or rules/statutes; or
- b. Whole hours of unused leave.

Sec. 704.070 Eligible Employee Notification

Each agency, under the instructions from Central Payroll or UWS Payroll, shall provide eligible employees with written verification of the number of annual leave hours available for option election based on information available at the end of the October "B" payroll period each calendar year. Agencies shall adjust this number if the employee's level of annual leave earned changes between the October "B" payroll period and the end of the calendar year or for any other reason instructed by Central Payroll or UWS Payroll. As mentioned in other parts of this chapter, other manual adjustments by the agencies may be necessary for factors of which Central Payroll or UWS Payroll either are not aware or cannot implement in the payroll system.

An employee option selection for a cash payment must be made by a date set and communicated by Central Payroll or UWS Payroll to be included in the last payroll check of the calendar year.

Sec. 704.080 Referral of Questions

Questions should be directed to staff of the Bureau of Compensation, Office of State Employment Relations.

Sec. 704.090 Administrative Information

This handbook chapter was last revised November 25, 1992, to extend the annual leave options based on accumulation of 520 hours of sick leave to certain represented employees. The purpose of this revision is to update the chapter based on changes to annual leave schedules, eligibility and option amounts that have been made to the statutes and various collective bargaining agreements since that date.