

**METROPOLITAN EXPOSITION RECREATION COMMISSION**

**Resolution No. 15-19**

For the purpose of adopting changes to the MERC Personnel Policies.

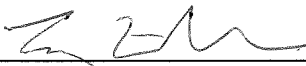
**WHEREAS**, the Metropolitan Exposition Recreation Commission (MERC) is authorized to adopt personnel policies pursuant to Metro Code Sections 2.02.010 (b) and 6.01.040 (a); and

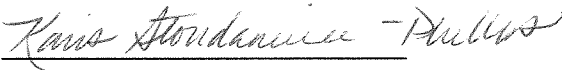
**WHEREAS**, MERC periodically updates the MERC Personnel Policies (the Personnel Policies) in accordance with both legal requirements and agency-wide policies.

**BE IT THEREFORE RESOLVED THAT:**

The Metropolitan Exposition Recreation Commission adopts the changes to the Personnel Policies in a form substantially similar to the attached Exhibit B.

Passed by the Commission on November 4, 2015.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Secretary-Treasurer

Approved As To Form:  
Alison R. Kean, Metro Attorney

By:   
\_\_\_\_\_  
Nathan A.S. Sykes, Deputy Metro Attorney

## MERC Staff Report

**Agenda Item:** For the purpose of adopting changes to the MERC Personnel Policies.

**Resolution No.: 15-19**

**Date:** November 4, 2015

**Presented by:** Mary Rowe, Metro Human Resources Director

### **Background and Analysis:**

The MERC Commission last approved a complete personnel policy manual for venues staff in August 2007. Beginning in 2011, Metro's Human Resources Department began a project to review and update both the MERC policy manual and Metro's policy manual, Executive Order #88, with the goal of developing one set of agency-wide personnel policies and procedures. The policies are being updated and implemented on a rolling basis in an order determined by legal changes and business needs. Human Resources staff developed these policies in consultation with department managers, the Office of Metro Attorney, and the Metro Senior Leadership Team. The policies were presented to the Commission for discussion on October 7, 2015.

This resolution seeks the MERC Commission's approval of the following personnel policies:

- Sick Leave for Non-represented Benefits Eligible Employees
- Sick Leave for Temporary and Variable Hour Employees
- Temporary and Variable Hour Employees

**Long Range Fiscal Impact:** There is minimal fiscal impact associated with the sick leave for non-represented employees and the temporary/variable hours employees requested policy changes. The fiscal impact for the sick leave for temporary and variable hour employees' policy change has an estimated cost of \$85,637 - \$342,547.

**Recommendation:** Staff recommends that the Metropolitan Exposition and Recreation Commission, by Resolution No. 15-19, approve the changes to the Personnel Policies in a form substantially similar to the attached Exhibit B.

## EXHIBIT A TO RESOLUTION 15-19: SUMMARY OF PROPOSED COMPENSATION POLICY FOR MERC COMMISSION

November 4, 2015

Below is the draft policy for your review. The proposed Personnel Policies are new or intended to supersede those listed from the Metro Employee Handbook (EO #88) and the MERC Personnel Policies Handbook (8/1/07). The proposed policies listed in this document were presented to the Commission on October 7, 2015. New edits made at the recommendation of the Commission, Office of Metro Attorney, and/or the Metro Senior Leadership Team following the October 7, 2015 Commission meeting are noted in bold italics.

Policy	Existing MERC Policy	Existing Metro Policy	Applicable Legal Provisions	Policy Summary/Explanation of Change	Fiscal Impact	Business Impact
<b>Sick Leave for Non-represented Variable Hour and Temporary Employees</b>	N/A	N/A	SB 454 Mandatory Sick Leave	Provides up to 40 hours of paid sick leave annually for non-represented temporary and variable hour employees to use for personal and family members' illnesses, medical appointments and care; domestic violence leave for employees and public health emergency. <b><i>Accruals are not paid on overtime hours. Failure to provide requested documentation may result in discipline.</i></b>	Estimated cost of unproductive time: \$85,637 - \$342,547	Some impact on providing services and coverage.
<b>Temporary and Variable Hour Employees (Non-Represented)</b>	All Metro Policy issued 11/11	All Metro Policy issued 11/11	N/A	Defines temporary employee, creates new definition of variable hour employee which includes seasonal employees and event driven employees.	Should not have impact	Minimal

<p><b>Sick Leave for Non-represented Benefits Eligible Employees</b></p>	<p>MERC Personnel Policies (2007), Section 16.3.</p>	<p>E. O. 88 (2005), Section 26.</p>	<p>SB 454 Mandatory Sick Leave</p>	<p>Current policy applies to all permanent Metro (non-MERC) employees, and all full-time MERC. This policy applies to all non-represented benefits eligible employees. Represented employees receive sick leave through union contracts or sick leave for temporary/variable hour employee policy. Transferred leave for Metro (non-MERC) is being moved to a new policy that is in process. Also modified to comply with SB 454. <b><i>Sick leave may be used for bereavement leave. Accruals are not paid on overtime hours. Failure to provide requested documentation may result in discipline.</i></b></p>	<p>Minimal or none</p>	<p>Minimal or none</p>
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EXHIBIT B to MERC Resolution 15-19



**Metro** | *Policies and procedures*

**DRAFT**  
10/23/15

**Subject** Sick Leave for Non-represented Variable Hour and Temporary Employees

**Section** Human Resources

**Approved by**

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**POLICY**

*Metro provides paid sick leave to non-represented variable hour and temporary employees in accordance with this policy.*

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**Applicable to**

All non-represented variable hour and temporary employees.

*The availability of sick leave for represented employees is determined by the applicable collective bargaining agreement.*

**Definitions**

Qualifying Family Member: An employee's spouse, domestic partner, parent, parent-in-law, step parent, and in loco parentis; biological, adopted, step and foster child; grandchild, grandparent and grandparent-in-law; sibling and any other person for which the employee is a legal guardian; or as otherwise required by law.

Temporary: Temporary employees are hired to staff vacant, budgeted positions due to an employee's absence, to fulfill unbudgeted additional staffing needs as they arise or to fulfill seasonal needs. Temporary employees may not work more than 1040 hours per year, measured from the original hire date. For the purposes of this policy, interns paid by Metro are treated like temporary employees, except interns may exceed 1040 hours in a twelve month period (Interns who are students and provided employment opportunities for financial or vocational training through secondary or post-secondary educational institutions work study programs are not eligible for paid sick leave.)

Variable Hour: Variable hour employees are hired and scheduled for work as needed and to staff and support events at Metro and MERC facilities/venues. Variable hour employees include non-represented, part-time MERC employees. Variable hour employees' work schedules will be determined by business needs and may result in a period of routine and ongoing scheduling or more sporadic scheduling. Non-represented variable hour employees have no guarantee of a minimum or maximum number of work hours, nor are they limited to a certain number of work hours per year.

## Guidelines

1. Non-represented variable hour and temporary employees may earn and use paid sick leave based on their hours **paid, excluding overtime**.
2. Employees must comply with attendance and call-in expectations for their position as outlined in procedures below. Misuse of sick leave may be grounds for discipline, up to and including termination.

## Procedures

1. Rate of accrual: Non-represented variable hour and temporary employees accrue paid sick leave at a rate of .05 hours per hour **paid, excluding overtime**. Employees may accrue up to a maximum of forty (40) hours. Employees who reach the 40-hour maximum stop accruing sick leave until they use accrued sick leave and their accrual drops below the 40-hour maximum. Once an employee's accrual balance drops below the 40-hour maximum, the employee will begin accruing sick leave again based on hours paid. Sick leave shall not accrue during unpaid time.
2. Eligibility for Use:
  - a. Employees shall be eligible to use earned sick leave after 60 calendar days of service.
  - b. Sick leave cannot be used until the beginning of the pay period after which it is accrued.
3. Notification: For unforeseen absences, employees unable to report to work shall contact their supervisor and report the reason for their absence pursuant to their department notification procedures, unless it is not practicable to provide notice. Employees are then required to provide notice as soon as practicable. For foreseeable absences, employees should notify their supervisor of their need to use sick leave at least 10 days in advance. For qualifying unforeseeable leaves, employees should provide notice as soon as is practicable.
4. Reasons for sick leave use:

Employees may use accrued sick leave:

  - a. For mental or physical illness, injury or health condition, medical care, diagnosis and treatment, or preventive medical care of a mental or physical illness, injury or health condition, for themselves or for a qualifying family member.
  - b. When leave is authorized under the federal Family and Medical Leave Act (FMLA) or Oregon Family Leave Act (OFLA), the provisions of Metro's Family and Medical Leave Policy will apply.
  - c. To address domestic violence, harassment, sexual assault, or stalking in accordance with state law and Metro's Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections Policy.
  - d. In the event of a public health emergency, which includes closure of the school or place of care of the employee's child, or by order of a public official due to a public health emergency.
  - e. To deal with the death of a family member within 60 days of the date on which the employee receives notice of the death of a family member.
5. Documentation: An employee's supervisor may require the employee to provide a note from a health care provider or other professional supporting the need for leave in the following situations:
  - a. If the employee takes more than three consecutive scheduled workdays of sick time.

- b. If the employee is suspected of misusing and/or abusing sick time.

Medical verification shall be provided within 15 calendar days after the supervisor requests the verification. Metro will pay any reasonable costs for providing medical verification or certification. **Failure to provide requested documentation may result in disciplinary action, up to and including termination.**

6. Rate of Pay: Sick leave will be paid at the employee's rate of pay for that job and shift for the hours the employee was scheduled to work on that day.
7. Unused Sick Leave at Termination: An employee's accrued sick leave will not be paid out upon termination, resignation, retirement or other separation from employment.
8. Reinstatement: Employees re-employed within 180 days of termination will have their accrued sick leave balance restored. Employees who leave Metro employment prior to 60 days after initial date of hire and return within 180 days of termination, shall be entitled to begin using their accrued sick leave after their total combined period of employment with Metro exceeds 60 days.
9. Reporting of Sick Leave to PERS: Metro shall participate in the PERS unused sick leave program. Metro shall report the number of unused sick leave hours to PERS as provided in ORS 238.350. As a result, once an employee is terminated from the agency, there is no carry-over of sick leave hours should the employee be rehired at a later date except as provided in the paragraph above regarding reinstatement within 180 days.
10. Written Notification of Accruals: Metro will provide notification on employees' pay statements of the amount of accrued and unused sick time available for use by an employee.
11. Misuse of sick leave: May be grounds for discipline, up to and including termination.

## **Responsibilities**

### Employees:

- Notify your supervisor as soon as possible of your absence for unforeseen absences following attendance and call-in policies applicable to your work group.
- For planned absences, when possible provide at least ten (10) days advance notice.
- Make a reasonable attempt to schedule the use of sick time in a manner that does not unduly disrupt Metro's operations.
- For unforeseen qualifying leaves, provide notice as soon as is practicable.
- If advance notice of sick leave has not been requested, provide medical verification of need for sick leave within fifteen (15) days after supervisor or HR requests it.
- Code leave appropriately in Metro's timekeeping system. Use sick leave for approved purposes only.

### Supervisors:

- Request supporting documentation if needed to substantiate the employee's need for leave when employee has been absent for more than three (3) consecutive days or you have reason to believe the employee is misusing or abusing sick leave. (Note: Metro may need to pay costs of requesting documentation from medical provider that are not covered by health care benefits.)

- Address misuse of sick leave with employees in a timely manner, consulting with Human Resources as needed.
- Approve or deny advance requests for sick leave and notify the employee as soon as possible. You may not deny, interfere with, restrain or fail to authorize sick time to which an employee is entitled.
- You may not require employees using accrued sick leave to find replacement for or make-up their scheduled hours.
- You may not retaliate or in any way discriminate against an employee with respect to any term or condition of employment because the employee has inquired about, requested or taken sick time.
- Ensure that leave is coded appropriately in Metro's timekeeping system.

### **Conformity with State Law**

The application of this policy is intended to comply with state law. Human Resources will notify employees of changes in guidelines/procedure for use of sick leave pending issuance of state regulations.



EXHIBIT B to MERC Resolution 15-19



DRAFT  
8-31-15

**Subject** Non-Represented Temporary and Variable Hour Employee Policy  
**Section** Human Resources  
**Approved by**

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**POLICY**

*Metro hires non-represented temporary and variable hour employees to meet short-term, event driven or seasonal workload needs that are vital to the organization.*

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**Applicable to**

All non-represented employees who are hired to work in temporary or variable hour assignments, and applicants who are not currently employed by Metro.

*Represented temporary and/or variable hour employees are covered by the provisions of the applicable collective bargaining agreement.*

**Definitions**

Temporary: Temporary employees are hired to staff vacant, budgeted positions due to an employee's absence, to fulfill unbudgeted additional staffing needs as they arise or to fulfill seasonal needs. Temporary employees may not work more than 1040 hours per year, measured from the original hire date. For the purposes of this policy, interns paid by Metro are treated like temporary employees, except that interns may exceed 1040 hours in a twelve month period.

Variable Hour: Variable hour employees are hired and scheduled for work as needed and to staff and support events at Metro and MERC facilities/venues. Variable hour employees include non-represented, part-time MERC employees. Variable hour employees' work schedules will be determined by business needs and may result in a period of routine and ongoing scheduling or more sporadic scheduling. Non-represented variable hour employees have no guarantee of a minimum or maximum number of work hours, nor are they limited to a certain number of work hours per year.

Regular Employee: An employee who is appointed to fill a budgeted position, has passed a probationary period, and who is not temporary or variable hour.

Competitive recruitment: A recruitment for which a candidate submitted an application through an open recruitment process (either internal or external), interviewed for a position, and was selected for the position.

## Guidelines

1. Temporary positions are not intended to undermine the competitive recruitment process, to replace regular employees, or to diminish regular employees' wages, hours or other conditions of work. Temporary employees are typically hired to ensure coverage of on-going business needs during a temporary vacancy of that position or during temporary employee absences; to provide additional staffing during peak seasons such as summer; or to perform necessary tasks or projects for which regular staffing is not available or suitable.
2. Temporary and variable hour employees are only eligible for an 'internal only' recruitment when hired as a result of a competitive recruitment. Temporary and variable hour employees work at-will, and are not guaranteed any set number of hours.

## Procedures

1. Hiring Temporary and Variable Hour Employees:
  - a. A hiring manager will notify Human Resources when a need for a temporary or variable hour employee arises. Human Resources typically will conduct a competitive recruitment for temporary and variable hour employees unless Human Resources approves to hiring using an alternative method under (b.).
  - b. If the department's need for temporary assistance is urgent, Human Resources will:
    - 1) contact a temporary agency, typically a qualified rehabilitation facility, to request qualified candidates; or 2) assist the hiring manager to directly appoint a person to the temporary position provided the candidate possesses the specialized knowledge, skills and abilities required for the role.
2. Background checks: All temporary or variable hour employees are required to pass a background check prior to employment regardless of the recruitment method used.
3. Terms of employment:
  - a. Human Resources will complete employment confirmation letters for departments for all temporary or variable hour positions. Employment confirmation letters should clearly state employment terms including the start date and anticipated end date of the position. If the end date is not certain, the duration of employment will not exceed 1040 hours within 12 months from date of hire.
  - b. The initial rate of pay for temporary and variable hour employees will be set pursuant to Metro's Compensation Policy.
  - c. The department and Human Resources will ensure that any pay adjustments will be applied consistently to prevent inequity and adverse impact. With budget approval, supervisors have discretion to increase an employee's pay above the minimum pay or step in the respective range after a one year period of time, upon an annual seasonal rehire, or upon rehire into the same classification.
4. Classification: In cases where a temporary employee is not fulfilling the full responsibilities of a regular classification employee, Human Resources, in consultation with the department, may create temporary classifications at a lower pay range.

## Responsibilities

### Employee:

- Be aware of number of hours worked.

Supervisor:

- Anticipate and budget total costs of temporary and variable hour hires. This assessment includes potential PERS and unemployment costs.
- At the start of employment, a manager should indicate if a temporary or variable hour employee is projected to reach the PERS threshold of 600 hours and 12 months of service, and manage hours appropriately.
- Ensure that a temporary employee's period of employment does not exceed the 1040 hour limit.
- If there is an emergency that may make it necessary to use a temporary employee for more than 1040 hours, prior to exceeding the limit, request approval from the department director and Human Resources to extend the hours.
- Ensure that temporary employees near or at the 1040 hour limit are not scheduled to work until twelve or more months after their original start date unless human resources, and the appropriate union if applicable, approves the extension of hours..
- Ensure there is a distinction between regular staff and temporary staff with clear roles and responsibilities. Make it clear to all regular staff what the appropriate duties are for temporary employees.
- When work is offered to a temporary or variable hour employee and they decline the offer or report in advance that they will be unavailable for work, make note of that information and report it to Human Resources.
- Notify Human Resources when you know that a temporary employee will not be returning or be called back to work. Human Resources will then terminate the employee from the Human Resource Information System.

### Human Resources:

- Manage and conduct competitive recruitments for temporary and variable hour employees.
- Draft employment confirmation letters for the managers for temporary and variable hour employees.
- Administer compensation for temporary and variable hour employees in accordance with applicable policies and procedures.
- When supervisor with approval of department director requests an emergency extension of a temporary employees hours in excess of 1040, if appropriate, approach union for agreement on extension of hours.
- Track all temporary hours based on hours from time of hire and notify departments and hiring managers appropriately.
- Terminate temporary and variable hour employees who have not worked any hours during previous twelve (12) months.

### **References**

Recruitment and Selection Manual

EXHIBIT B to MERC Resolution 15-19



Metro | *Policies and procedures*

DRAFT  
10/23/15

**Subject** Sick Leave for Non-Represented Benefits-Eligible Employees  
**Section** Human Resources  
**Approved by**

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**POLICY**

*Metro provides non-represented benefits-eligible regular and limited duration employees with paid sick leave for use by the employee or a qualifying family member in the event of illness, domestic violence related absences, bereavement leave and as otherwise allowed by law.*

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**Applicable to**

All non-represented benefits-eligible regular and limited duration employees.

*Paid sick leave may be available for represented employees as determined by the applicable collective bargaining agreement.*

**Definitions**

Qualifying Family Member: An employee's spouse or domestic partner; biological, adopted or foster parent or child; parent-in-law; stepparent, grandchild, grandparent and grandparent-in-law; sibling and any other person for which the employee is a legal guardian or is in a relationship of in loco parentis; or as otherwise required by law.

**Guidelines**

1. Benefits-eligible regular status and limited duration employees will accrue sick leave with pay at a rate of .05 hours per hour paid, **excluding overtime**, up to a maximum of 104 hours per year for a full-time employee. There is no limit on an employee's maximum accrued sick leave balance.
  - a. For benefits-eligible part-time employees, leave accruals will be prorated according to the employee's assigned work hours (FTE).
  - b. Leave under this policy is distinct from unpaid protected sick leave for which the employee may be qualified under the Oregon Family Leave Act, federal Family and Medical Leave Act, or other laws. If leave granted under this policy is also covered by OFLA/FMLA, the two types of leave will run concurrently as allowed by law. Please see Metro's Family and Medical Leave policy for more information.

**Procedures**

1. Employees shall be eligible to use sick leave at the beginning of the pay period after which it is accrued.

2. Reasons for sick leave use:

Employees may use accrued sick leave:

- a. For mental or physical illness, injury or health condition, medical care, diagnosis and treatment, or preventive medical care of a mental or physical illness, injury or health condition, for themselves or for a qualifying family member.
- b. When leave is authorized under the federal Family and Medical Leave Act (FMLA) or Oregon Family Leave Act (OFLA), the provisions of Metro's Family and Medical Leave Policy will apply.
- c. To address domestic violence, harassment, sexual assault, or stalking in accordance with state law and Metro's Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections Policy.
- d. In the event of a public health emergency which includes closure of the school or place of care of the employee's child, or by order of a public official due to a public health emergency.

3. Sick Leave Notification: For unforeseen absences, employees unable to report to work shall contact their supervisor and report the reason for their absence pursuant to their department notification procedures, unless it is not practicable to provide notice. Employees are then required to provide notice as soon as practicable. For foreseeable absences, employees should request notice at least 10 days notice in advance.

4. Sick Leave Use in Conjunction with Workers' Compensation: An employee on a Workers' Compensation claim may elect to receive full net wages in paid sick leave while also receiving time loss payments. Employees who are receiving Workers' Compensation payments for an injury or illness may use sick leave to equal the difference between the Workers' Compensation payment for lost time to bring the employee to full net take-home pay for the pay period. In such instances, Metro will prorate charges against the employee's accrued sick leave. When an employee receives payments from Workers' Compensation and sick leave that exceed the employee's net pay, the employee will reimburse Metro for the overpayment of sick leave paid. Metro and the employee will work out a repayment plan for reimbursement. Upon repayment of the total amount of the excess, the employee's sick leave account shall be credited with that portion of the sick leave repaid.

5. Documentation: An employee's supervisor may require the employee to provide a note from a health care provider or other professional supporting the need for leave in the following situations:

- a. If the employee takes more than three consecutive scheduled workdays of sick time.
- b. If the employee is suspected of misusing and/or abusing sick time.

Medical verification shall be provided within 15 calendar days after the supervisor requests the verification. Metro will pay any reasonable costs for providing medical verification or certification. **Failure to provide requested documentation may result in disciplinary action, up to and including termination.**

6. Rate of Pay: Sick leave will be paid at the employee's regular rate of pay for that job, for the hours the employee was scheduled to work on that day.

7. Written Notification of Accruals: Metro will provide notification on employees' pay statements of the amount of accrued and unused sick time available for use by an employee.

8. Misuse of sick leave: May be grounds for discipline, up to and including termination.

Metro shall not conclude that any employee has misused sick leave without first notifying the employee in writing that the employee appears to be misusing sick leave, and giving the employee an opportunity to respond.

9. Infrequent Absences of Exempt Employees: When an exempt employee has an absence of four or more hours, such absences will be tracked in the leave management system and covered through the use of available leave accruals as appropriate for the situation.

Infrequent absences of less than four hours by an exempt employee that does not negatively impact expected work performance or productivity will not be covered through the use of leave accruals. In addition, this section would not apply if an employee has received prior approval from their manager to flex their schedule in a given workweek.

10. Sick Leave Incentive: Regular full-time employees who use twenty-four (24) hours or less of sick leave within one fiscal year period shall accrue eight (8) additional hours of vacation leave in exchange for eight (8) hours of sick leave at the end of the fiscal year period. Regular part-time employees who use twenty-four (24) hours or less of sick leave within one fiscal year period shall accrue up to eight (8) additional hours of vacation leave based on their FTE, in exchange for the same number of sick leave hours at the end of the fiscal year period.
11. Unused Sick Leave at Termination: No payment for accrued sick leave shall be provided for any employee upon termination, resignation, retirement or other separation from employment for any reason. Metro shall participate in the PERS unused sick leave program as provided in ORS 238.350. Metro shall report the number of unused sick leave hours to PERS for use in the calculation of the employee's final average salary.
12. Reinstatement: Employees re-employed within 180 days of termination will have their accrued sick leave balance restored up to 80 hours. Employees who leave Metro employment prior to 60 days after initial date of hire and return within 180 days of termination, shall be entitled to begin using their accrued sick leave after their total combined period of employment with Metro exceeds 60 days.

## **Responsibilities**

### Employee:

- Notify supervisor of unplanned absences in accordance with work unit or department procedures.
- For planned absences, when possible provide at least ten (10) days advance notice.
- For unforeseen qualifying leaves, provide notice as soon as is practicable.
- If advance notice of sick leave has not been requested, provide medical verification of need for sick leave within fifteen (15) days after supervisor or HR requests it.
- Code leave appropriately in Metro's timekeeping system.

### Supervisor and Department Director:

- Request supporting documentation if needed to substantiate the employee's need for leave when employee has been absent for more than three (3) consecutive days or you have reason to believe the employee is abusing sick leave. (Note: Metro may need to pay costs of requesting documentation from medical provider that are not covered by health care benefits.)

- Address misuse of sick leave with employees in a timely manner, consulting with Human Resources as needed.
- Approve or deny advance requests for sick leave and notify the employee as soon as possible. You may not deny, interfere with, restrain or fail to authorize sick time to which an employee is entitled.
- May not require employees using accrued sick leave to find replacement for or make-up their scheduled hours.
- May not retaliate or in any way or discriminate against an employee with respect to any term or condition of employment because the employee has inquired about, requested or taken sick time.
- Ensure that leave is coded appropriately in Metro's timekeeping system.

Human Resources Department:

- Provide guidance and information as needed.

**References**

Metro Family and Medical Leave policy

Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections Policy

**Conformity with State Law**

The application of this policy is intended to comply with state law. Human Resources will notify employees of changes in guidelines/procedure for use of sick leave pending issuance of state regulations.