

## **Texas Department of Criminal Justice Guidelines for a Pattern of Misuse of Sick Leave**

The following guidelines for the determination of a “pattern” as evidence of misuse of sick leave have been established to ensure consistent application of Part D of PD-46, “Medical and Parental Leave.”

State statute and agency policy defines the circumstances under which an employee may be required to provide a doctor’s certificate. However, if there is substantial evidence that an employee is *not* entitled to use sick leave, such as an identified pattern of absences, the employee may be required to provide a doctor’s note to support the absences, as specified under the provisions of “misuse of sick leave.”

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A pattern of absences, at least monthly, that may support evidence of misuse of sick leave, includes, but is not limited to the following:

- On a day or days there is substantial evidence tending to establish the employee was not entitled to use sick leave, such as attendance at sporting or social events or working outside employment during the employee’s scheduled work hours.
- On the employee’s first or last workday of the work cycle.
- On Saturdays, Sundays, or holidays.
- On the first work cycle of the month.
- On a given day of the week or month.
- On days preceding or following vacation leave.

A pattern of absences that should *not* support evidence of misuse includes, but is not limited to the following:

- One or more random absences each month.
  - Absences not occurring in a pattern during the previous three-month period.
  - Low time balances.
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The human resources representative shall be required to verify that the documented dates of unscheduled use of leave were not certified as family medical leave (FML) or supported by a health care provider’s statement (HCPS) on a PERS 499, Notification of Unscheduled Use of Leave Pattern.

An employee that receives a PERS 499 shall be required to obtain an HCPS within 15 calendar days of the date of the notification for any absences, based on a claim of illness or injury, regardless of the length of absence.