

Employer Training

LEAVE PAYMENTS

INTRODUCTION

Member and employer contributions are required on all PERA-includable salary. However, only certain pay received for leave is considered PERA-includable salary. Employers must complete a *Certification of Leave of Absence* form for any employee who will be on leave without pay for more than one month. Leave payments fall into three categories:

REGULAR LEAVE PAYMENTS

Payments for sick or personal leave taken by an employee at any time during the regular course of business are considered PERA-includable salary.

ACCRUED LEAVE PAYOUTS

Payments for accrued leave, either in excess of a maximum allowed accumulation or paid at the time of termination, may be considered PERA-includable salary.

OTHER LEAVE PAYMENTS

Payments for leave including administrative, military, sabbatical, or short-term disability leave, may be considered PERA-includable salary.

REGULAR LEAVE PAYMENTS



Sick Leave

WHAT: Employee leave that can only be used for personal illness or the illness of an immediate family member.

PERA-INCLUDABLE SALARY IF:

- The payment is part of the normal payroll cycle.



Paid/Personal Time Off (PTO)

WHAT: Employee leave that can be used for any reason.

PERA-INCLUDABLE SALARY IF:

- The payment is part of the normal payroll cycle.



Compensation for unused sick, annual, vacation, administrative, or other accumulated paid leave contributed to a Health Savings Account as allowed by federal law, or a retirement health savings program is not PERA-includable salary.

(Continued on next page)

ACCRUED LEAVE PAYOUTS



Annual Leave Payouts

WHAT: Annual payouts of accrued leave in excess of an established maximum accumulation allowed under employer policy.

PERA-INCLUDABLE SALARY IF:

- The payment is for accrued leave earned by the member, conforming to an established employer policy or employment contract, and is not the result of a retroactive grant or an award by the employer.
- The maximum allowable limit is established in the employer's leave policy.
- The payment is not at the election of the member.
- The accrued leave payment is paid at a rate not to exceed the member's most recent rate of pay.



Payouts at Termination

WHAT: Payments of accrued unused leave made in a lump sum at the termination of employment, or in periodic payments after terminating employment.

PERA-INCLUDABLE SALARY IF:

- The periodic payments are made over consecutive pay periods and for time that does not exceed the PERA service credit associated with the payment.
- The payment is for accrued leave earned by the member, conforming to an established employer policy or employment contract, and is not the result of a retroactive grant or an award to the employer.
- The payment is not at the election by the member, and is paid in a timely manner.
- The accrued leave payment is paid at a rate not to exceed the member's most recent rate of pay.

OTHER LEAVE PAYMENTS



Administrative Leave

WHAT: A mandatory leave of absence from a job assignment.

PERA-INCLUDABLE SALARY IF:

- The employee is paid for administrative leave.



Employees do not earn service credit for time on leave without pay.



Bereavement Leave

WHAT: A period of absence from employment due to the death of another individual, usually a close relative.

PERA-INCLUDABLE SALARY IF:

- The employee is paid for bereavement leave.



Compensatory (Comp) Time

WHAT: Paid time off granted to employees in lieu of overtime pay to compensate for extra hours of work.

PERA-INCLUDABLE SALARY IF:

- The time is taken during the regular course of business. Payments should be treated like PTO for PERA purposes.

NOT PERA-INCLUDABLE SALARY IF:

- The employee elects to have part or all of their accumulated comp time paid out as allowed by a policy held by the employer. See "Accrued Leave Payouts" to the left.



PERA must review all policies pertaining to comp time payouts.



Family Medical Leave Act (FMLA)

WHAT: Job-protected leave for specified family and medical reasons for eligible employees.

PERA-INCLUDABLE SALARY IF:

- An employee redeems leave pay during a period of otherwise unpaid time off granted under FMLA. Payments should be treated like PTO for PERA purposes.



Furlough Days

WHAT: A mandatory unpaid leave of absence required by some PERA employers in response to reduced funding. (Furlough days may affect member benefits, see the *Colorado PERA and Furlough Days* fact sheets for more information.)

PERA-INCLUDABLE SALARY IF:

- An employer has established a furlough day, later cancels the furlough day within the furlough period, and restores salary for work performed. Salary for the restored furlough day should be reported in the month in which it was restored.

NOT PERA-INCLUDABLE SALARY IF:

- An employer pays employees outside of the furlough period for a furlough day that has already passed.



Jury Duty

WHAT: Service as a juror in a legal proceeding, including participation in the jury selection process.

PERA-INCLUDABLE SALARY IF:

- The amount of compensation does not exceed the employee's normal rate of pay. Regular full-time employees' pay is typically not affected by serving on a jury.



Military Leave

WHAT: A period of absence from employment to enter active uniformed service in any branch of the United States military.

PERA-INCLUDABLE SALARY IF:

- Salary is paid to an employee during this period of leave.
- An employee is paid a Military Differential Stipend, which is the difference between a member's military pay and their regular pay, based on a policy held by the employer.



Sabbatical Leave

WHAT: A period of absence from employment, usually for education or research purposes.

PERA-INCLUDABLE SALARY IF:

- The employee receives partial or full salary for the sabbatical leave.



Short-Term Disability (STD)

WHAT: Insurance payments of a percentage of an employee's salary because of the employee's temporary disability due to sickness or injury (excluding on-the-job injuries, which are covered by workers' compensation insurance). Disability insurance programs will generally coordinate benefits and provide income of up to 100% of current earnings.

PERA-INCLUDABLE SALARY IF:

- An employee uses accrued leave, instead of insurance, to supplement STD insurance payments.

NOT PERA-INCLUDABLE SALARY IF:

- The payments are made to an employee by a third-party disability insurance provider.



Workers' Compensation

WHAT: A wage replacement insurance payment to employees who are injured while on the job.

PERA-INCLUDABLE SALARY IF:

- The salary is paid by the employer to an employee placed on leave due to an on-the-job injury.
- An employee uses accrued leave, instead of insurance, to supplement a payment from a third-party insurance provider.

NOT PERA-INCLUDABLE SALARY IF:

- The payments are from a third-party provider toward an employee's workers' compensation.



Contracts

Executive and administrator contracts frequently contain unique provisions regarding leave time and leave payouts. If there are any such provisions in contracts issued by your agency, PERA will review the contract language to determine whether payments made under these provisions are PERA-includable salary.

You can submit a copy of the contract, or the section of the contract pertaining to leave payments, to your Employer Representative to receive a determination.

EXAMPLES



PTO

Scenario: A state agency provides its regular full-time employees paid time off for vacation, sick time, or any other personal reason.

An employee calls in due to unexpected car troubles. The employer uses eight hours of the employee's accumulated PTO to pay the employee for the missed time at the employee's regular rate of pay.

Explanation: Personal time taken by an employee during the regular course of business is considered PERA-includable salary and contributions on these payments should be remitted to PERA.

PERA-includable salary



Sabbatical
Leave

Scenario: A state university has a sabbatical leave agreement where an employee will receive 75% of his or her regular wages during an approved sabbatical.

A tenure-track professor at the university is granted a one-year sabbatical for research purposes.

Explanation: Sabbatical leave is considered PERA-includable salary and contributions on these payments should be remitted to PERA.

PERA-includable salary



Annual Leave
Payouts

Scenario 1: A local school district's leave policy allows employees to accumulate up to 120 hours of leave. Any hours accumulated over the 120-hour limit are paid out to the employee each June.

Explanation: Mandatory payouts of leave exceeding the maximum allowable accrual limit established in an employer's policy are considered PERA-includable salary and contributions on these payments should be remitted to PERA.

PERA-includable salary

EXAMPLES (CONTINUED)



Annual Leave
Payouts
(continued)

Scenario 2: A local school district allows employees to cash in up to five leave days per contract year at the employee's discretion.

Explanation: Payouts of leave at the discretion of an employee are not considered PERA-includable salary and should not be included in contributions submitted to PERA.

Not PERA-includable salary

Scenario 3: A local school district has a sick leave policy that grants employees 10 days of sick leave each school year. Sick leave may be used for personal illness or for the illness or death of an immediate family member. Sick leave may be used as sick days only and cannot be redeemed in any other manner. Employees may accumulate up to 120 hours of sick leave. Any accumulated sick leave hours over the 120-hour limit will be paid out to the employee at the end of the school year in which the overage occurred.

An employee has accumulated 150 hours of sick leave at the end of the current school year.

Pursuant to the employer's policy, 30 of these hours are paid out to the employee at the end of the current school year.

Explanation: Sick leave payments converted to cash are considered PERA-includable salary by Colorado law (effective June 4, 2018, with enactment of SB 18-200). Contributions should be remitted on these payments.

PERA-includable salary

Scenario 4: A local school district has a personal leave policy separate from their sick leave policy. Each employee of the district is entitled to five paid personal leave days each school year. A personal leave request must be completed by the employee and administrator before such leave is taken. The employee taking such leave is not required to state the reason for the request. Personal leave days are non-cumulative and any unused personal leave days will be paid out to the employee at the end of the school year.

An employee of the school district uses three of the five personal days throughout the course of the school year. According to the employer's policy, the remaining two personal leave days are paid out to the employee at the end of the school year.

Explanation: Forced payouts of leave exceeding the maximum allowable accrual limit established in an employer's personal leave policy are considered PERA-includable salary and contributions on these payments should be remitted to PERA.

PERA-includable salary

Scenario 5: A local school district merges their sick leave and personal leave policies into one policy. Annually, employees are granted a total of 15 leave days each school year. Leave may be taken for any reason including sick time, vacation, or any other personal reason. The employee is not required to state the reason for requested leave days. Employees may accumulate up to 120 hours of leave. Any accumulated leave over the 120-hour limit will be paid out to employees at the end of the school year in which the overage occurred.

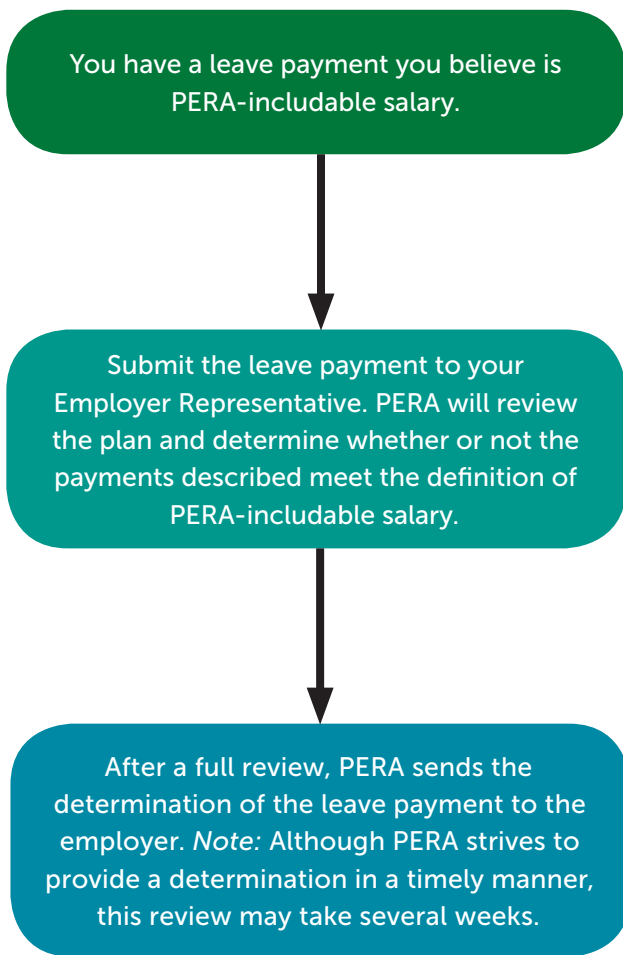
An employee has accumulated 200 hours of leave by the end of the current school year. Pursuant to the school district's policy, 80 of these hours are paid out to the employee at the end of the school year.

Explanation: Under the new hybrid policy the district created, employees can take leave for any reason and there is no longer any strict "sick leave." Forced payouts of leave exceeding the maximum allowable accrual limit established in an employer's policy are considered PERA-includable salary and contributions on these payments should be remitted to PERA.

PERA-includable salary

SUBMITTING A LEAVE PAYMENT FOR REVIEW

If you have determined that you have a leave payment that may meet the definition of PERA-includable salary, you must submit the relevant documentation to PERA for review. PERA will fully review and provide a determination. Requests for review should be submitted well in advance of the anticipated pay date. Contact your Employer Representative to help you initiate this process as explained below:



INCORRECTLY REPORTING SALARY AS INCLUDABLE

If you report a payment as PERA-includable salary and it is later determined the payment did not meet the definition of PERA-includable salary, you will be required to make corrections to member records. This may include crediting the non-includable salary and contribution amounts out of member accounts and returning the withheld contributions to employees and former employees—including PERA retirees. You may also be required by the IRS to correct tax records such as W-2s for the year(s) in question.

FOR MORE INFORMATION

- » Call PERA's Employer Relations team at 303-863-3724.
- » Email the Employer Relations team at ercontributions@copera.org.
- » Visit the "Employer" page on PERA's website at www.copera.org.
- » Visit PERA's main office at 1301 Pennsylvania Street in Denver.