

1 **MEMORANDUM OF UNDERSTANDING**
2 **BETWEEN**
3 **THE EVERGREEN STATE COLLEGE (EVERGREEN)**
4 **AND**
5 **THE WASHINGTON FEDERATION OF STATE EMPLOYEES, COUNCIL 28 (UNION)**
6 **STUDENT SUPPORT SERVICE STAFF UNION**

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8 **Sick Leave Use**
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11 During the 2024 Washington State Legislative session, ESSB 5793 was passed and signed into law.
12 ESSB 5793 amends RCW 49.46.210 expanding the purposes for which an employee may use sick
13 leave and the definition of family for the purpose of sick leave effective January 1, 2025.
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15 The parties agree that Article 12, Sick Leave, of the 2023-2025 TESC-WFSE Classified Employees
16 Collective Bargaining Agreement will be modified as described in the following attachment, effective
17 January 1, 2025.
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19 Attachment: Article 14, Sick Leave
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21 Agreed To:

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23 For the Union:

For the Employer:

24
25 Becky Stephens

26
27 Date: 10/22/2024

Date: _____

ARTICLE 12

SICK LEAVE

14.1 Sick Leave Accrual

Full-time employees will accrue eight (8) hours of sick leave in a calendar month. Part-time employees will accrue sick leave credit on the same proportional basis that their employment schedule bears to a full-time schedule, up to a maximum of eight (8) hours in a calendar month.

- A. Employees hired the 1st through the 15th of the month will receive the sick leave accrual credit for that month. Employees hired on the 16th through the end of the month will not receive a sick leave accrual credit for that month.
- B. Employees who separate from employment with the Employer between the 1st through the 15th of the month will not receive a sick leave accrual for that month. Employees who separate from employment with the Employer between the 16th through the end of the month will receive the sick leave accrual credit for that month.
- C. Sick leave credit will not accrue for full-time employees during leave without pay which exceeds eighty (80) hours in any calendar month. Employees working less than a full-time schedule will not accrue sick leave during leave without pay that exceeds the amount that is the same proportional basis that their appointment bears to a full-time appointment.
- D. Full-time and part-time employees in overtime-eligible positions who are not eligible to receive a sick leave accrual under the provisions of Sections 14.1 A, 14.1 B, and/or 14.1 C, will accrue sick leave at a ratio of one (1) hour of sick leave for every forty (40) hours worked.

- E. Sick leave accruals for the calendar month will be credited and available for employee use on the last day of that calendar month.

14.2 Sick Leave Use

Sick leave will be charged in the amount actually used by the employee and may be used for:

- A. A personal illness, injury or medical disability that prevents the employee from performing their job, or personal medical or dental appointments, and for reasons allowed under the Minimum Wage Requirements and Labor Standards, RCW 49.46.210.
- B. Care of family members as allowed under RCW 49.46.210 and as required by the Family Care Act, WAC 296-130. Family members includes biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; sibling, spouse, registered domestic partner as defined by RCW 26.60.020 and RCW 26.60.030, grandparent, grandchild, or child, regardless of age or dependency status, including a biological, adopted or foster child, step child, a child's spouse, or a child to who the employee stands in loco parentis, is a legal guardian, or is a de facto parent, and any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person and the individual depends on the employee for care. It does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.
- C. A death of any relative that requires the employee's absence from work. Relatives are defined for this purpose as spouse, significant other, registered domestic partner,

son, daughter, grandchild, foster child, son-in-law, daughter-in-law, grandparent, parent, brother, sister, aunt, uncle, niece, nephew, first cousin, brother-in-law, sister-in-law, and corresponding relatives of employee's spouse, significant other or registered domestic partner.

- D. In accordance with RCW 49.46.~~120210~~, when an employee's place of business has been closed by order of a public health official for any health-related reason, or when an employee's child's school or place of care has been closed for such ~~a~~ health-related reason or after the declaration of an emergency by a local or state government or agency, or by the federal government. Health-related reason, as defined in WAC 296-128-600(8), means a serious health concern that could result in bodily injury or exposure to an infectious agent, biological toxin, or hazardous material. Health-related reasons do not include closure for inclement weather.
- E. Childcare or eldercare emergencies. Use of sick leave and vacation leave for emergency childcare is limited to a combined maximum of four (4) days per calendar year.
- F. To make arrangements for extended care for a family member under the age of eighteen (18) who has a health condition that requires treatment or supervision.
- G. Preventive health care appointments of family members, ~~significant others, household members, and registered domestic partners as defined in Article 14.2 B,~~ when the presence of the employee is required. ~~A household member is defined as persons who reside in the same household who have reciprocal duties to and do provide financial support to one another. This term does not include persons sharing the same house when the living style is primarily that of a dormitory or commune. Significant other is defined as a person to whom the employee is currently in an intimate or dating relationship.~~

H. ~~When an employee is absent from work to be with members of the employee's household or significant other, as defined in Article 14.2 G above, who experience an illness or injury.~~

I. Leave for Military Family Leave as required by RCW 49.77 and in accordance with Article 18.13.

J. Leave for Domestic Violence Leave as required by RCW 49.76.

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14.3 Use of Vacation Leave, Personal Holiday, or Personal Leave Day for Sick Leave Purposes

The College may allow an employee who has used all of their sick leave to use vacation leave or all of a personal holiday or personal leave day for sick leave purposes as provided in Subsection 14.2 A. – J.

14.4 Restoration of Vacation Leave

In the event an employee is injured or becomes ill while on vacation leave, the employee may submit a written request to use sick leave and have the equivalent amount of vacation leave restored. The supervisor may require a written medical certificate.

14.5 Sick Leave Reporting, Certification and Verification

An employee must promptly notify their supervisor on their first day of sick leave and each day after, unless there is mutual agreement to do otherwise. If an employee is in a position where coverage is necessary if the employee is absent, the supervisor may impose additional, reasonable notice requirements appropriate to the coverage need (excluding leave taken in accordance with the Domestic Violence Act). If the Supervisor has a

reasonable basis to believe sick leave is being used for an improper purpose, the Supervisor may require a written medical certificate for any sick leave absence. An employee returning to work after any sick leave absence may be required to provide written certification from their health care provider that the employee is able to return to work and perform the essential functions of the job with or without reasonable accommodation.

If medical certification or verification is required for employees in overtime-eligible positions, it shall be in accordance with the provisions of RCW 49.46.210, WAC 296-128, and this Agreement. Employees may use accrued paid leave or leave without pay to pursue the requested certification or verification.

14.6 Sick Leave Annual Cash Out

Each January an employee is eligible to receive cash on a one (1) hour for four (4) hours basis for ninety-six (96) hours or less of their accrued sick leave, if:

- A. The employee's sick leave balance at the end of the previous calendar year exceeds four hundred eighty (480) hours;
- B. The converted sick leave hours do not reduce their previous calendar year sick leave balance below four hundred eighty (480) hours; and
- C. The employee notifies the College's payroll office by January 31st that they would like to convert sick leave hours earned during the previous calendar year, minus any sick leave hours used during the previous year, to cash.

All converted hours will be deducted from the employee's sick leave balance.

14.7 Sick Leave Separation Cash Out

At the time of retirement from state service or at death, an eligible employee or the employee’s estate will receive cash for their compensable sick leave balance on a one (1) hour for four (4) hours basis. For the purposes of this Section, retirement will not include “vested out of service” employees who leave funds on deposit with the retirement system. At the time of retirement, the provisions of this section are subject to Article 34, Voluntary Employees’ Beneficiary Associations (VEBAs).

14.8 Reemployment

Former state employees who are reemployed within five (5) years of leaving state service will be granted all unused and unpaid sick leave credits they had at separation. If an employee is reemployed after retiring from state service, when the employee subsequently retires or dies, only unused sick leave accrued since the date of reemployment minus sick leave taken within the same period will be eligible for sick leave separation cash out, in accordance with Subsection 14.7.

14.9 Carry Forward and Transfer

Employees will be allowed to carry forward, from year to year of service, any unused sick leave allowed under this provision, and will retain and carry forward any unused sick leave accumulated prior to the effective date of this Agreement. When an employee moves from one state of Washington employer to another, without a break in service, the employee’s accrued sick leave will be transferred to the new employer for the employee’s use.