

Contract Article	Topic	Date	Question	Answer
14.11	Sick Leave	11/8/2010	Can an employee use sick leave to care for their significant other/partner?	No, as they are not legally married, so it does not fall within the definition of an immediate family member.
14.11	Sick Leave	6/5/1984	Can sick leave be used to visit adult relative in hospital, recuperating from illness or surgery?	Not legitimate sick leave. Recuperating does not require the employee's attendance. Sick leave may be granted during surgery.
14.11	Sick Leave	6/5/1984	Can sick leave be used for weekly dental appointments for extensive work when these appointments could be arranged on scheduled days off.	If appointments can be arranged on days off, the agency may ask the employee to do so. If the employee wishes to use work time, sick leave should be granted. If you make a policy to ask people to use non-work days, then you must ask all employees.
14.11	Sick Leave	6/5/1984	Employee's grandchild has life-threatening illness. Employee asks for sick leave to care for grandchild's brothers and sisters while parents are at the hospital.	Not legitimate sick leave. Intent is to allow employee to care for immediate family member and the employee's presence is demanded. This does not include baby-sitting.
14.11	Sick Leave	6/5/1984	Can sick leave be used to take immediate relative of spouse, as defined in Section 14.11 of the contract, to doctor/hospital for test and remain while test are administered?	Yes, when the employee's presence is required.

14.11	Sick Leave	6/5/1984	Can sick leave be used to be present at unmarried brother or sister's surgery when parents cannot be present?	Not legitimate sick leave. Siblings are not defined as immediate family. However, labor contract allows an agency head to broaden the definition of immediate family under individual circumstances.
14.11	Sick Leave	6/5/1984	Can sick leave be used to be present during surgery and post-operative recovery of immediate relative, even though other family members are present?	Not legitimate sick leave, unless immediate relative is a spouse, child or parent and the employee's presence is demanded. Sick leave should be considered, based on individual circumstances.
14.11	Sick Leave	6/5/1984	Can sick leave be used to stay home with spouse who suffers frequent severe depression during which time the spouse will not feed him/her self?	If an immediate family member is ill, temporarily disabled or injured, the employee may use sick leave to care for that family member. If severe depression required direct care, sick leave should be granted, if required or if verified by Dr.'s statement.
14.11	Sick Leave	6/5/1984	Can sick leave be used for physical and/or mental exhaustion after having been up all night with a sick child or other family member?	If the physical exhaustion is so great the person cannot actually come to work, then sick leave should be granted. Mental exhaustion would not be a reason for sick leave. Physical exhaustion is more than being tired.
14.11	Sick Leave	6/5/1984	Can sick leave be used to care for children while spouse is recovering from surgery or during illness?	Not legitimate sick leave. Employee must be caring directly for the sick or injured party. Caring for the children is baby-sitting.
14.11	Sick Leave	6/5/1984	Can sick leave be used to care for a brother's children while his spouse has surgery?	Not legitimate sick leave. Employee must be caring directly for the ill or injured party, not baby-sitting.

14.11	Sick Leave on Holidays	4/2/1990	May an employee use sick leave on a holiday when the employee was scheduled to work?	No, the employee only receives their holiday pay, even if the employee was scheduled to work on the holiday.
14.11	EAP Sick Leave	5/3/1993	Can an employee going to EAP for marital counseling use sick leave?	No, it must fit definition of SL & Credentials of Counselor may be considered, unless the employee is in such distress that they qualify for sick leave.
14.11	Sick Leave	5/13/1993	Can an employee use sick leave to care for their grandchildren when her daughter-in-law is having surgery?	No, the employee's presence is not required to care for the Daughter-in-law, only as a baby sitter for the children.
14.11	Sick Leave Abuse	6/1/1995	An employee used 107 hours of SL in a year, missed May 5, 8, 12. Missed Fri., May 5, worked other job Sat and Sun., and missed Monday, May 8. Agency claims abuse and wants to request Doctor's statement.	A Doctor's slip may be requested if using 3-consecutive days or abuse is suspected. Employee needs to be counseled and put on notice.
14.11	Sick Leave	7/26/1995	Can an employee request sick leave for a medical appointment that involves a foster child?	Yes. Definition can be expanded to include Foster children by the agency head. Because FMLA allows foster children to be considered as immediate family, it would make sense to extend the use of sick leave.
14.11	Sick Leave	1/10/1997	Does chiropractic treatment qualify for use of sick leave?	Yes, as long as it is in the realm of expertise; i.e., back problems, not treating a cold.

14.11	Sick leave	2/20/2013	Can an employee use sick leave when they have an appointment with an acupuncturist and/or a masseuse to help relieve pain?	Only if the physician they have an appt. with is a licensed physician, physician's assistant, or chiropractor. An Acupuncturist must have one of these licenses. Neb. Rev. Stat. Sec. 38-2058 states the patient has to present a letter of referral or a medical diagnosis & evaluation completed by a licensed practitioner, which is written within 90 days of the date of the initial acupuncture treatment. The trip to the masseuse would not be considered sick leave.
14.11	Sick Leave	2/14/2013	An employee whose work site is in western Nebraska, wants to schedule an appt. with a doctor (GP) in eastern NE. Can they use SL to travel to and from the appt. along with the time for the appt.?	Where there are physicians available locally, the State does not grant SL time for an employee to visit a regular physician at quite some distance. In rural areas it may be necessary to let them travel some distance, such as 30 miles. However, it would not be reasonable for someone from Scottsbluff to travel to Lincoln to see a regular physician as there are physicians in Scottsbluff.
14.11	Sick Leave	6/27/1997	When vacation leave is changed to sick leave, can it be for hospitalization or illness of a family member or only the employee?	It can only be used for the employee's hospitalization or illness.
14.11	Sick Leave	1/27/1998	When an employee has exhausted their sick leave, is the employee required to use vacation leave, or can they use leave without pay, when they're requesting 16 hours of sick leave?	Employee is not required by agency to use vacation leave after sick leave is exhausted. They can use LWOP, if approved, or the agency, in its discretion, may advance sick leave. (Agency needs to monitor the situation if an employee has 20 years of service and no sick leave may be just cause for discipline for sick leave abuse, unless there is a valid medical reason.)
14.11	Sick leave	3/1/1998	(1) Can an agency require the employee to use vacation if sick leave is exhausted, and (2) does the employee have to use all sick leave before requesting a leave of absence?	(1) No. (2) Exhaustion of sick leave is not addressed in the contract, but past practice in most agencies is to allow the employee to retain a small amount of sick leave to use after returning to the job.

14.11	Sick leave	3/1/1998	What if a father wants to take paternity leave when the baby is brought home?	12 weeks of Family Medical Leave may be used for the adoption or birth of a child. Sick leave can only be used when medically necessary, to care for the mother or sick baby. Vacation leave and comp time may be used if authorized by the agency.
14.11	Sick Leave	4/7/1998	Can a new mother use sick leave when the infant will not take a bottle and must be breast fed?	No. No one is ill. Family Medical Leave would be appropriate.
14.11	Sick Leave	6/26/2001	Can an employee use sick leave to register a parent to enter an assisted living facility.	No. You have flexibility on when you can make the arrangements.
14.11	Sick Leave	6/26/2001	Can an employee use sick leave to register a parent to enter a nursing home?	Yes. The patient/parent is usually receiving skilled care, and there is usually a timeframe on when the parent needs to be admitted.
14.11	Sick Leave	2/18/2003	Can an employee use sick leave to attend smoking cessation or Alcoholic's Anonymous classes?	No. Sick leave is for illness, injury, surgery, hospitalization, etc.
14.11	Sick Leave	9/3/2003	Is the use of sick leave allowed for an employee to attend a Dr. appointment for an adult child?	Yes, if child was too ill to transport themselves to appt or too weak following treatment to return home; if employee's presence was required to perform some type of medical treatment on child that child could not perform; or if employee had to sign a consent form.

14.11	Chiropractor (sick leave)		A chiropractor recommends that an employee take two-weeks off to help heal a back problem. Can the agency request a doctor's statement?	Yes. If the employee's physician supports the chiropractor's recommendations in writing, the time away is sick leave. However, if FML is requested, the chiropractor's certification would suffice if eligibility conditions are met.
14.11	Sick leave		How much time is allowed for pregnancy?	Pregnancy, post-natal recovery and miscarriage are temporary disabilities and sick leave is permitted, generally six weeks for normal delivery or until doctor releases from care.
14.11	Sick leave		What if the employee is confined to bed rest or reduced hours during pregnancy?	Agencies will accommodate pregnancy as per a medical doctor's orders. Sick leave, FML, or unpaid leave of absence may be used.
14.11	Sick leave		What if the employee doesn't have enough sick leave to cover an illness or pregnancy?	If the sick leave is exhausted, vacation may be used, and at the discretion of the agency head, sick leave may be advanced up to 80 hours or unpaid leave of absence may be used. Family Medical Leave can also be used. If the condition is critical, catastrophic illness donation may be considered.
14.11.a	Sick Leave	3/5/2007	Can an employee use sick leave for cosmetic surgery?	Yes, if the surgery is reconstructive-result of an accident, prior surgery, or fire or chemical damage to the employee. SL cannot be used if employee would like their nose a different shape, a facelift, etc.
14.11.b	Sick Leave	10/8/1997	An employee's child and grandchild are living with the employee. Can the employee use sick leave to stay home with the ill grandchild, while the child works at a new job and can't get time off.	At the agency head's discretion, the agency may broaden the definition of immediate family to include grandchildren. If the agency does this, it will create a past practice and would have to allow other employees the same consideration.

14.11.b	Sick Leave	10/8/1997	Can an employee take sick leave to help care for livestock on a farm during a disaster, when the spouse is ill and unable to care for the livestock?	No. 14.11 outlines the only reasons that an employee may use sick leave and that is not an appropriate reason.
14.11.b	Sick Leave	9/21/1999	Is it okay to grant 56 hours of sick leave for an employee to accompany a parent to Mayo Clinic for tests, surgery and chemotherapy treatment?	Yes. It appears that the employee's presence is required to care for the parent.
14.11.1	Sick Leave	4/29/1999	Following surgery, an employee has been directed by a doctor to work only half days for two weeks. The employee has already requested vacation leave for two of the afternoons in question. Does it remain vacation or can it be changed to sick leave?	The agency can actually require the employee to use vacation time per the contract. It could be the agency head's discretion to change it to sick leave, especially since there was prior hospitalization and a doctor's note.
14.14	Retiree returning	12/28/2011	If an employee, who is eligible to retire, retires or voluntarily separates from the State with no break in service and immediately starts employment with another agency, what happens to the sick leave, vacation leave, and service anniversary date?	As there has been no break in service, the employee has not retired, and therefore, the usual provisions concerning transfer from one agency to another would apply. The sick leave would not be paid out, the employee would not draw retirement, and the employee would retain his/her service anniversary date. If a break in service had occurred, the employee would have received a payout of 1/4 of his/her sick leave, not to exceed 60 days, in addition to a payout of the vacation leave. In that instance the employee's service anniversary date would be the date he/she was re-hired. If the employee was gone from State employment at least 120 days, he/she could draw retirement pay. If an employee who is eligible to retire, is laid off, the employee has the option to defer payment of 1/4 of their sick leave account for up to 24 months. If the laid off employee, who deferred payment of their sick leave, returns to State employment within 24 months, the employee's sick leave balance and service date are reinstated (minus the time in a non-pay status).

14.14	Sick Leave Payment	8/23/1999	An employee is retiring, but had previously retired from another agency. Does the employee get one-quarter of their sick leave paid?	No. It is just a "one-time" payment. If they received the payment when they retired the first time, they do not get a second. There is an Attorney General's Opinion on this.
14.14	Sick Leave Payment on Retiring	7/1/2005	When an employee, who is eligible for retirement, is involuntarily terminated, are they eligible for payout of 1/4 of accumulated sick leave balance?	Contract-yes, not to exceed 60 days; RULES-no. The Labor Contract has no requirement that employees be in good standing or voluntarily resign. Neb. Rev. Stat. Sect. 81-1325 indicates that separation must be voluntary retirement or voluntary resignation. Contract takes precedence over statutes, but Rules do not.
14.14	Sick Leave Payment on Retiring	7/1/2005	An employee worked 25 years and accumulated beyond 1920 hours of sick leave. What portion does he get paid for upon retirement?	The employee is entitled to one-fourth of accumulated sick leave not to exceed 60 days. Pay is based on hourly rate of pay at the time of retirement/or death. NAPE Contract covered employees who are retiring and whose sick leave balance is greater than 1920 hours, will receive 1/4 of that total, not to exceed 60 days.
14.15	Sick Leave Payment on Retiring	9/1/2011	An employee had previously retired and received a payout of 1/4 of their SL from agency A. Employee was then re-employed in agency B, then laid off. Can Agency C, which has since hired this employee from layoff pool, reinstate the employee's SL balance from agency B?	Yes. The employee just cannot be paid out a second time for 1/4 of their sick leave balance.
14.15	Return to work after break in service	8/6/2007	An employee works at UNL, State Colleges, or a State Constitutional office for 6 years, resigns, has a 3 year break in service, then begins State employment. Can we honor their years of service from UNL, State Colleges, or a Constitutional office when they begin State employment?	Yes. You would determine the service anniversary date by moving it up by the amount of time the individual has been gone. The amount of sick leave restored would be the amount that the individual <u>would have earned</u> under the State system during their 6 years of service, less the amount of sick leave actually used during those years at UNL, State Colleges or Constitutional office.
14.16	Family Medical Leave Act	11/14/2011	Can an employee who has transferred from UNL to the State have the UNL work time count toward the FMLA 12-months of service requirement?	No. UNL and the various State agencies are not integrated or joint employers, and therefore, time worked at UNL would not count toward the 12 months of service requirement.

14.16	Family Medical Leave Act	11/14/2011	Can an employee who has transferred from UNL to the State have the UNL work time count toward the FMLA 1250 hours of service requirement?	No. UNL and the various State agencies are not integrated or joint employers, and therefore, time worked at UNL would not count toward the 1250 hours of service requirement.
14.16	Family Medical Leave Act	4/22/1999	Can the agency request an employee use sick leave or vacation leave rather than leave without pay, and can FMLA be required to be used?	No.
14.16	Family Medical Leave Act	5/19/1999	Can the State require an employee to use sick leave or comp time before taking unpaid leave under the FMLA?	No. An agency may not require an employee to substitute paid leave under paragraph (b) of Section 630.1205 of the Code of Federal Regulations.
14.16	Family Medical Leave	7/1/1999	If an employee requests 6-weeks of FML, can they request an additional six weeks? Can the employee then return early?	Yes they can ask for more. Yes they can return early, but they have to give approx. one-week advance notice of return.
14.16	Family Medical Leave Act	7/1/1999	Can an employee take more than 6-8 weeks of their sick leave for a normal maternity delivery or cesarean delivery under the Family Medical Leave Act?	No. The Regs say that sick leave should only be allowed under the normal guidelines used by the employer. Therefore, the mother would have to be sick or recovering from an illness/surgery, or have a sick baby to use sick leave. As of 7/1/95, FML is unpaid leave, and for those qualifying, one or both parents may take up to 12 weeks within one year of birth or adoption.
14.16	Family Medical Leave Act	7/1/1999	Can the agency ask that specific dates be listed under Care Provider's Practitioner's Certification Form for Family Medical Leave?	The agency must go with the information a doctor lists. If the agency doesn't like it or feels it is not correct, they can go through the process of getting a second medical opinion.

14.16	Family Medical Leave Act	7/1/1999	Can an employee use FML when traveling to Korea to pick up a child they will be adopting?	Yes. According to the federal regulations, an employee can use FML in this situation when meeting w/attorneys, travel time, etc. (preplanning activities prior to adoption qualify as FML)
14.16	Family Medical Leave Act	7/14/1999	Would the following qualify as a condition for using FMLA: Provide emotional and psychological support to a mother who broke her hip and is recuperating?	Yes.
14.16	Family Medical Leave Act	3/30/2001	Must all sick leave and vacation leave be exhausted prior to using FML?	No.
14.16	Family Medical Leave Act	7/1/2001	When an employee is on FMLA, does the employee have to pay the State's portion of the Life Insurance (\$20,000 policy)?	Yes. The employee has to pay the State's portion and if not, there will no longer be a policy.
14.16	Family Medical Leave Act	4/29/2003	An employee's work schedule is changed so she can work 34 hours per week under FMLA to spend more time with her infant. Will she continue to earn vacation, sick & holiday leave at the full-time rate?	No. Leave earnings need to be reduced based on the number of hours worked since FML is an unpaid leave of absence.
14.16	Family Medical Leave Act	4/24/2006	When two spouses are employed by the same Employer, are they each entitled to 12 weeks of FML for the birth or adoption of a child?	No. The total between the two of them would equal 12 weeks, i.e. 6 weeks each. This would also apply for the reason of caring for the employee's parent with a serious health condition. For all other purposes, they each are eligible for 12 weeks per year if they meet all of the criteria.

14.16	Family Medical Leave Act	10/8/2014	An employee works part-time (24 hrs a week). Once the employee qualifies, how much FML does the employee receive when approved for 12 weeks.	Once approved for 12 weeks of FMLA, the employee would receive 12 weeks of FML @ 24 hours a week.
14.16	Family Medical Leave Act	8/21/2006	We have an employee who will be using partial days of FML (intermittent usage). How do we track the use of time for FML so we don't go over 12 weeks?	The agency needs to track the FML by hours in this instance.
14.16	Family Medical Leave Act	10/19/2011	Can a temporary employee qualify, request, and use FML?	Yes, as long as the employee meets all criteria outlined in Section 14.16.1.
14.16	Family Medical Leave Act	1/2/2013	An employee is using FMLA and does not have any VL or SL accrued for the last two weeks of FMLA, in which there is a holiday. Can the employee be paid for the holiday?	No. When a holiday occurs during a period of non paid leave, the employee does not receive holiday pay. If the employee is on unpaid leave the day before and the day after the holiday, the employee cannot be paid for the holiday.
14.16.1	Family Medical Leave Act	10/29/2004	An employee working for DCS resigned, then returned to work for the agency two months later. Can the employee request FML when the employee has had a break in service?	Yes. As long as the employee meets the requirement of having at least 12 total months of service with the State and at least 1250 hours of service in the previous 12 month period.
14.16.2	Family Medical Leave Act	5/10/2012	Are common law marriages or unmarried domestic partners recognized in the State of Nebraska?	The State does not recognize common law marriages contracted in this State nor does it recognize domestic partnerships or same sex marriage. Nebraska recognizes common law marriages, if they were valid in the State where contracted. Recognition of same sex marriages is barred by the NE Constitution.

14.16.2.e	Family Medical Leave Act - Military	2/2/2010	An employee's daughter will be giving birth in June, the same month the daughter's spouse will be deployed overseas. Can the employee use FMLA-Military during the daughter's spouse's deployment?	No. In the case of a parent, it only applies if that individual's child is called to active duty; it does not apply to sons-in-law or daughters-in-law. The employee can request vacation leave, comp time, or LWOP.
14.16.4	Family Medical Leave Act	10/4/1999	Is it permissible for an employee take FMLA intermittently, i.e.; 15 hours per week?	Yes. Where a 30-day notice is not foreseeable, notice must be given as early as possible. If it is more helpful to the employee and the agency has no objections, it can be allowed.
14.16.8	Family Medical Leave Act	7/1/1999	Is it okay to have an employee resign w/out 2-week notice after being on FMLA?	No. Agency needs to notify employee of the State's recoupment of its share of health insurance premiums from employee unless the employee returns to work for 30 calendar days.
14.16.8	Family Medical Leave Act	7/15/2003	Can the State recover its share of health coverage premiums paid for an employee on unpaid FMLA leave if the employee fails to return to work?	Yes, unless the reason the employee does not return is due to 1) the continuation, recurrence or onset of a serious health condition that would otherwise entitle the employee to FML, or 2) other circumstances beyond the employee's control as outlined in 29 C.F.R. §825.213(a).
14.16.8	Family Medical Leave Act	2/5/2013	How does FMLA work as far as when the employee has to begin paying the employee's portion of health insurance? Is there a minimum timeline the employee has to be off without pay, or is it prorated no matter how many days the employee is off without pay?	The State Insurance Manual indicates that for unpaid absences of less than 10 workdays, no adjustment in premium is necessary, so the employee would need to pay the employee's share of the premium if the employee is on unpaid FMLA for at least 10 workdays and beyond.