

September 19, 2000
OPINION 00-357

Honorable Joe McPherson
Louisiana State Senator
880 Robinson Bridge Road
Woodworth, LA 71485

15-A Constitutional Law
109 State-Employees & Departments
9 Civil Service Commission
R.S. 17:425

Civil Service Commission is vested with constitutional power to exclusively regulate compensation and disbursement of unused sick leave to classified employees.

Dear Senator McPherson:

We enclose a copy of Attorney General Opinion 94-373, indicating that Civil Service General Circular Number 001155 (copy attached) reflects the position of the Civil Service Commission concerning the payment of accrued unused sick leave for civil service employees. Of import is Civil Service Rule 11.18, which provides:

11.18 Cancellation or Continuance of Annual and Sick Leave

- (a) When an employee separates from the state classified service, all accrued annual leave except that for which he must be paid and all accrued sick leave shall be cancelled; however, if the employee is re-employed or transfers in probational or permanent status in the classified service or is re-employed in the unclassified service without a break in service of one or more working days, all of the employee's annual and sick leave shall be transferred to the hiring agency.
- (b) Subject to the provisions of Rule 11.19, when a former employee is re-employed with permanent or probational status within 5 years of his separation, all accrued annual and sick leave that was cancelled upon separation shall be re-credited to him; provided, that the privileges of this rule shall not extend to an employee whose last separation was by dismissal or resignation to avoid dismissal.

This office further concluded in Opinion 94-373 that R.S. 17:425 governs the payment of accrued unused sick leave for those persons not in the classified service.

Please also find enclosed a copy of Attorney General Opinion 86-552, wherein this office concluded that R.S. 17:425, allowing payment of up to 25 days of unused sick leave upon retirement or death to classified employees, constitutes an infringement upon the Civil Service Commission's constitutional power to exclusively regulate compensation and disbursement to such employees. In Opinion 86-552, the author

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also noted that the Civil Service Commission has been vested with this authority under both the 1921 and the 1974 Louisiana State Constitutions. See LSA-Const. Art. X, Section 10(A)(2) (1974) and LSA-Const. Art. XIV, Section 15 (1921).

Opinions 94-373 and 86-552 reflect this office's current interpretation of R.S. 17:425. These opinions as applied to your constituent indicate that as a classified employee she is not entitled to the payment of unused accrued sick leave at the time of her retirement. We would take the position that the same conclusion would apply during the period of her employment as a classified employee between the years 1967 and 1974; however, we would of course review any authority she has which might indicate that she is vested with that benefit during that time period.

Should you have further questions in which we may be of assistance, please contact this office.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Released: September 19, 2000

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