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Opinion No. 04-126

Responsibility to Maintain Records of State Employee Sick Leave for Retirement Purposes

QUESTION

When state employees are credited with accumulated sick leave for retirement service purposes, is the State responsible for maintaining such sick leave records?

OPINION

Yes. The State is responsible for maintaining, for purposes of retirement credit, the sick leave records of its employees. In particular, the last department or agency that employs the retiree as a state employee is responsible for maintaining the records necessary to certify the amount of sick leave that employee has at the time of retirement. All state employers are required to maintain contemporaneous records of accumulated sick leave.

ANALYSIS

State employees who retire with accumulated sick leave may receive credit for that unused leave toward their creditable service in accordance with Tenn. Code Ann. § 8-34-604. The laws governing the Tennessee Consolidated Retirement System (“TCRS”) specify that “[t]he last employing department or agency employer shall certify on a form prescribed by the board of trustees [of the TCRS] the number of unused accumulated sick leave days to the credit of such member at the time of retirement.” Tenn. Code Ann. § 8-34-604(a)(1)(2002).

In addition, all state employers are required to maintain records that substantiate the amount of an employee’s accumulated sick leave contemporaneous with the periods in which such leave is earned. Tenn. Code Ann. § 8-34-604(a)(2)(2002). Such employers, therefore, may not certify the amount of an employee’s sick leave based upon records compiled at a later date solely for purposes of establishing retirement credit. *Id.* Thus, while state employees may choose to maintain their own sick leave records, Tennessee law imposes a responsibility for maintaining such records on the employing departments and agencies.

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