

**STATE OF TENNESSEE**  
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April 20, 2005

Opinion No. 05-059

Pay for Accrued Sick Leave After Termination in Private Employment

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**QUESTION**

Whether, under Tennessee law, an employee employed in Tennessee is entitled to pay for accrued sick leave upon the employee's termination after giving proper notice under the employer's employment policies.

**OPINION**

Whether an employee in private employment is entitled to pay for accrued sick leave upon the employee's termination will depend on the private employer's company policy or labor agreement.

**ANALYSIS**

State law defines what constitutes final wages of employees in private employment. Tenn. Code Ann. § 50-2-103. Subparagraph (a)(3) of the statute reads as follows:

For the purposes of this subsection, the final wages of an employee [in private employment] who quits or is discharged shall include any vacation pay **or other compensatory time that is owed to the employee by virtue of company policy or labor agreement**. This subdivision does not mandate employers to provide vacations, either paid or unpaid, nor does it require that employers establish written vacation pay policies.

Tenn. Code Ann. § 50-2-103(a)(3). (Emphasis supplied.). Assuming for the purposes of this opinion only that "sick leave" is compensatory time, then the discharged employee will be entitled to payment for accumulated sick leave under the private company's policy or under a labor agreement.

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We have found no state statute that requires private employers to provide sick leave or sick leave compensation.

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