

**LETTER OPINION
93-L-228**

July 19, 1993

Mr. Brian McClure
Director
Central Personnel Division
State Capital, 14th Floor
Bismarck, ND 58505-0120

Dear Mr. McClure:

Thank you for your July 9, 1993, letter asking whether state employees may be paid for 10 percent of unused sick leave under N.D.C.C. ? 54-06-14 even though there has been a break in employment for less than one year during the ten year term.

N.D.C.C. ? 54-06-14 provides in pertinent part:

An employee with at least ten continuous years of state employment is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave accrued under this section. The pay attributed to the accumulated, unused sick leave must be computed on the basis of the employee's salary or wage at the time the employee leaves the employ of the state and at the rate of one hour of pay for each hour of unused sick leave. The agency, unit, or entity that last employed the employee shall make the lump sum payment from funds appropriated by the legislative assembly to that agency, unit, or entity for salaries and wages.

Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as thus explained. N.D.C.C. ? 1-02-02.

N.D.C.C. ? 54-06-14 does not contain a definition for the word "continuous". The ordinary sense of the word

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"continuous" is a period of time extending or prolonged without interruption or cessation. The American Heritage Dictionary, 317 (2d coll. ed. 1991). "Continuous" means uninterrupted, unbroken, not intermittent or occasional. Black's Law Dictionary, 291 (5th ed. 1979).

According to the ordinary sense and meaning of the word "continuous," it is my opinion that for a state employee to be paid for one-tenth of the pay attributed to the employee's unused accrued sick leave the employee's employment with the state must be for ten continuous years without interruption or cessation. N.D.C.C. ? 54-06-14 does not authorize agencies to define "continuous" in any other way.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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