

THE ORANGE COUNTY

REGISTER

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| **MONDAY**, Oct. 3, 2005 |

BUSINESS MONDAY

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Sick leave is at discretion of employer

Q. Can employees have a right to take sick leave when they want? Can it be forfeited once it is earned?

A. "First, and most important, refer to your employee handbook to determine the sick-leave policy for your employer," says Keith G. Bremer, partner of Newport Beach-based law firm Bremer Whyte Brown & O'Meara.

"Also, these answers are directed towards private employees, not government and/or contract/union employees. The answer to the first question: Maybe. A private employer is not required to offer any sick leave. It is more likely that your employer has instituted a policy that offers paid or unpaid days

off for use when you are ill. Sick leave, unlike vacation, is normally at the complete discretion of the employer.

"The answer to the second question: It depends. Review the sick-leave policy to determine how your sick leave is defined. Your employer may offer sick leave in its policy and compensate you for the same as an incentive to remain healthy and on the job. However, such policy is at the will of your employer and is not required by your employer.

"Unlike vacation days, sick leave does not accrue nor vest. Thus, any unused sick leave may be forfeited at the end of a designated period of time, and sick leave does not need to be

paid out upon termination of the employment relationship.

"Keep in mind -your employer may participate in Paid or Personal Days Off, PDO, which are undefined days off and include sick leave and vacation. If your employer has instituted a PDO policy, the state treats this as a vacation and it cannot be forfeited. Your unused PDOs must be paid upon termination of employment."

IF YOU HAVE QUESTIONS:

Write: Work Q&A, Business Monday

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Letters cannot be individually answered.