

## Leave Administration

### Purpose

The purpose of this policy is to provide clear and objective guidelines for each type of leave and under what circumstances DIR employees may be entitled to or granted leave. This policy will be posted on the agency's website in a location easily accessible to employees and the public.

### Vacation Leave

Accrual of vacation leave begins on the first day of employment and ends on the last day of duty. The amount of vacation leave that employees accrue each month and the amount that can be carried forward into the next fiscal year is set by the Legislature. The state's fiscal year is from September 1 through August 31.

Part-time employees accrue vacation leave at a rate in proportion to that of regular full-time employees. The amount of leave part-time employees can carry forward into the next fiscal year is also in proportion to that of regular full-time employees.

Employees receive credit for one month's vacation leave for each month, or fraction of a month, of state employment. Vacation leave is credited as of the first day of each month. Vacation leave is not accrued for any calendar month(s) that an employee is not physically on duty. If an employee is on any type of paid leave that extends into a subsequent month, vacation leave for that month will not be posted until the employee returns to duty. If an employee separates from state employment without returning to duty, the employee is not entitled to leave accruals, while on paid leave, for any calendar months following the month in which the last day of duty occurs.

Employees are eligible to use vacation leave after completing six months of uninterrupted employment with the state. If you have met this requirement through previous state service, you are eligible to take vacation leave as it is earned.

All requests to take vacation leave must be approved in advance by your supervisor. Vacation schedules should be carefully planned with your supervisor to ensure appropriate coverage. It is possible that individual plans may need to be altered to meet needs.

As stated above, the Legislature sets the rates of vacation accrual based on length of state service, and also determines the maximum number of hours an employee

may carry forward each fiscal year. An employee must complete the full years of employment to be entitled to the higher rate of vacation accrual.

Length of service is calculated from your anniversary date. If your anniversary date falls on other than the first calendar day of the month, the increase in vacation leave will begin on the first calendar day of the following month. In determining length of service, only actual days, months, and years of state employment will be counted. Vacation leave hours in excess of the maximum that may be carried forward will be converted to sick leave hours on September 1 of each year. Annual leave accruals for Return-To-Work Retirees are based on retirement and rehire dates. RTW Retirees should contact the Human Resources office to determine accruals.

**1. Vacation Accrual/Carry Forward Table**

<b>Total Employment</b>	<b>Hours Accrued Per Month</b>	<b>Maximum Carry Forward</b>
Less than 2 years	8	180
At least 2 but less than 5 years	9	244
At least 5 but less than 10 years	10	268
At least 10 but less than 15 years	11	292
At least 15 but less than 20 years	13	340
At least 20 but less than 25 years	15	388
At least 25 but less than 30 years	17	436
At least 30 but less than 35 years	19	484
At least 35 years	21	352

*NOTE: Based on full-time employment*

A state employee who separates from state employment will be paid for unused vacation leave providing the six-month continuous state service requirement has

been met and the employee is not reemployed by a state agency that allows vacation leave accrual within a period of 30 days from the date of separation.

Employees can request a lump sum payment (payable 30 days from the date of separation) or request authorization to remain on the payroll to exhaust vacation leave. Requests to remain on the payroll to exhaust leave are subject to the approval of the division director.

If an employee transfers from one state agency to another without interruption in service, the employee's unused vacation leave will be transferred to the receiving agency.

## Sick Leave

State employees accrue sick leave at the rate of eight hours per month, or fraction of a month, of employment with the state. Sick leave for part-time employees is accumulated in proportion to that of full-time employees. Sick leave eligibility begins on the first day of employment and ends on the last day of duty. Sick leave is not accrued for any calendar month(s) that an employee is not physically on duty. As with vacation leave accrual, if an employee is on paid leave the first day of the month or any subsequent months, no sick leave accrual will be posted until the employee physically returns to work. As with vacation leave, if an employee separates from state employment without returning to duty, the employee is not entitled to leave accruals, while on paid leave, for any calendar months following the month in which the last day of duty occurs. There is no limit to the amount of sick leave employees may accrue or carry forward from one fiscal year to the next.

### 2. Use of Sick Leave

Accrued sick leave may be used in the following circumstances:

- employee illness
- employee injury
- appointments with health care professionals
- prevention of employee's performance of duty because of pregnancy and/or confinement
- employee is needed to care for or assist an immediate family member who is actually ill.

For regular sick leave purposes, immediate family is defined as those individuals who reside in the same household and are related to the employee by kinship, adoption, or marriage, as well as foster children certified by the Department of Family and Protective Services. Minor children of an employee, whether or not living in the same household, are considered immediate family for the purpose of using regular sick leave. Use of regular sick leave for family members not residing in the same household is strictly limited to the time necessary to assist and/or care for an

employee's spouse, child, or parent who needs such care and assistance as a direct result of a documented medical condition.

An employee who becomes ill while on vacation leave, and would otherwise be entitled to sick leave, may use sick leave for the time actually ill.

A terminating employee who has been allowed to remain on the payroll to use vacation leave in lieu of a lump sum payment is not eligible to use sick leave.

### **3. Employee Responsibilities**

If you will be absent from duty because of illness, your supervisor or supervisor's designee must be notified at the earliest practical time and in accordance with agency or division/department rules. If you are out more than one day, you should notify your supervisor of your status **each** morning or start of shift unless other arrangements are made (e.g., parental leave, from which the employee has planned to return on a specific date).

When you return to work, you must complete an electronic *Approval of Time Worked/Leave Taken* request and submit it to your supervisor for approval. The leave taken should also be entered into your CAPPS timesheet. To be eligible for paid sick leave for an absence of more than three consecutive working days, you must submit a doctor's certificate or an acceptable statement of facts showing the cause or nature of the illness or injury.

### **4. Abuse of Sick Leave**

A supervisor may require a physician's statement for any absence due to illness when it is suspected that the employee may be abusing sick leave privileges.

Malingering and abuse of sick leave privileges may be grounds for disciplinary action and/or dismissal.

## **Transfers**

When an employee transfers directly, without a break in service, from one state agency to another, the employee's unused sick leave balance is forwarded to the receiving agency.

## **Restoring Leave Balances**

Employees separated from state employment as the result of a reduction in force (RIF) are eligible to have their sick leave balances restored if they are reemployed with the state within 12 months of their termination.

Employees who separate from the state for reasons other than a RIF are also allowed to have lost sick leave balances restored if they are reemployed with the state within 12 months of their termination, provided there has been a break in service of at least one month since the separation.

## Extended Sick Leave

The General Appropriations Act authorizes agency heads to extend sick leave to an employee after reviewing the merits of each individual case. The agency exercises this authority by way of its Extended Sick Leave Policy. Extended sick leave allows an employee who has depleted accrued leave to remain on paid sick leave if specific criteria as set forth in the policy are met. Details of this policy are available [here](#).

## Sick Leave Pool

As allowed by state legislative authority, the agency has a program that permits employees to transfer some of their accrued sick leave to a Sick Leave Pool, which is managed by an administrator named by the agency. The sick leave pool is intended to alleviate the hardship caused to an employee and the employee's family when a catastrophic illness or injury forces the employee to exhaust all leave time, thereby subjecting the employee to a loss of compensation.

An employee is eligible to use time contributed to the sick leave pool if a catastrophic injury or illness or a previous donation of sick leave to the pool results in the employee exhausting all the sick leave time to which the employee is otherwise entitled.

An eligible employee may not use leave from the sick leave pool in an amount that exceeds the lesser of one-third of the total amount of leave time in the pool or 90 days.

All employees may donate hours to the sick leave pool using the *Sick Leave Pool Contribution* form. Employees may contribute one or more days of their accrued sick leave to the sick leave pool. An employee may donate any amount of his/her accrued sick leave to any DIR employee who has exhausted his/her sick leave. Retiring employees can donate any specific number of hours to the sick leave pool, as can employees terminating state employment for reasons other than retirement.

Requests to use hours from the sick leave pool may be made using the *Sick Leave Pool Withdrawal* form. Questions regarding Sick Leave Pool administration should be directed to the Human Resources office.

## Family and Medical Leave (FML)

The FML Act allows eligible employees an approved absence of up to twelve workweeks during a 12-month period for one or more of the following FML-qualifying reasons:

- for the birth of a child and to care for the newborn child;
- for placement of a child with the employee for adoption or state-approved foster care;

- to care for the employee's spouse, child, or parent with a serious health condition; and
- because of a serious health condition that makes the employee unable to perform the functions of the position held.
- because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

Examples of qualifying exigencies may be:

- o Setting up child care
- o Pre-deployment briefings
- o Family support meetings
- o Reintegration meetings
- o Official military ceremonies
- o Making legal arrangements.

Employee Rights and Responsibilities under the [Family and Medical Leave Act](#), U.S. Department of Labor.

Please refer to DIR's FML policy in its entirety [here](#).

## Parental Leave

Employees with less than 12 months of state service or less than 1,250 hours of work in the 12 months immediately preceding the start of leave are entitled to a parental leave of absence, not to exceed 12 weeks. Employees must use all available accrued vacation and sick leave (where applicable) while taking parental leave. Parental leave may only be taken for the birth of a natural child or the adoption or foster care placement, with the employee, of a child under three years of age. The leave period begins with the date of birth or the date of adoption or foster care placement.

## Foster Parent Leave

An employee who is a foster parent to a child under the conservatorship of the Department of Family and Protective Services (DFPS) is entitled to a leave of absence with full pay for the purpose of attending staffing meetings held by the DFPS regarding the employee's foster child. In addition, an employee may attend, with a paid leave of absence, the Admission, Review, and Dismissal (ARD) meetings held by school districts regarding the foster child.

## Sick Leave for Educational Activities

An employee may use up to eight hours of sick leave each fiscal year to attend educational activities for the employee's children who are in pre-kindergarten through twelfth grade. The employee must give reasonable notice of his or her intention to use this leave. Part-time employees receive this leave on a proportionate basis. Educational activities are school – sponsored activities, including parent-teacher conferences, tutoring, volunteer programs, field trips, classroom programs, school committee meetings, academic competitions, and athletic, music, or theater programs.

## Military Leave

Employees who are members of the state military forces, the National Guard, or of reserve components of the U.S. Armed Forces will be granted military training leave and duty leave up to a total of 15 work days each federal fiscal year (October 1 through September 30) without any loss of salary, or benefits. The 15 days do not have to be consecutive. In addition, these days are business days, not calendar days. After exhausting the 15 days, an employee may use accrued vacation leave, compensatory leave, or be placed on leave without pay or a combination for the remainder of the active duty period. A copy of your orders must be attached to the leave request and given to your supervisor for approval before leaving for duty.

An employee who is a member of the military are allowed to adjust their work schedule so that two of the employee's days off each month coincide with two days of military duty.

An employee who is a member of the National Guard and is called to active duty by the Governor of Texas because of an emergency will be granted leave of absence with full pay, without loss of military or other accrued leave.

An employee of the state military forces who is ordered to active state duty by the Governor or by other proper authority under this law of the State of Texas is entitled to the same benefits and protections provided:

- to persons performing service in the uniformed services by 38 United States Code, Sections 4301-4313 and 4316-4319, as that law existed on April 1, 2003; and
- to persons in the military service of the United States by 50 App. United States Code, Sections 501-536, and 580-594, as that law existed on April 1, 2003.

This applies only to persons serving on active state duty on or after the effective date of this statute without regard to the date on which the person was initially ordered to active state duty.

An employee who is called to active duty during a national emergency by a reserve branch of the United States Armed Forces will be granted a leave of absence. While on leave of absence, the employee will continue accruing state service credit, vacation and sick leave. The employee will retain previously accrued vacation or sick leave and be credited with vacation and sick leave accruals upon return. The employee may use any accrued vacation leave, earned compensatory leave, or overtime to maintain benefits for the employee or the employee's dependents while the employee is on military duty. Additionally, the employee may continue to accrue service credit with ERS by receiving at least one hour of state pay during each month of active military service. The employee may use any combination of paid leave to qualify for state pay.

Before a state employee leaves for military service, DIR will review issues relating to maintaining state health insurance coverage, how health insurance coverage is affected by paid or unpaid leave, and how to pay any premium required for the insurance coverage.

The Executive Director of the agency shall grant emergency leave to provide a pay differential if an employee's military pay is less than the employee's state gross pay. The combination of military pay and emergency leave may not exceed the employee's actual state gross pay. Pay received while assigned to a combat zone, hardship duty pay, and family separation pay is excluded when computing military differential pay. Only state employees called to active duty in support of the Homeland Security mission under the United States Code Title 10 or Title 32 are entitled to military differential pay. Service members involved in the routine military training or who are attending military schools are not entitled to this differential pay.

To be eligible for restoration of employment at the conclusion of military service, the employee must be honorably discharged no later than five years after induction, enlistment, or call to duty and must be physically and mentally qualified to perform the duties of the job.

## **Volunteer Firefighter's and Emergency Medical Service Leave**

An employee who is a volunteer firefighter or emergency medical services volunteer will be granted paid leave. (not deducted from the employee's accrued vacation or sick leave) for up to five work days per fiscal year in order to attend training schools conducted by state agencies.

An employee who is a certified volunteer firefighter or emergency medical services volunteer may request paid leave for the purpose of responding to emergency fire situations. Such requests will be reviewed individually and decided on a case-by-case basis. An employee who is a volunteer fire fighter or emergency medical services volunteer must so notify the agency and provide a copy of the certificate

before requests for paid firefighting or emergency medical services leave will be considered.

## Certified American Red Cross Activities Leave

An employee who is a certified disaster service volunteer for the American Red Cross (ARC) or who is in training to become such a volunteer may, with the authorization of the employee's supervisor, be granted up to 10 days paid leave per fiscal year to participate in specialized disaster relief services upon request of the ARC and with approval of the Governor.

Certified disaster volunteer participation is coordinated by the Division of Emergency Management and the Governor's Office.

## Leave for Assistance Dog Training

An employee who is blind is entitled to a leave of absence with full pay to attend a training program on the use of Seeing Eye dogs. The leave may not exceed 10 working days in a fiscal year and is not charged to any other leave to which the employee is entitled.

## Donation of Blood

An employee is entitled to sufficient time off, without a deduction in salary or accrued leave, to donate blood with the authorization of the employee's supervisor. Upon returning to work, the employee shall provide his or her supervisor with proof that the employee donated blood during the time off. An employee may receive time off to donate blood not more than four times in a fiscal year.

## Leave for Bone Marrow or Organ Donors

An employee is entitled to a leave of absence without a deduction in salary for the time necessary to permit the employee to serve as a bone marrow or organ donor. The leave of absence provided by this section may not exceed:

- Five (5) working days in a fiscal year to serve as a bone marrow donor or;
- Thirty (30) working days in a fiscal year to serve as an organ donor.

## Jury Service

No deduction will be made from the salary or wages of an agency employee who is called for jury service. Employees are not required to account for any fee or compensation received for jury service. An official signed document reflecting the date(s) actually served must be submitted with an *Approval of Time Worked/Leave Taken* form.

## Witness Duty

An employee who has been served with a subpoena to appear as a witness in an “official capacity,” such as in a state-contested case, will be allowed to do so without any reduction in salary or wages as long as the employee is not being compensated for appearing as a witness in connection with the case. A nominal witness fee does not constitute compensation. The employee may accept mileage or per diem allowances for expenses incurred while serving as a witness, as long as there is no double reimbursement to the employee for the expenses.

An employee appearing as an expert witness in a non-official capacity, or for the purpose of testifying from personal knowledge, is entitled to accept witness fees or compensation only if such appearances are made on the employee’s own time. The employee may use annual or compensatory/overtime leave for the time away from work.

Official, verifying documentation must be submitted for all witness duty necessitating time away from work.

## Court Appointed Special Advocates Leave

Employees who attend mandatory training or perform volunteer services for Court Appointed Special Advocates will be granted 5 hours per month paid leave without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

## Leave Without Pay

Leave of absence without pay is a temporary, unpaid absence of an employee who intends to return to work. The maximum amount of time an employee may remain on leave without pay is 12 months. Employees must submit a written request to the immediate supervisor when the absence is for one calendar month or more.

Employees are required to use all applicable leave (overtime, compensatory time, and vacation leave) before being granted leave without pay. Exceptions may be made when the leave without pay occurs due to disciplinary suspension, active military duty, or workers’ compensation claims. Exceptions may also be authorized by the Executive Director or his or her designee. Sick leave is to be used only in those situations that meet the definition of sick leave.

Except in the case of an employee returning to state employment from military leave without pay, any full calendar month during which an employee is on leave without pay will **not** be counted as state service credit for the purposes of vacation accrual or longevity pay entitlement. Employees do **not** accrue vacation or sick leave for any full calendar months of leave without pay.

Although full calendar months of leave without pay do not constitute a break in the continuity of state employment, they are not included in the calculation of continuous months of service when determining eligibility for merit salary increases, vacation leave, and other types of leave, where applicable.

Subject to fiscal constraints, upon returning from approved leave without pay, an employee will return to his or her original position or receive noncompetitive consideration for a comparable position if the original job is not available.

**During a leave of absence for a full calendar month, an employee must make arrangements for payment of insurance premiums.** An employee going on extended leave without pay should contact the Human Resources office to make arrangements for payment of insurance premiums in order to continue coverage.

Employees and/or the employee's supervisor should assume diligent responsibility in reporting leave without pay in their weekly timekeeping and notifying the Human Resources Office when leave without pay has occurred. The Human Resources Office will communicate an employee's leave without pay to the Payroll Officer for the purposes of docking the employee's monthly pay. An employee who is on leave without pay is not entitled to be paid for a holiday.

## Administrative Leave for Outstanding Performance

State legislation gives executive directors the authority to grant administrative leave with pay as a reward for outstanding performance as documented by employee performance appraisals. Administrative leave for outstanding performance is not to exceed 32 hours in a fiscal year. Supervisors should contact the Human Resources Office for the appropriate form to use in requesting and/or granting administrative leave.

## Leave During Agency Investigation

The executive director may grant leave without a deduction in salary to a state employee who is:

- The subject of an investigation being conducted by the agency
- A victim of, or witness to, an act or event that is the subject of an investigation being conducted by the agency.

DIR HR will submit a report to the State Auditor's Office and the Legislative Budget Board that details the name of the employee who either was:

- The subject of the investigation **or**
- The victim of an act that is under investigation **or**
- The witness to an act that is under investigation **and**

- Was granted 168 or more hours of investigation leave during the fiscal quarter

## Medical and Mental Health Care Leave for Certain Veterans

The executive director may grant leave without a deduction in salary or loss of vacation time, sick leave, earned overtime credit or state compensatory time to a state employee who is a veteran as defined by TGC, Section 434.023 (a) in order to allow the employee to obtain medical and mental health care administered by the Veterans Health Administration.

The employee must qualify as a veteran as defined by TGC, Section 434.023 (a) and be eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs.

The executive director may grant up to 15 days each fiscal year. The executive director has the discretion to grant additional days of this leave annually.

## Emergency Leave

The executive director has the authority to grant emergency leave because of death in an employee's family. For the purposes of emergency leave, family is defined as the employee's spouse, or the employee's or spouse's children, parents, grandparents, grandchildren, brother or sister. There is no specific amount of predetermined time for emergency leave due to death in the family. Normally, up to three days are allowed; however, additional time may be requested and will be considered on a case-by-case basis.

The executive director has discretionary authority to grant emergency leave for other reasons determined to be of good cause on a case-by-case basis. The executive director may not grant emergency leave in this instance unless she believes that the employee being granted leave intends to return to the employee's position upon expiration of the period of emergency leave.

The executive director is responsible for reporting the below information for each employee granted more than 32 hours of emergency leave during the prior state fiscal year. The report is due to the Comptroller's office no later than October 1.

- Employee name
- Employee position
- Reason for the emergency leave
- Total number of hours of emergency leave granted

## Version History

Version 1.0 – September 1, 2017 – Adopted policy.