



## **SYSTEM ADMINISTRATION**

### **PERSONNEL POLICY HANDBOOK**

**Effective September 2014**

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**NOTICE**

This *Personnel Policy Handbook* is not a contract and is subject to amendment at any time in the sole discretion of the Texas State University System (TSUS) Chancellor. In the event of a conflict between the provision of this Handbook and the System *Rules and Regulations*, the latter shall govern.

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***A Message from the Chancellor:***

For new employees: welcome to Texas' oldest and third-largest university system. We hope your new job lives up to your expectations and your stay with us is rewarding. For our current staff, thank you for your ongoing contributions to the System's success and tradition of excellence.

This *Handbook* was created to be a helpful reference during your association with us. Just as the Texas State University System (TSUS) is committed to helping Texans achieve their goals by providing affordable, accessible, high-quality educational programs, we are as committed to providing you challenges, recognition, appropriate compensation and benefits to help you reach *your* goals and objectives. By working together, we are confident that we can continue to maintain a premier university system for our employees and future generations of Texans.

Brian McCall, Ph.D.  
Chancellor

## 1. INTRODUCTION

This Handbook was prepared to help you understand the Texas State University System Administration's ("System Administration") personnel policies and your associated responsibilities. It was also created to help System Administration maintain fairness and equity in its dealings with you. The Handbook incorporates pertinent provisions of the then-current Texas State University System *Rules and Regulations* (referred to as the "System *Rules and Regulations*"), and these provisions are attached to the Handbook as Appendices. The content presented in the Handbook replaces any earlier personnel handbooks, policies, procedures, and memoranda, whether written, oral or established by practice.

You are responsible for reading and following the policies in the Handbook. However, you likely won't find answers to all your questions here. The minute details of each policy or every personnel matter that may arise are not addressed. Instead, you will find a summary of some of the more important and relevant policies. If you have questions, discuss them with your supervisor or Human Resources. If your supervisor doesn't know the answer or doesn't have an immediate response to your question, he or she will get the information you seek and pass it along to you promptly.

Because System Administration is a growing and changing organization, it maintains full discretion to add, modify or delete provisions of this Handbook at any time without advance notice. For this reason, we urge you to check with your supervisor or Human Resources to obtain current information regarding any personnel policy, procedure, or practice. Any changes to this Handbook will be distributed to you as soon as practicable so that you will be aware of the new policies or procedures. No oral statements or representations can change the provisions of this Handbook.

*Appendix A* to this Handbook is an Acknowledgement form that you will need to sign and return to Human Resources, confirming that you have received and read the Handbook.

## 2. MISSION STATEMENT AND DESCRIPTION OF OPERATIONS

### **Mission Statement:**

***The Texas State University System's mission is to provide a high-quality education that is affordable and accessible in order to enrich the lives of all potential students and enable them to become productive and contributing members of society.***

The Texas State University System ("the System"), established in 1911, is the oldest and third largest higher education system in Texas. Beginning as an administrative means to consolidate the support and management of state teacher colleges, the System has evolved into a network of higher education institutions stretching from the Texas–Louisiana border to the Big Bend region of far West Texas.

The System has eight component institutions on twelve campuses:

- Lamar University
- Sam Houston State University
  - Sam Houston State University, the Woodlands
- Sul Ross State University
- Sul Ross State University-Rio Grande College
  - Uvalde campus
  - Del Rio campus
  - Eagle Pass campus
- Texas State University
  - Texas State University Round Rock Higher Education Center
- Lamar Institute of Technology
- Lamar State College- Orange, and
- Lamar State College-Port Arthur.

Each component has its own mission, history, and goals. Many of the institutions joined the System decades after being established.

The System is governed by a nine-member Board of Regents appointed by the Governor with the advice and consent of the Senate. In addition, a non-voting student regent is appointed annually to the Board. The Board is responsible for the organization, control, and management of the System. The System's enabling legislation is found in *Chapters 95 and 96 of the Texas Education Code*.

System Administration provides support to the System components and state government. It operates under the leadership of the Chancellor, who is appointed by, and answers to, the Board. The Chancellor is responsible for System Administration operations and employees and for supervision of System presidents.

System Administration consists of the following divisions:

- **Academic Affairs.** The Office of Academic Affairs facilitates achievement of component institution goals relating to academic program planning, faculty and students. It also collaborates with the System's provosts to effect curriculum development and integrate physical and technological innovations within the classroom.
- **Audits and Analysis.** The Office of Audits and Analysis provides support to the Board of Regents, the Chancellor, System Administration executive management, and the component institutions in the effective discharge of their responsibilities. The system-wide internal audit function is coordinated through the System's Director of Audits and Analysis, who reports directly to the Board of Regents' Finance and Audit Committee. Each component institution has a campus-based internal audit function that reports to the Director of Audits and Analysis.
- **Contract Administration.** The Office of Contract Administration supports the educational missions of the component institutions by overseeing the

development and implementation of all campus facility construction and renovation projects to enable those institutions to carry out their respective missions in an efficient and fiscally sound manner.

- **Finance.** The Office of Finance provides support for the System’s budgeting, accounting, payroll, financial reporting, procurement, human resource, information technology and cash management functions. It is responsible for issuance and management of System debt and debt repayment; procurement; implementation and interpretation of System insurance lines; and coordination of financial information requests from, and financial reporting to, various state agencies.
- **General Counsel.** The Office of the Vice Chancellor and General Counsel provides legal counsel to the Board of Regents, Chancellor, and component institutions, striving to offer timely and responsible advice about the broad array of legal issues that face modern, public, complex institutions of higher education. The Office handles existing and potential legal matters in order to help those institutions achieve their missions and, where appropriate, provides strong, vigorous, and reasoned legal representation and advocacy.
- **Governmental Relations.** The Office of Governmental Relations coordinates communications regarding legislative and policy matters affecting higher education in Texas on behalf of the Board of Regents, the Chancellor and the component institutions. The Office provides leadership on the development of the System’s legislative priorities and support for ensuring that the System’s message is communicated effectively to the state’s elected leadership. The Office coordinates with the component institutions on the flow of information to the legislature. It also establishes and/or develops strong relationships with legislators and their staffs as well as executive leadership, state agencies and other stakeholders in the higher education community.

An organizational chart is available from the Director of Administration.

The System strives to maintain a positive and professional work environment and believes in an open door policy. We value your input; feel free to raise issues of concern. Work related problems, questions or complaints can best be resolved by frank and prompt discussion.

### 3. **AT-WILL AND OTHER TERMS OF SYSTEM ADMINISTRATION EMPLOYMENT**

Employment with System Administration is on an “at-will” basis. This means that just as you may resign your employment at any time and for any reason, you may be terminated if the System Administration determines that, with or without cause, and with or without a statement of reasons, your continued employment is no longer in its best interests.

Nothing in this Handbook or in or in any other materials or information distributed by the System Administration creates or is intended to create an employment contract, promise or representation of continued employment.

The provisions contained in this policy are applicable to all employees and are administered without regard to race, color, religion, sex, national origin, age, disability or military status.

#### 4. EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY STATEMENT

##### Equal Employment Opportunity Policy

A key objective of the System Administration is to recruit, hire, and maintain a diverse workforce, and to that end it will strictly comply with all applicable legal requirements prohibiting discrimination against employees and applicants for employment.

As provided by the System *Rules and Regulations, Chapter V, Paragraph 2.11*, it is the policy of the System's Board of Regents to provide equal opportunity in employment for all persons in accordance with their individual job-related qualifications and without illegal consideration of race, creed, color, sex, religion, age, national origin, or disability. Equal employment opportunities include all personnel transactions of recruitment, employment, training, upgrading, promotion, demotion, termination, and salary.

It your responsibility and the responsibility of every employee, to ensure that discrimination based on any of the categories addressed above does not occur in the workplace. System Administration provides training to all its employees on policies and procedures that prohibit this type of discrimination.

Employees and applicants for employment will not be subjected to harassment, intimidation, threats, coercion or discrimination because they have opposed a discriminatory practice, filed a charge of discrimination, or testified for, assisted in, or participated in an investigation or other action arising out of a discrimination complaint. Retaliation against such individuals is prohibited and may result in disciplinary action, including termination of employment.

System Administration will provide EEOC training (including training on sexual harassment) to new employees within 30 days of hire and every two years thereafter.

##### Diversity Statement:

***System Administration values each of its employees, understanding that each employee is an individual, a product of unique characteristics and cultural backgrounds. This understanding will foster an environment where differences are understood, respected and appreciated, which will, in turn, lead to a workplace that is inclusive and supportive.***

***This work environment is intended to foster productivity and creativity which, ultimately, will contribute to the development of every individual employee to their fullest potential.***

**5. CODE OF ETHICS**

System Administration requires honest and ethical behavior in the workplace, and to that end you are bound by the terms of the *Code of Ethics* found in *System Rules and Regulations, Chapter VIII, Paragraph 4.2*. The provisions of the *Code of Ethics* applicable to you as a System Administration employee are set forth in *Appendix B*. If you have questions or concerns about your ethical obligations under the *Code of Ethics*, discuss them with the Vice Chancellor and General Counsel.

**6. CONFLICTS OF INTEREST, POLITICAL ACTIVITIES, AND DUAL OFFICE HOLDING**

There are several statutory requirements System Administration employees must follow to ensure no conflicts of interest exist while they carry out their job duties. These requirements include filings with the Texas Ethics Commission (applicable only to the Chancellor), rules regarding the holding of public and private office, and your participation in the political process. The requirements are also set forth in *System Rules and Regulations, Chapter VIII, Paragraphs 3.1 and 3.7, Conflicts of Interest; Paragraphs 6.3-6.11, Political Activities; and Paragraphs 8.1 and 8.2, Dual Office Holding*. These *Paragraphs* are set forth in *Appendix C*. If you have questions or concerns about your responsibilities under these *Paragraphs*, discuss them with the Vice Chancellor and General Counsel.

**7. BENEFITS, GIFTS AND HONORARIA**

Another measure implemented to avoid conflicts of interest is restrictions placed on benefits or gifts System Administration employees may accept or offer certain third parties. These restrictions are set forth in *System Rules and Regulations, Chapter VIII, Paragraph 5*. *Paragraph 5* is set forth in *Appendix D*. If you have questions or concerns about your responsibilities under *Chapter VIII, Paragraph 5*, discuss them with the Vice Chancellor and General Counsel.

**8. CONTROL OF FRAUD, WASTE AND ABUSE**

To protect the assets, resources, and interests of the System, strong internal control systems are maintained to assist in the prevention, deterrence and detection of fraud, waste and abuse. If you have reasonable cause to believe that System resources have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred, you must report it. *TSUS Rules and Regulations, Chapter VIII, Paragraph 1, Anti-Fraud Policy and Reporting of Wrongful or Fraudulent Conduct*, contains the System's Anti-Fraud Statement and reporting requirements. This *Paragraph* is set forth in *Appendix E*. If you have questions or concerns about your responsibilities under *Chapter VIII, Paragraph 1*, discuss them with the Vice Chancellor and General Counsel or with the System Director of Audits and Analysis.

**9. EMPLOYMENT AND STANDARDS OF CONDUCT**

**9.1 Hiring and Posting of Positions**

System Administration's recruiting and hiring are based on strategic need, job requirements and the qualifications of those applying for the positions. All

System Administration recruitment and hiring will be in compliance with applicable state and federal laws.

All open System Administration staff positions will be filled through posting the position or, if appropriate, through the use of a search firm. With the approval of the Chancellor and written justification, qualified internal candidates may fill open positions without posting the positions.

Hiring decisions will be predicated upon a review of documentation submitted by applicants to determine their eligibility for veteran's employment preference in accordance with *Texas Government Code, Chapter 657* and former foster children preference in accordance with *Texas Government Code, Chapter 672*.

All posted positions will be listed with the Texas Workforce Commission. System Administration is an equal employment opportunity (EEO) employer and does not discriminate on the basis of race, color, disability, religion, sex, national origin or age.

## **9.2 Employment of Relatives (Nepotism)**

System *Rules and Regulations* prohibit System Administration from employing certain relatives of a member of the Board of Regents or another System Administration employee. *System Rules and Regulations, Chapter II, Paragraph 4.11* and *Chapter V, Paragraph 2.2* set forth the employment prohibition and are reprinted in *Appendix F*.

## **9.3 Employee Information--Texas Public Information Act and References**

You or your designated representative may review your employment records as permitted by the Texas *Public Information Act* (referred to as the *PIA*). Employment records will be made available within a reasonable time after a request and during normal business hours.

The *PIA* provides that all your employment records, except information that constitutes a clearly unwarranted invasion of personal privacy or information deemed confidential by law, are subject to public disclosure without your consent. You have the right, however, to elect to have the following information withheld from public disclosure, despite a valid *PIA* request: home address and phone number, social security number, information that reveals whether you have family members, and emergency contact information. *PIA* election forms are provided to new employees by the Associate Vice Chancellor for Finance.

## **9.4 Employee Training**

You will receive training on the duties and responsibilities of your position and on the various policies, regulations, rules and procedures related to your employment as described in *System Rules and Regulations, Chapter II, Paragraph 4.4*. This *Paragraph* is set forth in *Appendix G*.

## **9.5 Hours of Work and Attendance**

Office hours are from 8:00 a.m. to 5:00 p.m., with the office remaining open during the noon hour. Each full-time employee must account for a minimum of 40 hours in a workweek. You will work a 40-hour week, but may stagger your hours with your supervisor's approval. You will also prepare and submit timesheets that accurately reflect all time worked and absent.

You must notify your supervisor, as soon as possible, of any unscheduled absence from work. If an absence extends beyond one day, advise your supervisor of your status each morning unless other arrangements have been made and agreed to. If you fail to report to work for three consecutive workdays without notifying your supervisor, at a time and in a method acceptable to your supervisor, your employment may be terminated.

An employee's repeated pattern of absence, tardiness or early departure places an unfair burden on others. Regular, prompt attendance is an essential requirement of all positions.

## **9.6 Performance Evaluations**

Your performance will be evaluated annually in August of each year. The performance evaluation provides your supervisor with ways to assist you in improving your performance. It is also an evaluation instrument for consideration of merit raises and promotions.

## **9.7 Outside Employment and Service on Outside Boards**

Should you desire to work another job outside of your state employment, you must obtain the written approval of your supervisor and the Chancellor. Approval of a request for outside employment will be based upon factors such as the creation or appearance of a conflict of interest or the potential for interference with your System Administration duties and responsibilities. Should your request for outside employment be approved, you may not use state resources, including state time, equipment, employees, letterhead stationery, or a state business address for your non-state employment. If your outside employment changes, notify your supervisor.

Service on a board, council, or other governing or advisory body of a business, civic, professional, social, or religious organization requires the same approvals set forth above for outside employment, and the same restrictions apply.

## **9.8 Confidential Information**

You may gain access to confidential and/or proprietary information regarding System Administration and the System, its personnel, and operations. For the purposes of this policy, Confidential Information includes, but is not limited to, System Administration and System financial and strategic planning information, marketing strategies, salaries and staffing information, research and development information, product plans, products, services, customer lists, customers, markets,

software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, personnel information and similar business information relating to System Administration and the System's operations that are not generally available to the public.

You shall keep Confidential Information confidential, and it shall not be disclosed, used, copied or removed from System Administration premises, except as reasonably necessary for you to perform your job duties or as specifically directed by System Administration management. You may disclose Confidential Information to other employees only on a need-to-know basis. This obligation to maintain the confidentiality of Confidential Information applies both during and after your employment with System Administration. If you are unsure as to whether certain information is Confidential Information, it is your responsibility to obtain a determination from the Vice Chancellor and General Counsel regarding the status of the information and its use. Upon termination of your employment, all System Administration property, including but not limited to Confidential Information, must be returned to System Administration.

#### **9.9 Reimbursement of Business Related Travel and Other Expenses**

In general, the Comptroller's Travel Guide defines "travel" and prescribes rules for reimbursement of your business travel costs. Additional terms regarding reimbursement of travel and related expenses are found in *System Rules and Regulations, Chapter II, Paragraph 4.2, Expenses and Allowances*, attached to this Handbook as *Appendix H*.

#### **9.10 Dress, Grooming and Personal Appearance**

Business Casual Attire is the System Administration's dress code, unless otherwise dictated by the work situation. Your dress, grooming, and personal hygiene are a reflection of System Administration, the System and its Component Institutions. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted; however, System Administration will make every reasonable attempt to accommodate your religious practices.

#### **9.11 News Media Relations**

All requests for interviews or information from the media regarding System Administration, System or component institution-related issues should be immediately referred to your supervisor or the Associate Vice Chancellor for Governmental Relations/Director of Communications. You should not speak to the media on behalf of these entities unless you have received express permission, in advance, from the Chancellor. Nothing in this policy shall restrain or interfere with your right to engage in activities that are protected by law.

## 10. COMPENSATION AND BENEFITS

### 10.1 Direct Deposit of Payroll Payments

State law requires that you are paid monthly through direct deposit unless you are eligible for an exemption. If you have questions about the direct deposit program, discuss them with the Associate Vice Chancellor for Finance.

### 10.2 Inaccuracies in Salary Amount

If you discover an inaccuracy in your salary amount, contact the Associate Vice Chancellor for Finance immediately. The payroll action will be reviewed and appropriate adjustments will be made, if required.

### 10.3 *FLSA* Overtime and State Compensatory Time

System Administration complies with all applicable federal and state statutes regarding hours worked and leave provisions.

#### **Federal Fair Labor Standards Act Overtime**

If you are a non-exempt employee, working more than 40 hours in a workweek requires prior written approval from your supervisor. If you are a non-exempt employee and you work more than 40 hours in a workweek, with or without the required approval, you must be compensated for the excess time with compensatory time off or pay. Overtime pay instead of compensatory time off is available only when it is not practical to provide compensatory time off, and it requires the approval of the supervising Vice Chancellor. Non-exempt employees who work more than 40 hours in a workweek without prior written supervisory approval are in violation of System Administration policy.

#### **State Compensatory Time**

If you are a full-time non-exempt employee, you earn state compensatory time when the total number of hours worked in a workweek, plus the number of hours of holiday or paid leave, minus any *FLSA* overtime hours, exceeds 40. You may be paid for state compensatory time hours only when taking compensatory time would be disruptive to System Administration critical functions. It is the policy of System Administration that prior written supervisory approval is required to earn compensatory time.

Full-time exempt employees are not eligible to earn compensatory time except hour for hour when they work on a State holiday that is observed by the System or otherwise when authorized in advance by the Chancellor.

You may not accrue state compensatory time for work performed at any location other than your regular or temporarily assigned place of employment. In accordance with state law, your personal residence may not be your regular or temporarily assigned place of employment.

Your state compensatory time balance cannot exceed 144 hours or your current sick leave balance, whichever is higher. State compensatory time expires 12 months after the end of the workweek in which it was earned; earned compensatory time not used within that time is lost.

Additional information regarding overtime and state compensatory time is available from your supervisor and the Associate Vice Chancellor for Finance.

#### **10.4 Merit Salary Increases or One-Time Merit Payments**

You are eligible for a merit salary increase or a one-time merit payment under the following conditions:

- You have been employed by System Administration for at least 6 continuous months;
- At least 6 months have passed since your last merit increase, one-time merit payment, promotion, enhanced compensation award, or demotion;
- You have a current job performance evaluation on file with no "unsatisfactory" ratings; and
- Your job performance has been documented as consistently exceeding that expected or required in your current job performance evaluation or in a memorandum.

#### **10.5 Longevity Pay**

If you are a full-time System Administration employee, you are eligible to receive longevity pay after 2 years of "*lifetime service credit*," as that term is calculated by applicable state law, and you will receive longevity pay increases with each additional two years of lifetime service credit. If you are eligible for longevity pay, it will be included in your monthly compensation if you:

- Are a full-time state employee on the first workday of the month;
- Are not on leave without pay on the first workday of the month; and
- Have accrued at least two years of lifetime service credit not later than the last day of the preceding month.

A Longevity Pay Table, the state law accrual calculation of "*lifetime service credit*" and longevity pay information unique to people who retired from, and returned to, state employment in 2005 is found in *Appendix I* to this Handbook. If you have questions about longevity pay, discuss them with the Associate Vice Chancellor for Finance.

#### **10.6 Employee Insurance**

This Handbook provides a brief description of the insurance plans System Administration makes available to you and your family as of the Handbook's effective date. The terms of the specific plan documents control eligibility, benefits determination and other conditions. You are provided copies of summary plan descriptions and other relevant information at the time of hire and during open

enrollment periods. Any questions regarding coverage should be directed to the Associate Vice Chancellor for Finance.

**Health Benefits**

- HealthSelect of Texas
- Community First Health Plan
- Scott & White Health Plan
- Caremark (Prescriptions)
- TexFlex (Flexible Spending Account)
- State Kids Insurance Program (SKIP)
- Vision Care
- Long Term Care Coverage through John Hancock Life Insurance

**Dental Benefits**

- Humana Dental DHMO
- State of Texas Dental Choice Plan

**Life Insurance Benefits**

- Basic Group Life Insurance
- Optional Group Life Insurance
- Dependent Group Term Life Insurance
- Voluntary Accidental Death and Dismemberment (AD&D) Insurance
- Disability Insurance (Short Term and Long Term)

**10.7 Retirement Benefits**

Retirement benefits are provided to you in accordance with *System Rules and Regulations, Chapter II, Paragraph 4.12, Retirement Programs*. That *Paragraph* is found on *Appendix J* to this Handbook.

**10.8 Vacation**

If you are a full-time employee, you accrue vacation leave, and may carry vacation leave forward from one fiscal year to the next, in accordance with the table set forth in *Appendix K*. If you are an eligible part-time employee, you accrue vacation leave on a proportionate basis. Your maximum carryover is also prorated. *Appendix K* also includes vacation accruals for certain individuals who retired from, then returned to, state employment.

Your supervisor must approve your vacation leave, and it should be scheduled as far in advance as possible to coordinate work schedules and ensure continuity of System Administration operations.

Your supervisor may deny your request for vacation leave if it conflicts with other employees' previously-approved vacation time or due to your workload demands.

If a holiday recognized by System Administration occurs during your vacation leave, the holiday is not charged against your vacation leave.

Vacation leave accrues beginning on your first day of employment, continuing on the first day of each following month, and ending on your last physical day on the job. If you work for any part of a calendar month, you accrue vacation leave for the entire month.

System Administration understands the value time away from your job can provide and encourages you to use your vacation leave during the fiscal year in which it is accrued. All unused, accumulated vacation leave that cannot be carried forward at the end of a fiscal year is credited to your sick leave balance, effective on the first day of the next fiscal year.

The rate at which you accrue vacation leave for any given month is based on your state employment status on the first day of that month. If your anniversary date falls on the first calendar day of the month, the higher rate of vacation leave accrual is given then. If not, the increased vacation leave accrual begins on the first calendar day of the next month.

You may not take vacation leave until you have six months of continuous employment with System Administration, although vacation leave accrues during that time.

You do not accrue vacation leave when you are in an ineligible status, such as if you are on leave without pay for an entire calendar month.

If you are on paid leave on the first workday of a month, you cannot take the vacation leave that accrues for that month until you return to work.

Please see the Associate Vice Chancellor for Finance regarding eligibility for payment or transfer of vacation leave when your System Administration employment ends.

## **10.9 Sick Leave**

If you are a full-time or a 20-hour per week employee, you accrue sick leave at the rate of eight hours each month, beginning on your first day of employment, continuing on the first day of each following month, and ending the last month you are physically on the job. If your first or last month of employment is less than a full calendar month, the accrual amount is prorated and credited on the first day of duty. If you are a part-time employee, you accrue sick leave on a proportionate basis. If you work for any part of a calendar month, you accrue sick leave for the entire month. Sick leave accumulations are carried forward each month, with no limit on the amount of sick leave that may be accrued.

You do not accrue sick leave when you are in an ineligible status, such as if you are on leave without pay for an entire calendar month.

If you are on paid leave on the first workday of a month, you cannot take the sick leave that accrues for that month until you return to work.

Unlike vacation leave, no waiting period is required before you may use sick leave. You may take sick leave when you cannot work due to sickness, injury, or

pregnancy and confinement. It may also be used when you need to care for and assist a member of your immediate family who is sick. Your immediate family is:

- Someone who lives with you and is related to you by kinship, adoption or marriage;
- Your foster child who lives with you and is under the conservatorship of the Texas Department of Protective and Regulatory Services; or
- Your minor child, regardless of whether the child lives with you.

You may use sick leave to provide care and assistance to your child, spouse, or parent (but not parent-in-law) who does not live with you, but only for the time necessary to provide such care and assistance as a direct result of a documented medical condition.

If you are on vacation and would otherwise be entitled to sick leave, you may ask your supervisor to allow you to use sick leave in lieu of vacation leave. Your supervisor may ask that you provide documentation substantiating your entitlement to sick leave.

In order to use sick leave, you must request it in advance from your supervisor. If you are not able to request the leave in advance, you must notify your supervisor, or if you are unable to do so yourself, have someone else notify your supervisor, as soon as possible and continue to keep your supervisor informed of your condition on a daily basis. Text messaging to a cell phone is not an acceptable means of providing this notice.

If your sick leave absence is for more than three consecutive workdays, you must provide your supervisor a doctor's certificate or other written statement of the facts concerning the condition that is acceptable to your supervisor. You may be required to submit documentation that an absence of any duration was necessary and due to illness or injury.

The Chancellor may authorize additional paid sick leave for you based on a review of your circumstances. This extended sick leave may be granted only after you have taken all paid sick leave, vacation, compensatory time and, if applicable, have satisfied the requirements for the Sick Leave Pool (addressed in Section 10.10 below), and taken any Sick Leave Pool time for which you are eligible. The SA will complete all statements required to be filed with payroll vouchers and the state auditor, and will provide the notices required by state law, if additional sick leave under this section is authorized by the Chancellor.

Please see the Associate Vice Chancellor for Finance regarding transfer or restoration of your sick leave balance if your System Administration employment ends and you obtain other state employment.

Should you die with an accrued sick leave balance, your estate will be paid for one-half of your accumulated sick leave balance, or 336 hours, whichever is less. The payment is calculated at the rate of compensation being paid at the time of your death.

### 10.10 Sick Leave Pool

The System Administration's Sick Leave Pool policy is attached to this Handbook as *Appendix L*.

### 10.11 Family and Medical Leave (*FMLA*)

You may be eligible to take leave under the federal *Family and Medical Leave Act* ("*FMLA*") if you have been employed by the State of Texas for at least 12 months or have worked at least 1,250 hours for the state during the 12-month period immediately preceding the first day of your leave. The 12 months of state employment do not have to be consecutive. Periods of employment before a seven or more year break in state service do not count toward the 12-month requirement, unless the break was due to military service obligations.

If you are not eligible for *FMLA* leave, you may be eligible to use *Parental Leave* as described in Section 10.12 below.

*Appendix M* contains important definitions of terms used in this policy. *FMLA* leave may be taken for:

- Your serious health condition;
- The serious health condition of your son, daughter, spouse or parent;
- The birth, adoption or foster care placement of a child with you;
- To provide care for your spouse, son, daughter, parent, or next of kin who is a covered military service member with a serious illness or injury (referred to as "Military Caregiver Leave"); and/or
- For a qualifying exigency arising out of the fact that your spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty (referred to as "Exigency Leave").

For leave related to a *serious health condition*, you are entitled to take up to 12 work weeks of leave during a single 12-month period, beginning on the date you first take *FMLA* leave. Entitlement to leave for birth or placement of a child typically begins on the date of the birth or placement and expires 12 months thereafter. For Military Caregiver Leave, you are entitled to take up to 26 work weeks of leave in a single 12-month period. This leave begins on the day you first take leave to care for the *covered servicemember* and ends 12 months later. The amount of time available for Exigency Leave can depend upon the reason for the leave and the agreement between you and System Administration. Please see the Associate Vice Chancellor for Finance for additional information regarding Military Caregiver Leave and Exigency Leave.

*FMLA* leave may, under certain circumstances, be taken as *Intermittent Leave* or on a *Reduced Leave Schedule*.

You must use all your accumulated paid leave, including any leave you may have received from the Sick Leave Pool (See Section 10.10 above), concurrently with your 12 weeks of *FMLA* leave. If you have less than 12 weeks of accrued paid

leave, the rest of your *FMLA* leave is unpaid. However, if you are receiving workers' compensation benefits or temporary disability benefits, you are not required to use paid leave while you are receiving those particular benefits. If you remain on *FMLA* leave after those benefits end, you will then be required to use available paid leave before using unpaid leave. Also, you are not required to use state compensatory time or *FLSA* overtime as part of your *FMLA* leave, although you may choose to do so. Please understand that *FMLA* leave is not necessarily or automatically paid leave.

When the need to take *FMLA* leave is foreseeable, you should give at least 30 days advance notice to your supervisor and the Associate Vice Chancellor for Finance. When the need to take *FMLA* leave is not foreseeable, you, or someone acting on your behalf if you are unable, should notify your supervisor and the Associate Vice Chancellor for Finance as soon as possible after you learn of the need for leave. If you are undergoing planned medical treatment, you must make a reasonable effort to schedule the treatments so as to minimize disruption to System Administration operations, subject to the approval of your *health care provider*.

While on *FMLA* leave, you must report your status and intention to return to work at least every two weeks, unless you are medically unable to do so or it is unreasonable under the circumstances.

To request *FMLA* leave for your own *serious health condition*, the *serious health condition* of your *son, daughter, spouse or parent*, the care of a *covered servicemember*, or qualifying reasons relating to a call to *covered active duty*, you must provide certification of the need for leave. Certification forms are available from the Associate Vice Chancellor for Finance. You must return a complete and sufficient certification to the Associate Vice Chancellor for Finance within 15 calendar days after it is requested, unless that deadline is not practicable under the circumstances or additional time is requested and approved. An unjustified failure to return a complete and sufficient certification within 15 days can result in the delay or denial of a request for leave.

After you request *FMLA* leave and submit appropriate certification, or System Administration acquires knowledge that your leave may be for an *FMLA*-qualifying reason, System Administration will notify you of your *FMLA* leave eligibility by oral or written notice within 5 business days, absent extenuating circumstances.

You may continue to participate in all insurance benefit plans while on *FMLA* leave. Coverage can continue for the leave's duration at the same level of benefits and contributions as prior to your leave. It is your responsibility to continue to contribute your portion of the cost of any employee-paid premiums during your leave. If you are paid during the leave, the premium will be deducted from the pay available. During any unpaid period of leave, you may elect to make payments during the period of leave or the premium payment will be deferred until the expiration of the leave or your return to work, whichever occurs first. You will not accrue state service or employment benefits during unpaid leave, but you will retain the employment benefits accrued before the leave began, and the leave will not constitute a break in state service.

You are entitled to be returned to the same position that you held when your *FMLA* leave began, or to an equivalent position with equivalent benefits, pay and other terms and working conditions of employment. You should, where possible, give System Administration at least 2 weeks' written notice of your intent to return to work. Before you are cleared to return to work after taking *FMLA* leave, you may be required to present a fitness-for-duty certification from a *health care provider*. You will be notified when requesting *FMLA* leave if a fitness-for-duty certification will be required.

*Appendix N* contains information provided by the U.S. Department of Labor regarding Employee Rights and Responsibilities under the *FMLA*.

### **10.12 Parental Leave**

If you have been employed by System Administration for less than 12 months or worked fewer than 1,250 hours during the 12-month period before the beginning of leave under this section, you are eligible to take a Parental Leave of Absence of up to 12 weeks for the birth of your natural child or your adoption of or foster care placement with a child under three years of age. You must first use all available and applicable paid vacation and sick leave while taking Parental Leave, and the remainder of the leave is unpaid. The leave begins on the date of the birth, adoption or foster care placement of the child.

Parental Leave is not available for any other purpose. If you do not return to work from your Parental Leave, you will be considered to have voluntarily resigned.

### **10.13 Leave of Absence Without Pay**

The Chancellor may approve leaves of absence without pay, with conditions and limitations as described in this section. Except for disciplinary suspensions, active military duty, and leave covered by workers' compensation benefits, you must exhaust all accumulated paid leave entitlements, including paid sick leave, vacation, compensatory time and Sick Leave Pool time before this leave is available to you. Sick leave and Sick Leave Pool time must be used first only if you are eligible to take it.

This leave, except for military training and duty as described in Section 10.14 below, is limited to 12 months in duration and may be designated as unpaid Parental Leave or designated unpaid Family and Medical Leave, if the eligibility requirements for those leave types are met. Subject to fiscal constraints, the Chancellor's approval of this leave constitutes a guarantee of employment at the conclusion of the specified leave period.

The Chancellor may grant exceptions to the limitations set forth in the paragraph above if you are requesting this leave to work for another state governmental entity under an interagency agreement or for educational purposes.

Unless you return to state employment from military leave without pay as described in Section 10.14, any full calendar month in which you are on leave without pay is not counted in computing total state service for longevity pay or

accrual of vacation leave or continuous state service for merit salary provisions or vacation leave. Any full or partial calendar month you are on leave without pay does not constitute a break in continuity of employment. You do not accrue vacation or sick leave for a full calendar month during which you are on leave without pay.

#### **10.14 Military Leave**

If you are called to active duty or authorized military training, you are entitled to a leave of absence from state employment without a loss in annual leave or salary on all days you are engaged in authorized training or duty. The maximum leave of absence is limited to 15 work days (which do not have to be consecutive) in a federal fiscal year (October 1 through September 30). After you exhaust the 15 days of military leave, you may use accrued annual leave, compensatory time, or you may be placed on leave without pay status.

If you are called to active duty during a national emergency by a reserve branch of the United States Armed Forces, you are granted a leave of absence. You accrue state service credit while on active duty, but you do not accrue annual leave or sick leave. You retain any accrued annual or sick leave and are credited with those balances on your return from active duty.

You are entitled to return to the same or similar job assignment previously held on completion of your military leave. Also refer to Section 10.18 of this Handbook, *Military Emergency Leave*.

#### **10.15 Holidays**

You are entitled to a paid day off from work on holidays which are approved by the Board of Regents, the total of which shall not exceed those authorized by the Legislature.

#### **10.16 Inclement Weather**

When hazardous or inclement weather conditions exist, the Chancellor may grant leave to System Administration employees. No deductions are made from your accrued leave balances. If you determine that travel to work is too hazardous, notify your supervisor as soon as possible. Generally, emergency leave may be granted, although each situation is evaluated on its own merits.

#### **10.17 Leave for Special Purposes**

There are numerous other types of leave potentially available to you, subject to eligibility requirements. Many are listed on *Appendix O*.

#### **10.18 Emergency Leave—Military, Family Funerals, and Other Military Emergency Leave**

If you are called to state active duty as a member of the state military forces by the Governor because of an emergency, you are entitled to paid emergency leave during the time of active duty. This time does not count against your

*Military Leave* (see Section 10.14) or *Vacation Leave*. Also, if you are on unpaid *Military Leave* while called to active duty in support of a national emergency or Homeland Security mission, you will be granted sufficient emergency leave to provide a pay differential if your military pay is less than your state gross pay. For the purpose of differential pay, military pay does not include money you receive for service in a combat zone, as hardship pay, or for being separated from your family. The combination of emergency leave and military pay may not exceed your actual state gross pay.

### **Funeral Emergency Leave**

You are entitled to paid emergency leave in the event of the death of a “family member.” For the purposes of this leave, a “family member” is your spouse, your or your spouse’s parent, brother, sister, grandparent, grandchild, or child.

### **Other Emergency Leave**

The Chancellor may determine that other reasons for granting emergency leave exist, such as official closings or when an individual employee shows good cause for granting this leave.

## **11. EMPLOYEE RELATIONS**

### **11.1 Employee Grievances and Management Review**

System Administration encourages and promotes prompt, fair, and equitable resolution of work -related issues and has established this process to resolve matters of disagreement regarding wages, hours of work, working conditions, performance evaluations, merit raises, job assignments, reprimands, or the interpretation or application of a rule, regulation or policy. A concern regarding a possible violation of the following policies should be handled in accordance with those policies:

- *Equal Employment Opportunity (Section 4 )*;
- *Prohibition on Harassment, Discrimination and Inappropriate Conduct (Section 12)*;
- *Workplace Accommodations (Section 13)*; and
- *HIV/AIDS in the Workplace (Section 14.4)*.

You will not be penalized or disciplined for your participation in the grievance process, whether on your own behalf or on behalf of another employee, as long as your actions are taken in good faith.

This process is available to all regular employees.

As described in Section 3 of this Handbook, all System Administration employment is “at-will,” and nothing in this Section or the establishment of a grievance process shall be construed as limiting or modifying the “at-will” status of all System Administration employees, or otherwise creating an entitlement to future employment.

A grievance will not necessarily delay a disciplinary personnel action or other actions which may be related to the subject matter of the grievance. The Chancellor or Vice Chancellor and General Counsel may suspend a grievance until related legal or enforcement agency actions have been resolved.

For an informal complaint, you should discuss your issue with your supervisor within five work days from the date of the action at issue. If your supervisor is the subject of your complaint, you should address the complaint with your Vice Chancellor.

If the complaint is not satisfactorily resolved by your supervisor or Vice Chancellor within five work days, you may present the complaint, this time in writing, and within the next five workdays, to your Vice Chancellor or to the Chancellor, as applicable, for consideration and action. The written complaint must be clearly identified as a formal grievance and explain your specific concern. You should also include what you believe is a satisfactory resolution of the issue. A written decision will be provided to you within five work days of a Vice Chancellor's receipt of the complaint or within a reasonable time, not to exceed thirty calendar days, if the complaint is delivered to the Chancellor.

If you are not satisfied with the decision of a Vice Chancellor, you may provide the Chancellor with a written appeal stating why you believe the Vice Chancellor's decision is incorrect. This must be done within five work days of your receipt of the Vice Chancellor's decision. Within a reasonable time, not to exceed thirty calendar days following receipt of the appeal, a written decision will be provided to you by the Chancellor. The Chancellor's decision, whether on a formal complaint or appeal, is final.

The written complaint and all decisions or responses regarding it will be placed in your personnel file.

## **11.2 Discipline and Termination of Employees**

As referenced in Section 3 of this Handbook, all positions in System Administration are "at will," meaning that you may be dismissed from employment with or without cause, and with or without a statement of reasons. Any such dismissal, however, will not be made arbitrarily and will be in compliance with federal and state law. Nothing in this section shall be construed as modifying your "at will" status or otherwise creating an entitlement to future employment.

System Administration does not have a progressive discipline policy; however, it is encouraged as a good management practice where appropriate. For example, an employee whose job performance or workplace behavior is lacking may be counseled or placed on probation to try to improve performance deficiencies or unacceptable conduct. This may be appropriate when management believes the employee is motivated and capable of resolving identified issues. However, even if progressive discipline is determined appropriate in a particular instance, not every step is required in every case.

Acts that may result in disciplinary action short of termination include, but are not limited to: poor job performance, inadequate job knowledge or minor misconduct. Reasons for immediate termination include, but are not limited to: gross negligence or misconduct, intentional misconduct, theft, or insubordination.

## **12. PROHIBITION ON HARASSMENT, DISCRIMINATION AND INAPPROPRIATE CONDUCT**

System Administration is committed to creating and maintaining a workplace free from unlawful discrimination and harassment, as well as inappropriate conduct. It is System Administration's goal and policy to comply with all federal and state laws regarding harassment and discrimination. This policy applies to all employees, visitors, and applicants for employment of System Administration. Unlawful harassment, including sexual and racial harassment; unlawful discrimination; and inappropriate behavior as described in this policy, even if it is not unlawful, is prohibited and will not be tolerated. If you violate this policy, you will be subject to disciplinary action, up to and including termination.

### **12.1 Sexual Harassment**

Sexual harassment is defined in *System Rules and Regulations, Chapter VII, Paragraph 4.4.1*:

"Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment ...; 2) submission to or rejection of such conduct by an individual is used as the basis for employment ... decisions affecting the individual; 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive employment ... environment.

Sexually harassing conduct can include physical contact of a sexual nature; propositions or offers to engage in sexual activity; comments of a sexual nature, including sexually explicit statements, questions, jokes or stories; remarks of a sexual nature about a person's clothing or body; remarks about sexual activity; speculation about sexual experience; exposure to sexually oriented graffiti, pictures, posters, or materials; or physical interference with or restriction of an individual's movements.

### **12.2 Racial Harassment**

Racial harassment is defined in *System Rules and Regulations, Chapter VII, Paragraph 4.31*:

"Racial Harassment" is defined as extreme or outrageous acts or communications that are intended to harass, intimidate, or humiliate ... staff ... on account of race, color, or national origin and that reasonably cause them to suffer severe emotional distress.

### **12.3 Other Harassment**

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal, visual or physical conduct that 1) denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, age, national origin, or disability; and that 2) has the purpose or effect of creating an intimidating, hostile or offensive work environment; has the purpose or effect of unreasonably interfering with an individual's work performance; or otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: inappropriate or demeaning name-calling; slurs or negative stereotyping; threatening, intimidating or hostile acts; and denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group.

### **12.4 Discrimination**

Unlawful discrimination essentially involves treating an individual or group of individuals differently solely based on their race, color, sex, religion, age, national origin, or disability.

### **12.5 Unprofessional Conduct**

Unprofessional conduct is behavior that a reasonable person in a professional office setting would find inappropriate, rude, or offensive, but doesn't meet the definition of unlawful harassment. It can include such actions as persistent attempts to humiliate someone through insults or name-calling; destructive innuendo and sarcasm, through rumors and gossip, for example; or intimidating behavior such as shouting, blocking someone's exit, or banging a desk.

On the other hand, constructive criticism and legitimate supervisory actions relating to performance deficiencies or other workplace issues are generally not considered unlawful harassment or discrimination.

### **12.6 Prohibition on Retaliation**

System Administration will not retaliate, nor will it tolerate retaliation, against employees who report, assist in making complaints, or cooperate in investigations of harassment, discrimination or inappropriate conduct under this policy. Retaliation is illegal and a violation of this policy and any individual who is believed to have violated the prohibition against retaliation will be subject to discipline, up to and including termination.

### **12.7 False Complaints**

False and malicious complaints, as opposed to complaints which, even if unfounded or in error are made in good faith, will subject the individual making the complaint to appropriate disciplinary action, up to and including termination.

## **12.8 Reporting**

In order to stop illegal and offensive conduct, and to protect the victim, employees or applicants for employment who believe they have been discriminated against, harassed or subjected to inappropriate conduct must report it as soon as possible. Every person who reports a suspected violation will be treated professionally and with respect. The report may be made to a supervisor, to any Vice Chancellor, or to the Chancellor. *An employee does not need approval to contact a Vice Chancellor or the Chancellor directly regarding a complaint made under this policy. Under no circumstances is an individual required to make a report to the person accused of the policy violation.* Supervisors or Vice Chancellors who receive reports of policy violations will immediately notify the Chancellor and Vice Chancellor and General Counsel.

Prompt reporting is essential. Early reporting and intervention can be one of the most effective methods of resolving actual or perceived policy violations. If System Administration receives current information, the investigation process greatly benefits, as witnesses generally have fresher recollections of relevant facts.

## **12.9 Investigations**

Allegations of harassment, discrimination or inappropriate conduct will be thoroughly and promptly investigated. An investigation generally will include interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

All System Administration employees have a duty to cooperate in any investigation of alleged harassment, discrimination or inappropriate conduct. Refusal to cooperate or deliberately providing false information during an investigation is grounds for disciplinary action, including termination.

## **12.10 Confidentiality**

Additionally, if any employee or applicant for employment receives or provides information related to an investigation under this policy, he or she must keep the information confidential. Serious disciplinary action, up to and including termination, may result from any violation of this confidentiality obligation.

To the fullest extent practicable, System Administration shall keep complaints made under this policy and the terms of their resolution confidential.

## **12.11 Corrective Action**

System Administration will take immediate and appropriate corrective action in those instances in which it has determined that harassment, discrimination or inappropriate conduct has occurred.

### **12.12 System Rules and Regulations**

*System Rules and Regulations, Chapter VII, Paragraph 4.4, Sexual Harassment, contains additional terms and conditions regarding complaints of sexual harassment. This Paragraph is contained in Appendix P to this Handbook.*

## **13. WORKPLACE ACCOMMODATIONS**

### **13.1 Reasonable Accommodation**

The Texas State University System (TSUS) is committed to an inclusive work environment that provides equal opportunity and access to all and does not discriminate in the recruitment, hiring, and promotion of employees with disabilities. According to the Americans with Disabilities Act of 1990 (ADA) and Texas Labor Code, Chapter 21.001(6), a person with a disability is anyone who has a mental or physical impairment that substantially limits at least one major life activity of that individual, a record of such an impairment, or being regarded as having such an impairment. The term does not include:

- a current condition of addiction to the use of alcohol, a drug, an illegal substance, or a federally controlled substance; or
- (B) a currently communicable disease or infection as defined in Section 81.003, Health and Safety Code, or required to be reported under Section 81.041, Health and Safety Code, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to perform the duties of the person's employment.

For purposes of employment, a qualified person with a disability is one who with or without reasonable accommodation can perform the essential functions of a job. Thus, TSUS recognizes that an employee with disabilities may have special needs for which accommodations may be necessary in order for the employee to perform the duties of their job. Such accommodations may include, but are not limited to:

- Making existing facilities readily accessible to and usable by individuals with disabilities;
- Job restructuring;
- Part-time or modified work schedules;
- Reassignment to a vacant position, if any;
- Acquisition or modification of equipment or devices;
- Appropriate adjustment or modifications of examinations, training materials or policies;
- Provision of qualified readers or interpreters.

### **13.2 Procedures for Requesting Accommodations**

It is the responsibility of the employee to make his or her needs known to TSUS in a timely manner. Failure to do so may delay the requested accommodation. The request should include the following:

- Documentation of need that is the basis of the request;
- A description of the desired accommodation;
- An explanation of how the request relates to the disability;
- If applicable, a description of what steps have been attempted to address the need for which the accommodation is now requested; and,
- Possible alternatives if the requested accommodation or configuration is not possible.

In order to evaluate the appropriateness of an accommodation request, TSUS may require documentation of disability (in the event the disability is not easily perceivable), including the following:

- Diagnostic statement including the date of the most recent evaluation;
- The diagnostic criteria or test used;
- The current impact of, or limitations on, major life functions imposed by, the disability and the effect that the impairment has on the employee's ability to perform his/her job properties;
- The expected duration, stability or progression of the disability; and,
- Credentials of the diagnosing professional, including contact information.

### **13.3 Provision of Job Accommodations**

The supervisor will determine if the accommodation request creates an "undue hardship" on the TSUS operation. If it is determined that a particular accommodation would result in an "undue hardship," the TSUS will determine if another equally effective accommodation is available and notify the employee not later than 5 working days after receipt of the report. Factors to be considered in determining "undue hardship" will include:

- The impact on operations and business,
- Cost factors,
- Safety and consideration for all employees.

### **13.4 Procedures for Responding to Requests for Accommodations**

It is the intent of TSUS that issues concerning reasonable accommodations for employees be expeditiously resolved and shall respond to any accommodation request in writing within 5 working days of receipt. If the employee is not satisfied with the supervisor's response, he or she can appeal in writing to the Chancellor and ultimately the Board of Regents.

## **14. SAFETY OF EMPLOYEES**

### **14.1 Workers' Compensation**

You are eligible for workers' compensation insurance benefits if you suffer an occupational illness, disease, or injury during the course and scope of employment. If you are injured on the job you are responsible for:

- Seeking medical assistance and telling the medical provider that the injury was job-related;
- Immediately telling your supervisor about the injury;
- Immediately completing any required documentation; and
- Promptly providing all requested documentation.

All benefits may be denied if you fail to give notice of injury within 30 days or fail to file a claim with the Texas Department of Insurance/Division of Workers' Compensation within one year, unless you have a good cause

## **14.2 Workplace Violence**

System Administration promotes a working environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior, whether by or towards its employees, visitors or family members of its employees.

Behavior prohibited under this policy includes, but is not limited to:

- Possession of a "Weapon" (as that term is defined in Section 14.5 below or use of any item as a weapon;
- Disorderly or disruptive conduct;
- Using abusive or threatening language, coercion, threats or harassment; or
- Actual or threatened physical violence.

You must not ignore violent, threatening, harassing, intimidating or other disruptive behavior; report it immediately to your supervisor or the Vice Chancellor and General Counsel. The matter will be reviewed and, as appropriate, corrective action will be taken. If you make a good faith report under this policy, you will not be retaliated against.

Threats or assaults that require immediate attention should be reported to the Vice Chancellor and General Counsel or to the police at 911. You are strongly encouraged to advise the Vice Chancellor and General Counsel of any restraining order in effect or any potentially violent situation outside of work that could result in violence in the workplace.

## **14.3 Drug and Alcohol Policy**

System Administration requires a drug and alcohol-free workplace to provide a safe and productive working environment for its employees. Accordingly, the following is prohibited:

- The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on System Administration premises or while on System Administration business.
- Being impaired or under the influence of legal or illegal drugs or alcohol away from System Administration premises, if the impairment or influence

adversely affects your work performance, your safety or the safety of others, or puts System Administration's reputation at risk.

- The possession, use, solicitation for, or sale of, legal or illegal drugs or alcohol away from System Administration premises, if such activity or involvement adversely affects your work performance, your safety or the safety of others, or puts System Administration's reputation at risk.
- The presence of any detectable amount of prohibited substances in your system while on System Administration premises or while on System Administration business. "Prohibited substances" include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to you.

#### **14.4 HIV/AIDS in the Workplace**

*Texas Health and Safety Code, Chapter 85*, requires each state agency to implement workplace guidelines concerning persons with Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection. Accordingly, System Administration has established the following guidelines which are consistent with current information from public health authorities, such as the Centers for Disease Control and Prevention of the United States Public Health Service, and with state and federal laws and regulations. As required by state law, all System Administration employees are provided with information concerning HIV and AIDS.

System Administration will not use a person's HIV status to make employment decisions or to determine how services are delivered. System Administration will not deny services to HIV-infected individuals, except as may be permitted by state or federal law.

System Administration complies with the *ADA*, which prohibits discrimination against people with disabilities, which include HIV and AIDS. System Administration complies with the *ADA*'s protection of all people with disabilities against discrimination in job application procedures, hiring, promotions, discharge, compensation, job training, and other terms or conditions of employment. If you believe that you have been discriminated against because of HIV or AIDS, contact the Vice Chancellor and General Counsel to discuss the matter. Other legal options may also be available.

Based on available medical and scientific information, there is no evidence that AIDS, AIDS-related illness, or HIV infections are transmitted through casual contact in a normal work environment. Therefore, a System Administration employee's refusal to work with an HIV-infected individual may be grounds for disciplinary action, including termination.

System Administration may provide reasonable accommodation so that people with HIV or AIDS may remain employed and productive for as long as they are able to perform the essential functions of their jobs, with or without a reasonable accommodation. The following options may be considered for people with HIV/AIDS: possible assignment or reassignment of job duties, working at home, leaves of absence, and flexible work schedules. System Administration does not have an obligation to provide any accommodation that imposes an undue

hardship on it. Specific questions about the issue of reasonable accommodation and undue hardship should be directed to the Vice Chancellor and General Counsel.

While the *ADA* does protect disabled employees from employment discrimination, all employees, those with and without disabilities, have the same performance and conduct standards regarding hiring, promotion, transfer, and dismissal.

System Administration will protect the confidentiality of medical records and information provided by an HIV-infected employee, to the fullest extent allowed by state and federal law. The employee's written consent must be obtained prior to any disclosure of this information. Any System Administration employee with access to this information must maintain it with strict confidence and privacy, and the information must be maintained separately from the employee's personnel file. System Administration employees who fail to protect an HIV-infected employee's rights commit a serious offense, which may be cause for litigation resulting in both civil and criminal penalties, and may result in termination.

#### **14.5 Weapons**

System Administration adopts as its policy that set forth in *System Rules and Regulations, Chapter VII, Paragraph 4.5, Possession of Weapons*, for System Components. All references to "a System Component" in the *Paragraph* are deemed changed to "System Administration" for the purposes of this policy. The *Paragraph* is attached to this Handbook as *Appendix Q*.

### **15. INFORMATION RESOURCES**

#### **15.1 Use, Administration, and Management of Information Technology Resources**

Information Technology Resources include any of the following that are owned or supplied by System Administration: usernames or computer accounts, hardware, software, communication networks and devices connected thereto, electronic storage media, related documentation in all forms. Also included are data files resident on hardware or media owned or supplied by System Administration, regardless of their size, source, author, or type of recording media, including e-mail messages, system logs, web pages and software.

Access to information technology resources carries with it the responsibility for ensuring that the use of these resources is primarily for System Administration purposes and System Administration-related activities and for maintaining the integrity and security of System Administration's computing facilities. In the interest of making the use of Information Technology Resources a natural part of the day-to-day work of all members of System Administration, incidental personal use is tolerated. However, you should not use any Information Technology Resources in an extensive or regularly recurring manner for activities that are unrelated to System Administration purposes. If you have authorized access to Information Technology Resources, you must ensure that

your access permissions are not accessible to or usable by any other individuals.

Information Technology Resources are a dynamic mechanism for the free exchange of knowledge. It is desirable for System Administration to foster the robust dialogue that results from the use of the resources and to encourage participation in that dialogue. Those exchanges that reflect your personal ideas, comments and opinions must, however, be distinguished from those that represent the official positions, programs and activities of System Administration.

System Administration's Information Technology Resources are finite by nature. You must recognize that certain uses of these resources may be limited or regulated as required to fulfill System Administration's primary missions. Examples of these limitations include those related to capacity management, performance optimization, or security of System Administration's information technology systems.

No information technology system can absolutely guarantee the privacy or confidentiality of electronic documents. More importantly, Information Technology Resources provided by System Administration are essentially owned by the State of Texas and subject to state oversight. Consequently, your use of these state-owned resources, or any personally owned or third party device that you may connect to a state-owned resource comes with the understanding and acknowledgement that you have no right to privacy in your use of these resources and devices. System Administration will, however, endeavor to take reasonable precautions to protect the privacy and confidentiality of electronic documents and assure persons using System Administration Information Technology Resources that System Administration will not seek access to your personal, non-business related electronic messages or documents without your prior consent except where necessary to:

- Satisfy the requirements of the *PIA*, or other statutes, laws regulations, court orders or directives of governmental agencies with lawful authority to compel disclosure;
- Allow System Administration officials to fulfill their responsibilities when acting in their assigned capacities;
- Protect the integrity of System Administration's Information Technology Resources, and the rights and other property of System Administration;
- Allow system administrators to perform routine maintenance and operations, security reviews and respond to emergency situations;
- Protect the rights of individuals working in collaborative situations where information and files are shared; or
- Protect System Administration, TSUS or component best interests as judged solely by System Administration officials.

Section 12's *Prohibition on Harassment, Discrimination and Inappropriate Conduct*, in its entirety, applies to the use of Information Technology Resources. No one may use these resources in a manner that may be construed by others as harassment, discrimination or inappropriate conduct based on race, color,

religion, sex, age, national origin, or disability or any other classifications protected by federal, state or local law.

The following list of additional prohibited activities is in no way conclusive, and you are accountable for all inappropriate or illegal activity, as well as for any breaches of security or confidentiality relating to your use of Information Technology Resources:

- Conducting or engaging in illegal activity, including gambling;
- Conduct an outside business;
- Soliciting for religious or political causes, outside organizations or other personal matters unrelated to System Administration business;
- Propagating viruses, worms, Trojan horse or trap door program codes or sending or responding to chain letters;
- Destroying, distorting, removing, or concealing other data;
- Attempting to access or accessing another employee's computer, computer account, e-mail or voice mail messages, files or other data without that employee's consent or the consent of an authorized supervisor; and
- Any other use resulting in a direct or indirect cost or exposure to unnecessary risk.

## **15.2 Wireless Communication Safety and Security**

You must remember safety when using your wireless communication devices while driving for business purposes. Do not use a cell phone for business purposes while driving unless you are using a headset, speaker phone, ear bud, or other technology that frees both hands while you talk. Under no circumstances are you to send text messages while driving on System Administration business. If you are charged with a traffic violation resulting from use of wireless communication devices while driving, you are solely responsible for all liabilities that result from such action.

Caution and sound judgment should be exercised when conducting System Administration business over wireless networks, on personal devices, on hotel computers, and with the utilization of "cloud" services. Only secure wireless networks should be utilized when conducting System Administration business. Seek appropriate guidance through the IT Department if you have any questions or concerns.

## **15.3 Use of Licensed Commercial Software**

Except for authorized back up purposes, duplication of licensed software is illegal and is a violation of federal copyright law. Only software authorized and installed by System Administration through its IT Department may be used on System Administration Information Technology Resources. No software may be downloaded from the Internet without the prior approval of the IT Department.

#### 15.4 Additional Resources and Guidance

System Administration's Information Technology Resources (ITR) are supported and, in certain cases, administered and managed by, Texas State University's Division of Information Technology. The System Administration network is an extension of the University's network, and as such, System Administration employees should review the relevant 04.01 Computing Services policies found in Section 4.0 General Administrative Services of the *Texas State University Policies and Procedural Statements (UPPS)*. The UPPS can be found on Texas State University's website under the *Faculty & Staff* menu (<http://www.txstate.edu/effective/upps/upps4-index.html#01>). The authoritative basis of the University's ITR policies are found within the *TSUS Rules and Regulations, Chapter III, Paragraph 19: Information Technology "IT"*.

**Appendix A: Acknowledgement of Receipt of Personnel Policy Handbook**

**ACKNOWLEDGMENT OF RECEIPT OF PERSONNEL POLICY HANDBOOK**

I acknowledge receipt of the Texas State University System Administration (System Administration) Personnel Policy Handbook. I also acknowledge that this Handbook does not create any kind of written or implied contract between System Administration and me. I further acknowledge that this Handbook supersedes all prior oral or written statements by System Administration concerning its employment policies, guidelines, and benefits.

I understand and agree that:

1. My employment is governed by the policies described in the Handbook and it is my responsibility to familiarize myself with and understand all information it contains;
2. I understand that my employment is “at-will,” meaning it is not for a specified period of time and that it may be terminated at any time and for any reason, with or without any cause or advance notice, and with or without a statement of reasons, by either me or System Administration. I further understand that no agreement contrary to the foregoing has been made with me;
3. I understand that, except for the provisions relating to the at-will nature of my employment, System Administration has the right to change my job duties, title and compensation, and revise, supplement or rescind the policies described in the Handbook or to modify or deviate from them at any time with or without prior notice to me or other employees, in System Administration’s sole discretion. System Administration intends to make such revisions in writing and provide them to its employees within a reasonable time; and
4. This acknowledgment must be signed and returned to the Associate Vice Chancellor for Finance within seven (7) days of my start date or receipt of the Handbook, whichever is later.

I have received and read this ACKNOWLEDGMENT OF RECEIPT OF PERSONNEL POLICY HANDBOOK.

\_\_\_\_\_  
Employee Name (please print)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

***Appendix B: System Rules and Regulations, Chapter VIII, Paragraph 4.2, Code of Ethics***

4. CODE OF ETHICS.

4.2 Prohibited Actions of Employees. An employee of The Texas State University System or any of its components shall not:

- (1) Accept or solicit any gift, favor or service that might reasonably tend to influence the employee in the discharge of official duties;
- (2) Use an official position to secure special privileges or exemptions for the employee or others, except as may be otherwise authorized by law;
- (3) Accept employment or engage in any business or professional activity which might reasonably be expected to require or induce the employee to disclose confidential information acquired by reason of such employee's official position or impair the employee's independence of judgment in the performance of public duties;
- (4) Disclose confidential information gained by reason of one's employment, or otherwise use such information for personal gain or benefit;
- (5) Transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member or in which the employee owns a controlling interest unless the Board of Regents has reviewed the matter and determined no conflict of interest exists;
- (6) Make personal investments in any enterprise which could reasonably be expected to create a substantial conflict between the private interests of the employee and the public interests of his or her employer;
- (7) Receive any compensation for services as a state employee from any source other than the State of Texas, except as otherwise permitted by law;
- (8) Commit any act of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; knowingly authorizing improper claims; or,
- (9) Engage in any form of sexual harassment or racial harassment as defined in these Rules and Regulations.

***Appendix C: System Rules and Regulations, Chapter VIII, Paragraphs 3.1 and 3.7, Conflicts of Interest; Paragraphs 6.3-6.11, Political Activities; and Paragraphs 8.1 and 8.2, Dual Office Holding***

3. CONFLICTS OF INTEREST.

- 3.1 Ethics Commission Financial Disclosure Statements. Each Regent, the Chancellor and the presidents of the components shall file a financial statement with the Texas Ethics Commission not later than April 30, each year in which such Regent, Chancellor or president has served in such capacity for any portion of the immediately preceding twelve (12) months on forms prescribed by the commission.
- 3.7 Disclosure of Interest in Property to be Acquired. Regents, the Chancellor and the president of the component are required to disclose any legal or equitable interest in property that is to be acquired with public funds. Such disclosure must be made at least 10 days before the date the property is to be acquired by purchase or condemnation.

6. POLITICAL ACTIVITIES.

- 6.3 Entertainment. If a System or component employee provides tickets to a public official to allow the official and/or his guests to attend an event, an officer or employee of the System or a component will serve as host to the official, and must attend the event.
- 6.4 Perishable Food Items. System or component employees may provide Public officials with small, infrequent gifts of perishable food items delivered to their offices. These are not considered to be "benefits" for purposes of the provisions of the Penal Code prohibiting such.
- 6.6 Use of Official Authority Prohibited. No System or component employee may use his or her official authority or influence, or permit the use of a program administered by the System to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. No System or component employee may do any act or attempt to interfere with anyone who seeks to pay, lend, or contribute private funds or private property to a person or political organization for political purposes. Any System or component employee who violates either of these provisions is subject to immediate termination of employment, in accordance with the Government Code.
- 6.7 Use of System Funds or Property. No System or component employee shall expend or authorize the expenditure of any System or component funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure. No System or component funds may be expended for the payment of full or partial salary of any employee who is also the paid lobbyist of any individual, firm, association, or corporation. System and component facilities may be used as polling places for local, state, and national elections.
- 6.8 Voting and Political Participation. As employees of the State of Texas, System and component employees have the rights of freedom of association and political participation guaranteed by the state and federal constitutions, except as limited by valid state laws. System and component employees shall be allowed sufficient time off to vote in public elections without a deduction from pay or from accrued leave time.

- 6.10 Employees as Candidates and Officeholders. System and component employees may run for election and serve as members of the governing bodies of school districts, cities, towns, or other local governmental districts. No campaign activities may be conducted during official business hours unless the employee has requested and received permission to use leave time for such purpose. Any employee elected to such a position may not receive any salary for serving as a member of such governing bodies.
- 6.11 Political Contributions from Employees. System and component employees may make personal contributions to candidates for office and political organizations, with the exception that no state employee may contribute personal services, money, or goods of value to a candidate campaigning for speaker of the Texas House of Representatives.

8. DUAL OFFICE HOLDING.

- 8.1 Non-Elective State or Federal Office. System and component employees may hold non-elective offices with boards, commissions, and other state and federal entities provided that the holding of such office, (1) is of benefit to the State of Texas, or is required by state or federal law, and (2) is not in conflict with the employee's position. Such appointments must be approved by the responsible CEO of the component. Prior to the Chancellor's or a CEO's accepting an invitation to serve in an additional non-elective office, the Board of Regents must determine that the appointment meets the two requirements stated above. The Board must also make an official record of any compensation to be received by the Chancellor or CEO from such appointment, including salary, bonus, per diem or other types of compensation.
- 8.2 Positions of Employment with Government Agencies. System and component employees may hold other positions of employment with agencies, boards, commissions, or other entities of government so long as the holding of such positions is consistent with the prohibitions against dual office holding in the Texas Constitution. Special rules for multiple employments with the State are provided in General Appropriations Act, Article IX, Section 9. The person seeking dual employment must be informed of the special rules before that person becomes employed by more than one agency or institution. Consulting arrangements with federal, state, or local governmental agencies of a detached and independent advisory nature are not considered to be appointments with such agencies.

***Appendix D: System Rules and Regulations, Chapter VIII, Paragraph 5, Benefits, Gifts and Honoraria***

5. BENEFITS, GIFTS AND HONORARIA.

- 5.1 Definitions. A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a Regent or an employee has a direct and substantial interest.
- 5.2 Bribery. A Regent or an employee shall not solicit, offer, or accept any benefit in exchange for his or her decision, opinion, recommendation, vote, or other exercise of official power or discretion.
- 5.3 Prohibited Benefits. A Regent or an employee shall not solicit, accept, or agree to accept any benefit from any person the Regent or employee knows is interested in or is likely to become interested in any contract, purchase, payment, claim, or transaction involving the Regent's or employee's discretion. This prohibition does not apply to (1) gifts or other benefits conferred on account of kinship or a personal, professional, or business relationship independent of a Regent's or employee's status, respectively, as a member of the Board or as an employee; (2) a fee prescribed by law to be received by a Regent or employee or any other benefit to which he or she is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a member of the Board or an employee of the System or a component; (3) a gift, award, or memento that is received from a lobbyist who is required to make reports under Government Code, Chapter 305 and, (4) items having a value of less than \$50, not including cash or negotiable instruments. A Regent or an employee who receives an unsolicited benefit that he or she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.
- 5.4 Food, Lodging, Transportation, and Entertainment Received as a Guest. A Regent or employee may accept food, lodging, transportation, or entertainment from persons or entities he or she knows or reasonably should know are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the Board's discretion only if the Regent or employee is a "guest" as defined by Texas law. A Regent or an employee is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the Regent or employee. Regents, the Chancellor and the presidents of components are required to report any such benefits valued at over \$250 on their annual disclosure statements filed with the Texas Ethics Commission.
- 5.5 Gifts or Benefits From Friends, Relatives, and Associates. Regents and employees may accept gifts or benefits from personal friends, relatives, or business associates with whom they have a relationship independent of their official status, so long as the benefit is not offered in exchange for official action or decision.

- 5.6 Awards. Regents and employees may accept plaques and similar recognition awards.
- 5.7 Honoraria. Regents and employees may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide but for their official position or duties. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking engagement at a conference or similar event, provided the Regent's or employee's participation is more than merely perfunctory. Meals provided as a part of the event or reimbursement for actual expenses for meals may also be accepted.

**Appendix E: System Rules and Regulations, Chapter VIII, Paragraph 1, Anti-Fraud Policy and Reporting of Wrongful or Fraudulent Conduct**

1. ANTI-FRAUD POLICY AND REPORTING OF WRONGFUL OR FRAUDULENT CONDUCT.

- 1.1 Anti-Fraud Statement. The Texas State University System does not tolerate any type of fraud, waste, or abuse. The System is committed to ensuring that our organization maintains the highest standards of ethical conduct and integrity throughout all aspects of its operations. As public servants, System faculty and staff are guardians of the resources entrusted to them and have a responsibility to students, parents, alumni, donors, and the citizens of Texas to ensure that those resources are used efficiently and for their intended purposes. The System does not tolerate any form of retaliation against individuals providing information concerning suspected fraud, material waste, abuse, or other unethical behavior.
- 1.2 Chancellor and President Responsibilities. If the Chancellor has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the Chair of the Finance and Audit Committee, and to the System Director of Audits and Analysis. If a President has such reasonable cause, he or she shall report the same to the Chancellor and to the System Director of Audits and Analysis.
- 1.3 Employee Responsibility. If an employee has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the component Internal Audit Director; to the System Director of Audits and Analysis; to *EthicsPoint*, the System's internet-based fraud reporting hotline; or to the State Auditor's Office.
- 1.4 *EthicsPoint* Fraud Reporting Hotline. The System has established, through a private contractor, an internet-based reporting hotline, *EthicsPoint*, to provide individuals with a confidential avenue for reporting concerns about potential waste, fraud, and abuse of resources, the lack of compliance with laws and regulations, or violations of the System's *Code of Ethics*. Reports filed through *EthicsPoint* are forwarded to and investigated by individuals who are independent of System management. *EthicsPoint* can be accessed through the components' and the System Office's webpages. Except in rare circumstances, reports received through *EthicsPoint* will not be investigated if the complaint is anonymous and/or established complaint processes at the campus-level have not been utilized. The *Texas Public Information Act* shall govern rules on disclosure of documents and records.

- 1.5. Reports to State Auditor's Office. The Texas State University System, through the Director of Audits and Analysis, will report suspected fraud or unlawful conduct to the State Auditor's Office (SAO) if he or she knows of facts pointing to fraud or unlawful conduct. Employees may report fraud involving state funds to the SAO through the System's Hotline; by accessing the SAO Fraud Reporting webpage or by mail to the SAO.

**Appendix F: System Rules and Regulations, Chapter II, Paragraph 4.11, Nepotism Rule**

4. OPERATIONS.

4.1 Employment.

4.11 Nepotism Rule. No individual may be employed in the System Administration who is related within the first degree of consanguinity to a member of the Board of Regents, or to an employee in the System Administration. The restrictions of *Government Code, Chapter 573* shall govern the employment of any relative of a member of the Board of Regents. This rule is not retroactive.

2.2 Appointment of Relatives (Nepotism Rule).

2.21 Each appointment of an employee at a Component, whether on a full-time or part-time basis, shall be made solely with regard to the special fitness of the appointee subject to applicable statutes and subject also to the provisions of this *Section* of the System's *Rules and Regulations*.

2.22 In accordance with the prohibition of *Government Code, Chapter 573*, no person related to any member of the Board of Regents within the second degree of affinity or within the third degree by consanguinity shall be eligible for appointment to any office, position, employment, or duty with any Component of The Texas State University System, when the salary, fee, or compensation of such appointee is to be paid, either directly or indirectly, out of public funds of any kind.

2.221 *Government Code, Chapter 573* does not prohibit the reappointment or continued employment of any person who shall have been continuously employed in any such office, position, employment, or duty for a period of one (1) year prior to the appointment of the member of the Board of Regents related to such person within the prohibited degree, nor does it prohibit honorary or non-remunerative positions.

2.222 The prohibition of *Government Code, Chapter 573* applies to all programs administered under the Board of Regents and may not be waived.

2.223 When a person is allowed to continue employment because of the operation of the exception specified by *Subsection 2.221* of this *Chapter*, the Board member who is related to such person shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bonafide class or category of employee.

2.23 Even though the appointment of a person would not be prohibited by *Government Code, Chapter 573*, special arrangements for personnel actions must be made before a Component may employ any person related within the second degree of affinity or the third degree of consanguinity to another employee if:

- (a) Such employment causes one relative to have a direct supervisory relationship over the other relative; or
- (b) Such employment causes one relative to have authority over the salary or other terms of employment of the other.

This policy does not prohibit the reappointment or continued employment of any person related to another within either of the prohibited degrees who shall have been employed in a Component before the adoption of this policy. However, no System employee may approve, recommend, or otherwise act with regard to the appointment, reappointment, promotion, or salary of any person related within either of the prohibited degrees.

2.231 If the appointment, reappointment or continued employment of a person places such person under an administrative supervisor related within the above specified degree, all subsequent actions with regard to reappointment, promotion, or salary shall be the responsibility of the next highest administrative supervisor. It shall also be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually and submit each review for approval or disapproval by the Component's appropriate vice president in the case of classified employees or the President in the case of faculty or unclassified employees. When appropriate, the next highest administrator may delegate these responsibilities to another administrator who is neither related to the person subject to the personnel actions nor in that person's reporting line.

2.232 All situations covered by *Subsection 2.231* of this *Chapter* shall be reported annually in May through the Components' President's Report to the Board.

**Appendix G: System Rules and Regulations Chapter II, Paragraph 4.4, Staff Development Program Rules**

4.4 Staff Development Program Rules.

- 4.41 Definition. This program is to provide training through workshops, seminars, institutes, training sessions, extension courses, Component courses (with or without academic credit), and other special programs or activities offered either within or outside the State as authorized by *Government Code, Chapter 656*. Such programs must be of concentrated, precise content and designed to improve the individual's professional or technical knowledge in the performance of the individual's present or prospective duties and responsibilities. This program is for selected individual staff members and will be provided on the basis of need of the System and to the extent funds are available.
- 4.42 Objectives. To improve and enhance the individual's professional and technical knowledge and ability in the performance of the individual's present or prospective duties and responsibilities.
- 4.43 Program Elements. This program is generally the type that meets the following criteria: relatively short term, specific in content, and presented outside the employing agency.
- 4.44 Administration - Eligibility Requirements.
- (1) Out-of-Agency Staff Development education and training authorized by the System will be conducted primarily for the benefit of the System.
  - (2) The training and education must be related to the employee's current or prospective duty assignment during the period of participation.
  - (3) Such training and education must be approved by the Chairman of the Board of Regents for System Administration personnel or Component Presidents and by the Governor's Office for Regents.
- 4.45 Administration - Obligations. Employees receiving Out-of-Agency Staff Development authorized by the System will be obligated to fulfill such terms and conditions as the Chairman of the Board of Regents may prescribe compatible with the nature and extent of the training or education.

***Appendix H: System Rules and Regulations, Chapter II, Paragraph 4.2, Expenses and Allowances***

4. OPERATIONS.

4.2 Expenses and Allowances. Reimbursement of travel and related expenses shall be allowed employees of the System administration, in accordance with *Texas Government Code, Chapter 660*, for the following:

4.21 Attending regular and special meetings of the Board.

4.22 Attending formal meetings of Board committees.

4.23 Visiting a Component on System business.

4.24 Attending conferences, workshops, and/or seminars for continuing professional education with approval of the Chancellor.

4.25 Such other special and limited purposes in accordance with State regulations. Verified expense accounts shall be submitted to the Chancellor for approval, and the same shall be subject to review and control by the Board. The Chancellor shall be reimbursed for expenses incurred, which shall be reported quarterly to the Chair of the Finance and Audit Committee.

***Appendix I: Longevity Pay Information***

**Accrual of lifetime service credit -- Texas Government Code Section 659.046:**

An employee accrues lifetime service credit for the period in which the employee:

- (1) Serves as a full-time, part-time, or temporary state employee or otherwise serves as an employee of the state;
- (2) Serves as a member of the legislature;
- (3) Holds a statewide office that is normally filled by vote of the people; or
- (4) Serves as an academic employee of a state institution of higher education.

**Longevity pay information unique to people who retired from state employment before June 1, 2005, and who returned to state employment before and after September 1, 2005:**

A state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, is entitled to receive longevity pay. The monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay that the employee was entitled to receive immediately before September 1, 2005. A state employee who retired from state employment before June 1, 2005, and returns to state employment on or after September 1, 2005, is not entitled to receive longevity pay.

**Longevity Pay Table**

<b>Years of Service</b>	<b>Monthly Longevity Pay</b>		<b>Years of Service</b>	<b>Monthly Longevity Pay</b>
Less than 2 years	\$0		Greater than 22 and less than 24 years	\$220
Greater than 2 and less than 4 years	\$20		Greater than 24 and less than 26 years	\$240
Greater than 4 and less than 6 years	\$40		Greater than 26 and less than 28 years	\$260
Greater than 6 and less than 8 years	\$60		Greater than 28 and less than 30 years	\$280
Greater than 8 and less than 10 years	\$80		Greater than 30 and less than 32 years	\$300
Greater than 10 and less than 12 years	\$100		Greater than 32 and less than 34 years	\$320
Greater than 12 and less than 14 years	\$120		Greater than 34 and less than 36 years	\$340
Greater than 14 and less than 16 years	\$140		Greater than 36 and less than 38 years	\$360
Greater than 16 and less than 18 years	\$160		Greater than 38 and less than 40 years	\$380
Greater than 18 and less than 20 years	\$180		Greater than 40 and less than 42 years	\$400
Greater than 20 and less than 22 years	\$200		Greater than 42 years	\$420

***Appendix J: System Rules and Regulations, Chapter II, Paragraph 4.12, Retirement Programs***

4. OPERATIONS.

4.12 Retirement Programs. The Board of Regents authorizes the System Administration to make retirement programs available to its employees through the Teacher Retirement System of Texas and optional retirement programs.

**Appendix K: Vacation Accrual and Carryover Table and Information Regarding Certain Retired State Employees Who Have Returned to State Employment**

**VACATION ACCRUAL AND CARRYOVER TABLE**

<b>TOTAL STATE EMPLOYMENT</b>	<b>HOURS ACCRUED PER MONTH</b>	<b>MAXIMUM CARRYOVER</b>
0 but less than 2 years	8	180
2 but less than 5 years	9	244
5 but less than 10 years	10	268
10 but less than 15 years	11	292
15 but less than 20 years	13	340
20 but less than 25 years	15	388
25 but less than 30 years	17	436
30 but less than 35 years	19	484
At least 35 years or more	21	532

**INFORMATION REGARDING CERTAIN RETIRED STATE EMPLOYEES WHO HAVE RETURNED TO STATE EMPLOYMENT**

State employees who retired from state employment *before* June 1, 2005 and returned to state employment before September 1, 2005 accrue vacation leave at the same rate they were entitled to immediately before September 1, 2005. State employees who retired from state employment *on or after* June 1, 2005 and returned to state employment on or after September 1, 2005 accrue vacation leave based on their length of state service after returning to work.

## **Appendix L: Sick Leave Pool Policy**

### **1.00 Purpose**

As authorized by Texas *Government Code, chapter 661, subchapter A*, System Administration (System Administration) shall maintain a "Sick Leave Pool" to help alleviate the economic hardship sustained by any employee who is afflicted or directly affected by a catastrophic injury or illness. The Vice Chancellor for Finance or his/her designee shall be the Sick Leave Pool Administrator.

### **2.00 Definitions**

2.01 A *catastrophic injury or illness* is a severe condition(s) severely impairing a major life function(s) of the employee or of a member of the employee's immediate family that requires prolonged treatment of licensed medical or health care practitioner as defined under Texas law. Catastrophic illness does not include routine pregnancy, unless a physician certifies in writing that a pregnancy is not routine and states the reasons why it is not.

2.02 *Immediate family* includes individuals related to the employee by kinship, adoption, marriage, or foster parenthood (certified by the Texas Department of Human Services), who live in the same household as the employee, and individuals related by kinship, adoption, or marriage who do not live in the same household but are totally dependent upon the employee for personal care or services on a continuing basis.

### **3.00 Eligibility**

3.01 *Scope of Participation*. SA employees, who are eligible to accrue and use sick leave, may participate in the Sick Leave Pool for their own or an immediate family member's catastrophic injury or illness. They are not required to contribute to the pool before they can use pool leave; nor, are they required to repay pool leave awarded.

3.02 *Exhaustion of Leaves*. An employee must exhaust all earned leave with pay entitlements (e.g., sick and annual leave, compensatory time) before drawing from the Sick Leave Pool. Such employee shall continue to accrue vacation and sick leave, provided he or she returns to work following the leave, at which time he or she will be credited with the leave accruals for future use.

3.03 *Worker's Compensation*. An employee eligible to receive worker's compensation benefits because of a work-related injury or illness is ineligible to use pool leave for that injury or illness.

#### 4.00 Procedures

- 4.01 *Contributing to Pool.* Upon written application to and approval by the Pool Administrator, any employee may voluntarily contribute an unlimited number of hours to the pool. Such contribution shall be in eight-hour increments, except for a departing employee, who may contribute in other than such increments. The contributing employee may not stipulate who is to receive the contribution(s), which shall be irrevocable, except that a contributing employee, who subsequently exhausts his or her sick leave balance in the same fiscal year, may petition the Pool Administrator to reclaim any or all of the contributed hours.
- 4.02 *Requesting Pool Leave.* Request for pool leave must be in a form and in accordance with procedures specified by the Pool Administrator, who normally will consider such requests on a first-come, first-served basis. Because pool leave is not a legal entitlement, the Pool Administrator shall not be required to state his or her reasons for denying a request; and, no employee (including an employee who contributed hours to the pool) should consider that he or she has a property right or interest in being granted benefits from the pool.
- 4.02.01 *Timing.* Within ten (10) working days, the Pool Administrator must either approve all or part of a request or deny the request.
- 4.02.02 *Amount Limits.* The amount of pool leave granted for each catastrophic injury or illness begins on the first (1st) workday following expiration of the thirty (30) day waiting period required in Section 2.02 above or after the employee has exhausted all available earned leave and pay entitlements, whichever date occurs later. The total amount of pool leave granted may not exceed one-third (1/3) of the balance of hours in the pool or ninety (90) days, whichever is less.
- 4.02.03 *Unused Leave.* Any unused balance of pool leave granted to an employee returns to the pool. The estate of a deceased employee is not entitled to payment for unused pool leave.
- 4.02.04 *Medical Verification.* An employee applying for pool leave shall provide such medical or other releases and verifications as the Pool Administrator shall require in ascertaining whether or not the claimed catastrophic injury or illness meets the eligibility requirements of this policy.
- 4.02.05 *Appeal.* Any employee, who feels aggrieved by the Pool Administrator, may appeal to the Chancellor in writing within five (5) working days of the action of which he or she complains.
- 4.03 The Pool Administrator shall design and implement a system of records management and reporting of Sick Leave Pool Activity. The total leave time available in the pool shall be reported annually to the Chancellor and shall be available to System Administration employees upon verbal or written request and to others in accordance with the Texas Public Information Act.

**Forms:** Pool Administrator Approval Letter  
Sick Leave Pool Request/Donation  
Certification of Health Care Provider

Date

Name

Address

City, State ZIP

Dear \_\_\_\_\_,

Your request for sick leave pool leave has been approved. You have been awarded \_\_\_\_\_ hours from the sick leave pool to cover the period of \_\_\_\_\_.

The sick leave pool has a thirty (30) working day waiting period before an employee is eligible for pool leave. Your thirty (30) working day waiting period ends on \_\_\_\_\_.

You exhausted your paid leave on \_\_\_\_\_, therefore you will be on leave without pay (\_\_\_\_\_.hours) through \_\_\_\_\_.

As long as you continue to receive paid leave for any portion of a month, you will receive the state contribution towards your health coverage and we will continue to deduct your premiums from your regular paycheck.

If you are in a leave without pay status for a full calendar month, you are still entitled to continue to receive the state contribution. However, any out-of-pocket premiums are your responsibility. The Employees Retirement System (ERS) will send you a letter for any premiums due in case you do not receive a paycheck with deductions for any given month.

If you have any questions regarding the Sick Leave Pool, please contact the Associate Vice Chancellor for Finance, Ms. Claire Jackson, at (512) 463-8913.

Sincerely,

Dr. Roland K. Smith  
Vice Chancellor for Finance  
and Sick Leave Pool Administrator

**Texas State University System**  
**System Administration**  
**Sick Leave Pool Request/Donation Form**

Name of Employee: \_\_\_\_\_ SSN: \_\_\_\_\_

**DONATION:**

I wish to donate \_\_\_\_\_ hours of sick leave to the Sick Leave Pool. I understand that these hours will be deducted from my current sick leave balance and cannot be refunded to me.

*Unlimited sick leave may be donated to the pool in eight hour increments only (i.e. 8, 16, 24, etc.).*

**REQUEST:**

I wish to request \_\_\_\_\_ hours from the Sick Leave Pool.

State the nature of the catastrophic injury or illness: \_\_\_\_\_

**Please attach a complete Certification of Health Care Provider form.**

Request if for: \_\_\_\_\_ Employee      \_\_\_\_\_ Immediate Family Member (specify relationship)

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Sick Leave Pool Administrator

\_\_\_\_\_  
Date

Dr. Roland K. Smith

- Instructions:
1. Complete information above.
  2. Attach timesheet reflecting last day worked
  3. Forward to Vice Chancellor for Finance

**Certification of Health Care Provider**

1. Review attached descriptions of "serious health condition" as used under the Family and Medical Leave Act.

Does the patient's condition qualify under any of the categories described?

( ) Yes ( ) No

If yes, please list the applicable category(ies):

2. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

3. a. State approximate date the condition commenced \_\_\_\_/\_\_\_\_/\_\_\_\_\_, and the probable duration of the condition.

From \_\_\_\_/\_\_\_\_/\_\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_\_.

(Also give the probable duration of the patient's present incapacity if different)

From \_\_\_\_/\_\_\_\_/\_\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_\_.

- b. Will it be necessary for the employee to work only intermittently or on a less than full schedule as a result of the condition (including for treatment described in item 4 below)?

( ) Yes ( ) No

If yes, please give probable duration. From \_\_\_\_/\_\_\_\_/\_\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_\_

- c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity:<sup>1</sup>

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<sup>1</sup> "Incapacity, for purposes of FMLA, is deemed to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.

4. a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments: \_\_\_\_\_

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

5. a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind?  
( ) Yes ( ) No

b. If able to perform some work, is the employee unable to perform any or more of the essential functions of the employee's job (the employee should supply you with information about the essential job functions)?

\_\_\_\_ If yes, please list the essential functions the employee is unable to perform:

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment?  
( ) Yes ( ) No

6. a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?  
( ) Yes ( ) No

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery?

( ) Yes ( ) No

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

From \_\_\_\_/\_\_\_\_/\_\_\_\_ to \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Date

\_\_\_\_\_  
Signature of Health Care Provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Type of Practice

\_\_\_\_\_  
Address City, State, Zip

(\_\_\_\_)\_\_\_\_\_  
Phone Number

**To be completed by the employee needing family leave to care for a family member:**

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

*Appendix M: FMLA Definitions*

**Covered Active Duty:** For a member of the regular Armed Forces, duty during deployment with the Armed Forces to a foreign country. For a member of a reserve component of the Armed Forces (including the Reserve, National Guard, Ready Reserve, Selected Reserve, Individual Ready Reserve, certain retired Regular Armed Forces, and certain retired members of the Reserves), duty during deployment with the Armed Forces to a foreign country under a call or order to active duty. Does not include members of the state military unless they are called into federal service.

**Covered Military Member:** A spouse, son, daughter or parent who is on *covered active duty* or on call to *covered active duty* status.

**Covered Servicemember:** A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy; is otherwise in *outpatient status*; or is otherwise on the temporary disability retired list for a “*serious injury or illness*.” A *covered servicemember* is in “*outpatient status*” if he/she has been assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. A “*serious injury or illness*” is an injury or illness suffered by the *covered servicemember* in the line of duty while on *covered active duty*, or an injury or illness incurred because service on *covered active duty* aggravated a pre-existing injury or illness, that may render the *covered servicemember* medically unfit to perform the duties of his/her office, grade, rank, or rating; or

A *veteran* who is undergoing medical treatment, recuperation or therapy for a “*serious injury or illness*” and who was a member of the Armed Forces (including the National Guard or Reserves) at any time during the five years before the date the *veteran* undergoes the medical treatment, recuperation or therapy.

**Health Care Provider:** An individual authorized by the state in which he or she is licensed to diagnose and treat physical or mental health conditions, including:

- A doctor of medicine or osteopathy licensed by the state;
- A podiatrist, dentist, clinical psychologist, optometrist, and chiropractor performing within the scope of his or her practice as defined by state law;
- A nurse practitioner, nurse midwife, clinical social worker and physician’s assistant performing within the scope of his or her practice as defined by state law;
- A Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts;

- Any *health care provider* from whom a system health plan will accept certification of a *serious health condition* to pay a claim for benefits; or
- A *health care provider* listed above who practices outside the United States, performing within the scope of his or her practice as defined under that country's laws.

***Incapable of Self-care:*** Requiring active assistance or supervision to perform three or more activities of daily living. Activities of daily living include, but are not limited to, grooming, maintaining hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office and similar activities.

***Incapacity:*** The inability to work, attend school or perform other regular daily activities due to a *serious health condition*, treatment of the condition or recovery from the condition.

***In Loco Parentis:*** The status of a person who holds day-to-day responsibility to care for and/or financially supports a child, or who had such responsibility when the individual was a child. The status does not require a biological or legal relationship.

***Inpatient Care:*** An overnight stay in a hospital, hospice or residential medical care facility, including any period of *incapacity* or any subsequent treatment in connection with the inpatient care.

***Intermittent Leave:*** *FMLA* leave taken in separate blocks of time due to a single qualifying reason, as opposed to *FMLA* leave taken during one continuous period of time. May be taken on an occasional basis, such as for medical appointments, or several days at a time over a period of months, such as for chemotherapy.

***Next of Kin of a Covered Servicemember:*** the nearest blood relative other than the servicemember's *spouse, parent, son or daughter*, in the following order of priority: blood relatives who have been granted legal custody of the *covered servicemember* by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins. However, if the servicemember has specifically designated another blood relative in writing as his/her nearest blood relative for the purposes of military caregiver leave under the *FMLA*, then that designee is the only *Next of Kin*. If the servicemember has made no designation and multiple family members have the same level of relationship to the servicemember, each of them shall be considered the *Next of Kin* and each may take *FMLA* leave to care for the servicemember, either consecutively or simultaneously.

***Parent:*** Your biological, adoptive, step-or foster father or mother, or an individual who stood *in loco parentis* to you when you were a "*Son or Daughter*," as defined in this policy. The term does not include parents-in-law.

***Qualifying Exigency:***

- *Short-notice deployment* -- Up to 7 days of leave may be taken when a family member receives notice of 7 days or less of an impending call or order to *covered active duty*.
- *Military events and activities* -- Leave may be taken to attend official ceremonies, programs, or events sponsored by the military and relating to the call to *covered active*

*duty*. Leave also may be taken to attend support or assistance programs or informational briefings sponsored by the military, a military service organization, or the Red Cross, provided that the briefings or programs are related to the call to *covered active duty*.

- *Childcare and school activities* – Leave may be taken to perform one or more of the following for the child of a *covered military member* due to his/her call to *covered active duty* service: arrange alternative childcare; provide childcare on an urgent, immediate need basis; enroll in or transfer to a new school or day care; or attend meetings with staff at a school or a day care facility.
- *Financial and legal arrangements* – Leave may be taken to make or update financial or legal arrangements to address a *covered military member's* absence while on *covered active duty* or call to *covered active duty* status; or the need to act as the *covered military member's* representative before a federal, state or local agency to obtain, arrange or appeal military service benefits while the *covered military member* is on call to *covered active duty* status, and for a period of 90 days following the termination of the *covered military member's covered active duty* status.
- *Counseling* -- Leave may be taken to attend counseling provided by someone other than a *health care provider* for oneself, for the *covered military member*, or for the *covered military member's* child, if the need for counseling arises from the *covered military member's* call to *covered active duty* status.
- *Rest and recuperation* -- Up to 5 days of leave is available to spend time with a *covered military member* who is on short-term, temporary *rest and recuperation* leave during the period of deployment.
- *Post-deployment activities* -- Leave may be taken to attend arrival ceremonies, reintegration briefings, and events and any other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the *covered military member's covered active duty* status; or the need to address issues that arise from the death of a *covered military member* while on *covered active duty* status.
- *Additional activities* -- Leave may be available to address other events that arise out of the *covered military member's* call to *covered active duty* status, as long as the need and reason for the leave, as well as its timing and duration, are mutually agreed upon by you and your supervisor, subject to approval by the Chancellor.

**Reduced Leave Schedule:** A leave schedule that reduces your usual number of working hours per workweek or hours per workday. A reduced leave schedule is a change in your work schedule for a period of time, typically from full-time to part-time.

**Serious Health Condition:** An illness, injury, impairment, or physical or mental condition that involves either *inpatient care* or continuing *treatment* by a *health care provider*. Continuing *treatment* by a *health care provider* includes one or more of the following:

- A period of *incapacity* that lasts more than three consecutive full calendar days, plus either (a) an in-person *treatment* by a *health care provider* at least once within seven days of the first day of *incapacity*, followed by a regimen of continuing *treatment*

supervised by the *health care provider*, or (b) two or more *treatments* within 30 days of the first day of *incapacity*;

- A period of *incapacity* due to pregnancy or for prenatal care;
- A chronic *serious health condition*, defined as one that requires at least twice-yearly visits for *treatment* by a *health care provider*, that continues over an extended period of time, and that may cause episodic rather than continuing *incapacity*;
- A permanent or long-term period of *incapacity* due to a condition for which *treatment* may not be effective. The patient must be under the continuing supervision of a *health care provider*, but need not be receiving active *treatment*; or
- Conditions that require multiple *treatments* by a *health care provider* for restorative surgery after an accident, injury, or condition that would likely result in a period of *incapacity* lasting more than three full consecutive calendar days unless medically treated.

As used in this definition, “*treatment*” includes, but is not limited to, examinations to determine if a *serious health condition* exists and evaluations of the condition. It does not include routine physical exams, eye exams, or dental exams. A course of prescription medicine or therapy requiring special equipment to resolve or alleviate the condition would qualify as a “*regimen of continuing treatment*.” On the other hand, a regimen that includes use of over-the-counter medicines, bed rest, fluid intake, exercise and other similar activities that can be initiated without a visit to a *health care provider* would not, by itself, constitute a “*regimen of continuing treatment*.” Substance abuse may be a “*serious health condition*” if the other requirements of the term are met. However, *FMLA* leave for substance abuse may be taken only for its treatment by a *health care provider* and not for your absence from work due to your use of the substance.

**Son or Daughter:** For purposes of Military Caregiver Leave and Qualifying Exigency leave: a biological, adopted, foster or stepchild, legal ward, or a child for whom you stood *in loco parentis* and who is of any age. For all other *FMLA*-covered reasons: your biological, adopted, foster or stepchild, legal ward, or a child for whom you stood *in loco parentis*, who is either (a) under 18 years old, or (b) 18 years old or older and *incapable of self-care* because of a mental or physical disability at the time the *FMLA* leave will begin.

**Spouse:** A husband, wife, or partner to a common-law marriage, as those terms are recognized under the law of the state where you reside.

**Veteran:** A person who served in the active military, naval, or air service of the United States, and who was discharged or released from that service under conditions other than dishonorable.

## ***Appendix N: FMLA Employee Rights and Responsibilities***

### **EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT**

#### **Basic Leave Entitlement**

*FMLA* requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

#### **Military Family Leave Entitlements**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

*FMLA* also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

#### **Benefits and Protections**

During *FMLA* leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from *FMLA* leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of *FMLA* leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

#### **Eligibility Requirements**

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

### **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a *health care provider* for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a *health care provider* or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

### **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

### **Substitution of Paid Leave for Unpaid Leave**

leave. In order to use paid leave for *FMLA* leave, employees must comply with the employer's normal paid leave policies.

Employees may choose or employers may require use of accrued paid leave while taking *FMLA*

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take *FMLA* leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures. Employees must provide sufficient information for the employer to determine if the leave may qualify for *FMLA* protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a *health care provider*, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which *FMLA* leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **Employer Responsibilities**

Covered employers must inform employees requesting leave whether they are eligible under *FMLA*. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as *FMLA*-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not *FMLA*-protected, the employer must notify the employee.

### **Unlawful Acts by Employers**

*FMLA* makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under *FMLA*;
- Discharge or discriminate against any person for opposing any practice made unlawful by *FMLA* or for involvement in any proceeding under or relating to *FMLA*.

### **Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

*FMLA* does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

***FMLA* section 109 (29 U.S.C. § 2619) requires *FMLA* covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.**

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**For additional information:** 1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
**WWW.WAGEHOUR.DOL.GOV** U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division WHD Publication 1420 Revised January 2009

## ***Appendix O: Special Purpose Leave Types***

**Parent/Teacher Conference Leave.** You may use up to eight hours of sick leave each fiscal year to attend parent-teacher conference sessions for your children who are in pre-kindergarten through 12th grade. You must give reasonable notice of your intent to use sick leave to attend these conferences. You should submit a request for approval of this leave, or obtain your supervisor's verbal or e-mail approval of the request, before taking such leave.

**Leave for Organ or Bone Marrow Donors.** You are entitled to a leave of absence, without a deduction in salary or accrued leave, for the time necessary to serve as a bone marrow or organ donor. The leave of absence provided by this section may not exceed:

- Five working days in a fiscal year to serve as a bone marrow donor, or
- 30 working days in a fiscal year to serve as an organ donor.

This leave must be approved in advance through your supervisor and the Chancellor.

**Leave for Donations of Blood.** You are allowed sufficient time off, without a deduction in salary or accrued leave, to donate blood. You may not receive time off unless you obtain approval from your supervisor before taking time off. On returning to work after taking time off, you must provide your supervisor with proof that you donated blood during the time off. If you fail to provide the proof, the period will be deducted from accrued leave or you will be placed on leave without pay, whichever you choose. This time off is available no more than four times in a fiscal year.

**Governor/Legislative Decree Leave.** In special circumstances, the Governor or Legislature may grant or decree leave to all state employees. A skeleton crew usually maintains office coverage to conduct agency business. When an employee remains on skeleton crew duty, he will earn either state compensatory time or FLSA overtime depending on his FLSA status and hours worked.

**Assistance Dog Training Leave for Employees with a Disability.** If you have a disability, you are entitled to paid leave for the purpose of attending a training program to become acquainted with an assistance dog to be used by you for your disabling medical condition. Leave under this section may not exceed ten working days in a fiscal year. A "person with a disability" is one who has a mental or physical disability, including mental retardation, hearing impairment, deafness, speech impairment, visual impairment, or any health impairment that requires special ambulatory devices or services. The training program must be recognized for specifically training disabled individuals to work with an assistance dog for their disabling medical condition.

**Volunteer Fire Fighter's Leave.** If you are a volunteer fire fighter or an emergency medical services volunteer, you are granted a leave of absence with full pay to attend training schools conducted by state agencies or institutions of higher education. The leave of absence without a deduction in pay under this section cannot exceed five working days in a fiscal year.

**Voting in Elections.** If it is not possible for you to vote before or after normal working hours in a national, state or local election, you may be granted a reasonable period of time off for voting on election day, based on the circumstances. While all employees are eligible for time off to

vote, you should be a currently registered voter in order to use this leave. You are reminded that early voting periods have extended voting hours.

**Witness Leave.** If you appear as a witness on behalf of the State of Texas, time in court is considered time worked. If you are subpoenaed as a non-work-related witness, you must use available annual leave, compensatory leave, overtime leave, or leave without pay to testify on your own or another's behalf or as an expert witness. You may be requested to provide a copy of the subpoena or other written documentation from the attorney or judicial official who called you as a witness.

**Jury Duty Leave.** You will be granted a leave of absence with pay to participate in jury duty. No deductions are made from your accrued leave balances. When you return from jury duty, you should submit a copy of your jury summons and release from duty to your supervisor. You are not required to account to System Administration for any jury service fee or compensation.

**Foster Parent Leave.** If you are a foster parent to a child under the conservatorship of the Texas Department of Family and Protective Services (DFPS), you are entitled to a leave of absence with full pay for the purpose of attending meetings held by the DFPS regarding your foster child. In addition, you may attend, with a paid leave of absence, Admission, Review, and Dismissal (ARD) meetings held by a school district regarding your foster child. You must submit a written request, in advance, to your supervisor when taking Foster Parent Leave.

**American Red Cross Disaster Service Volunteer Leave.** If you are a certified disaster service volunteer of the American Red Cross or in training to become a volunteer, you may be granted paid leave up to ten days each fiscal year to participate in specialized disaster relief services for the American Red Cross. You must have approval from your supervisor, in addition to a formal request to volunteer from the American Red Cross and approval from the Governor. If the above conditions are met, you will not lose pay or applicable accrued paid leave during the leave.

**Court Appointed Special Advocates Volunteer Leave.** You may be granted a leave of absence without a deduction in salary or accrued leave to participate in mandatory training or to perform volunteer services for Court Appointed Special Advocates. Leave without a deduction in salary or accrued leave under this section may not exceed five hours each month.

**Administrative Leave with Pay for Outstanding Performance.** The Chancellor is granted authority by state statute to approve and grant administrative leave with pay to an employee as a reward for outstanding performance as documented by the employee's performance appraisals. The total amount of leave granted to an employee may not exceed thirty-two hours in a fiscal year. This leave must be used in the current fiscal year with the supervisor's approval; earned leave not used within that time will be lost. You will not be paid for earned and unused leave of this type, and it cannot be used to remain on the payroll after the last day worked.

**Amateur Radio Operators.** If you hold an amateur radio station license issued by the Federal Communications Commission, you may be granted leave not to exceed 10 days each fiscal year to participate in specialized disaster relief services, without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time if the leave is taken:

- With the authorization of the Chancellor; and

- With the approval of the Governor.

The number of amateur radio operators who are eligible for leave under this section may not exceed 350 state employees at any one time during a state fiscal year. The Texas Division of Emergency Management coordinates the establishment and maintenance of the list of eligible employees.

**Appendix P: System Rules and Regulations Chapter VII, Paragraph 4.31, Racial Harassment; and Paragraph 4.4, Sexual Harassment**

- 4.31 Definition "Racial Harassment" is defined as extreme or outrageous acts or communications that are intended to harass, intimidate, or humiliate students, faculty, staff or visitors on account of race, color, or national origin and that reasonably cause them to suffer severe emotional distress. No student, faculty, or staff employee is to engage in racial harassment of any person on the campuses of the Components or in connection with a Component-sponsored activity.
- 4.4 Sexual Harassment. No employee, student, or contractor of the System or a Component may sexually harass another person and will be subject to disciplinary action for a violation of this policy.
- 4.4.1 "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic career; 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual; 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive employment or academic environment.
- 4.42 In determining whether alleged conduct constitutes sexual harassment, the System or Component shall construe any act or omission within the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. Each determination shall be made from the facts on a case-by-case basis.
- 4.43 The System and each Component may not dismiss a complaint once registered with an appropriate authority until the case has been resolved by the System or Component. However, the System and each Component may take appropriate disciplinary action for any sexual harassment occurring in the employment or academic environment even in the absence of an individual complaint. Disciplinary action may consist of action up to and including termination of employment or, in the case of students, expulsion from a Component or from the System.
- 4.46 To the fullest extent practicable, the System and Components shall keep complaints of sexual harassment and the terms of their resolution confidential.
- 4.47 If disciplinary action is imposed on an individual for engaging in sexual harassment, the individual may invoke the applicable due process or appeal procedures of the System and Components. The relief provided by the System or Component to a complainant does not depend on any resolution of the complaint or disciplinary action against the accused individual.

**Appendix Q: System Rules and Regulations Chapter VII, Paragraph 4.5, Prohibition on Weapons**

- 4.5 Prohibition on Weapons. It is a violation of these *Rules and Regulations* to possess, carry or otherwise cause a firearm, handgun or other prohibited weapon, licensed or otherwise, concealed or otherwise—to be brought onto the premises of a System Component.
- 4.51 “Premises of a System Component” as used in this *Section* means a structure and the land (including parking lots, garages, or other appurtenances, on which the structure is situated) over which this Board has ownership or control. This prohibition extends to leased, borrowed or other facilities where a System or Component function, event, or activity takes or is taking place but does not apply to: a) presidentially–approved academic or other programs (for example, ROTC or administrator residences, or Component sponsored or approved events); b) law enforcement personnel, acting in performance of their duties; or, c) the transporting of such firearms handguns, or other prohibited weapons for registration with and storage by the Component public safety office; or the president’s home and grounds.
- 4.52 “Prohibited Weapons” as defined by *Texas Penal Code, section 46.01*, includes the following;
- 4.521 “Club” meaning and instrument (for example, a blackjack, nightstick, mace, numbchuck or tomahawk) that is specifically designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person;
- 4.522 “Explosive weapon,” meaning any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror (whether such a weapon is designed, made, or adapted for delivery or shooting);
- 4.523 “Firearm,” meaning any device designed, made, adapted, or readily adaptable to expel a projectile through a barrel by using the energy generated by an explosion or burning substance (excluded are antique or curio firearms manufactured before 1899 or replicas thereof, provided they do not use rim fire or center fire ammunition), including, but not necessarily limited to handguns, machine guns, rifles, “zip guns,” stun guns, and “short-barrel firearms”;
- 4.524 “Illegal knife,” meaning any bladed, hand instrument that: a) has a blade over five and one-half inches; b) is capable of inflicting serious bodily injury or death on a person by cutting, stabbing, or

throwing (for example, a dagger, dirk, stiletto knife, poniard, bowie knife, switchblade knife, sword, or spear);

- 4.525 “Knuckles,” meaning any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.
- 4.526 “Hoax bomb,” meaning a device that: a) reasonably appears to be an explosive or incendiary device; or, b) by its design causes alarm or reaction of any type by police, public safety, or other administrators at a system component, who are charged with assuring campus safety;
- 4.527 “Chemical dispensing device,” meaning a device (other than a chemical dispenser sold commercially for personal protection) that is designed, made, or adapted for the purpose of dispensing a substance capable of causing adverse psychological or physiological effect on a human being.