**University Leave Policy UPPS No. 04.04.30**

**Issue No. 18**

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**Sr. Reviewer: Associate Vice President for Human Resources**

**POLICY STATEMENT**

*Texas State University is committed to supporting its employees in a way which promotes and sustains positive, productive, and safe working environments. The university ensures that appropriate use is made of individual, sick, and other leave entitlements to support a positive work-life balance.*

**01. DEFINITIONS**

01.01 Department Head – individual assigned administrative responsibility for employees grouped in a departmental unit. This person also maintains all departmental budgets.

01.02 Departmental Time Administrator – theindividual assigned responsibility for helping supervisors and the department head monitor leave activity for employees in their departmental unit.

01.03 Family and Medical Leave (FMLA) – federally-mandated job-protected time off for personal or family reasons, as defined in the [Family and Medical Leave Act of 1993](https://www.dol.gov/agencies/whd/fmla).

01.04 Immediate Supervisor or Approver – individual assigned approval responsibility for an employee’s work schedule and time off.

Individuals should submit all leave requests to their immediate supervisor, or approver for approval (or vice president as required for certain leaves).

01.05 Peace Officer Mental Health Leave – state-mandated paid time off granted as a result of a duty-related traumatic event.

01.06 Parental Leave – time off due to the birth of a child or the adoption or foster care placement of a child under the age of three if the employee is not eligible for FMLA.

01.07 Regular Employee – one who is employed to work at least 20 hours per week for a definite period of at least four and one-half months, excluding students employed in positions that require student status as a condition of employment. Only regular employees are eligible for paid holidays and leave as provided herein, subject to the specific eligibility requirements listed.

01.08 Sick Leave – time off with pay for the purpose of addressing health needs.

01.09 Sick Leave Pool – a reserve of accrued, unused sick leave hours donated by university employees to provide eligible employees who experience a catastrophic injury or illness with paid sick leave.

01.10 Unexcused Absence – an absence is considered unexcused if the employee does not secure appropriate approval in advance or does not provide acceptable documentation upon request. In this case, the employee is not eligible to use paid leave.

01.11 Vacation Leave – time off with pay for the purpose of rest, relaxation, or personal reasons at the request of the employee, granted with advance permission from the supervisor.

01.12 Wellness Leave – time off with pay for the purpose of participation in wellness-related activities intended to improve employees’ personal health and wellness.

**02. VACATION LEAVE PROCEDURES**

02.01 The following regular employees earn vacation leave:

1. all staff employees; and

b. faculty members appointed to a 12-month position, such as chairs or directors of academic departments.

02.02 Split Appointments

a. Employees with split appointments (part faculty and part staff) are eligible for vacation based on their staff appointment only, unless the faculty appointment is for 12 months. If the faculty appointment is for 12 months, vacation should be calculated on each appointment separately.

b. Employees with split appointments must work the staff schedule for the percent time of the staff appointment.

02.03 State service employment is the basis for determining the vacation-earning rate. The employee must notify Human Resources of all previous state service (including all temporary, part-time, and student employment) so all prior state service can be considered. Full-time employees entitled to earn vacation will earn it according to the following schedule:

Years of Eligible Employment Vacation Leave

(State of Texas) (Earned Monthly)

Less than 2 years 8 hours

2 years but less than 5 years 9 hours

5 years but less than 10 years 10 hours

10 years but less than 15 years 11 hours

15 years but less than 20 years 13 hours

20 years but less than 25 years 15 hours

25 years but less than 30 years 17 hours

30 years but less than 35 years 19 hours

35 years and over 21 hours

02.04 Eligible employees on less than 12-month appointments will earn vacation leave only for the months or fraction of a month actually worked.

02.05 Part-time employees entitled to vacation leave earn such leave in proportion to the amount of time employed, with the maximum carry-over also proportionate (e.g., 50 percent employment [20 hours per week] entitles the employee to one-half of the full-time vacation rate).

02.06 Vacation leave begins accruing on the first day of employment and terminates on the last day of duty (i.e., last day of actual work). Employees receive one month's accrual of vacation leave for each month or fraction of a month of employment based on the percent of appointment on the first workday of the month (e.g., the university would base accrual for a 50 percent appointment on January 1, that increased to 100 percent on January 16, as 50 percent for the month of January).

An employee must work six continuous months with the state before using vacation leave, although vacation leave credit accrues during that period. Once an employee completes six months or more of continuous state employment and leaves state employment, that person may use vacation leave as it accrues upon re-employment or receive payment for it upon termination following re-employment. An employee will continue to accrue vacation, even if out on vacation (or other paid leave), as long as they return to work. If the employee does not return to work, then accruals earned while out on leave will be forfeited.

02.07 Before using any vacation leave, an employee must request supervisor approval in advance in writing. Documentation of advance approval must be retained by the department.

02.08 The employee will receive credit for the next higher accrual rate, as stated in Section 02.03, if the employee's employment anniversary date falls on the first calendar day of the month; otherwise, the increase will occur on the first calendar day of the following month. If an employee begins working in a position that accrues vacation leave on the first workday of the month, the university deems the employee accrues vacation from the first calendar day of the month for the purpose of this subsection.

02.09 An employee may carry forward vacation leave earned during one fiscal year to the next fiscal year subject to the maximum limits shown below:

Years of Eligible Employment Maximum Vacation

(State of Texas) Carry-Over

Less than 2 years 180 hours

2 years but less than 5 years 244 hours

5 years but less than 10 years 268 hours

10 years but less than 15 years 292 hours

15 years but less than 20 years 340 hours

20 years but less than 25 years 388 hours

25 years but less than 30 years 436 hours

30 years but less than 35 years 484 hours

35 years and over 532 hours

The university will credit all hours of unused accumulated vacation leave that lapsed at the end of a fiscal year to the employee's sick leave balance as of the first day of the next fiscal year.

Example: An employee with five years but less than 10 years of employment with the state of Texas carries forward 240 hours of vacation leave and during that year uses 80 hours of vacation leave and earns 120 hours of vacation leave.

Vacation leave carried forward 240 hours

Vacation leave earned +120 hours

Total vacation available 360 hours

Total vacation used - 80 hours

Total unused vacation 280 hours

Maximum carry-over 268 hours

In this example, the employee may only carry 268 hours forward from one fiscal year to the next. The employee converts 12 hours of vacation leave to 12 hours of sick leave.

02.10 When an employee transfers from a vacation-earning position to a non-vacation-earning position, the employee will receive a lump-sum payment for the accrued vacation hours at the rate of pay in effect immediately prior to the transfer.

02.11 Employees must take vacation leave at a time that is mutually agreeable to both employee and supervisor.

a. Supervisors will encourage employees to take vacation leave each year, since such breaks have a positive, long-term effect on morale and productivity. Supervisors will ensure that employees are allowed each fiscal year to take at least the amount of vacation leave that they accrue during that fiscal year.

1. All employees are strongly encouraged to take their vacation leave. Employees must make requests in advance. Failure to request approval in advance may be considered an unexcused absence without pay. In addition, the employee may be subject to disciplinary action. Leave without pay must be entered as an exception to the normal work schedule or via a Personnel Change Request (PCR) prior to payroll processing.

c. Employees may not take vacation leave while receiving workers’ compensation wages.

02.12 The university publishes an official holiday schedule on a yearly basis. The university does not charge official university holidays against unused vacation time. For efficiency of operations, the university will not remain open on any of the officially designated staff holidays.

1. As provided by legislature, regular staff may observe Rosh Hashanah, Yom Kippur, Good Friday, or Cesar Chavez Day. In such instances, the university charges time off against an employee’s accrued vacation or compensatory balance in the amount equivalent to the time allotted

for a holiday or holidays appearing on the employee’s staff holiday schedule.

b. Faculty members wishing to observe the holidays listed in Section 02.12 a. must give proper notice in writing to their department chair. The faculty member and department chair should arrange the most appropriate way to cover affected classes.

02.13 The following applies to a university employee who resigns, is dismissed, or is otherwise separated from university employment:

a. If an employee is transferring to a vacation-earning position with another state of Texas agency and state service is uninterrupted, accumulated vacation leave (if any) transfers with the individual and the gaining agency will honor the accumulated vacation leave. Human Resources will provide appropriate documentation to the gaining agency upon request.

b. In all other cases, the employee is entitled to payment for accumulated vacation leave, provided the employee has at least six months of continuous employment with the university or the state of Texas. The employee (or the employee's estate in the event of the employee’s death) will receive this lump sum payment according to the accrued balance on the last day of actual work duty. The terminating employee’s department should submit a [Request for Payment of Leave form](https://gato-docs.its.txstate.edu/jcr:f3384c07-30fc-47af-81a6-baf7a7744c9a/Request%20for%20Payment%20of%20Leave_2.2018.docx) to Human Resources immediately after the employee's last workday. After verifying the remaining balance, Human Resources will process the payment on the next possible payroll.

c. The terminating employee cannot elect to remain on the payroll to exhaust all accrued leave and will accrue no further leave after the last day actually worked. The associate vice president for Human Resources must approve exceptions to this provision and will, in no case, grant an exception beyond the end of the month that the last workday occurred (see [UPPS No. 04.04.16](http://policies.txstate.edu/university-policies/04-04-16.html), Overtime and Compensatory Time Policy, concerning extended appointments to expend state compensatory time, which requires the appropriate divisional vice president’s approval).

Example: John Doe resigns and their last day of actual work is May 25. They have a vacation leave balance of 80 hours (10 workdays). They cannot remain on the payroll to exhaust all leave. Therefore, May 25 is their actual termination date for all necessary paperwork. They would receive a lump sum payment for their 80 hours of accrued vacation leave. They do not earn the vacation accrual for the month of June since it is after their last day of duty.

**03. SICK LEAVE PROCEDURES**

03.01 All regular employees earn sick leave.

03.02 Approval of leave applications depends upon a physician's recommendation, along with those of the employee's supervisor, associate vice president for Human Resources, and the president, as appropriate. Department heads and supervisors, regardless of the need of their office or department, will not deny a sick leave request based on a physician's recommendation without first consulting with Human Resources.

03.03 Sick leave entitlement for full-time employees accrues at the rate of eight hours for each month or fraction of a month's employment. Accruals are earned on the first day of the month that the employee is on duty. There is no limit on the amount that can be accumulated or carried forward to the next fiscal year. Sick leave accrual shall terminate on the last day of duty (i.e., last day of actual work).

03.04 Eligible regular employees on less than 12-month appointments will earn sick leave only for the months or fraction of a month actually worked.

03.05 Part-time regular employees earn sick leave in proportion to the amount of time appointed (e.g., 50 percent time appointment [20 hours per week] entitles the employee to one-half of the full-time sick leave rate [four hours per month]).

03.06 Employees may take sick leave with pay when sickness, injury, pregnancy, or confinement prevent the employee's performance of duty, when the employee needs to care for an immediate family member who is sick, or to obtain medical or dental examinations as part of an employee's or immediate family member’s personal health maintenance program. For purposes relating to regular sick leave, immediate family is defined as those individuals who reside in the same household and are related by kinship, adoption, or marriage, as well as foster children certified by the Texas Department of Protective and Regulatory Services (DPRS). For the purpose of regular sick leave, the university considers the employee’s minor children as immediate family, whether or not they are living in the same household.

An employee's use of sick leave for family members not residing in that employee's household is strictly limited to the time necessary to provide care and assistance to an employee’s spouse, child, stepchild, or parent (not stepparent) that needs such care and assistance as a direct result of a documented medical condition.

03.07 Children Educational Activities – Employees are allowed to use up to eight hours of sick leave each fiscal year to attend educational activities of their children in grades pre-kindergarten through 12. Educational activities are school-sponsored, including parent-teacher conferences, tutoring, volunteer programs, field trips, classroom programs, school committee meetings, academic competitions, and athletic, music, or other theater programs.

03.08 An employee, absent from duty because of illness, shall notify their supervisor at the earliest practicable time, preferably in writing. Records of absence due to illness notifications to supervisors must be retained by the department.

Except as provided in Section 03.12, an employee will not receive sick leave in excess of the accrued balance. Employees must use other available accrued leave or enter leave without pay as an exception to their normal work schedule. If leave without pay will exceed 30 calendar days, the department head must submit a PCR instead of time entry.

If an employee wishes to use accumulated sick leave with pay during a continuous absence due to illness of more than three working days, they must provide the supervisor with a doctor's excuse or written statement of the facts pertaining to the absence that is acceptable to the supervisor.

A supervisor may require a doctor's excuse, or other written statement of the facts concerning the illness that they find acceptable, if the sick leave usage is questionable, even if the absence is less than three continuous working days. When a doctor’s excuse is provided, supervisors must rely on it in determining eligibility for sick leave usage.

To protect the privacy rights of the employee, specific medical information should not be submitted to the employee’s supervisor. Documentation for sick leave only needs to confirm that the employee is unable to work on specific dates due to a medical condition or should describe any medical restrictions. It does not need to include the detailed diagnosis or treatment. Supervisors may not require employees to provide health care providers with authorization to release detailed information. Human Resources will serve as the point of contact and repository for confidential medical information, as needed.

03.09 Staff – When an employee is absent due to illness or injury, the number of hours charged as sick leave equals the number of hours the employee was scheduled to work.

An employee may use sick leave when becoming ill while on vacation.

03.10 Faculty – Faculty members earn sick leave and must report sick leave taken even if no classes were missed as required by the state of Texas ([Texas Government Code 661.203](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.661.htm#:~:text=661.203.%20FACULTY%20AT%20INSTITUTIONS%20OF%20HIGHER%20EDUCATION.%20A,regular%20employees%2C%20even%20if%20no%20classes%20are%20missed.)). Nine-month faculty members are not required to report hours worked. The specific reporting processes for faculty to use in reporting sick leave only are prescribed in Section 14.

Faculty must report sick leave for the actual time missed from carrying out their normal, negotiated workload responsibilities (teaching, research, and service). Sick leave taken must be recorded in hours, including partial day absences.

For absences over a continuous period exceeding one day, the amount of time charged against sick leave should include each working day, except holidays. Faculty must report all hours absent, not just hours on which classes were missed or taught by a substitute. For example, when a faculty member is ill for three days and is absent from their Monday and Wednesday classes and office hours and is also unable to carry out normal research and service activities, the faculty member will use and report 24 hours of sick leave for the three-day period, even though there were no classes or office hours scheduled on Tuesday.

Determination of workdays for nine-month faculty is as follows:

1. fall semester begins on the date faculty are to report to duty through the last day of commencement. Sick leave does not need to be reported between the last day of commencement and the first day faculty are required on duty for the spring semester;
2. spring semester begins on the date faculty are to report to duty. Sick leave does not need to be reported during spring break and ends on the last day of commencement; and
3. summer sessions begin on the date faculty are to report to duty and end on the last day of commencement.

03.11 Use of any type of paid leave or leave without pay that qualifies under the federal [FMLA](https://www.dol.gov/general/topic/workhours/fmla) will automatically run concurrently with the FMLA period. Therefore, stacking of leaves to extend the employer insurance contribution or approved leave period is not permitted (see Section 07. for FMLA details).

03.12 Extended Sick Leave – Employees must first qualify for and exhaust their sick leave pool entitlements before receiving extended sick leave. The president has delegated the employee’s divisional vice president’s authority to approve extended sick leave, normally not to exceed 30 workdays, on the merits of a particular case.

Prior to taking the leave, the employee must submit a request for extended sick leave on an [Application for Leave Approval form](https://nextgensso.com/sp/startSSO.ping?PartnerIdpId=https://authentic.txstate.edu/idp/shibboleth&SpSessionAuthnAdapterId=texasStateDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2fc2057b39-9502-41f2-8761-a0eee0468813) with a medical certification attached. The extended sick leave must be approved by the department head, divisional vice president, and Human Resources.

The supervisor may require a release to return to work from the employee’s health care provider prior to restoration if there are any question regarding the employee's ability to safely perform the job.

If the employee has medical restrictions, the supervisor will evaluate on a case-by-case basis whether the essential functions of the job can be performed. The supervisor may contact the Americans with Disabilities Act (ADA) Compliance coordinator for guidance. In any case, review by the ADA Compliance coordinator is required if the supervisor is unable to accommodate the restrictions. The request for accommodation and rationale for the decision must be documented.

The associate vice president for Human Resources will ensure, as provided by the [Appropriations Act](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/HR%201865%20-%20Division%20A%20-%20LHHS%20SOM%20FY20.pdf), that a copy of the university's policies and procedures for granting extended sick leave is on file with the state auditor.

03.13 Donation of Sick Leave to an Individual – An employee may donate any amount of accrued sick leave to another employee at Texas State within the following guidelines:

1. recipient must have exhausted all of their own leave including any hours they may be eligible to receive from the sick leave pool and extended sick leave;
2. the donor may not accept any compensation or gift in exchange for the donated hours;
3. hours must be donated from accrued sick leave prior to the donor’s termination date;
4. donated hours are not returned to the donor if the recipient does not use them;
5. medical certification is required to determine if use of donated hours qualifies under the [IRS definition](https://www.irs.gov/pub/irs-wd/0720017.pdf) of “medical emergency – a major illness or other medical condition that requires a prolonged absence from work, including intermittent absences that are related to the same illness or condition.” Human Resources will review and make this determination;
6. donated hours can only be used for the certified medical illness or condition; and
7. donated sick leave cannot be:
8. transferred to another state agency;
9. paid out to the estate if the recipient passes away;
10. used towards retirement service credit;
11. transferred to the sick leave pool; or
12. reinstated if the recipient is rehired at the same agency where donated hours were forfeited.

Procedure for Donating Sick Leave to an Individual – The donor must submit an [authorization form](https://gato-docs.its.txstate.edu/jcr:563dc9be-67bf-4435-9c71-51a41f47bbf7/VS%20Sick%20Leave%20Donation%20to%20Individual%20-%20Donor_1.2018.docx). The recipient must also submit an [authorization form](https://gato-docs.its.txstate.edu/jcr:ffd57925-83fb-4ba8-b8a4-3eddb223e0ea/VS%20Sick%20Leave%20Donation%20to%20Individual%20-%20Recipient_1.2018.docx) with medical certification directly to Human Resources. Human Resources will review the certification and verify if the recipient has exhausted their leave to be eligible to receive the hours.

03.14 The following applies to a university employee who resigns, is dismissed, or is otherwise separated from university employment:

a. if the individual transfers directly to another state of Texas agency and state employment is uninterrupted, accumulated sick leave will transfer with the individual and the gaining agency will honor it. Human Resources will provide appropriate documentation to the gaining agency upon request;

b. a terminating employee will not receive pay for accumulated sick leave;

c. if an employee dies while employed by the state, the employee's estate will receive payment of one-half of accumulated sick leave or 336 hours, whichever is less, provided the employee had continuous state employment for at least six months at the time of death. The estate will receive a lump sum as of the date of death; or

1. employees who separate from state employment will have sick leave balances restored if re-employed by the state within 12 months after the end of the month in which the separation occurred. However, employees re-employed by the same agency or institution must first have a break in service of at least 30 calendar days to have sick leave restored. This 30-day requirement is waived if the separation was due to a reduction-in-force.

**04. SICK LEAVE POOL PROCEDURES**

04.01 In accordance with the provisions of [Senate Bill (SB) 357, 71st Legislature](http://www.lrl.state.tx.us/legis/BillSearch/billdetails.cfm?legSession=71-0&billTypeDetail=SB&billNumberDetail=357), the university has created a sick leave pool and appointed the associate vice president for Human Resources as the pool administrator. The sick leave pool is created to benefit certain employees who suffer a catastrophic injury or illness.

A catastrophic illness, as defined for eligibility to use sick leave pool leave, is any injury or illness, excluding routine pregnancy that has caused an absence of 10 working days within the immediately preceding six calendar months.

a. Employees of the university who are eligible to accrue and use sick leave, may participate in the sick leave pool. The president is excluded from participating in the sick leave pool by [SB 357](http://www.lrl.state.tx.us/legis/BillSearch/billdetails.cfm?legSession=71-0&billTypeDetail=SB&billNumberDetail=357).

b. Employees may use pool leave for their own catastrophic illness or injury or for one in their immediate family, as defined in Section 03.06. The university will consider pregnancy to be catastrophic if the employee presents a physician's certification stating that the pregnancy is not routine and the reasons why.

c. Employees must exhaust all earned leave with pay entitlements and have missed at least 10 working days in the immediate preceding six months as a result of a catastrophic injury or illness before they are eligible to use leave from the pool. Ten working days is based on the individual's normal work schedule (i.e., percent time of appointment) and includes paid holidays.

d. Employees on pool leave for a full calendar month accrue paid leave for that month but may not use this time until they physically return to work following the pool leave.

e. Employees with catastrophic illnesses or injuries are not required to contribute to the pool before they can use pool leave.

f. Employees who use pool leave are not required to pay back pool leave.

g. Employees on leave due to a work-related illness or injury are not eligible to use pool leave for that illness or injury.

04.02 To contribute time to the pool, an employee must submit a written application to the pool administrator on the [Sick Leave Pool Request/Donation form](https://gato-docs.its.txstate.edu/jcr:563dc9be-67bf-4435-9c71-51a41f47bbf7/VS%20Sick%20Leave%20Donation%20to%20Individual%20-%20Donor_1.2018.docx).

a. The pool administrator must approve all donations to the pool, which are strictly voluntary.

b. Active employees may contribute, in eight-hour increments, an unlimited number of hours of sick leave to the pool each fiscal year.

c. Employees may not stipulate who is to receive their contributions.

d. Employees who contribute leave to the pool cannot get it back.

04.03 Employees must submit a request on the [Sick Leave Pool Request/Donation form](https://gato-docs.its.txstate.edu/jcr:563dc9be-67bf-4435-9c71-51a41f47bbf7/VS%20Sick%20Leave%20Donation%20to%20Individual%20-%20Donor_1.2018.docx) along with a [Certification of Health Care Provider form](https://gato-docs.its.txstate.edu/jcr:7e33e6e3-8de5-4c9d-b869-5cc4a41488f5/Certification%20of%20Health%20Care%20Provider%20for%20Employee_1.2018.docx) to Human Resources. Requests will normally be considered and approved by the pool administrator on a first-come, first-served basis.

a. The pool administrator will have 10 working days from the date they receive a request in which to approve all or part of the request or deny the request.

b. The pool administrator will determine the amount of pool leave granted for each catastrophic illness or injury. Pool leave begins on the 11th workday after satisfying the 10-working-day waiting period described in Section 04.01 c., or after the employee has exhausted all available paid leave, whichever occurs later. The total amount granted per illness cannot exceed one-third of the balance of hours in the pool, or 90 working days, whichever is less.

c. An employee may qualify for multiple awards for different illnesses. However, the total number of days awarded will not exceed 180 days per lifetime.

d. 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 the unused pool leave.

04.04 The supervisor may require a release to return to work from the employee’s health care provider prior to restoration if there is any question regarding the employee's ability to safely perform the job.

If the employee has medical restrictions, the supervisor will evaluate on a case-by-case basis whether the essential functions of the job can be performed. The supervisor may contact the ADA Compliance coordinator for guidance. In any case, review by the ADA Compliance coordinator is required if the supervisor is unable to accommodate the restrictions. The request for accommodation and rationale for the decision must be documented.

**05**.  **FAMILY LEAVE POOL PROCEDURES**

05.01 In accordance with the provisions of [House Bill 2063](https://capitol.texas.gov/billlookup/text.aspx?LegSess=85R&Bill=HB2063), the university has created a family leave pool and appointed the associate vice president for Human Resources as the pool administrator. The family leave pool is created to benefit eligible employees for the purpose of bonding with and caring for children during a child's first year following birth, adoption, or foster placement and caring for a seriously ill family member or

the employee, including pandemic-related illnesses or complications caused by a pandemic.

05.02 Contribution to Family Leave Pool – An employee may contribute one or more accrued sick or vacation days to the family leave pool. A retiring employee may donate accrued sick or vacation leave hours to the family leave pool upon retirement. Donations for bonding and caring following birth, adoption or foster placement are taxable to the donor. Donations to the pool related to serious illness of the employee or a family member are not taxable to the donor.

05.03 Using Family Leave Pool Time – An employee may use donated leave time donated to the pool after exhausting all other earned leave with pay entitlements. Qualifying circumstances for using family leave pool time includes:

1. the birth of a child;
2. the placement of a foster child or adoption of a child under 18 years of age;
3. the placement of any person 18 years of age or older requiring guardianship;
4. a serious illness to an immediate family member or the employee, including a pandemic-related illness;
5. an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member; or
6. a previous donation of time to the pool.

05.04 Documentation requirements

When leave time is needed due to occurrence of a serious illness, including a pandemic-related illness, of an immediate family member or the employee and does not qualify for or has exhausted time available in the sick leave pool, the employee must provide the pool administrator with a written statement from the licensed practitioner who is treating the employee or the employee's immediate family member.

When leave time is needed for an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member, the employee must provide any applicable documentation, including an essential caregiver designation, proof of closure of a school or daycare, or other appropriate documentation.

Employees wishing to access family leave pool time to care for another person must submit and be listed on the other person's birth certificate, birth facts, or adoption or foster paperwork for a child under 18 years of age, including being listed as the mother, father, adoptive parent, foster parent, or partner of the child's mother, adoptive parent, or foster parent, or provide documentation that the employee is the guardian of a person who is 18 years of age or older and requiring guardianship.

Documentation should be submitted to Human Resources.

05.05 Family Leave Pool Administration – an employee may apply for family leave time from the pool by submitting a [Sick Leave Pool Request/Donation form](https://gato-docs.its.txstate.edu/jcr:563dc9be-67bf-4435-9c71-51a41f47bbf7/VS%20Sick%20Leave%20Donation%20to%20Individual%20-%20Donor_1.2018.docx) with supporting documentation, as described in Section 05.04, to the pool administrator in Human Resources. Human Resources will review the employee’s request and respond in writing within five working days either granting or denying the request for leave.

If the pool administrator determines that an employee is eligible to withdraw leave time from the pool, the administrator will approve the transfer of time from the pool to the employee and credit the time to the employee. Maximum withdrawal per employee per instance is the lesser of 1/3 of the family leave pool balance or 90 working days. The pool administrator shall determine the amount of time awarded to the requesting employee. If the receiving employee passes away, any unused donated family leave time awarded will revert to the pool.

Human Resources is responsible for administration of the family leave pool, including the associated recordkeeping.

**06. PARENTAL LEAVE PROCEDURES**

06.01 Employees with less than a total of 12 months of state of Texas service or who have worked less than 1,250 hours in the 12 months immediately preceding the start of leave may take up to 12 weeks of unpaid parental leave for the birth of a child or the adoption or foster care placement with the employee of a child under three years of age. The leave period begins with the date of birth or the adoption or foster care placement. The employee must use all available paid vacation and sick leave while taking the parental leave. However, the employee may use sick leave only for the period of time a health care provider certifies the employee is unable to work (see Section 03.06). The use of compensatory time and FLSA overtime is permitted, but not required.

Example: A female employee may take 12 weeks of parental leave for the birth of a child. The employee’s physician releases the employee to return to work six weeks after delivery thus allowing the employee to use six weeks of accrued sick leave. Accrued vacation or leave without pay must cover the second six weeks.

Both parents may use up to six weeks of sick leave for adoption, regardless of whether the child is sick at the time of adoption.

A non-gestational parent may use sick leave in conjunction with the birth of a child only if the child is ill or to care for their spouse while their spouse is recovering from labor and delivery.

06.02 Prior to taking parental leave, the employee must submit the request for leave, along with a corroborating statement from a health care provider (if applicable) on an [Application for Leave Approval form](https://nextgensso.com/sp/startSSO.ping?PartnerIdpId=https://authentic.txstate.edu/idp/shibboleth&SpSessionAuthnAdapterId=texasStateDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2fc2057b39-9502-41f2-8761-a0eee0468813). The parental leave must be approved by the supervisor, department head, divisional vice president, and Human Resources.

06.03 A state employee who is a foster parent to a child under the conservatorship of the DPRS, is entitled to a leave of absence with full pay for the purpose of attending meetings held by the DPRS regarding the child under the foster care of the employee, or to attend an Admission, Review, and Dismissal (ARD) meeting held by a school district regarding the child under the foster care of the employee.

**07. FEDERAL FAMILY AND MEDICAL LEAVE PROCEDURES**

07.01 Eligibility

An employee is entitled to leave pursuant to FMLA if:

a. the employee has worked at least 1,250 hours during the 12-month period immediately preceding the time leave would begin; and

b. the employee has worked for the state of Texas for at least 12 months. These 12 months do not have to be consecutive. However, employment prior to a break in service of more than seven years does not count, unless the break is a result of fulfilling military obligations.

07.02 Applicable FMLA Definitions

a. Family Member – includes the employee's spouse, son, daughter, or parent (but not a parent-in-law). A son or daughter is any child under 18 years of age who is the biological child of the employee, who is adopted by the employee, or whom the employee supervises on a day-to-day basis and for whom the employee is financially responsible; or a child over 18 years of age who is incapable of self-care because of a mental or physical disability. A parent is any individual who assumed day-to-day and financial responsibility for the employee when the employee was a child.

b. Serious health condition includes all of the following:

1) Inpatient Care – care that requires an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care;

2) Incapacity and Treatment – a serious health condition involving continuing treatment by a health care provider includes a period of incapacity of more than three consecutive, full calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:

(a) treatment two or more times within 30 days of the first day of

incapacity (unless extenuating circumstances exist) by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services under, or on referral by, a health care provider; or

(b) treatment by a health care provider on at least one occasion

that results in a regimen of continuing treatment under the supervision of the health care provider:

(1) the first (or only) treatment by a health care provider must be an in-person visit and take place within seven days of the first day of incapacity; and

(2) a regimen of continuing treatment includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition;

3) Pregnancy or Prenatal Care – any period of incapacity due to pregnancy or for prenatal care;

4) Chronic Conditions – any period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires periodic visits (at least twice per year) to a health care provider, continues over an extended period, and may cause episodic rather than a continuing period of incapacity;

5) Permanent or Long-Term Conditions – a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective, but requires continuing supervision of a health care provider; and

6) Conditions Requiring Multiple Treatments – any period of absence to receive multiple treatments by a health care provider for:

(a) restorative surgery after an accident or other injury; or

(b) a condition that would likely result in a period of incapacity of more than three consecutive full calendar days without the treatments.

07.03 Covered Reasons for Leave

Accrued paid leave and FMLA run concurrently. All eligible employees are entitled to a total of 12 weeks of unpaid leave during any 12-month period for one or more of the following reasons:

a. the birth of a child, or placement of a child for adoption or foster care;

b. to care for a family member (see Section 07.02 a.) of the employee if that individual has a serious health condition (see Section 07.02 b.);

c. because of a serious health condition of the employee that renders the employee unable to perform their job functions; or

d. a qualifying exigency arising when the employee’s spouse, son, daughter, or parent is a covered military member on active duty with the regular Armed Forces deployed to a foreign country, or with the National Guard or Reserves (or has received notification of an impending call or order to active duty) in support of a contingency operation. Examples of a qualifying exigency include:

1. Short-Term Notice Deployment – a covered member is notified of an impending call to duty seven or fewer calendar days prior to date of deployment;
2. Military Events and Related Activities – official ceremonies, programs, or events sponsored by the military, military service organizations, or the American Red Cross;
3. Child Care Duties and School Activities – the arrangement of alternative childcare and attendance at school meetings;
4. Financial and Legal Arrangements – to make or update legal arrangements for the covered member or act as their representative before a government agency;
5. Counseling – for oneself, the covered member, or child of the covered member;
6. Rest and Recuperation – to spend time with a covered member who is on short-term leave during the period of deployment (up to five days for each leave);
7. Post-Deployment Activities – arrival ceremonies and funeral arrangements; or
8. Additional Activities – provided that the employee and their department head agree that such activities qualify as an exigency.

07.04 Duration of Leave

a. The maximum amount of leave available under FMLA provisions is 12 weeks in a rolling 12-month period. The rolling 12-month period is measured backward from the date an employee uses any FMLA.

b. If the leave is for birth, adoption, or foster care placement, the employee must complete the leave within 12 months of the date of birth or placement.

c. If an employee and their spouse both work for the state of Texas and are eligible for leave, they are only entitled to a combined 12 workweeks of leave taken for birth, adoption, foster care, and to care for a parent.

d. An employee taking leave for personal illness or to care for a sick family member may take the leave on an intermittent basis, or by reducing scheduled work hours, if the health care provider caring for the employee or family member certifies that this is necessary.

e. The university considers and approves requests for intermittent or reduced schedule (part-time) leave after the birth, adoption, or foster care placement of a child on a case-by-case basis, subject to:

1) the ability of the employee's supervisor to ensure that work is completed through scheduling changes or job-sharing; and

2) the employee's consent to alter schedules or work longer hours on an emergency basis, such as when other employees are out sick.

With respect to intermittent or reduced schedule leave after the birth, adoption, or foster care placement of a child, Texas State reserves the right to refuse leave, or to cancel any such arrangement on 15 calendar days' notice, if the supervisor concludes that the needs of the work unit require the employee's presence on a full-time basis.

In all cases of intermittent and reduced schedule leaves, Texas State reserves the right to require the employee to transfer to another position that better accommodates the employee's need for leave or the employer's operations. Supervisors should consult with Human Resources and their divisional vice president before taking any action to transfer an employee to another position.

07.05 Military Caregiver Leave

An eligible employee who is the spouse, son, daughter, parent, or next-of- kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, who is recovering from a serious injury or illness sustained while on active duty, or a veteran undergoing treatment, recuperation, or therapy for an injury as long as the veteran was a member of the Armed Forces, National Guard, or Reserves within five years of requiring care, is entitled to up to 26 weeks of unpaid leave in a single 12-month period to care for the service member.

This military caregiver leave is available during a single 12-month period during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA. An employee may utilize this 26-week entitlement for each service member and for each illness or injury incurred.

07.06 Procedures for Requesting Leave

The employee shall initiate a leave request by contacting their immediate supervisor and completing a [Request for Family and Medical Leave form](https://gato-docs.its.txstate.edu/jcr:6d22ce87-f7a5-4ea5-8e47-f1671720f432/FMLA%20Request%20Form_1.2018.docx). The supervisor will immediately forward the request to Human Resources. The employee must submit a [Certification of Health Care Provider form](https://gato-docs.its.txstate.edu/jcr:360e720c-df15-421d-af5c-08031c09ffa6/Certification%20of%20Health%20Care%20Provider%20for%20Family%20Member_1.2018.docx) to Human Resources. Human Resources will verify eligibility and notify the employee and department head of approval.

a. If the need for leave is known in advance, the employee must provide notice of no less than 30 days. Human Resources will deny leave unless there is a reasonable excuse for the delay. If leave is denied for lack of notice, the employee may designate leave to start 30 days after notice is given.

b. If the leave is for the planned medical treatment of the employee or a family member, or requires intermittent or reduced schedule leave, the supervisor may require the employee to arrange a particular work schedule or to reschedule medical appointments or treatments, subject to the health care provider’s consent.

c. If the need for leave is not known in advance, the employee must give notice as soon as possible, with a written request submitted within three workdays of a verbal request. Except in the case of extreme medical emergencies, employees are expected to call to advise their supervisor as soon as they know of the need for and expected duration of leave.

d. The employee must provide medical certification from a health care provider within 15 calendar days of the date requested by the university.

1. Human Resources has the option of requiring the employee to get a second opinion from an independent medical provider selected by Human Resources. If the two opinions conflict, a third provider, agreed to by Human Resources and the employee, may resolve the conflict with an opinion considered final and binding. The university will pay for both the second and third opinions.

All employee requests for FMLA are contingent upon a determination by Human Resources that the employee is eligible for FMLA including medical certification. Because these procedures take time (especially if second or third opinions are required), it is possible Human Resources will make the final decision after the employee is on leave or has returned to work.

07.07 Substitution of Paid Leave Entitlements

Employees must utilize all paid leave entitlements including vacation, sick leave, state compensatory time, and FLSA overtime while taking FMLA. However, an employee may only use sick leave for the period a health care provider certifies the employee is unable to work (see Section 03.06).

Example: A female employee may take 12 weeks of FMLA for the birth of a child. The employee’s physician releases the employee to return to work six weeks after delivery thus allowing the employee to use six weeks of accrued sick leave. Accrued vacation, FLSA overtime, state comp time, or leave without pay must cover the second six weeks.

Both parents may use up to six weeks of sick leave for adoption of a child under the age of three, regardless of whether the child is ill at the time of adoption.

A spouse may use sick leave in conjunction with the birth of a child only if the child is ill or to care for their spouse while their spouse is recovering from labor and delivery.

Holidays that occur while on FMLA are not counted towards the 12-week entitlement if the university is closed for at least a week.

Employees who are receiving workers’ compensation benefits or temporary disability benefit payments are not required to use paid vacation while on FMLA.

Use of any type of paid leave or leave without pay that qualifies under FMLA will automatically run concurrently with the FMLA period. Therefore, stacking leaves to extend the employer insurance contribution or approved leave period is not permitted.

07.08 Status of Benefits

a. During FMLA, the employee will continue to receive the employer contribution towards health coverage. The employee is required to continue to pay the employee's portion of any premiums normally deducted from their paycheck. If premiums are not deducted from the employee's paycheck, the Employees Retirement System of Texas will bill the employee for any premiums due.

If the employee fails to make the required payments when due, the university will cancel all coverage except employee-only health and basic life insurance.

b. An employee on FMLA is not entitled to accrue state service credit for any full calendar months of leave without pay taken while on FMLA and shall not accrue vacation or sick leave for such months. Employees on an intermittent or reduced-schedule leave will earn vacation or other leave on a proportional basis.

c. Texas State has the right, upon the employee's return from leave, to refuse to reinstate any discontinued benefit or condition of employment for Texas State employees.

07.09 Reinstatement Upon Returning from FMLA

a. An employee taking FMLA will return to the same position or to an equivalent position, at the university’s election, unless the university would have terminated the employee in the absence of FMLA (e.g., layoff, downsizing, or termination of a temporary job). Taking of leave will not result in any loss of benefits or conditions of employment accrued prior to the beginning of the leave period.

b. Supervisors may require a release to return to work from the employee’s health care provider prior to restoration if there is any question regarding the employee's ability to safely perform the job.

If the employee has medical restrictions, supervisors will evaluate on a case-by-case basis whether the essential functions of the job can be performed. Supervisors may contact the ADA Compliance coordinator for guidance. In any case, review by the ADA Compliance coordinator is required if supervisors are unable to accommodate the restrictions. The request for accommodation and rationale for the decision must be documented.

c. When an employee notifies the university that they will not return from leave, the university shall terminate the employee's insurance coverage at the end of the current month (provided all required premiums are paid), and the employee shall not have a right to restoration to the same or equivalent position. The employee may continue insurance coverage with COBRA and the provisions of the plan.

d. Upon receiving notice that the employee is not returning to employment, should the employee simply fail to return, or if the employee returns for less than 30 days after leave has ended, the employee shall owe the entire employer contribution for health insurance provided during any months of leave without pay. The employee will not owe that amount if there is a recurrence or onset of a serious health condition (see Section 07.02 b.) or, in the university’s opinion, there is a change of circumstances beyond the employee's control.

If an employee does not return to work and owes the employer contribution as described above, payment is due within 60 days after receiving notice from Texas State of the amount owed. After that time, the Texas State University System (TSUS) associate general counsel will handle the debt collection.

e. Employees who fail to return to work after FMLA shall be treated as having voluntarily terminated their employment.

**08. MILITARY LEAVE PROCEDURES**

08.01 A university employee is eligible for 15 workdays in each federal fiscal year (October 1 through September 30) with full pay to accommodate authorized training or duty for the state’s military forces, a reserve branch of the U.S. Armed Forces, or a state- or federally-authorized urban search and rescue team.

If the employee does not use the 15 days of military leave in a federal fiscal year, the employee is entitled to carry the balance forward to the next federal fiscal year, not to exceed 45 workdays.

08.02 An employee called to active duty during an emergency to serve in a reserve component of the U.S. Armed Forces under [Title 10](https://www.gpo.gov/fdsys/pkg/STATUTE-70/pdf/STATUTE-70A-Pg1.pdf) or [Title 32](https://www.gpo.gov/fdsys/pkg/STATUTE-70/pdf/STATUTE-70A-Pg1.pdf) of the U.S. Code is entitled to an unpaid leave of absence. The employee may choose (but is not required) to use all or some portion of accrued vacation, FLSA overtime, or state compensatory time before going on leave without pay while on military leave.

While on leave without pay, the employee is entitled to continue to earn state service credit and sick and vacation leave accruals. This leave will be accrued but not posted until the employee returns to state employment.

08.03 An employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose is entitled to receive paid leave up to 22 workdays per calendar year without loss of military leave.

08.04 An employee called to state active duty as a member of the state military forces by the governor because of an emergency is entitled to a leave of absence with full pay. This time is not limited and does not count against the 15 days maximum military leave per federal fiscal year.

08.05 An employee called to state active duty by the governor or another appropriate authority in response to a disaster is entitled to a paid leave of absence from the person’s duties for each day the person is called to active duty during the disaster, not to exceed seven workdays in a fiscal year. During a leave of absence under this subsection, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

08.06 A member of the state military forces who is ordered to active state duty by the governor or by other proper authority under Texas law is entitled to the same benefits and protections provided:

a. to persons performing service in the uniformed services in accordance with [Title 38, U.S. Code, Sections 4301-4313](http://uscode.house.gov/view.xhtml?path=/prelim@title38/part3/chapter43&edition=prelim) and [Sections 4316-4319](http://uscode.house.gov/view.xhtml?path=/prelim@title38/part3/chapter43&edition=prelim), as that law existed on April 1, 2003; and

b. to persons in the military service of the United States in accordance with [Title 50, U.S. Code, Appendix Sections 501-536,](https://www.justice.gov/sites/default/files/crt/legacy/2011/03/23/scratext.pdf) [560](https://law.justia.com/codes/us/1994/title50/app/soldiersa/dup1/sec560/), and [580-594](https://www.justice.gov/sites/default/files/crt/legacy/2011/03/23/scratext.pdf), as that law existed on April 1, 2003.

08.07 An employee called to active duty in support of a national emergency or Homeland Security mission (under U.S. Code, [Title 10](https://www.gpo.gov/fdsys/pkg/STATUTE-70/pdf/STATUTE-70A-Pg1.pdf) or [Title 32](https://www.gpo.gov/fdsys/pkg/STATUTE-70/pdf/STATUTE-70A-Pg1.pdf)) and whose military pay is less than their gross state pay is eligible for differential pay. The combination of military pay and differential pay may not exceed the employee’s actual state gross pay. Pay received while assigned to a combat zone, hardship duty pay, and family separation pay is excluded when computing military differential pay. An employee must provide their military leave and earnings statement each month to determine eligibility for differential pay.

08.08 An employee who is a member of the state military forces, a reserve component of the U.S. Armed Forces, or a member of a state- or federally-authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty or to a position of similar seniority, status, and pay.

Reasonable efforts (such as training or retraining) must be made to enable returning service members to refresh or upgrade their skills to help them qualify for re-employment.

To be eligible for re-employment, the employee must be discharged, separated, or released from active military service under honorable conditions no later than five years after induction, enlistment, or call to duty. In addition, the employee must be physically and mentally qualified to perform the duties of the job. If the employee is unable to perform the duties of the previous job due to a service-related disability, the veteran is entitled to be restored to a position that they can perform with similar or the nearest possible seniority, status, and pay.

Veterans whose employment has been restored may not be dismissed without cause within a year of their reinstatement. Eligible veterans must apply for reinstatement within 90 days after discharge or release from service. The application must be in writing and include evidence of discharge under honorable conditions.

08.09 Under this section, the employee must provide advance written or verbal notice for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. The employee must submit the request for leave, along with military orders on an [Application for Leave Approval form](https://nextgensso.com/sp/startSSO.ping?PartnerIdpId=https://authentic.txstate.edu/idp/shibboleth&SpSessionAuthnAdapterId=texasStateDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2fc2057b39-9502-41f2-8761-a0eee0468813). Military leave must be approved by the department head, divisional vice president and Human Resources.

**09. EMERGENCY LEAVE PROCEDURES – BEREAVEMENT, JURY DUTY, COURT SUBPOENA, AND OTHER EMERGENCY LEAVE**

09.01 The Texas Legislature has provided the university with authority to grant emergency leave under certain conditions. There are four types of emergency leaves: bereavement, jury duty, court subpoenas, and other emergency leave.

09.02 Bereavement Leave – A supervisor may grant up to five days’ leave with pay for a death in the employee’s immediate family. Immediate family is defined as the employee’s spouse, as well as the employee’s and spouse’s parents, children, brothers, sisters, grandparents, and grandchildren. An employee’s stepparent and stepchild are included in the definition for purposes of this leave. Requests for more than five days require approval by the divisional vice president.

09.03 Jury Duty – Employees are entitled to serve on a jury without any deduction in pay. Employees shall receive paid leave for the time they cannot work in order to fulfill their jury duty obligation. Unless excused by their supervisor, employees are expected to report to work as soon as they are excused from jury duty to complete the time remaining on their shift. Employees may keep any fee or compensation received for jury duty without any offset to their university earnings and are not required to account to the state for any such fee or compensation received. An official statement by the judge, county clerk, or other official is required for documentation.

A supervisor may modify an employee’s schedule when performing jury service to allow an equivalent amount of paid leave as if the employee’s normal workday was 8 a.m. to 5 p.m. For example, an employee normally works 11 p.m. to 7 a.m. and reports to jury service 9 a.m. to 3 p.m. The employee may receive six hours of paid jury duty leave. The employee must work or charge the remaining two hours to other available leave such as vacation or comp time.

09.04 Court Subpoena – Supervisors shall grant paid leave when an employee is subpoenaed to appear in a court of law in an official capacity for the university or as an expert witness. A copy of the subpoena is required for documentation.

An employee must use vacation, state comp, FLSA overtime, or leave without pay to appear in court for personal reasons.

09.05 Other Emergency Leave – Vice presidents may grant up to five days of paid leave per fiscal year for reasons not related to illness or injury. Illness-related absences are addressed in the sick leave, sick leave pool, and extended sick leave policies. To qualify for emergency leave, an employee must first exhaust all other paid leave entitlements.

Prior to taking emergency leave, the employee must submit the request for leave, along with a justification statement on an [Application for Leave Approval form](https://nextgensso.com/sp/startSSO.ping?PartnerIdpId=https://authentic.txstate.edu/idp/shibboleth&SpSessionAuthnAdapterId=texasStateDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2fc2057b39-9502-41f2-8761-a0eee0468813). The emergency leave must be approved by the department head, divisional vice president, and Human Resources.

**10. MISCELLANEOUS PAID LEAVE PROCEDURES**

10.01 In addition to sick and vacation entitlements, employees may receive other paid leave for specific situations.

1. Foster Parent – provided for employees who are a foster parent to a child under the protection of DPRS to attend staff meetings held by DPRS and admission, review, and dismissal meetings held by a school district regarding the foster child.
2. Court Appointed Special Advocates (CASA) Volunteer – provided to participate in mandatory training or perform volunteer services for CASA. Maximum leave is up to five hours per month.

c. Donor – provided to allow paid time off to serve as a donor:

1. Blood – maximum leave up to four times per fiscal year. Requires prior supervisor approval and proof of donation;
2. Bone Marrow – maximum leave up to five days per fiscal year; or
3. Organ – maximum leave up to 30 days per fiscal year.

d. Assistance Dog Training – provided for employees with a disability, as defined by the [Human Resources Code Section 121.002](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.121.htm), to attend training necessary to provide the employee with an assistance dog for their personal use. Maximum leave is up to 10 days per fiscal year.

e. Volunteer Firefighter, Emergency Medical Service (EMS), and Search and Rescue – provided to employees who are volunteer firefighters, EMS volunteers, or search and rescue volunteers.

1. Training – to attend training services conducted by a state agency or institution of higher education. Maximum leave is up to five days per fiscal year.

2) Respond to Emergencies – to respond to emergency fire, medical, or search and rescue situations. Maximum leave is up to 40 hours per fiscal year.

f. Certified American Red Cross Activities – provided to employees who are certified disaster service volunteers or are in training to become a volunteer to participate in specialized disaster relief services for the American Red Cross. Employees must have approval from their supervisor and the Office of the Governor and a formal request from the American Red Cross. Maximum leave is up to 10 days per fiscal year.

g. Amateur Radio Operator – provided to employees with an amateur radio station license issued by the FCC to participate in specialized disaster relief services. Employees must have approval from their supervisor and the Office of the Governor. Maximum leave is up to 10 days per fiscal year.

h. Time Off to Vote – Employees are encouraged to vote before or after working hours whenever possible. However, if due to work schedule or other circumstances beyond the employee’s control, an employee has difficulty getting to the polls before or after working hours, the university will allow the employee sufficient time off, with pay, to vote in each national, state, or local election. Supervisors shall reasonably accommodate the employee’s request; however, the determination of “sufficient” is the supervisor’s decision.

i. Medical and Mental Health Care Leave for Veterans – provided to employees who are veterans to obtain medical or mental health care administered by the U.S. Department of Veterans Affairs, including physical rehabilitation. Maximum leave is 15 days each fiscal year.

j. Mental Health Leave for Peace Officers – provided to licensed peace officers employed in that capacity at the university who experience a traumatic event in the course of discharging duties that fall within the scope of employment at the university as a peace officer. Maximum leave is 80 hours per fiscal year.

k. Wellness Leave – provided to benefits-eligible employees for the purpose of participation in wellness-related activities intended to improve employees’ personal health and wellness. The maximum amount of paid leave is two and a half hours per work week. Supervisors are encouraged to schedule hours to optimize the employees’ wellness experience while maintaining business operations. Wellness leave used during an employee’s normal work day must be recorded in the university’s timekeeping system.

**11. PERFORMANCE LEAVE PROCEDURES**

11.01 Outstanding Performance Award – A department head may grant leave with pay up to a maximum of 32 hours per employee each fiscal year as a reward for outstanding performance. Departments must establish criteria for the award in advance and outline the criteria in departmental policy. The departmental policy must be approved by the divisional vice president with a copy provided to Human Resources. In addition, department heads must clearly document actual performance for employees receiving the performance leave.

11.02 Team Award – Employees may receive leave with pay as part of a formal team award program. A formal team award program is established at the university or division level and must be defined in advance of an award being granted.

**12. ADMINISTRATIVE LEAVE PROCEDURES**

12.01 University administration, at its discretion, may place an employee on leave with pay. Examples may include time pending results of an investigation or an agreement as part of a separation of employment. Approval by the divisional vice president and Human Resources is required.

12.02 Administrative Leave for Tenured Faculty Administrators – A tenured faculty member who has held an administrative position with significant administrative duties related to the operation of the institution, including the operation of a department, college, program, or other division of the university and is returning to a teaching position may be eligible for an academic semester of administrative leave. The leave is intended to improve the faculty member’s professional, research, and teaching effectiveness before assuming full-time teaching responsibilities. In accordance with [Texas Education Code § 51.948](https://statutes.capitol.texas.gov/Docs/ED/htm/ED.51.htm), an eligible administrator who takes leave must return to work for an amount of time equal to the leave period, or repay the university for all costs of the leave, including all salary paid during the leave.

**13. STAFF LEAVE WITHOUT PAY PROCEDURES**

13.01 An employee must submit a request for emergency leave, along with a justification statement on an [Application for Leave Approval form](https://nextgensso.com/sp/startSSO.ping?PartnerIdpId=https://authentic.txstate.edu/idp/shibboleth&SpSessionAuthnAdapterId=texasStateDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2fc2057b39-9502-41f2-8761-a0eee0468813). The emergency leave must be approved by the department head, divisional vice president, and Human Resources. Employees may request a leave of absence without pay for a fixed period of time (not to exceed six months) by submitting an [Application for Leave Approval form](https://nextgensso.com/sp/startSSO.ping?PartnerIdpId=https://authentic.txstate.edu/idp/shibboleth&SpSessionAuthnAdapterId=texasStateDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2fc2057b39-9502-41f2-8761-a0eee0468813). The leave must be approved by the department head, divisional vice president, and Human Resources. In addition, the department head must submit a PCR to place the employee on leave without pay and ensure that time entry is completed prior to payroll processing.

13.02 Subject to fiscal constraints, the university will reinstate an employee on an approved leave of absence without pay to their original job, or to a position of similar status and pay, without loss of prior service credit. The university will consider an employee who fails to report for duty on the first regular workday after the leave without pay as having voluntarily terminated. The department head shall immediately send a registered letter notifying the employee of their termination effective the last day of the approved leave of absence period.

13.03 Except for disciplinary suspensions, military leave, workers’ compensation situations, or an unexcused absence, employees must exhaust all accumulated paid leave entitlements (including sick leave, if eligible) before receiving permission to go on leave without pay.

13.04 Use of any type of paid leave or leave without pay that qualifies under FMLA will automatically run concurrently with the FMLA period. Therefore, stacking of leaves to extend the employer insurance contribution or approved leave period is not permitted (see Section 07. for FMLA details).

13.05 Employees will not accrue sick leave, vacation leave, or state service credit while on a leave of absence without pay for a full calendar month, nor will they receive pay for holidays that occur during the leave of absence except in the case of a state employee returning from a military leave of absence without pay.

Employees on unpaid leave for the entire workday immediately before a holiday will not receive pay for that holiday.

13.06 Employees on a leave of absence without pay must make prior arrangements with Human Resources to pay their insurance premiums to keep their insurance in effect.

**14. FACULTY DEVELOPMENT LEAVE AND LEAVE OF ABSENCE PROCEDURES**

14.01 The Office of the Provost and Executive Vice President for Academic Affairs will provide detailed information pertaining to faculty development leave. Rules with respect to faculty leaves of absence are set forth in the [Faculty Handbook](https://www.provost.txst.edu/resources-faculty.html). The president must approve exceptions to both the university's faculty development leave and leave of absence without pay policies.

14.02 Faculty members on development leave are still on the university payroll and continue to receive benefits for which they are eligible.

14.03 Faculty members will apply for a leave of absence by memorandum through regular administrative channels. If approved, the department must maintain the memorandum and approval in its leave records.

14.04 Faculty members on leaves of absence are not in a pay status and must make prior arrangements with Human Resources to pay their insurance premiums to keep their insurance in effect.

**15. RECORD KEEPING POLICY**

15.01 State and federal regulations require the university to keep a record of the vacation and sick leave accrual and absences of each employee, and the reasons for the employee absences – whether from sickness, vacation, holiday, other paid leave, or leave without pay. In keeping with the provisions of the [Texas Public Information Act](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm), the university makes these records available for public inspection.

15.02 Each department head is responsible for knowing and monitoring the vacation, sick leave, FLSA overtime, and state compensatory time balances of each employee assigned to their departmental unit. A department head violates university policy if, without authorization, they permit an employee to take leave with pay entitlements that the employee has not accrued or to which the employee is not entitled.

15.03 By law, each department must maintain accurate and up-to-date overtime and compensatory time records and strictly adhere to the specific detailed rules and regulations outlined in [UPPS No. 04.04.16](http://policies.txstate.edu/university-policies/04-04-16.html), Overtime and Compensatory Time Policy. Classified employees, as listed in the [University Pay Plan](https://www.hr.txstate.edu/compensation/universitypayplan.html), are subject to FLSA overtime regulations. Faculty, administrative, and unclassified employees are not subject to the FLSA overtime regulations.

a. Classified employees (non-exempt) are required to record all additional hours worked as an exception to their normal work schedule. The automated timekeeping system will calculate and track FLSA overtime separately from state compensatory time.

b. Administrative and unclassified staff, chairs, and faculty eligible for vacation (exempt) are required to document state compensatory time earned and taken by recording additional hours worked and time taken off as exceptions to their normal work schedule. These individuals must document as previously earned, any hours taken off, including hours taken for energy conservation days.

**16. RECORD KEEPING PROCEDURES**

16.01 Department heads will ensure that all faculty and staff are trained on how to comply with one of the following processes for recording exceptions to their normal work schedule.

1. Individuals will enter time using the [SAP Portal Employee Self Service](https://www.txstate.edu/sap/). Time entries are entered each week no later than the end of the following work week and automatically routed to the employee’s immediate supervisor for action. If an individual is on leave at the end of the week, time entries are entered upon return to work no later than the fifth business day after returning to work. Supervisors are responsible for approving time entries as soon as possible, but no later than one week after receipt of notification.
2. Individuals will record time on a monthly time report, signed by the employee and immediate supervisor, with exceptions to the normal work schedule to be entered in [SAP](https://www.txstate.edu/sap/) by the departmental time administrator. The departmental time administrator must complete entry by thefifth business day after the end of the month. Departmental time administrators must use self-service to force routing of their own time entries to their supervisor for approval.
3. If late reporting does occur due to circumstances beyond the employee’s control, additional hours worked will not be accepted more than 12 months after the work was performed.

16.02 All monthly time reports, applications for leave approval, and supporting documentation must be maintained in departmental files in accordance with the [state record retention schedule](https://www.univarchives.txstate.edu/records/rm-rrs.html).

16.03 All current leave forms are available on the [Human Resources Forms webpage](https://www.hr.txstate.edu/forms.html).

**17. DISSEMINATION PROCEDURES**

17.01 The provost and executive vice president for Academic Affairs will ensure the [Faculty Handbook](https://www.provost.txst.edu/resources-faculty/faculty-handbook.html) contains all operative portions of the leave policy.

17.02 As a part of the initial orientation, supervisors will ensure that all new employees are made aware of the provisions of this policy and trained on department-specific procedures for requesting and using leave.

**18. REVIEWERS OF THIS UPPS**

18.01 Reviewers of this UPPS include the following:

Position Date

Associate Vice President for December 1 E2Y

Human Resources

Chair, Faculty Senate December 1 E2Y

Chair, Staff Council December 1 E2Y

**19.** **CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Associate Vice President for Human Resources; senior reviewer of this UPPS

Executive Vice President for Operations and Chief Financial Officer

President