



LEAVE POLICIES

LEAVE GUIDELINES

For vacation leave of 24 consecutive hours or fewer, a Pension Review Board (PRB) employee only needs to receive approval from their supervisor. If an employee wishes to utilize more than three days or 24 consecutive hours, they must receive approval from their supervisor, who will email the request for said time to the executive director. Upon approval from the supervisor and executive director, an employee must provide the written exchange to the director of business operations. This will go in the employee's leave folder. After leave has been approved, regardless of duration, employees must put it on the agency's shared Outlook calendar. During the legislative session, time-off requests must be balanced with the agency's business needs. The legislative session can be unpredictable, with very little within the agency's control in terms of workload and deadlines. The agency's ability to be responsive and timely fulfill legislative requests is critical for maintaining a positive relationship with the legislature. Accordingly, time off requests during the legislative session will be handled according to the following guidelines:

- Requests for time off will be considered on a case-by-case basis, with no strict across-the-board prohibition.
- Time off during January and February is generally preferable to March through May, given that committees start meeting in March, timelines get tighter, and requests are less predictable during the second half of session.
- Approval of requests for time off will also depend on the employee's specific role during session. Employees should demonstrate that their role and workload will be covered by at least one other person while the employee is away.
- In general, shorter periods of leave are preferable. Longer vacation requests are more appropriate for after session and during the interim, where the agency has more ability to plan and control workload.
- Employees should first discuss requests for leave during the legislative session with their direct supervisor. The executive director will make the final decision on whether to grant such requests for leave in consultation with the employee's supervisor.

ANNUAL LEAVE

An employee begins to accrue annual leave on the first day of employment and earns annual leave until the last day of duty. Annual leave cannot be used until six months of continuous employment with the state have been completed. Full-time employees accrue annual leave on the basis of the following schedule, which is set in statute.

The rates of vacation accrual for various lengths of state employment and the maximum number of hours that can be carried forward each fiscal year beginning September 1 are as follows:

| Schedule of Vacation Leave Accruals for Full-Time Employees | | | |
|---|-------------------------|-----------------------|-----------------------------|
| Length of Service | Hours Accrued per Month | Days Accrued per Year | Allowable Carryover (Hours) |
| Less than 2 years | 8 | 12.0 | 180 |
| At least 2 but less than 5 years | 9 | 13.5 | 244 |
| At least 5 but less than 10 years | 10 | 15.0 | 268 |
| At least 10 but less than 15 years | 11 | 16.5 | 292 |
| At least 15 but less than 20 years | 13 | 19.5 | 340 |
| At least 20 but less than 25 years | 15 | 22.5 | 388 |
| At least 25 but less than 30 years | 17 | 25.5 | 436 |
| At least 30 but less than 35 years | 19 | 28.5 | 484 |
| At least 35 years or more | 21 | 31.5 | 532 |

Vacation schedules should be carefully planned to ensure continued effectiveness of the agency, therefore, at times, individual plans may need to be changed to suit agency needs.

HOLIDAY COMPENSATORY LEAVE TIME

In rare circumstances, PRB employees may be required to work on a state or national holiday. An employee who works on a national or state holiday will be allowed holiday compensatory time off during the 12-month period following the end of the month in which the holiday was worked. These hours must be entered into the CAPPs system for approval and will then be available for future use.

STATE COMPENSATORY TIME

At the discretion of the executive director, an employee may be allowed to accrue state compensatory time for work hours that exceed 40 in a workweek. State compensatory time is accrued on a “straight” time basis, or one hour for one hour worked. Work hours, for the purpose of accruing state compensatory time, consist of paid leave, holidays, and actual hours worked. The state compensatory time off must be used within 12 months of the end of the workweek in which it was accrued, or it lapses (is no longer available for use). These hours must be entered into the CAPPs system for approval to be available for future use.

HOLIDAYS

Statute controls holidays for state employees. A list of the holidays to be observed for each fiscal year is available at <http://www.hr.sao.texas.gov/Holidays>. Holidays falling on Saturdays and Sundays will not be observed by closing the office on preceding or following days unless approved in advance as an agency holiday by the executive director. Depending on agency workloads, employees may need to work on holidays. Certain additional days are set by the legislature as state holidays, which are “skeleton holidays.” On such days, offices must maintain “skeleton crews” so that essential services are provided to the public. Any time worked on holidays may be counted as holiday compensatory time. Accrued holiday compensatory time from “skeleton holidays” must be used by the employee within one calendar year from the date earned.

Employees are entitled to observe “optional holidays” for Rosh Hashanah, Yom Kippur, Good Friday, and Cesar Chavez Day in lieu of a skeleton holiday. To take an optional holiday, an employee must agree to

give up an equivalent number of state (skeleton) holidays during the same fiscal year. However, optional holidays cannot be substituted for national holidays.

AGENCY HOLIDAYS

The executive director may declare a holiday that is not a national holiday, or a state holiday as listed in statute.¹ If the executive director declares an agency holiday, the agency may be required to maintain a skeleton crew during regular business hours. Staff who work on a declared agency holiday shall receive compensatory time off at the rate of one hour of leave earned for each hour worked.

SICK LEAVE

All full-time employees accrue eight hours of sick leave per month (or proportionately for part-time employees). An employee accrues sick leave beginning on the first day of state employment and ending on the last duty day of state employment. Duty day means an employee's last physical day on the job. An employee who is on leave the first day of the month may not use that month's accrual until they return to duty.

The agency encourages employees to accumulate a reasonable sick leave balance for use in the event of a serious or long-term illness. Employees are expected to use sick leave in a responsible manner, and sick leave used as it is earned is generally not considered responsible use.

An employee may take sick leave whenever illness, injury, pregnancy, or confinement prevents the employee's performance of duty, or to attend to a medical, dental, optical, or similar examination for the employee or employee's immediate family member. An employee is also eligible to take sick leave when the employee is needed to care for and assist a member of the employee's immediate family who is ill. "Immediate family" is defined as individuals related by kinship, adoption, or marriage who live in the same household; foster children who reside in the same household; and minor children regardless of whether they live in the same household. Sick leave may be used to care for family members who do not reside in the same household only for a documented medical condition, to provide care and assistance to a spouse, child, or parent of the employee.

Proper notification of using sick leave occurs when an employee informs their supervisor that they will be absent due to illness. An email must be sent for each day or time period an employee is out sick. The employee's supervisor will make the necessary arrangements, such as putting the employee's use of sick leave on the staff calendar and informing teammates of any coverage needs.

Employees who are ill are encouraged to stay home and recover. While there may be circumstances that require an employee to come in, employees should be mindful of others. Employees who may be contagious should not come to work. An employee should inform their supervisor if they intend to work remotely while ill.

If an employee intends to utilize more than 24 consecutive work hours of sick leave, they must provide a doctor's note upon returning to work. The executive director has authority to request a doctor's note when sick leave is used, regardless of the amount of time used.

¹ Section 662.003, Texas Government Code.

SICK LEAVE POOL

The PRB has a sick leave pool that provides a “safety net” if an employee, or a member of their immediate family, suffers from a catastrophic injury or illness and the employee exhausts all available sick leave. This pool relies on the donation of sick time from PRB employees only. If an employee has not suffered a catastrophic injury or illness but has exhausted their sick leave due to a previous contribution to the sick leave pool, they may participate in the pool and use sick leave hours limited to the amount contributed to the sick leave pool by the employee during their employment with the PRB.

Employees may contribute, on a voluntary basis, an unlimited amount of sick leave to the pool each fiscal year, in increments of eight hours. To contribute sick leave hours, submit the Sick Leave Pool Donation form to the director of business operations. There may be tax consequences for employees who choose to donate leave to the sick leave pool, so employees should consult a tax professional with any questions they may have.

The amount of pool leave granted for each catastrophic illness or injury will be determined by the executive director. The amount cannot exceed one-third of the balance of hours in the pool, or 90 days in a fiscal year, whichever is less. Any unused balance of pool leave granted to an employee returns to the pool.

EXTENDED SICK LEAVE

Employees are eligible for leave with pay for an illness, injury, or temporary disability. Extended sick leave may be used for personal or family illness and may be granted to employees who are unable to use either their sick leave or the sick pool. For extended sick leave *only*, family is defined as persons related through kinship or marriage.

The amount of extended sick leave that may be granted will be determined on a case-by-case basis at the executive director’s discretion. In determining whether an employee is eligible for extended sick leave, the executive director may consider a number of factors, including the following:

- Length of employment with the agency
- Type or nature of the illness or disability
- Current/past work performance
- Past leave balances
- Whether the employee intends to return to work
- Who the leave is for (example, self or family member)
- Whether the employee has used extended sick leave previously

ABUSE OF LEAVE

The executive director monitors employees’ use of leave. If an employee is suspected of abuse of sick leave, the executive director may request a doctor’s note regardless of the length of sick leave used. Conduct that may indicate an abuse of leave includes, but is not limited to:

- Frequent absences on Fridays and Mondays, especially unscheduled
- Frequent absences before or after a holiday, especially unscheduled
- Frequent unscheduled or unapproved absences
- Frequent use of unaccrued leave
- Misuse of leave, especially using sick leave when not sick

Abuse of leave may be grounds for disciplinary action, up to and including termination of employment.

OTHER LEAVE

TEXAS PARENTAL/ADOPTION LEAVE

Employees who have been employed fewer than 12 months or who have worked less than 1,250 hours in the previous 12 months are entitled to a leave of absence not to exceed 12 weeks due to the birth or adoption of a child less than three years of age. Eligible employees must use all appropriate paid leave while taking parental/adoption leave. State compensatory time, holiday time, and administrative leave that are benefits of the state may be counted toward the entitlement.

Employees should provide 30 days written notice to the director of business operations and their supervisor stating the intended length of leave to allow for any necessary adjustments to review the schedule. Once eligibility is verified, an employee should then add their leave to PRB's shared Outlook calendar. The use of sick leave by either parent is strictly limited to those situations clearly falling within the definition of sick leave.

MILITARY LEAVE

Employees who are members of the Texas National Guard or any reserve component of the United States Armed Forces or the Federal Emergency Management Agency are entitled to leave of absence with pay if ordered to engage in duty or training. The military leave is not to exceed a total of 15 workdays in one federal fiscal year. This includes travel time. For further information, please see Chapter 431, Texas Government Code.

An employee who does not use all 15 days of military leave available for use in a federal fiscal year will be allowed to carry forward the unused portion of military leave to the next federal fiscal year, not to exceed 45 workdays.

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 emergency leave for not more than 22 workdays without loss of military leave or vacation leave.

Additionally, employees who are members of 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 who are called to **state** active duty by the governor or another appropriate authority in response to a disaster, are entitled to a paid leave of absence (not to exceed seven workdays in a fiscal year) for each day they are called to active duty during a disaster. For the purposes of this leave, "disaster" has the meaning assigned in Section 418.004, Texas Government Code.

If an employee leaves their state job to enter active duty in the armed forces, the PRB will comply with applicable state and federal laws regarding re-employment. Upon returning to work, an employee is entitled to have time on active duty included in employment longevity for the purposes of vacation and sick leave entitlements. Employees do not, however, accrue vacation or sick leave while on active duty.

A copy of the order or official directive ordering the employee to active duty must be submitted to the director of business operations to be eligible for the above considerations.

JURY DUTY

The PRB expects its employees to fulfill their citizenship obligations and, when called upon, to perform jury duty. Employees are authorized paid leave for jury duty. This leave is not subtracted from any other leave accruals.

Employees should notify their supervisor through email once they receive a jury summons before putting it on PRB's shared Outlook calendar. A certificate of jury duty should be given to the director of business operations upon returning to work. Employees may keep all fees received for their jury service.

WITNESS DUTY

If an employee is a witness in a judicial action in an official capacity, they will be given leave with pay to do so. This leave is not subtracted from any other type of leave. If an employee is a witness in a private or unofficial capacity, they must take annual leave or do so on their own time. Employees are not entitled to any reimbursement from the state. An employee should notify their supervisor of witness duty by email as soon as feasible before adding their time out of the office on PRB's shared Outlook calendar. A copy of a letter reflecting the dates required for testimony or other written evidence from an official of the court should be given to the director of business operations upon return to work.

BLOOD/BONE MARROW/ORGAN DONATION LEAVE

A state employee is entitled to time off without a deduction in salary to donate blood not more than four times per fiscal year. An employee is also allowed up to five days per fiscal year to donate bone marrow and up to 30 days to donate an organ. Employees are responsible for providing proof of donation to the director of business operations, if requested, upon returning to work.

COURT APPOINTED SPECIAL ADVOCATE VOLUNTEER (CASA) LEAVE

A state employee may be provided paid leave not to exceed five hours each month to participate in mandatory training or to perform volunteer services for Court Appointed Special Advocates. This leave is provided to an employee without a deduction in salary or loss of vacation leave, sick leave, overtime leave, or state compensatory time.

VOLUNTEERS OF TEXAS VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER

- A state employee who is a volunteer of an organization that is a member of the Texas Voluntary Organizations Active in Disaster may be granted leave not to exceed 10 days each fiscal year, without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time, to participate in disaster relief services if the employee's supervisor authorizes the leave;
- the services in which the employee participates are provided for a state of disaster declared by the governor under Chapter 418, Texas Government Code; and
- the executive director approves the leave.

VOTING LEAVE

Employees are allowed up to two hours, without a deduction in salary or accrued leave, to vote in each national, state, or local election, if there is not sufficient time to vote outside regular working hours. Employees should inform their supervisor if they intend to use voting leave and place the time on the PRB calendar.

EMERGENCY LEAVE WITH PAY

Leave with pay shall be granted to an employee with a death in the family. Family is defined as an employee's spouse, the employee's and spouse's parents, children, brothers, sisters, grandparents, and grandchildren, as well as an employee's daughter-in-law or son-in-law.

This emergency leave is for death in an employee's family and generally may not exceed more than three workdays for travel within Texas and five workdays for travel outside of the state. The executive director has discretion on the amount of emergency leave to be granted. This time away from work is not subtracted from any other leave. The executive director has the discretion to grant emergency leave in other situations for good cause.

LEAVE WITHOUT PAY (LWOP)

Leave without pay (LWOP) may be requested by an eligible employee who wishes to take time off work without pay. Except for Americans with Disabilities Act accommodations, Family and Medical Leave Act (FMLA) requirements, and exceptional circumstances, LWOP is not a benefit that an employee can demand or that the agency must provide. Therefore, this voluntary arrangement can be terminated at any time if it is determined that the agency's needs are not being met. When utilizing LWOP, an employee:

- May not exceed 12 months.
- All accumulated paid leave must be exhausted except in instances of disciplinary suspension, leave covered by workers' compensation benefits, or active military duty situations. Sick leave must first be used only if the employee is eligible to use sick leave under Chapter 661, Subchapter G, Texas Government Code.

The executive director may allow for exceptions to these limitations in certain situations. A full-calendar month in which an employee is in LWOP status does not constitute a break in state employment. However, except for employees who return to state employment from military leave under Section 661.904, Texas Government Code, a full calendar month in which an employee is in LWOP status is not counted in the calculation of:

- the employee's total state service for the purpose of determining the amount of longevity pay or the accrual rates for vacation leave; or
- the number of months of continuous state service for the purposes of the merit salary provisions or for the eligibility to use vacation leave.

In addition, an employee who is in LWOP status for the entire month will not accrue vacation or sick leave for that month, nor will the employee be paid for state or federal holidays while on LWOP.

An employee who is on LWOP will have their compensation reduced for the pay period by an amount in accordance with the General Appropriations Act and rules adopted by the Office of the Comptroller of Public Accounts. If an employee is in LWOP status that is not FMLA leave related for a complete calendar month, they will need to submit full payment for their total monthly insurance premium directly to the Employees Retirement System of Texas, including the employee's portion and the state's portion. This will keep insurance in force during absence. Before returning to work, a physician's certificate may be required stating that the employee is physically able to perform the duties of the position. Subject to fiscal constraints, approval of LWOP constitutes a guarantee of employment at the conclusion of the specified leave period.

The employee must provide a minimum of two days' notice with intent to return to work. However, if practicable, the employee should contact the director of business operations at least two weeks prior to the expiration of the leave to indicate when the employee will return to work.

FAMILY AND MEDICAL LEAVE ACT (FMLA)

The Family and Medical Leave Act (FMLA) allows eligible employees to take unpaid leave, or to substitute appropriate paid leave, for an FMLA qualifying event without fear of being terminated from their jobs or being forced into a lower job upon their return. The FMLA applies to all state agencies and institutions of higher education, with the exception of legislative agencies.

The U.S. Department of Labor's Wage and Hour Division is responsible for administering and enforcing the FMLA, and agencies and institutions of higher education should address specific questions related to the FMLA to the Wage and Hour Division. Additional information on the FMLA is available on the U.S. Department of Labor's website at <https://www.dol.gov/general/topic/benefits-leave/fmla>.

Family and Medical Leave Eligibility

Eligibility for family and medical leave is limited to employees who have worked for the state for at least 12 months. The 12 months of employment do not need to be consecutive or continuous. However, an agency or institution of higher education does not have to include employment prior to a break in service of seven or more years unless the break is occasioned by an employee's fulfillment of their covered service obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act). In addition, an employee must have worked a minimum of 1,250 hours during the 12 months immediately preceding the start date of family and medical leave.

For the purposes of FMLA, the state is considered a single employer. Agencies and institutions of higher education should credit time worked for other state agencies and institutions of higher education when considering FMLA eligibility.

Family and Medical Leave Entitlement

The FMLA entitles all eligible employees to a total of 12 weeks of job-protected unpaid leave during a 12-month period for one or more of the following reasons:

- The birth and subsequent care of a newborn child.
- The placement of a child into the home of an employee or with the employee for adoption or foster care.
- The need to care for a spouse, child, or parent with a serious health condition. (A child includes a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis. A parent is defined as a biological, adoptive, step or foster parent, or an individual who stood in loco parentis to an employee when the employee was a child).
- A serious health condition that renders the employee unable to work.
- A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or to active duty) or is in support of a contingency operation for covered members of a reserve component. Examples of qualifying exigency may include: short notice deployment; military events and related activities; childcare duties and school activities; care of the military member's

parent who is incapable of self-care; financial and legal arrangements; counseling; rest and recuperation; and post-deployment activities.

If the leave is for birth and care of child, or placement for adoption or foster care, it must conclude within 12 months of the birth or placement of the child.

Eligible employees are entitled to paid leave during FMLA leave for the birth and care of a child, as described below:

- 40 days of paid leave for the birth of a child; or
- 20 days of paid leave for the birth of a child by the employee's spouse, birth of a child by a gestational surrogate, or the adoption of a child.

An eligible employee is not required to use all available paid vacation and sick leave before the employee is entitled to take the paid family leave. Paid parental leave must be taken in a continuous block, rather than intermittently. Paid parental leave starts after the birth of a child. Paid parental leave cannot be banked for a future qualifying event. Eligible employees must also subsequently use all appropriate paid leave while taking FMLA leave. State compensatory time, holiday time, and administrative leave that are benefits of the state may be counted toward the entitlement. If an employee elects to use Fair Labor Standards Act (FLSA) compensatory time while out on FMLA leave, that time is not counted toward the 12-week entitlement.

The use of sick leave while on FMLA leave is strictly limited to those situations falling within the definition of sick leave. Sick leave may be used in conjunction with FMLA leave when a child under the age of three is adopted, regardless of whether the child is ill at the time of adoption. Employees on workers' compensation or receiving temporary disability benefits cannot be required, but may elect, to use paid leave prior to taking FMLA. The state will continue to pay its portion of the employee's group health plan coverage during FMLA leave. The employee is responsible for paying their portion of the premium.

An employee does not earn state service credit, vacation leave, or sick leave for any full calendar months of leave without pay while on FMLA leave. This time is also not included in the calculation of the number of continuous months of employment for purposes of merit increases and leave.

Process to Request FMLA Leave

Employees should provide 30 days of notice of the need to take FMLA leave. If 30 days' notice is not possible, notice must be provided as soon as practical. Employees must provide sufficient information to determine if the leave qualifies for FMLA protection. Please see the director of business operations for appropriate forms. Employees are responsible for informing the Administration Division if they have been granted FMLA leave for this reason in the past.

The director of business operations will provide notice to the requestor informing them of whether they are eligible under FMLA, whether any additional information is needed, and what their rights and responsibilities are.

After eligibility has been determined and all necessary information has been provided, the director of business operations will inform the requestor whether the leave qualifies for FMLA protection.

FAMILY LEAVE POOL

The PRB has a family leave pool that allows employees to voluntarily transfer accrued sick leave or vacation leave to a family leave pool. The family leave pool is intended to provide eligible state employees the flexibility to bond with and care for children during a child's first year following birth, adoption, or foster placement; or to care for a seriously ill family member or the employee, including illnesses or complications resulting from a pandemic.

An employee is eligible to use time contributed to the family leave pool if the employee has exhausted his or her eligible compensatory, discretionary, sick, and vacation leave because of:

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

An employee who applies to use time to care for another person must submit and be listed on that 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 requires guardianship.

Contributions to the family leave pool must be in increments of one or more days of an employee's accrued sick leave or vacation leave, with the exception of a retiring employee, who may designate the number of sick leave or vacation leave hours to be donated. An employee may draw from the family leave pool only with the approval of the executive director. If an employee is seeking permission to withdraw time from the pool because of a serious illness, including a pandemic-related illness, of an immediate family member or the employee, and the employee does not qualify for or has exhausted time available in the sick leave pool, the employee must provide the director of business operations with a written statement from a licensed practitioner who is treating the employee or the employee's immediate family member. There may be tax consequences for employees who choose to donate leave to the family leave pool, so employees should consult a tax professional with any questions they may have. If an employee is seeking permission to withdraw time from the family leave pool because of 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.

An employee may not withdraw from the family leave pool an amount that exceeds one-third of the total time in the pool or 90 days, whichever is less.

An employee may use the time withdrawn from the family leave pool as sick leave earned by the employee. The employee must be treated for all purposes as if the employee is out on earned sick leave. The estate of a deceased employee is not entitled to payment for unused time withdrawn by the employee from the family leave pool.

MISCELLANEOUS LEAVE

Although unusual in frequency, there are various types of leave an employee may be entitled to but are not mentioned above. A complete list may be found in Chapter 661, Texas Government Code. Alternatively, an employee may ask the director of business operations any questions they may have.