

Sam Houston State University
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Finance & Operations Human Resources Policy B-1
Employee Leaves

SUBJECT: Employee Leaves Procedures

PURPOSE: To provide a standard policy for administering and granting employee leaves for absence from their jobs in accordance with university, system, state, and federal rules and regulations.

POLICY: It is the policy of Sam Houston State University to grant leaves to all regular benefits eligible, non-student employees (employees who are appointed at least one-half time or more for a continuous period of at least four and one-half months or one long semester for faculty) on a consistent basis without regard to race, color, national origin, sex, religion, age, disability or veteran status. All personnel actions are reviewed to ensure Equal Employment Opportunity (EEO) compliance.

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1. Vacation Leave

- a. Staff employees and faculty with twelve month appointments shall be entitled to a vacation in each fiscal year without deduction in salary. Part-time eligible employees will accrue vacation leave on a proportionate basis and the maximum carryover will also be proportionate. Such entitlement shall be earned in accordance with the following schedule based on full-time employment:

<u>Employees with Total State Employment of:</u>	<u>Hours Accrued Monthly</u>	<u>Maximum Hours Carried to Next Fiscal Year</u>
0 but less than 2 years	8 (12.0 days/yr)	180
2 but less than 5 years	9 (13.5 days/yr)	244

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5 but less than 10 years	10 (15.0 days/yr)	268
10 but less than 15 years	11 (16.5 days/yr)	292
15 but less than 20 years	13 (19.5 days/yr)	340
20 but less than 25 years	15 (22.5 days/yr)	388
25 but less than 30 years	17 (25.5 days/yr)	436
30 but less than 35 years	19 (28.5 days/yr)	484
35 years or more	21 (31.5 days/yr)	532

- b. An employee will earn vacation entitlement beginning on the first day of employment with the state and terminating on the last day of duty based upon the chart above. The net balance of unused leave, not to exceed the maximum cited above, shall be carried forward each fiscal year. All hours of unused accumulated vacation, which exceeds the maximum carryover, may be credited to the employee's sick leave balance as of the first day of the next fiscal year.
- c. Credit for one month's accrual will be given for each month or fraction of a month of employment and on the first of each succeeding month thereafter, provided that an employee who is in a leave status on the first day of the month shall not be eligible to use leave accrued for such month until the employee returns to duty. Credit for the higher rate of accrual shall be given on the first calendar day of the month, if the employee's 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 an eligible status on the first workday of the month, the employee is deemed to have begun working on the first calendar day of the month for the purpose of this subsection.
- d. Vacation with pay may not be taken until the employee has been continuously employed with the state for six months, although credit will be accrued during that period. Continuous employment means that no leave without pay (i.e., for a full calendar month which does not count as state service credit) has been taken. The six-month eligibility requirement means that once an employee has completed six (6) months or more of continuous state employment and then leaves state employment, that person is eligible to take vacation leave as it is earned upon reemployment, or be paid for it on termination following such re-employment.
- e. Employees are encouraged to take vacation in the fiscal year in which the entitlement is earned. Vacation leave should be scheduled in advance by the employee at a mutually agreeable time to both the employee and supervisor.
- f. In computing vacation time taken, time during which an employee is excused from work because of holidays shall not be charged against the employee's vacation.
- g. Vacation accruals will be used for absences due to illness after all accumulated sick leave and compensatory time has been exhausted.
- h. If, as a condition of employment, an employee accepts or transfers to a position not eligible for vacation accrual, any current vacation balance will be paid upon transition. The rate used in calculating the amount to be paid will be that which the employee earned at termination of the accruing position. Employees are not eligible to use accrued vacation time while in a position not eligible for vacation accrual.
- i. An employee who resigns, is dismissed, or separated from employment (including death) shall be entitled to be paid for all their unused balance of vacation within thirty (30) days, provided the employee has had continuous employment with the state of Texas for six (6) months; and is not directly transferring to another Texas state agency into a position which accrues vacation time.
- j. Employees who retire on or after June 1, 2005, and return to work on or after September 1, 2005, will have vacation accruals based upon state service since their rehire date. However, return to

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work retirees are not required to re-establish the six (6) months continuous service requirement in order to take vacation with pay.

- k. Sam Houston State University (SHSU) employees assigned to Charter School sites are not eligible for vacation leave. Refer to the SHSU Charter School Leaves and Absences Policy located on the SHSU Charter School website for additional leave related details for Charter School employees.
- l. Employees eligible for *Vacation Leave* who do not document use of any vacation leave during the previous fiscal year must annually certify the nonuse through *Talent Management*. Human Resources will notify all employees who are required to certify.

2. Sick Leave

- a. Regular benefits eligible non-student employees will earn sick leave entitlement beginning on the first day of employment and terminating on the last day of duty. Credit for one (1) month's accrual will be given for each month or fraction of a month of employment and will be posted to each employee's leave record on the first day of employment and on the first day of each succeeding month of employment thereafter. An employee who is on leave on the first day of a month may not use the sick leave that the employee accrues for that month until after they return to duty. An employee must be in a status of pay each month to be eligible to accrue.
- b. Sick leave entitlement shall be earned at the rate of eight (8) hours for each month or fraction of a month employment, and shall accumulate with the unused amount of such leave carried forward each month. Part-time regular employees accrue proportionate to their appointment. Sick leave accrual shall terminate on the last day of duty.
- c. Sick leave with pay may be taken when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty or when the employee is needed to care for a member of their immediate family who is actually ill.
 - (1) 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 State.
 - (2) Minor children of the employee, whether or not living in the same household, will be considered immediate family for purposes of regular sick leave.
 - (3) 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 to a spouse, child, or parent of the employee who needs such care as a direct result of a documented medical condition. This provision does not extend to an employee's parent-in-law if they do not live in the same household.
 - (4) If an employee is on vacation and would otherwise be entitled to sick leave then the fact that such sick leave is requested while on vacation does not affect the employee's entitlement to sick leave.
- d. An employee who must be absent from duty because of illness shall notify their supervisor or cause them to be notified of that fact as soon as possible. To be eligible for accumulated sick leave with pay during a continuous period of more than three (3) working days (includes absences for part of a scheduled work day), an employee absent due to illness shall send to the supervisor a doctor's certificate showing the cause or nature of the illness, or some other written statement of the facts concerning the illness which is acceptable to the AVP of Human Resources. The administrative head has the discretion to require documentation concerning illnesses resulting in absences of three (3) working days or less. Also, a physician's statement certifying ability to return to work may be required when the nature of the illness has been such that the safety, health, or fitness of the employee to do their

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work may need assurance or clarification from a physician. Employees are encouraged to use paid sick leave cautiously so that should unforeseen illness or injury occur, the sick leave accrued at least partially covers the period of absence. Abuses of sick leave privileges shall constitute grounds for dismissal from employment by the University.

- e. Upon return to duty after sick leave the employee concerned shall, without delay, report on the semi-monthly "Leave Report" or "Personnel Time Report" any such leave taken. The "Leave Report" or "Personnel Time Report" shall be approved by the departmental supervisor and sent to the Payroll Office. The method for keeping current sick leave records between payroll reporting periods shall be prescribed by the departmental supervisor. Faculty members must submit a Leave Report for all sick leave even though no classes were missed if the absence occurred during the normal workday.
- f. An employee who transfers directly from one state agency to another, shall be given credit by the receiving agency for the unused balance of sick leave, provided employment with the state is uninterrupted.
- g. The estate of an employee, when the employee dies while employed, is entitled to payment for one-half of the employee's accumulated sick leave or for 336 hours of sick leave, whichever is less, provided that the employee had continuous employment with the state for at least six (6) months at the time of death.
- h. Accumulated sick leave shall not constitute claim for reimbursement when an employee leaves the employment of the University. However, an employee separated from employment with the state under a formal reduction-in-force shall have their sick leave balance restored if re-employed by the state within twelve (12) months of termination; an employee separated for other reasons shall also have their sick leave balance restored if re-employed by the state within twelve (12) months of termination, and provided there has been a break in service of at least thirty (30) calendar days since termination if re-employed by the same state agency. Employees that become ineligible to accrue sick leave, as a result of a reduction in their employment to less than half-time or by changing to a student job status, will have their accrued balance frozen, but are eligible to transfer the time (if not earned in a state multiple employment status) when directly transferring to another state agency in an eligible accrual capacity; can have the accrued balance reinstated if after terminating by satisfying the re-employment period reinstatement requirements as described in the above paragraph; or can use the accrued balance upon returning to a non-student regular benefits eligible position.
- i. For employees returning to work as a retiree, there must be an official separation (termination) of employment to effect retirement status. In addition, there must be a thirty (30) calendar day break to have their sick leave balance restored when re-employed by the same state agency.
- j. Sam Houston State University does not grant extended sick leave.
- k. Sam Houston State University (SHSU) employees assigned to Charter School sites are not eligible for the sick leave described in this policy. Refer to the SHSU Charter School Leaves and Absences Policy, located on the SHSU Charter School website, for details regarding Sick Leave for Charter School employees.
- l. **Faculty:** Faculty members earn sick leave and report sick leave taken even if no classes were missed as required by the State of Texas (*Texas Government Code 661.203*). Faculty must report sick leave for the actual time missed from carrying out 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. Report all hours absent, not just hours where classes were missed or taught by a substitute. For example, when a faculty member is ill for three days and is absent from his/her Monday and

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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 faculty is as follows:

- Fall semester begins September 1st and extends through the last day of commencement. While on duty, faculty members report the use of sick leave. Sick leave is not reported between the last day of commencement and the first day faculty returns to duty for the spring semester.
- Spring semester begins the date faculty report for duty and extends through the last day of commencement. While on duty, faculty members report the use of sick leave. Sick leave is not reported during spring break.
- Faculty teaching the first summer session are to report sick leave from the date reporting for duty through the last day for submission of grades. Faculty teaching the full summer or second half summer sessions shall report sick leave from the date the faculty member reported for duty through the last day of commencement.

m. Employees eligible for *Sick Leave* who do not document use of any sick leave during the previous fiscal year must annually certify the nonuse through *Talent Management*. Human Resources will notify all employees who are required to certify.

3. Leave for Organ or Bone Marrow Donors

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

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

4. Donation of Blood

A state employee shall be allowed sufficient time off, without a deduction in salary or accrued leave, to donate blood. An employee may not receive time off under this section unless the employee obtains approval from his or her supervisor before taking time off. On returning to work after taking time off under this section, an employee shall provide his or her supervisor with proof that the employee donated blood during the time off. If an employee fails to provide proof that the employee donated blood during the time off, Sam Houston State University shall deduct the period for which the employee was granted time off from the employee's salary or accrued leave, whichever the employee chooses. An employee may receive time off under this section not more than four times in a fiscal year.

5. Sick Leave Pool

The Sick Leave Pool is intended to assist an employee and his or her immediate family in dealing with catastrophic illnesses or injuries that force them to exhaust all available leaves.

- a. Employees who have at least twelve (12) continuous months of regular staff or faculty employment with SHSU immediately preceding their eligible condition, may request pool leave for their own catastrophic illness or injury or for one in their immediate family which has caused an absence (paid or unpaid) of thirty (30) working days (sequential or otherwise) within the immediate preceding six (6) calendar months.

(1) A **catastrophic injury or illness** is a severe condition or combination of conditions affecting the mental or physical health of the employee or the employee's immediate

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family that requires the services of a licensed practitioner for a prolonged period of time and forces the employee to exhaust all accrued leave and lose compensation.

- (2) A **severe condition** or combination of conditions is one that:
- i. Will result in death or is a severely debilitating condition that will result in the individual not meeting the essential functions of his/her job if not treated promptly or at regularly scheduled intervals (e.g., chemotherapy treatments, radiation treatments, etc.); OR
 - ii. Has been designated as terminal; OR
 - iii. Will require an absence from work for at least forty-five (45) continuous calendar days.
- b. Employees may use sick leave pool if they contributed sick leave to the pool and subsequently exhaust their sick leave balance. Such employees may receive only the number of hours they have contributed to the pool unless they suffer a catastrophic illness or injury. Employees must exhaust all earned leave with pay entitlements before they may use leave from the pool. Employees on sick leave pool for a full calendar month accrue paid leave for that month, provided they return to work following the leave.
- c. Contributions to the pool are strictly voluntary. To contribute time to the pool, an employee must complete a "Sick Leave Pool Donation Form". Employees who contribute leave to the pool cannot get it back unless they are eligible to use it in accordance with this policy. Employees may contribute an unlimited number of their accrued days. Contributions should be in full day increments.
- d. Employees with catastrophic illnesses or injuries are not required to contribute to the pool before they can use pool leave. Also, employees who use pool leave are not required to pay back pool leave.
- e. Pregnancy
- (1) Pregnancy is not considered catastrophic unless severe illness and prolonged complications arise to either the mother or the child.
 - (2) Time off following the birth of a child is considered normal regardless of the method of delivery and will not be considered for Sick Leave Pool unless medical documentation shows complications to the mother or the child after the delivery.
- f. Requests for pool leave will be in writing along with a completed "Sick Leave Pool Application & Approval Form" and documentation from the treating physician and forwarded to the Pool Administrator through appropriate supervisory channels. The AVP of Human Resources or designee serves as the University's Pool Administrator. Requests will be considered by the Pool Administrator on a first-come, first-serve basis. The Pool Administrator will have up to ten (10) working days from the date they receive a request in which to approve all or part of the request, or deny the request. The amount of pool leave granted for a catastrophic illness or injury will be determined by the Pool Administrator. The amount cannot exceed one-third of the balance of hours in the pool, or ninety (90) working days (720 hours), whichever is less. Any unused balance of pool leave granted to an employee returns to the pool. The estate of a deceased employee is not entitled to payment for unused pool leave.

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- g. An employee requesting sick leave pool time must provide a licensed practitioner's statement. The statement must include expected duration of the illness and expected return to work date. A licensed practitioner's statement must be submitted for **each 30-day period of sick leave pool time requested. No sick leave pool time will be granted for any days not covered by a licensed practitioner's statement.**
- h. The university reserves the right to require additional licensed practitioner's statements from providers of its choice. The expense of such additional statements will be borne by the university.
- i. The employee should advise in the sick leave pool request if they are receiving subrogation benefits, i.e., by legal right collecting pay, reimbursement for loss of work time, or damages from a third party as a result of the catastrophic illness or injury. An employee who is on leave due to an on-the-job injury or illness is not eligible to use the Sick Leave Pool.
- j. Employees must be meeting job performance requirements, based on the most recent performance appraisal, and observing work rules to be eligible for pool leave.

6. Donation of Sick Leave to an Individual

Employees eligible for sick leave and with available sick leave accruals may donate a portion of their sick leave balance to another employee provided the receiving employee has exhausted his or her sick leave, including any time he or she may be eligible to withdraw from the university's sick leave pool.

Sick leave donation to a specific individual is a taxable event to the donor unless the situation qualifies as a medical emergency pursuant to IRS guidelines. For taxation purposes, a medical emergency is defined as "a major illness or other medical condition that requires a prolonged absence from work (40 hours), including intermittent absences that are related to the same illness or condition". The cash value of donations not qualified as medical emergencies are included in the gross income of the donor and treated as wages for employment tax purposes.

- a. Employees may not provide or receive remuneration or gift in exchange for a sick leave donation.
- b. Sick leave donations are non-returnable whether used or not by the receiving employee.
- c. Recipient Information:
 - (1) An intended recipient of donated sick leave will be notified of the potential donation by Human Resources.
 - (2) An intended recipient seeking to accept a denotation must provide requested documentation and participate in Human Resources assessment of the potential taxability of the donation and whether the recipient qualifies for Sick Leave Pool, FMLA, and/or other leave options.
 - (3) Upon confirmation of donation, a recipient employee must submit a [Sick Leave Donation to an Individual – Recipient Form](#) to effect a sick leave transfer.
 - (4) Use of donated sick leave must be consistent with provisions of sick leave use contained in this policy.
 - (5) Employees receiving donated sick leave may not receive service credit in the Employees Retirement System of Texas (ERS) or the Teacher Retirement System of Texas (TRS) for any donated sick leave that is unused on the last day of employment.

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d. Donor Information:

- (1) An employee donor initiates a potential transfer by submitting a [Sick Leave Donation to an Individual – Donor Form](#) is to the Human Resources Department for processing.
- (2) A potential donor may make the donation contingent upon the tax-exempt status of the leave transfer.
- (3) When the leave does not qualify for tax-exempt status, the dollar value of donated sick leave is taxable to the donor and such taxes are withheld from the donor's paycheck.

7. Bereavement Leave

- a. The death of a member of the employee's **immediate family** shall constitute adequate need for bereavement leave. Employees who experience a death in their **immediate family** may receive, if needed, up to five (5) days bereavement leave (or no more than 40 hours). **Immediate family** members are defined as:
 - Employee's spouse
 - Employee's parents, step-parents, children, step-children, brothers, sisters, grandparents, and grandchildren
 - Spouse's parents, children, brothers, sisters, grandparents and grandchildren
- b. An employee who must be away from the job due to a death of a member of his/her **immediate family** shall notify the supervisor on or before the first day of such absence.
- c. Request for approval of bereavement leave must be submitted to the supervisor on or before the first day the employee returns to work. The request for leave must show the name, relationship and date of death of the employee's **immediate family** member.
- d. Leave for the death of anyone other than members of the employee's **immediate family** (as defined above in Section 2c) shall be charged to vacation, compensatory time, or leave without pay.

8. Emergency Leave

The President of Sam Houston State University may grant leave with pay to an employee for reasons not related to illness or injury or for good cause, subject to recommendation of the AVP of Human Resources and/or the Divisional Vice President. Illness-related absences are addressed in the Sick Leave and Sick Leave Pool provisions of this policy.

9. Military Leave

- a. **State employees are eligible for leave to accommodate:**
 - Authorized training or duty for the state's military forces and members of any reserve branch of the U.S. Armed Forces.
 - Activation of the State's National Guard by the Governor.
 - National emergency activation for members of a reserve branch of the U.S. Armed Forces.
- b. **Adjusted Work Schedule for Military Leave:** State agencies and institutions of higher education are required to adjust the work schedule of a military member so that two of the employee's days off each month coincide with two days of military duty.
- c. **Authorized Training for Duty:** A state employee who is called to active duty or authorized training is entitled to a leave of absence of fifteen (15) days in each **federal** fiscal year (October 1 – September 30) without loss of pay or benefits. The fifteen (15) days need not be consecutive. In

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addition, these days are “working” days, not “calendar” days. After exhausting the fifteen (15) days, the employee may use accrued vacation or be placed in a leave without pay status (or combination of the two) for the remainder of the active duty period.

- d. **Call to National Guard Active Duty by the Governor:** A member of the state military forces called to state active duty by the Governor because of a state emergency is entitled to receive emergency leave without loss of military or annual leave. This leave is not limited and will be provided with full pay.
- e. **Call to National Duty:** A member of the National Guard or any reserve branch of the U.S. Armed Forces called to federal active duty during a national emergency is entitled to an unpaid leave of absence after exhausting the fifteen (15) days of paid military leave. The employee retains any accrued sick or vacation leave. The employee does not earn sick or annual leave during this period; however, he or she does accrue state service credit. The employee may use any accrued annual leave, compensatory time, or overtime leave to maintain benefits for the employee or the employee’s dependents while on military duty. Before the employee departs for military service, the area Human Resources Representative in the Human Resources Department shall review with the employee any issues relating to maintaining health insurance coverage. Additionally, the employee may continue to accrue service credit by receiving at least one hour of state pay during each month of active military service. The employee may use any combination of paid leave to qualify for state pay.
- f. **Differential Pay:** The President of Sam Houston State University shall grant sufficient emergency leave to provide a pay differential if the employee’s military gross pay is less than the employee’s state gross pay. The combination of gross military pay and emergency leave may not exceed the employee’s actual state gross pay.
- g. **Restoration of Employment:** To be eligible for restoration of employment at the conclusion of military service, the employee must be honorably discharged no later than five (5) years after induction, enlistment, or call to duty and must be physically and mentally qualified to perform the duties of the job.

10. Volunteer Firefighters and Emergency Medical Services Training Leave

- a. Employees who are volunteer firefighters and emergency medical services volunteers shall be granted a leave of absence with full pay to attend training schools conducted by state agencies provided such leave does not exceed five (5) working days in any one (1) fiscal year. The leave of absence, authorized by this subsection, shall in no way be charged against the employee’s vacation or sick leave privileges by this Act.
- b. In addition to the five (5) days granted for training, leave with full pay not to exceed forty (40) hours per fiscal year will also be granted to volunteer firefighters or emergency medical service volunteers for the purpose of responding to emergency fire or medical situations.
- c. Required verification of volunteer training and responder’s participation shall be reported on the bimonthly “Leave Report” or “Personnel Time Report” with appropriate supporting documentation. The “Leave Report” or “Personnel Time Report” shall be signed by the departmental supervisor and sent to the Payroll Office.

11. Certified Red Cross Activities Leave

An employee who is a certified disaster service volunteer of the American Red Cross, or who is in training to become such a volunteer, may be granted leave of up to ten (10) days each year to participate in specialized disaster relief services. The employee must have supervisory authorization in addition to a request from the American Red Cross and the approval of the Governor’s Office. If the above conditions are met, the employee will not lose pay, vacation time, sick leave or earned

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overtime, and/or compensatory time during such leave. The pool of certified disaster volunteers must not exceed 350 participants at any one time.

12. Leave for Employees with a Disability

A state employee who is a person with a disability as defined by the Human Resources Code section 121.002 shall be granted a paid leave of absence not to exceed ten (10) days each fiscal year for the purpose of attending a training program to acquaint the employee with an assistance dog to be used by the employee.

13. Time Off To Vote

Employees should be allowed sufficient time off, without a deduction in pay, to vote in each national, state, or local election.

14. Jury Service and Appearance in Official Capacity or as a Witness

- a. An employee is entitled to serve on a jury during regular work hours without any deduction from wages, including a deduction for any fee or compensation the employee receives for the jury service. The employee must be responding to a jury duty summons, serving on a jury, or appearing in an official capacity for the state. Appearances in another capacity or any time required for jury service outside the employee's regular work schedule is on the employee's own time.
- b. An employee called to appear in an official capacity in any judicial action or legislative investigation is not entitled to any witness fees for such a governmental appearance. However, if the appearance is not in an official capacity but is for the purpose of testifying from personal knowledge, an employee may accept any customary witness fees. In the case of an employee whose appearance as an expert witness is not in an official capacity, the employee may receive compensation only when such an appearance is made on his or her own leave time. Employees may receive per diem, expense reimbursements, and mileage allowances for serving as a witness in an official governmental capacity, as long as there is no double reimbursement to the employee for expenses.
- c. In order for an employee to receive pay for jury duty, certification from the Court Clerk or some other written statement which is acceptable to the AVP of Human Resources, must be attached to the approved "Leave Report" or "Personnel Time Report" form.

15. Foster Parent Leave

An employee who is a foster parent to a child under the protection of the Department of Protective and Regulatory Services (DPRS) is entitled to a leave of absence with full pay for the purpose of attending staffing meetings held by the DPRS regarding the employee's foster child. In addition, the employee may attend, with a paid leave of absence, the Admission, Review, and Dismissal (ARD) meeting held by a school district regarding his or her foster child.

16. Federal Family & Medical Leave Act (FMLA) and Parental Leave

- a. State employees who have a total of at least twelve (12) months of state service credit and who have actually worked at least 1,250 hours during the 12-month period immediately preceding the commencement of leave, are hereby entitled to FMLA provided that the employee utilizes all available applicable paid vacation and sick leave while taking leave pursuant to this provision.

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- (1) As an exception to the requirement to utilize all paid vacation and sick leave, employees on FMLA leave who are receiving temporary disability benefit payments or workers' compensation benefits are not required but may utilize paid vacation and sick leave while receiving such benefits.
 - (2) If an employee elects to use Fair Labor Standards Act [FLSA] (overtime) compensatory time while out on FMLA, that time is not counted toward the 12-week entitlement. State compensatory (equivalent) time is counted toward the 12-week entitlement.
 - (3) If FMLA leave is used in one continuous block, a business closing will count against the employee's entitlement. The exception to this is a closing of a week or more. Holidays, inclement weather days, and shutdowns do not count against employees who are on intermittent FMLA leave or a reduced work schedule.
 - (4) Furthermore, a state employee who is the father of a child may use his sick leave in conjunction with the child's birth only if the child is actually ill or to care for his spouse while she is recovering from labor and delivery.
 - (5) The State Auditor's Office has advised that the employee does not have the option of choosing whether or not to designate leave as FMLA leave for a qualifying event. In all circumstances, it is the employer that determines whether leave qualifies as FMLA leave. SHSU counts FMLA qualifying events toward the maximum total of 12 workweeks of FMLA leave in a 12-month period. This would include paid leave time using sick or vacation accruals and unpaid leave time. This policy statement shall serve as official notice to SHSU employees that qualifying events count toward the maximum 12 workweeks of FMLA leave.
- b. Those employees with less than twelve (12) months of state service or who have worked less than 1,250 hours in the 12-month period immediately preceding the commencement of leave are eligible to take a Parental Leave of absence, not to exceed twelve (12) weeks (480 hours), provided that the employee utilizes all available applicable paid vacation and sick leave while taking the parental leave. The leave period begins with the date of birth of a natural child or the adoption or foster care placement with the employee of a child under three years of age.
- c. *Eligible Reasons for Leave* -- FMLA requires that employers provide up to twelve (12) weeks of unpaid leave in a twelve (12) month period by an eligible employee for one or more of these reasons: SHSU considers the employee on FMLA leave, for all FMLA qualifying events, regardless of designation by the employee.
- (1) To care for the employee's child after birth, or placement for adoption or foster care;
 - (2) to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
 - (3) for a serious health condition that makes the employee unable to perform their job. A serious health condition means one that involves either inpatient care in a hospital, hospice, or residential medical facility; or an incapacity requiring absence of more than three (3) calendar days and continuing treatment by a health care provider; or continuing treatment by a health care provider of a chronic or long-term condition that is incurable or will likely result in incapacity of more than three (3) days if not treated.
 - (4) for a qualifying exigency which is the result of the spouse, child or parent of the employee being on active duty or notified of an impending call to active duty in support of a contingency operation of the Armed Forces.
- d. *Service Member Family Leave* -- An eligible employee who is the spouse, child, parent, or nearest blood relative of a covered service member shall be entitled to a total of 26 workweeks

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of leave during a single 12-month period to care for the covered service member. During this single 12-month period, an eligible employee shall be entitled to leave for a total of 26 workweeks in combination with other types of leaves under paragraph C, 1-4. A "covered service member" is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the military's temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

- e. *Advance Notice and Medical Certification* -- The employee, when possible, is required to provide advance leave notice and medical certification. The employee ordinarily will provide thirty (30) days advance notice when the leave is "foreseeable." Medical certification to support a request for leave because of a serious health condition is normally required within fifteen (15) calendar days when practicable, and a "fitness-for-duty" report should also be provided from the health care provider when the employee is able to return to work.
- f. *Duration and Timing of Leave*
- (1) Eligible employees may take up to twelve (12) weeks of unpaid leave during a twelve (12) month period inclusive of utilizing, within these twelve (12) weeks, all available and applicable paid leave. For part-time employees the leave is calculated on a pro-rated or proportional basis.
 - (2) The FMLA leave period runs concurrent with other forms of paid and unpaid leave you are eligible for and required to use; it cannot be stacked with other leaves to extend one's state paid insurance fringe benefit or approved leave period.
 - (3) If both spouses are employed with the state and the purpose of the leave is either family leave, i.e., birth, adoption or foster care, or medical leave for the care of a parent, then the couple is entitled to a total of twelve (12) weeks of leave. However, the twelve (12) weeks are not aggregated between the spouses when the purpose of the medical leave is to care for a spouse, child or oneself. Spouses are limited to an aggregate of 26 workweeks of leave when the leave is taken under the provision to care for a covered service member.
 - (4) The twelve (12) month period is a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. Entitlement to family leave expires one (1) year after birth, adoption, or foster placement.
 - (5) Intermittent and Reduced Schedule Leave -- FMLA leave because of serious health conditions, qualifying exigencies and to care for a covered service member may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. In addition, while on an intermittent or reduced schedule leave, you may be temporarily transferred to an alternative position if available which better accommodates your schedule and which has equivalent pay and benefits. Intermittent and reduced schedule leave is not required of the employer unless there is a serious health condition. As previously stated, holidays, inclement weather days, and shut downs do not count against employees who are on intermittent FMLA leave or a reduced work schedule.
- g. *Job Benefits and Protection*
- (1) Upon return from FMLA leave, employees will be restored to their original or equivalent positions with equivalent pay and benefits.
 - (2) For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan." The employee must pay for optional coverages while on leave. The University may recover any premiums for maintaining coverage for the employee if he or she does not return from the leave; unless the failure to return is due to a

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continuance or recurrence of the cause of the medical leave or due to other circumstances beyond the control of the employee.

- (3) The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave. However, no other benefits are provided or accrue while on FMLA leave without pay for an entire month except the fringe benefit group health insurance contribution.

17. Leave Without Pay

Agencies may grant employees leave without pay or leave of absence without pay subject to the following provisions:

- a. Except for disciplinary suspensions, military situations, Workers' Compensation, and Federal Family and Medical Leave Act leave as provided in Section 16 above, all accumulated paid leave entitlements must be exhausted before granting such leaves, with the additional provisions that sick leave must be exhausted only in those cases where the employee is eligible to take sick leave, as provided in Section 2 and 5 above. Such leaves will be limited in duration to twelve (12) months.
- b. Subject to fiscal constraints, approval of such leaves constitutes a guarantee of employment for a specified period of time.
- c. The President may grant exceptions to these limitations for such reasons as interagency agreements or educational purposes.
- d. Except in the case of an employee returning to state employment from military leave, any full calendar month (i.e., from the first day of a month through the last day of a month, inclusive) in which an employee is on leave without pay, shall not be counted in the calculation of total state service for purposes of longevity pay or vacation leave entitlements. No employee shall accrue vacation or sick leave for such month or the state insurance fringe benefit. Furthermore, any such full calendar month of leave without pay shall not constitute a break in continuity of employment but shall not be included in the calculation of the six (6) continuous months of state employment set forth in other sections of this policy.

18. Administrative Leave for Outstanding Performance

In addition to employee leave authorized elsewhere in this policy, administrative leave with pay may be granted by the President as a reward for outstanding performance provided the exceptionally superior performance is properly documented. In no event shall the aggregate amount of administrative leave granted exceed thirty-two (32) hours in any fiscal year.

19. Educational Activity Leave

An employee may use up to eight (8) hours of sick leave each calendar year to attend an educational activity for the employee's children who are in pre-kindergarten through 12th grade. An educational activity is a school-sponsored activity including a parent-teacher conference, tutoring, a volunteer program, a field trip, a classroom program, a school committee, an academic competition, and an athletic, music, or theater program. Employees must give reasonable notice of intention to use sick leave to attend such activities. Part-time, regular, benefits eligible employees receive this leave on a proportional basis.

20. Employee and Department Responsibilities for Leave

- a. Employees should communicate to their supervisor at the earliest practical time details of their absence or anticipated absence(s) including dates with appropriate documentation.

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- b. For illness and/or disability a doctor's certification may be needed to certify fitness to work and/or certify the period of absences.
- c. Leaving one's job without proper notification to the employee's supervisor or designee can constitute job abandonment which is justification for termination. Bona fide emergencies will be taken into consideration.
- d. The employee is responsible for completing the application for leave form, providing supporting documentation, and following up on approvals.
- e. Departments are responsible for notifying Human Resources and Payroll regarding employee leaves. When it is anticipated the employee will not have enough paid leave and must coordinate out-of-pocket payments to continue insurance benefits, Human Resources must be notified. The department is responsible for processing the necessary documents (Electronic Payroll Action Form, Leave Request/Approval Form, etc.) to process the requested leave in a timely manner.

21. Leave Request/Approval and Medical Certification Forms

- a. These forms do not replace the official Payroll Department Leave Report or Personnel Time Report submission. They serve only as processing and notification documents for the request and approval of employee leaves, medical certification and sick leave pool transactions.
- b. When the request requires approval beyond the department head, the form should be complete with type of leave, dates of absence, number of hours requested and required documentation attached before it is forwarded through the appropriate channels for signatures.

22. Administrative Leave

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 AVP of Human Resources is required.

23. Court Appointed Special Advocates Leave

Court Appointed Special Advocates (CASA) are volunteers selected by the state's judicial system to, among other duties, provide detailed information a court may need to ensure a child's best interest is served where residency or other matters are concerned. General guidelines of CASA leave are as follows:

- a. Employees who are CASA volunteers are eligible for paid leave not to exceed five (5) hours each month to participate in mandatory training or to perform volunteer services for CASA.
- b. An employee may be required to provide documentation to his/her supervisor before the leave is approved.

24. Reserve Law Enforcement Training Leave

An employee who is a reserve law enforcement officer shall be granted up to five workdays every two years to complete continuing education program hours required to remain licensed as a peace officer. A member of the police reserve force shall provide dated documentation verifying their active reserve status.

25. Veteran Leave

Veterans eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs, are eligible for medical leave

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without deduction in salary or loss of vacation time, sick leave, earned overtime credit or state compensatory time to obtain medical and/or mental health care administered by the Veterans Health Administration. Leave may not exceed 15 days each fiscal year.

26. Time Off for Staff Council Participation

The university encourages participation in [Staff Council](#). As such, employees elected to Staff Council positions are afforded up to three hours per month to participate in council meetings and activities. In addition, departments are to allow time off for participants to attend the annual Staff Council banquet, food drive, breakfast, social, and professional development days.

Reviewed by: David M. Hammonds, Associate VP for Human Resources & Risk Management–06/22/2018

Next review: 04/01/2020