

**Sam Houston State University**  
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**Finance & Operations Human Resources Policy HR-04**  
**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. Full-time regular benefit eligible staff employees (with the exception of employees assigned to the SHSU Charter School) and faculty with twelve-month appointments shall be entitled to a vacation in each fiscal year without deduction in salary. Vacation is earned in accordance with the following schedule based on full-time employment:

Employees with Total <u>State</u> <u>Employment of:</u>	Hours Accrued <u>Monthly</u>	Maximum Hours Carried <u>to Next</u> <u>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
5 but less than 10 years	10 (15.0 days/yr)	268
10 but less than 15 years	11 (16.5 days/yr)	292

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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. Part-time eligible employees accrue vacation leave on a proportionate basis and the maximum carryover will also be proportionate. Sam Houston State University (SHSU) employees assigned to Charter School must refer to the SHSU Charter School Leaves and Absences Policy for leave details.
- c. An employee earns 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, is carried forward each fiscal year. All hours of unused accumulated vacation exceeding the maximum carryover, is credited to the employee's sick leave balance as of the first day of the next fiscal year.
- d. Credit for one month's accrual is given for each fraction of a month of employment on the first of each succeeding month. However, an employee in a leave status on the first day of the month is not eligible to use leave accrued for that month until the employee returns to duty. The rate of accrual is increased on the first calendar day of the following month of the employee's anniversary of state employment. Provided however, when an employee's anniversary date falls on the first workday of the month, the employee's rate is increased for that month.
- e. Vacation with pay may not be taken until the employee is continuously employed with the state for six months without a leave without pay status, although credit accrues during that period. Once an employee completes six (6) months or more of continuous state employment and then leaves state employment, upon return to state service, that person is eligible to take vacation leave when earned, and be paid for it on termination from re-employment.
- f. Employees are encouraged to take vacation in the fiscal year in which the entitlement is earned. Vacation leave should be scheduled in advance with a request through the University's time and reporting system by the employee and when approved by the supervisor.
- g. Vacation accruals will be used for absences due to illness after all accumulated sick leave and compensatory time is 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. Vacation balances are paid at the salary rate the employee earned before transfer. 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) is entitled to be paid for the 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 leave.
- j. Return to work retirees accrue vacation based upon state service since their rehire date.
- k. 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 required to certify.

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**2. Sick Leave**

- a. **Accrual.** Full-time regular benefits eligible non-student employees (not assigned to the SHSU Charter School) earn sick leave entitlement at the rate of eight (8) hours each month beginning on the first day of employment and terminating on the last day of duty. Part-time regular employees accrue proportionate to their appointment. The unused amount of such leave is carried forward each month. Credit for one (1) month's accrual is given for each month or fraction of a month of employment and 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 on leave on the first day of a month may not use the sick leave the employee accrues for that month until after the employee returns to duty. An employee must be in a status of pay each month to be eligible to accrue sick leave.
  
- b. **Circumstances Eligible for Sick Leave.** 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 ill or the circumstance is otherwise eligible for under federal law or the Texas Government Code Chapter 661.
  - (1) Sick leave taken to care for immediate family includes
    - i Individuals who reside in the employee's household and are related by kinship, adoption, or marriage, as well as foster children certified by the State, or a minor child of the employee regardless of the child's residence; or
    - ii A spouse, child, or parent of the employee not residing in the employee's household, who needs care as a result of a documented medical condition. Time to care for an employee's parent-in-law when the in-law does not live in the same household is ineligible for sick leave. Use of sick time to provide care for immediate family that does not reside in the employee's household (with the exception of the employee's minor child) is limited to the period of care documented as necessary by a medical provider.
  - (2) If an employee is on vacation and becomes ill or another circumstance entitling the employee to sick leave occurs, the employee may substitute available sick time for vacation.
  
- c. **Procedures for Taking Leave.** An employee who must be absent from duty because of illness shall notify their supervisor or cause them to be notified of the absence 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 shall send to the human resources office a doctor's certificate showing the cause or nature of the illness, or some other written statement of the facts concerning the illness. The department head has the discretion to require documentation concerning illnesses resulting in absences of three (3) working days or less. A physician's statement certifying ability to return to work may be required when human resources determines the nature of the illness was such that the safety, health, or fitness of the employee necessitates the University's receipt of assurance or clarification from a physician. Excessive absenteeism and abuse of sick leave may constitute grounds for dismissal from employment by the University.

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- d. Reporting Sick Leave. Upon return to duty after sick leave the employee concerned shall, without delay, report any leave taken in the University's time and leave reporting system. As detailed below, 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.
- e. Transfer to Another State Agency. 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.
- f. End of Employment. The estate of an employee, when the employee dies while employed, is entitled to payment for the lesser of one-half of the employee's accumulated sick leave or 336 hours, provided that the employee had continuous employment with the state for at least six (6) months at the time of death.

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 may be able to transfer the time when directly transferring to another state agency in an eligible accrual capacity. Such employees should verify transfer eligibility with Human Resources.

- g. Return to Work. 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 prior to re-employment for restoration of sick leave.
- h. Charter School Employees. 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.
- i. Faculty. Faculty members earn sick leave and report sick leave as required by the State of Texas (*Texas Government Code 661.203*) during the period of the faculty member's contract. Faculty must report sick leave for the actual time missed from carrying out normal, negotiated workload responsibilities (teaching, research, and service) to include periods of time when classes were not scheduled. 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. For example, when a faculty member is ill for three days and is absent from scheduled Monday and Wednesday classes and office hours, and is also unable to carry out normal research and service activities, the faculty member reports 24 hours of sick leave for the three day period,

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even though no classes or office hours were scheduled on Tuesday. Determination of workdays for faculty is as follows:

- (1) Fall semester begins with the first day of the faculty member's contract and extends through the last day for submission of grades. During this period, faculty members report the use of sick leave. Sick leave is not reported between the last day for submission of grades and the first day of the next semester.
  - (2) Faculty teaching with a summer contract, accrue leave for any fraction of month worked. Sick leave must be reported for eligible absences beginning with the first day of the faculty member's contract and through the last day for submission of grades.
- j. 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. Miscellaneous State Awarded Leave**

A state employee is entitled to leave or leave of absence with pay for public and health-related services, including:

<ul style="list-style-type: none"><li>• Blood donation</li><li>• Bone marrow donation</li><li>• Jury Duty</li><li>• Organ Donation</li><li>• Military</li><li>• Assistance dog training for disabled employees</li></ul>	<ul style="list-style-type: none"><li>• Certified Red Cross Activities</li><li>• Volunteer Firefighter/EMT Training</li><li>• Witness in employee's official capacity</li><li>• Voting for the hours necessary to cast vote on the day of a statewide of federal election</li></ul>
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Employees may review the amount of time available for each miscellaneous leave in the University's Time and Leave Reporting System and direct any questions to Human Resources. Use of miscellaneous leave must be approved in advance by the supervisor, or in the case of military leave, the supervisor must be notified in writing in advance of the leave. Further, upon return, an employee taking miscellaneous leave must provide Human Resources documentation of fulfillment of the leave purpose (i.e., medical provider certification, a court clerk certification of service, or Red Cross Training Certificate).

**4. Sick Leave Pool**

The purpose of the University Sick Leave Pool is to assist employees and the employee's immediate family in dealing with catastrophic illnesses or injuries that force exhaustion of all available leaves.

- a. Employees with at least twelve (12) continuous months benefit eligible employment with SHSU immediately preceding an eligible condition, may request pool leave for the employee's or employee's immediate family member's catastrophic illness or injury which causes an absence

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(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 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. Is diagnosed as potentially resulting in death or severe debilitation preventing the employee from meeting the essential functions of the job if not treated promptly or at regularly scheduled intervals (e.g., chemotherapy treatments, radiation treatments, etc.); OR
  - ii. Is designated as terminal; OR
  - iii. Requires an absence from work for at least forty-five (45) continuous calendar days.
- b. Employees may use sick leave pool when the employee:
  - (1) or employee's immediate family member suffers a catastrophic illness or injury;
  - (2) exhausts all earned leave with pay entitlements;
  - (3) has not previously been awarded and taken more than ninety (90) working days (720) hours of sick leave pool leave during any period of employment with the University; and
  - (4) meets job performance requirements, based on the most recent performance appraisal or evaluation, and observes work rules.
- c. Employees who use pool leave are not required to pay back pool leave.
- d. Employees on sick leave pool for a full calendar month accrue paid leave for that month, provided the employees return to work following the leave.
- e. Contributions to the pool are strictly voluntary. To contribute time to the pool, an employee must complete a "[Sick Leave Pool Donation Form](#)." Employees may contribute an unlimited number of their accrued days. Contributions should be in full day increments. Contributions are final and shall not be returned.
- f. Pregnancy. Pregnancy is not considered catastrophic unless severe illness and prolonged complications arise that affect either the mother or the child.
- g. 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.

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- h. Requests for pool leave are submitted in writing 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 are considered by the Pool Administrator on a first-come, first-serve basis. The Pool Administrator has ten (10) working days from receipt to approve all or part of the request or deny the request. The amount of pool leave granted for a catastrophic illness or injury is 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.
- i. 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.**
- j. **As with any medical documentation, the University reserves the right to clarify and verify the licensed practitioner’s comments, and the employee agrees to facilitate such requests.** Further, the University reserves the right to require additional licensed practitioner’s statements from providers of its choice. The expense of additional statements will be borne by the University.
- k. The requesting employee must notify Human Resources of receipt of 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 receiving benefits from an on-the job injury or illness is not eligible to use the Sick Leave Pool.

**5. Donation of Sick Leave to a Specific Employee**

Employees with available sick leave accruals may donate a portion of the employee’s accrued sick leave balance to another employee provided the receiving employee exhausted all sick leave and any eligible University sick leave pool leave. Sick leave donation to a specific employee 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.

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c. Donor Information:

- (1) An employee donor initiates a potential transfer by submitting a [Sick Leave Donation to an Individual – Donor Form](#) 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.

d. Recipient Information:

- (1) Once a Donor Form is received, Human Resources will notify the intended recipient of the potential donation.
- (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.

**6. Bereavement Leave**

- a. An employee may take bereavement leave for a maximum of forty (40) hours as a result of the death of a member of the employee's ***immediate family Immediate family*** members are defined as:
  - (1) Employee's spouse
  - (2) Employee's parents, step-parents, children, step-children, brothers, sisters, grandparents, and grandchildren
  - (3) Spouse's parents, children, brothers, sisters, grandparents and grandchildren

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- b. An employee who must be away from the job due to a death of a member of the employee's **immediate family** shall notify the supervisor on or before the first day of such absence and such notification must include the name, relationship, and date of death of the employee's immediate family member. Additionally, before returning to work the employee will provide this information in writing to the employee's supervisor.
- c. Leave for the death of anyone other than members of the employee's immediate family (as defined above) shall be charged to vacation, compensatory time, or leave without pay.

**7. Emergency and Administrative Leave for Outstanding Performance**

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 the recommendation of the AVP of Human Resources or the Divisional Vice President and the President. Illness-related absences are addressed in the Sick Leave and Sick Leave Pool provisions of this policy. Additionally, the President may grant an employee 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.

**8. Military Leave**

- a. State employees are eligible for leave to accommodate:
  - (1) Authorized training or duty for the state's military forces and members of any reserve branch of the U.S. Armed Forces.
  - (2) Activation of the State's National Guard by the Governor.
  - (3) 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 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.

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- 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 does not earn sick or annual leave during this period; however, any sick or vacation leave accrued prior to duty is retained. The employee may use any accrued annual leave, compensatory time, or overtime leave to maintain the employee's salary while on military duty. Before departing for military service, the employee may request Human Resources Department review with the employee any issues relating to maintaining health insurance coverage. Additionally, the employee may continue to accrue service credit when the employee works and records 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.

**9. Foster Parent Leave**

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

**10. 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 worked for the state for at least 1,250 hours during the 12-month period immediately preceding the commencement of leave, are entitled to up to twelve (12) weeks of leave for eligible conditions under the FMLA as described below. Provided however, that an employee of FMLA leave must utilize all available applicable paid vacation and sick leave while taking leave.
- b. 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.
- c. 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 twelve (12) week entitlement. State compensatory (equivalent) time is counted toward the twelve (12) week entitlement.

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- d. If FMLA leave is used in one continuous block, a business closing counts against the employee's leave 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.
- e. 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 considers the employee on FMLA leave, for all FMLA qualifying events, regardless of designation by the employee and counts qualifying events toward the maximum total of twelve (12) workweeks of FMLA leave in a twelve (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 twelve (12) workweeks of FMLA leave.
- f. Employees with less than twelve (12) months of state service or who have worked less than 1,250 hours in the twelve (12) month period immediately preceding the commencement of leave are eligible to take a Parental Leave of absence for the birth, adoption or foster care placement of a child under the age of three (3). Parental Leave shall not exceed twelve (12) weeks (480 hours) and an employee must utilize all available applicable paid vacation and sick leave while on parental leave.
- g. Eligible Reasons for Leave -- FMLA requires that employers provide up to twelve (12) weeks of unpaid leave for an eligible employee for one or more of these reasons:
  - (1) To care for the employee's child after birth, or placement of adoptive or foster care child under the age of three. A non-birthing parent of a newborn child may use sick leave in conjunction with the child's birth to care for the recovery of the birthing parent when said parent is an immediate family member or for any other purpose allowed by federal law;
  - (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.

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- h. 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 twenty-six (26) workweeks of leave during a single twelve (12) month period to care for the covered service member. During this single twelve (12) month period, an eligible employee shall be entitled to leave for a total of twenty-six (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 out-patient 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.
  
- i. 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.
  
- j. 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 for which an employee is eligible and required to use. FMLA cannot be stacked with other leaves to extend one's state paid insurance fringe benefit or approved leave period.
  
  - (3) Under FMLA, when 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 twenty-six (26) workweeks of leave when the leave is taken under the provision to care for a covered service member. See below for additional information for dually employed spouses.
  
  - (4) The twelve (12) month period is a rolling twelve (12) month period measured backward from the date an employee uses any portion of 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

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medically necessary. In addition, while on an intermittent or reduced schedule leave, an employee may be temporarily transferred to an alternative position, if available, which better accommodates the employee's 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, and business closure days do not count against employees who are on intermittent FMLA leave or a reduced work schedule.

f. 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 the employee does not return from the leave; unless the failure to return is due to a 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.

**11. Dually Employed Spouses - Request to be Treated as Single for Family Care**

- a. As stated in Family Medical Leave Act (FMLA) paragraph above, the FMLA requires married employees both working for the same employer to split the maximum eligible weeks of FMLA Leave for family leave when the eligible condition is birth, adoption or foster care, medical leave for the care of a parent with a serious health condition, or to care for a covered service member with a serious injury or illness when the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin. Spouses both employed by the University and experiencing these circumstances may apply to be treated as a single employee for approval of University granted leave up to the maximum that would be authorized by FMLA for employees not married to a University employee.
- b. To apply for treatment as single for family care, the employee must submit the medical certification and forms required for FMLA leave, and must also include correspondence detailing the employment status of the employee and employee's spouse and requesting the specific period of leave.
- c. Approved treatment as single for family care leave will run concurrent with other forms of paid and unpaid leave for which an employee is eligible and required to use.

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**12. 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 10 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 Sections 2 and 5 above. Such leaves will be limited in duration, depending upon the needs of the department and university to a maximum of up 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.

**13. 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.

**14. 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 non-medical documentation.
- 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. Medical documentation should not be shared with a supervisor, but should be sent to Human Resources.

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- 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 leave request, providing supporting documentation, and ensuring the leave is approved.
- 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 Personnel Action Form, Leave Request/Approval Form, etc.) to process the requested leave in a timely manner.

**15. 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 or AVP of Human Resources and President is required.

**16. 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. Employed 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. An employee may be required to provide documentation to the supervisor before the leave is approved.

**17. Reserve Law Enforcement Training Leave**

An employee who is a reserve law enforcement officer shall, upon providing documentation of active reserve status, be granted up to five (5) workdays every two (2) years to complete continuing education program hours required to remain licensed as a peace officer.

**18. 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 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 (15) days each fiscal year.

**19. 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 (3) hours per month to participate in council meetings and activities.

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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.

**20. Wellness Release Time for Voluntary Wellness Activities**

In accordance with Tex. Gov. Code Chapter 664, the University promotes wellness by providing work release without use of accrued leave to participate in wellness-related activities.

a. **Eligible Employees.** Regular full-time benefit eligible employees employed with the University a minimum of six (6) months and not currently approved for education or teaching release time are eligible to participate in the Wellness Program. Release time for wellness, education, and teaching are mutually exclusive and a supervisor may not approve leave for more than one of these activities.

b. **Eligible Activities.** Voluntary activities qualifying for release time are:

<ul style="list-style-type: none"><li>• Elevate Healthy Campus Initiative Events</li><li>• Health Fitness Screenings/Assessments</li><li>• Stress Management Classes</li><li>• Smoking Cessation Classes</li></ul>	<ul style="list-style-type: none"><li>• Weight Loss Classes and Meetings</li><li>• Nutrition Classes</li><li>• Health Risk/Injury Reduction Classes</li><li>• Exercise Activities</li></ul>
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c. **Period of Release.** Employees approved for participation in the Wellness Program receive a maximum of two and one-half (2.5) hours of paid release time per week, taken in increments of no greater than one (1) hour per day for approved wellness activities with prior approval from the employees supervisor. Employee's released from duty for wellness activities may not be required to make up time.

d. **Procedures.**

(1) **Application.** Employees must fill out the Sam Houston State University Employee Development Participation & Teaching Request Form. Participation requires annual enrollment, which expires at the end of each fiscal year.

(2) **Approval.** Authority must be secured from the employee's supervisor and department head prior to participation in the Wellness Program. If the employee's supervision changes, the employee must request approval from the new supervisor and department head. Supervisors may not authorize Wellness Release when the employee is approved for education or teaching release. Further, supervisor shall make reasonable efforts to honor requests for participation in the Wellness Program but retain sole judgment and discretion whether granting a wellness request is in the best interests of the unit and department.

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- e. An employee abusing release time may be subject to revocation of participation in Wellness release and disciplinary action.

**21. Wellness Leave Award for Health Assessment and Exam**

In accordance with Tex. Gov. Code § 664.061, the University annually awards eight (8) hours of additional leave to eligible employees who complete the assessment and exam requirements detailed below.

- a. Eligible Employees. Regular full-time benefit eligible employees employed with the University a minimum of six (6) months who have not received a wellness leave award within the previous twelve (12) months.

- b. Requirements.

- (1) Health Risk Assessment (HRA) The employee completes the approved HRA and prints the completion certificate/e-mail. Links to approved BCBSTX HealthSelect HRA may be found on the ERS website. Employees not covered by HealthSelect Insurance may contact Human Resources for alternate HRA options. Employees may not share the HRA with Human Resources or the employee's supervisor.
- (2) Physical Exam. Employee schedules a comprehensive physical exam and secures a copy of the medical provider's certification for the exam. During the examination, the employee provides the physician a copy of the HRA.
- (3) The HRA completion certificate and medical provider's certification must be uploaded and routed to Human Resources for leave approval. Once verified by HR, the leave approval will be routed to Payroll for adding eight (8) hours of wellness leave to the employee's accrued leave.

- c. Wellness Leave. Upon employee completion of wellness requirements and approval, eight (8) hours of wellness leave shall be awarded for completion of wellness requirements every twelve (12) months. Wellness leave may be used with advance supervisor approval for any purpose during the twelve (12) months following the date of the award. When not used within twelve (12) months, wellness leave expires. Wellness leave is not eligible for payment to an employee upon separation from employment.

Reviewed by: Rhonda Beassie, Assistant VP for Human Resources & Diversity 02/09/2021