

NOTE: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative’s military service, see DECA. For provisions addressing leave for an employee’s military service, see DECB.

SICK LEAVE	School employees shall, without deduction in salary, be entitled to sick leave subject to the following conditions (Texas Government Code 661):
ACCUMULATION	<p>Contract and classified staff accrue sick leave beginning on the first day of state employment in each month in which they work. Sick leave is earned at a rate proportional to the employee’s standard work hours (i.e. staff scheduled to regularly work 8 hours earn 8 hours of sick each month, staff scheduled to regularly work 7 hours, earn 7 hours).</p> <p>Individuals in leave without pay status for an entire month (i.e. May 1st – May 31st) will not earn sick leave for that month.</p> <p>Individuals on leave on the first day of a month when leave is accrued may not use the leave accrued for that month until after they return to work.</p> <p>Substitute employees do not earn sick leave.</p>
UTILIZATION	<p>Accrued sick leave may be used:</p> <ul style="list-style-type: none"> • When an employee is prevented from performing his or her job due to sickness, injury, pregnancy or confinement. • To care for an employee’s immediate family member who resides in the same household and is ill. For this purpose, “immediate family” is defined as individuals related by kinship, adoption or marriage who live in the same household; foster children who reside in the same household; or minor children regardless of whether they live in the same household • To care for an immediate family member who does not live in the same household only for a documented medical condition. In this case, immediate family member is defined as a spouse, parent or child. • Adoption of a child under three years of age.
NOTIFICATION	All employees, adhering to department notification requirements, must notify their supervisor at the earliest practicable time.
CERTIFICATION	<p>All employees must provide a doctor’s certification when taking more than three days of accumulated sick leave.</p> <p>At the discretion of the Superintendent or their designee, a certification may be required for any use of sick leave related to illness, injury pregnancy or confinement.</p>
INCREMENTAL USE	<p><i>Contract Staff</i> – Professional contract faculty may take sick leave in increments of not less than 30 minutes.</p> <p><i>Classified staff</i> – Classified staff may take sick leave in increments of not less than 15 minutes.</p>
UNAUTHORIZED USE OF SICK LEAVE	Any employee who violates school policy regarding use of sick leave, or otherwise fails to secure authorized approval for leave taken, may be required to take leave without pay. Malingering and other abuses of sick leave privileges

may also constitute grounds for disciplinary action, up to and including dismissal.

SICK LEAVE DONATION

Employees of the School may donate any amount of their sick leave to another employee of the School who has:

- Exhausted all of their sick leave; and
- Exhausted all sick leave pool leave for which they are eligible

No remuneration or gift may be requested or provided in exchange for the donation of sick leave.

The employee who receives the donated sick leave may not:

- Use any portion of the donated sick leave in a manner inconsistent with the terms under "utilization" in this policy or Texas Government Code, Section 661.202; or
- Receive service credit through the Employees Retirement System of Texas for any portion of the donated leave.

EXTENDED SICK LEAVE

At the discretion of the Superintendent, sick leave may be extended to an employee after a thorough review of the merits of each individual case.

SICK LEAVE POOL

The School maintains a sick leave pool program that allows School employees to voluntarily transfer accrued sick leave to the pool for use by other employees who are experiencing a catastrophic illness or injury. Human Resources shall adopt procedures relating to the operation of the sick leave pool. *Government Code 661.002(a)*

A catastrophic illness is defined as:

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 that forces the employee to exhaust all leave time earned by that employee and to lose sick leave compensation from the State for the employee.

The Human Resources Director is designated as the pool administrator. If the Superintendent requests to use sick leave from the sick leave pool, the Governing Board shall act as the pool administrator. *Government Code 661.001*

An employee may apply to the pool administrator for permission to withdraw time from the sick leave pool in accordance with established procedures. *Government Code 661.005(a)*

PARENT-TEACHER CONFERENCES

An employee who is the parent of a child who is a student in a grade from pre-kindergarten through twelve is eligible to use up to 8 hours of sick leave each calendar year to attend parent-teacher conferences for that child or children. Employee's using leave under this policy shall give reasonable advance notice of their intention to use sick leave to attend a parent-teacher conference.

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PERSONAL LEAVE Contract employees may use up to four days of sick leave for personal reasons. Personal leave must be requested as far in advance as possible but not later than five working days before the date it is to be taken. Exceptions may be granted when an emergency or other extenuating circumstances make such notice impossible.

The Director of Instruction will determine and announce any days on the school calendar for which personal leave will not be approved except for emergencies and other extenuating circumstances at the beginning of the school year.

Unused personal leave may not be carried forward from one contract term to a subsequent contract term.

Texas Education Code 30.055(b)(4)

TEMPORARY DISABILITY The School shall grant a full-time educator an unpaid leave of absence for temporary disability, not to exceed 180 days, when the educator's condition interferes with the performance of regular duties. For purposes of this policy, pregnancy and post-natal care are considered a temporary disability.

The School may not terminate the contract or employment of the educator while the individual is on a leave of absence for temporary disability.

AT EMPLOYEE'S REQUEST The educator is required to submit a request for a leave of absence for temporary disability to the Superintendent.

- The request must:
- Include a physician's statement confirming the inability to work;
 - State the date the leave is to begin
 - State the probable end date of the leave as certified by their physician.

AUTHORITY The Superintendent, after an appropriate business necessity meeting, may place an educator on leave of absence for temporary disability if the Superintendent or his or her designee, in consultation with a physician who has performed a thorough medical examination of the educator, determines that the educator's condition interferes with the performance of essential functions of the position, and there is no reasonable accommodation which may allow the person to remain in the classroom.

The educator may appeal the decision to the Board and shall have the right to present testimony or other relevant information to the Board to substantiate the educator's fitness to continue in the performance of regular duties. [See DBB]

RETURN TO ACTIVITY DUTY The educator must notify the Superintendent of their desire to return to active duty not less than 30 days prior to the expected date of return. The request to return must include a fit for duty certification from a physician.

PLACEMENT Educator's returning to duty after a temporary disability leave are entitled to an assignment in the department where they formerly taught, subject to the availability of an appropriate teaching position.

VACATION (ANNUAL) LEAVE Classified staff are entitled to earn paid vacation leave each year.

Texas Government Code 661

ACCRUAL Vacation leave will be earned in accordance with Texas Government Code 661 for each month in which a classified employee works. Accrual rates begin at 8 hours per month and increase with years of service. Accrual rates are proportional for part-time employees.

Employees begin accruing vacation leave on their first day of employment and on the first calendar day of each succeeding month of state employment. However, vacation leave may not be taken until the employee has been employed with the State for six continuous months.

Individuals in leave without pay status for an entire month (i.e. May 1st – May 31st) will not earn vacation leave for that month.

Individuals on leave on the first day of a month when leave is accrued may not use the leave accrued for that month until after they return to work.

Substitute employees do not earn vacation leave.

UTILIZATION Vacation leave must be planned and approved in advance to ensure that the operation of the School may proceed in an orderly fashion.

Twelve-month employees who have student related responsibilities should normally take vacation leave when school is not in session (including summer school).

Employees whose annual term of employment is less than twelve months must take vacation leave contiguous to the last day of school.

Vacation may be taken in increments (i.e., one-two days) during the school term when business need allows with the approval of their supervisor.

In all cases, the granting of vacation leave shall be subject to prior approval of the supervisor and must be planned so as to not cause disruption of services to students or to the orderly operation of School activities. When personal circumstances requiring the use of vacation leave prevent the employee from securing prior approval in writing, the employee must contact his or her supervisor as soon as possible to request verbal approval.

CARRYFORWARD Unused vacation leave will carry forward from year to year. The amount of allowable carryover hours depends on the length of state services and the number of hours worked.

**UNAUTHORIZED
USE OF
VACATION LEAVE** Any employee who violates School policy regarding the use of vacation leave, or otherwise fails to secure authorization to take leave may be required to take leave without pay.

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**OVERTIME
COMPENSATION
FOR EMPLOYEES
SUBJECT TO FLSA**

Classified School employees subject to the Fair Labor Standards Act (FLSA) (29 U.S.C., Sections 201 et. seq) will receive FLSA compensatory leave at the rate of 1.5 hours for each hour over 40 hours worked during the workweek.

FLSA compensatory leave may be accumulated up to a maximum of 240 hours. Employees will receive compensation for hours above 240.

Note: To the extent that this section and federal law prescribe a different rule for the same circumstance, federal law prevails.

An FLSA non-exempt employee of the School who is required to work hours in excess of 40 hours in a workweek will be compensated by:

1. the School allowing or requiring the employee to take accrued FLSA compensatory time off; or
2. at the discretion of the Superintendent, in cases in which granting time off is impractical, the employee may receive pay at the overtime rate equal to 1.5 times the employee's regular rate of pay for each hour worked over 40.

Texas Government Code 661

**MANDATORY
USE OF
OVERTIME**

A TSD employee subject to the Fair Labor Standards Act shall use his or her FLSA overtime in lieu of requested vacation leave or state compensatory leave.

Exceptions will be made when the requirement would result in the employee's loss of:

- state compensatory leave due to reaching the 12 month expiration date.

This requirement does not apply to leave used in conjunction with worker's compensation.

**STATE
COMPENSATORY
TIME**

State compensatory time is accrued by classified employees on a "straight" time basis, or one hour earned for one hour worked.

Generally, employees will not be paid for any unused state compensatory time and the leave does not convert to any other type of leave.

State compensatory time must be used within 12 months of accrual. Time not used within 12 months of accrual will be lost.

If the employee submits a written request to use state compensatory time within 90 days of expiration, the School will grant the request or, when business necessity requires, suggest an alternate date the employee may use the time prior to its expiration.

Texas Government Code 661

**FLSA
NONEXEMPT
EMPLOYEES**

Nonexempt employees will earn State compensatory time when the total number of hours worked (if less than 40 hours) plus any paid leave or paid holidays exceeds 40 in one workweek or when the employee works on a State holiday.

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FLSA EXEMPT EMPLOYEES	At the discretion of the Superintendent, exempt employees may be granted state compensatory time when work hours in a workweek exceed 40. Work hours, for the purpose of accruing state compensatory time, consist of paid leave, holidays, and actual hours worked. Part-time FLSA-exempt employees may accrue state compensatory time when the number of actual work hours exceeds the number of hours that the employee was designated to work.
COMPENSATORY TIME AND ASSIGNED PLACE OF EMPLOYMENT	Except under circumstances specified in the General Appropriations Act, a School employee may not, for hours worked during any calendar week, accumulate compensatory time off to the extent that the hours are attributable to work performed at a location other than the employee's regular, or temporarily assigned place of employment. Exception: Employees who obtain advance approval from the Superintendent may accrue compensatory time for hours worked at the employee's personal residence. Hours worked over without prior approval may not be accrued. Government Code, Section 659.18
HOLIDAY COMPENSATORY TIME	A classified employee who is required to work on a designated national or state holiday will earn one hour of holiday compensatory time for each hour worked, up to 8 hours. Texas Government Code 661
NOTIFICATION OF COMPENSATORY TIME POLICY	The School shall notify its employees annually of the state's policy on compensatory time. General Appropriations Act
WORKING UNSCHEDULED HOURS	Employees shall not alter their regularly scheduled working hours without the prior authorization of their supervisor and shall not work in excess of their regularly scheduled working hours unless it is required by their supervisor or unless the employee has been authorized to serve as a substitute for an absent employee.

TRANSFERS AND SEPARATIONS

Employees who transfer directly from the School to another state agency will have their sick and vacation leave balances transferred to their new employer.

Unused sick and vacation leave balances for employees separating from the School (and not transferring) will be handled as follows:

Vacation leave –

- If the employee is re-employed with the School or another state agency within 30 days from separation, their leave balances will be restored.
- If the employee remains separated from state employment for 30 days, the employee will receive a lump-sum payment for unused vacation leave.

Sick leave –

- If the employee is re-employed with the School or another state agency within 12 months of separation, the employee may have their sick leave balances restored.
- Employees may donate unused sick leave to the School's Sick Leave Pool.
- If the employee remains separated from state employment, sick leave balances will be lost after one year.

Compensatory (including Holiday) –

- With the approval of the Superintendent or their designee, the employee may be permitted to remain on payroll until all compensatory time is used.
- If not used, the compensatory time will be lost on separation from the School.

FLSA Compensatory –

- With the approval of the Superintendent or their designee, the employee may be permitted to remain on payroll to use some or all of accrued FLSA Compensatory time.
- If not used, the FLSA compensatory time will be paid in a lump-sum payment upon separation from the School.

[Texas Government Code 661](#)

MILITARY LEAVE

Both state and federal law provide leave entitlements and eligibility.

State employees are eligible for 15 workdays in each federal fiscal year (October 1 through September 30) without loss of pay or benefits to attend authorized training or duty for State military forces, a reserve branch of the U.S. Armed Forces or a state or federally authorized urban search and rescue team. This paid leave is not required to be consecutive. If the employee does not use the full 15 days during the federal fiscal year, they may carry remaining days forward to the next federal fiscal year, not to exceed 45 days.

The School will adjust the work schedule of an employee who is a member of the Texas National Guard or a reserve branch of the U.S. Armed Forces so that two of the employee's days off each month coincide with two days of military duty.

[USERRA](#)

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ACTIVE DUTY	<p>School employees called to active duty during a national emergency to serve in a reserve component of the U.S. Armed Forces under Title 10 or Title 32 of the United States Code is entitled to leave without pay. The employee may choose, but is not required, to use all or a portion of their accumulated leave prior to going on leave without pay.</p> <p>School employees called to state active duty as a member of the state military forces by the Governor due to an emergency are entitled to receive emergency leave without loss of military or vacation leave. No limit is established on the amount of leave that may be granted outside of the length of active service.</p>
NOTICE OF MILITARY LEAVE	<p>As required under the uniformed Services Employment and Reemployment Rights Act (USERRA), School employees must provide advance written or verbal notice of all military duty unless providing notice is impossible, unreasonable, or precluded by military necessity.</p>
MISCELLANEOUS LEAVE	<p>Under specific circumstances, classified employees may be eligible for additional leave usage.</p> <p>Texas Government Code 661</p>
ADMINISTRATIVE LEAVE FOR OUTSTANDING PERFORMANCE	<p>At the discretion of the Superintendent, the School may award up to 32 hours of administrative leave per employee, per fiscal year, as a reward for outstanding performance.</p>
AMATEUR RADIO OPERATOR LEAVE	<p>The School may grant up to 10 days of paid leave each fiscal year to participate in specialized disaster relief services to an employee who holds an amateur radio station license issued by the Federal Communications Commission when the employee receives authorization from the employee's supervisor and the governor. Leave will be granted without a deduction in salary or loss of vacation, sick, overtime or state compensatory leave.</p>
ASSISTANCE DOG TRAINING LEAVE	<p>The School will grant an employee with a disability as defined by Texas Human Resources Code, Section 121.002, paid leave, up to 10 working days in a fiscal year, to attend a training program to acquaint the employee with the assistance dog that the employee will use. Leave will be granted without a deduction in salary or loss of vacation, sick, overtime or state compensatory leave.</p>
BLOOD DONATION LEAVE	<p>The School will grant an employee sufficient time off, without a deduction in salary or accrued leave, up to four times each fiscal year to donate blood when the employee obtains approval from their supervisor prior to taking time off. The employee will provide their supervisor with proof that the employee donated blood during the time off.</p>
BONE MARROW AND ORGAN DONATION LEAVE	<p>The School will grant a paid leave of absence, without a deduction in salary, for the time necessary to permit an employee to serve as a bone marrow or organ donor.</p> <p>The leave of absence is limited to:</p> <ul style="list-style-type: none">• 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.

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COMPLIANCE WITH A SUBPOENA	<p>The School will grant time off sufficient to allow an employee to comply with a subpoena to appear in a civil, criminal, legislative or administrative proceeding. The agency will not discharge, discipline or penalize the employee for complying with the subpoena.</p> <p>Time spent by an employing participating in a civil, criminal, legislative or administrative proceeding pertaining to TSD business is considered work time.</p> <p>At the discretion of the Superintendent, emergency leave may be granted in instances of unofficial testimony if the Superintendent finds there is good cause.</p>
COURT APPOINTED SPECIAL ADVOCATE (CASA) VOLNTEER LEAVE	<p>At the discretion of the Superintendent, a TSD employee may be provided paid leave, not to exceed five hours each month, to participate in mandatory training or to perform volunteer services for CASA. The leave will be granted without deduction in salary or loss of vacation, sick overtime or state compensatory leave.</p>
EMERGENCY LEAVE	<p>The School will grant emergency leave without a deduction in salary for a death in the employee's family. For purposes of this policy, "employee's family" is defined as the employee's spouse, the employee or spouse's parents, children, brothers, sisters, grandparents, and grandchildren.</p> <p>At the discretion of the Superintendent, emergency leave may be granted for other reasons determined to be for good cause.</p> <p>All requests for emergency leave must be routed to the Superintendent through the existing chain of command.</p>
FAMILY MEDICAL LEAVE	<p>Family Medical Leave (FML) is a designation used to indicate protected job time for paid and unpaid leave for employees meeting eligibility requirements. The School's FML policy is covered under Governing Board policy DECA.</p>
FOSTER PARENT LEAVE	<p>The School will grant a paid leave of absence to an employee who is a foster parent to a child under the protection of the Department of Family and Protective Services (Department) to attend meetings held by the Department regarding the foster child. The employee may also use foster parent leave to attend admission, review, and dismissal meetings held by a school district regarding the foster child.</p>
JURY SERVICE LEAVE	<p>The School will grant a paid leave of absence to a classified employee for purposes of jury service. No deduction shall be made from the salary of an employee who is called for jury service, including a deduction for any fee or compensation the employee receives for the jury service. Employees must provide a copy of the jury service summons to their supervisor.</p>
PARENTAL LEAVE	<p>The School will grant up to 12 weeks of job protected time for School employees who do not qualify for family and medical leave protection for the birth of a child or the adoption or foster care placement of a child under the age of three.</p> <p>Employees must first use all available and applicable paid vacation and sick leave while taking parental leave prior to going on leave without pay. Parental leave is limited to, and begins on the date of, the birth of the employee's natural child, the adoption by or foster care placement with the employee of a child younger than three years of age.</p>

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RED CROSS LEAVE The School may grant up to 10 days of paid leave each fiscal year to a classified employee who is a certified disaster service volunteer of the American Red Cross or who is in training to become such a volunteer, to participate in specialized disaster relief services for the American Red Cross. The employee must have authorization from the employee's supervisor and the governor and possess a request from the American Red Cross. The leave will be granted without a deduction in salary or loss of vacation, sick, overtime or state compensatory leave.

TIME OFF TO VOTE At the discretion of the Superintendent, the School shall allow sufficient time off to employees to vote in each national, state or local election if there is not sufficient time to vote outside regular working hours. Employees are expected to use personal time, including lunch hours, whenever possible. The granting of time off to vote will be handled on a case-by-case basis and will be governed by the needs of the School.

VOLUNTEER FIREFIGHTERS AND EMS TRAINING LEAVE Classified School employees who are volunteer firefighters and/or emergency medical services volunteers are entitled to take up to five working days of paid leave each fiscal year to attend training services conducted by a state agency or institution of higher education.

The Superintendent may grant leave without a deduction in salary to a volunteer firefighter or emergency medical services volunteer for the purposes of allowing the employee to respond to an emergency fire or medical situation.

LEAVE WITHOUT PAY GENERAL PROVISIONS The Superintendent may grant employees leave without pay, including a leave of absence without pay contingent on the following conditions:
The duration of the leave may not exceed 12 months.

1. Except for disciplinary suspensions, active military duty, and leave covered by workers' compensation benefits, all accumulated paid leave entitlements must be used before going on leave without pay status. Sick leave must first be used only if the employee is taking leave for a reason for which the employee is eligible to take sick leave under this policy.
2. Subject to fiscal constraints, approval of the leave constitutes a guarantee of employment at the conclusion of the specified leave period.
3. The Superintendent may grant exceptions to the limitations of this section if the employee is taking the leave for a reason such as to work for another state governmental entity under an interagency agreement or educational purposes.
4. Except for an employee who returns to state employment from military leave without pay under this policy, a full calendar month during which an employee is on leave without pay is not counted in computing total state service for purposes related to longevity pay or to the rate of accrual of vacation leave; or continuous state service for purposes related to merit salary provisions or vacation leave.
5. An employee does not accrue vacation or sick leave for a full calendar month during which the employee is on leave without pay.
6. A full or partial calendar month during which an employee is on leave without pay does not constitute a break in continuity of employment.

Texas Gov't Code 661.909

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ABSENCE CONTROL Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Continental Coffee Products Co. v. Cazarez*, 937 S.W.2d 444 (Tex. 1996) (workers' compensation discrimination case); *Texas Division- Tranter, Inc. v. Carrozza*, 876 S.W.2d 312 (Tex. 1994) (workers' compensation discrimination case); *Swearingen v. Owens-Corning Fiberglas Corp.*, 968 F.2d 559 (5th Cir. 1992) (workers' compensation discrimination case); *Howell v. Standard Motor Prods., Inc.*, 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); *Specialty Retailers v. DeMoranville*, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); *Gonzalez v. El Paso Natural Gas Co.*, 40 F.E.P. Cases (BNA) 353 (Tex. App.-El Paso 1986, no pet.) (sex discrimination case)

EMPLOYEES RETURNING FROM MEDICAL LEAVE If an employee has exhausted all forms of applicable leave including but not limited to FMLA, all types of sick leave, vacation leave, compensatory time, and overtime, and the employee's medical condition prohibits the employee from returning to work at full duty, Human Resources shall hold a business necessity meeting with the School's General Counsel and the employee's supervisor to determine whether there is a business necessity to fill the employee's position and, if so, by what date the position must be filled to serve the School's best interests and submit the recommendation to the Superintendent. If the employee is unable to return to full duty by that date, the employee's employment shall be terminated.

DISCIPLINARY USE OF LEAVE WITHOUT PAY Any employee who violates School policy regarding use of leave, or otherwise fails to secure authorized approval for leave taken, may be required to take leave without pay

JOB ABANDONMENT An employee who is absent from work for two or more consecutive working days without notice or approval may be separated from the School due to job abandonment in accordance with TSD policy.

TIME AND ATTENDANCE RECORDS The Superintendent shall require for each employee time and attendance records to be maintained in the state's Centralized Accounting and Payroll/Personnel System (CAPPS). The record shall contain accruals and use of vacation and sick leave; a record of the reasons an employee takes leave, if other law requires the employee to inform the School of the reason; and a record that shows whether any leave taken is accounted for as sick leave, vacation leave, other paid leave, leave without pay, or other absence.

Texas Gov't Code 661.908

Issued:

Adopted:

Amended: 05-06-2016
04-07-17
12-18-19
02-26-21