

**Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices**

1. Paid Vacation.

A. Purpose.

Employees in budgeted full-time and part-time positions at the Coordinating Board shall, without deduction in salary, be eligible for a paid vacation in each fiscal year. Hourly employees who work at least 20 hours per week for a period of at least four and one-half months shall be eligible for vacation leave after completing four and one-half months on the Coordinating Board payroll.

B. Method of Accrual.

I. Vacation shall be earned beginning with the first day of employment and terminating on the last day of duty, in accordance with the following schedule:

Employees with Total State Employment of:	Hours Accrued Per Month	Maximum Hours to Carry Forward From One Fiscal Year to Next Fiscal Year
0 but less than 2 years	8	180
2 but less than 5 years	9	244
5 but less than 10 years	10	268
10 but less than 15 years	11	292
15 but less than 20 years	13	340
20 but less than 25 years	15	388
25 but less than 30 years	17	436
30 but less than 35 years	19	484
35 plus	21	532

II. Employees completing their 2nd, 5th, 10th, 15th, 20th, 25th, 30th, and 35th year of employment with the state will accrue vacation leave at the higher rate 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.

III. Credit for one month's accrual will be earned by budgeted full-time employees for each month or fraction of a month of employment. Employees are not able to use their new leave accruals for a new month until the first day they are physically present at work during that month.

IV. A percentage of one month's accrual will be earned by budgeted part-time and eligible hourly employees for each month or fraction of a month of employment. This percentage earned will be based on the ratio the employee's part-time employment bears to full-time employment. The maximum carryover from one fiscal year to the next will also be proportionate.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

V. Annual leave hours in excess of the maximum carry forward amount will be converted to sick leave on September 1 of the next fiscal year.

C. Length of Service Requirement.

Vacation with pay may not be granted until the employee has had continuous employment with the state for six months, although credit will be accrued during this period.

D. Use of Vacation Leave.

I. Earned vacation shall be taken at a time mutually acceptable to the employee and the employee's supervisor and/or assistant commissioner, and should be scheduled to meet the work requirements of the division.

II. Vacations should be scheduled as far in advance as possible and must be approved in advance by the employee's supervisor and/or assistant commissioner. It is at the discretion of the division head to disallow vacation time that does not meet the work requirements of the division, or to disapprove a leave form submitted after-the-fact that was not pre-approved.

III. While on vacation, days on which an employee is confined to a hospital or a residence because of a major illness or injury may be charged to unused sick leave. A certificate from the treating physician is required in such cases.

IV. When an authorized Coordinating Board holiday occurs during a period of vacation leave, the day off is not charged to vacation leave.

E. Termination, Retirement or Death.

I. An employee will be paid for all unused vacation leave upon termination of employment or retirement, provided the employee has completed six months of continuous employment with the state.

II. In accordance with the current Appropriations Act, an individual who within a period of 30 calendar days from the date of separation from the Coordinating Board is reemployed by a state agency or institution into a position which accrues vacation time shall have his or her previously accrued but unused vacation leave restored.

III. In the event of death, an employee's estate will be paid for all of the employee's unused vacation leave at the time of death.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

F. Record Keeping.

Vacation leave accrued, used, and carried forward shall be recorded for all employees. The record keeping procedures and forms will be provided by the H.R. department.

2. Policy on Overtime

A. Purpose.

When a Coordinating Board employee who is subject to the overtime provisions (non-exempt) of the Fair Labor Standards Act of 1938, 29 U.S.C. Sections 201 et.seq., (FLSA) is required to work hours in excess of 40 hours in a workweek, the employee is entitled to compensation for the excess hours. The Coordinating Board defines the workweek as that period beginning 12:01 a.m. on Sunday and extending through the seven-day period ending at midnight the following Saturday.

B. Compensation for Overtime.

- I. Compensation for all authorized overtime in excess of 40 hours per week worked by eligible employees shall be by receiving compensatory time off, at the rate of one and one-half hours for each hour of overtime, during the twelve-month period following the end of the workweek in which the time was earned. An employee may accrue up to 240 hours of FLSA compensatory time. If the FLSA compensatory time exceeds 240 hours, the employee shall receive payments in cash for the excess. Upon termination of employment an employee shall be paid for any accrued FLSA compensatory time. At the discretion of the Commissioner of Higher Education or his designee, in cases of business necessity, an employee may receive payments in cash for compensatory time under this paragraph.
- II. Any paid leave or holidays taken are not counted as hours worked in determining overtime hours described in the preceding paragraph. In situations in which the employee has not worked more than 40 hours in a workweek but the total of hours worked and hours of paid leave or paid holidays exceeds 40 hours, the employee shall be allowed equivalent compensatory time off for the excess hours. The compensatory time must be taken during the twelve-month period following the end of that workweek. Compensatory time under this paragraph may not be carried forward past the end of the twelve-month period, and an employee may not be paid for the unused time. No employee, whether or not subject to FLSA, shall accrue compensatory time during any week unless the combination of paid leave and hours worked exceeds 40 hours.
- III. No employee may accrue state compensatory time for work conducted at any location other than the physical location of the Coordinating Board or the employee's assigned duty point.
- IV. The amount of authorized overtime should be held to that which is absolutely necessary.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- V. It shall be the policy of the Coordinating Board that no person may be employed by the agency if he or she holds another position within Texas state government.
- VI. Earned compensatory leave shall be taken at a time mutually acceptable to the employee and the employee's supervisor and/or assistant commissioner, and should be scheduled to meet the work requirements of the division. Employees are not required to specify the reason for the request when taking compensatory time off.
- VII. It is the policy of the Coordinating Board that, if compensatory time is accrued, it will be used before annual leave with the exception of authorized Family Medical Leave situations. Employees are requested to use compensatory time in the following order: FLSA, first; and state compensatory, second.

C. Exempt Employees.

- I. An employee of the Coordinating Board who is not subject to the overtime provisions (exempt) of the FLSA may be allowed, at the discretion of the Commissioner or his designee, compensatory time off for hours in excess of 40 hours in a workweek in which the combination of hours worked, paid leave, and holidays exceeds a total of 40 hours. An exempt employee may be allowed compensatory time off during the twelve-month period following the end of the workweek in which the overtime was accrued, at a rate not to exceed equivalent time.
- II. Employees not subject to the provisions of the FLSA shall be designated as exempt executive, administrative or professional. Information concerning such designations shall be available in the H.R. department.

D. Record Keeping.

Compensatory time accrued and used shall be recorded for employees subject to the FLSA (non-exempt). The record keeping procedures and forms will be provided by the H.R. department.

3. Policy on Holiday Pay.

A. Purpose.

- I. Employees budgeted in full-time and part-time positions at the Coordinating Board shall, without deduction in salary, be eligible for time off from work as authorized by the current Appropriations Act or by general statute. Hourly employees who work at least 20 hours per week for a period of at least four and one-half months shall be eligible for holiday pay after completing four and one-half months on the Coordinating Board payroll. Part-time hourly employees will receive holiday pay based upon the ratio their part-time employment bears to full-time employment.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- II. The H.R. department will annually prepare and make available the holiday schedule approved by the Legislature.
- III. While statewide election days are not observed as holidays by the Coordinating Board, employees are allowed sufficient time off to vote without any deduction in salary or leave time.

B. Holidays Falling on a Weekend.

Holidays falling on Saturday or Sunday shall not be observed by the Coordinating Board on a preceding or following day. Employees, who because of non-standard schedules are scheduled to work on a Saturday or Sunday on which a holiday falls, will not be entitled to time off with pay for that day.

C. Work on a Holiday.

If an employee is required to work on a Monday through Friday holiday, he or she will be allowed compensatory time off during the twelve-month period following the date of the holiday worked.

D. Holidays Falling on a Regularly Scheduled Day Off.

If a holiday falls on a normal day off other than Saturday or Sunday for employees who work non-standard schedules, equivalent time off will be given on another day.

E. Holidays Occurring During Vacation or Sick Leave.

When a Monday through Friday holiday occurs during a period of vacation or sick leave, the day off will not be charged to vacation or sick leave.

F. Holidays Occurring During Leave Without Pay.

An employee on leave without pay will not be eligible for holidays that occur during the leave because the employee is not in a paid status. An employee must be in a paid status on the day before and the day after a holiday in order to be eligible for holiday pay.

G. Holidays Occurring on the First and/or Last Workday of a Month.

- I. A state employee who begins working for the Coordinating Board on the first workday of a month is eligible to be paid for a state or national holiday that occurs before the first workday if the holiday occurs during the month and does not fall on a Saturday or Sunday. Likewise, a state employee who stops working for the Coordinating Board on the last workday of the month is eligible to be paid for a state or national holiday that occurs after the last workday.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- II. In the event that a state or national holiday falls between the dates that an employee separates from the Coordinating Board and begins employment in another state agency or institution without a break in service, the agency to which the employee transfers is responsible for paying the employee for the holiday in accordance with Texas Government Code 661.61.

- H. Holiday Compensation for Holiday Eligible Employees With Other than Normal, Full-time Work Schedules.
 - I. Full-time, holiday eligible employees with other than normal work schedules.
 - a. A full-time (40 hours per week) employee who is eligible for holiday pay must be in a paid status during some portion of the work day before and the next day after the holiday in order to qualify for holiday compensation.
 - b. A full-time employee who works a schedule other than Monday through Friday, 8 hours per day, is eligible to observe the equivalent number of holidays each year as employees working normal office hours. This is the case whether or not he/she is normally scheduled to work on the day of the week on which the holiday falls.
 - c. If an employee actually performs any work on a holiday, such hours worked will be banked as “holiday comp time.”
 - d. If an employee does not perform work on the holiday but is in a paid status for a full 40 hours during the week in which a holiday falls (excluding the holiday hours), the holiday hours will be banked as “holiday comp time.”
 - e. An employee who is normally scheduled to work more than 8 hours on the day of the week on which the holiday falls, but who does not perform work on the holiday, must use holiday comp time, state comp time, Fair Labor Standard Act (FLSA) overtime banked hours, or annual leave to make up for the difference between the hours normally worked on that day and the payment for the 8-hour holiday. The office of the State Auditor has informed the Coordinating Board that sick leave, extended sick leave, or sick pool leave may not be accessed on holidays specified in the Texas Government Code, with the exception of optional holidays.
 - f. As described in paragraph (e) above, an FLSA covered employee who does not have any holiday comp time, state comp time, FLSA overtime banked hours, or annual leave available, or a FLSA covered employee who is ineligible to access his or her annual leave accrual due to being employed continuously by the State for less than 6 months, will be placed on leave without pay (LWOP) for the difference in hours. Generally, an FLSA exempt employee may not be placed on LWOP to make up the difference in hours, even if the employee cannot access paid leave.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- II. Part-Time, Holiday Eligible Employees.
- a. A part-time employee who is eligible for holiday pay must be in a paid status during some portion of his or her normally scheduled work day before and his or her normally scheduled next work day after the holiday in order to qualify for holiday compensation.
 - b. A part-time employee is entitled to be compensated for a holiday at a rate which is proportionate to the rate provided to full-time employees, based upon the percentage of time he/she is scheduled to work per week. This is the case whether or not he/she is normally scheduled to work on the day of the week on which the holiday falls.
 - c. If a part-time employee actually performs work on a holiday, such hours worked will be banked as "holiday comp time."
 - d. If a part-time employee does not perform work on the holiday but is in a paid status for his or her normal number of scheduled hours during the week in which a holiday falls (excluding the holiday hours), the holiday hours will be banked as "holiday comp time."
 - e. A part-time employee who is normally scheduled to work a greater number of hours on the day on which the holiday falls than his or her proportional holiday pay entitlement allows, but who does not perform work on the holiday, may make up the difference in hours by working on another day of that calendar month.
 - f. A part-time employee who does not perform work on the holiday, and who does not make up such difference in hours by working on another day of that calendar month, must use holiday comp time or annual leave, or state comp time or FLSA overtime banked hours if any, to make up the difference between the hours normally worked on the holiday and the payment for the holiday.
 - g. As described in paragraphs (a)-(f) above, a part-time employee who does not make up such difference in hours by working on another day of that calendar month and who does not have any holiday comp time or annual leave available, or who is ineligible to access his or her annual leave accrual due to being employed continuously by the State for less than 6 months, will be placed on leave without pay (LWOP) for the difference in hours.

4. Paid Sick.

A. Purpose.

The purpose of this section is to provide time off without a deduction in pay to eligible employees when the employee is unable to perform the duties of his or her job under qualifying situations for

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

reasons of the employee's incapacity or that of an eligible family member.

B. Application.

Employees in budgeted full-time and part-time positions at the Coordinating Board shall, without deduction in salary, be eligible to use sick leave with pay when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty, or when the employee is needed to care and assist a member of the employee's immediate family who is actually ill. Hourly employees who work at least 20 hours per week for a period of at least four and one-half months are eligible for sick leave after completing four and one-half months on the Coordinating Board payroll.

C. Eligibility for Purposes of Regular Sick Leave.

For purposes relating to regular sick leave, the employee's immediate family is defined as:

- a. those individuals who reside in the same household and are related by kinship, adoption, or marriage, as well as foster children certified by the Texas Department of Protective and Regulatory Services;
- b. minor children of the employee, whether or not living in the same household; and
- c. a spouse, child, or parent of the employee who does not reside in the employee's household but who needs such care and assistance as a direct result of a documented medical condition.

D. Method of Accrual.

- I. Sick leave shall be accrued beginning on the first day of employment and terminating on the last day of duty at the rate of eight hours per month.
- II. Credit for one month's accrual will be earned by budgeted full-time employees for each month or fraction of a month of employment. Employees are not able to use these new leave accruals for a new month until the first day they are physically present at work during that month.
- III. A percentage of one month's accrual will be earned by budgeted part-time and eligible hourly employees for each month or fraction of a month of employment. The percentage earned will be based on the ratio the employee's part-time employment bears to full-time employment.

E. Unlimited Accrual.

There is no limit on the amount of sick leave that can be accrued. Sick leave entitlement shall

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

accumulate with the unused amount of sick leave carried forward each month. Sick leave accrual will terminate on the last day of duty.

F. Immediate Benefits.

Budgeted employees will be credited with one month's accrual of sick leave on the first day of employment and thereafter will be eligible for sick leave to the amount accumulated.

G. Use of Sick Leave.

- I. 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 and assist a member of his or her immediate family, (as defined in Section 4.C of this chapter), who is actually ill. The employee's supervisor must be notified at the earliest practicable time in a manner determined by the supervisor.
- II. While on vacation, days which an employee is confined to a hospital or a residence because of a major illness or injury may be charged to unused sick leave. A certificate from the treating physician is required in such cases.
- III. When an authorized Coordinating Board holiday occurs during a period of sick leave, the day off is not charged to sick leave.
- IV. Sick leave may be used for short periods of absence caused by medical or dental appointments.
- V. To be eligible for sick leave during a continuous period of more than three working days, an employee shall submit to his or her division head a doctor's certificate showing the cause or nature of the illness or injury, or some other written statement of the facts concerning the illness or injury which is acceptable to the division head.
- VI. The Commissioner has given each division head the authority to require documentation for a period of less than three working days.
- VII. Leave notices without explanations for these absences, and without an indication of who was ill/injured, are not acceptable and will be returned to the employee and/or the division head.
- VIII. If the employee is out for more than three continuous days for a serious health condition, as defined in FML Section 8 of this chapter, the employee must have a doctor's certification using the agency's form adopted from the U.S. Department of Labor Certification of Physician or Practitioner (Form WH-380).

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- IX. In order to return to duty after an employee's own illness or injury where the total use of all paid and/or unpaid leave exceeds three working days, the employee may be required to furnish a certificate from the treating health care provider stating the employee is fit to return to work.
- X. Abuse of sick leave privileges is cause for disciplinary action or termination, regardless of the amount of unused sick leave time accrued. Evidence of abusing sick leave privileges would include a past record of repeated absence from duty for minor ailments as soon as leave has been accrued. A doctor's certificate may be required for any period of absence when there is cause to question if an employee is abusing sick leave privileges. In such cases the agency's form adopted from the U.S. Department of Labor Certification of Physician or Practitioner (Form WH-380) shall be required.
- XI. A terminating employee may be allowed to remain on the payroll to utilize vacation leave in lieu of being paid in a lump sum, providing that such an employee will not be eligible to use paid sick leave prior to final separation from employment.
- XII. Upon return to duty after personal illness or illness of an immediate family member, an employee shall, without delay, complete a Notification of Leave form, and submit it through proper division channels to the H.R. department. The form must indicate who was ill, as expressed by the relationship to the employee, and whether the family member lives in the employee's home.
- XIII. As provided in Section 9 of this chapter, Policy on Miscellaneous Paid Time Off, up to eight hours of sick leave also may be used each calendar year to attend parent-teacher conferences in accordance with H.B. 1177, 75th Legislature.

H. When All Accumulated Sick Leave Has Been Used.

After all accessible, accumulated sick leave has been used, an eligible employee with a qualifying condition may then use accessible accumulated vacation leave to continue receiving salary. When all sick leave, vacation leave, compensatory time, granted extended sick, granted sick pool leave, or Family Medical Leave, if applicable, have been used, a request for leave without pay or a termination of employment must be initiated.

I. Exceptions to Amount of Sick Leave.

- I. Extension of the amount of sick leave an employee may take beyond the accumulated amount may be authorized by the Commissioner of Higher Education or his designee. Any such exceptions will be authorized on an individual basis after review of the merits of the particular case. A statement of any such exceptions or the reasons for them shall be attached to the Coordinating Board's payroll voucher for the payroll period affected by the authorized exceptions. The amount of extended sick leave which an employee may request is determined by the amount of sick leave which was available to the employee at the onset of

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

the employee's condition requiring the use of sick leave. The onset of the condition shall be the date of the current confinement resulting in absence from work where the condition is referenced on the Notification of Leave form, provided that at the date of onset of the current confinement, the employee had worked for the agency for at least two continuous years.

- II. The employee must submit in writing a request for extension of sick leave including a doctor's certification letter on the agency's form adopted from the U.S. Department of Labor Certification of Physician or Practitioner (Form WH-380). This certification letter will include:
 - a. the doctor's statement that the employee is under the doctor's care for a serious health condition;
 - b. the doctor's statement that there is a need for the employee to be away from work on leave;
 - c. the doctor's statement specifying the length/duration of the leave; and
 - d. the doctor's statement indicating the expected date the employee may return to work.

- III. The following criteria must be met before consideration will be given for an extension of sick leave:
 - a. The employee must have worked for the Texas Higher Education Coordinating Board for two continuous years preceding the request and/or the date of the onset of the condition's current confinement for which the employee is requesting extended sick leave.
 - b. The employee must have performed his or her duties in a highly satisfactory manner, and he or she must not have abused the sick leave privilege in the past.
 - c. The employee must have exhausted all leave with pay entitlements prior to the request.
 - d. The employee must indicate in writing his or her intent to return to work for the Coordinating Board if granted an extension of sick leave.
 - e. If the employee voluntarily elects not to return to work for the Coordinating Board, he or she must repay in a lump sum, or such alternate arrangement as the Commissioner of Higher Education may prescribe, the amount of money expended by the Coordinating Board for the cost of the extension of sick leave.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- f. For non-work incurred personal illness, injury, or disabilities, an employee is eligible to receive a maximum of 60 workdays paid extended sick leave, or an amount equal to his or her accrued sick leave balance at the onset of the illness or injury, whichever is less.
 - g. The division head, upon determining that an employee in his or her division should be recommended for extended sick leave, shall forward the request and doctor's certification to the H.R. department for verification and sign-off that the employee meets the criteria for the amount of extended sick leave requested.
 - h. The H.R. department, on behalf of the division head, shall submit to the Commissioner of Higher Education or his designee the request for approval of the extended sick leave.
 - i. The Commissioner of Higher Education or his designee may waive all or part of the criteria when an on-the-job injury is involved.
- J. Termination, Retirement or Death.
- I. An employee will not be paid for unused sick leave upon termination of employment but may contribute to the agency's sick leave pool one or more days of his or her accrued sick leave time in accordance with the policy on Sick Leave Pool, Section 7 of this chapter.
 - II. Retirees who retire under the Employees Retirement System can accrue additional months of retiree service credit for a specified number of unused sick leave hours as authorized under current law.
 - III. In accordance with the current Appropriations Act, employees separated from employment under a formal reduction-in-force certified by the Commissioner or his designee shall have their sick leave balance restored if reemployed by the state into a position which accrues sick time within 12 months of their termination.
 - IV. In accordance with the current Appropriations Act, Coordinating Board employees who separate from their employment for reasons other than a formal reduction-in-force are allowed to have their sick leave balance restored if:
 - a. The Coordinating Board employee is reemployed by the Coordinating Board within 12 months, provided there has been a break in service of at least 30 calendar days since termination; or
 - b. The Coordinating Board employee is reemployed by a different agency or institution within 12 months of termination.
 - c. In the event of death, the employee's estate will be paid for one-half of the employee's unused sick leave at the time of death, or for 336 hours of sick leave, whichever is less.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

K. Record Keeping.

Sick leave accrued, used, and carried forward shall be recorded for all employees. The record keeping procedures and forms will be provided by the H.R. department.

5. Policy on Death-In-Family Leave.

A. Purpose.

Budgeted full-time and part-time employees of the Coordinating Board will be allowed reasonable time off with pay when a death occurs in the employee's family.

B. Definition of Employee's Family.

For purposes of Death-In-Family Leave, the employee's family shall include:

- a. the employee's spouse, parents, brothers, sisters, grandparents, grandchildren and children; and
- b. the parents, brothers, sisters, grandparents, grandchildren and children of the employee's spouse.

C. Maximum Amount of Death-In-Family Leave.

Death-in-family leave is authorized for a period not to exceed three calendar days. If, because of unusual or extenuating circumstances, death-in-family leave in excess of three calendar days is needed, approval of the Commissioner of Higher Education or his designee must be obtained. This request must be forwarded by the division head to the Director of Human Resources who will review the request and forward it to the Commissioner or his designee.

D. Deaths Occurring During Vacation Leave.

While on vacation leave, if an employee finds it necessary to attend the funeral of a member of the family, a reasonable amount of time may be charged to death-in-family leave.

6. Policy on Leave Without Pay.

A. Purpose.

When conditions warrant, leave without pay (LWOP) may be granted for budgeted full-time or part-time employees (and temporary hourly employees who accrue leave):

- a. when they have no vacation leave accrued;

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- b. when they are ineligible to take vacation leave as a result of not having completed six months of continuous state employment; or
- c. when they are ill, or a member of their immediate family is ill, and they have no sick leave accrued.

B. Use of Leave Without Pay.

- I. Employees who are authorized to be absent from duty in LWOP status will receive a deduction in salary for the time they are absent from duty.
- II. Leave without pay taken immediately prior to or following a holiday also requires a deduction in salary for the holiday.
- III. Deductions for LWOP may cause the employee's warrant for that pay period to be delayed.
- IV. A deduction in salary for LWOP does not prevent the accrual of sick or vacation leave if the employee is paid for any portion of the month. However, an employee is not able to use his or her new leave accruals for a new month until the first day he or she is physically present at work during that month.
- V. All leave with pay entitlements must be exhausted before an employee will be authorized to take LWOP, except for:
 - a. active military duty situations;
 - b. leave covered by workers' compensation benefits; or
 - c. when the Commissioner or his designee has authorized an employee's disciplinary action for suspension without pay as provided in Section 4(d)(5) of Chapter M, Policy on At-Will Disciplinary Procedures and Termination of Employment.
- VI. Employees' requests for LWOP must be submitted in writing and should provide at least 30 days advance notice when the use of LWOP is foreseeable.

C. Approval of Leave Without Pay.

- I. Leave without pay which is sporadic or for periods of 12 weeks or less must be approved by the appropriate division head.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- II. Leave without pay which exceeds 12 weeks must be approved by the Commissioner of Higher Education or his designee. Leave without pay is limited in duration to 12 months and is subject to fiscal constraints.
- III. Subject to fiscal constraints, approval of LWOP for non-FMLA reasons constitutes a guarantee of employment during the LWOP period. However, upon completion of the LWOP, an employee reverts to at-will status.

7. Sick Leave Pool.

A. Scope.

All employees of the coordinating Board including those in their initial six-month employment period, part-time and hourly employees.

B. Purpose.

- I. The sick leave pool is intended to assist employees and their immediate families in dealing with catastrophic illnesses or injuries that force the employees to exhaust all of their available leave. Eligible employees may request leave from the sick leave pool if they or an immediate family member suffers a catastrophic illness or injury.
- II. Leave from the sick leave pool allows eligible employees to continue receiving their pay when all accrued leave balances are exhausted, and they would otherwise be placed on leave without pay.

C. Authority.

The Texas Government Code, Chapter 661, Subchapter A, authorizes the creation and maintenance of a sick leave pool for state employees.

D. Order of Leave Use.

An employee must first exhaust all leave accruals, including extended leave, if applicable, prior to utilizing the sick leave pool. Extended sick leave is only applicable to eligible employees, if the request is for the employee's own catastrophic illness or injury. If the leave request is to care for an employee's immediate family member with a catastrophic illness or injury, only leave from the sick leave pool may be requested, extended sick leave does not apply. For more information on extended sick leave, see Extended Sick Leave in this chapter.

E. Definition.

The sick leave pool is a bank of donated sick leave hours from agency employees used to support

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

agency employees who suffer, or to care for immediate family members who suffer, a catastrophic illness or injury.

F. Catastrophic Illness or Injury.

A catastrophic illness or injury is a severe condition or combination of conditions that:

- a. either affects:
 - 1. the mental health of the employee or an immediate family member of the employee; or
 - 2. the physical health of the employee or an immediate family member of the employee and is potentially life threatening;
- b. requires the services of a licensed practitioner for a prolonged period; and
- c. forces the employee to exhaust all earned leave time, and, if eligible, extended sick leave, and lose state sick leave compensation.

G. Licensed Practitioner.

For this purpose, a licensed practitioner means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his or her license. Licensed practitioners are doctors of:

- a. medicine,
- b. osteopathy,
- c. dentistry,
- d. optometry, or
- e. podiatry.

H. Immediate Family.

For the sick leave pool, immediate family includes:

- a. individuals related by kinship, adoption, or marriage who reside in the employee's household;
- b. foster children certified by the Texas Department of Family and Protective Services who reside in the employee's household;

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- c. the employee's minor children, whether or not living in the employee's household; and
- d. a spouse, child, or parent of the employee who does not reside in the employee's household, but who is totally dependent upon the employee for personal care or services on an ongoing basis.

I. Eligibility.

- I. All employees, except for the Commissioner of Higher Education (as a result of the enacting legislation), may apply for leave from the sick leave pool if they or an immediate family member suffers a catastrophic illness or injury, provided that the employee meets the eligibility criteria.
- II. To be eligible for leave from the sick leave pool, the employee must:
 - a. not have an active disciplinary record,
 - b. have exhausted all other paid leave,
 - c. not have abused leave (see Abuse of Leave Policy), and
 - d. have provided an acceptable certificate of illness or injury from an attending physician or licensed practitioner.
- III. There is no automatic right or guarantee a request will be approved.

J. Requests Based Upon Type of Employment.

- I. The maximum request from the sick leave pool during a 12-month period depends on whether the employee is full-time, part-time, or hourly.
- II. Employees may use up to the total amount of leave awarded for:
 - a. a single catastrophic illness or injury,
 - b. any combination of catastrophic illnesses or
 - c. injuries, or amendments or extensions to earlier requests.
- III. The 12-month period for leave from the sick leave pool is measured backward from the date on which an employee uses any sick leave pool leave. This is referred to as a rolling backward 12-month period.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

K. Maximum for Full-time Employees.

Eligible full-time employees may request the lesser of one-third of the total available hours in the sick leave pool, or 720 total hours during a rolling 12-month period.

L. Maximum for Part-time Employees.

- I. Part-time employees can request leave from the sick leave pool at a rate in proportion to full-time employees as the percent of time worked.
- II. For example, an employee working 50 percent time may request up to 360 hours during a rolling 12-month period (720 hours X .50 = 360 hours).

M. Maximum for Hourly Employees.

- I. Hourly employees may request leave from the sick leave pool at a rate in proportion to full-time employees, based on the average hours worked each month over the previous six consecutive months.
- II. Example:
 - An hourly employee (hours during the same six months)
 - Average monthly hours for previous six months = 150
 - Average scheduled work hours for full-time employees = 172
 - Maximum available for request during rolling 12-months = 628
 - (150 ÷ 172 X 720 hours = 628 hours)

N. Maximum Award.

- I. At no time may an award from the sick leave pool exceed the lesser of the maximum allowed for an employee based on position type (full-time, part-time, or hourly), or one-third of the total amount of leave in the sick leave pool.
- II. The THECB Human Resources office sets the amount of the award. When determining the exact number of hours to be awarded, the Human Resources office will take into consideration the total amount of time available in the sick leave pool.

O. Sick Leave Pool Administration.

- I. The Director of Human Resources or Human Resources staff designee will serve as the pool administrator.
- II. The Director of Human Resources or designee:
 - a. manages the sick leave pool, including donations, all requests for such leave including

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

the forms required to be submitted to request such leave and other pertinent forms, hours awarded, hours returned, and other related transactions;

- b. approves or disapproves requests for extended sick leave and leave from the sick leave pool;
- c. monitors the use of leave from the sick leave pool;
- d. ensures the return of any unused leave remaining after the rolling backward 12-month period of the award; and
- e. maintains a confidential file containing all sick leave pool records.

P. Filing a Request on an Employee's Behalf.

When the catastrophic illness or injury prevents an employee from personally filing a request, the request may be initiated by:

- a. an immediate family member, or
- b. the employee's supervisor.

Q. Avoiding Pay Loss.

To avoid leave without pay, requests for sick leave pool leave, whenever possible, should be submitted to the THECB Human Resources office at least 10 workdays before the employee's accrued leave is exhausted.

R. Confidentiality of Medical Records.

- I. Records that contain information about an employee's medical condition should be treated at all times, to the extent allowed by law, as confidential. Medical records are maintained in a file separate from the employee's personnel record.
- II. All transmittals must be clearly labeled as confidential and directed to the attention of the intended receiver.
- III. This includes all information about the individual's medical condition forwarded to the THECB Human Resources Department (HRD).

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

S. Processing Requests for Leave from the Sick Leave Pool.

I. The following table describes how to request leave from the sick leave pool.

Step	Action
1	The employee completes the Sick Leave Pool Request form provided by HRD.
2	The HRD designee: <ul style="list-style-type: none"> • informs the employee of the sick leave pool eligibility criteria, what required medical certification is needed from the treating health care provider, and if they are eligible for leave protection under the Family and Medical Leave Act.; and • gives the employee: <ul style="list-style-type: none"> ○ (if for the employee's own catastrophic illness or injury) a job description, a list of physical requirements for the employee's job, the Notice regarding the Genetic Information Nondiscrimination Act, and the form(s) required to be filled out by the health care provider relating to Certification of Health Care Provider for Employee's Serious Health Condition, or ○ (if for a covered family member's catastrophic illness or injury) the Notice regarding the Genetic Information Nondiscrimination Act, and the form relating to Certification of Health Care Provider for Employee's Family Member's Serious Health Condition.
3	The employee: <ul style="list-style-type: none"> • has the health care provider complete the form relating to Certification of Health Care Provider for Employee's Serious Health Condition or the form relating to Certification of Health Care Provider for Employee's Family Member's Serious Health Condition, and • sends the form to the Human Resources Department, Pool Administrator.
4	The Pool Administrator: <ul style="list-style-type: none"> • completes any required form or other appropriate documentation and attaches it to the above-referenced form(s) submitted by the employee, and • has at least two Human Resources Staff members assess the documentation to determine eligibility, including the Director of Human Resources.

(continued on next page)

**Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices**

Step	Action
5	<p>The Pool Administrator and other HR Staff:</p> <ul style="list-style-type: none"> • determines if the employee meets eligibility requirements, if the condition is a qualifying condition, • requests additional medical documentation if needed to determine whether the condition is qualifying. • determines the number of pool hours to be granted, • documents the decision on the Sick Leave Pool request form, • notifies the immediate supervisor and employee of the decision, and • sends written verification to the immediate supervisor.

II. **Note:** If a request for sick leave pool leave is disapproved, the employee may be placed on leave without pay.

T. Effective Date of Sick Leave Pool Awards.

I. With the THECB Human Resources office's approval, the effective time and date are normally those on which the employee entered unpaid leave status.

II. Unless there has been an agency administrative error, as determined by the THECB Human Resources office, awards will not be made retroactive by more than 30 calendar days prior to the date the Human Resources office received the request.

U. Continuous or Intermittent Use.

I. Leave from the sick leave pool may be used continuously or intermittently as documented on the medical certification.

II. An employee who needs to use the sick leave pool intermittently must use all currently accrued leave before using the remainder of leave from the sick leave pool and the medical documentation must support the use of intermittent leave.

III. Additional medical documentation may be required for an employee approved for intermittent use, who then has a need for and takes continuous leave, or an employee approved for continuous use, and later has a need for intermittent leave. If additional documentation is not submitted for the change in use of leave, leave from the sick leave pool may not be approved for that period of time.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- V. Leave Accrual while on Leave from the Sick Leave Pool.
 - I. Employees on leave from the sick leave pool continue to earn vacation leave and sick leave.
 - II. Accrued leave is not credited to the employee's leave balances until the employee returns to duty.

- W. Separation and Leave from the Sick Leave Pool.

Employees who separate from employment for any reason while on leave from the sick leave pool will not have accrued leave or any unused sick leave pool hours credited to them.

- X. Return of Unused Leave.

- I. The Pool Administrator tracks employee use of pool hours for the rolling 12 months following the effective date of the award.
- II. Unused sick leave pool hours must be returned to the sick leave pool if any of the following occurs during the rolling 12 months:
 - a. the employee or the employee's immediate family member is fully released by the licensed practitioner,
 - b. the employee or the employee's immediate family member has deceased, or
 - c. the employment relationship is terminated, whether by resigning, involuntarily or retirement.
- III. Any balance of sick leave pool hours that has not been used within the rolling 12 months shall be returned to the sick leave pool.

- Y. Additional Requests.

- I. When less than the maximum request was made or awarded, the employee may request additional hours from the pool if the employee's or the employee's immediate family member's condition extends longer than originally anticipated. To receive additional hours from the pool, additional medical documentation may be required.
- II. However, the cumulative total time awarded during a rolling 12-month period cannot exceed the maximum established for an employee (full-time, part-time, or hourly), whether it be for:
 - a. a single catastrophic illness or injury,
 - b. any combination of catastrophic illnesses or injuries, or

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- c. amendments or extensions to earlier requests.
- III. To request additional hours, the employee completes another Sick Leave Pool Request form.
- IV. If the employee is medically unable to request additional hours, one or more of the following people may:
 - a. an immediate family member, or
 - b. the employee's supervisor.
- V. Whenever possible, the request for additional hours should be made 10 workdays before the original sick leave pool hours are exhausted. There is no automatic right or guarantee an additional hours request will be approved.

Z. Sick Leave Pool and Family and Medical Leave Act (FMLA).

Sick leave pool hours are counted against the 12 weeks allowed in a rolling backward 12-month period under the FMLA unless the employee's FMLA entitlement has been exhausted or the employee is not eligible for FMLA.

AA. Sick Leave Pool and Workers' Compensation.

For information on the procedures that must be followed when an employee is awarded leave from the sick leave pool for an injury or illness covered by workers' compensation, contact the THECB Human Resources office.

BB. Release to Return to Work.

- I. Before returning to work following the use of continuous sick leave pool leave for an employee's own catastrophic illness or injury, the employee must provide the Pool Administrator with a Fitness for Duty and Release to Return to Work form from the employee's health care provider.
- II. The Pool Administrator will notify the employee's supervisor that the employee is release to return to work, and inform the supervisor of any restrictions the employee may have.
- III. The supervisor is not to allow the employee to return to duty, unless they have received notice from the Pool Administrator, or other HR Staff that the employee is released to duty.
- IV. If the employee reports to duty, and the supervisor has not been notified of the release to return to duty, the supervisor is to send the employee to the Human Resources Department.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

V. If the employee does not have the appropriate documentation, the employee will not be allowed to return to duty.

CC. Contributing Sick Leave to the Sick Leave Pool.

- I. Contributing to the sick leave pool is strictly voluntary.
- II. Active THECB employees may contribute to the pool one or more days of their accrued leave in full day increments. Employees separating from the agency can contribute any amount of hours they choose.
- III. Employees who contribute leave to the pool cannot get the leave back unless they exhaust their sick leave balance in the same fiscal year as it was donated.
- IV. Employees may receive only the number of hours they contributed to the pool that year unless they or one of their immediate family members suffer a catastrophic illness or injury.
- V. To contribute to the sick leave pool, contact the Human Resources Department to document the request.

8. Donated Sick Leave.

A. Authority.

Texas Government Code Sec. 661.207

B. Purpose.

To allow employees of the Coordinating Board to donate any amount of the employee's accrued sick leave to another employee of the Coordinating Board.

C. Recipient of Sick Leave Donation.

- I. To be eligible to receive donated sick leave from a Coordinating Board employee, the recipient must:
 - a. be on the Coordinating Board's payroll, and
 - b. have exhausted all sick leave, including extended sick leave, and any time the individual may be eligible to withdraw from the sick leave pool. If the recipient exhausted all sick leave due to intermittent leave, any accrued leave must be used prior to using donated leave.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- II. Donated sick leave may be used to take leave by the recipient in the same manner as accrued sick leave, as provided by Sections 661.202(d) and (e) of the Government Code.
- III. Donated leave received may only be used for sick leave purposes that occur on or after the date the qualified donor employee submits the Sick Leave Donation Form.
- IV. The recipient of donated sick leave may not receive retirement service credit in the Employees Retirement System of Texas (ERS) for any donated sick leave that is unused on the last day of employment.
- V. Donated sick leave cannot be transferred to another state agency.
- VI. Donated sick leave cannot be paid out to the recipient's estate if the recipient dies before using all of the donated sick leave.

D. Donation of Sick Leave.

- I. A Coordinating Board employee may donate any amount of his or her accrued sick leave to another employee of the Coordinating Board.
- II. Once sick leave has been donated, the amount of donated sick leave will be deducted from the donor's accrued sick leave balance.
- III. Donated sick leave hours will not be returned to the donor if the recipient does not use all of the donated leave. Employees donating sick leave lose all ownership of and access to sick leave hours they choose to donate, including use for retirement service credit and/or to increase his or her annuity. Contact ERS customer service at (877) 275-4377 if you have questions regarding how donating sick leave may impact your retirement. The impact will be different for different employees depending on his or her hire date.
- IV. Sick leave donations will be considered a taxable event to the donor unless the situation qualifies as a medical emergency pursuant to IRS guidelines. For sick leave donation 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". If donations are made for situations that do not qualify as medical emergencies, the cash value of the donated sick leave will be included in the gross income of the donor and treated as wages for employment tax purposes. Such wages will be considered a lump-sum payment and subject to 25% income tax, Medicare, and applicable social security withholdings. Individuals making a donation are encouraged to consult a tax advisor.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

E. Restrictions.

- I. An employee may not provide or receive remuneration or a gift in exchange for sick leave donations.
- II. Coercion to solicit donations (including on behalf of others) is prohibited. Coercion includes, but is not limited to, contacts that exert pressure, play on people's emotions, or leave a feeling of guilt or lack of compassion for not donating. Such conduct is disruptive to the workplace and may result in corrective disciplinary action. Falsification, misrepresentation, or fraud in applying for or obtaining sick leave donation(s) constitute unprofessional conduct and will result in corrective disciplinary action, up to and including termination.

F. Process.

I. Requesting sick leave donations:

- a. An employee can request donated sick leave by filling out a Request for Donated Sick Leave form provided by the Coordinating Board's Human Resources Department (HRD).
- b. HRD will determine if the requestor is eligible to receive sick leave donations.
- c. If eligible, HRD will send an agency wide notice announcing the request for sick leave donations.
- d. The requestor can choose to be identified in the agency wide notice, or remain anonymous. Specific medical conditions will not be divulged in the agency wide request, but a general summary as approved by the requestor will be included.

(Example: John Doe is requesting sick leave donations to care for his daughter with a serious medical condition.)
- e. Employees are prohibited from soliciting requests from other agency employees for themselves, or on behalf of another employee, except through HRD as described in this section.

II. Donating Sick Leave:

- a. A Coordinating Board employee wishing to donate sick leave to another Coordinating Board employee can donate leave by filling out the Sick Leave Donation form provided by HRD.
- b. The donor can choose to remain anonymous or divulge their name to the recipient.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- c. Upon receipt of the Sick Leave Donation form, HRD will determine if the intended recipient is eligible to receive sick leave donations. If eligible, HRD will deduct the donated leave from the donor's accrued sick leave balance and transfer it to the recipient's donated sick leave balance.

III. Unsolicited donations:

In the event an employee wishes to donate leave to an eligible employee who has not requested the donation of sick leave, HRD will contact the intended recipient and notify him or her of the donation. To accept the donation, the recipient must fill out the Receipt of Sick Leave Donation Acknowledgement form.

9. Policy on Miscellaneous Paid Time Off.

A. Jury Duty.

When called for jury duty and while serving as a juror, employees of the Coordinating Board will receive time off with pay. Such employees shall not be required to account to the state for any fee or compensation received for jury service. Submission of official orders from the court is required as evidence of jury service.

B. Military Active Duty.

- I. A leave of absence with full pay shall be granted any budgeted full-time or part-time Coordinating Board employee who is called to active duty with the National Guard by the Governor of Texas.
- II. Employees who are members of the state military forces or members of any of the reserve components of the United States Armed Forces shall be entitled to a leave of absence without loss of time, efficiency rating, vacation time, or salary on all days during which they shall be engaged in authorized training or duty ordered or authorized by proper authority, for not to exceed 15 days in any one federal fiscal year. The 15 days refers to working days, not calendar days, and need not be consecutive.
- III. An employee called to active duty during a national emergency by a reserve branch of the United States Armed Forces shall have a leave of absence. The employee shall not lose the ability to accrue state service credit while on active duty but shall not accrue vacation or sick leave. However, the employee shall retain any accrued vacation or sick leave and shall be credited with such balances upon return.
- IV. Such leave per year must be documented by presentation of a copy of the official orders.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

C. Volunteer Fire Fighter.

Budgeted full-time and part-time employees of the Coordinating Board who are volunteer fire fighters shall be granted a leave of absence with pay to attend training schools conducted by state agencies, provided such leave does not exceed five working days in any one fiscal year. The Commissioner of Higher Education or his designee may grant leave with full pay to volunteer fire fighters for the purpose of responding to emergency fire situations.

D. Emergency Leave.

The Commissioner of Higher Education or his designee may make a determination on other emergency reasons for leave with pay that are not provided for elsewhere in the leave policies. The Commissioner or his designee may grant an emergency leave, when in his determination, the employee shows good cause for such leave.

E. Administrative Holidays.

Occasionally the Commissioner of Higher Education or his designee may authorize each assistant commissioner to allow employees time off with pay for various occasions that are not officially designated as holidays, such as Christmas caroling at the capitol, or time off for voting. Time off with pay for these occasions will be granted at the discretion of the assistant commissioner and for a period of time as specified by the Commissioner of Higher Education or his designee. Only those employees scheduled to work on the day of the administrative holiday will be granted such leave. Employees on any other leave status for that day will not be entitled to the administrative holiday.

F. Foster Parent Leave.

A budgeted full-time or part-time Coordinating Board employee, who is a foster parent to a child under the conservatorship of the Department of Protective and Regulatory Services, is eligible for a leave of absence with full pay for the purpose of attending staffing meetings held by the Department of Protective and Regulatory Services regarding the child under the foster care of the employee, or to attend the Admission, Review and Dismissal (ARD) meeting held by a school district regarding the child under the foster care of the employee.

G. Red Cross Certified Disaster Service Volunteer.

I. Any budgeted full-time or part-time Coordinating Board employee who is a certified disaster service volunteer of the American Red Cross, or who is in training to become such a volunteer, with the authorization of his or her supervisor, may be granted a leave not to exceed 10 days each fiscal year to participate in specialized disaster relief services for the American Red Cross, upon the request of the American Red Cross and with approval of the Governor's office, without loss of pay, vacation time, sick leave or earned overtime, and/or compensatory time. Notwithstanding this provision, the pool of state employees certified disaster volunteers shall not exceed the limits on this pool established in the current Appropriations Act. A list of such

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

employees will be coordinated with the Division of Emergency Management and Governor's office.

- II. Within 60 days of any request made by the American Red Cross for a report shall be prepared by the American Red Cross for the Legislative Budget Board setting forth the reasons and needs for any request made.

H. Leave for Blind Employees.

A blind budgeted full-time or part-time Coordinating Board employee shall be granted up to ten working days of absence with pay each fiscal year for the purpose of attending a training program to acquaint the employee with a seeing-eye dog to be utilized by the employee. This leave is in addition to other leave entitlements.

I. Outstanding Performance Leave.

- I. The Commissioner of Higher Education or his designee may grant leave with pay to budgeted full-time or part-time employees as a reward for outstanding performance as documented by the Performance Plan and Evaluation. In no event shall the aggregate amount of outstanding performance leave granted to an employee exceed 32 hours during any fiscal year.

- a. Definition. Outstanding Performance Leave is a leave award of up to 32 hours in any fiscal year for outstanding performance as documented by the employee's Performance Plan and Evaluation form or other performance appraisal.
- b. Eligibility. To be eligible for Outstanding Performance Leave, an employee of the Texas Higher Education Coordinating Board must meet the following conditions:
 - i. the employee's current employment must include completion of an initial six-month employment period in a budgeted position, either full-time or part-time; temporary and hourly employees are not eligible. In addition, the Commissioner of Higher Education is not eligible; and
 - ii. the employee's outstanding performance must be documented by a performance appraisal.
- c. Conditions for Outstanding Performance Leave. Outstanding Performance Leave will be subject to the following conditions:
 - i. in no event shall the aggregate amount of the leave awarded exceed 32 hours in any fiscal year; and
 - ii. the leave should be scheduled at times which are mutually agreeable to the employee and the employee's supervisor. However, a truly cooperative effort

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

should be made to accommodate an employee's request for use of awarded leave.

- II. Procedures for processing administrative leave requests are:
 - a. Recommendations for Outstanding Performance Leave must be made to the Commissioner or his designee by the assistant commissioner.
 - b. The assistant commissioner, upon determining that an employee in his or her division should be recommended for a leave award, shall forward the request to the H.R. department for verification and sign-off that the employee meets the conditions for eligibility to receive a leave award.
 - c. The H.R. department, on behalf of the assistant commissioner, shall submit to the Commissioner or his designee a request for approval of the recommended leave, including the amount of leave recommended.
 - d. The Commissioner or his designee will indicate his approval/disapproval in writing on the request document. The Commissioner or his designee may approve/disapprove the request in all or in part (i.e., the Commissioner or his designee may approve the request but may stipulate a different amount of leave to be awarded). If the request is approved, the designated Deputy Commissioner will forward the approved request to the H.R. department.
 - e. The employee's immediate supervisor will notify the employee once the leave award is approved.
 - f. After determining that the employee's supervisor has notified the employee of the leave award, the employee will receive from the H.R. department a follow-up notice on procedures for taking and reporting the leave awarded for outstanding performance.
 - g. All records shall be forwarded to the H.R. department for the purpose of tracking and record retention.

- J. Parent-Teacher Conferences.
 - I. The parent-teacher conference is one of the best opportunities parents have to express their interest and to discuss their child with his or her teachers. These conferences are usually scheduled during daytime working hours, making it difficult for some working parents to attend. Therefore, full-time budgeted employees planning to attend a parent-teacher conference are authorized time off from work with pay for a maximum of two hours each calendar year, provided the employee has arranged the time off through his or her supervisor. Part-time budgeted employees are authorized time off from work with pay on a prorated basis according to the percentage of time worked.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- II. In addition to paragraph (I) of this section, and in accordance with Texas Government Code, Chapter 661, full-time employees who are in a position which accrues sick leave may use up to eight hours of the employee's available sick leave each fiscal year to attend parent-teacher conferences, provided that the employee has arranged the time off with his or her supervisor. Part-time employees are authorized to use a prorated amount of available sick leave on a pro-rated basis according to the percentage of time worked.

10. Military Policy.

A. State employees are eligible for leave to accommodate:

- I. authorized training or duty for the state's military forces and members of any reserve branch of the U.S. Armed Forces,
- II. activation of the state's National Guard by the governor, or
- III. national emergency activation for members of a reserve branch of the U.S. armed forces.

B. Authority.

Military leave is authorized by the:

- a. Texas Government Code, Chapter 431, State Militia;
- b. Texas Government Code, Chapter 661, Leave; and
- c. Uniformed Services Employment and Reemployment Rights Act, 1994.

C. State Active Duty.

If a member of the National Guard is called to active duty by the governor because of a state emergency, the employee:

- a. is entitled to receive unlimited leave with full salary (paid emergency leave),
- b. earns vacation and sick leave during that time, and
- c. does not have to use vacation leave or the 15 workdays of paid military leave.

D. Federal Active Duty.

If an employee is called to federal active duty during a national emergency the employee is entitled to:

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- a. an unpaid leave of absence after exhausting the 15 workdays of paid military leave;
- b. use any accrued vacation leave, compensatory time, or overtime leave to maintain benefits for the employee or the employee's dependents while on military duty;
- c. receive differential pay, if eligible; or
- d. receive service credit with the Employees Retirement System of Texas by receiving at least one hour of state pay (any combination of paid leave) during each month of active military service.

E. 15 Workdays of Paid Military Leave.

- I. A state employee who is called to active duty or authorized training is entitled to a leave of absence of 15 workdays in each federal fiscal year (October 1 – September 30) without loss of pay or benefits. The 15 days need not be consecutive.
- II. If a holiday occurs while an employee is on military leave, the employee receives holiday pay, and the holiday pay is NOT counted against the 15 days.
- III. Unused leave does not carry over to the next fiscal year. After exhausting the 15 days, the employee may use accrued vacation or be placed in a leave without pay status (or a combination of the two) for the remainder of the active duty period.

F. Differential Pay.

- I. An employee called to active duty during a national emergency may be entitled to differential pay.
- II. Differential pay is emergency leave granted to an employee if the employee's military gross pay is less than the employee's state gross pay.
- III. The combination of differential pay and military pay may not exceed the employee's actual state gross pay.
- IV. To receive differential pay the employee must submit the military leave and earnings statement each month to the supervisor to verify continued eligibility.

G. Additional Rights.

State employees called to active duty with the state military forces or a reserve branch of the United States Armed Forces are also entitled to:

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- a. retain any accrued sick leave and vacation leave and be credited with these leave balances upon return to state employment;
- b. receive state service credit for the time spent on active duty in the military for the purposes of retirement, longevity pay, and vacation and sick leave entitlement; and
- c. return, when relieved from active duty, to the position that the employee held when ordered to duty or to another position of like seniority, status, and pay.

H. Accrual of Vacation and Sick Leave.

- I. Employees continue to accrue vacation and sick leave while on emergency leave.
- II. Employees do not accrue vacation leave or sick leave while on leave without pay, even when on active duty with the state or federal military.

I. Option to Use Vacation or Compensatory Leave.

An employee on military leave may elect, but cannot be required, to use any accrued vacation leave or earned compensatory leave in lieu of being placed on leave without pay.

J. Work Schedule Adjustment.

To facilitate participation in military duties, the supervisor must adjust the work schedule of any employee who is a member of the state military forces or a reserve branch of the United States Armed Forces, so that two of the employee's non-work days per month coincide with two days of military duty.

K. Notification.

- I. As early as possible, an employee must:
 - a. notify the supervisor of a call to active duty,
 - b. provide a statement of the employee's intent to return to work following completion of the employee's military service, and
 - c. attach a copy of the military orders, other official directive, or authorization.
- II. The supervisor must send a copy of the statement and military orders to the H.R. department.

L. Benefits Review.

- I. An employee called to active duty must be provided with information on:

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- a. health coverage for the employee and covered family members during the absence,
 - b. all paid leave balances,
 - c. paid leave entitlement for state military forces who are called to state active duty by the governor, and
 - d. reemployment rights.
- II. An employee who has been employed with the agency less than 60 days is NOT eligible for health coverage.
- III. An employee who has been with the agency for more than 90 days but who is not eligible for differential pay (as emergency leave) will receive one hour of emergency leave per month of duty in order to retain service credit with the state and the retirement system. This time period will not exceed the period of active duty.
- M. Leave Without Pay.
- I. Employees called to active duty may be placed in a leave without pay for a period not to exceed the period of active duty.
 - II. The 12-month limit placed on leave without pay does not apply to employees on active duty.
- N. Re-employment Rights.
- I. As provided by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), an employee may have re-employment rights upon completion of the service if the employee:
 - a. is not a temporary employee, and
 - b. gives notice that the employee is resigning employment to enter directly into the uniformed services for a period of five years or less.
 - II. Uniformed services include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard are also covered under USERRA.
 - III. An employee who goes on leave of absence to enter active military service is entitled to be re-employed:
 - a. by the agency; and

**Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices**

- b. in the same department and office in which the employee was employed at the time of induction or enlistment in, or ordered to active military service; and in the same position held or a position of similar seniority, status, and pay.

IV. This provision applies if the veteran:

- a. is physically and mentally qualified to perform the required duty,
- b. was honorably discharged within five years of beginning military service,
- c. and contacts the agency H.R. department within the established time limits for reporting back to work following discharge.

O. Exception:

- I. Under USERRA, the agency does not have to re-employ a veteran if the agency's circumstances have significantly changed, so that re-employment would be impossible, unreasonable, or present an undue hardship. For example, an employee's position is eliminated by a reduction in force while the employee is on the leave of absence.
- II. An employee who is restored to a position upon returning from military service is considered to have been on leave of absence during the employee's federal or state military service.

P. Time Limits.

- I. Time limits for returning to work under USERRA depend upon the duration of the employee's military service. The employee must submit a written request for re-employment to the agency H.R. department and provide evidence of discharge/release from service under honorable conditions.
- II. The applicable time limits are:

If service was for...	Then the employee must...
Less than 31 days	report to work by the beginning of the first regularly scheduled workday that falls eight hours after the end of the calendar day on which duty ended. If, through no fault of the individual, this is not possible, then the employee must report to work as soon as possible.
31 to 180 days	contact the agency H.R. department no later than 14 days after completion of military service. If, through no fault of the individual, this is not possible, then the employee must report to work as soon as possible.
181 days or more	contact the agency H.R. department no later than 90 days after completion of military service.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

III. The deadlines for returning to work or contacting the H.R. department are extended up to two years for those hospitalized or convalescing because of a disability incurred or aggravated during the period of military service.

Q. Dismissal Following Re-employment.

A re-employed veteran may not be dismissed from the position without cause for:

- a. one year after the date of reemployment if the employee served 181 days or more, or
- b. six months after the date of reemployment if the employee served 31 to 180 days.

11. Education Policy.

A. Purpose.

Educational leave is a full-time or part-time paid time away from regular work duties for training or education at a career college or a private or public institution of higher education. Educational leave is considered a temporary change in the employee's work assignment. The Commissioner or his designee may release eligible employees from regular work assignments without loss of pay or benefits to attend courses.

B. Authority.

The Texas Government Code, Chapter 656, State Employees Training Act, authorizes state agencies to use public funds to provide training and education to employees when such programs are related to the employee's duties or prospective duties.

C. Training, Workshops, and Conferences.

Educational leave is not necessary for:

- a. required training programs;
- b. workshops, seminars, or conferences;
- c. professional development training that is required for an employee to maintain a certification or license, such as CPA, CIA, CMA, CISA, or CLE training;
- d. programs at the Governor's Center for Management Development; or
- e. college or university courses provided under a memorandum of agreement.

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

D. Eligibility.

If the training or education requires release from regular work assignments, part-time or full-time, the employee must meet the following criteria:

- a. successful completion of the probationary period;
- b. an overall rating that the employee meets or exceeds the criteria on the employee's most recent performance evaluation; and
- c. is not receiving a scholarship under Coordinating Board rules found in 19 TAC 1.116 through 1.120.

E. Waivers.

The Commissioner or his designee may waive the eligibility criteria when the training or education addresses a critical shortage skill or occupation.

F. Leave Accruals.

Agency employees approved for educational leave are eligible for all employee benefits, including sick leave and vacation leave accruals.

G. Requesting Educational Leave.

Employees should request educational leave as far in advance as possible, but no later than 30 working days before the course is scheduled to begin, unless the employee can demonstrate a good cause for delay in submitting the request. As this policy is effective upon approval by the Commissioner, an employee that requests education leave for the Fall Semester, 2005, may establish good cause by demonstrating that he or she has been using other leave for eligible training or education.

H. Approving Educational Leave.

I. The following is the procedure for approving educational leave:

- a. Step 1. The employee requests educational leave from his/her supervisor and the Assistant Commissioner of the division to which the employee is assigned.
- b. Step 2. The Assistant Commissioner in consultation with the supervisor (and manager if applicable):
 - i. assesses the employee's eligibility for educational leave;

Texas Higher Education Coordinating Board
Agency Policies and Procedures
Chapter C - 01. Leave Benefits and Related Pay Practices

- ii. reviews the employee's request for leave; and
- iii. if recommending approval, indicates the actions to cover the employee's regular duties during the employee's absence.
- c. Step 3. The Assistant Commissioner recommends approval/disapproval to the appropriate Associate Commissioner.
- d. Step 4. The Associate Commissioner reviews and recommends approval/disapproval to the Commissioner.

I. Requirements While on Leave.

The agency may require employees on educational leave to provide documentation to show that the employee is:

- a. enrolled,
- b. participating in, or
- c. passing courses.

updated 12/07/2016