UTDBP3054 - Leaves of Absence

Policy Statement

General Policy

Policies for each type of authorized leave of absence are defined within this subsection and should be followed by all non-teaching personnel.

Additionally, any authorized paid leave of absence may be reported on the employee's time statement as:

- Annual Military Training = MT
- National Guard Activation = NG
- Funeral Leave = FL
- Jury Duty or Court Appearance = JD
- Sick Leave = SL
- Vacation = VC

The appropriate HRS form must be submitted to record all leaves without pay. See the Human Resource System (HRS) Manual, Personnel Events Section, for detailed instructions.

If the authorized leave of absence will be for a period longer than thirty (30) days, the employee should also follow the procedures for employee checkout.

Leave of Absence Without Pay

Upon submission of a properly completed HRS form (HRS Manual, Personnel Events Section) for an employee through his/her supervisor, the President, or his designee, may grant leave without pay to any employee when it is determined the employee shows good cause for such leave. This determination may provide the employee a special leave authorization which is not within the scope of normal Leave of Absence policies.

To be eligible, an employee must be appointed for at least twenty (20) hours per week for a period of at least four and one-half (4 1/2) months excluding students employed in positions which require student status as a condition of employment.

All accumulated paid leave entitlements must be exhausted before granting such leaves, with the additional provision that sick leave must be granted only in those cases where the employee is eligible to take sick leave.

The granting of such leaves will be without pay (to include no vacation or sick leave accrual and no holiday pay) and the interests of the University will be given primary consideration. The maximum period for which a leave of absence will be granted is the end of the fiscal year in which the leave begins.

A second consecutive year of leave should not be requested except in unusual circumstances such as military service, reasons of health, continued graduate study, and public service or other activity that reflects credit on the institution and enhances an individual's ability to make subsequent contributions to the institution.

Except in very unusual circumstances a third consecutive leave of absence for one year will not be granted.

After a return to active duty of one year or more, the leave-of-absence privilege will again be available, subject to the conditions above.
An employee who has been granted leave of absence without pay should make arrangements with the Human Resources Office regarding continuation or cancellation of various benefits programs.

**Paid Military Leave**

The University of Texas at Dallas will grant paid military leave to employees who are called to active duty in accordance with the terms described below.

**Leave Entitlement**

Employees are entitled to paid leave for the following types of military service:

1. **Authorized training or duty for members of the state military forces and members of any of the reserve components of the United States Armed Forces.** An employee who is called to active duty or authorized training as a member of the state military forces or any of the reserve components of the United States Armed Forces is entitled to a paid leave of absence from his or her respective duties without loss of time, efficiency rating or performance review rating, vacation time, or salary for not more than fifteen working days in a federal fiscal year (October 1 through September 30).

   The fifteen days of military leave need not be consecutive. Members of the state military forces or members of reserve components of the United States Armed Forces who are ordered to duty on non-consecutive days are entitled to a total of fifteen days. These fifteen days of military leave are working days and not calendar days.

   All military leave, other than a call to active duty in the National Guard by the Governor, is subject to a maximum of fifteen days of leave per federal fiscal year.

2. **National emergency active duty for members of a reserve branch of the United States Armed Forces.** A leave of absence will be provided to an employee called to active duty during a national emergency by a reserve branch of the United States Armed Forces. During such leaves of absence, the employee will accrue state service credit, but will not accrue vacation or sick leave. However, the employee retains any accrued sick or vacation leave and will be credited with those leave balances upon return.

   Employees are entitled to a maximum of fifteen working days of paid military leave if they have not already exhausted their annual entitlement. An employee who remains on active duty after exhausting his or her fifteen days of annual entitlement may use accrued vacation leave to the extent available, or be placed on a leave without pay, or a combination of the two for the remainder of the active duty period. (See "Extended Unpaid Military Leave" policy, D6-130.0.)

3. **Call to National Guard Emergency Leave by the Governor.** As emergency leave of absence with full pay will be provided to an employee who is called by the Governor of Texas to active duty as a member of the National Guard because of a state emergency, without loss of paid military or annual leave. The employee is entitled to this leave with full pay. This time is not limited and does not count against the fifteen days maximum military leave nor is the employee required to use annual leave. Only when the Governor calls a member of the National Guard to active duty for an emergency is the period of leave unlimited, paid, and without loss to annual or military leave.

   If a member of the National Guard is called to duty for training or duty authorized by a proper authority other than the Governor, the fifteen day maximum of paid military leave per fiscal applies.

**Adjustment in Work Schedule for Members of the National Guard**

The work schedule of any employee who is a member of the Texas National Guard or the United States Armed Forces Reserve must be adjusted so that two of the employee's days off each month coincide with two days of military duty to be performed by the employee, in order to facilitate participation in military duties by state employees.

**Procedures**
Employees must notify supervisors as soon as possible when they are called for military duty.

Employees must provide copies of military orders to their supervisor prior to taking military leave.

Copies of the military orders must be attached to the HRS forms placing them on military leave.

Accurate records of military leave taken will be retained in the employee's departmental file and in the employment file in the Office of Human Resources. If employees are on military leave for one calendar month or more, accurate records of state service credit will also be maintained.

**Extended Unpaid Military Leave**

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects and gives reemployment rights to employees returning from military service, as long as they have given advance notice to the University of their military service or obligation. It provides protection to members of the U.S. Armed Services (including reservists), the Army National Guard, the Air National Guard, and the commissioned corps of the Public Health Service. USERRA applies to voluntary as well as involuntary military service. It does not apply to active duty service in the State of Texas National Guard.

**Eligibility**

Individuals who are covered by the USERRA must meet the following conditions for reemployment:

1. must have been employed by The University of Texas at Dallas. (The position that was held must have been of a recurrent nature with reasonable expectation of continuation for a significant period of time.)
2. must have given written or verbal notice to their supervisor prior to leaving the job for military training or service except when precluded by military necessity.
3. must not have exceeded the five-year cumulative limit on period of military service.
4. must have been released from service under conditions other than dishonorable.
5. must report back to their previous job in a timely manner or submit an application for reemployment, with time limits established by law. The time limits are based on the length of military service (see below).

**Entitlements of Returning Military Service Member**

There are four basic entitlements, provided the individual meets the criteria set forth above:

1. Prompt reinstatement to employment. Generally, reinstatement should occur within a matter of days, but this will depend on the length of the absence.
2. Accrued seniority, as if the employee had been continuously employed. This would include credit for state service for longevity pay and vacation accrual rate, any legislated across-the-board increase that may have been implemented in their absence, and credit towards the Teachers Retirement System (TRS) if enrolled in that program. The returning employee must be allowed to make up any missed contributions to TRS or the Optional Retirement Program (ORP) over a period equal to three times the period of military leave to a maximum of five years. Deposits of the University's contributions toward TRS or the Optional Retirement Program (ORP) will be made upon reemployment.
3. Training or retraining and other necessary accommodations, particularly in cases of long periods of absence or service-connected disability.
4. Special protection against discharge for the twelve-month period following reemployment.

**Requirements for Reemployment**

For periods of military service of less than 91 days, USERRA requires that the employee is entitled to the job he or she would have attained if the employee had not been called for military service, provided the individual is or can become qualified for the job. If the individual is unable to become qualified for a new job after a reasonable effort by
the employer, the person is entitled to the job he or she left.

For periods of military service of 91 days or more, the individual is entitled to the job he or she would have attained if the individual had not been called for military service, or in a position of "like seniority, status, and pay," the duties of which the individual is qualified to perform. If not qualified to perform the duties of this new position after reasonable effort by the employer, the individual is entitled to the job he or she left or a position of "like seniority, status, and pay" that the individual is qualified to perform.

Reasonable efforts are actions, including training, that do not cause an undue hardship to the University.

**Obligations of Employees Following Military Service**

For periods of military service of up to thirty consecutive days, the individual must report back to work for the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and safe transportation home, plus an eight-hour period for rest. If reporting back to work within this deadline is impossible or unreasonable through no fault of the employee, he or she must report back to work as soon as possible after the expiration of the eight-hour period.

After a period of military service of 31 to 180 days, the individual must submit a written or verbal application for reemployment with the employer not later than fourteen days after the completion of the period of service. If submitting an application within fourteen days is impossible or unreasonable through no fault of the employee, he or she must submit it as soon as possible thereafter.

After a period of military service of 181 days or more, the individual must submit an application for reemployment not later than 90 days after completion of the period of service. These deadlines to report to work or apply for reemployment can be extended for up to two years to accommodate a period during which a person was hospitalized for or convalescing from an injury or illness resulting from or aggravated by a period of military service. The individual will be required to provide documentation about any delay in reporting for reemployment within the specified time periods.

**Reemployment Rights of the Disabled Service Member**

The University will make "reasonable efforts" to accommodate persons with a disability incurred during or aggravated by military service. If a person returns from military service with a disability that cannot be accommodated by reasonable efforts, the individual will be reemployed in another position he or she is qualified to perform. This position must be the "nearest approximation" of the position to which the individual is otherwise entitled, in terms of status and pay, with full seniority.

**Proof of Military Service for Reemployment Purposes**

Following periods of military service of 31 days or more, individuals who wish to return to employment must provide documentation that establishes the length and character of the service and the timeliness of the application for reemployment. Reemployment may not, however, be delayed if documentation is not readily available.

The following documents would satisfy proof of eligibility for reemployment: discharge papers, leave and earnings statements, school completion certificates, endorsed orders, or a letter from a proper military authority.

**Right to Continuation of Benefits During Military Service**

When an employee has a period of military service of one calendar month or more, he/she may elect to continue health insurance coverage for him or herself and his or her dependents. If the employee is on leave without pay for an entire calendar month, he/she must pay the entire premium and will not be eligible for premium sharing provided by the state and the University.

If the employee elects coverage, he/she may continue in a leave without pay status for twelve months and continue
to pay premiums during that time. If the period of military service exceeds a twelve-month period of leave without pay, the employee is removed from the payroll and is given the opportunity to continue benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA). If an employee returns after a break-in-service, he/she will be given credit for months of state service equivalent to the months of unpaid military leave, as required by law.

During a period of military leave without pay, individuals will not earn vacation, sick leave or holiday pay, but they will continue to earn state service credit for the months that they are on leave. When they return to work, they will be eligible for reinstatement of any balances of accrued vacation and sick leave that they had had before going on military leave.

**Prohibition Against Discrimination**

Provisions of the USERRA provide protection against discrimination for individuals returning from military duty: "A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in the uniformed services shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation."

"An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for [under USERRA]."

This second provision of the law, prohibits reprisals against any person without regard to military connection who testifies or otherwise assists in an investigation or other proceeding under USERRA.

**Procedures**

1. An employee eligible under USERRA must notify his or her supervisor verbally or in writing as soon as possible after becoming aware that he/she is being called for extended military service. He/she must also notify the Benefits Section of the Office of Human Resources so that arrangements can be made for insurance coverage.
2. Before departing on military leave, copies of military orders must be provided to the supervisor so that the employee can be placed on military leave. The employee's department will inform the Office of Human Resources that the employee will be on USERRA leave.
3. Provided the employee meets the criteria for eligibility upon return from military service, he/she must contact their former department and the Office of Human Resources. Representatives from the Office of Human Resources will work with the returning individual to ensure that all necessary documentation is provided for reemployment.
4. The Office of Human Resources will work with the employing department to ensure that the reemployment process is facilitated and that the employee is returned to a position that meets the requirements of USERRA.
5. The Office of Human Resources will also ensure that all benefits to which the employee is entitled are reinstated and will provide information to the employee regarding contributions they may make to the retirement plan in which they are enrolled.
6. If the department has a reason to terminate the employee within twelve months of their return to employment, reasons for termination must be reviewed and approved by the Office of Human Resources.

**Emergency and Funeral Leave**

**Policy Statement**
The University of Texas at Dallas provides paid emergency leave in accordance with state law for a death in the employee's family or for other qualified purposes with the required approval.

Scope

This policy applies to any employee who is appointed to work at least twenty (20) hours per week for a period of at least four and one-half (4 1/2) continuous months. For purposes of this policy, faculty must be appointed for at least fifty percent (50%) time for at least four and one-half (4 1/2) continuous months. Students employed in positions that require student status as a condition of employment are not covered by this policy.

Qualified Purposes

1. Death in the Employee's Family. With supervisory approval, an employee shall be granted up to three (3) days of leave in the event of a death in the Employee's Family. Employee's Family is defined as the employee's spouse, the employee's and the spouse's parents, children, siblings, grandparents, grandchildren, and an employee's daughters-in-law and sons-in-law. In rare cases and for good cause, an employee may be granted leave for the death of an individual not defined as a member of the employee's family by this policy.

2. Death of a Coworker. With supervisory approval, an employee shall be granted up to four (4) hours of leave to attend the funeral of a Coworker. Coworker is defined as a person who was an active employee of The University of Texas at Dallas at the time of death.

3. Natural Disasters, Emergency Closures, or Other Emergency Leave. The President or his or her designee, i.e., the Assistant Vice President for Human Resources, may grant paid leave for natural disasters, emergency closures of campus facilities or operations, or for other reasons when the employee shows good cause for such leave, including emergency leave for extenuating circumstances related to death.

Employee Responsibilities

Except for emergency closures, the employee or the employee's representative must submit a written request for emergency leave to the employee's supervisor. The request must specify the reason and length of time required. The employee is responsible for obtaining approval for leave requested under this policy and promptly and accurately recording the use of leave on the appropriate time sheet.

Supervisor, Department Head, and Vice President or Dean Responsibilities

Supervisor: The supervisor is responsible for approving a request for leave due to a death in an employee's family or attendance of a coworker's funeral and verifying that the employee has accurately recorded all emergency and funeral leave use. For leave requests due to natural disasters or other reasons, including for the death of an individual not defined as a member of the employee's family, the supervisor shall review the request, and if recommended for approval, shall submit the request to the department head.

Department Head: For leave requests for the death of an individual not defined as a member of the employee's family, the department head is responsible for approving the request. For leave requests due to natural disasters or other reasons, the department head shall review the request, and if recommended for approval, shall submit the request to the respective Vice President or Dean. Vice President or Dean: For leave requests due to natural disasters or other reasons, the Vice President or Dean shall review the request, and if recommended for approval, shall submit the request to the Assistant Vice President for Human Resources, who is responsible for making a determination if granting leave is appropriate for the specific situation in conjunction with university practices.

Authority

Texas Government Code 661.902
Jury Duty or Court Appearance

Any employee summoned to perform jury duty or subpoenaed to serve as a witness in a court or administrative proceeding to which he or she is not a party shall be excused from work. No deduction shall be made from the salary or wages of any University employee who is called for jury service; nor shall the employee be required to account to the University for any fee or compensation received for jury service. Employees are expected to work, if reasonably possible, the time when not actually in a court or administrative proceeding in connection with such service.

In order to qualify for pay during periods of such service, the employee shall furnish documentary proof of service to his or her immediate supervisor.

Any employee called to appear in his or her official capacity in any judicial action or legislative investigation shall neither accept nor receive any witness fee for such a governmental appearance.

If the appearance as a witness is not in an official capacity but is for the purpose of testifying from personal knowledge concerning matters related to the inquiry, then the employee shall be entitled to any customary witness fees.

Any employee appearing as an expert witness shall be entitled to accept compensation for his or her appearance only when such appearance shall be made on his or her own leave time.

The prohibition relating to witness fees does not extend to any mileage or per diem allowance paid to University employees for expenses incurred while serving as a witness as long as a claim for reimbursement for expenses has been made to the University. In no instance shall there be double reimbursement for those expenses.

Family and Medical Leave Act

Purpose

The purpose of this policy is to set forth guidelines and procedures to be followed in complying with the Family and Medical Leave Act of 1993 (to be referred to in this policy as "Act").

Policy

All University employees are eligible for up to 12 weeks of family leave per year for certain family reasons provided they have been employed by the State of Texas for at least 12 months prior to the commencement of the leave, and worked at least 1,250 hours. If the employee requesting leave has not been employed by the State of Texas for 12 months and worked at least 1,250 hours, he/she may be eligible for other leave of absence options described in Section D6.

Leave Requirements:

1. The University will grant up to 12 weeks of unpaid leave in a 12- month period for one or more of the following reasons:
   1. Birth of son/daughter and care after such birth;
   2. Placement of son/daughter for adoption or foster care;
   3. Serious health condition of spouse, child or parent of employee;
   4. Serious health condition of employee (unable to perform job).

   Leave for birth or placement for adoption can be taken prior to the actual birth or adoption.

2. When an employee is taking leave to care for a family member, or due to his/her own serious health condition, the employee may be required to support the leave request with certification from the health care provider. A sample certificate is attached to this policy. If the institution does not agree with the medical certification, a second opinion at the University's expense may be obtained. If the two opinions disagree, a
third opinion may be obtained at the University's expense, and will be the final determination. There is no certificate requirement if an employee is taking leave for the birth of a child, or placement of a child.

**Definitions**

**Spouse/Dependent:** For purposes of the Act, spouse is defined in accordance with the applicable state law including common law marriages when recognized by the state. Unmarried domestic partners do not qualify for family leave. Son or daughter is defined under the Act to include a child under 18 years or older who is incapable of self care because of a mental or physical disability.

**Serious Health Condition:** A serious health condition is defined as an injury, impairment, or physical or mental condition that involves either: 1) inpatient care in a hospital, hospice or residential care facility, or 2) continuing treatment by a health care provider. The term "serious health condition" is intended to cover those conditions which affect one's health to the extent that in-patient care is required or continuing treatment by a provider of health care is necessary on a recurring basis for more than a few days for treatment or recovery. The Act is not intended to cover short term conditions for which treatment and recovery are brief.

Examples of serious health conditions include heart attacks, heart conditions, most cancers and back conditions requiring extensive therapy or surgical procedures, strokes, respiratory conditions, appendicitis, pneumonia, emphysema, severe nervous disorder, injuries caused by serious accidents on or off the job, pregnancy, severe morning sickness, need for prenatal care, childbirth, and recovery from childbirth. A serious health condition includes treatment for a serious chronic condition which, if left untreated, would likely result in an absence of work for more than three days.

**Substance Abuse:** Treatment of substance abuse may be included under the Act where a stay at an in-patient treatment facility is required. However, absences because of an employee's use of a substance without treatment does not qualify for family leave. The inclusion of substance abuse does not prevent the employer from taking any employment action against an employee who is unable to perform the essential functions of the job provided the employer complies with the Americans with Disabilities Act (ADA) and does not take action against the employee solely because such employee exercises his rights under the Act.

**Parental Leave:** An employee's entitlement to leave for the birth or placement of a child expires 12 months after the birth or placement. If both parents work for the University, regardless of whether they work at different work sites or different component institutions, the total amount of leave cannot exceed 12 weeks. This limitation applies only for those cases involving the birth or placement of a child. In cases involving sickness, this limitation does not apply.

**Intermittent Leave and Reduced Schedule Leave:** Employees with a serious health condition or with a spouse, parent or child with a serious health condition (but not those taking leave due to the birth or placement of a child) are also entitled to take "intermittent" or "reduced schedule" leave, if the leave is medically necessary.

"Intermittent leave" is defined as leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time, and may include leave for periods from one hour to several weeks. Examples include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

"Reduced schedule leave" is defined as a leave schedule that reduces an employee's usual number of working hours per work week or hours per work day. This type of leave might be used, for example, when an employee is recovering from a serious health condition, but is not strong enough to work a full-time schedule.

If an employee takes an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule.
When an employee has requested intermittent or reduced schedule leave, the University may transfer the employee to an alternative position with equivalent pay and benefits if the employee is qualified for the position, and if it better accommodates the recurring periods of leave more than the employee's current job.

Procedures

How the 12-Month Period is Calculated: Eligible employees are entitled to take up to 12 work weeks of family leave during any 12-month period measured forward from the date the employee's first family leave begins.

Requirement of Using Sick/Vacation Leave: With the exception of employees receiving workers' compensation, employees are required to utilize all accumulated vacation and sick leave, if applicable, when taking leave under the Act. However, the University is not permitted to count paid leave that was not for an Act leave purpose against an employee's family leave entitlement. For example, if an employee has taken sick leave on various occasions for a cough, cold, flu or condition that is not an extended illness, those may not be counted towards the 12 week entitlement under the Act. If, however, the employee is expecting the birth of a child and has taken leave prior to the birth for prenatal care, the employer may require the employee to use his or her sick and vacation leave, and limit the total amount of time away from the employment to a total of 12 weeks. The University must inform the employee that paid leave must be taken when an individual requests family leave. It is the employer's responsibility to designate whether or not the leave (paid or unpaid) will be considered leave taken pursuant to the Act. The twelve (12) week entitlement may run concurrently with workers' compensation leave, provided the employee is otherwise eligible for FMLA Leave.

Premium Payments for Medical Insurance: When an employee is on unpaid family leave, the University will continue to contribute its share of premium sharing for medical/dental insurance as if the employee had continued in employment during the leave. For example, if the employee normally has family medical coverage, the University will continue sharing the cost of the premiums with the employee at the family rate. The employee is required to pay his or her share of the premiums in the same manner customarily used by the University.

Failure of Employee to Pay Share of Insurance: If the employee fails to pay a timely health plan premium, a 30 day grace period will be provided after the agreed upon date for which payment is due. If the employee does not make payment within 30 days, the University may cease to maintain the health coverage on the date the grace period ends. Prior to expiration of the grace period, the University will notify the employee of the discontinuation of insurance coverage. If the institution discontinues health coverage as a result of non-payment of premiums, the employee's group health benefits must be restored to at least the same level and terms as were provided when leave commenced. Therefore, the returning employee shall not be required to meet any qualification requirements such as a waiting period or pre-existing condition requirements, when the employee has failed to continue his/her health coverage for non-payment of premiums.

If an employee fails to return to work after a period of unpaid family leave, and the employer has paid for maintaining health coverage, the employer is entitled to recover the premiums paid unless the reason the employee does not return to work is due to 1) continuation of a serious health condition that would entitle the employee to family leave, or 2) other circumstances beyond the control of the employee.

An employee is considered to have returned to work after he or she has worked for a period of 30 calendar days. Therefore, an employee who returns to work for only one week and then departs is not considered to have returned to work for purposes of premium payments. The University may recover health insurance premium payments from certain sums due to the non-returning employee such as travel reimbursement, pay checks, etc., provided that prior to the deduction of any amounts the Office of General Counsel is consulted to ensure that such deduction is appropriate.

Returning Employee: When an employee returns to work under the Act, he or she is entitled to be restored to the
same position held when the leave started, or to an equivalent position with equivalent pay. An equivalent position is one that has the same pay, benefits, and working conditions, and involves the same or substantially similar duties and responsibilities and with the equivalent skill, effort, responsibility and authority.

**Notice by Employer Requirement:** A notice will be posted, a copy of which is attached, to notify employees of their rights and responsibilities under the Act. The employer must also supply to employees a notice describing the Act which will be issued by the Department of Labor.

**Notice by Employee:** Employees must give at least 30 days advance notice to the employer of the need to take unpaid family leave when it is foreseeable for the birth or adoption of a child or for medical treatment. When it is not practicable under any circumstances, such as premature birth or medical illness, to give such notice, the notice should be given as soon as practical within one to two business days of when the employee learns of the need for leave. Verbal notice is sufficient to inform the employer that the employee will be needing family leave.

An employee who has given notice under the Act and has provided the certification requirements, if needed, may not be denied family leave.

**Rights of Employees:** Employees who exercise their rights under the Act are entitled to do so without restraint and shall not be subject to discharge or discrimination by the employer solely on the basis of exercising his or her rights under the Act. The employer may not discriminate against an individual for having filed charges, instituted any proceeding under or related to the Act, or given any information in connection with any inquiry or proceeding regarding the Act.

If an employee's Act rights have been violated, the Act provides that the employee may file a complaint with the Department of Labor or file a private law suit against the employer to obtain damages and other relief. There is also an assessment of penalties for willfully failing to post the attached notice.

**Record Keeping Requirements**

The following records must be kept by the employer regarding family leave:

1. Books or records of no less than three years, which contain the basic payroll and identifying employee data, including name, address, occupation, rate of pay, terms of compensation, hours worked, additions and deductions to the wages, and total compensation.
2. Dates family leave is taken by an employee. The leave must be designated in the records as family leave.
3. Documentation of family leave taken in increments of less than one full day, as well as hours of the leave.
4. Copies of the employee notices of leave furnished to the employer under the Act, if in writing, and copies of all general and specific notices given to employees under the Act and copies of the regulations that were issued on June 4, 1993.
5. Any documents describing employee benefits or University policies. This includes written and electronic records regarding the taking of paid and unpaid leave.
6. Premium payments of employee benefits.
7. Records of any dispute between the employee and the University regarding any designation of leave as family leave, including any written statements from the University or employee and the reasons for the designation and disagreement.

It should be noted that records and documents relating to medical certifications, recertifications, and medical histories of the employee or employee's family members should be maintained in separate files and treated as confidential medical records. Therefore, these records do not go into the employee's personnel file. The medical information may be disclosed to supervisors and managers, if needed, regarding work restrictions; the first aid and safety personnel if the employee's physical and medical conditions require medical treatment; and government officials investigating compliance with the Act.

**Rights of Employees:** The Act regulations state that if an employer provides more benefits than required by the
Act, the Act will not restrict those benefits. Therefore, benefits such as the sick leave pool and extended disability leave, when available, may be used in conjunction with and count towards the 12 weeks of family leave. It should also be noted that the Act does not restrict or modify any federal or state anti-discrimination rules or the employer's obligation to comply with the ADA.

***THREE SCANNED FORMS WERE APPENDED TO THE BOTTOM OF THIS SECTION***

Sick Leave

Policy Statement

The University of Texas at Dallas provides paid sick leave to employees in accordance with state law.

Scope

This policy applies to any employee who is appointed to work at least twenty (20) hours per week for a period of at least four and one-half (4 1/2) months. For purposes of this policy, faculty must be appointed for at least fifty percent (50%) time for at least four and one-half (4 1/2) continuous months. Students employed in positions that require student status as a condition of employment are not covered by this policy.

Permitted Uses

Employee's Medical Condition: Sick leave may be taken when an employee is prevented from performing duties because of sickness, injury, or confinement due to pregnancy.

Care of Immediate Family: Sick leave may be taken when an employee needs to care for an immediate family member who is actually ill because of sickness, injury, or confinement due to pregnancy.

Care of Family Who Do Not Reside in the Same Household: An employee's sick leave used to care for family who do not reside in the same household is strictly limited to the time necessary to provide care to the employee's spouse, child or parent who needs such care as a direct result of a documented medical condition.

Parent-Teacher Conferences: An employee may use up to eight (8) hours of sick leave each calendar year to attend parent-teacher conferences for the employee's children who are in pre-kindergarten through the twelfth grade.

Use and Exhaustion: Sick leave cannot be used before it accrues. If an employee exhausts all sick leave, any further absence caused by sickness, injury or confinement due to pregnancy must be charged to other accrued paid leave. If all other accrued leave is exhausted, the employee will be placed on leave without pay. If the sickness, injury, or confinement due to pregnancy is catastrophic, the employee may apply for hours from the sick leave pool. (See Sick Leave Pool Policy.)

Definitions

Immediate family member is defined as those individuals who live in the same household as the employee and are related by kinship, adoption, or marriage; or are foster children certified by the Texas Department of Family and Protective Services; and an employee's child under the age of 18 years regardless of whether the child lives in the same household.

Sickness or injury, for purposes of using sick leave, includes an absence required for medical, dental, or optical examination or treatment; or for physical therapy and laboratory work or tests as ordered by a licensed practitioner.

An employee's confinement due to pregnancy, for purposes of using sick leave, means inability to perform duties caused or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery. The employee seeking to use sick leave to cover the impairment must provide a licensed practitioner's certification that the impairment causes the
employee to be unable to work. Sick leave may not be used in conjunction with parental leave or family and medical leave once an employee has recovered from temporary impairment related to pregnancy or confinement.

A documented medical condition: exists when the employee submits a licensed practitioner's certification to the employee's supervisor as to the nature of the sickness, injury, or confinement due to pregnancy.

A licensed practitioner's certification is a document signed by a licensed physician, nurse practitioner, or other health care professional, competent within their scope of practice to make a medical evaluation of the employee's sickness, injury or confinement due to pregnancy.

Duty day means an employee's last physical day on the job prior to separation from employment.

Accrual and Credit

Accrual: Full-time employees will accrue eight (8) hours of sick leave for each month or fraction of a month of employment. Part-time employees will accrue sick leave on a basis proportional to their appointment.

Credit: Credit for accrual will be given and posted to an employee's leave record on the first day of employment and on the first day of each succeeding month of employment. If an employee is on paid leave on the first day of the month, the sick leave accrual will be credited for that month but will not be available for use until after the employee returns to work. If an employee is on unpaid leave on the first day of the month, the sick leave accrual will not be credited for that month nor will it be available for use until after the employee returns to work.

Nonaccrual: Employees do not accrue sick leave for any full calendar month in which the employee is on leave without pay. Employees called to active duty during a national emergency by a reserve branch of the Armed Forces of the United States do not accrue sick leave during such service. (See Paid Military Leave Policy.)

Employee Responsibilities

Notification: An employee who must be absent from work because of sickness, injury, or confinement due to pregnancy will notify the supervisor, or have the supervisor notified, at the earliest possible time on the first day of absence.

If an employee expects to be absent for more than three (3) work days, the employee or the employee's representative will contact the supervisor again at the beginning of each work week, unless other specific notification arrangements are made that are acceptable to the supervisor.

Failure to Notify Supervisor: An employee's failure to notify the supervisor when absent may be cause for disciplinary action.

Except in cases of an emergency or when other specific notification arrangements have been made in agreement with the employee's supervisor, three (3) consecutive work days of absence without notice is job abandonment and is cause for immediate dismissal from employment.

Certification

- Continuous Absence of Three (3) Work Days or Less: For an employee to be eligible to use accrued sick leave during a continuous period of three (3) work days or less, the employee may be required by the supervisor to provide a licensed practitioner's certification showing the cause or nature of the condition or another written statement of the facts for the sick leave that is acceptable to the supervisor. This certification or statement is submitted to the supervisor upon the employee's return to work.

- Continuous Absence of More Than Three (3) Work Days: For an employee to be eligible to use accrued sick leave during a continuous period of more than three (3) work days, an employee shall send to the employee's supervisor a licensed practitioner's certification showing the cause or nature of the condition or another written statement of the facts for the sick leave that is acceptable to the supervisor. This
certification or statement should be sent to the supervisor during the period of absence or immediately upon return to work.

- Failure to provide a licensed practitioner's certification showing the cause or nature of the condition or another written statement of the facts for the sick leave that is acceptable to the supervisor as described in paragraph (a) and (b) above is cause for disciplinary action.

**Falsification of Certification**

Falsification of a licensed practitioner's certification is cause for dismissal from employment.

**Confidentiality of Medical Records**

Any document containing medical information about an employee is considered a medical record and is regarded as confidential. Medical records are kept in a file separate from all other employee records and are available to persons other than the department head and immediate supervisor only when there is a legitimate business need to know.

**Sick Leave Abuse**

An employee is responsible for the appropriate use of sick leave. Sick leave abuse occurs when an employee uses sick leave for unauthorized purposes or misrepresents the actual reason for charging an absence to sick leave. Abuse may also occur when an employee establishes a pattern of sick leave usage over a period of time such as the day before or after a holiday, on Mondays and Fridays, after paydays, any one specific day, half-day, or a continued pattern of maintaining zero or near zero leave balances.

**Reporting**

**Employee Responsibilities:** Upon return to work after sick leave use, the employee shall accurately complete the appropriate time report, note the sick leave used, and submit it in a timely manner for approval to the supervisor. Submitting an official time report that includes sick leave use constitutes an application to the supervisor for approval of sick leave use.

Faculty must submit the report for all sick leave even though no classes were missed if the absence occurs during the normal workday for regular employees.

**Supervisor and Department Responsibilities:** When considering the approval of sick leave use, the supervisor shall review any licensed practitioner's certification or other written statement submitted regarding the sick leave. The supervisor must verify that the employee has accurately recorded the leave and sign the appropriate time report approving the sick leave used.

The department shall maintain the official leave records for all employees.

**Return to Work Certification**

When an absence from work is caused by an employee's medical condition and is in excess of three (3) working days, the employee's supervisor shall require that, immediately upon the employee's return to work, the employee submit to the supervisor a licensed practitioner's certification or other written statement that the employee was required to be absent from duty because of sickness, injury, or confinement due to pregnancy and the date that the employee is able to return to work. The certification must also specify what limitations, if any, exist to the employee's ability to perform his or her job duties or pose a threat to the safety of the employee or others. If limitations exist, the supervisor shall contact the Office of Human Resources.

**Conditions for Restoration of Sick Leave Upon Re-Employment**

1. **Restoration after Formal Reduction in Force:** Employees separated from employment under a formal reduction in force policy will have their paid sick leave balance restored if re-employed by the state within
twelve (12) months of termination.

2. Restoration and Re-employment with Another State Agency: Employees who are separated for reasons other than a formal reduction in force and are re-employed by a different state agency will have their paid sick leave balance restored if re-employed within twelve (12) months of termination.

3. Restoration and Re-employment with Same State Agency: Employees who are separated for reasons other than a formal reduction in force and are re-employed by the same state agency will have their paid sick leave balance restored if re-employed within twelve (12) months of termination and if they have a break in service of at least thirty (30) calendar days from the date of termination.

4. Retirees who return to state employment will not have their sick leave balances restored.

Employee Transfers With No Break in Service

1. Transfers Within the University: Accrued sick leave balances for employees transferring with no break in service within the University are automatically transferred to the new department.

2. Transfers to the University: Employees transferring with no break in service to the University from another state of Texas agency or higher education institution can request that their accrued sick leave be transferred to the University.

3. Transfers to Another State of Texas Agency or Higher Education Institution: University employees transferring with no break in service to another state of Texas agency or higher education institution can request that their accrued sick leave be transferred to the new workplace.

Payment to an Estate

A deceased employee's estate is entitled to payment for one-half (1/2) of the employee's accrued sick leave balance, or 336 sick leave hours, whichever is less, if the employee had at least six (6) months of continuous state employment at the time of death.

The amount paid to the estate will be at the employee's compensation rate at the time of death but will not include longevity or hazardous duty pay.

Delegation of Authority

Authority is hereby delegated to the department head or designee to approve sick leave use and require medical certification when needed.

For Assistance: Questions regarding sick leave should be directed to the Office of Human Resources.

Sick Leave Pool Administration

Policy

In accordance with the provisions of Texas Government Code 661.001, the University allows eligible employees to voluntarily donate accrued sick leave hours to a sick leave pool. Upon meeting the requirements set out in this policy, eligible employees may apply to withdraw unearned sick leave hours from the UTD sick leave pool. The sick leave pool assists employees when they, or eligible family members, suffer a catastrophic illness or injury.

Definitions

Catastrophic illness or injury: A severe condition or combination of conditions affecting the mental or physical health of an employee, or an employee's immediate family, that requires the services of a licensed practitioner for a prolonged period of time; that forces the employee to exhaust all leave time earned by the employee, and that forces the employee to loss compensation from the University. Note: This definition was established by the Board of Trustees of the Employee Retirement System of Texas in accordance with 661.004 (b).
Severe condition or combination of conditions: A medical or mental condition that:

1. Results in death if not treated promptly, or
2. Requires hospitalization for more than 72 consecutive hours, or
3. Causes a person to be legally declared a danger to him or herself or others.

Pregnancy and elective surgery are not considered severe conditions except when one or more complications arise from the pregnancy or elective surgery which would result in death if not treated promptly.

Licensed practitioner: A practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license.

Prolonged period of time: The employee satisfies the prolonged period of time requirement when:

1. He or she has been absent from work and under the care of a licensed practitioner due to the severe condition for at least 80 hours (10 working days) in the 120 calendar days prior to the date the employee becomes eligible for the sick leave pool benefit, or
2. He or she has been hospitalized due to the severe condition for more than 72 consecutive hours.

Immediate family: Those individuals who live in the same household as the employee and are related by kinship, adoption, or marriage; or are foster children certified by the Texas Department of Family and Protective Services; and an employee's child under the age of 18 years regardless of whether the child lives in the same household. An employee's use of the sick leave pool used to care for family who do not reside in the same household is strictly limited to the time necessary to provide care to the employee's spouse, child or parent who needs such care as a direct result of a documented catastrophic medical condition.

Lose Compensation: The employee satisfies the loss of compensation requirement when he or she has exhausted all paid leave, including compensatory time, and has been placed on leave without pay for at least 8 hours (1 work day) prior to the effective date of the grant of sick leave pool hours.

Pool Administrator: The Director of Human Resources.

Contributions to the Pool

Employees may make contributions to the pool in 8 hour increments, provided the donor's contribution will not result in a sick leave balance of less than eighty (80) hours at the time of the donation. Donations are to the pool and not to specific individuals.

Retiring employees may donate any unused sick leave balance to the pool.

Terminating or retiring employees who donate sick leave to the sick leave pool should understand that donated hours cannot be returned if the employee returns to State employment within twelve (12) months. Terminating employees who choose not to donate unused sick leave hours to the sick leave pool and within 12 months return to State employment are eligible to have their sick leave balances restored and/or transferred to their new place of employment.

Sick Leave Pool Procedures

Application Requirements: An employee is eligible to apply for the Sick Leave Pool when all of the following conditions are met:

1. The employee or employee's immediate family has a catastrophic illness or injury as defined in this policy;
2. The employee has exhausted all accrued sick leave due to the condition;
3. The employee has exhausted all accrued paid leave, including compensatory time;
4. The employee has been, or will be, placed on leave without pay for at least 8 hours (1 work day.)
5. The employee has not exhausted the maximum award of Sick Leave Pool hours per catastrophic illness or injury; and
6. The condition is not an on-the-job injury covered by Worker's Compensation Insurance.

Applications are not complete without the required documentation, including the statement of a licensed practitioner.

Complete applications will be processed on a first-come, first-served basis.

Awards from the pool may not exceed 720 hours or 1/3 of the Sick leave pool balance, whichever is less, per catastrophic illness or accident.

The Pool Administrator will determine the exact amount of time that an eligible employee may draw from the pool. The Pool Administrator's decision is final.

Awards from the pool are prospective. State law prohibits the retroactive granting of sick leave or sick leave pool hours. Employees who have exhausted all accrued paid leave must be put on leave without pay until a sick leave pool award, if any, is approved.

Unused sick leave pool hours will be returned to the pool.

Employees who are in their initial performance probationary period, or who are in a disciplinary probationary period, and who receive an award from the sick leave pool will have their probationary status extended upon returning to work. The number of sick leave pool hours used will equal the period that the probationary period is extended.

An employee who is on leave on the first day of a month may not use the sick leave that the employee accrues for the month until after a return to duty. Accrued sick leave and vacation are not credited to an employee until the first day that he or she returns to work. Therefore, an employee who is continuously on sick leave pool will not have accrued vacation or sick leave credited until he or she returns to work. An employee using sick leave pool part time or intermittently will have vacation and sick leave credited and must use the earned vacation and sick leave before using the sick leave pool hours.

**Estimate Entitlement**

The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee from the sick leave pool.


For more information contact the Office of Human Resources.

**Annual Leave (Vacation leave)**

**Policy**

The University of Texas at Dallas provides paid annual leave to eligible employees in accordance with state law.

**Scope**

This benefit is available to employees appointed to work at least twenty (20) hours per week for a period of at least four and one-half (4 1/2) months. The benefit is not available to faculty members appointed for less than 12 months, nor is it available to students employed in positions that require student status as a condition of employment.

**Accrual and Credit**
Accrual: Employees will accrue annual leave for each month or fraction of a month of employment based on total state service credit. Part-time employees will accrue annual leave on a percentage basis for the time appointed. Annual leave is accrued according to the schedule approved by the legislature, which appears below:

<table>
<thead>
<tr>
<th>Employees with total state service credit of:</th>
<th>Hours accrued per month</th>
<th>Maximum carryover hours to next fiscal year for full-time employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2 years</td>
<td>8</td>
<td>180</td>
</tr>
<tr>
<td>At least 2 years but less than 5</td>
<td>9</td>
<td>244</td>
</tr>
<tr>
<td>At least 5 years but less than 10</td>
<td>10</td>
<td>268</td>
</tr>
<tr>
<td>At least 10 years but less than 15</td>
<td>11</td>
<td>292</td>
</tr>
<tr>
<td>At least 15 years but less than 20</td>
<td>13</td>
<td>340</td>
</tr>
<tr>
<td>At least 20 years but less than 25</td>
<td>15</td>
<td>388</td>
</tr>
<tr>
<td>At least 25 years but less than 30</td>
<td>17</td>
<td>436</td>
</tr>
<tr>
<td>At least 30 years but less than 35</td>
<td>19</td>
<td>484</td>
</tr>
<tr>
<td>At least 35 years or more</td>
<td>21</td>
<td>532</td>
</tr>
</tbody>
</table>

Employees must have six (6) months of continuous state employment before they can use accrued annual leave. Leave without pay status is not included in the calculation of continuous service.

Credit: Credit for accrual will be given and posted to an employee's leave record on the first day of employment and on the first work day of each succeeding month of employment. If an employee is on paid leave on the first day of the month, the annual leave will be credited for that month but will not be available for use until after the employee returns to work.

Definitions:

**Duty day** means an employee's last physical day on the job prior to separation from employment.

**State service credit** is earned for the actual days, months, and years of service with the University or other State of Texas agencies or higher education institutions, as long as employment at the other state agency or institution is not concurrent with employment at the University. Each month an employee is on active payroll counts as one (1) month of state service credit, regardless of the number of hours worked in a month.

Only the actual days worked during those partial months at the beginning and ending of employment count as state service credit. Each thirty (30) days of employment converts into one (1) month of state service credit.

Nonaccrual: Employees do not accrue annual leave for any full calendar month in which the employee is on leave without pay. Employees called to active duty during a national emergency by a reserve branch of the U.S. Armed Forces of the United States do not accrue annual leave during such service, but do accrue state service credit. (See the Military Leave Policy.)

**Limitations on Use**
Outside Employment: While on annual leave, an employee may not be employed elsewhere unless the requirements and approvals for outside employment have been met. (See the Outside Employment Policy.)

Quarter HourIncrements: An employee who uses annual leave in an amount less than a full hour shall be charged for such leave to the closest quarter hour in fifteen (15) minute increments.

Use and Exhaustion: Annual leave may not be used before it is accrued. When an employee exhausts all appropriate and available leave, the employee is to be placed on leave without pay.

Illness or Injury During Annual Leave: An employee who becomes ill or is injured while on approved annual leave will be allowed to use accrued sick leave to cover the illness or injury. The employee should request their supervisor to change the actual time they were incapacitated due to illness or injury from annual leave to sick leave. The supervisor, after checking with the Office of Human Resources, may require appropriate medical certification of the illness or injury before making the change.

University Closure During Annual Leave: An employee who is on a prior approved annual leave during a period that the University closes due to an emergency, shall have those annual leave hours covering the period of the closure changed to emergency leave. (See the Emergency Leave Policy.)

Coordination with Other Leave: Employees who are eligible to earn and use compensatory time are encouraged to use accrued and available compensatory time before using accrued annual leave. (See the Compensatory Time Policy.) A department head can require employees to charge leave time to any accrued and available compensatory time rather than accrued annual leave.

Notification Requirements

Advance Notice: When foreseeable, employees shall give at least thirty (30) calendar days advance notice to their supervisor of their request to use annual leave.

Advance Notice Not Possible: When advance notice is not possible, notice by the employee should be provided to their supervisor as soon as practicable.

Written/Verbal Notice: Written notice, to include notice by email, of the request to use annual leave is recommended when possible; however, employees may provide verbal notice of the request for the leave when written notice is not practical.

Concurrent Use of Other Paid Leave

Employees are required to use accrued and available annual leave concurrent with Family and Medical Leave and/or Parental Leave. (See the Family and Medical Leave or Parental Leave Policies.) Employees may use annual leave in conjunction with unpaid Military Leave. (See the Military Leave Policy.)

Allowable Carryover Hours

Unused annual leave carries forward into the next fiscal year. However, the number of hours carried forward cannot exceed the limits set by the legislature for a full-time employee. Annual leave hours in excess of the set limits at the end of the fiscal year (August 31) transfer to the employee’s sick leave balance. Regular employees who work less than forty (40) hours per week carry unused annual leave hours forward in proportion to their appointment.

Loss of Eligibility Due to Change in Status

If the employee’s appointment changes to less than twenty (20) hours per week before completing six (6) months continuous, benefits eligible, state employment, the annual leave accrual is frozen.

If the employee’s appointment changes to less than twenty (20) hours per week after six (6) months of continuous,
benefits eligible, state employment, the accrued annual leave is frozen. No further annual leave will accrue and none of the existing annual leave balance may be used. If the employee's appointment returns to twenty (20) hours or more per week, the annual leave balance will be restored and may be used immediately.

**Employee Transfers With No Break in Service**

Transfers Within the University: Accrued annual leave balances for employees transferring with no break in service within the University are automatically transferred to the new department.

Transfers to the University: Employees transferring with no break in service to the University from another State of Texas agency or higher education institution can request that their accrued annual leave be transferred to the University.

Transfers to Another State of Texas Agency or Higher Education Institution: University employees transferring with no break in service to another State of Texas agency or higher education institution can request that their accrued annual leave be transferred to the new workplace. If the employee has six (6) months of continuous, benefits eligible, state employment prior to any of the above transfers, the annual leave accrued is available for use with appropriate approval.

**Employee Separations**

Lump Sum Payment: An employee who separates from the University through resignation or termination is entitled to a lump sum payment for accrued and unused annual leave when:

- The employee has six (6) months of continuous, benefits eligible, state employment prior to separation and
- The lump sum payment is processed as of the date of separation in accordance with state law. The payment is based on the employee's rate of pay at the time of separation. Neither hazardous duty pay nor longevity pay is included in computing the amount of the lump sum payment.

Continued Payroll Status: At the department's discretion, an employee separating from the University may be allowed to remain on the payroll after the last workday to use annual leave in lieu of a lump sum payment.

Separation before Six (6) Months: If an employee separates from the University before completing six (6) months of continuous, benefits eligible, state employment, annual leave accrual is lost.

**Payment to an Estate**

A deceased employee's estate is entitled to payment for unused annual leave if the employee had at least six (6) months of continuous state employment at the time of death. The payment is based upon the employee's rate of pay at the time of death.

If the employee's accrued annual leave was not available for use at the time of death because the employee's appointment had reduced to less than twenty (20) hours per week, the payment is based on the rate of pay at the time the employee last accrued annual leave. (See Loss of Eligibility Due to Change in Status above.)

**Employee Responsibilities**

The employee shall provide appropriate notice to the supervisor of the request to use annual leave. The employee shall promptly and accurately record the use of leave. The employee will check monthly leave balance reports in a timely manner and promptly report discrepancies to their supervisor.

**Supervisor and Department Responsibilities**

The supervisor must review the employee's request based on university and departmental guidelines and staffing requirements, and approve or disapprove within 5 working days of receipt of the request. Employee time reports
should be verified for accuracy and signed. The department shall maintain records of annual leave.

Delegation of Authority

Authority is hereby delegated to the department head or designee to approve use of leave. For More Information, contact the Office of Human Resources.

Voting Absence

When it is not possible for an employee to exercise his/her voting privilege before or after regular working hours on an official election day, supervisors may verbally authorize a reasonable period of time for voting during that employee's working hours. This period should be reported as time worked, with no reduction in vacation allowance or salary. All employees are eligible for this leave.

Policy History

- Revised: 2013-10-14

Policy Links

- Permalink for this policy: http://policy.utdallas.edu/utdbp3054
- Link to PDF version: http://policy.utdallas.edu/pdf/utdbp3054
- Link to printable version: http://policy.utdallas.edu/print/utdbp3054