

# **The Supreme Court of Texas Personnel Policies**

Adopted as revised May 14, 2012

## **Vacation and Sick Leave**

Vacation and sick leave allowances and policies are subject to change to conform with the laws and policies of the State of Texas. More detailed information is available at <http://www.hr.sao.state.tx.us/>.

### **1. Leave Increments**

Leave will be charged in thirty (30) minute increments. Absences of less than thirty minutes will be made up by mutual agreement between an employee and his or her supervisor.

### **2. Leave Forms**

All employees must timely submit leave forms for vacation, compensatory, holiday compensatory, sick, extended sick, emergency and/or any other leave taken as described below. Failure to submit these forms could result in disciplinary action.

### **3. Vacation Leave**

Vacation leave is accumulated at a certain number of hours per month, depending on the length of total state employment. The schedule of accrual also contains the maximum number of hours of vacation leave that may be carried from the end of one fiscal year (August 31) to the beginning of the next (September 1).

Vacation with pay may not be taken until the employee has been continuously employed with the state for six months. Continuous employment means that no leave without pay has been taken. Employees will normally be permitted to take vacation leave when they request it, provided that it does not disrupt Court activities. Vacation leave requests should be submitted to an employee's supervisor in advance of the date the leave is scheduled to begin.

All hours of unused accumulated vacation leave over an employee's maximum vacation (based on longevity) that are lapsed at the end of the fiscal year will be credited to the employee's sick leave balance as of the first day of the next fiscal year. An employee who retires is entitled to service credit in the Employees Retirement System for the member's vacation and sick leave that has accumulated and is unused on the last day of employment.

### **4. Compensatory/Holiday Compensatory Time**

Most of the employees of the Supreme Court are either excluded from the Fair Labor Standards Act of 1938 (FLSA) or are Exempt Employees under its provisions. The following outline of compensatory and holiday compensatory time provisions applies to excluded and exempt employees.

The work week begins at 12:01 a.m. on Sunday and ends at midnight on the following Saturday. Employees may earn *compensatory* time for any hours recorded in excess of 40 during one work week, and which excess hours were authorized in advance by the employee's supervisor. Work hours may be a combination of paid leave, holidays, and actual hours worked. The compensatory time must be taken within the 12-month period following the end of the work week in which the excess hours accrued.

Employees who work on a national or state holiday may earn *holiday* compensatory time. The holiday compensatory time must be taken within the 12-month period following the date of the holiday worked.

Compensatory time and holiday compensatory time are accrued at a rate of one hour for each hour worked. Employees will not be paid for any unused compensatory or holiday compensatory time earned under this section.

Employees must give reasonable advance notice to their supervisor when taking compensatory and holiday compensatory time off.

## **5. Sick Leave**

Employees accrue sick leave at the rate of eight hours per month or fraction of a month. Sick leave with pay may be taken when an employee is prevented from performing duties because of sickness, injury, or pregnancy and confinement. Sick leave may also be taken if an employee needs to care for a member of his or her immediate family who is ill. Sick leave may be taken for a health care appointment for the employee or for members of the immediate family where those persons cannot reasonably be expected to take themselves. (This includes the time required to reach and return from a health care appointment as well as the time spent at the appointment itself.)

An employee may use up to eight hours of sick leave each calendar year to attend parent-teacher conference sessions for the employee's children who are in pre-kindergarten through 12<sup>th</sup> grade.

An employee who adopts a child under three years of age may use the amount of sick leave that would be necessary to recover from pregnancy and childbirth, which the Court presumes is 6 weeks in the absence of documentation otherwise.

When an employee is unable to report to work as a result of illness or a health care appointment, the employee is to, at the earliest practicable time, notify (or have someone else notify) his or her supervisor that the employee is unable to report for duty. Upon returning to work, the employee should, without delay, complete a sick leave form and present it to the employee's supervisor for approval.

If an employee is ill and will miss work for a continuous period of more than three working days, the employee must send his or her supervisor a doctor's certification or an acceptable written

statement of facts showing the nature of the illness. If an illness results in the absence of three working days or less, the supervisor has the discretion to require documentation of the illness.

Sick leave is not a substitute for vacation, compensatory, or holiday compensatory leave. Abuse of sick leave could result in disciplinary action. This may be evident when an employee uses sick leave as it is accrued, runs out of leave (unless due to a bona fide, serious health condition as specified under the Family and Medical Leave Act), or consistently uses sick leave in conjunction with holidays or weekends.

An employee who retires is entitled to service credit in the Employees Retirement System for the member's sick leave and accrued leave that has accumulated and is unused on the last day of employment. ERS rules will apply to determine the amount of credit.

## **6. Extended Sick Leave**

An employee who considers it necessary to request sick leave in excess of the amount he or she has accrued must submit a written request for such exception to the General Counsel. The General Counsel will review the request and may ask for additional information prior to submitting the request to the Chief Justice. The Chief Justice may authorize such an exception to sick leave on an individual basis after review of the merits and circumstances of each request. Any request for extended leave will be judged by the following criteria:

- The employee must not have abused sick leave in the past.
- An employee may be required to expend all or a portion of sick leave and/or vacation leave before extended sick leave is granted.
- Extended sick leave may be granted in amount up to or matching, but not exceeding, sick leave and/or vacation leave expended by employee, up to a maximum of six calendar weeks.

This policy is in addition to rights conferred by the Federal Family and Medical Leave Act (29 U.S.C. 2601-2619, 2651-2654).

## **7. Family and Medical Leave**

This policy incorporates the major provisions of the Family and Medical Leave Act of 1993.

### *Eligibility*

Employees with 12 months of full-time employment and who have provided at least 1,250 hours of service during the 12 months before the leave are eligible to take up to 12 weeks of unpaid leave per year for the following reasons:

- The birth or placement for adoption or foster care of a child;
- The serious health condition of a spouse, child, or parent (such health condition must meet the conditions of a serious health condition under the FMLA);
- An employee's own serious health condition.

These provisions apply equally to male and female employees. A father, as well as a mother, may take family leave because of the birth or serious health condition of a child. A son, as well as a daughter, is eligible for leave to care for a parent.

#### *Certification and Notice*

Employees must provide certification explaining the serious health condition on which the leave request is based. The certification should detail the date on which the condition began; the probable duration of the condition; appropriate medical facts regarding the condition; if appropriate, a statement that the employee is needed to care for a spouse, parent, or child; a statement that the employee's own health condition makes it impossible for him or her to work. The Court may require a second medical opinion, at the Court's expense, before granting leave.

To the extent reasonably possible, employees must give 30 days' advance written notice to their supervisor and the General Counsel or designee, of the need for leave.

#### *Communications During Family or Medical Leave*

Employees on family leave must report periodically during the leave period on their status and intention to return to work. This communication will be made to the employee's supervisor and to the General Counsel.

#### *Married Employees*

If an employee is married to another employee of the Court, the two employees are limited to a combined total of 12 weeks of leave for the birth or adoption of a child or for the care of a sick parent.

#### *Certification for Return to Work*

Employees returning from medical leave caused by their own illness may be required to obtain written medical certification from their health care provider that they are able to resume work.

This certification should be given to the General Counsel or the employee's supervisor on or before the first working day of the returning employee.

### **8. Sick Leave Pool**

The Supreme Court has established a Sick Leave Pool to allow employees to voluntarily transfer earned sick leave to a sick leave pool. An employee is eligible to use the time contributed to the Sick Leave Pool if, because of a catastrophic injury or illness, the employee has exhausted all the leave time to which that employee is otherwise entitled.

The Employees Retirement System of Texas has defined "catastrophic" in the following way:

“A severe condition or combination of conditions affecting the mental or physical health of the employee or the employee’s immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the State for the employee. Licensed practitioner means practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his or her license.

Immediate family is defined as those individuals related by kinship, adoption, marriage, or foster children who are so certified by the Texas Department of Human Services who are living in the same household or if not in the same household are totally dependent upon the employee for personal care or services on a continuing basis.”

Use of Sick Leave Pool leave must be authorized by the Chief Justice. Applications for use of the Sick Leave Pool leave are to be submitted by written request to the Chief Justice’s designee. The Chief Justice’s designee will review the request and may ask for additional information prior to submitting the request to the Chief Justice.

Contributions of sick leave to the Sick Leave Pool must be in increments of one or more days with the exception of a retiring state employee, who may designate the number of hours to be contributed. To contribute time to the Sick Leave Pool, the employee must submit an application to the Chief Accountant.

For a copy of the full Sick Leave Pool policy and further information, contact the Chief Accountant.

## **9. Emergency Leave**

An employee may be granted emergency leave for the death of a relative. For purposes of this subsection, “relative” is defined as the employee’s spouse or a parent, brother, sister, grandparent, grandchild, or child of the employee or of the employee’s spouse. No more than 5 days of leave will normally be granted per emergency. In addition, the Chief Justice may grant emergency leave for good cause.