OFFICE OF COURT ADMINISTRATION
Time and Leave Policies

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Carl Reynolds
Administrative Director

OCA TIME AND LEAVE POLICIES

ACCOUNTING FOR LEAVE 3
OVERTIME/COMPENSATORY TIME 6
HOLIDAYS 8
ANNUAL VACATION LEAVE 9
SICK LEAVE 11
EXTENDED SICK LEAVE 13
SICK LEAVE POOL 15
FAMILY AND MEDICAL LEAVE ACT 17
PARENTAL LEAVE 22
FOSTER PARENT LEAVE 23
EMERGENCY LEAVE 23
VOTING 24
JURY OR WITNESS DUTY 24
MILITARY LEAVE 25
ADMINISTRATIVE LEAVE FOR OUTSTANDING PERFORMANCE 26
VOLUNTEER FIREFIGHTERS/EMERGENCY MEDICAL SERVICE TRAINING LEAVE 27
CERTIFIED AMERICAN RED CROSS ACTIVITIES LEAVE 27
DONATION OF BLOOD 28
LEAVE FOR ORGAN OR BONE MARROW DONATION 28
LEAVE FOR EMPLOYEES WHO ARE DISABLED 28
EMPLOYEE WELLNESS LEAVE 29
APPROVED LEAVE WITHOUT PAY 30

ACCOUNTING FOR LEAVE

Purpose

This policy outlines leave benefits and reporting requirements for OCA employees. Each state agency is required to keep a record of its employees' accrual and use of annual and sick leave; and account for whether leave taken is for sick leave, annual leave, other paid leave, leave without pay, or other absence.

Definitions

FLSA (Fair Labor Standards Act) – is the federal law that establishes overtime pay and recordkeeping standards affecting full-time and part-time workers in the private and governmental sectors. OCA employees may find their FLSA status on their monthly Employee Leave Summary form.

FLSA Exempt Employee – an employee who is not subject to (i.e., is exempt from) the provisions of the FLSA.

FLSA Non-Exempt Employee – an employee who is subject to (i.e. is **not** exempt from) the provisions of the FLSA.

OCA Workweek - begins at 12:00 midnight on Friday and ends at 11:59 p.m. on the following Friday.

Headquarters employees – OCA employees who office in the OCA's main offices in the capitol complex in Austin.

Non-headquarters employees - includes regional collections staff, who regularly travel to cities and counties to assist with implementation and maintenance of the Collection Improvement Program. It also includes specialty court associate judges and their assistants, as well as the regional administrative assistants, who report either directly or indirectly to the presiding judges of the nine administrative judicial regions in Texas.

Member of an employee's immediate family - The following persons are considered to be members of an employee's immediate family: (1) an individual who

resides in the same household as the employee and is related by kinship, adoption, or marriage; (2) a foster child who resides in the same household as the employee and is under conservatorship of the Department of Family and Protective Services (formerly DPRS); and (3) a minor child of the employee, whether or not living in the same household.

Employee Time and Leave Forms

All OCA employees are required to document their leave time taken and compensatory time or overtime earned on agency-approved forms. Headquarters employees and regional collections staff who are exempt from FLSA must use an exception-based leave form; headquarters employees who are not exempt and all other non-headquarters employees must use a monthly time and leave form. All non-exempt employees also must include actual hours worked on the monthly reporting form. For timekeeping purposes, all leave is to be rounded to quarter-hour (15 minute) increments.

All OCA employees must receive prior approval from their supervisors for all leave, unless it is for sick leave or emergency leave. Supervisors may designate the form of prior written approval, such as on the agency leave form or by e-mail.

When to Submit Reports

Employees who use an exception-based Leave Form must submit it on the first duty day or as soon as possible following the reported absence. Employees who use a Monthly Time and Leave Form should submit it to the payroll/leave accountant no later than the 5th day of the month immediately following the month for which time is being reported. By signing the leave form or the monthly timesheet, supervisors certify they approved any scheduled leave in advance.

Prior Approval to Earn Compensatory Time or Overtime

Before earning compensatory time or overtime, employees must complete a Request to Earn Compensatory Time or Overtime form and obtain approval from their supervisor, unless the compensatory time is to be earned on a skeleton crew holiday. Headquarters employees also must obtain approval from the division director. This form must be attached to the Leave Form or to the Monthly Time

and Leave Form when it is submitted.

Monthly Leave Summary

The payroll/leave accountant will furnish each employee with a monthly leave summary which accounts for the vacation, sick, compensatory, and overtime hours accrued and taken.

Discretion of Supervisors

Before requesting leave, employees should ensure that they have adequate leave balances and that their absence will not interfere with the performance of their job duties. Leave approval is not automatic. While every attempt is made to accommodate employees' timely leave requests, supervisors have the authority and responsibility to use their discretion to ensure that adequate staff remains on duty to perform the work of the agency.

When advance approval is not possible, the employee must notify the supervisor as soon as possible of the dates and reasons for the absence. Unless extenuating circumstances exist, employees are expected to notify their supervisors of absences no later than one hour after their scheduled starting time.

Excessive Absenteeism or Tardiness

Absenteeism or tardiness is excessive when an employee is unable to adequately perform his/her job, or when the normal day-to-day work activities of the office are disrupted due to excessive and/or unscheduled absences or tardiness by the employee. Excessive absenteeism or tardiness may be grounds for disciplinary actions, up to and including termination.

Unauthorized Absence

An employee who fails to report to or remain at work, or who fails to return to work upon expiration of approved leave, may be considered to have abandoned his or her position with the agency. Such an employee will be expected to produce a satisfactory explanation for the unauthorized absence. An employee who is absent from work for three or more consecutive days without contacting his or her supervisor will be deemed to have abandoned his or her job at the close of the third day. Unauthorized absence(s) may be grounds for disciplinary actions, up to and including termination.

OVERTIME/COMPENSATORY TIME

See §§659.015, 659.016, 659.022, 659.023, Texas Government Code

Overtime and Compensatory Time

Time worked in addition to an employee's regular work schedule may be credited as overtime or compensatory (comp) time depending on whether the employee:

- is designated as **exempt or non-exempt** under the FLSA; and
- has actually worked 40 hours during the week or has taken any leave during the week.

Overtime provides an employee with 1.5 hours of paid time off for each overtime hour worked. Comp time provides an employee with one hour of paid time off for each comp hour worked. An employee's personal residence shall not be deemed to be the employee's regular place of business or duty point for the purpose of earning compensatory time.

FLSA Exempt & Non-exempt Employees

Overtime eligibility is governed under the provisions of the FLSA. Eligibility is not based on an employee's classification title or pay group, but on the employee's functional job. FLSA exempt employees are ineligible to earn overtime compensation. FLSA non-exempt employees are eligible to earn overtime. The Human Resources Department is responsible for determining the FLSA designation for each employee.

Earning Overtime

Non-exempt employees earn overtime for time worked in excess of 40 hours in a week. To earn overtime, the 40 hours must be time actually worked. Paid time off, such as holidays, vacation and sick leave, etc., do not count as time worked for calculating overtime. For example, a non-exempt employee who actually works 44 hours during one work week earns 4 hours of overtime.

Earning Compensatory Time - Non-Exempt Employees

Non-exempt employees earn straight compensatory time when paid hours exceed 40 hours in a work week but the employee has actually worked less than 40 hours. Once the total of actual hours worked

reaches 40, the employee begins earning overtime.

Earning Compensatory Time–Exempt Employees

With proper approval, exempt headquarters employees may earn compensatory time for hours worked in excess of 40 hours in a work week. In accordance with the policy of the Presiding Judges of the Administrative Judicial Regions, non-headquarters exempt employees are ineligible to earn compensatory time.

Approval to Earn Comp Time or Overtime

All employees must submit the Request to Earn Compensatory Time or Overtime Form and have prior written approval from their supervisor and division director (for headquarters employees) before working comp time or overtime. However, a non-exempt employee must be compensated for overtime even if it was not approved in advance. A non-exempt employee who works unauthorized overtime should be counseled or disciplined just as with any other violation of agency policy. Prior written approval is not required before earning holiday comp time.

An employee's work schedule may be adjusted to ensure that the employee does not exceed 40 hours. For example, an employee who must work 2 extra hours on Tuesday can be required to leave 2 hours early on Friday so as not to exceed 40 hours that week.

Overtime Compensation

The agency compensates non-exempt employees for overtime by granting them paid time off at the rate of 1.5 hours for each overtime hour they earn. A non-exempt employee may accumulate overtime credit up to 240 hours (160 hours at time and one half) with no time limit on the use of these hours. Payment for overtime is made when an employee separates from the agency or when accumulated overtime exceeds 240 hours. Exceptions must be approved in advance by the administrative director. Exempt employees do not earn overtime.

Maximum Comp Time Accruals

Comp time is credited as one hour earned for each hour worked. 160 hours is the maximum number of non-holiday comp time hours that can be carried as a balance by an employee during a 12-month period. The administrative director may make exceptions to this provision during periods of extended business

activities, such as during a Legislative session.

Use of Accrued Comp Time Before Lapsing

Comp time must be used within twelve (12) months of when it is earned or it will be forfeited. Comp time is not transferable to another state agency and will not be paid when an employee separates from the agency.

If an employee submits a written request to use accrued compensatory time at least 90 days before it is scheduled to lapse, supervisors must approve the request as stated, or provide the employee with an alternate date on which the employee may use the comp time. Comp time must be both requested and used before the date it is due to lapse. If an employee's comp time is within 90 days of lapsing, supervisors are encouraged to reasonably accommodate the employee's use of the accrued comp time before it lapses. Employees will be notified annually of this policy on comp time accrual and usage.

HOLIDAYS

See § 662.001, Texas Government Code.

Types of Holidays

There are three types of holidays to which an employee is entitled: national, state, and optional. Eligible employees are entitled to a paid day off from work on national and state holidays as specified by the Legislature.

Eligibility

Employees are entitled to a paid day off from work on a specified holiday if:

- the holiday does not fall on a Saturday or Sunday; and
- the employee is not on Leave Without Pay.

Skeleton Crew Days

The agency will have a sufficient number of employees on duty during a state holiday (skeleton crew day) to conduct the public business of the

agency except for those state holidays which fall on a Saturday or Sunday, the Friday after Thanksgiving Day, and December 24th and 26th. Directors and managers and non-headquarters supervisors may use their discretion in determining staffing requirements on skeleton crew days. Employees who must work on a national or state holiday will accrue holiday compensatory time and will be allowed time off during the 12-month period following the date of the holiday worked. Non-headquarters staff must use compensatory time or accrued leave to take off on a county holiday.

For headquarters staff, each agency division or department will maintain a skeleton crew during any holiday when the State Legislature is in session.

Optional Holidays

An employee is entitled to paid leave to observe an optional holiday (Cesar Chavez Day, Rosh Hashanah, Yom Kippur, or Good Friday) if he/she agrees to relinquish a state holiday (skeleton crew day) during that same fiscal year. If the employee fails to work a skeleton crew day in the same fiscal year, a day of vacation leave will be charged instead. If no vacation leave is available, he or she will lose one day of pay.

Holiday Before Work Begins or After Work Ends

An individual must be a state employee on the workday before and after a designated holiday in order to be paid for that holiday, unless the holiday falls on the first or last workday of the month.

Part-time Employees

Part-time employees are entitled to the same holidays with pay (on a prorated basis) as granted to full-time employees.

ANNUAL VACATION LEAVE

See § 661.152, Texas Government Code

Eligibility

An employee is eligible to take annual vacation leave with pay after meeting the specified requirements:

- an employee with no previous State

employment may take annual leave after completing six (6) full months of continuous employment with OCA; or

- an employee with previous state employment who has completed six (6) full months or more of continuous state employment and whose vacation balance has been transferred from the other state agency is eligible to take the accrued annual leave upon employment; or

- an employee with previous State employment who has a break in service of at least 30 days and has completed six (6) full months or more of continuous State employment may take annual leave as it is earned upon re-employment.

Rate of Accrual and Allowable Carry Forward

The schedule below shows rates of annual leave accrual for various lengths of State employment, and the maximum number of hours an employee may carry forward each fiscal year beginning on September 1st. The schedule is based on full-time employment.

Years of State Service Per Month	Hours Accrued	Allowable Carryover
Less than 2 yrs	8	180
at least 2 but less than 5 yrs	9	244
at least 5 but less than 10 yrs	10	268
at least 10 but less than 15 yrs	11	292
at least 15 but less than 20 yrs	13	340
at least 20 but less than 25 yrs	15	388
at least 25 but less than 30 yrs	17	436
at least 30 but less than 35 yrs	19	484
at least 35 years or more	21	532

Employees accrue vacation from their first day of employment. They end this accrual on their last day of duty. Duty day means an employee's last physical date on the job. An employee may not accrue vacation time while exhausting vacation time for termination purpose.

An employee in a leave-without-pay (LWOP) status for a full calendar month does not accrue vacation

leave for that month. An employee on paid or unpaid leave which extends into a subsequent month does not earn accrued leave until he/she returns to work.

Excess Balances

Excess annual leave balances above the amount that can be carried forward will be credited to the employee's sick leave balances on the first day of the next fiscal year.

Higher Accrual Effective Date

Credit for the higher rate of accrual as shown on the above schedule will be given on the first calendar day of the month, if the employee's anniversary date falls on the first calendar day of the month. If the employee's anniversary date falls after the first calendar day of the month, the increase will occur on the first calendar day of the following month.

Part-Time Employees

The number of hours accrued and the amount of maximum carry forward allowed for part-time employees will be on a proportionate basis.

SICK LEAVE

See § 661.202, Texas Government Code

Sick Leave Accrual

Each employee accrues paid sick leave beginning on the first day of employment and ending on the last duty day of state employment. Duty day means an employee's last physical day on the job. An employee will be credited with his/her full accrual for each full or fraction of a month worked.

Full-time employees accrue sick leave at the rate of eight (8) hours per month. Part-time employees accrue sick leave at a rate in proportion to that of a full-time employee. Sick leave accumulates with the unused amount carried forward each month, and there is no limitation on the amount which may be accrued. An employee in a leave status on the first day of the month may not use sick leave accrued for that month until after the employee returns to work.

Use of Sick Leave

An employee is eligible to use sick leave immediately upon employment with the agency. Sick leave 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/her immediate family who is sick. An employee's use of sick leave for family members not residing in that employee's household is strictly limited to the time necessary to provide care and assistance to the spouse, child or parent of the employee that needs such care and assistance as a direct result of a documented medical condition.

Timely Notification

An employee who must be absent from work because of sickness, injury, or pregnancy and confinement must notify his/her supervisor at the earliest possible time. If the absence is going to be for more than one day, the employee must notify the supervisor of his/her status each morning, unless other arrangements are made.

Absence For More Than Three Days

When an employee is off work due to sickness, injury, pregnancy, confinement, etc. for more than three (3) consecutive work days, he/she must submit with the leave form a doctor's statement showing the cause or nature of the illness, or some other written statement of the facts concerning the illness, acceptable to the employee's division director or presiding judge.

Absence for More than Six Days or Partial Days in a Month

It is the responsibility of each supervisor to monitor absences to facilitate a determination of whether an employee or his/her family member may have a serious medical condition. When an employee is absent for more than six days or partial days in any month because of sickness, injury, pregnancy and confinement, or medical treatment, the supervisor must notify OCA's human resources department immediately. If the employee is entitled to Family and Medical Leave, appropriate steps will be taken by the human resources department.

Excessive Use of Sick Leave

Excessive use of sick leave may be evident when an employee uses sick leave as it is accrued and/or totally runs out of leave (unless due to a bona fide serious health condition as specified under the Family and Medical Leave Act), resulting in leave without pay status.

Birth or Adoption of a Child

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. Female state employees may use sick leave for pregnancy and confinement. A state employee who is the father of a newborn child may use his sick leave in conjunction with the child's birth only if the child is actually ill or to care for his wife while she is recovering from labor and delivery.

Parent-Teacher Conferences

An employee who is a parent of a child who is a student attending a grade from pre-kindergarten through 12th grade may use up to eight hours of sick leave each fiscal year to attend parent-teacher conference sessions for the employee's children. The employee must give reasonable notice to the supervisor.

Transfer of Sick Leave

If an employee makes a direct transfer to another state agency without a break in service, the sick leave balance will transfer to the receiving agency. If there is a break in service, but the employee is re-employed by the State within 12 months, the employee may be entitled to restoration of sick leave balances.

Unused Sick Leave Balance

Once an employee terminates employment with the State, the employee is not entitled to payment for any sick leave balance.

Sick Leave Upon Death

In the event of employee death, one-half of the sick leave balance or 336 hours of sick leave, whichever is less, is paid to the employee's estate if the employee was continuously employed at least six months at the time of death.

EXTENDED SICK LEAVE

See § 661.202, Texas Government Code

Extended Sick Leave

If all leave balances are exhausted, an employee may request Extended Sick Leave. Extended Sick Leave is a form of paid leave and may be granted for the same reasons as Sick Leave. Exceptions may be authorized on an individual basis after a review of the merits of

each particular case.

Approval of Extended Sick Leave

Authority to approve or disapprove Extended Sick Leave is at the discretion of the administrative director or his/her designee and is to be based on the best interests of the agency.

Eligibility

To be eligible for Extended Sick Leave, an employee must:

- have exhausted all sick leave, annual leave, and compensatory/overtime;
- be performing job duties at a satisfactory level according to the immediate supervisor and as reflected in the employee's most recent performance appraisal;
- have used past sick leave in a responsible manner. Sick leave consistently taken as it is earned, or failure to maintain sick leave balances without good cause or a pattern of being sick on Monday, Fridays, or days immediately before or after a holiday may not be considered responsible use;
- indicate intention and ability to return to work after the period of extended sick leave.

Maximum Allowance

If approved, the length of Extended Sick Leave is determined by the employee's length of employment with the agency (on a prorated basis for part-time employees) as follows:

- Less than 2 years - A total of 40 hours of Extended Sick Leave may be granted within a 12-month period.
- 2-3 years - A total of 80 hours of Extended Sick Leave may be granted within a 12-month period.
- 3-4 years - A total of 120 hours of Extended Sick Leave may be granted within a 12-month period.
- 4 or more years - A total of 160 hours of

Extended Sick Leave may be granted within a 12-month period.

SICK LEAVE POOL

See § 661.002, Texas Government Code

Purpose

The agency has established a Sick Leave Pool so agency employees may assist other agency employees who have exhausted all paid leave due to a catastrophic injury or illness. Sick Leave Pool is a form of paid leave.

Pool Administrator

The human resources director is the Sick Leave Pool Administrator.

Catastrophic Illness Defined

Catastrophic illness is defined as a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the 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 accrued by that employee, and that would cause the employee to lose compensation from the State if additional leave were not granted.

On-the-Job Injuries

This policy does not apply to employees injured on the job. Those employees are covered by workers' compensation benefits.

Pregnancy and Childbirth

Pregnancy, childbirth (including cesarean deliveries), or related medical conditions will be treated as any other temporary disability, and will not be considered catastrophic under routine and/or normal conditions.

Requesting Sick Leave Pool

Requests for leave from the Sick Leave Pool must be submitted in writing to the human resources director. A doctor's statement must be attached that includes a diagnosis and the proposed length of absence from work. This is the same form as the one for FMLA

Medical Certification. If the request is for an immediate family member, the doctor should indicate the length of time the employee is required to assist the family member.

Employee Donations to Sick Leave Pool

All donations of sick leave hours to the Sick Leave Pool are strictly voluntary and are treated as if the employees had used the time for personal purposes. The policies governing donations to the pool are:

- employees who make donations to the pool may not stipulate who is to receive their donations;
- active employees may donate one or more days of accrued sick leave in increments of eight hours;
- terminating/retiring employees may donate sick leave at the time of separation;
- retiring employees may designate the number of accrued sick leave hours to be used for retirement credit and the number to be donated to the sick leave pool.

Using Sick Pool Leave

An employee may apply to use sick leave from the agency Sick Leave Pool provided the catastrophic illness or injury will exhaust all leave, including:

- Sick;
- Annual (if available);
- Compensatory/Overtime; and
- Extended Sick (if available).

Criteria for Approval of Sick Leave Pool Request

Before a Sick Leave Pool request will be granted, the following factors will be taken into consideration:

- severity of the illness or injury;
- responsible use of sick leave in the past;
- sustained satisfactory job performance; and

- intention to return to work.

Approval must be obtained from the administrative director or his/her designee. Requests will be evaluated in the order
in which they are received by the human resources director.

Return to Work

If a physician releases an employee back to work or does not provide a statement requesting additional time (subject to the approval of the administrative director), and the employee does not return to work immediately, the employee will not be paid for the unauthorized time.

Maximum Amount of Leave Per Request

The maximum amount of leave granted per request will be limited to the lesser of 45 working days (360 hours) or one-third of the total time in the pool, and is pro-rated for part-time employees. The employee may reapply for additional leave if the amount previously granted is insufficient to cover the employee's absence. The subsequent requests are subject to the same restrictions as indicated previously, including additional physician's statements. Although employees may make additional requests for leave from the Sick Leave Pool, the total amount granted for catastrophic injury or illness cannot exceed the lesser of one-third of the total time in the pool or 90 days (720 hours).

Leave Accruals While on Sick Leave Pool

An employee on Sick Leave Pool status will still accrue annual and sick leave at the beginning of each month, but the leave will not be credited until the first day of return to duty.

FAMILY AND MEDICAL LEAVE ACT

See § 661.912, Texas Government Code

Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) requires the agency to provide eligible employees up to twelve (12) weeks per year off work for the birth,

adoption, or foster care of a child, or because the employee or a spouse, parent, or child of the employee has a serious illness. State law requires employees to utilize all sick and annual paid leave while taking leave pursuant to this provision, unless they are receiving temporary disability or workers' compensation benefits.

Eligibility

For purposes of the FMLA, an eligible employee is one who has been employed by the State for at least 12 months, and who has worked at least 1,250 hours during the preceding 12 months. When calculating the required 12 months of State employment for FMLA eligibility, all State employment will be counted and it need not be continuous. The 1,250 hours refers to hours actually worked and does not include any paid time off.

Conditions

An eligible employee is entitled to a total of 12 work weeks of leave during a rolling 12-month period which begins on the date an employee uses any FMLA leave. FMLA leave may be used for:

- the birth of a son or daughter, and to care for the newborn child;
- the placement of a child with the employee for adoption or foster care;
- the care of the employee's spouse, child, or parent with a serious health condition; or

a serious health condition that makes the employee unable to perform the functions of his/her job.

Serious Health Condition

A "serious health condition" is defined as an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility or continuing treatment by a licensed health care provider.

12-Week Maximum

Under FMLA, the maximum combination of paid and unpaid leave will be limited to 12 weeks. Any extension beyond this time period must be requested and approved under provisions of the agency Leave Without Pay Policy. Failure of the

employee to report back to work at the end of the prescribed period, without prior written approval from the administrative director, will be considered leave without pay. Unauthorized absence is grounds for disciplinary action, up to and including termination.

Paid Leave/Unpaid Leave

The FMLA does not entitle an employee to paid leave in addition to other types of paid leave already accrued by the employee. Eligible employees must use all appropriate paid leave, annual and sick, while taking Family Medical Leave. State compensatory time, holiday time, and administrative leave that are benefits of the State may be counted toward the entitlement. Federal law does not permit FLSA compensatory time to be used concurrently with Family Medical Leave. If an employee elects to use FLSA Compensatory time while out on Family Medical Leave, that time is not counted toward the 12-week entitlement. After all paid leave is exhausted, employee will be on unpaid leave for the remainder of their Family Medical Leave.

Planned Medical Treatment

When the need for leave is foreseeable, based on planned medical treatment for the employee or family member, the employee must make a reasonable effort to schedule the treatment so as not to unduly interrupt the operations of the employer, subject to the approval of the health care provider providing the planned care. The employee should provide 30 days notice, or if not possible, as much notice as is practicable.

Intermittent Leaves and Reduced Schedules

Leave for the illness of the employee or family member may be taken intermittently or on a reduced schedule when medically necessary. Leave for childbirth or placement for adoption or foster care may be taken intermittently or on a reduced work schedule only with the agreement of the human resources director.

Temporary Transfer

If an employee requests intermittent or reduced-schedule leave for medical reasons, the administrative director may temporarily transfer the employee to an available alternative position for which the employee is qualified, and which has equivalent pay, if the alternative position better accommodates recurring periods of leave than the

employee's regular position.

Reinstatement

An eligible employee who takes FMLA leave is entitled to be restored to his or her former position, or to an equivalent position with equivalent pay, and other terms and conditions of employment.

Benefit Rights

The taking of leave under FMLA may not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. Nothing in the Act, however, entitles an employee to any right, benefit, or position other than one to which the employee would have been entitled had the leave not been taken.

Insurance

The agency will maintain any group health coverage for the employee on leave on the same terms as if the employee were at work for the duration of the leave. An employee on unpaid leave for an entire calendar month is responsible for paying his/her portion of the insurance premium and the State will pay its portion.

An employee who is granted an approved leave of absence under this policy may continue his or her group insurance coverage by arranging with Human Resources to pay his or her portion of the premium contributions during the period of unpaid absence. Employees will be required to continue to pay their share of group health benefit costs during the period of leave under the law.

If an employee elects not to return to work upon completion of an approved unpaid leave of absence, the agency may recover from the employee the cost of any premiums paid by the State to maintain the employee's coverage, unless the failure to return to work was for reasons beyond the employee's control or due to the continuation, recurrence, or onset of a serious health condition.

Certification of Serious Health Condition

An employee requesting leave under FMLA because of his/her or a family member's serious health condition will be required to provide certification from the health care provider treating the condition. The health care provider should provide detailed information regarding the condition of the employee or family member, and also give an

estimate of the amount of time needed for the employee's recovery or the amount of time the employee is needed to care for the family member. If intermittent leave or a reduced leave schedule is requested, the health care provider should also state the dates and duration of planned medical treatment.

Additional Certifications

An employee may be required to obtain a second certification from a health care provider designated or approved by the agency. If the second provider disagrees with the first, a third and final opinion might also be required from a jointly selected provider.

Return to Work

An employee who has been absent due to a serious health condition must provide certification from the health care provider that he/she is able to resume work.

Spouses Employed by Agency

A husband and wife who are eligible for FMLA leave and who are both employed by the agency are permitted to take only a combined total of 12 weeks of leave during a fiscal year if the leave is taken:

- for birth of a son or daughter or to care for the child after birth;
- for placement of a child for adoption or foster care, or
- to care for the child after placement; or
- to care for a parent (but not a parent "in law") with a serious health condition.

When a husband and wife each take a portion of the total 12-week leave to care for a parent or for the birth, adoption, or placement of a child, each would be entitled to take the remaining portion of the 12-week leave for his/her own serious illness or to care for a sick child.

Notice of Birth or Placement of a Child

In the case of FMLA leave for the birth or placement of a child for adoption or foster care, an employee should provide 30 days advance notice before the

date on which the leave would begin, if possible. If the employee is unable to provide such notice, he or she must provide as much notice as is practicable.

OCA Designation

When Human Resources has been notified of absences indicating that a serious medical condition may exist, the Human Resources Director will ask for sufficient information to determine whether the employee is entitled to FMLA leave. If so, Human Resources will make a preliminary designation of qualification and will notify the employee. The employee will be asked to provide medical certification of the nature of the illness or injury and whether it qualifies as a serious medical condition.

PARENTAL LEAVE

See § 661.913, Texas Government Code

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12 Week Maximum

Employees with fewer than 12 months of state service or less than 1,250 hours in the 12 months immediately preceding the start of leave are entitled to a parental leave of absence, not to exceed 12 weeks, for the birth of a natural child or the adoption or placement in foster care of a child under three years of age. This period begins with the date of birth, or the first day the adoptive or foster child is formally placed in the home. The employee must use all available accrued leave before going on leave without pay while taking the parental leave.

Notification

An employee anticipating using parental leave should notify his/her supervisor and Human Resources at the earliest possible opportunity in order to allow ample time to plan for covering duties for the duration of the absence.

FMLA Provisions

Parental leave is only available for employees who are not eligible for FMLA leave.

FOSTER PARENT LEAVE

See § 661.906, Texas Government Code

Policy

Any State employee who is a foster parent to a child under the conservatorship of the Department of Family and Protective Services is entitled to a leave of absence with full pay for the purpose of attending staff meetings held by the DFPS 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.

EMERGENCY LEAVE

See § 661.902,Texas Government Code and § 501.045, Texas Labor Code

Death in Family

Employees are eligible for Emergency Leave due to a death in the employee's family. The employee's family is defined as the employee's spouse, and the employee's or spouse's parents, children, brothers, sisters, grandparents, and grandchildren.

Other Reasons

The administrative director may grant Emergency Leave for reasons other than bereavement if the employee shows good cause. The granting of such leave is at the sole discretion of the administrative director, and is granted only if it is determined to be in the best interest of the employer.

Emergency Leave and Workers' Compensation

The administrative director may authorize emergency leave pay for not more than 6 months to an employee receiving workers' compensation benefits. Payment will not exceed the difference between the employee's basic monthly wage and the monthly amount of minimum benefits.

Requests

Requests for Emergency Leave by headquarters staff and non-headquarters collections staff should be submitted to the employee's supervisor, who in turn submits it to the human resources director.

Requests by other non-headquarters staff should be submitted to the supervising associate judge or presiding judge and information provided to human resources.

Approval

Approval for emergency leave can only be granted or denied by the administrative director.

VOTING

Voting

On a day in which an election is held throughout the State, employees will be allowed sufficient time off, without deduction from pay or leave time, to vote. Prior scheduling with the supervisor is required. Two (2) hours is the generally accepted maximum time allowed.

JURY OR WITNESS DUTY

See § 659.005, Texas Government Code

Jury Duty

An employee is entitled to serve on a jury without any deduction from wages, including a deduction for any fee or compensation the employee receives for the jury service.

Witness Duty

An employee who appears as a witness in any judicial or legislative proceeding will be granted leave without deduction in wages if the employee is serving in a non-official capacity pursuant to a subpoena. Otherwise, the employee must use annual leave or compensatory time.

Witness Fees

A state official or employee cannot accept or receive a fee for appearing as a witness in his/her official capacity in any judicial action or legislative investigation. If the appearance as a witness is not in

an official capacity but is to testify from personal knowledge concerning matters related to the inquiry, then the employee or official is entitled to any customary fee.

Approval

After jury duty or testimony is completed, the employee should submit documentation from the court stating the hours the employee was required to be on jury duty or available to appear as a witness. If the employee has been subpoenaed, a copy of the subpoena must be attached.

Mileage and Per Diem

An employee may receive reimbursement for travel and a per diem or reimbursement for expenses connected to an appearance in an official capacity as a witness in a judicial proceeding or legislative hearing only from the state or the judicial body, but not from both.

Expert Witness

An employee who appears as an expert witness in a judicial proceeding or legislative hearing may accept compensation for the appearance only if the person is not also compensated by the state for the person's time in making the appearance and may accept reimbursement for travel expenses only if the expenses are not reimbursed by the state. Paid leave is not considered time compensated by the state for purposes of this policy.

MILITARY LEAVE

See §§431.005, 431.017, 661.903, 661.904, Texas Government Code

Fifteen Working Days

An employee who is a member of the State Military Forces or a member of reserve components of the United States Armed Forces will be granted a leave of absence up to a total of 15 working days per Federal Fiscal Year (October 1 - September 30) without any loss of salary, or any other leave to which the employee is entitled. The 15 days need not be consecutive and are to be applied to work days when the employee is engaged in training or duty, or the travel time to and from the location.

National Emergency	An employee called to active duty during national emergency by a reserve branch of the United States Armed Forces will be granted a leave of absence. After exhausting the 15 working days with pay for that federal fiscal year, the leave will be without pay (LWOP). The employee will accrue months of service while on LWOP, but will not accrue vacation or sick leave. The employee will be credited with his/her vacation and sick leave balances upon return to work.
National Guard Duty	An employee who is called to active duty as a member of the National Guard by the Governor because of an emergency is entitled to receive emergency leave without loss of military or annual leave. Such leave will be provided with full pay. This leave is not limited and does not count against military leave or annual leave.
Contact Human Resources	Human Resources should be consulted during any situation regarding military leave. The employee must provide the OCA Leave Form and a copy of the military orders for the time away from work.

ADMINISTRATIVE LEAVE FOR OUTSTANDING PERFORMANCE

See § 661.911, Texas Government Code.

Documented Performance	The administrative director may grant administrative leave with pay to an employee for outstanding performance. Supervisors who wish to recommend an employee for an administrative leave award should ensure that employee's performance is appropriately documented by a current performance evaluation, or other documentation approved by administrative director, which clearly specifies the outstanding accomplishments or results achieved by the employee (i.e. recognition for completing a special project in addition to regular duties).
Maximum Award	The total amount of administrative leave granted to an employee may not exceed 32 hours during any fiscal year.

VOLUNTEER FIREFIGHTERS/EMERGENCY MEDICAL SERVICE TRAINING LEAVE

See § 661.905, Texas Government Code

Training Schools

An employee who is a volunteer firefighter or an emergency medical service volunteer will be granted leave with full pay to attend training schools conducted by a state agency or institution of higher learning. Before an employee may use this leave, a Leave Form must be completed, along with adequate documentation of the proposed training. An employee is entitled to a maximum of five (5) working days of leave in a fiscal year. This leave is in addition to other leave to which the employee is entitled.

Called to Duty

An employee who is a volunteer firefighter or an emergency medical service volunteer and is called to duty during working hours is entitled to emergency leave at the discretion of the administrative director. It is expected that such service will not be a continuous disruption in the office.

CERTIFIED AMERICAN RED CROSS ACTIVITIES LEAVE

See §661.907, Texas Government Code

Authorized Leave

Any employee who is a certified disaster service volunteer of the American Red Cross, or who is in training to become such a volunteer, may be granted leave not to exceed ten days each fiscal year to participate in specialized disaster relief services. The employee must provide Human Resources with an approved OCA Leave Form, a request from the American Red Cross, and the

approval of the Governor's Office. If the above conditions are met, the employee will not lose pay, vacation time, sick leave, earned overtime, and/or compensatory time during such leave.

DONATION OF BLOOD

See §661.917, Texas Government Code

Donation of Blood

An employee may request sufficient time off, not to exceed 4 times in a fiscal year, to donate blood. An employee must present sufficient documentation upon return to the supervisor to validate absence for blood donation.

LEAVE FOR ORGAN OR BONE MARROW DONATION

See § 661,916, Texas Government Code

Organ or Bone Marrow Donation

An employee is entitled to paid leave of absence while serving as a bone marrow or organ donor. Organ donors may receive up to 30 workdays in a fiscal year. Bone marrow donors may receive up to 5 workdays in a fiscal year.

LEAVE FOR EMPLOYEES WHO ARE DISABLED

See §661.910, Texas Government Code

Authorized Leave

An employee with a disability, as defined by Section 121.002 of the Human Resources Code, shall be

granted up to 10 working days of paid leave each fiscal year for the purpose of attending a training program to acquaint the employee with an assistance dog to be used by the employee. This leave is in addition to other leave entitlement.

EMPLOYEE WELLNESS LEAVE

See §664.061, Texas Government Code

Workday Exercise Leave

Full-time employees may be allowed up to 30 minutes during normal working hours for exercise three times each week in accordance with a documented schedule.

Workday Exercise Schedule

The employee's workday exercise schedule must be documented, and the supervisor and division director or presiding judge must approve the schedule and any changes to the schedule. The best time to exercise during a workday may vary by employee as well as by individual and division or court workloads. The supervisor and division director or presiding judge have the discretion to only approve workday exercise schedules that will not be disruptive to the division's or court's workload.

Deviations from the Schedule

Any individual deviations from the schedule involving taking leave to exercise at a different time from the one scheduled must be approved in advance by the employee's supervisor. Merely failing to take time off to exercise at a scheduled time does not require advance approval, if an alternate time is not requested.

Documentation of EW Leave

Employees must document the time spent during the workday for exercise on a leave form and submit the form to payroll for processing. "EW" (Employee Wellness) is the leave code designated in USPS for tracking purposes.

Employee Misconduct

This policy shall not be used as an excuse to arrive to

work late or to leave early without engaging in the scheduled exercise. Any employee who abuses this policy will be subject to disciplinary action.

APPROVED LEAVE WITHOUT PAY

See §661.909, Texas Government Code

Leave Without Pay Defined

Approved Leave Without Pay (LWOP) is the temporary absence from duty of an employee who intends to return to work. During the length of the absence, which cannot exceed 12 months, pay is suspended.

Request From Employee

Employees requesting Leave Without Pay must submit their request in writing to their supervisor. If approved by the supervisor and the administrative director, the request will be forwarded to Human Resources. The request must include a start date and an ending date. The request must also include the reason for the request, and, if for medical reasons, it must include a doctor's statement and any other detailed justification that adequately explains the reasons for the request.

Review by Administration

All requests for Leave Without Pay will be reviewed for approval by the administrative director. Approval of the request is not automatic. The requested leave time may be disapproved or adjusted to meet the business needs of OCA. If the request is disapproved or adjusted, and the employee is unable or declines to remain on the job, the agency may take appropriate action to terminate employment.

Return to Work

Although approval of Leave Without Pay constitutes a guarantee of employment upon return, such a guarantee is subject to fiscal constraints. Upon return to duty, the employee may be placed anywhere in the agency, and his/her salary level is not guaranteed. Employees are expected to return to work immediately upon the expiration of the approved dates for Leave Without Pay, unless they have requested and received approval for an extension.

Failure to Return to Work

Failure to return to work from Leave Without Pay on the approved return date will be considered abandonment of position, and the agency may take appropriate action to terminate employment.

Exhausting Available Paid Leave

All available accumulated paid leave entitlements must be exhausted before granting Leave Without Pay, with the exception of leave as a result of disciplinary actions, active military duty, or Workers' Compensation. Sick leave must be exhausted before going on leave without pay status only if the leave is for a reason for which the employee is eligible for sick leave.

Leave Accruals and Insurance Premium

If an absence covers an entire calendar month, the employee does not accrue any vacation or sick leave. The employee is also responsible for payment of his/her insurance premiums (unless excepted under provisions of the FMLA). A full or
partial calendar month during which an employee is on leave without pay does not constitute a break in continuity of employment. Except for an employee returning from military leave without pay, a full calendar month during which an employee is on leave without pay is not counted in computing total state service for purposes related to longevity pay or to the rate of accrual of vacation leave; or continuous state service for purposes related to merit salary provisions or vacation leave.

Exceptions to Policy

The administrative director may grant exceptions to these provisions when it is deemed to be in the best interest of the State, such as when the leave is to work for another state governmental entity under an interagency agreement, or for educational purposes.