

STEPHEN F. AUSTIN
STATE UNIVERSITY

Office of the General Counsel

POLICY SUMMARY FORM

Policy Name: Sick Leave

Policy Number: 12.18

Is this policy new, being reviewed/revised, or deleted? Review/Revise

Date of last revision, if applicable: 1/26/2016

Unit(s) Responsible for Policy Implementation: Vice President of Finance and Administration

Purpose of Policy (what does it do): Policy outlines the requirements for the accrual and use of sick leave. The policy also outlines the eligibility for utilizing donated leave under the sick leave pool.

Reason for the addition, revision, or deletion (check all that apply):

Scheduled Review Change in law Response to audit finding

Internal Review Other, please explain: Policy changes were made to manage the sick leave pool program with greater efficiency and to balance the welfare of its employees and the need for sufficient workforce to carry out the mission of the university.

Please complete the appropriate section:

Specific rationale for new policy:

Specific rationale for each substantive revision: Added an eligibility standard of one year of employment preceding a request for sick leave pool. Allowed department director's input into determining if an employee requesting sick leave pool has utilized their sick leave in a responsible manner. Allowed an employee to continue to utilize sick leave hours when they return to work on a part-time basis when supported by medical documentation. The employee can only utilize the sick leave pool for the medical incident for which it was originally approved.

Specific rationale for deletion of policy:

Additional Comments:

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Reviewers:

Loretta C. Doty, Director of Human Resources
Danny Gallant, Vice President for Finance and Administration
Damon Derrick, General Counsel

Sick Leave

Original Implementation: Unpublished

Last Revision: ~~January 26, 2016~~ April 25, 2017

Regular, consistent attendance and punctuality is expected of all university faculty and staff, as well as the proper use of leave time when an absence is necessary.

Accrual of Sick Leave

Employees of the university, whose positions do not require student status as a condition of employment, shall, without deduction in salary, be entitled to sick leave subject to the following conditions. Employees of the SFA Charter School will earn sick leave according to charter school policy.

Sick leave entitlement shall be earned, beginning on the first day of employment, at the rate of eight (8) hours for each month or fraction of a month of employment, and shall accumulate with the unused amount of such leave carried forward each month. An employee who is on leave the first day of the month may not use the sick leave that the employee accrues for that month until after a return to duty. Such leave accrual shall terminate on the last day of duty.

An employee's accrued sick leave balance will be transferred when an employee moves from employment in one state agency to another, provided the employment is uninterrupted. Part-time employees working at least 20 hours per week accrue sick leave proportionately to their FTE.

Employees employed by multiple agencies cannot accrue sick leave at a rate that exceeds that of a full-time, 40-hour-per-week employee.

Separation from Employment

Employees of the university who separated from employment under a formal reduction in force are entitled to have their sick leave balances restored if they are re-employed by the state within 12 months. Employees separated from the university, for reasons other than a formal reduction in force, and re-employed by SFA may have their sick leave balances restored only if:

1. The employee is re-employed by the university within 12 months after the end of the month in which the employee separates from employment, but only if there has been a break in employment from the university of at least 30 calendar days; or
2. The employee is re-employed by a different state agency or institution of higher education within 12 months after the end of the month in which the employee separated from the university.

The university has no authority to pay out an employee's accrued but unused sick leave balance upon termination. An employee who is restored to employment at the university following military service is entitled to have his or her sick leave balance restored. Employee Retirement System (ERS) retirees who return to state employment will not have their sick leave balances restored.

Funds appropriated for salaries and wages may be paid for all of the employee's accumulated vacation leave and for one-half of his/her accumulated sick leave, or for 336 hours of sick leave (whichever is less), to the estate of an employee when said employee dies while employed by the university. The employee must have had continuous employment with the university for at least six months at the time of death. The payment shall be calculated at the rate of compensation being paid the employee at the time of death.

Sick Leave Utilization

Sick leave with pay may be taken when sickness, injury, or pregnancy and confinement prevent the employee's performance of duty, or when a member of the employee's immediate family is actually ill. For purposes relating to regular sick leave, immediate family is defined as those individuals related by kinship, adoption or marriage ~~who are that~~ *are living in the same household; foster children who reside in the same household; and minor children regardless of whether they live 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. An employee who is the legal guardian of a child by court appointment may use sick leave to care for the child.~~ *Sick leave may be used to care for immediate family members who do not reside in the same household only for a documented medical condition. In this instance only, "immediate family" is interpreted as spouse, parent, or child. An employee who is the legal guardian of a child by court appointment may use sick leave to care for the child.* Sick leave may be used for the adoption of a child under the age of three. An employee who must be absent from duty because of illness shall notify their supervisor or cause the supervisor to be notified of that fact at the earliest practical time.

To be eligible for accumulated sick leave with pay during a continuous period of more than three (3) working days, an employee absent due to illness shall send to the administrative department head a doctor's certificate verifying the employee was out due to medical reasons. If an illness results in the absence of three (3) working days or less, the administrative head has the discretion to require documentation verifying the employee was out due to medical reasons. Upon returning to duty after sick leave, an employee shall immediately complete either a Request for Vacation, Compensatory Time, Sick Leave Taken form, request/report the leave electronically through the system leave request form, or document the leave in a manner established by the department head.

An employee may use sick leave while he or she is on annual leave.

Participation by any employee in an organized work stoppage has been declared to be against the public policy of the state of Texas. In any case when there is substantial evidence to indicate that an organized work stoppage exists in any division or department of the university, an employee reporting ill shall send to the administrative head of his/her department or division a doctor's certificate showing the cause or nature of the illness to be entitled to sick leave.

Sick Leave Utilization for Faculty:

Faculty must submit leave forms (as designated by the department head) for all sick leave the faculty member takes if the absence occurs during the normal workday for regular employees, even if no classes are missed.

Faculty are allowed to use their sick leave for personal or family illness and for personal leave within these guidelines:

- If a faculty member needs to take time off to handle personal business, personal leave may be used for that purpose with prior approval from their department head.
- If a faculty member misses a class, even if a substitute covers the class, the time missed is to be reported.
- If a faculty member is out on a continuous basis, two days or more, they must turn in leave for 8 hours for each day.
- If a faculty member misses office hours, due to illness or personal business, they must turn in leave for the time missed.

Extension of Sick Leave:

Pursuant to sections 661.202(i) and (j) of the Texas Government Code, an extension of sick leave may be granted through the university policies of Family and Medical Leave (12.9) or Leave of Absence (~~12.12~~ or 12.11) or utilization of the sick leave pool.

Sick Leave for Educational Activities:

An employee may use up to eight (8) hours of sick leave each fiscal year to attend school sponsored educational activities of the employee's children who are in pre-kindergarten through 12th grade, including a parent-teacher conference, tutoring, volunteer program, field trip, classroom program, school committee meeting, academic competition, and athletic, music or theater program.

Donation of Sick Leave to an Employee

Employees may donate any amount of their accrued sick leave to another employee who:

- Is employed by the university;

- Is eligible to accrue and use sick leave; and
- Has exhausted all of their sick leave, including time the employee may be eligible to receive as an award from the sick leave pool.

Employees may not provide or receive remuneration or a gift in exchange for a sick leave donation.

The use of sick leave donated to the recipient employee must follow the same conditions as normal accrued sick leave as outlined in this policy.

Donated sick leave cannot be used towards ERS retirement service credit.

Donated sick leave cannot be transferred to another state agency.

Donated sick leave cannot be paid out to the estate of an employee if the recipient employee passes away.

Donated sick leave hours will be lost when the recipient employee leaves employment and will not be reinstated if the recipient is rehired by the university at a later date.

Donated sick leave hours do not get returned to the donor if the recipient does not use them all.

Sick Leave Pool

The university maintains a sick leave pool to benefit certain regular employees who suffer a catastrophic injury or illness. A sick leave pool has been established and is maintained to provide for the alleviation of the hardship caused to an employee and the employee's family if a catastrophic illness or injury forces the employee to exhaust all accrued leave (including compensatory time, if applicable) and lose compensation with the state.

Definitions:

1. A catastrophic injury or catastrophic illness is defined as a severe condition or combination of conditions affecting the mental or physical health of the employee, or the employee's immediate family, that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by the employee and lose sick leave compensation from the state.
2. A severe condition or combination of conditions is one that:
 - a. will result in death or is a severely debilitating condition that will result in the individual not meeting the essential functions of their job if not treated promptly or at regularly scheduled intervals (e.g. chemotherapy treatments, radiation treatments, etc.);
 - b. has been designated as terminal; or
 - c. fully incapacitates the employee from working for a continuous period of thirty (30)

calendar days or more.

3. Licensed practitioner means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license.
4. Immediate family is defined as those individuals related by kinship, adoption, or marriage, or foster children who are so certified by the Texas Health and Human Services Commission who are living in the same household. If not in the same household, an immediate family member is strictly limited to the employee's spouse, child or parent who needs care and assistance as a direct result of a documented catastrophic medical condition. Employees may use sick leave pool hours to care for an immediate family member only under circumstances for which an employee would be eligible to use regular sick leave, if available.
5. *Medical Incident means a single occurrence of a catastrophic illness/injury.*

Eligibility and Other General Provisions:

1. All regular faculty and non-probationary staff members eligible to accrue and use sick leave in accordance with university sick leave policy 12.18 *with a minimum of one year of service* may apply to use sick leave from the sick leave pool. *The service must immediately precede the sick leave pool request.*
2. Employees may use sick leave pool for their own catastrophic illness or injury or for one in their immediate family, as defined above.
3. *The use of sick leave pool hours is limited to 720 hours per medical incident. ~~An employee may submit only one request for sick leave from the sick leave pool per fiscal year for each catastrophic illness or injury.~~*
4. An employee must exhaust all available leave before being eligible to receive sick leave from the sick leave pool.
- 4.5. *An employee must have utilized their accrued leave in a responsible manner to be eligible to use sick leave pool unless the leave is specifically donated to the employee. Regular, consistent attendance and punctuality is expected of all university faculty and staff, as well as the proper use of leave time when an absence is necessary. Sick leave used as it is earned is not considered to be responsible use, unless there are extenuating circumstances.*
5. —
6. An employee utilizing sick leave from the sick leave pool continues to accrue vacation and sick leave entitlement as if on regular sick leave, provided he or she returns to work following the leave.
- 6.7. *An employee approved for sick leave pool due to a catastrophic illness or injury that is absent from work for a minimum of 30 calendar days and is able to return to work on a part-time basis may continue to utilize the remaining allocated sick leave pool hours on an intermittent basis if the continuing treatment requires the employee to exhaust their leave balance awarded upon their return to work. Employees will be required to provide medical documentation supporting the employee's fitness for duty*

on a part-time basis and a continuing need for medical treatments and subsequent absences. The treatments and absences must be directly related to the initial qualifying medical incident.

- 7.8. Employees who are not covered by FMLA (policy 12.9) and who are offered a bona fide job offer under the university's Return to Work (policy 11.24) must accept the offer or sick leave pool benefits will end.
- 8.9. Employees who file for Worker's Compensation Benefits are not eligible to use sick leave from the sick leave pool. In no case may sick leave pool time be used in conjunction with a worker's compensation claim.
- 9.10. A routine pregnancy is not considered a catastrophic illness or injury.
- 10.11. A regular part-time employee is granted pool leave on a pro-rated basis.
- 11.12. One sick leave pool will be administered for all regular faculty and staff employees of the university.

Requesting Sick Leave from the Pool

1. A regular employee may apply for sick leave from the sick leave pool by completing a Request for Sick Leave from the Sick Leave Pool form and routing the form to the pool administrator in human resources.
2. Medical certification is required before the sick leave pool request can be reviewed by the administrator. Weekly documentation of appointments and/or treatment must be submitted to the pool administrator. Failure to return the required certification and documentation may result in loss of pool benefits.
3. The pool administrator ~~will~~ *verifies that the medical documentation supports the request for sick leave pool. The pool administrator maintains all medical documentation and adheres to standards of confidentiality, to the extent allowed by law. The pool administrator routes the request to the department director for a recommendation for approval, disapproval or an adjustment in the number of sick leave pool hours awarded based upon the employee's previous use of sick leave.*
- 3.4. *The pool administrator, upon receipt of the department director's recommendation approves all or part of the request, or denies the request. If necessary, the pool administrator may seek additional information from both the supervisor and the employee to clarify the employee's previous use of sick leave or to request additional medical documentation. All practitioner's statements and medical updates are subject to be referred to and reviewed by a university medical review board.*
- 4.5. The amount of the pool leave granted for each catastrophic illness or injury will be determined by the pool administrator. The amount granted cannot exceed one-third of the balance of hours in the pool. However, in no case may an employee use more than 90 work days from the pool. Initiation and/or renewal of approval for use of such leave shall be subject to review of a current medical report for each approval period, and subject to availability of appropriate balance in the fund.
- 5.6. Medical updates are required every 30 days, unless otherwise indicated. Failure to

return required medical documentation may result in delay or loss of pool benefits.

- 6.7. Any unused balance of leave granted to an employee from the sick leave pool returns to the pool if the employee returns to work prior to using all days granted *unless medical documentation is submitted to support the need for reduced hours relating to the initial medical incident. All of an employee's monthly leave accruals (vacation/sick leave) must be utilized towards the medical incident prior to using sick leave pool balances. Medical incidents that require reduced hours on a continuous or permanent basis will be addressed through the SFA accommodations process.*
- 7.8. The estate of a deceased employee is not *at any time* entitled to payment for unused leave requested from the sick leave pool.
- ~~8. Employees on sick leave pool who return to work on a part time basis are not eligible to continue on pool leave to make up the difference between their part time employment and regular full time employment.~~
9. An employee's sick leave pool award will immediately stop once the catastrophic medical condition for which it was granted ceases.

Contributing Sick Leave to the Pool

1. An employee with accrued sick leave may contribute to the sick leave pool in increments of eight hours, with the exception of a retiring employee who may contribute accrued sick leave in increments of less than eight hours.
2. Sick leave contributed to the pool reduces the accrued sick leave balance of the employee making the contribution.
3. Contributions to the pool are strictly voluntary.
4. An employee contributing sick leave to the sick leave pool may not stipulate who is to receive the contribution.
5. An employee who contributes sick leave to the sick leave pool cannot reclaim the contribution unless entitled to use leave from the sick leave pool. An employee who contributes sick leave to the sick leave pool and then exhausts his or her sick leave balance in the same fiscal year may receive the number of hours he or she contributed to the pool in that fiscal year without suffering a catastrophic illness or injury.
6. An employee desiring to contribute sick leave to the sick leave pool should complete an Application to Contribute Sick Leave form, provide a copy to his or her department head, and route the form to the pool administrator in human resources.

Administration of the Pool

1. The pool administrator in the Human Resources Department is responsible for the administration of the sick leave pool. Decisions of the pool administrator may be appealed to the appropriate vice president.
2. Requests for sick leave from the sick leave pool will be forwarded to the pool administrator. Requests will be considered by the pool administrator on a first-come,

first-served basis. Employees may submit a request for sick leave pool hours when they are running out of accrued leave. The request will be considered when they have exhausted all accrued time.

3. The pool administrator will have five working days from the date a request is received in which to approve all or part of the request or deny the request.
4. The amount of sick leave granted for each catastrophic illness or injury will be determined by the pool administrator. The amount cannot exceed one-third of the balance of hours in the pool, or 90 working days, whichever is less. The pool administrator shall approve the use of not more than thirty (30) days of such leave by one individual at one time. Initiation and/or renewal of approval for use of such leave will be subject to review of a current medical report for each thirty (30) day approval, and is subject to availability of appropriate balance in the fund.
5. The pool administrator shall design and implement a system of records management and reporting of sick leave pool activity. The total leave time available in the sick leave pool shall be reported annually to the director of human resources and be available upon request to faculty and staff.

Cross Reference: Tex. Gov't Code §§ 661.001-.038, .201-207; Tex. Gov't Code Ch. 617; *Tex. Educ. Code § 51.961*; Non-Academic Employee Handbook; Organized Work Stoppage (11.18); Family and Medical Leave (12.9); Leave of Absence (Faculty and Staff) (12.11); ~~Tex. Educ. Code § 51.961.~~

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: Request for Vacation, Compensatory Time, Sick Leave Taken (available from Human Resources)

Board Committee Assignment: Academic and Student Affairs