

STEPHEN F. AUSTIN

STATE UNIVERSITY

Office of the General Counsel

POLICY SUMMARY FORM

Policy Name: Leave of Absence (Faculty and Staff)

Policy Number: 12.11

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

Date of last revision, if applicable: 4/14/2015

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

Purpose of Policy (what does it do): Policy sets forth the types of additional leave available to faculty and staff and eligibility for their use.

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: Response to SB 73 approved during legislative session.

Please complete the appropriate section:

Specific rationale for new policy:

Specific rationale for each substantive revision: Title of policy changed. Additions were made to the policy to include all leave types granted by Texas Government Code to state employees to include administrative leave, legislative leave for peace officers, mental health leave for veterans, court appointed special advocate leave, and a revised definition of emergency leave. Specific eligibility and approval processes were added to the policy as well as the reporting requirements for emergency leave.

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

~~Leave of Absence~~ **Administrative Leave (Faculty and Staff)**

Original Implementation: September 1, 1981

Last Revision: ~~April 14, 2015~~ July 25, 2017

This policy describes ~~administrative~~ ~~available~~ leaves for both faculty and staff employees. It excludes all casual employees and employees who are in positions that require them to be a student as a condition of employment.

Leaves ~~A~~available for ~~f~~Faculty Employees ~~O~~only:

The university may grant a leave of absence *with or without pay* to faculty, when departmental needs allow, for the following reasons:

1. To pursue additional education or training for the faculty member in order to strengthen their performance in their position at SFA.
2. To engage in research and writing directly related to responsibilities at SFA.
3. To accept a similar position in a visiting capacity at another institution.
4. To accept a position outside higher education that is directly related to the employee's professional field and has potential for enhancing their future contributions to the university.

- ~~4. Health, following the use of all accumulated sick leave, when it is demonstrated that at the end of the leave period the employee will be able to resume duties at SFA.~~

Leaves may be granted to faculty *in good faith that they intend to return to their SFA employment at the end of the leave of absence* with the following conditions:

1. Requests for a leave of absence will be directed to the president of the university through administrative channels.
2. No paid or unpaid leave will be approved for more than 12 months.
3. Requests for renewal of a leave may be considered when submitted in writing *through appropriate administrative channels*. ~~prior to March 15.~~
~~Individuals who are not planning to return from leave to SFA should notify the department chair before March 15th.~~

~~All requests for leave without pay must be submitted to human resources on the Leave without Pay form.~~

Leaves without Pay ~~available for Faculty and Staff Employees~~ ~~f employees and faculty:~~

Leave without Pay: The president may grant a leave of absence without pay to ~~a faculty and staff and faculty employee~~ after receiving input from the supervising department regarding departmental needs and subject to the following provisions:

~~1. All accumulated paid leave entitlements must be exhausted before granting such leaves, – with the exception of employees taking leave without pay for disciplinary action, military leave and leave taken under worker’s compensation. the additional provision that Sick leave must be exhausted only in those cases where the employee is eligible to take sick leave. Employees off due to a worker’s~~

~~2. compensation injury will not be required to exhaust their accrued vacation and comp time, but their accrued sick leave must be exhausted before leave of absence may be granted.~~

~~1.~~

Such leaves will be limited in duration to twelve (12) months.

~~2.~~

~~3. Except in instances of disciplinary suspension, leave covered by worker’s compensation, or active military duty situations:~~

~~4. Vacation leave must be exhausted.~~

~~5. Sick leave, if appropriate, must be exhausted.~~

~~6.3.~~ The employee must report to the supervisor and human resources if *he or she*~~they~~ will be unable to return to work at the end of the leave period and must provide an acceptable reason for the delay. Failure to return to work from an approved leave of absence by the intended date and to provide an acceptable reason will be considered job abandonment.

Administrative Leave with Pay

As authorized by Texas Government Code 661.911, the administrative head of an agency may grant administrative leave with pay without a deduction in salary as a reward for outstanding performance as documented by employee performance appraisals. Using employee performance appraisals as a basis for doing so, the president may grant administrative leave with pay to staff-employed in a position for at least 20 hours per week for a period of at least four and one half months and is not employed in a position for which the employee is required to be a student as a condition of the employment.

Full-time staff employees may be granted administrative leave in eight-hour increments and may not exceed 32 hours during a fiscal year. The leave can be reduced proportionately for part-time staff employees.

The president may develop and revise procedures necessary to implement this section in the president’s sole discretion, determine the number of hours that will be available in a fiscal year up to the statutory limit of 32 hours, and restrict administrative leave with pay to specific dates or for use throughout the fiscal year.

The two categories of eligibility for administrative leave are as follows:-

Category One

1. *The employee must receive a minimum overall rating of “Acceptable” on their last annual performance evaluation,*
2. *The -employee must have received no rating below “Acceptable” in any category on their last performance evaluation,*
3. *The employee must have received an “exceeds expectations or exemplary” in at least one category on their last performance evaluation, and*
4. *The employee must not have received any disciplinary action during the last twelve months excluding oral and written reprimands.*

Category Two

1. *The employee must have satisfactorily completed their most recent performance evaluation without negative ratings in any area,*
2. *The employee must have made a significant contribution to a university initiative, managed a special project or initiative within their department and/or demonstrated exceptional performance beyond their tenure during their probationary period, and*
3. *The employee must not have received any disciplinary action during the last twelve months, excluding oral and written reprimands.*

Administrative Leave with Pay Conditions

Administrative leave with pay is a reward and not an entitlement. Administrative leave is tracked and monitored by the controller’s office. The Department of Human Resources maintains procedures to implement administrative leave.

An employee shall not receive payment for administrative leave balances when their employment is terminated. Administrative leave balances cannot be transferred to other state agencies.

Additional Categories

Leaves available for both faculty and staff:

~~Individuals for whom a leave of absence has been approved are responsible for making an appointment with human resources to resolve all questions regarding employee benefits.~~

~~Individuals on leave due to a personal serious health condition or to care for a covered relation must contact their supervisor at least once each week, or as often as requested by the supervisor, regarding the status of the condition and the intention to return to work. The supervisor is responsible for reporting this information to human resources as the university is responsible for notifying employees of their rights under the Family and Medical Leave Act (FMLA).~~

~~Additionally, the individual is required to call human resources on the 1st and 3rd Monday of each month during their leave to report their leave and/or return to work status. Employees on leave due to a worker's compensation claim must contact their supervisor at least once each week, or as often as requested by their supervisor, regarding the status of the condition and the intention to return to work. Additionally, the individual is required to provide a work status report to the university environmental health, safety and risk management office from the treating physician after each appointment. The environmental health, safety and risk management office will provide a form to the physician upon request. The employee is responsible for insuring the information is provided as requested.~~

~~Employees, who are recovering from a worker's compensation injury, are concurrently on FMLA leave, and who have exhausted all accrued paid leave are in leave without pay status (LWOP). These employees must make a written request from the university president for a leave of absence (LOA) not to exceed a 12 month period from the beginning of their leave without pay status. Except as provided for in the following leave provisions, any extended leaves of absence without pay for a period of four and one half (4 1/2) months or more for faculty or exempt staff must be approved by the Board of Regents upon the recommendation of the president.~~

~~**Family Medical Leave** The Family and Medical Leave Act (FMLA) will, in many circumstances, entitle university employees with more than one year of service and who have worked at least 1,250 hours in the last year, to request up to twelve weeks of medical leave per year. (See the Family and Medical Leave policy 12.9 for more information.)~~

Parental Leave - Employees who do not qualify for family and medical leave are entitled to parental leave for the birth of a child or the adoption or foster care placement of a child under the age of three. Parental leave cannot exceed 12 weeks. Such parental leave may be taken only for the birth of a natural child or the adoption or foster care placement with the employee of a child under 3 years of age. The leave period begins with the date of birth or the adoption or foster care placement. (See the Family and Medical Leave policy 12.9 for more information.)

Foster Parent Leave - An employee, who is a foster parent to a child under the protection of the Department of Family and Protective Services (DFPS), is entitled to a leave of absence with full pay for the purpose of attending meetings held by the DFPS regarding the employee's foster child. In addition, the employee may attend, with a paid leave of absence, the admission, review, and dismissal (ARD) meetings held by a school district regarding the foster child.

Emergency Leave – *Employees may be granted emergency leave for the following reasons:*

1. Bereavement Leave: Employees will be granted *emergency leave* for bereavement leave without a loss in pay when a death occurs in their family. For the purposes ~~of emergency leave due to bereavement leave~~, family is defined as the employee's spouse, or the employee's

and spouse's parents, children, brothers, sisters, grandparents and grandchildren.

The amount of time granted for bereavement leave shall not exceed three days. A full three days is not automatically granted since it is intended that such leave be limited to the reasonable amount of time necessary for travel, funeral arrangements, and funeral services. If additional days are needed, ~~the~~^a faculty member will be required to use sick leave. Staff employees will be required to use vacation or compensatory time if additional days are needed. Employees who have exhausted all available leave accruals will be required to take leave without pay if extended leave is approved.

Requests for bereavement leave should be submitted to the department official who has the authority to approve leave. Requests for bereavement leave for family members, not mentioned above, or for leaves greater than three days are subject to the approval of the director of human resources, the divisional vice president, and the university president. Employees requesting bereavement leave may be required to provide documentary evidence of the relative's death to qualify for paid leave and attach it to the Bereavement Leave Request form.

- ~~2. Administrative Leave: Administrative leave will be granted in only the rarest of circumstances. While employees hold no entitlement to additional leave, they may be granted paid emergency/administrative leave when it is determined that there is good cause for such leave. Such leaves will not normally exceed three workdays per fiscal year. For the purposes of this leave, an emergency is defined as an unforeseen event or combination of circumstances calling for immediate action which if not responded to immediately would present imminent danger to human life or substantial damage to property. Except for extraordinary circumstances, employees accruing sick leave would not be eligible for emergency/administrative leave for their own, or a family member's medical illness.~~

~~Administrative leave may be requested by an employee and approved by the department head for the employee to attend the funeral of a co-worker or other university employee with whom they regularly worked. Department heads, however, must ensure minimum staff levels are maintained in the department.~~

2. Inclement weather conditions: *The university president may grant* ~~will not constitute just cause for an~~ emergency leave ~~unless approved by the president in response to inclement weather conditions for~~ for the institution as a whole.
3. *Just Cause: The university president may grant emergency leave for other reasons determined to be for a good cause in good faith that the employee being granted the emergency leave intends to return to their position on expiration of the period of emergency leave.*

~~Requests for emergency/administrative leave will not be approved unless authorized by the employee's immediate supervisor and department head, the director of human resources, the divisional vice president, and the university president. All requests for emergency/administrative leave should be routed to the employee's supervisor on the Administrative Leave Request form.~~

4. *Leave during an Investigation: The university president may grant emergency leave to an employee who is the subject of an investigation being conducted by SFA or a victim of, or witness to, an act or event that is the subject of an investigation being conducted by SFA.*

Emergency Leave Reporting Requirements

1. *The university is required to report to the state controller's office no later than October 1 of each year, the name and position of each employee granted more than 32 hours of emergency leave during the previous fiscal year along with the reason the leave was granted.*
2. *The university is required to report to the state auditor's office and Legislative Budget Board the name of each employee given 168 hours or more of emergency leave due to a SFA investigation during each fiscal quarter.*

Educational Activities Leave - An employee may use up to 8 hours of sick leave each fiscal year to attend educational activities for the employee's children who are in pre-kindergarten through 12th grade. Educational activities are school-sponsored activities, including parent-teacher conferences, tutoring, volunteer programs, field trips, classroom programs, school committee meetings, academic competitions, and athletic, music, or theater programs. Employees must give reasonable notice of intention to use sick leave to attend such activities.

Jury Duty - No deduction shall be made from the salary or wages of any employee who is called for jury service. *Time allocated to jury duty includes time spent in the jury selection process and serving on a jury during a trial and the sentencing phase of the trial. If an employee is dismissed from jury duty prior to the end of the work day, the employee must return to work or request other appropriate leave for the remaining hours in the workday. Time spent traveling to jury duty location and the workplace shall be considered jury duty.*

Military Leave – Employees are eligible for 15 workdays in each federal fiscal year (October 1 through September 30) without loss of pay or benefits to accommodate authorized training or duty for the state's military forces, a reserve branch of the U.S. Armed Forces, or a state or federally authorized urban search and rescue team. The 15 days of paid leave do not have to be consecutive. If the employee does not use the 15 days of military leave in a federal fiscal year, the employee is entitled to carry the balance forward to the next federal fiscal year, not to exceed 45 workdays.

The university will adjust the work schedule of a member of the Texas National Guard or United States Armed Forces Reserve so that two of the employee's days off each month coincide with two days of military duty. An employee called to active duty during an emergency to serve in reserve component of the Armed Forces under Title 10 or Title 32 of the U.S. Code is entitled to an unpaid leave of absence. The employee may choose, but is not required, to use all or some portion of another form of paid leave before they choose to go on leave without pay while on military leave.

An employee called to state active duty as a member of the state military forces by the governor because of an emergency is entitled to receive emergency leave without loss of military leave or vacation leave. This leave will be provided without a deduction in salary. This time is not limited and does not count against the 15 days maximum military leave per federal fiscal year.

An employee called to federal active duty for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays without loss of military leave or vacation leave per calendar year.

A member of the state military forces who is ordered to active state duty by the governor or by other proper authority under the law of this state is entitled to the same benefits and protections provided:

- To persons performing service in the uniformed services in accordance with Title 38 U.S.C. Sections 4301- 4313 and 4316-4319, as that law existed on April 1, 2003; and
- To persons in the military service of the United States in accordance with Title 50 App. U.S.C. Sections 501-536, 560, and 580-594, as that law existed on April 1, 2003.

Military Paid Leave and State Service - Employees called to active duty during national emergency to serve in a reserve component of the U.S. Armed Forces under Title 10 or 32 of the U.S. Code are entitled to state service for longevity purposes, vacation leave accruals, and sick leave accruals while on an unpaid leave of absence. This leave will be accrued but not posted until the employee returns to state employment. In addition, the employee retains their leave balances unless the employee chooses to use any accrued leave (vacation or compensatory time) to maintain benefits for the employee or the employee's dependents while on military duty. Additionally, the employee may continue to accrue service credit with ERS by receiving at least one hour of state pay during each month of active military service. The employee may use any combination of paid leave to qualify for state pay.

Military Differential Pay: The university shall grant sufficient emergency leave to provide a pay differential if the employee's military gross pay is less than the employee's state gross pay. The combination of gross military pay and emergency leave may not exceed the employee's actual state gross pay. Pay received while assigned to a combat zone, hardship duty pay, and family separation pay is excluded when computing military differential pay. The employee should be notified of the university's intent to use emergency leave to supplement their military pay to raise

it to a rate comparable to the state pay received prior to activation. Only state employees called to active duty in support of a national emergency or Homeland Security mission (under U.S.C. Title 10 or 32) and who's military pay is less than their gross state pay are eligible for differential pay. Service members involved in routine military training or who are attending military schools are not entitled to this differential pay. If emergency leave is granted to employees activated for military duty, those employees will accrue sick leave and vacation leave, as appropriate, each month they receive pay from the university. The sick and vacation hours will be accrued but not posted until the employee returns to full employment with the university. To determine eligibility, the employee must provide a copy of their Military Leave and Earnings Statement each month that emergency leave is going to be granted to look at the total entitlement of military pay received by the service member. The service member's pay may change during the period of active duty because of a promotion or change in entitlements; any increase in pay may reduce or cease the need for state military differential pay.

Military Restoration of Employment: To be eligible for restoration of employment at the conclusion of military service, the employee must be honorably discharged no later than five years after induction, enlistment, or call to duty and must be physically and mentally qualified to perform the duties of the job. If an employee is unable to perform the duties of the previous job due to a service-related disability, the veteran is entitled to be restored to a position that he or she can perform with similar or the -nearest possible seniority, status, and pay. Veterans whose employment has been restored may not be dismissed without cause within a year of their reinstatement. Eligible veterans must apply for reinstatement within 90 days after discharge or release from service. The application must be made in writing to the president of the university and must include evidence of discharge under honorable conditions. An individual reemployed is considered to have been on furlough or leave of absence during the time that they were in military service. As such, the employee may participate in retirement or other benefits to which a state employee is or may be entitled.

Medical and Mental Health Care Leave for Veterans: Veterans receiving health benefits under a program administered by the Veterans Health Administration of the United States are eligible for leave to obtain medical or mental health care administered by Veterans Health Administration of the United States Department of Veterans Affairs, including physical rehabilitation. Leave may not exceed 15 days each fiscal year unless the president grants additional leave.

Certified Red Cross Activities Leave - Employees who are certified disaster service volunteers of the American Red Cross or are in training to become such a volunteer may be granted a paid leave of absence not to exceed 10 days each fiscal year. The employee must have the approval of his or her supervisor and a formal request from the Red Cross. In addition, the approval of the governor's office is required. An employee on such leave will not lose pay, vacation time, sick leave, -earned overtime, and/or compensatory time during this leave. The pool of certified disaster volunteers must not exceed 350 participants at any one time.

Amateur Radio Operator Leave – An employee with an amateur radio station license issued by the Federal Communications Commission will be granted a paid leave of absence not to exceed 10 working days each fiscal year to participate in specialized disaster relief services. An employee on such leave will not lose pay, vacation time, sick leave, overtime leave, or compensatory time. The amateur radio operator leave must be authorized by the employee's supervisor and must have the approval of the governor. The number of amateur radio operators eligible for this leave may not exceed 350 state employees at any one time.

Volunteer Firefighters/Emergency Medical Services Training Leave - Volunteer firefighters and emergency medical services volunteers will be granted a paid leave of absence not to exceed five working days each fiscal year for attending training schools conducted by state agencies.

Legislative Leave for Peace Officers or Firefighters: - *A peace officer is entitled to legislative leave to serve in, appear before, or petition a governmental body during a regular or legislative session.*

To be eligible for legislative leave, a peace officer or firefighter must submit a written application to his or her employer on or before the 30th day before the employee intends to begin the legislative leave. The application must state the length of requested leave and that the peace officer or firefighter is willing to reimburse the employer for any wages, pension, or other costs the employer will incur as a result of the leave. The length of the requested leave may not exceed the length of the session.

Legislative leave is not considered a break in service and is treated as any other paid leave.

Assistance Dog Training - An employee with a disability as defined by Texas Human Resources Code, Section 121.002 shall be granted a paid leave up to 10 working days in a fiscal year for the purpose of attending a training program to acquaint the employee with an assistance dog to be utilized by the employee. This leave is in addition to other leave entitlements.

Organ or Bone Marrow Donors - An employee is entitled to a leave of absence without a deduction in salary for the time necessary to permit the employee to ~~serve~~ *serve* as a bone marrow or organ donor. The leave of absence may not exceed five working days in a fiscal year to serve as a bone marrow donor or 30 working days in a fiscal year to serve as an organ donor.

Donation of Blood - An employee shall be allowed sufficient time off, without a deduction in salary or accrued leave, to donate blood. An employee must obtain approval from his/her supervisor prior to taking off. On returning to work, an employee shall provide his/her supervisor with proof that the employee donated blood during the time off. An employee may receive time off not to exceed more than four times in a fiscal year.

Court Appointed Special Advocate Leave – *An employee who is a Court Appointed Special Advocate (CASA) volunteer is entitled to leave not to exceed five hours each month. Leave is to be*

*used to participate in mandatory CASA training or to perform CASA voluntary services.
Employees will not be required to use accrued vacation and sick leave or earned overtime.*

Compliance with a Subpoena – An employee may not be discharged, disciplined, or penalized for complying with a subpoena to appear in a civil, criminal, legislative, or administrative proceeding. It will be up to the university’s discretion in instances of unofficial testimony to decide whether such an absence is considered good cause. ~~for emergency leave.~~

Time Off to Vote – Employees will be allowed sufficient time off, without a deduction in pay or accrued leave, to vote in each national, state, or local election if there is not sufficient time to vote outside regular working hours.

~~All requests for leave without pay must be submitted to human resources on the Leave without Pay form.~~

Cross Reference: ~~Family and Medical Leave Act, 5 U.S.C. §§ 6381-6387; Tex. Hum. Res. Code § 121.002; Tex. Gov. Code §§ 613.002-.005, 614.003-.004, .008, 658.008; 659.005; 661.206, .251-.252, 901(c)-.907, .909-911, .913-.914, .916-924~~658.008, 661.903-.904; *Tex. Lab. Code* § 52.051

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Human Resources

Forms: Bereavement Leave Request form; Administrative Leave Request form; Leave without Pay form

Board Committee Assignment: Academic and Student Affairs