

# IN COMPLIANCE WITH TEXAS GOVERNMENT CODE CHAPTER 661.252(C)

## LEAVE POLICIES FOR THE TEXAS STATE SOIL & WATER CONSERVATION BOARD

### A. LEAVE BENEFITS

Employees will submit all leave in 30 minute increments.

#### 1. Request for Approval of Leave or Overtime

Use Compensatory Credit Request Form:

- When holiday leave is earned
- When employees exempt from FLSA earn state compensatory leave

Use Overtime Credit Request Form:

- When non-exempt employees earn overtime

Use Leave Request Form

- When any employee wishes to take leave

The original copy of the form is approved by the supervisor, and in some cases by the Executive Director if leave is considered "Other Leave". The form is then forwarded to Human Resources Office to be posted and filed. A copy is sent to the employee.

Exception: For employees in the Regional offices or field staff, leave should be requested by phone and signed by the employee, and mailed to the Administrative Coordinator and forwarded to Human Resources. After the leave has been posted, their leave report is mailed to the employee and the original forms are filed.

NOTE: An employee who is on leave on the first day of the month is not eligible to use leave accrued for that month until the employee returns to duty.

Various leave provisions add to your employee benefits.

#### 2. Compensation Leave for Extra Time Worked

It is the responsibility of the employee to seek prior approval from their supervisor before working outside normal work hours.

Supervisors must ensure that employees work extra time only as needed to conduct essential agency business. Employees must not work extra time unless supervisors request or approve such work.

If travel or work requires more than a normal 8 hour work day, the maximum comp time an employee may accrue is 8 comp time hours per month. Employees are requested to use their comp time within 30 days if possible. Comp time must be used within 12 months 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.

Example: Employee works 7:00am-5:00pm on a given day; employee must submit a comp request form for 1 hour credit. To use the 1 hour credit, the employee must submit the comp leave request form. However, with prior supervisor approval, an employee's schedule may be flexed for that same day to adhere to an 8 hour workday such as working 7:00am-4:00pm, eliminating the paperwork.

If travel will exceed an 8 hour work day, the employee should request prior approval from their supervisor, and request an overnight stay at a State contracted hotel if available for employee safety.

If travel or work is required on the weekend, prior approval from their supervisor is required. Employee will receive comp time on an hour for hour basis.

### 3. Annual Leave

After six months of uninterrupted employment with the TSSWCB or with another state agency and the TSSWCB, employees are entitled to take paid vacation. Employees accrue vacation entitlement from their first day of employment through their last day of work. Part-time and hourly employees accrue time at a rate in proportion to that of regular full-time employees.

The following table is based on full-time employment and shows rates of vacation accrual based on length of service. It also shows the maximum number of hours employees may carry from one fiscal year to the next as set in the Appropriations Bill. (The state's fiscal year begins September 1 and ends August 31.) The table shows new vacation accruals and allowable carryover.

SCHEDULE OF ANNUAL LEAVE ACCRUALS FOR FULL-TIME EMPLOYEES			
Length of Service	Hours Accrued per Month	Days Accrued per Year	Allowable Carryover (Hours)
Less than 2 years	8	12.0	180
At least 2 but less than 5 years	9	13.5	244
At least 5 but less than 10 years	10	15.0	268
At least 10 but less than 15 years	11	16.5	292
At least 15 but less than 20 years	13	19.5	340
At least 20 but less than 25 years	15	22.5	388
At least 25 but less than 30 years	17	25.5	436
At least 30 but less than 35 years	19	28.5	484
At least 35 years	21	31.5	532

All annual leave hours in excess of the maximum allowable carryover left at the end of a fiscal year shall be credited to the employee's sick leave balance. In computing annual leave taken by an employee, absences due to holidays are not charged. The amount of annual leave accrued by an employee is based on his or her employment status on the first day of the month. Credit for the higher

rate of accrual will be given on the first calendar day of the month only if the employee's anniversary falls on that day. Otherwise, the increase in annual leave accrual will be given on the first calendar day of the following month. Employees begin to accrue annual leave from their first day of employment. Accrual on annual leave end on an employee's last day of duty, which is an employee's last physical day on the job. Credit for annual leave is given for each month or fraction of a month of state employment.

Before taking annual leave, employees must complete a leave request and obtain approval from their immediate supervisor. Taking leave prior to approval is considered to be an unauthorized absence. However, if it becomes necessary for an employee to take annual leave on such short notice, approval may be obtained by telephone from your supervisor or other appropriate management representative. A request must be submitted even though prior approval has been granted by telephone.

Employees must carefully plan their vacation schedule with their supervisor to ensure the continued effectiveness of the office; therefore, individual plans may need to be changed to suit agency and departmental needs. If an employee has been employed with the state for six months or longer and leaves state employment, they are entitled to all vacation time accrued. The employee may elect a lump sum payment for vacation credit. If approved by the Executive Director, the employee may remain on the payroll for the duration of time accrued. Approval of either option is based on convenience and effectiveness of the agency.

#### **4. Vacation Leave Accruals for Return-to-Work Retirees**

Vacation leave accruals for return-to-work retirees are based on retirement and rehire dates. An employee returning to state employment who retired from state employment on or after June 1, 2005, and who receives a state retirement annuity, accrues vacation leave based only on the employee's length of service earned after the employee's retirement date. Otherwise, the return-to-work retiree accrues vacation leave based on total state service.

#### **5. Holidays**

Holidays observed by the TSSWCB are specified by the Legislature. All state employees, including part-time and hourly workers, are entitled to these holidays.

Non-national holidays require that our offices be staffed with a skeleton crew. The Executive Director may require the office to be staffed at any level deemed necessary on any holiday. If you are required to work on a holiday or if you get approval in advance from your supervisor or the Executive Director to work on a holiday, you will receive compensatory time. A Compensatory Leave Request form must be completed with the number of hours worked and approved in order to receive proper credit. You may obtain these from your supervisor or from Human Resources.

An employee is entitled to take off one of the optional holidays (Rosh Hashanah, Yom Kippur, or Good Friday) if he/she agrees to relinquish a state holiday (skeleton crew day) during that same year. If the employee fails to work a skeleton crew day in the year following the optional holiday off, either his/her pay

will be docked for the amount owed the state, or a day of annual leave will be charged instead. Employees should contact their supervisor for approval and scheduling.

Holidays falling on Saturdays or Sundays are not observed unless the Legislature has specifically designated the preceding Friday or following Monday as a holiday.

The following holidays are currently specified (\*Open Office Holidays):

- Labor Day.....1st Monday in September
- Veterans' Day.....November 11
- Thanksgiving Day.....4th Thursday in November (and the Friday following)
- Christmas Day.....December 25 (and the 24th and 26th)
- New Year's Day.....January 1
- Martin Luther King, Jr. Day.....2nd Monday of January
- \*Confederate Heroes' Day.....January 19
- Washington's Birthday.....3rd Monday in February
- \*Texas Independence Day.....March 2
- \*San Jacinto Day.....April 21
- Memorial Day.....Last Monday in May
- \*Emancipation Day.....June 19
- Independence Day.....July 4
- \*LBJ's Birthday.....August 27

## 6. Sick Leave

Another benefit, sick leave with pay, protects an employee's income when they are absent from work because of illness or injury. It may not be used for any other kind of absence (except for certain family members' illnesses).

Employees accumulate eight hours of sick leave credit each month, beginning with their first day of employment. As with vacation time, part-time employees accumulate sick leave in proportion to the number of hours worked. There is **no limit** to the amount of sick leave an employee may accrue or carry forward from one fiscal year to the next.

Sick leave with pay may be taken whenever illness, injury, pregnancy, adoption of an infant, confinement or illness of the employee or of a member of the employee's immediate family prevents the employee's performance of duty.

Immediate family, for sick leave purposes, is defined as individuals related to the employee by kinship, adoption or marriage that are living in the same household. It also includes individuals not living in the same household, but who are totally dependent upon the employee for personal care and services on a continuing basis.

Appointments with medical or dental doctors are considered legitimate claims against sick leave.

If an employee becomes ill and must miss work, they should notify their supervisor at the earliest practical time. A leave slip must be submitted by each employee immediately upon returning to duty after any absence because of sickness. For absences of more than three consecutive working days a written statement from the attending physician should be obtained. If no physician is contacted during the three consecutive working days a detail explanation should be provided.

If an employee becomes ill while on annual leave and can document the illness, they may charge the time they were actually ill to sick leave rather than annual leave.

In cases of extenuating circumstances, exceptions to the amount of sick leave taken may be approved on an individual basis upon review by the Executive Director.

## **7. Extended Sick Leave**

Extended sick leave may be granted for an employee who has depleted all accrued leave and requests to remain on paid sick leave because of a serious, extended illness or an accident. Approval may be granted only at the discretion of the Executive Director. (This policy does not apply to injuries sustained on the job as these are covered by Worker's Compensation.)

## **8. Sick Leave Pool**

Agency employees may voluntarily contribute one or more days of accrued Sick Leave to a pool for wider use any time during the fiscal year. There is no limit to the amount of sick leave time that eligible employees may donate. Requests to use sick leave hours from the pool are completed and forwarded through the appropriate supervisory channels to the Pool Administrator. Requests will be considered and either approved or not approved by the Executive Director, on a first-come, first serve basis. The pool is to be used only in the case of catastrophic illness affecting the employee or his/her immediate family and may only be requested when all other leave is exhausted.

## **9. Donations of Sick Leave to Another Employee**

An employee may donate any amount of the employee's accrued sick leave to another employee who:

- is employed in the same state agency as the donor employee; and
- has no current balance of sick leave, extended sick leave or leave from the sick leave pool.  
**Note:** To be eligible to receive donated sick leave, the recipient employee does not have to apply for or be awarded extended sick leave or leave from the sick leave pool.
- Employees can donate sick leave to more than one recipient.
- Donations of sick leave are strictly voluntary.
- Any attempt to coerce an employee to donate sick leave is prohibited.

- Employees must not provide or receive any compensation, gift, or other benefit in exchange for a sick leave donation.
- Management may not solicit sick leave donations on behalf of staff or disclose an employee's confidential health information.
- Employees lose ownership of and access to sick leave hours they choose to donate. This means an employee may no longer utilize the sick leave or have decision making authority over that leave.
- Employees may not request that donated sick leave be restored by TSSWCB.
- Donated sick leave is no longer available for use toward retirement service credit.
- Employees who wish to donate sick leave to another employee must complete a Request to Donate Sick Leave to Another Employee Form. Form must be submitted to HR.
- Requests to donate sick leave must be reviewed and approved by HR.

## **10. Using Donated Sick Leave**

- The recipient employee must complete a Request to Receive Donate Sick Leave Form which includes certification of eligibility to receive donated sick leave. Form must be submitted to HR.
- Donated sick leave will be treated and utilized as sick leave for all purposes.
- If the donated sick leave is unused when the employee returns to work from absence, the employee will retain any balance remaining and can use donated sick after exhausting their accrued sick leave.
- Employees using donated sick leave hours intermittently must exhaust accrued sick leave before using donated sick leave hours.
- Employees cannot re-designate donated sick leave hours to another employee.
- Employee cannot use donated sick leave hours for service credit towards retirement.

Donated sick leave hours cannot be reinstated upon reemployment.

**Note:** Donated sick leave can have tax consequences for both parties.

## **11. Sick Leave for Education Activities**

An employee may use up to eight hours of sick leave each fiscal year to attend educational activities of the employee's children who are in pre-kindergarten through 12th grade. The employee must give reasonable notice of his or her intention to use this leave. 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.

## **12. Administrative Leave for Outstanding Performance**

Administrative leave with pay may be granted by the executive director of the agency as a reward for outstanding performance. This performance will be documented by the agency. The total amount of leave granted may not exceed 32 hours during a fiscal year.

## **13. Other Leave**

### **a. Emergency Leave**

Leave because of bereavement will be granted to an employee when there is a death in the employee's family. For the purposes of emergency leave, your family is defined as your spouse, or your or your spouse's parents, children, brothers, sisters, grandparents, and grandchildren.

The length of time allowable depends on the needs of each situation, but normally amount to three days. This time is only to cover the immediate emergency needs of the situation, not long term resolution of any related problem.

A leave request must be made in writing and approved by the immediate supervisor and the Executive Director. The Executive Director must approve any exceptions to this policy. Requests under emergency conditions may be made and approved orally or via telephone, but must be submitted in writing upon returning to work.

The Executive Director may approve or disapprove other reasons for emergency leave on an individual basis after review of the particular case. A regional or statewide public health emergency may be a basis for emergency leave.

### **b. Voting**

Employees are entitled time off without loss of salary, vacation time or sick leave for the purpose of going to and voting at a polling place in all local, state and national elections.

### **c. Military Leave**

Both state and federal law provide employment and re-employment rights to individuals who are called to military service. These laws provide income and job protection, as well as a means for employees to secure time off when called to military service.

### **d. The Uniformed Services Employment and Reemployment Rights Act (USERRA)**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is the federal law intended to ensure that persons are not disadvantaged in their civilian careers because of their current or past service in the U.S. Armed Forces, the U.S.

Armed Forces' Reserves (Reserves), the National Guard, or other uniformed services. USERRA prohibits an employer from denying initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of an individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

TSSWCB that has qualifying service members must provide the service members the following: Prompt job reinstatement, accumulation of seniority, including pension plan benefits, reinstatement of health insurance, training/retraining of job skills, including accommodations for the disabled and protection against discrimination.

In addition, USERRA provides protection for disabled veterans, requiring employers to make reasonable efforts to accommodate the disability.

#### **e. Leave for Organ or Bone Marrow Donation**

A state employee is entitled to leave of absence without a deduction in salary for the time necessary to permit the employee to 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.
- 30 working days in a fiscal year to serve as an organ donor.

#### **f. Donation of Blood**

Each employee will be allowed sufficient time off, without a deduction in salary or accrued leave, to donate blood. An employee may not receive time off unless the employee obtains approval from his or her supervisor before taking time off. On returning to work after taking time off, an employee shall provide his or her supervisor with proof that the employee donated blood during the time off. If an employee fails to provide proof that the employee donated blood during the time off, the agency shall deduct the period for which the employee was granted time off from the employee's salary or accrued leave, whichever the employee chooses. An employee may receive time off not more than four times in a fiscal year.

#### **g. Voluntary Firefighters/Emergency Medical Services Training Leave**

Voluntary 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.

#### **h. 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 are entitled to a leave of absence not to exceed ten 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.

#### **i. Leave for Employees with a Disability**

An employee with a disability as defined by Human Resources Code, Sect. 121.002, will be granted paid leave of absence not to exceed 10 days each fiscal year to attend training necessary to provide the employee with an assistance dog.

#### **j. Jury Duty and Court Appearances**

If an employee is called for jury duty, the time they miss from work is not charged against their accumulated leave. Any compensation or reimbursement of expenses they receive for jury duty will not affect their salary. A statement from the court is required before they may be credited with jury leave.

If, because of their position with the State Board, they are called to appear as a witness in a trial, the time they miss from work is not charged against their accumulated leave; however, fee acceptance is conditional and is regulated by the Appropriations bill. Employees should consult their supervisor, as some state employees may accept fees and some may not.

NOTE: If an employee is subpoenaed to appear in court in connection with their job, they should notify their supervisor immediately.

If an employee is subpoenaed to appear in court and it's not in connection with their job, but their responsibility as a law-abiding citizen, the time they miss from work is not charged against their accumulated leave. A copy of the subpoena is required to be attached to their leave request form. Their supervisor and the Executive Director must approve this type of situation.

If testifying in a non-official capacity (i.e., testifying in a personal matter), the employee must use available leave balances under applicable policies. If subpoenaed in a private matter by a third party, an employee may request and be granted Emergency Leave, at the discretion of the Executive Director. The subpoenaed must be presented to the Executive Director and the appearance must be of short duration.

#### **k. Leave of Absence Without Pay**

State agencies may grant a leave of absence (leave without pay, or LWOP) subject to the following provisions:

- The leave is unpaid.
- The leave may not exceed 12 months.
- Except in instances of disciplinary suspension, workers' compensation, or military situations:
- Annual leave must be exhausted.
- Sick leave, if appropriate, must be exhausted.
- Subject to fiscal constraints, approval of LWOP constitutes a guarantee of employment for a specified period of time.
- The administrative head of an agency or institution of higher education may allow for exceptions to these limitations.

- Any full calendar month of LWOP does not constitute a break in employment but also does not count for purposes of state service credit with the exception of an employee returning from military leave without pay. This time is also not included in the calculation of the number of continuous months of employment for purposes of merit increases and leave. An employee who is on LWOP will have his or her compensation reduced for the pay period at the hourly rate of pay times the number of hours on LWOP. Please refer to the statutes cited in this section for specific guidelines concerning salary reductions for employees who are exempt from the Fair Labor Standards Act (FLSA).

*\* It should be noted here that time taken as leave without pay does not count toward accrual of state service.*

## **I. Parental Leave**

Parental leave is intended only for use by those state employees who, at the time the leave is taken have less than 12 months of state service, or less than 1250 hours of work in the preceding 12 months.

This benefit is intended to assist the employee when childbirth, adoption or foster care placement of a child under the age of three. The employee may, with the approval of the Executive Director, take up to 12 weeks of extended leave time for the purpose of caring or assisting the spouse in caring for a newborn. This leave time may be taken as unpaid leave, or may be taken as paid leave, using whatever annual or sick leave that the employee has available, or in any combination of the two.

## **m. Family Medical Leave Act (FMLA)**

In accordance with the federal Family and Medical Leave Act, eligible employees are entitled to up to 12 weeks (480 hours) of unpaid leave in a rolling 12-month period for certain qualifying events. The FMLA designation ensures that non-key employees are entitled to return to the same job or an equivalent position with equivalent pay, benefits and other employment terms and conditions.

The agency will determine whether an event qualifies as Family and Medical Leave Act (FMLA) leave and will notify the employee of the designation. In order to be paid while on FMLA designated leave, employees are required to use all applicable accrued leave balances excluding Fair Labor Standards Act (FLSA) compensatory time (overtime).

An employee who is eligible for FMLA leave will be granted up to 12 workweeks of leave during a rolling 12-month period, measured forward from the first day of FMLA leave, for:

- birth and subsequent care of a newborn child;
- placement of a child for adoption or foster care;
- need to care for an immediate family member with a serious health condition;
- serious health condition that renders the employee unable to work; or
- a “qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty

status, in support of a contingency operation. A qualifying exigency is activities such as helping to arrange for or temporarily provide childcare, assisting with a family business, or completing the sale of personal property.

In addition, an employee who is eligible for FMLA leave and who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This military caregiver leave is available during a single 12 month period during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Leave for birth or adoption (including foster care placement) must conclude within 12 months of the birth or placement.

Sick leave may be used in conjunction with FMLA leave when a child under the age of three is adopted, regardless of whether the child is ill at the time of adoption. However, an employee on FMLA leave who if the father of a child may use his sick leave only if the child is ill due to childbirth or to care for his spouse while she is recovering from labor and delivery.

Employees may take FMLA leave intermittently (in blocks of time or by reducing their normal work schedule) if required by a physician for a serious illness or to care for a newborn child, during adoption, or during foster care. The intermittent use of FMLA leave must be approved by the Executive Director if the purpose is to care for a newborn or adopted child or a child placed in foster care.

Under the FMLA, a husband and wife who both work for the TSSWCB will be eligible for a combined total of 12 weeks of leave for the following:

- the birth of a child or to care for the child after birth;
- the placement of a child for adoption or foster care or to care for the child after placement; or
- the care of a parent with a serious health condition.

The state shall maintain group insurance coverage for the employee while on FMLA leave. The employee is still responsible for paying the employee's portion of health insurance premiums and any other optional benefit coverage. Appropriate arrangements must be made with Human Resources for the employee to pay the employee's share of health insurance premiums and any other optional benefits coverage while on leave. If the employee fails to return to work after the FMLA leave expires, under certain circumstances the employee may be required to reimburse the State of Texas for the state-paid portion of the health insurance premiums.

State employees must exhaust all applicable paid leave when taking leave under the FMLA. Applicable paid leave includes all annual leave, sick leave, state compensatory time, holiday time, administrative leave, extended sick leave, and sick leave pool if eligible. FLSA compensatory time

(overtime) is not a form of accrued paid leave that an employee may use concurrently with FMLA leave. Employees may elect to use FLSA compensatory time (overtime) while out on FMLA leave; however, that time may not be counted against the employee's FMLA leave entitlement.

An employee who is receiving temporary disability benefits or workers' compensation income benefits is not required to use annual or sick leave but may elect to do so.

If a holiday falls within a week in which an employee is on continuous FMLA leave, the holiday will be counted toward the FMLA leave entitlement. Holidays are not counted toward the FMLA leave entitlement where the employee uses FMLA leave intermittently or on a reduced work schedule and is absent on a holiday.

#### Job restoration and the FMLA

- When a non-key employee returns from FMLA leave, the employee must be restored to his or her original position, or to an equivalent position with the equivalent pay, benefits, and other employment terms and conditions.
- An employee's use of FMLA leave cannot result in a loss of any employment benefit that the employee earned or was entitled to before using FMLA leave.
- In cases of medical leave taken for the employee's own serious health condition, the employee must obtain a Return to Work Certification from the health care provider stating that he or she is able to resume work. The employee should provide the Return to Work Certification to Human Resources upon returning from leave. An employee will not be permitted to return to work until a satisfactory Return to Work Certificate release from the attending health care provider is submitted to Human Resources.
- When FMLA leave is for care of a family member, the employee must notify Human Resources of the employee's return from leave.
- An employee should provide reasonable notice (i.e., two working days) if returning from leave earlier than originally scheduled.

An employee considered by the TSSWCB to be a "key employee" will be formally notified in writing at the time of request for leave that he or she qualifies as a key employee and reinstatement may not be in a position of equivalent pay, benefits, and other terms and conditions of employment. Key employees are those employees who are among the highest paid 10 percent of all those employed by the TSSWCB.

Extensions beyond the FMLA's 12 week entitlement must be approved in writing by the Executive Director.

Employees requesting to use FMLA leave are required to provide the following:

- 30 days' notice in advance of the need to take FMLA leave, if possible;

- medical certification supporting the need for the leave due to a serious health condition affecting the employee or an immediate family member; or documentation of the event for adoption and foster care placement of a child;
- any additional medical opinions or periodic recertification at the TSSWCB's discretion; and
- periodic reports during the FMLA leave regarding the employee's status and their intent to return to work.

**Note:** *The failure of an employee to return to work from FMLA leave will be considered a voluntary resignation. When an employee advises in writing that he or she does not intend to return to work, the employee's employment may be terminated on approval of the Executive Director. The employee's entitlement to reinstatement, continued leave, and health benefits will cease when their separation is effective.*

When an employee needs FMLA leave to care for an immediate family member or the employee's own illness for a pre-planned medical treatment, the employee must schedule the treatment so that it will not unduly affect TSSWCB operations.

When an employee's leave is foreseeable and he or she fails to provide timely certification within 15 calendar days of being requested to furnish such certification, he or she may be denied the leave until the required certification is provided.

If the need for leave is unforeseeable, the employee must provide certification within 15 calendar days of receiving the TSSWCB request to provide such certification or as soon as practicable based on the situation.

#### **n. FMLA Eligibility**

Employees who have been employed by the State of Texas for at least 12 months, and have worked at least 1,250 hours (based on FLSA hours-worked principles) during the preceding 12-month period, are eligible for FMLA leave.

#### **o. FMLA Definitions**

*Serious Health Condition* means an illness, injury, impairment, or physical or mental condition that involves the following:

- any period of incapacity or treatment connected with inpatient care (overnight stay) in a hospital, hospice, or residential medical care facility; or
- continuing treatment by a health care provider that involves any one or more of the following:
  - any period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves:
  - treatment two or more times by a health care provider; or

- treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment;
- any period of incapacity due to a chronic or long-term health condition;
- any period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective;
- any period of incapacity to receive multiple treatments (including any period of recovery there from) either for restorative surgery or for a condition that, if not treated, would likely result in a period of incapacity of more than three calendar days; or
- any period of incapacity due to pregnancy or prenatal care.

*Healthcare Provider* is a licensed practitioner who is practicing within the scope of a license.

*Immediate Family Member* is defined as follows:

- Spouse is a husband or wife as recognized under State Law for purposes of marriage, including common law marriage. Unmarried domestic partners are not intended to qualify for FMLA leave to care for each other.
- Son or Daughter includes a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* (in the place of the parent). The child must be under 18 years of age, or 18 years of age or older and incapable of self care because of mental or physical disability (as defined by the Americans With Disabilities Act).
- Parent is the employee's own parents or an individual who stood *in loco parentis* (in place of the parents) when the employee was a child. Stepparents are considered an employee's parents under this definition. This term does not include parents "in law".

**p. Exceptions**

FLSA compensatory time (overtime) is not considered paid leave for the purposes of FMLA leave.

**q. Forms**

All leave request forms and any documentation supporting leave request must be submitted to Human Resources in a timely manner as described within this section.

**r. Transfer of Leave Time**

If an employee transfers from one state agency to another they are entitled to transfer credit for accumulated sick and annual leave to the new state agency, as long as state employment is continuous. Even if their employment has not been continuous, their rate of leave accrual (See Annual Leave), which depends upon length of state employment, is transferable.

To transfer either the amount of accrued leave or the rate of leave accrual, they should ask each state agency with which they have been employed to send a statement of their length of employment with the appropriate information to the Human Resources Department.

An employee who was terminated through a reduction in force may have his or her earned sick leave entitlement reinstated upon returning to state service within six months of termination.

#### **14. Wellness Leave**

With approval and at the discretion of the supervisor, employees will be allowed:

- Thirty minutes during normal working hours for exercise up to three times each week. Employees are not required to make up this time or use leave. Exercise time will be taken as the entire 30 minutes. Exercise time is not cumulative and may not be carried forward or saved. Scheduling must be done in a way to avoid interference with the normal work of the agency and the provision of services to the public.
- To attend on-site wellness seminars or events when offered.
- Eight hours of additional leave time each year to an employee who receives a physical examination and completes either an online health risk assessment tool or a similar health risk assessment.