

# SUL ROSS STATE UNIVERSITY

*A Member of the Texas State University System*

**SRSU Policy: Employee Leave**

**SRSU Policy ID: APM 5.04**

**Policy Reviewed by: Director of Human Resources**

**Approval Authority: VP for Finance and Operations**

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## A. LEAVES OF ABSENCE

All University permanent staff and administrative employees working at least twenty (20) hours per week, as well as faculty members on twelve month contracts, are entitled to certain leave privileges as prescribed by the Legislature and University policies and will be referred to as eligible employees in this section. Requests for leave approval are handled through the form, "Request and Authorization for Leave of Absence."

## B. ANNUAL LEAVE

Eligible employees are entitled to vacation leave without deduction in salary each fiscal year. Requests for leave shall be made at least 24 hours prior to the start of leave time requested.

The following schedule determines the amount of annual leave to which a full-time employee is entitled:

Years of Employment (State of Texas)	Vacation Earned Monthly	Maximum Carry Forward Each Year
Less than 2	8 hrs.	180 hrs.
2 but less than 5	9 hrs.	244 hrs.
5 but less than 10	10 hrs.	265 hrs.
10 but less than 15	11 hrs.	292 hrs.

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15 but less than 20	13 hrs.	340 hrs.
20 but less than 25	15 hrs.	388 hrs.
25 but less than 30	17 hrs.	432 hrs.
30 but less than 35	19 hrs.	484 hrs.
35 years or more	21 hrs.	532 hrs.

Part-time permanent employees who are entitled to vacation leave earn such leave in proportion to the amount of time employed; e.g., employment of 20 hours per week entitles the employee to one-half of the full-time vacation rate as shown above.

An employee will begin earning annual leave on the first day of employment with the State of Texas and terminating on the last day of duty. However, vacation with pay may not be granted until the employee has had six months' continuous employment although credit will be accrued during that time. Credit for one month accrual will be given for each month or fraction of a month of employment and will be posted to each employee's leave record on the first day of employment and on the first of each succeeding month thereafter. The net balance of unused accumulated leave not to exceed the maximum cited above may be carried forward for any employee from one fiscal year to the next. Excess vacation shall be credited to the employee's sick leave balance. In computing vacation time taken, time during which any employee is excused from work because of holidays shall not be charged against the employee's vacation.

Credit for the higher rate of accrual, as shown on the chart above, shall 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; otherwise, the increase will occur on the first calendar day of the following month. State employees who are employed by multiple state agencies or institutions of higher education may not accrue vacation leave at a rate that exceeds that of a full-time employee.

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An eligible employee who resigns, is dismissed or separated from employment shall be entitled to be paid for all accrued vacation time which has accrued at the time of separation provided the employee has had continuous employment with the State for six months and the individual has not been reemployed by a state agency which grants vacation time within a period of 30 days from the date of separation from the state employment. Accruals of vacation leave end on an employee's last day of duty, which is an employee's last physical day on the job. In the case of death of an employee who has accumulated vacation leave, the employee's estate will be paid for all accumulated vacation leave. An employee who transfers directly to the University from another State agency shall be given credit by the University for the unused balance of accumulated vacation leave, provided that such employment with the State is uninterrupted. Employees who have been previously employed by the State of Texas should provide Human Resources with appropriate documentation so that their vacation leave may be counted at the proper rate.

## **C. SICK LEAVE**

Eligible employees shall earn sick leave without deduction in salary at the rate of 8 hours for each month or fraction of a month employment. In addition to other eligible employees cited, all faculty members are eligible for sick leave. Sick leave accrual shall terminate on the last day of duty. Duty day means an employee's last physical day on the job. Unused accrued sick leave may be carried forward each month and from one fiscal year to the next. The use of sick leave privileges is subject to the following conditions:

1. Sick leave with pay 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 for and assist a member of his immediate family who is actually ill. For purposes relating to regular sick leave, immediate family is defined as those individuals who reside in the same household and are related by kinship, adoption or marriage, as well as foster children certified by the Texas Department of Protective and Regulatory Services. Minor children of the employee, whether or not living in the same household, will be considered immediate family for purposes of regular sick leave. 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's sick leave is strictly limited to the time necessary to provide care and assistance to a spouse, child or parent of the

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employee who needs such care and assistance as a direct result of a documented medical condition.

2. An employee who must be absent from work because of illness shall notify or shall cause that individual's immediate supervisor to be notified as soon as possible.
3. An employee who is absent from work due to personal or family illness for three days or less can certify such illness by filling out the "Request and Authorization for Leave of Absence" form. In the event an employee must be absent from work due to personal or family illness for more than three days, the employee will be required to submit to Human Resources a doctor's certificate showing the cause or nature of the illness of the employee or immediate family member.
4. Faculty members must submit a "Request and Authorization for Leave of Absence" form even though no classes were missed if the absence occurred during the normal work day for regular employees.
5. Part-time permanent employees who are otherwise entitled to sick leave earn such leave in proportion to the amount of time employed; e.g., employment of 20 hours per week entitles the employee to one-half of sick leave or 4 hours per month.
6. Upon returning to duty after being on sick leave, an employee shall immediately complete the "Request and Authorization for Leave of Absence" form.
7. An eligible employee who transfers directly to the University from another Texas state agency shall be given credit by the University for the unused balance of accumulated sick leave provided that such employment with the State has been uninterrupted.
8. A terminating employee may, with agreement of the University, be allowed to remain on the payroll to utilize vacation leave in lieu of being paid in a lump sum providing that such employee will not be eligible to use paid sick leave prior to final separation from employment.
9. One-half of an employee's accumulated sick leave, to a maximum of 336 hours, may be paid to an employee's estate if the employee dies while employed at the University.

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10. While out on vacation leave, an employee may instead use sick leave, provided the absence is due to an event eligible employee would otherwise be eligible for sick leave.

Abuse of sick leave privileges shall constitute grounds for dismissal from employment by the University.

Employees separated from state employment and re-employed by a state agency or institution of higher education may have their sick leave balances restored only if The employee is re-employed by the same state agency or institution of higher education within 12 months after the end of the month in which the employee separates from state employment,

Employees will not be paid for accrued but unused sick leave balance upon separation from state employment.

An employee who is restored to state employment following military service is entitled to have his or her sick leave balance restored.

## **D. CATASTROPHIC SICK LEAVE POOL**

### **1. Background**

A Sick Leave Pool for catastrophic injury or illness was created by the 71st Legislature of Texas. Regulations for management of the Sick Leave Pool were approved by the Board of Regents of the Texas State University System. The Director of Human Resources is designated as the Pool Administrator at Sul Ross State University.

### **2. Purpose**

The Sick Leave Pool is created to benefit certain employees who suffer a catastrophic injury or illness. A catastrophic injury or illness is defined by the Employees Retirement System of Texas 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 that employee and to lose compensation from the State for the employee.

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## 3. Definitions

Licensed practitioner means a practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license. Immediate family is defined as those individuals related by kinship, adoption, marriage or foster children who are so certified by the Texas Department of Human Services who are living in the same household or, if not in the same household, are totally dependent upon the employee for personal care or services on a continuing basis.

## 4. Administration of the Pool

The Board of Regents delegates to the President and the Chancellor the authority to select a Pool Administrator to be responsible for developing mechanisms to transfer accrued sick leave into and out of the pool, developing procedures for the operation of the pool, and designing forms for contributing leave to, or using leave from, the pool.

## 5. General Provisions

Employees of the System who are eligible to accrue and use sick leave may participate in the Sick Leave Pool. The President and the Chancellor are excluded from participating in the Sick Leave Pool by Senate Bill 357. Employees may use pool leave for their own catastrophic illness or injury or for one in their immediate family, as defined above. Employees may also use pool sick leave if they contributed sick leave to the pool and subsequently exhaust their sick leave balance. Such employees may receive only the number of hours they have contributed to the pool unless they suffer a catastrophic illness or injury. Employees must exhaust all earned leave with pay entitlement before they may use leave from the pool. Employees on pool sick leave for a full calendar month accrue paid leave for that month, provided they return to work following the leave. Employees with catastrophic illnesses or injuries are not required to contribute to the pool before they can use pool leave. Employees who use pool leave are not required to pay back pool leave.

## 6. Contributions to the Pool

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Contributions to the pool are strictly voluntary. To contribute time to the pool, an employee must submit a form prescribed by the Pool Administrator. Active employees may contribute no less than eight hours or more than 24 hours of sick leave to the pool each fiscal year, in eight hour increments. Employees may contribute to the pool their full sick leave balance at the time of their separation from employment. Employees who contribute leave to the pool cannot get it back unless they are eligible to use it in accordance with the general provisions.

## **7. Requests to Use Leave from the Pool**

Requests for pool leave will be in writing with such documentation deemed necessary by the Pool Administrator and forwarded to the Pool Administrator through appropriate supervisory channels. Requests will be considered by the Pool Administrator on a first-come, first-served basis. The Pool Administrator will have ten working days from the date he/she receives a request in which to approve all or part of the request, or deny the request. The amount of pool 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. Any unused balance of pool leave granted to an employee returns to the pool. The estate of a deceased employee is not entitled to payment for unused pool leave.

## **8. Specific Regulations for Pool Leave Requests**

Before any employee will be eligible to use leave from the pool, there will be a waiting period of 45 working days and/or all accrued paid leave must be exhausted whichever occurs later. The employee or employee's supervisor may initiate a request to use pool leave on a form available in Human Resources. A statement from the employee's physician stating the nature and anticipated duration of the catastrophic injury or illness shall accompany the request for pool leave. The request form will be approved and signed by all personnel in the employee's line of supervision including the President. After approval by the President, the request form will be forwarded to the Pool Administrator in Human Resources to apply the amount of leave available in the pool. A copy of the request form will be returned to the employee's department indicating the status of the request and the amount of leave approved if pool leave is available.

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## E. DONATION OF SICK LEAVE TO ANOTHER EMPLOYEE

### 1. Background

The 84<sup>th</sup> Texas legislature enacted a provision to permit state employees to transfer accrued sick leave to another specific state employee within the same state agency. These transfers are subject to certain limitations under the statute and create a taxable event to either the donor or recipient. (Note: This law does not apply to non-earmarked donations to the sick leave pool in general.)

### 2. General Provisions

Accrued sick leave may be eligible for transfer to another employee if the recipient is employed in the same state agency as the donor employee; and the recipient has exhausted all earned sick leave and any catastrophic sick leave pool eligibility; and the leave is voluntarily donated without the exchange of payment or gift.

Recipients of donated leave under this statute may use the leave only for the limited purposes of sickness, injury, pregnancy, or caring for an immediate family member who is sick (see Texas government Code 661.202(d) and (e)); and, may not transfer unused, donated leave when changing employment to another state agency.

The Internal Revenue Service generally considers the transfer of an employment benefit, such as sick leave, to be an assignment of income by the donating employee. Sick leave transfers are taxable as wages to the donating employee if he or she directs the sick leave to an employee who is not having a “major medical condition”. Transfers taxed to the donor should not be taxed to the recipient, either upon transfer or when used by the recipient.

When the donated leave is used by employees who have “Qualifying Medical Emergencies”, the leave is not taxable to the donor. “Qualifying Medical Emergencies” are those that prevent an employee from working to such degree that he or she will suffer a substantial loss in income. For such emergencies, donations are taxable as wages to the recipient employee as the leave is used at the recipient’s rate of pay.

Employees should consult their own tax counsel or accountant for official guidance on their individual tax implications.



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## **F. EMERGENCY LEAVE**

Eligible employees may request approval for an emergency leave because of a death in the employee's family. The death of an employee's spouse, or the employee's or spouse's parents, children, brothers, sisters, grandchildren, or grandparents, shall constitute need for emergency leave. The President may make a determination on other reasons for emergency leave when, in his/her determination, the employee shows good cause for such leave.

## **G. MILITARY LEAVE AND LEAVE FOR VOLUNTEER FIREMEN**

Under the provisions of the State Appropriations Act, a leave of absence with full pay shall be provided upon request to any employee who is called to active duty with the National Guard by the Governor of Texas.

An employee called to active duty during a national emergency by a reserve branch of the United States Armed Forces shall have a leave of absence. The employee shall accrue state service credit while on such leave but does not accrue vacation or sick leave. The employee retains any accrued sick or vacation leave and will be credited with these leave balances upon his return.

All employees who are members of the State Military Forces, or members of any other Reserve Components of the Armed Forces, shall be entitled to leave of absence from their respective duties without loss of time or efficiency rating, or loss of vacation time or salary on all days during which they shall be engaged in authorized training or duty ordered or authorized by proper authority, not to exceed fifteen days in any one federal fiscal year.

In keeping with the provisions of the appropriation act, Sul Ross State University will provide release time to volunteer firefighters for the duration of the emergency fire conditions which necessitate their participation. Employees of the University who are volunteer firefighters shall also be granted a leave of absence with full pay to attend training schools conducted by State agencies provided such leave does not exceed five working days in any one fiscal year. For purpose of this policy, a volunteer firefighter is defined as an individual who is a member of a recognized local volunteer fire department, and who has received the training from that local volunteer fire department or from a State agency designated to conduct such training. Leave with full pay shall be granted to volunteer

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firefighters for the purpose of responding to emergency fire situations provided a letter from the fire chief or designee is attached to the leave of absence form requesting this leave. The leave of absence shall not be charged against the employee's vacation or sick leave privileges provided by State law.

## **H. JURY DUTY AND WITNESS FEES**

No deduction shall be made from the salary or wages of any state employee who is called for jury service; nor shall such employee be required to account to the University for any fee or compensation received for jury service. Employees shall submit a copy of their jury duty notice to Human Resources attached to a leave of absence form showing the total hours for the absence.

Any state official or employee called to appear in his official capacity in any judicial action or legislative investigation shall neither accept nor receive any witness fees for such a governmental appearance.

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 such employee or official shall be entitled to any customary witness fees. Employees summoned to appear as a witness shall submit a copy of the notice to Human Resources attached to a leave of absence form showing the total hours for the absence.

Any state employee or official appearing as an expert witness shall be entitled to accept compensation for his appearance only when such appearance shall be made on his own time.

This prohibition against accepting compensation shall not extend to any mileage or per diem allowance tendered to the state employee or official for expenses incurred while serving as a witness, unless the state official or employee has also made a claim for such expenses against the state, and in no instance shall there be double reimbursement for expenses.

In no case shall leave with pay be granted in personal litigation unless such actions are the result of an act performed by the employee as part of his/her official duty as an employee of the University.

## **I. OVERTIME PROVISIONS**

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Overtime pay provisions are addressed in the University Pay Plan. Regular, full-time employees in covered classified positions are subject to the overtime provisions of the Fair Labor Standards Act and entitled to compensation for overtime. Positions that are covered and positions that are exempt from overtime are designated in the University Pay Plan.

Non-exempt employees may accrue and bank overtime and compensatory time for work in excess of 40 hours per week to be used as annual leave. Time worked in excess of 40 hours must be reported on the monthly time sheet for non-exempt employees. All hours on the time sheet must be reported exactly as worked. Overtime is banked at one and one-half time and compensatory time is banked as equal time. Banked compensatory time and overtime must be used prior to annual leave. Banked compensatory time will be dropped and overtime will be paid after 12 months. To use banked time a Request and Authorization for Leave of Absence form must be completed a minimum of 24 hours in advance.

Exempt employees do not complete a monthly time sheet and do not accrue overtime. Exempt employees may only use compensatory time for designated energy days. These energy hours are only available for 12 months after the date of accrual. Exempt employees must document the dates of compensatory time being used on the "Request and Authorization for Leave of Absence" form submitted for energy days.

## **J. LEAVE WITHOUT PAY**

Leave of absence without pay or without loss of prior creditable service for reasonable lengths of time and for good cause may be granted by the President to eligible employees based upon individual consideration and the effect of the leave on the employee's department. An extended leave of absence is not an inherent right but a prerogative of the University. Employees who are unable to return within a reasonable period of time may be subject to termination.

Except for disciplinary suspensions, active military duty, and workers' compensation situations, all accumulated paid leave entitlement must be exhausted before granting such leaves, with the additional provision that sick leave must be exhausted only in those cases where the employee is eligible to take

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sick leave. Such leaves will be limited in duration to twelve months. Subject to fiscal constraints, approval of such leaves constitutes a guarantee of employment for a specified period of time. The President may grant exceptions to these limitations for such reasons as inter-agency agreements or educational purposes.

## **K. FEDERAL FAMILY AND MEDICAL LEAVE ACT**

State employees who have been employed for 12 continuous months by the state and who have worked at least 1,250 hours during that period are hereby entitled to leave pursuant to the Federal Family and Medical Leave Act, provided that the employee utilizes all available applicable paid leave while taking leave pursuant to this provision.

An employee may take up to 12 weeks of FMLA leave per year for a serious medical condition affecting the employee, their spouse, their child, or their parent. The year cycle for FMLA is designated as a 12 month floating period beginning with the first FMLA time used by the employee for any purpose. FMLA provides for no additional paid time beyond accrued sick leave or annual leave. Paid compensatory time or overtime may not count as a part of the 12 week FMLA period.

In cases in which eligible spouses are employed by the same employer, the married employees are limited to a combined total of 12 weeks of family and medical leave for the birth of a child and care of a child after birth, placement of a child with the employee for adoption or foster care and to care for a newly placed child, to care for a parent who has a serious health condition.

Military caregiver leave is granted to an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the U.S. Armed Forces (including a member of the National Guard or Reserves) with a serious injury or illness up to a total of 26 workweeks of unpaid leave during a “single 12-month period” to care for the service member.

Employees are responsible for promptly notifying Human Resources of any anticipated extended absence that may qualify for FMLA leave. Supervisors are responsible for promptly notifying Human Resources any time an employee has missed three consecutive days due to illness. Human Resources will notify the

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employee of their rights and responsibilities under FMLA.

## **L. PARENTAL LEAVE**

Those employees with less than 12 months of state service or who have worked less than 1,250 hours in the 12 month period immediately preceding the commencement of leave are eligible to take a parental leave of absence, not to exceed 12 weeks, provided that the employee utilizes all available applicable paid vacation and sick leave while taking leave pursuant to this subdivision. The leave authorized by this subdivision is limited to, and begins with the date of, the birth of a natural child or the adoption or foster care placement of a child under three years of age.

## **M. EXTENDED SICK LEAVE**

The President may grant extended sick leave with pay after all accrued leave has been exhausted in exceptional individual cases after a review of the merits of each particular case. Factors taken into consideration will include length of service to the University, financial hardship caused by the illness, the nature and anticipated duration of the illness and the effect of extended leave on the employee's department.

Extended sick leave is not a right of the employee but a rare exception to the sick leave and leave without pay policies granted in unique cases at the discretion of the President.

Extended sick leave should be requested by the employee or the employee's supervisor on a "Request for Authorization for Leave of Absence" form. A detailed statement covering all factors to be considered and a statement from a physician concerning the nature and anticipated duration of the illness should be included with the request.

If granted, extended sick leave will not continue beyond the current payroll period. If the employee is unable to return to work at that time, an extension for another month will be considered by the President. Employees who are unable to return to duty within a reasonable period of time may be subject to termination.

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Under no circumstances will extended sick leave with pay be granted for more than six months.

A statement of any such authorized sick leave exceptions and the reasons for them shall be attached to the duplicate payroll voucher for the payroll period affected.

## **N. HOLIDAYS**

National and state holidays observed by the state agencies are specified by the Texas Legislature. Institutions of higher education may establish their own holidays in accordance with academic schedules. However, the number of observed holidays may not exceed the number of holidays allowed for state agencies. The University holiday schedule must be approved each year by the Board of Regents.

Non-student employees who work 20 hours per week or more and are employed for a period of at least four and one-half months are eligible for paid holidays proportional to scheduled work hours.

An employee who is on Leave Without Pay for an entire workday immediately before or after a holiday is not eligible for holiday pay. If a holiday falls in mid-month, the employee must be in a paid status on the day before and the day after the holiday to be paid for the holiday. If the holiday falls on the first workday of a month, the employee must be in a paid status on the day immediately after the holiday to be paid for the holiday. If the holiday falls on the last workday of the month, the employee must be in a paid status on the day immediately before the holiday to be paid for the holiday.

An employee is eligible to receive the holiday if the holiday does not fall on a weekend. An employee who is a commissioned peace officer is entitled to earn holiday compensatory time when the employee is required to work on a national or state holiday that falls on a Saturday or Sunday.