

## 31.03.02 Sick Leave



Revised [February 7, 2022](#)

Next Scheduled Review: February 7, 2027

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### Regulation Summary

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The Texas A&M University System (system) provides sick leave to eligible employees in accordance with state law.

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### Definitions

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### Regulation

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#### 1. ELIGIBILITY

An employee listed in the position identification database in a budgeted position for 50 percent or more time for a period of at least four and one-half months, excluding an employee in a position for which student status is a requirement for employment, is entitled to sick leave with pay.

#### 2. SICK LEAVE ACCRUAL

2.1 A full-time employee accrues eight hours of sick leave for each month of employment. An eligible part-time employee accrues sick leave on a proportionate basis. An employee accrues sick leave beginning on the first day of employment and ending on the employee's last duty day, which is the employee's last physical day on the job. Sick leave accruals are posted to the employee's leave record on the first day of employment and on the first calendar day of each succeeding month. If employed by the state during any part of a calendar month, the employee accrues sick leave for that month unless the employee is on leave without pay for the entire month. An employee who is on paid leave on the first workday of a month may not use the sick leave accrued for that month until the employee returns to duty.

2.2 An employee who becomes ineligible for sick leave per Section 1 will not earn additional sick leave nor be able to use sick leave while in a non-sick leave-accruing position. Any unused accrued sick leave is retained and the employee may use it if the employee returns to a leave-accruing position.

- 2.3 Accumulation of sick leave is unlimited. Unused accumulated sick leave is carried forward on the first day of the next fiscal year.
- 2.4 Unused accumulated vacation leave that exceeds maximum carryover limits at the end of a fiscal year is credited to the employee's sick leave balance on the first day of the next fiscal year.

### 3. USE OF AVAILABLE SICK LEAVE

- 3.1 Sick leave may be taken when sickness, injury, or pregnancy and confinement prevents the employee from performing the employee's job or when the employee is needed to care for and assist a member of the employee's immediate family who has a sickness. An employee who is the legal guardian of a child by court appointment may use sick leave to care for the child.
- 3.2 An employee's use of sick leave for family members not residing in that employee's household is strictly limited to the time necessary to provide care and assistance to a spouse, child or parent (but not parent-in-law) of the employee who needs the care and assistance as a direct result of a documented medical condition.
- 3.3 An employee who is the parent of a child who is a student attending a grade from prekindergarten through 12<sup>th</sup> grade may use up to eight hours of sick leave each fiscal year to attend educational activities of the employee's children. A parent in this section means a person standing in parental relation. Educational activity means a school-sponsored activity, including a parent-teacher conference, tutoring, a volunteer program, a field trip, a classroom program, a school committee meeting, an academic competition, and an athletic, music or theater program. The employee must provide reasonable advance notice of need for this leave.
- 3.4 An employee who adopts a child younger than three years may use the amount of sick leave that would normally be granted for recovery from pregnancy and childbirth, beginning the date that the child is placed in the home of the adoptive parent. The amount of sick leave must not exceed six weeks.
- 3.5 For the birth of a child, an employee, who is the father of the child, may use sick leave in conjunction with the child's birth only if the child is actually ill or to care for his spouse while she is recovering from labor and delivery.
- 3.6 An employee on vacation is eligible to reclassify the leave type to sick leave provided that the employee is eligible for sick leave and documentation is provided as required under Sections 4.2 or 4.3.
- 3.7 An ill or injured employee may be required to take a leave of absence if: (1) in the supervisor's judgment, continued work would create a substantial risk to the employee and/or co-workers, and (2) a doctor's statement restricts the employee's activity or environment and the employee's needs cannot be reasonably accommodated. In such instances, the employee must first use sick leave, then vacation, then any accrued compensatory time, then sick leave pool time if approved, and then may be placed on leave without pay until the attending doctor certifies that the employee can safely return

to work. The member may require a doctor's release statement before permitting the employee to return to work.

- 3.8 An employee may apply for sick leave pool hours or leave without pay if the employee is unable to return to work after exhausting sick leave and vacation.
- 3.9 An employee who separates from state employment and remains on payroll to exhaust accrued vacation time in lieu of a lump sum payment may not use or accrue sick leave.
- 3.10 An employee who retires under the Teacher Retirement System may be eligible to purchase membership service credit for accumulated sick leave except for donated sick leave (See System Regulation *31.06.02, Sick Leave Donation*).
- 3.11 An employee may donate sick leave to the sick leave pool, family leave pool or another employee under certain circumstances. See System Regulations *31.06.01, Sick Leave Pool Administration, 31.06.02* and *31.06.03, Family Leave Pool Administration*.

#### 4. SICK LEAVE NOTIFICATION, DOCUMENTATION AND APPROVAL

- 4.1 An employee who must be absent from duty because of sickness, injury, or pregnancy and confinement must notify the employee's supervisor or have the supervisor notified of that fact at the earliest possible time. The employee must notify the employee's supervisor of the expected date of return, check in periodically as scheduled by the supervisor and notify the supervisor if the expected date of return changes. Upon return to duty, the employee must without delay submit an application for sick leave to the supervisor. These requirements apply for all sick leave an employee, including a faculty member, takes, whether working remotely or on site, if the absence occurs during the normal workday for the employee, even if no classes are missed.
- 4.2 When an employee is absent from work for three continuous working days or less, the employee must submit a leave request. The chief executive officer (CEO) or designee may require a doctor's certificate or other written statement of the facts concerning the condition for absences of three working days or less, as described in Section 4.3. If absence is due to the sickness of a family member who is not a member of the employee's household, the employee must provide an explanation of the immediate family member's relationship and need for care and assistance that result from a documented medical condition.
- 4.3 When an employee is absent from work for more than three continuous working days due to the employee's or a family member's medical condition, the employee must provide the CEO or designee with a doctor's certificate that indicates the cause or nature of the condition and the estimated recovery date, or other written statement of the facts concerning the condition that is acceptable. If the estimated return to work date changes, the employee must submit a supplemental written statement from the doctor showing the new estimated return to work date. Doctors' certificates or other written statements are filed in a confidential medical file, not in the employee's personnel file.

#### 5. TRANSFER OF SICK LEAVE BALANCE

- 5.1 An employee who transfers directly from one state agency to another is entitled to credit by the agency to which the employee transfers for the unused balance of the employee's accumulated sick leave, if the employee's employment with the state is uninterrupted.
- 5.2 Uninterrupted employment is employment unbroken by any unauthorized absences. Holidays, days on sick leave, weekends, emergency leaves and other approved leaves are authorized absences.

## 6. RESTORATION OF SICK LEAVE

- 6.1 Upon separation from state employment, the employee loses all accrued sick leave unless the employee is eligible for restoration.
- 6.2 An employee has sick leave restored if the employee separates from state employment but is reemployed by the state within 12 months after the end of the month in which employment ended, and if the employee:
  - (a) was laid off under a formal reduction in force and is reemployed at a state agency;
  - (b) is reemployed by a different member or state agency; or
  - (c) is reemployed by the same member and had at least a 30-calendar-day break in employment.
- 6.3 A request for restoration of accrued sick leave must be supported by written confirmation from the prior state employer which includes the employment separation date, the accrued sick leave balance and, if applicable, that the employee was terminated under a formal reduction in force.

## 7. EMPLOYEE DEATH

- 7.1 Upon the death of an employee who had at least six months of continuous state service during the employee's lifetime, the member pays the employee's estate for the balances of the employee's vacation leave and sick leave. The payment may not exceed all of the employee's accumulated vacation leave and the lesser of half of the employee's accumulated sick leave or 336 hours of sick leave.
- 7.2 An employee, who at any time during the employee's lifetime has accrued six months of continuous state employment and at the time of death is normally scheduled to work at least 40 hours a week, has eight hours added to the employee's total leave balance for each holiday that is scheduled to fall within the period after the date of death and during which the employee could have used leave. To determine the period during which leave could have been used and the number of holidays, the employee's total leave balance is allocated over the workdays after the employee's death and eight hours are added as a holiday occurs during the period. In this section, total leave balance means the sum of the accrued balance of a deceased employee's vacation leave and the lesser of half of the accrued balance of the employee's sick leave or 336 hours of sick leave.
- 7.3 For an employee who at the time of death is normally scheduled to work fewer than 40 hours a week, the number of hours added for each holiday is computed as provided by

Section 7.2, but is proportionally reduced according to the lesser number of the employee's normally scheduled weekly work hours.

- 7.4 The payment to the estate of the deceased employee is computed by multiplying the employee's hourly rate of compensation at the time of death by the total number of leave hours determined under Sections 7.2 or 7.3.

The employee's hourly rate of compensation is calculated from the employee's monthly rate of compensation. The monthly rate of compensation includes base pay plus any monthly emolument(s) received in lieu of base pay, such as a vehicle, housing or telecommunications allowance. Longevity or hazardous duty pay are not included in the monthly rate of compensation. The sum of the monthly base pay and monthly emolument(s) is multiplied by 12 to determine the annual rate of compensation, which is then divided by 2080 hours to determine the hourly rate of compensation.

## 8. ADDITIONAL PAID SICK LEAVE

A member CEO may authorize additional paid sick leave for an employee based on a review of the individual's circumstances. This extended sick leave may be granted only after the employee has taken all paid sick leave, vacation, compensatory time and, if applicable, has satisfied the requirements for sick leave pool and taken any sick leave pool time for which the employee is eligible. A statement describing the reasons for the authorization of each case of extended sick leave must be attached to the member's duplicate payroll voucher for the payroll period in which the extended sick leave occurs.

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## Related Statutes, Policies, or Requirements

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[34 Tex. Admin. Code § 5.44, \*Payments for Accrued Vacation and Sick Leave to the Estates of Deceased State Employees\*](#)

[Tex. Gov't Code, Ch. 661](#)

[System Regulation 31.03.04, \*Leave of Absence without Pay\*](#)

[System Regulation 31.03.05, \*Family and Medical Leave\*](#)

[System Regulation 31.06.01, \*Sick Leave Pool Administration\*](#)

[System Regulation 31.06.02, \*Sick Leave Donation\*](#)

[System Regulation 31.06.03, \*Family Leave Pool Administration\*](#)

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## Member Rule Requirements

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A rule is not required to supplement this regulation.

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## **Contact Office**

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