

# **TEXAS LOTTERY COMMISSION LEAVE POLICY AND GUIDELINES**

**Updated: September 1, 2019  
Posted: September 1, 2017**

## ***Texas Lottery Commission Leave Policy Statement***

*All employees of the Texas Lottery Commission are entitled to leave benefits as required by state law and guidelines. When appropriate, discretion is given to the Executive Director as to the application of these laws and guidelines.*

### **Leave Guidelines**

The following are the primary guidelines for the types of leave that may be granted to employees as provided by the Texas Government Code, Chapter 661.

#### **Administrative Leave for Outstanding Performance**

The Executive Director may grant administrative leave with pay as a reward for outstanding performance as documented by employee performance appraisals.

The Executive Director may grant no more than 32 hours of administrative leave for outstanding performance to an employee in a fiscal year.

#### **Amateur Radio Operator Leave**

An employee who holds an amateur radio station license issued by the Federal Communications Commission may be granted up to 10 working days in a fiscal year to participate in specialized disaster relief services.

The number of amateur radio operators who are eligible for this leave may not exceed 350 employees at any one time during a state fiscal year. The Texas Division of Emergency Management shall coordinate the establishment and maintenance of the list of eligible employees. An employee must receive supervisory authorization and must have approval from the Governor before taking the leave.

#### **Annual Vacation Leave**

Employees are entitled to annual vacation leave and their monthly accruals are based on length of state service as determined by state statute and the percent of time worked. An employee

who is on leave the first day of the month may not use that month's accruals until he or she returns to duty. Annual leave may not be taken until the employee has been continuously employed with the state for six months. The six-month eligibility requirement must be met only once. When use of vacation leave is foreseeable, an employee must obtain prior supervisory approval.

### **Illness While on Annual Leave**

If an employee becomes ill while on annual leave and the employee provides medical documentation for the illness, the employee may have the absence charged to sick leave for the period of the illness.

### **Assistance Dog Training**

An employee with a disability is entitled to up to 10 days of leave in a fiscal year for attending a training program to acquaint the employee with an assistance dog to be used by the employee. Supervisory approval should be obtained prior to the training. The employee shall provide appropriate documentation for the use of the leave. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

### **Bone Marrow & Organ Donor**

An employee is entitled to leave to serve as a bone marrow or organ donor. An employee may receive up to five working days in a fiscal year to serve as a bone marrow donor, and 30 working days in a fiscal year to serve as an organ donor. The employee's absence should be coordinated with his or her supervisor and the appropriate documentation provided for approval. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

### **Compensatory Time for Exempt Employees**

FLSA exempt employees may earn compensatory time when required by management to work, and the number of hours worked plus holidays or other paid leave taken exceeds the number of hours they are designated to work during the workweek. If the employee does not use the state compensatory time within 12 months of when it was earned, the employee loses this time. When use of compensatory leave is foreseeable, an employee must obtain prior supervisory approval.

## **Compensatory Time for Nonexempt Employees**

State compensatory time, at an hour for hour rate, is earned when an FLSA nonexempt employee works 40 hours or less, but the total number of hours worked plus holidays or other paid leave exceeds 40 hours in a workweek. If the employee does not use the state compensatory time within 12 months of when it was earned, the employee loses this time.

FLSA overtime, at a time and one-half rate, is earned when an FLSA nonexempt employee physically works over forty hours in a workweek. Employees must obtain pre-approval from their Division Director (or designee) before working overtime, unless under emergency circumstances. Failure to obtain the appropriate pre-approval can lead to disciplinary action. Accumulated FLSA overtime hours must be used before annual vacation leave, but not before state or holiday compensatory leave. When use of compensatory leave is foreseeable, an employee must obtain prior supervisory approval. Unused FLSA overtime hours are paid at termination of employment.

## **Court Appointed Special Advocate (CASA) Volunteers**

An employee may be provided paid leave not to exceed five hours each month to participate in mandatory training or to perform volunteer services for Court Appointed Special Advocates. Supervisory approval must be obtained prior to the training or volunteer service. If the leave is approved, the employee shall provide appropriate documentation of the completion of the training or volunteer service upon his or her return to work. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

## **Donated Sick Leave**

An employee may donate any amount of sick leave to another agency employee who has exhausted all sick leave, including any time the individual may be eligible to withdraw from the agency sick leave pool. Donated sick leave may be used by the recipient employee in the same manner as accrued sick leave. When the use of donated sick leave is foreseeable, an employee must request prior supervisory approval.

An employee may not provide or receive remuneration or a gift in exchange for a sick leave donation. An employee who receives a donation may not receive retirement service credit for the donated sick leave.

## **Donation of Blood**

An employee may use up to two hours of leave four times per fiscal year to donate blood. The employee must coordinate the leave with his or her supervisor before the leave is taken and must provide appropriate documentation of donating blood during the time off. If the

employee does not provide the appropriate documentation that he or she donated blood during the time off, the time will be deducted from the employee's accrued leave.

## **Emergency Leave**

The Texas Government Code establishes emergency leave and describes the circumstances in which it may be granted. All employees receiving emergency leave remain in an "employment at will" status. Any unused emergency leave expires when the employee returns to work. Employees will not be granted compensation for any unused emergency leave.

### **Emergency Leave – Death in Family**

An employee is entitled to emergency leave without a deduction in salary in the event of the death of the employee's spouse or the death of a parent, brother, sister, grandparent, grandchild or child of the employee or of the employee's spouse. It is the practice of the agency to grant up to three work days for the loss of family members.

- The employee should notify his or her supervisor or manager of the family member's death and the length of absence requested from work.
- The manager should verify the family member relationship is eligible for emergency leave before the request is processed. Documentation may be requested, if needed.
- The employee enters the request for supervisory approval into the timekeeping system and includes the family member relationship in the comments section.

### **Emergency Leave – Inclement Weather, Facility Closures or Observance of Holidays**

The Executive Director may grant emergency leave to employees when the agency is closed due to weather conditions, facility issues or in observance of a holiday.

- The agency will communicate the granting of emergency leave in these situations.
- An employee is not required to request emergency leave in these circumstances.

### **Emergency Leave – Good Cause**

The Executive Director may determine that a reason other than a death in the employee's family is sufficient for granting emergency leave if the employee requests the leave and the Executive Director determines the employee has shown good cause for taking the leave. The employee's request should clearly and objectively demonstrate that the good cause is work related and in the best interests of the agency operations; in compliance with state statute; or related to law enforcement guidelines or requirements. The Executive Director may not grant the emergency leave to an employee unless he believes in good faith that the employee receiving the leave intends to return to his or her position in the agency once the leave period has expired.

The guidelines to request emergency leave and establish good cause are as follows:

- The employee should submit the request in writing to his or her Division Director.
- The request should explain the situation the employee believes supports the good cause request.
- If the employee has annual vacation leave, compensatory leave, overtime leave, or sick leave (if applicable), the request should include the reason the employee does not want to utilize them.
- The employee should confirm he or she will not be working elsewhere, if the leave is granted.
- The employee should confirm his or her intent to return to their position at the expiration of the leave, if the leave is granted.

The Division Director will review the request and determine if the employee has:

- demonstrated responsible use of leave and time management; and
- is not the subject of any disciplinary action or performance improvement plan at the time of the request.

The Division Director will forward the request to Human Resources for review and verification. Human Resources will forward the request to the Executive Director for consideration. The Executive Director will determine:

- what is good cause;
- if the employee intends to return to work in good faith; and
- make the final decision to approve or disapprove the emergency leave request.

### **Extended Sick Leave**

An employee who has worked for the agency for one full year and who has exhausted all other paid leave, including any leave granted from the sick leave pool, may request extended sick leave in situations of catastrophic illness or injury. The agency defines a catastrophic illness or injury as a severe condition or combination of conditions affecting the physical or mental health of the employee or the employee's immediate family that involves the imminent threat of loss of life or requires an invasive surgical procedure deemed medically necessary to eliminate a condition that would otherwise become life-threatening without the procedure.

The Executive Director may grant extended sick leave if he determines it is in the best interest of the agency. Employees are not entitled to extended sick leave. An employee is eligible to apply for extended sick leave once in a three-year period. The maximum amount of extended sick leave that may be awarded is based on an employee's length of employment with the agency. A request for extended sick leave should be submitted to the Human Resources Director.

### **Family and Medical Leave Act (FMLA)**

The Family and Medical Leave Act (FMLA) requires the agency to provide eligible employees up to 12 weeks of leave per year for the birth, adoption or foster care of a child, or because the employee or a spouse, parent or child of the employee has a serious illness. A serious health condition is an illness, injury, impairment or physical or mental condition that

involves either in-patient care in a hospital, hospice, or residential medical care facility or continuing treatment by a licensed health care provider. Either the agency or the employee may designate leave as FMLA leave, depending on the FMLA event. An employee must have been employed with the state for at least 12 months and worked at least 1,250 hours (not including paid time off) during the preceding 12 months to be eligible for FMLA leave.

### **Fitness Leave**

Employees may participate in the annual state sponsored Get Fit Texas Challenge to incorporate more physical activity into their daily lives and enhance overall wellness. The competition between state agencies requires employees to participate in a minimum of 150 minutes of designated physical activity per week for at least 6 weeks during the 10-week challenge. Employees who receive a certificate of completion of the challenge are authorized to receive four hours of fitness leave.

### **Foster Parent**

The state allows foster parents of a child under the conservatorship of the Department of Family and Protective Services (DFPS) leave to attend meetings held by DFPS regarding the child. In addition, the employee may use this leave to attend admission, review and dismissal meetings held by a school district regarding the foster child. The employee's absence should be coordinated with his or her supervisor and the appropriate documentation provided for approval. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

### **Investigation Leave**

The Executive Director may grant leave to an employee who is the subject of an investigation being conducted by the agency; or a victim of, or witness to, an act or event that is the subject of an investigation being conducted by the agency.

- Human Resources coordinates with the Executive Director to receive approval for leave related to investigations conducted by the agency.
- Human Resources or the appropriate agency management will communicate the granting of investigation leave to the identified staff.

### **Jury Duty**

Employees are granted leave when summoned for jury duty. Employees who receive a summons for jury duty must provide notice of the summons and appearance date, and provide documentary evidence of the period of jury service. The employee's absence should be coordinated with his or her supervisor. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

## **Leave of Absence - LOA**

After exhausting all vacation and compensatory leave, an employee may request an unpaid leave of absence (LOA). An unpaid LOA may not exceed twelve months. The employee must exhaust all sick leave if the LOA is for personal or family illness or injury. The fiscal constraints of the agency are considered before a leave of absence can be approved. The Executive Director must approve a request for leave of absence.

## **Leave without Pay - LWOP**

Employees exhausting their authorized paid leave and who are absent from work are in leave without pay status. If the absence is not covered by FMLA or parental leave, Division Directors may approve leave without pay for educational purposes, training, or personal reasons. The employee's workload, job performance, and the needs of the agency are considered by the Division Director.

If the employee is in leave without pay that is not approved, the employee may be subject to disciplinary action. In these situations, the Division Director will consult with the Human Resources Director.

In circumstances where the agency is authorizing a suspension without pay for disciplinary action, the agency may place an employee in leave without pay status for a designated number of hours even though the employee has leave balances. In these situations, the Division Director will consult with the Human Resources Director. The appropriate agency approvals must be obtained before an employee is placed on suspension without pay for disciplinary reasons.

## **Medical and Mental Health Care Leave**

An employee who is a veteran and eligible for health benefits under a program administered by the Veterans Health Administration of the United States Department of Veterans Affairs may be granted up to 15 days each fiscal year to obtain medical or mental health care administered by the Veterans Health Administration of the United States Department of Veterans Affairs, including physical rehabilitation.

An employee must be a veteran who has served in the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States; or the Texas National Guard, including the Texas Air National Guard, Texas State Guard, or state military forces.

The employee must be eligible for health benefits under a program administered by the Veterans Health Administration of the United States/ Department of Veterans Affairs.

The employee must provide appropriate documentation to Human Resources showing proof of his or her veteran's status and eligibility for health benefits administered by the

Veterans Health Administration of the United States Department of Veterans Affairs before the leave may be granted. The employee will provide appropriate medical documentation of receiving treatment at the VA medical facility.

The Executive Director may grant additional hours of leave if he determines it is appropriate for the employee. The Executive Director will consider if it is in the best interests of the agency.

## **Military Leave**

Employees who are members of 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 are entitled to 15 workdays in each fiscal year of leave 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.

### **State Active Duty**

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 or vacation leave. This time is not limited and does not count against the 15-day maximum military leave per fiscal year.

### **Federal Active Duty**

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

### **Military Family Leave**

The Family and Medical Leave Act (FMLA) allows eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any "qualifying exigency" arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent.

In addition, the FMLA also allows eligible employees to take up to 26 weeks of leave in a single 12-month period to care for a covered service member with a serious injury or illness.

### **National Emergency Leave**

An employee called to active duty during a national emergency to serve in a reserve component of the US Armed Forces 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 he or she chooses to go on leave without pay while on military leave.

### **National Guard Leave**

State agencies are required to adjust the work schedule of an employee who is a member of the Texas National Guard or a reserve branch of the U.S. Armed Forces so that two of the employee's days off each month coincide with two days of military duty.

## **Parental Leave**

Employees who do not qualify for Family and Medical Leave are entitled to parental leave not to exceed 12 weeks for the birth of a child or the adoption or foster care placement of a child under the age of three. Parental leave is for employees that do not meet the eligibility requirements for FMLA because:

- The employee has worked for the state for less than 12 months, or
- The employee has worked fewer than 1,250 hours during the 12-month period preceding the leave.

The employee must first use all available and applicable paid vacation and sick leave while taking parental leave prior to going on leave without pay. Parental leave is limited to, and begins on the date of, the birth of the employee's natural child or the adoption by or foster care placement with the employee of a child younger than three years of age.

## **Red Cross Disaster**

Employees may be granted up to 10 work days each state fiscal year, if they are certified disaster service volunteers of the American Red Cross, or in training to become volunteers, to participate in specialized disaster relief services for the American Red Cross. The American Red Cross must request this service and the Governor's office must grant approval. The employee's absence should be coordinated with his or her supervisor and the appropriate documentation provided for approval. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

The number of certified disaster service volunteers who are eligible for this leave may not exceed 350 employees at any one time during a state fiscal year. The Texas Division of Emergency Management shall coordinate the establishment and maintenance of the list of eligible employees.

## **Reserve Law Enforcement**

An employee who is an eligible reserve law enforcement officer is entitled to leave not to exceed five work days per fiscal biennium to attend required training designated by state statute.

## **Sick Leave**

Agency employees are entitled to sick leave when sickness, injury or pregnancy and confinement prevent the employee from performing his or her job. An employee accrues

eight hours of sick leave each month beginning on the first day of state employment. Part-time employees accrue sick leave on a proportionate basis. An employee who is on leave the first day of the month may not use that month's accruals until he or she returns to duty.

An employee may take sick leave to care for an immediate family member who is ill. "Immediate family" members are individuals related by kinship, adoption or marriage who live in the same household; foster children who reside in the same household; and minor children regardless of whether they live in the same household.

An employee may take sick leave to care for a sick parent, spouse, or child who does not live in the same household as the employee if the parent, spouse or child needs care as a direct result of a documented medical condition. Supporting medical documentation could include a doctor's note, a medical power of attorney, or FMLA condition certification.

When the use of sick leave is foreseeable, an employee must request prior approval. An employee absent from duty because of illness must notify his or her supervisor no more than 15 minutes after the employee's regular start time or as soon as possible. If an employee is absent for more than one day, the employee should notify the supervisor of his or her status each morning, unless other arrangements have been made by supervisory management. The employee should leave a phone number where he or she can be reached.

If an employee is absent for more than three consecutive work days, to authorize use of sick leave, the employee must submit medical documentation supporting the leave or a written statement of facts surrounding the absence and nature of illness. In the absence of an adequate explanation or medical documentation, an employee may be required to take annual leave rather than sick leave. Under some circumstances, an employee may be required to obtain a written release to return to work from the attending medical practitioner following an illness or injury before reporting to work. This will ensure that the employee is not returning prematurely.

### **Sick Leave for Educational Activities**

An employee may use up to eight hours of sick leave each fiscal year to attend education activities of the employee's children who are in pre-kindergarten through 12<sup>th</sup> grade. The employee must give reasonable advance notice of the activity date and time. 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.

### **Sick Leave Pool**

The agency has established a sick leave pool to benefit eligible employees who have exhausted all paid leave because of a catastrophic injury or illness. If all leave balances are exhausted, an employee may request leave from the sick leave pool. Employees are not entitled to leave from the sick leave pool.

The Employees Retirement System has defined catastrophic injury or illness 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 sick leave compensation from the state for the employee.

For administration of the Texas Lottery Commission's sick leave pool, catastrophic illness or injury is further defined as a severe condition or combination of conditions affecting the physical or mental health of the employee or the employee's immediate family that involves the imminent threat of loss of life or requires an invasive surgical procedure deemed medically necessary to eliminate a condition that would otherwise become life-threatening without the procedure.

### **On-the-Job Injuries**

This policy does not apply to employees injured on the job. Those employees are covered under workers' compensation benefits.

### **Pregnancy, Childbirth, and Elective Surgery**

Pregnancy, childbirth (including cesarean deliveries), or related medical conditions will be treated as any other temporary disability, and will not be considered catastrophic under routine or normal conditions.

The sick leave pool is not designed to be used when an employee has complications from elective surgery.

### **Requests**

An employee may apply to use sick leave from the sick leave pool if a catastrophic illness or injury has exhausted or will exhaust all other available leave.

Requests for leave from the sick leave pool must be submitted to Human Resources. A doctor's statement must be attached that includes documentation from all relevant health care providers and that states the probable length of absence from work. Supporting medical documentation must state a medical practitioner's opinion that the qualifying condition is life threatening, or would become life threatening if not for an invasive surgical procedure. If the request is for leave to assist an immediate family member, the same documentation requirements apply, including the doctor's assessment about the length of time the employee is required to assist the family member.

The Human Resources Director will make the initial decision to grant or not grant a request for leave from the sick leave pool, based on the information provided by health-care providers. Decisions by the Human Resources Director may be appealed to the Executive Director.

## **Donations**

Active employees may donate an unlimited number of hours to the sick leave pool in eight hour increments per fiscal year. Part-time employees may donate proportionally. Separating employees may donate an unlimited number of hours of sick leave at the time of separation. Donation of sick leave hours to the sick leave pool is voluntary.

An employee who donates to the pool may not stipulate that the donation be used or not be used by a particular person.

## **Maximum Amounts Available**

An employee should request no more than the amount of leave needed from the sick leave pool. The amount of leave granted in response to a request is limited to 30 working days (240 hours). An employee may reapply for additional leave from the sick leave pool if the amount previously granted is insufficient. Subsequent requests are subject to the same restrictions as the initial request.

The total amount granted for catastrophic injuries or illnesses cannot exceed the lesser of 1/3 of the pool balance or 90 days (720 hours). (Sick leave pool allowance will be pro-rated for part-time employees.) As a general rule, the maximum award for an employee who has been with the agency, since the most recent hire date, for less than 12 months will be 240 hours, 480 hours for 24 months and 720 hours for 36 months.

An eligible employee may receive an agency sick leave pool award once in a three-year period.

## **Leave Accruals**

An employee on leave from the sick leave pool will still accrue annual vacation and sick leave at the beginning of each month. As the leave is accrued, it should be exhausted before leave from the sick leave pool is used.

## **Voting**

Employees may take sufficient time off to vote, without using accrued leave, to vote in each national, state, or local election if there is not sufficient time to vote outside regular working hours. Time off for voting applies to regular and runoff elections, as well as on Election Day. The employee's absence should be coordinated with his or her supervisor.

## **Volunteer Firefighter, EMS Volunteer, Search and Rescue Volunteer Training**

Volunteer firefighters, emergency medical services volunteers and search and rescue volunteers are entitled to leave not to exceed five working days each fiscal year for attending

training services conducted by a state agency or institution of higher education. The employee's absence should be coordinated with his or her supervisor and the appropriate documentation provided for approval. If the employee does not provide appropriate documentation for the time off, the time will be deducted from the employee's accrued leave.

Information or questions regarding the agency's leave policy or guidelines may be directed to Human Resources at the following:

Leave Coordinator – 512-344-5422

FMLA Coordinator – 512-344-5421