

**Chapter: Leave Benefits**  
**Title: Use of Leave Benefits**

**Effective Date: 12/1/11**  
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**New**

ACA Standard(s): N/A

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(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) allows employees to use leave benefits in accordance with applicable laws and TJJD policies.

(b) **Definitions.**

For definitions of certain terms used in this policy, see the PRS Glossary.

(c) **Procedures.**

(1) **Authorization to Use Leave Benefits.**

(A) Authorized absence from work is available only if the absence is in accordance with an agency leave policy. Once all available forms of paid or unpaid leave are exhausted, any additional time missed from work is considered unauthorized absence.

(B) Supervisors are obligated to approve or disapprove requests for use of leave in accordance with the applicable policy and to work closely with the local human resources administrator (HRA) in connection with the recording and administration of leave.

(C) Supervisors have no authority to grant time off in excess of available leave.

(2) **Use of Administrative or Emergency Leave Granted for Special Purposes.**

If an employee has been authorized to take time off due to a situation for which the employee will receive administrative or emergency leave, the employee's time off must be charged against the administrative or emergency leave granted for that purpose (e.g., emergency leave for death in a family or state active military duty, administrative leave for volunteer firefighter training or jury duty). This requirement applies even if charging the time off against the emergency or administrative leave will result in the accrual of state compensatory time in accordance with PRS.27.23.

(3) **Order of Use of Available Leave Balances.**

(A) **General Conditions.**

(i) An employee may choose in writing the order in which available leave balances will be used, with certain restrictions as set forth in this policy.

(ii) If not used within one calendar year (12 months) after accrual, holiday, compensatory, emergency, and administrative leave will lapse. Employees are encouraged, but not required, to use these leave balances before other forms of paid leave.

(iii) All requirements for medical certification (including those in the FMLA leave, NFM leave, and sick leave policies, as appropriate) will apply to all absences based on medical need to miss work, even if an employee uses a category of leave other than sick leave.

(B) **Employee's Elections Regarding Use of Available Leave Options.**

(i) The employee will indicate the order of use on his/her timesheet or time off request submitted through the Employee Gateway system.

(ii) The employee's supervisor may reject an employee's election recorded on a timesheet and request resubmission of a timesheet with different elections, or change an

employee's election on a timesheet only when one of the following situations occur. If the supervisor accepts the timesheet but makes a change to the employee's chosen categories of leave, the supervisor must describe the change made in the "Notes" field on the timesheet.

- (I) If the employee has chosen to use sick leave when the reason for absence did not qualify for use of sick leave, the supervisor must coordinate rejection of the timesheet or change to this election with the local HRA or his/her designee.
- (II) If the employee requested to have time off count against one or more specific leave categories but available leave hours in those categories are not enough to cover the entire leave period, the supervisor may:
  - (-a-) reject the timesheet and request resubmission of another timesheet; or
  - (-b-) after all hours in the chosen categories are used, charge the remaining time off to the employee's available leave balances based on the standard order of use in (C) below.
- (iii) An employee's written election to use a specific category of leave will not be retroactively applied after the record of hours worked and leave taken have been submitted through the agency's timekeeping process.
- (iv) If the employee is unable to access the Employee Gateway system to submit an election regarding order of use (e.g., an employee who is unable to access the Employee Gateway system while on leave), the employee may provide his/her supervisor with a memo or email requesting that available leave balances be used in a particular order during the employee's absence.
  - (I) The supervisor will be responsible for submitting a copy of the written request to the appropriate timekeeper.
  - (II) Once the employee has submitted a written request regarding the order of use of leave, the employee's election will remain in effect until the employee's return to work.

**(C) Standard Order of Use of Available Leave Benefits.**

The employee's use of accrued leave will be in the following standard order if the employee does not make a written election, with the exception that any holiday, compensatory, emergency, or administrative leave that is subject to lapsing within 30 days will be used first:

- (i) sick leave (only if the reason for absence qualifies for sick leave);
- (ii) holiday leave;
- (iii) compensatory leave;
- (iv) administrative leave (includes emergency leave granted for working when a facility or office was closed due to inclement weather or other emergency, which is recorded in the agency's time-keeping system as administrative leave);
- (v) annual leave;
- (vi) overtime leave.

**(4) Employees on FMLA Leave Receiving Disability Income Benefits.**

In accordance with the FMLA, an employee on FMLA leave who is receiving lost-time or lost-wage benefits through the disability insurance programs administered by the Employees Retirement System may choose not to use (or "freeze") all available leave balances until the exhaustion of FMLA leave.

- (A) The insurance carrier may require use of paid leave benefits prior to eligibility for lost-wage benefits. It is the employee's responsibility to observe any such requirements, regardless of whether the employee is on FMLA leave.
  - (B) An election not to use available leave balances upon receipt of benefits must be made in writing to the employee's local HRA.
  - (C) Once the employee has exhausted FMLA leave, the employee is required to use all available leave balances, and the procedures regarding the order of use of available leave accruals set forth in this policy will apply.
- (5) **Employees Using Leave Due to an On-the-Job Injury or Occupational Illness.**

Every employee who is on leave due to an on-the-job injury or occupational illness must make an election regarding the use of sick and annual leave balances. In addition, an employee on FMLA leave who is receiving workers' compensation income benefits may choose not to use any paid leave balances while on FMLA leave. With the exception of these elections, the procedures regarding the order of use of available leave balances set forth in this policy will apply.

(A) **Elections for Use of Sick and Annual Leave.**

In accordance with instructions from the State Office of Risk Management (SORM), an employee using leave due to an on-the-job injury or occupational illness must choose whether or not he/she will use all of his/her accrued sick leave and any accrued annual leave before receiving workers' compensation income benefits. These elections will control the use of sick and annual leave regardless of whether the employee is on FMLA leave.

- (i) An employee's election not to use available sick or annual leave balances must be indicated on the Employee's Election Regarding Utilization of Sick and Annual Leave for General Employees form, SORM-80, provided to the employee by the local HRA or supervisor.
- (ii) An employee's election not to use available sick or annual leave balances is irreversible after eight days, regardless of whether the employee is unable to return to work, and any sick or annual leave which the employee has chosen not to use will be frozen pursuant to state law and not available for future use unless and until the employee returns to active duty.
- (iii) If the employee has chosen not to use all of his/her accrued sick leave, the employee will not be allowed to use any accrued sick or annual leave after making this election.
- (iv) If the employee chooses to use all of his/her accrued sick leave, the employee may also choose to use all, some, or none of his/her accrued annual leave.
  - (I) The employee's accrued sick leave will be used before any other accrued leave.
  - (II) The amount of annual leave that the employee chooses to use, if any, will be used after the employee exhausts his/her sick leave and before any other accrued leave.

(B) **Additional Elections for Employees on FMLA Leave.**

An employee receiving workers' compensation income benefits while on FMLA leave may choose not to use available holiday, compensatory, administrative, or overtime leave balances by providing a written notification of this election to his/her local HRA.

- (i) An employee's election to not use these available leave balances will only apply while the employee is on FMLA leave.

- (ii) This is a separate election from the employee's decision not to use sick and annual leave made under (A) above on the SORM-80 form.

(6) **Use of Administrative, Compensatory, Emergency, or Holiday Leave Balances Prior to Lapsing.**

- (A) The following provisions will apply when an employee who wishes to use accrued administrative leave, compensatory time, emergency leave, or holiday time that is subject to lapsing submits a written request for permission to use the accrued leave.
  - (i) If the request is submitted no later than the 90th day before the date the leave will lapse, the supervisor must:
    - (I) approve the employee's request in writing; or
    - (II) provide the employee with an alternate date on which the employee may use the accrued leave.
  - (ii) If the request is submitted later than the 90th day before the date on which the leave will lapse, the supervisor is encouraged to reasonably accommodate the employee's use of the accrued leave before it lapses.
- (B) Employees who have been activated to military service as a member of the reserve component of the armed forces will be provided a statement of his/her accrued administrative, compensatory, emergency, and holiday leave balances. The agency will accommodate the employee's use of these leave balances before they lapse.

(7) **Required Use of Leave Balances When Schedules are Reduced.**

- (A) The executive director may direct that employees be required to work a reduced schedule and charge the time off against their overtime leave balances. An employee must not in any other instance be required to use accrued overtime as leave when other types of paid leave are available for use.
  - (B) The chief local administrator or his/her designee may reduce an employee's schedule by requiring the employee to take time off and use accrued administrative, compensatory, or holiday leave to help ensure that the leave is used at a time that is convenient to the facility or department (e.g., when adequate numbers of staff are available versus waiting until the 90-day period before the time lapses).
  - (C) If a Juvenile Correctional Officer (JCO) is required to work a reduced schedule and charge the time off against the JCO's administrative, compensatory, holiday, or overtime leave balances as described in (A) or (B) above, the leave will not count against the requirements for the JCO Perfect Attendance Program.
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