

**POLICY:** ATTENDANCE  
**SCOPE:** STAFF AND FACULTY  
**POLICY NUMBER:** 4.0  
**REVISED:** NOVEMBER 2005

---

## STAFF

### 1. WORKWEEK AND HOURS

The official workweek for the College is from 12:01 a.m. Saturday until 12:00 midnight of the following Friday. Normal hours for College offices and operations are determined by the President. Departments may require personnel to work shifts different from the normal College hours. In no case will the normal work schedule for full-time, non-exempt personnel exceed 40 hours in the workweek.

All salaried personnel are expected to be present for their assigned job unless their absence is approved by appropriate authority. Absence from duty must be accounted for under established leave policies or other approved means. In no case, shall an employee be paid for unaccounted time.

All personnel are expected to work their established work hours unless absence from duty is authorized by their supervisor. **Failure to properly notify a supervisor concerning an absence and to receive necessary permission may result in disciplinary action up to and including termination.**

### 2. SERVICE DEPARTMENTS

Service department personnel will normally observe the forty (40) hour work week; however, because of service department operations, employees may have different work schedules and may be subject to call on a standby basis for emergencies, special events, and in unusual circumstances. The regular hours will; however, be compensated in accordance with state law.

### 3. LUNCH PERIODS

Normal College scheduling requires an hour unpaid lunch period. Employees are expected to conform to their assigned meal schedule. If lunches are taken on College property, employees are expected to adhere to College rules and standards.

### 4. REST PERIODS

Work load permitting, a rest period of not more than fifteen (15) minutes during the first half of a regular workday and not more than fifteen (15) minutes during the second half of a regular workday is permitted for full time employees. Part-time employees who are scheduled to work four (4) hours or more but less than a full day will be afforded one fifteen (15) minute rest period. Breaks are dependent on work schedule and supervisory approval.

Rest periods cannot be accumulated for use at a later date nor used to shorten the regular workday or lengthen the lunch period. In all instances, the utilization of rest periods is subject to the work load demands of the organizational unit as determined by the supervisor. During break periods, the employee is on paid leave and all normal standards of conduct should apply.

### 5. OBSERVANCE OF REGULATIONS

Each staff member must observe the regular work schedule for his/her work location. Absence from duty must be accounted for under established leave policies on approved leave forms. In no case shall an employee be paid for unaccounted time. Failure to properly notify a supervisor concerning an absence and to receive necessary permission may result in disciplinary action up to and including termination. Any individual who is consistently late for work, or who does not return from rest periods or lunch periods promptly, is subject to disciplinary action up to and including termination. The staff member is responsible for notifying the supervisor close to the opening of the work day if he/she will be late or absent from work. When it is necessary to leave work early, the staff member is to make necessary arrangement with the supervisor prior to the time of departure.

## 6. PLACE OF WORK

Employees must, during normal office hours, conduct agency business only at the employee's regular place of business or assigned duty point unless they are on travel status or has received prior written authorization from the administrator of the employing agency. An employee's personal residence may not be considered to be that employee's regular place of business or duty point for the purpose of this subsection without the written authorization of the President.

## 7. HOLIDAYS

The legislature authorizes specified holidays each biennium. The College is authorized to deviate from the State holiday schedule to conform to our academic schedule. The President will issue the College holiday schedule prior to the beginning of each fiscal year.

Only regular employees of institutions of higher education are eligible for paid holidays. A regular employee is defined as someone who is employed to work at least 20 hours per week for a period of at least four and one-half months, excluding students employed in positions which require student status as a condition for employment.

Employees of institutions of higher education may be paid for holiday compensatory time hours earned on a straight time basis when the taking of compensatory time would be disruptive to normal teaching, research, or other critical functions.

In order to be paid for a holiday that falls in mid-month (other than the first or last workday of the month), the employee must be a state employee (the legal definition of which is employed by the state and not on LWOP) on the day before and the day after the holiday. If the holiday falls on the first workday of a month, the employee must be a state employee on the day immediately after the holiday to be paid. If the holiday falls on the last workday of the month, the employee must be a state employee on the day immediately before the holiday to be paid. (Texas Government Code, Section 662.010; and *Payroll Policies and Procedures Guide*, Office of the Comptroller of Public Accounts, August 2000, page 2.15).

The observation of religious holidays may be permissible. In such cases, the time off may be charged to vacation or compensatory time. The President may designate certain religious holidays which can be substituted for other holidays when possible.

In the event that a state holiday falls between the periods an employee transfers from one state agency or institution of higher education to another without a break in service, the receiving agency or institution of higher education must pay for the holiday regardless of whether the agency or institution of higher education recognizes that particular holiday.

## FACULTY

Faculty members employed by Lamar – Port Arthur must discharge faithfully instructional duties and other responsibilities associated with faculty appointment, including the meeting of all scheduled classes.

1. Absences from classes will be authorized only under the following conditions:
  - 1.1 Professional meetings when, in the judgment of the President or his designee, attendance at such meeting would contribute to the improvement of teaching or scholarship at Lamar State College - Port Arthur.
  - 1.2 Sickness, injury, pregnancy and/or confinement that prevent the faculty member's performance of duty or when a member of his or her immediate family is actually ill.
  - 1.3 Family emergencies, including attending the funerals of the faculty member's spouse; the faculty member's and spouse's parents; and the faculty member's children, brothers, sisters, grandparents, and grandchildren. The President may grant this leave for other reasons determined to be for good cause.

- 1.4 Specific assignments of the President of short duration, or special circumstances where the President considers such absences to be for valid reasons.
2. Unauthorized absence of a faculty member is not permitted. Unauthorized absences are a violation of the terms of the faculty member's appointment. [Any faculty member absent for a period of two days who fails to obtain authorized leave according to approved personnel policies will be considered to have abandoned his/her position. The instructor will be subject to disciplinary action which may include leave without pay, dismissal, or other personnel action.](#)
3. In the event of a faculty absence which is premeditated, prior authorization through the use of the proper form is required. The request for permission to be absent should be made to the Department Chair/Program Director with final approval from the Division Dean. The faculty member is obligated to notify the Department Chair as early as possible so that the latter may make appropriate arrangement for missed classes.
4. The faculty member is responsible for notifying the Department Chair/Program Director of an absence in time to ensure the uninterrupted schedule of classes.

**POLICY:** ANNUAL LEAVE  
**SCOPE:** STAFF  
**POLICY NUMBER:** 4.1  
**REVISED:** NOVEMBER 2005

---

**1. PURPOSE**

The purpose of annual leave is to provide income protection to the employee while allowing for period of recreational leave or other absences from work not covered by other leaves. Employees are encouraged to use the majority of their earned annual leave each year. It is important that employees have time to rest and relax each year in order to maintain maximum productivity. Annual leave also allows employees to take care of a variety of personal matters when it is not possible to do so outside normal working hours.

**2. ELIGIBILITY**

All regular non-faculty employees are entitled to paid annual leave. Annual leave accrual rates are the same for both classified and professional employees. Part-time employees are also eligible for annual leave, but their accrual rate and maximum annual leave carryover amounts are proportionate to the number of hours they work. (Texas Government Code, Section 661.152(c). For example, half-time employees earn and carry over annual leave at one-half the rate authorized for full-time employees. State employees who are employed by multiple state agencies may not accrue annual leave at a rate that exceeds that of a full-time employee.

**3. ACCURALS**

An employee accrues annual leave and may carry annual leave forward from one fiscal year to the next in accordance with the schedule below. (Texas Government Code, Section 661,152(d),

**SCHEDULE OF ANNUAL LEAVE ACCRUALS FOR FULL – TIME EMPLOYEES**

| Length of State Service            | Hours Accrued Per Month | Days Accrued Per Year | Allowable Carry-Over (Hours) |
|------------------------------------|-------------------------|-----------------------|------------------------------|
| Less than 2 years                  | 8                       | 12                    | 180                          |
| At least 2 but less than 5 years   | 9                       | 13.5                  | 244                          |
| At least 5 but less than 10 years  | 10                      | 15                    | 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 or more          | 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. (Texas Government Code, Section 661.152 (d) ) 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’s 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. The employee receives this credit on the first day of the month. If the employee is on any type of paid leave that extends into the following month, the accrual will not be posted until the employee returns to duty. An employee forfeits this accrual if he or she fails to return to duty.

**4. SIX MONTH ELIGIBILITY**

Annual leave may not be taken until the employee has been continuously employed with a state agency/institution of higher education for six months. An employee who separates from state employment for any reason during that six-month period is not eligible for any accruals made during that period. Additionally, continuous employment means that no leave without pay has been taken for a full month during the six-month period. The six-month eligibility requirement must be met only once. After an employee has accrued six months of continuous state employment and separates from state employment, he or she is entitled to be paid for accrued annual leave. (Texas Government Code, Section 661.062(a))

**5. TERMINAL VACATION**

An employee, who resigns, is dismissed, or otherwise separates from state employment is entitled to be paid immediately for accrued and unused vacation time, as long as the employee has had continuous employment for at least six months.

A terminating employee may, with the approval of the employing agency, remain on the payroll after separation to use accrued annual leave rather than receive a lump-sum payment. No additional accruals will be made during this period. The employee may not use sick leave or accrue sick leave or annual leave while exhausting annual leave. (Texas Government Code, Section 661.067 (b)(3); and State Auditor Leave Interpretation Letter No. 99-01(1998))

Upon separation, lump-sum payments for accrued but unused annual leave will include payment for any holidays that the employee would have observed had he or she remained on the payroll. Eight hours per holiday will be added for employees who are normally scheduled to work 40 hours per week. Employees who are normally scheduled to work less than 40 hours per week will receive a proportionate payment. An employee moving to a position in a state agency that does not accrue annual leave is not entitled to add time for holidays that fall within the accrual period. In no case is the employee entitled to receive longevity pay for the accrual period. (Texas Government Code, Section 661.063 (c) (2))

**6. APPROVAL**

While each employee is entitled to use accrued vacation leave, the employee's supervisor may refuse to allow vacation time when it would unduly hamper departmental efficiency. Employees are encouraged to request vacation leave using the F3.6A with sufficient advance notice to the supervisor so that work schedules may be rearranged as necessary. Supervisors may refuse to grant any vacation leave requests during peak workload periods.

Employees will not be advanced vacation leave. Any leave taken in excess of the accrued balance will be charged to compensatory time if available. If insufficient compensatory time exists, the employee will be placed on Leave Without Pay. Please see the guidelines on LWOP.

**7. EMPLOYEE AND DEPARTMENT RESPONSIBILITIES FOR LEAVE**

Employees should communicate to their supervisor at the earliest practical time details of their absence or anticipated absence(s) including dates with appropriate documentation.

Leaving one's job without proper notification to their supervisor can constitute job abandonment. Any employee who is absent from work without authorized leave for three (3) consecutive workdays shall be deemed to have abandoned his/her position and to have voluntarily resigned from employment. Bona fide emergencies will be taken into consideration.

The employee is responsible for completing the application for leave form (F3.6A), providing supporting documentation, and following up on approvals.

The departments is responsible for notifying the Human Resources office regarding employee leave, especially when it is anticipated the employee will not have enough paid leave.. The department is responsible for processing the necessary documents (Personnel Action Request- F3.2 and Vacation/Sick Leave - F 3.6) to process the requested leave in a timely manner.

All leave must be reported on a monthly basis to the Payroll Office. This is done by completing an F3.6 and submitting it and supporting documents to the Payroll Office not later than the seventh work day of the following month.

The employee is required to account for all such leave taken during the month. The leave balance will appear on the following month's F3.6. All leave must have prior approval on a Request for Overtime/Leave Form-F3.6A.

Even if no leave is taken for the month, each employee is required to complete the F3.6 and submit it to the Payroll Office.

**POLICY:** SICK LEAVE  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.2  
**REVISED:** NOVEMBER 2005

---

**1. PURPOSE**

The purpose of the sick leave benefit is to protect the employee's income during periods of bona fide illness or injury, to the employee or members of the employees immediate family, and which require the employee to be absent from work. It is also designed to protect other employees from being exposed to contagious diseases. All employees are expected to work if their health permits and to remain at home if it does not.

Sick leave may be used when an employee is prevented from performing his or her job due to sickness, injury, or pregnancy and confinement. It may also be used to care for an immediate family member who is ill. "Immediate family" is defined as 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. Sick leave may be used to care for immediate family members who do not reside in the same household only because of a documented medical condition. In this instance only, "immediate family" is interpreted as spouse, parent, or child. (Texas Government Code, Section 661.202 (e))

**2. ACCURAL**

An employee accrues sick leave beginning on the first day of state employment and ending on the last duty day of state employment. Duty day means an employee's last physical day on the job.

An employee who is on leave the first day of the month may not use that month's accrual until he or she returns to duty.

An employee accrues sick leave at a rate of eight hour per month or proportionately for part – time employees). Employees employed by multiple agencies cannot accrue sick leave at a rate that exceeds that of a full-time, 40 hour per week employee.

Sick leave accumulates with the unused amount carried forward each month, and there is no limitation on the amount which may be accrued.

Sick leave is earned each month the employee is on the payroll. Employees on leave without pay, and nine month faculty will not earn sick leave during any full calendar month when they are not on the payroll.

**3. UTILIZATION**

Any employee absent because of illness must notify his/her supervisor as soon as possible.

An absence of more than three days requires the employee to provide their supervisor with a doctor's certification or a written statement of the facts surrounding the absence and the nature of the illness. Where indicated by circumstances (see following paragraph), the supervisor may request a doctor's certification for sick leave of any duration. In addition, the supervisor may request a doctor's certification as to the employee's fitness to return to normal duties.

Normal utilization of sick leave benefits should not interfere with overall productivity of the department. Therefore, it is appropriate that corrective steps be taken if an employee abuses sick leave (e.g., calls in sick when absent for non-health related reasons), or if an employee has prolonged and/or frequent and regular absences which substantially hinder the employee in carrying out required duties and responsibilities. Corrective steps may include medical consultations, counseling, disciplinary warnings, and can eventually lead to termination.

Employees who exceed their accrued sick leave will be required to use any accrued vacation or compensatory time. When all accrued leave is exhausted, the employee will be placed on leave without pay (LWOP). An F3.2 must be generated placing the employee on LWOP for the appropriate time.

An employee may use sick leave while he or she is on annual leave. The employee may be required to submit a doctor's certification that confirms the illness and the employee may be required to submit a fitness for duty certification.

There is no authority to pay out an employee's accrued but unused sick leave balance upon termination.

Sick leave may be used for the adoption of a child under the age of three.

**4. RESTORATION OF SICK LEAVE BALANCES**

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

If an employee transfers to another state agency without a break in service, the accumulated sick leave balance shall be transferred to the hiring agency.

Employees who separate from state employment under a formal reduction in force are entitled to have their sick leave balances restored if they are re-employed by the State within 12 months.

Employees separated for reasons other than a formal reduction in force and re-employed by the same state agency may have their sick leave balances restored only if:

- The employee is re-employed by the same institution of higher education within 12 months after the end of the month in which the employee separates from state employment, but only if there has been a break in employment with the State of at least 30 calendar days; or
- The employee is re-employed by a different state agency or institution of higher education within 12 months after the end of the month in which the employee separates from state employment.

**5. PAYMENT FOR DECEASED EMPLOYEE**

The estate of a deceased employee is entitled to receive payment for one-half of the employee's sick leave balance or 336 hours, whichever is less. The amount paid to the estate will be based on the employee's compensation rate at the time of death. Any state holiday that falls within this period shall not be charged against the accrued leave hours.

**POLICY:** CATASTROPHIC SICK LEAVE POOL  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.3  
**REVISED:** MARCH 15, 2002

---

Use of the sick leave pool is limited to cases of catastrophic illnesses or injuries.

## 1. DEFINITIONS

**1.1** 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."

**1.2** **Licensed practitioner** means practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his or her license.

**1.3** **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.

## 2. ADMINISTRATION OF THE POOL

The Director of Human Resources will be responsible for administering the Pool.

## 3. GENERAL PROVISIONS

**3.1** All benefits-eligible employees of Lamar State College - Port Arthur may apply to use sick leave from the Sick Leave Pool.

**3.2** Employees may use pool leave for their own catastrophic illness/injury or for a member of the immediate family.

**3.3** Employees may also use pooled sick leave if they contributed sick leave to the pool and then exhausted their sick leave balance in the same fiscal year. Such employees may receive only the number of hours they contributed to the pool that fiscal year unless they suffer a catastrophic illness or injury.

**3.4** Employees must exhaust all accrued leave, plus any extended sick leave granted them by their agency, before they are eligible to use leave from the pool.

**3.5** Employees on pooled sick leave for a full calendar month accrue paid leave for that month, provided they return to work following the leave.

**3.6** Employees with catastrophic illnesses or injuries are not required to contribute to the pool before they can use pool leave.

**3.7** Employees who use pool leave are not required to pay back pool leave.

## 4. CONTRIBUTING SICK LEAVE TO THE POOL

**4.1** Contributions to the pool are strictly voluntary.

**4.2** Active employees may contribute sick leave to the pool each fiscal year, in increments of eight hours.

- 4.3 Employees who make contributions to the pool may not stipulate who is to receive their contributions.
- 4.4 Employees will be encouraged to contribute to the pool at the time of their separation from state employment. They may contribute up to three days at that time, provided they have not already contributed the maximum for that fiscal year.
- 4.5 Employees who contribute leave to the pool cannot get it back unless they are eligible to use it.

**5. REQUESTING TO USE LEAVE FROM THE POOL**

- 5.1 Request for Pool Leave will be forwarded to the Director of Human Resources (Pool Administrator) through appropriate supervisory channels, and will be considered by the Pool Administrator on a first-come, first-served basis.
- 5.2 The Pool Administrator will have five work days from the date she receives a request in which to approve all or part of the request, or deny the request.
- 5.3 The amount of Pool Leave granted for each catastrophic illness or injury will be determined by the Pool Administrator. However, the amount cannot exceed one-third (1/3) of the balance of hours in the pool, or 90 days, whichever is less.
- 5.4 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.
- 5.5 Employees seeking permission to withdraw time from the sick leave pool because of a catastrophic illness or injury are required to provide a written statement from the appropriate licensed practitioner sufficient to evaluate the employee's eligibility.

(S.B. 1624, 75<sup>th</sup> Legislature, General Appropriations Act)

**POLICY:** LEAVE WITHOUT PAY (LWOP)  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.4  
**REVISED:** NOVEMBER 2005

---

## 1. PROVISIONS

Leave without pay (LWOP) can only be granted according to the following provisions:

- The leave is unpaid.
- The leave may not exceed 12 months.
- Except in instances of disciplinary suspension, worker's compensation, and military situations:
  - \* Annual leave must be exhausted.
  - \* Sick leave, if appropriate, must be exhausted.
- The President may waive these limitations for such reasons as interagency agreements or for educational purposes.
- 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 not included in the calculation of the number of continuous months of employment for purposes of merit increases and leave.

## 2. COMPENSATION

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. (Texas Government Code, Section 661.909)

FLSA exempt employees may also be subject to salary reduction in the same manner in accordance with provisions of 29 C.F.R. section 541.188. FLSA exempt employees who are absent from work less than one day for personal reasons, sickness, or disability under certain conditions may be subject to a salary reduction.

## 3. LIMITATIONS

See guidelines on sick and vacation leave to determine limitations on use of leave. Placing an employee on LWOP involves additional administrative expenses and creates an additional workload for co-workers and therefore, frequent or lengthy LWOP status may subject the employee to corrective actions up to and including termination.

**POLICY:** EXTENDED LEAVE WITHOUT PAY  
**SCOPE:** ADMINISTRATION AND STAFF  
**POLICY NUMBER:** 4.5  
**REVISED:** NOVEMBER 2005

---

**1. EXTENDED LEAVE WITHOUT PAY**

Any employee who is unable to perform the requirements of his/her job with or without a reasonable accommodation may request to be placed on LWOP status for a full calendar month or longer. The employee must make a written request to the appropriate Vice President or Dean. Normally such requests will be limited to six (6) months and in no case will they extend beyond twelve (12) months. When such leaves are granted the employee will be eligible to return to employment in a similar position provided that at the expiration of the leave:

- 1.1** That the employee is in satisfactory medical condition and/or mental condition to resume full employment with or without reasonable accommodation. A doctor's documentation will be required.
  - 1.2** The employee notifies the Human Resources Office in writing of the intent to return to work.
  - 1.3** The employee allows at least thirty days for reinstatement in a similar position.
- 2.** The College does not assure that employees returning from Extended LWOP will be returned to their same position but only that they will be returned to a similar position for which their qualifications are accepted by the supervisor holding an available and vacant position.
- 3.** Failure of an employee to return to work at the end of an approved LWOP will be a voluntary termination employment unless request for extension of the LWOP has been approved by the appropriate Dean, Director or Vice President. The request will not be approved beyond the 12 month limit.
- 4.** Employment while on a disability LWOP is cause for termination unless specifically approved as related to the employee's College responsibilities.
- 5.** During an extended LWOP (longer than a calendar month), the employee is responsible for paying the full insurance premiums on any coverage. That is, the employee must pay both the normal employee cost and the state contribution, unless the leave is certified as Family Medical Leave. Failure to pay the premium will result in cancellation of the insurance and evidence of insurability may be required to have the insurance reinstated.
- 6.** No sick or vacation leave will be accrued for any calendar month on LWOP.
- 7.** Retirement contributions are discontinued while on LWOP. Accrued benefits are not forfeited, nor can they be withdrawn during the LWOP.

**POLICY:** FAMILY MEDICAL LEAVE  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.6  
**REVISED:** NOVEMBER 2005

---

**1. POLICY**

It shall be the policy of Lamar State College - Port Arthur to provide all eligible employees twelve (12) weeks leave time to care for their needs and those of their family members. This policy shall meet the requirements of the Family Medical Leave Act. Employees utilizing FML will be granted the rights preserved in that legislation and the regulation defined by the U. S. Department of Labor and the State Appropriations Act.

**2. ELIGIBILITY**

To be eligible for leave under the Family Medical Leave, an employee (Faculty or Staff) must have:

- 2.1** A total of at least 12 months of state service. In calculating the required twelve (12) months, all state employment will be counted and it need not be continuous, and
- 2.2** Worked at least 1250 hours during the (12) month period immediately preceding the commencement of leave. The 1250 hours refers to hours actually worked and does not include paid time off.
- 2.3** For purposes of FML, the State is considered a single employer. Time worked for other state agencies should be credited when considering FML eligibility.

**3. USE OF ACCRUED LEAVE**

**3.1** Eligible employees must use all appropriate paid leave while taking FML.

FLSA compensatory time cannot be used concurrently with FML. If the employee elects to use FLSA compensatory time while out on FML, that time is not counted toward the 12-week entitlement. State compensatory time, holiday time, and administrative leave that are benefits of the State may be counted toward the entitlement.

- 3.2** Employees on workers' compensation or receiving temporary disability benefits cannot be required to use, but may elect to use, paid leave prior to taking FML.
- 3.3** Sick leave may be used in conjunction with FML when a child under the age of three is adopted, regardless of whether the child is ill at the time of adoption.
- 3.4** A state employee who is 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.

**4. PARENTAL LEAVE**

Those employees with less than a total of 12 months of state service or who have worked less than 1250 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.

**5. ELIGIBLE EVENTS**

Eligible employees are entitled to a total of twelve (12) weeks of leave during any twelve (12) month period for one (1) or more of the following events:

- The birth and care of a child;
- The placement of a child for adoption or foster care;

- To care for a spouse, child, or parent with a serious health condition; or,
- A serious health condition that renders the employee unable to work.

Additionally:

- An employee who takes FML must be returned to the same job or a job with equivalent status and pay.
- The employer must continue the employee's health benefits during the absence.
- The employee is responsible for paying his or her portion of the premium. Health care coverage will cease if premium payment for dependent coverage is more than thirty (30) days late. If the employee elects not to return to work at the end of the leave period, he/she will be required to reimburse the State for the cost of the premiums paid to maintain coverage during leave, unless he/she cannot return to work because of a serious health condition or other circumstances beyond his/her control.
- The employer can require the employee to provide a doctor's certification. Medical Certification Forms are available from the Human Resources Office. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided.
- FML may used intermittently or on a reduced leave schedule if required by a physician to address a serious illness. Employees requesting intermittent leave to care for a child that is a newborn, during adoption, or during foster care must get employer approval for the intermittent leave. If leave is unpaid, the employee's salary will be reduced based on the amount of time actually worked. In addition, while he/she is on an intermittent or reduced schedule leave, the employee may be temporarily transferred to an alternative position which better accommodates the recurring leave and which has equivalent pay and benefits.
- If FML is used in one continuous block, a college closing will count against the employee's entitlement. The exception to this is a closing of a week or more.
- Holidays, ice days, and shutdowns do not count against employees who are on intermittent FML or a reduced work schedule.

## **6. METHOD OF CALULATION**

Lamar State College - Port Arthur will calculate the twelve (12) month period of leave usage by a roll back method.

## **7. ACCURALS**

An employee on FML will not accrue service credit for any full calendar months of LWOP taken while on FML. Further, any full calendar months of LWOP shall not be included in the calculation of six (6) continuous months of employment set forth in Article V of the Appropriations Act, Section 1, 4 and Section 8, 1.

An employee on FML will not accrue vacation or sick leave for such months.

## **8. PROCEDURE**

### **8.1 NOTICE**

If need for family/medical leave is foreseeable, employees must give Arthur thirty (30) days prior written notice. Where the need for leave is not foreseeable, notification must be given within 1 to 2 working days of learning of need for leave, except in extraordinary circumstances. Failure to provide such notice may be grounds for delay of leave. Forms are available from the Human Resources Office.

### **8.2 DESIGNATION**

An employee does not have the option of choosing whether or not to designate leave as FMLA, it is the employer's responsibility to determine whether leave qualifies as FMLA leave.

### 8.3 REPORTING WHILE ON LEAVE

The employee must report to the Human Resources Office regarding the status of his/her condition and intention to return to work on a monthly basis the 1st day of the month.

### 8.4 RETURNING FROM LEAVE

If leave is taken because of employee's serious health condition, he/she will be required to provide medical certification to resume work. Return to Work Medical Certification Forms may be obtained from the Human Resources Office. **Employees failing to provide the Return to Work Medical Certification Form or a doctor's release form will not be permitted to resume work until it is provided.**

### 8.5 EXTENDED LEAVE FOR SERIOUS HEALTH CONDITION

Leave taken because of an employee's own serious health condition may be extended additional weeks (see Leave Without Pay Policy).

### 8.6 FAILURE TO RETURN TO WORK

If an employee does not return to work on the originally scheduled return date nor requests in advance an extension of the agreed upon leave with appropriate documentation, he/she will be deemed to have voluntarily terminated employment with Lamar State College - Port Arthur.

## 9. DEFINITIONS

For the purposes of this policy, the following definitions apply:

**Spouse** is defined in accordance with applicable State law.

**Parent** includes biological parents and individuals who acted as parents, but does not include parents-in-law.

**Son or daughter** includes biological, adopted, foster children, stepchildren, legal wards, and other persons for who the employee acts in the capacity of a parent and who less than 18 years is of age but incapable of caring for themselves.

**Serious health condition** means any illness, injury, impairment, or physical or mental condition that involves: **(1)** any incapacity or treatment in connection with inpatient care; **(2)** an incapacity requiring absence of more than three calendar days and continuing treatment by a health care provider; or **(3)** continuing treatment by a health care provider of a chronic or long term condition that is incurable or will likely result in incapacity of more than three (3) days if not treated.

**Continuing treatment** means: **(1)** two or more treatments by a health care provider; **(2)** two or more treatments by a provider of health care services (e.g., physical therapist) on referral by or under orders of a health care provider; **(3)** at least one treatment by a health care provider which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a program of medication or therapy); or **(4)** under the supervision of, although not actively treated by, a health care provider for a serious long-term or chronic condition or disability which cannot be cured (e.g., Alzheimer's or severe stroke)

**Health Care Provider** includes: licensed MD's and OD's, podiatrists, dentist, clinical psychologist, optometrist, chiropractors authorized to practice in the State, nurse practitioners and nurse-mid-wives authorized under the State Law, and Christian Science Practitioners.

**Needed to care for a family member** encompasses: **(1)** physical and psychological care, and **(2)** where the employee is needed to fill in for others providing care or to arrange for third party to care for the family member.

The phrase **unable to perform the functions of his/her job** means an employee is: **(1)** unable to work at all; or **(2)** unable to perform any of the essential functions of his/her position. The term "essential functions" is borrowed from the Americans with Disabilities Act ("ADA") to mean "the fundamental job duties of the employment position," and does not include the marginal functions of the position.

REFERENCE: SB5, 73rd Legislature, Regular Session, Article V, Section 8 U.S. Public Law 1033, Family Medical Leave Act, 29CFR825

**POLICY:** OTHER LEAVES AND ABSENCES  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.7  
**REVISED:** NOVEMBER 2005

---

## **1. MILITARY LEAVE**

### **1.1 ELIGIBILITY**

State employees are eligible for leave to accommodate:

- Authorized training or duty for the State's military forces and members of any reserve branch of the U.S. Armed Forces. (Texas Government Code, Section 431.005(a).
- Activation of the State's National Guard by the Governor. (Texas Government Code, Section 661.903)
- National emergency activation for members of a reserve branch of the U.S. Armed Forces. (Texas Government Code, 661.904)

### **1.1 ADJUSTED WORK SCHEDULE FOR MILITARY LEAVE**

State agencies are required to adjust the work schedule of an employee who is a member of the military so that two of the employee's days off each month coincide with two days of military duty. (Texas Government Code, 658.008)

### **1.2 AUTHORIZED TRAINING FOR DUTY**

A state employee who is called to active duty or authorized training is entitled to a leave of absence of 15 days in each federal fiscal year (October 1 through September 30) without loss of pay or benefits. (Texas Government Code, Section 431.005(1); and State Auditor's Leave Interpretation Letter 98-03 (1988) The 15 days need not be consecutive. In addition, these days are business days, not calendar days. After exhausting the 15 days, the employee may use accrued annual leave or be placed on LWOP status (or a combination of the two) for the remainder of the active duty period.

### **1.3 CALL TO NATIONAL GUARD ACTIVE DUTY BY THE GOVERNOR**

A state 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 annual leave. (Texas Government Code, Section 431.0825)

### **1.4 CERTAIN BENEFITS AND PROTECTIONS FOR STATE SERVICE**

A member of the state military forces who is ordered to active state duty by the Governor or by other proper authority under the law of this State is entitled to the same benefits and protections provided.

- To persons performing service in the uniformed services by 38 United States Code, Sections 4301-4313 and 4316-4319, as that law existed on April 1, 2003; and
- To persons in the military service of the United States by 50 App. United States Code, Sections 501-536, 560 and 580-594, as that law existed on April 1, 2003.

This applies only to persons serving on active state duty on or after the effective date of this statute without regard to the date on which the person was initially ordered to active state duty.

### **1.5 CALL TO NATIONAL DUTY**

A member of the National Guard or any reserve branch of the U. S. Armed Forces called to federal active duty during a national emergency is entitled to an unpaid leave of absence after exhausting the 15 days of paid military leave. The employee may use any accrued annual leave, compensatory time, or overtime leave to maintain benefits for the employee or the employee's dependents while on military duty.

### **1.6 RESTORATION OF EMPLOYMENT**

To be eligible for restoration of employment at the conclusion of military service, the employee must be honorably discharged no later than five years after induction, enlistment, or call to duty and must be physically and mentally qualified to perform the duties of the job. (Texas Government Code, Section 613.002)

**2. VOLUNTEER FIRE FIGHTERS AND EMERGENCY MEDICAL SERVICES TRAINING**

Volunteer fire fighters and emergency medical services volunteers are entitled to paid leave not to exceed five working days each fiscal year for attending training. This leave is not charged against the employee's accrued leave balance. Employees requesting such leave should provide their supervisor with support documentation verifying the training. Copies of the documentation will be placed in their personnel file.

Leave with full pay may also be granted to volunteer firefighters for the purpose of responding to emergency fire situations.

**3. LEAVE FOR ASSISTANCE DOG TRAINING**

An employee with a disability as defined by Texas Human Resources Code, Section 121.002, will be granted paid leave not to exceed 10 days each fiscal year to attend training necessary to provide the employee with an assistance dog. This leave is not charged against the employee's accrued leave balance.

**4. PARENTAL LEAVE**

Employees who do not qualify for FML are entitled to parental leave for the birth of a child or the adoption or foster care placement of a child under the age of three. Parental leave cannot exceed 12 weeks. The employee must first use all available and applicable paid vacation and sick leave while taking the leave and the remainder of the leave is unpaid. Because eligibility time requirements are different for parental leave (less than 12 months of state service) and FML (12 months (1250 hours) or more of state service), an employee can meet requirements of only one of these entitlements. The leave period begins with the date of birth or the adoption or foster care placement.

Circumstances can exist that would allow an employee to take parental leave, return to duty, and subsequently be eligible for FML. The employee could then take FML for the birth, adoption, or foster placement of a child or for another reason.

**5. FOSTER PARENTAL LEAVE**

An employee who is a foster parent to a child under the protection of the Department of Family and Protective Service (DFPS) is entitled to a paid leave of absence to attend staff meetings held by DFPS regarding the foster child. In addition, the employee may use this entitlement to attend admission, review, and dismissal meeting held by a school district regarding the foster child. (Texas Government Code, Section 661.906)

**6. PARENT – TEACHER CONFERENCE LEAVE**

An employee may use up to eight hours of sick leave each fiscal year to attend parent-teacher conference sessions for the employee's children who are in pre-kindergarten through twelfth grade. The employee must give reasonable notice of his or her intention to use this leave. (Texas Government Code, Section 661.902) Part time employees receive this leave on a proportionate basis.

**7. FUNERAL LEAVE (Emergency bereavement leave)**

An employee is entitled to leave with pay for a death in the employee's family. An employee's family is defined as the employee's spouse, the employee's and spouse's parents; children, brothers, sisters, grandparents, and grandchildren. Leave for the death of anyone other than members of the employee's immediate family shall be charged to vacation, compensatory time or leave without pay.

An employee who must be away from the job due to a death in the immediate family should notify the supervisor on or before the first day of such absence. The Request for Overtime and Leave Form (F3.6A) should be completed and the absence approved. The request for leave should show the name, relationship and date of death of the family member.

Bereavement is normally not granted beyond three days. Employees may request additional leave beyond three days if there are special considerations.

## **8. ADMINISTRATIVE LEAVE**

The President or designee may consider other requests for emergency leave which do not meet the criteria above (7. Funeral Leave). Such leave will be designated as administrative leave. The granting of administrative leave is normally limited to cases involving unusual or emergency situations. The President or designee may grant administrative leave when the employee shows good cause for such leave. Administrative leave also may be approved for specific circumstances which include:

- Closing of the College due to inclement weather
- Situations in which the work location is uninhabitable or dangerous
- Funerals or memorial services for co-workers or College associates, or funerals or memorial services for immediate family members of co-workers
- Severely catastrophic medical situations when all other paid leave options available to the employee have been exhausted and when circumstances warrant such leave. Catastrophic medical emergencies shall normally be a limited terminal illness, or other severe medical circumstances involving extended hospitalization
- Some disciplinary cases when an investigation is in progress or when an employee's security or safety is an issue

The department head approves requests for administrative leave to attend funerals or memorial services for coworkers, College associates, or immediate family members of co-workers. Requests for administrative leave for reasons other than to attend such funerals or memorial services as indicated above must be reviewed and approved by the department head, Vice President, and President.

## **9. LEAVE FOR BONE MARROW OR ORGAN DONORS**

A state employee is entitled to a 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 provided by this section may not exceed:

- Five working days in a fiscal year to serve as a bone marrow donor; or
- 30 working days in a fiscal year to serve as a organ donor. (Texas Government Code, Section 661.916)

Submit a Request for Leave (F3.6A) form in advance. Include proper physician certification for bone marrow or organ donation.

## **10. DONATION OF BLOOD**

A state employee is entitled to have sufficient time off without a deduction in salary or accrued leave, to donate blood. You must obtain prior approval from your supervisor for blood donation and provide your supervisor with proof of blood donation upon your return to work. Attach this documentation to your completed Request for Leave (F3.6A) when you return.

An employee may receive time off to donate blood not more than four times in a fiscal year.

**11. JURY DUTY**

If an employee is called to jury duty on normal workdays, they will be granted leave with pay. To receive this leave, you must provide an official statement that verifies the time served. The employee may keep any fees they receive from the court for jury duty.

An employee called to appear in an official capacity in any judicial action or legislative investigation is not entitled to any witness fees for such a governmental appearance. However, if the appearance is not in an official capacity but is for the purpose of testifying from personal knowledge, an employee may accept any customary witness fees. In the case of an employee whose appearance as an expert witness is not in an official capacity, the employee may receive compensation only when such an appearance is made on his or her own leave time. The limitations relating to witness fees do not extend to any mileage or per diem allowance paid to the state employee or official for expenses incurred while serving as a witness as long as there is no double reimbursement to the employee for expenses.

The Appropriations Act provides that deductions may not be made for absences caused by jury duty, (or) attendance as a witness at a judicial action. Thus, FLSA exempt employees can exercise their right to participate in the legal system as witnesses or jurors without suffering a reduction in pay. In addition, FLSA exempt employees can receive both an expert witness fee (in an official capacity) and compensation from work.

**12. CERTIFIED AMERICAN RED CROSS ACTIVITIES LEAVE**

Employees who are certified disaster service volunteers of the American Red Cross or are in training to become a volunteer are entitled to paid leave not to exceed 10 days each fiscal year. The employee must have the approval of his or her supervisor and the Governor and a formal request from the American Red Cross. (Texas Government Code, Section 661.907(a))

**13. PAYMENT OF ACCRUED LEAVE OF DECEASED EMPLOYEES**

The estate of an employee who dies while employed by the State is entitled to payment for all accumulated annual leave and one-half of accumulated sick leave or 336 hours, whichever is less. (Texas Government Code, Section 661.033) The payment is calculated at the employee's salary rate at the time of death. (Texas Government Code, Section 661.034) Employees that normally work at least 900 hours per year are eligible for this benefit. (Texas Government Code, Section 661.031(2))

If an employee dies during a workday, the survivors are entitled to a full day's wages for the employee's last day of service.

A deceased employee's estate is entitled to receive payment for earned but unused overtime but is not entitled to payment for earned but unused state compensatory time. (29 CFR Part 553.27; and Opinion, Texas Attorney General, No. H-899 (1976))

**POLICY:** WORKERS' COMPENSATION  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.8  
**REVISED:** DECEMBER 2005

---

**1. ADMINISTRATING AGENCY**

The State Office of Risk Management (SORM) administers the State's workers' compensation system for most state employees.

**2. REMEDIES**

Recovery of workers' compensation benefits is the exclusive remedy of an employee covered by workers' compensation insurance coverage or a legal beneficiary against the employer or an agent or employee of the employer for the death of or a work-related injury sustained by the employee. However, this does not prohibit the recovery of exemplary damages by the surviving spouse or heirs of a deceased employee whose death was caused by an intentional act or omission of the employer or by the employer's gross negligence as defined by Section 41.001, Civil Practice and Remedies Code. A determination by the Division of Workers' Compensation (DWC) at the Texas Department of Insurance that a work-related injury is non-compensable does not adversely affect the exclusive remedy provisions in statute. To receive these benefits, an employee must suffer a compensable injury on the job. An injury is defined as "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." An occupational disease is considered an injury.

**3. MEDICAL BENEFITS**

An injured employee is entitled to all health care reasonably required by the nature of the injury as and when needed. The injured employee is entitled to his or her choice of treating physicians; however, the physician must be one of the doctors listed on the DWC's approved doctor list. (Texas Government Code, Section 408.022(a) If an employee is dissatisfied with the initial choice of a doctor from the DWC's list, the employee may notify the DWC and request authority to select an alternative doctor. The notification must be in writing and state the reasons for the change, except notification may be made by telephone when a medical necessity exists for immediate change.

**4. INCOME BENEFITS**

In addition to medical services payments, state employees are eligible to receive income benefits for time lost from work as the result of an injury. To be eligible, an injury must result in disability for at least one week. Income benefits begin to accrue on the eighth day after the disabling injury. This entitlement ends upon the death of the employee. Eligibility for income benefits (for example, temporary income, impairment increment, or supplemental income) expires 401 weeks after the date of the disabling injury. (Texas Government Code, Section 408-081, Section 408.082, and Section 408.083)

An employee may elect to use accrued sick leave prior to receiving income benefits. In order to do so, the employee must exhaust all accrued sick leave. Annual leave may also be used by the employee. Under these circumstances, and after exhausting sick leave, the employee may designate the use of all or any number of weeks of annual leave. The designated amount of leave must be exhausted before the employee is entitled to receive income benefits. Once this election has been made by the employee, no changes are permitted. (Texas Government Code, Section 501.044) Employers may not require employees to exhaust compensatory time balances before receiving income benefits. Employers also may not prohibit employees from using compensatory time while they are receiving income benefits. (Opinion, Texas Attorney General No. JC-0188 (2000)

There are five types of income benefits

**4.1 TEMPORARY BENEFITS** are provided to the injured employee until he or she reaches maximum medical improvement (MMI). MMI is reached when certified by a physician or at the conclusion of 104 weeks, whichever occurs first

**4.2 IMPAIRMENT BENEFITS** begin the day after an employee reaches MMI and end on the date of the employee's death or after a period equal to three weeks for each percentage point of impairment.

**4.3 SUPPLEMENTAL BENEFITS** are paid out when impairment benefits have expired and the employee:

- Has an impairment rating of 1.5 percent or more.
- Has not returned to work or has returned to work earning less than 80 percent of the average pre-injury weekly wage.
- Has made a good-faith effort to find employment suitable for his or her ability to work

**4.4 LIFETIME BENEFITS** are paid for the following specific illnesses:

- Loss of sight in both eyes
- Loss of both feet at or above the ankle
- Loss of both hands at or above the wrist
- Loss of one foot and one hand
- Injury to the spine resulting in complete paralysis of both arms, both legs, or one arm and one leg
- Injury to the brain resulting in incurable insanity or imbecility
- Third-degree burns over 40 percent of the body that require grafting
- Third-degree burns covering the majority of both hands or one hand and the face.

The employee receives this benefit until his or her death. (Texas Labor Code, Section 408.161)

**4.5 DEATH AND BURIAL BENEFITS** are paid to the beneficiaries of the deceased employee if the employee dies from a compensable injury. Beneficiaries may include eligible spouses, children, grandchildren, or dependents. (Texas Labor Code, Section 408.181, Section 408.061, Section 408.186)

## **5. NOTIFICATION AND CLAIM REQUIREMENTS**

An employee or party representing the employee must notify the employer within 30 days after the injury occurred, or if the injury is an occupational disease, as soon as the employee knew that the injury might be related to his or her employment. Failure to notify the employer may relieve that employer of any liability in the matter unless the employer has actual knowledge of the injury; the DWC determines that good cause exists for failure to provide notice, or the employer or its insurance carrier does not contest the claim. (Texas Labor Code, Section 409.001 and Section 409.002)

Claims for compensation must normally be filed within one year from the date of injury. Failure to file a claim for compensation with the DWC as required by statute relieves the employer and the employer's insurance carrier of liability under this subtitle unless good cause exists for failure to file a claim in a timely manner or the employer or the employer's insurance carrier does not contest the claim.

Claims for death benefits generally must be filed within one year of the employee's death. Failure to file bars the claim unless the person is a minor or incompetent or good cause exists for the failure to file a claim. Separate claims must be filed for each beneficiary unless the claim expressly includes other parties. (Texas Labor Code, Section 409.007)

## **6. EMERGENCY LEAVE AND WORKERS' COMPENSATION**

The administrative head of an agency, department, or institution of higher education may authorize emergency leave with pay to an employee receiving Workers' Compensation benefits. The emergency leave payments may not exceed an amount equal to the difference between the basic monthly wage of the employee and the amount of income benefits the employee received for the month. Emergency leave payments may not extend for more than six months.

## **7. LEAVE ACCUMULATION AND WORKERS' COMPENSATION**

State employees who are exhausting their leave as a result of a workers' compensation claim are prohibited from using sick and annual leave hours that accrue after the first day of the month in which the employees become incapacitated unless they physically return to work. (State Auditor's Leave Interpretation Letter No. 01-02 (2000))

**POLICY:** RETURN-TO-WORK  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.9  
**REVISED:** MARCH 15, 2002; DECEMBER 2005

---

## 1. Policy Statement:

It is the policy of Lamar State College - Port Arthur to provide a Return-to-Work Program as the means to return injured employees to meaningful, productive employment following an injury or illness

The return to work program provides opportunities for any employee of this agency who sustains a compensable injury during the course and scope of employment, a disability as defined by the Americans with Disabilities Act, and/or a serious health condition as defined by the Family Medical Leave Act to return to work at full duty. If the employee is not physically capable of returning to full duty, the return to work program provides opportunities when available for the employee to perform a temporary assignment in which the employee's regular position is modified to accommodate the employee's physical capacities, or to perform an alternate duty position.

This return to work program shall not be constructed as recognition by Lamar State College - Port Arthur, its management, or its employees that any employee who participates in the program has a disability as defined by the Americans with Disabilities Act of 1990. If an employee sustains an injury or illness that results in a disability under the ADA, it is the employee's responsibility to inform his or her supervisor or a person in a responsible management position when a disability under the ADA exists and that a reasonable accommodation is necessary to perform the essential functions of his or her job.

Specific procedures shall be provided to guide all employees regarding the return to work program. All employees, divisions, and facilities of the Lamar State College - Port Arthur is expected to support and fully comply with this policy and the procedures provided to implement this policy.

## 2. Definitions

- 2.1** **Serious Health Condition** - As illness, injury, impairment, or physical or mental condition that involves:
- Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity, or
  - Continuing treatment by a health care provider, including period of incapacity.
- 2.2** **FMLA Leave** - Federal leave entitlement of up to 12 weeks of unpaid leave when an eligible employee is unable to work because of a serious health condition. The absence from work must be a period of incapacity of more than three consecutive calendar days. The leave is normally continuous, but may be taken intermittently or on a reduced leave schedule.
- 2.3** **Lost Time** - Time spent away from work at the direction of the treating doctor as a result of a compensable injury sustained in the course and scope of employment. The term does not include time worked in a temporary assignment.
- 2.4** **Full Duty** - Performance of all duties and tasks of the position for which the employee is employed. Full duty entails performing all essential and non-essential functions of the employee's regular job.

**2.5**        **Temporary Assignment** - Performance of a temporary job assignment that is intended to return an injured employee to work at less than his or her full duties when a compensable injury or serious medical condition prevents the employee from working full duty. Two types of temporary assignments are modified duty and alternate duty.

**2.5.1**     **Modified Duty** - Performance of all of the essential functions, but only a portion of the non-essential functions and tasks of the regular job duties for which the employee is employed. Modified duty allows the employee to return to current employment in his or her regular job, and perform those duties and tasks that are within the capabilities of the employee, given the restrictions to duty imposed by the treating physician. Modified duty is a temporary arrangement until the injured employee can resume full duty. If the employee is a qualified individual with a disability as defined under the Americans with Disabilities Act, then modified duty may become a permanent arrangement as a reasonable accommodation, if the accommodation does not create an undue hardship on Lamar State College - Port Arthur.

**2.5.1**     **Alternate Duty** - Performance of the essential functions of a job or position other than the position for which the employee is employed. Alternate duty allows the employee to temporarily perform other duties and tasks of that are within the restrictions to duty imposed by the treating doctor. Such alternate duty may be physically located in the same facility or in some other facility. Alternate duty is a temporary arrangement until the injured employee can resume full activities of her/her regular job. If the employee is a qualified individual with a disability as defined under the Americans with Disabilities Act, then alternate duty may become a permanent arrangement as a reasonable accommodation, if the accommodation does not create an undue hardship on Lamar State College - Port Arthur.

### **3. Prohibited Actions**

This return to work policy and procedure shall not be applied to any situation or circumstance in a manner that discriminated on the basis of race, color, sex, national origin, religion, or disability.

It is a violation of the Return to Work Policy and Procedures and state or federal law for any employee, supervisor or manager of Lamar State College - Port Arthur to:

**3.1**        Discharge or in any other manner discriminate against an employee of Lamar State College - Port Arthur because the employee:

**3.1.1**       Files a workers' compensation claim in good faith;

**3.1.2**       Hires a lawyer to represent the employee in a workers' compensation claim;

**3.1.3**       Institutes or causes to be instituted in good faith a proceeding under the Texas Workers' Compensation Act; or

**3.1.4**       Testifies or is about to testify in a proceeding under the Texas Workers' Compensation Act.

**3.2**        Discharge or in any other manner discriminate against an employee of Lamar State College - Port Arthur because the employee:

**3.2.1**       Opposes any practice made unlawful by the FMLA or ADA; or

**3.2.2**       Has filed any charge, or has instituted or caused to be instituted any proceedings under or related to the FMLA;

**3.2.3**       Has given, or is about to give, any information in connection with any injury or proceeding relating to any right provided under the FMLA; or

**3.2.4**       Has testified, or is about to testify, in any injury or proceeding relating to any right provided under the FMLA.

- 3.3 Interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided by the Family Medical Leave Act (FMLA).
- 3.4 Discriminate on the basis of disability against an employee of Lamar State College - Port Arthur who is a qualified individual with a disability under the Americans with Disabilities Act (ADA) in regard to:
  - 3.4.1 Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists
  - 3.4.2 Leave of absence, sick leave, or any other leave
  - 3.4.3 Upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring
  - 3.4.4 Rates of pay or any other form of compensation, changes in compensation, and fringe benefits available
  - 3.4.5 Selection and financial support for training; or
  - 3.4.6 Social and recreational activities
- 3.5 Limit, segregate, or classify a job applicant or employee in a way that adversely affects his or her employment opportunities or status on the basis of disability.
- 3.6 Require a medical examination of an employee who is disabled as defined under the ADA unless the medical examination is job related and consistent with business necessity.
- 3.7 Make inquiries as to whether an employee is an individual with disability or as to the nature or severity of such disability.

**4. Position Descriptions of All Positions**

All supervisors and managers are responsible for identifying, documenting and maintaining the essential and non-essential functions in a position description. All position descriptions shall be reviewed at least annually, and must be submitted for approval to the human resources manager.

**5. Designated Return to Work Coordinator**

The Director of Human Resources shall be responsible for coordinating all activities associated with the return to work program, unless specific duties are otherwise assigned to another person or position.

**6. Education and Training**

The Director of Human Resources shall develop, maintain and provide an appropriate training module for inclusion in orientation training for new employees. The Director of Human Resources shall also develop, maintain and provide an appropriate refresher training module for presentation to employees on an as needed basis.

**7. Employee Participation in the Return to Work Program**

In order for an employee of Lamar State College - Port Arthur to be eligible to participate in this return to work program, the employee must have:

- 7.1 Sustained a compensable injury as defined in the Texas Workers' Compensation Act that results in lost time away from work.
- 7.2 Serious health condition as defined by the Family and Medical Leave Act.
- 7.3 A disability as defined by the Americans with Disabilities Act.  
An employee who meets the above criteria shall be encouraged to participate in the program. However participation by the employee in the program is voluntary and the employee cannot be forced to participate.

**8. Notification of Injury or Illness**

An employee who sustains an injury or illness either on or off the job is expected to notify his/or her supervisor, or a person in a management position, that an injury or serious health condition exists. Such notification should occur at the earliest possible time after occurrence of injury or knowledge that a serious health condition exists. Such notification should ideally occur within 24 hours of the injury or when the serious health condition first manifests itself. In order to receive workers' compensation benefits, an employee must give notice of injury within 30 days.

**9. Authorization for Leave and Lost Time**

An employee who must miss work due to a compensable injury and/or a serious health condition must be certified or authorized by a health care provider to be off work. It is the employee's responsibility to obtain such certification from the health care provider and to return the certification to his/her supervisor in a timely manner. A "Certification of Physician or Practitioner" form is available in the Human Resources Office. If an employee is disabled as defined under the ADA, the request must be job-related, consistent with business necessity and cannot inquire as to the nature or severity of the injury.

In general, the treating health care provider's certification should be provided by the employee to the supervisor according to the following timeliness:

**9.1** When the employee knows in advance that FMLA leave is necessary, the re-certification form should be provided to the supervisor a minimum of three work days prior to the time when leave will commence.

**9.2** When the employee cannot know in advance that leave is necessary, the re-certification form should be provided to the supervisor within a maximum of three calendar days after the initial visit to the health care provider.

The employee's supervisor shall provide a copy of the employee's position description to the employee to take to the health care provider to assist the health care provider to determine whether the employee can perform the essential functions of the job.

**10. Substitution of Paid Leave for Unpaid Leave**

If an employee is injured off the job, the current General Appropriations Act requires the employee's accrued annual leave and accrued sick leave must be utilized before unpaid leave is taken. If a compensable work-related injury or illness is involved, the employee is not required to use all accrued annual or sick leave. The employee may elect to use, but may not be required to use, accrued sick leave before receiving workers' compensation temporary income benefits. However, if the employee elects to use sick leave, all accrued sick leave must be exhausted before the employee is entitled to workers' compensation temporary income benefits.

**11. Periodic Status Reports**

If an employee is certified by a health care provider to be off work, the employee is required to submit periodic status reports to his/her supervisor to report the employee's status and intention to return to work. Such status reports are required at the time of such scheduled visit with the treating health care provider and are due immediately following the visit. A "Return to Work Status Report" form is attached to this procedure for this purpose. The status report should be provided to the supervisor within 24 hours of the scheduled visit or if a weekend or holiday is involved, before close of business on the next scheduled workday.

If an employee has returned to work in a temporary assignment follow-up health care provider appointments are necessary, the employee shall schedule the appointments to minimize time away from the job. Time away from work for these health care provider appointments shall be counted against FMLA leave, designated by the employer.

**12. Communications with the Employee**

The Director of Human Resources shall provide information to the employee that contains the following, as appropriate:

1. Lamar State College - Port Arthur's return to work policy and procedures, and appropriate forms.
2. If a job-related injury or occupational disease occurs:
  - a. notification that the State of Texas provides workers' compensation benefits to employees who sustain compensable job-related injuries and/or occupational diseases.
  - b. how medical expenses and income payments are made.
  - c. how employee health benefits are continued.
  - d. the name, location and telephone number of the local Texas Workers Compensation Commission's (TWCC) field office and the name of the TWCC ombudsman at that office. The notice should state that the employee has a right to information and assistance from the TWCC ombudsman with his/her claim.
  - e. the rights available to the employee under the Texas Workers' Compensation Act.
3. For FMLA leave:
  - a. information regarding the employee's FMLA leave entitlement.
  - b. how employee health benefits are continued.
  - c. required certifications from the health care provider.

The Director of Human Resources is responsible for maintaining regular, weekly communications with the employee. The purposes of these communications are to: encourage the employee during recuperation for the injury; communicate the value of the employee to the agency; encourage return to work at the earliest possible date; and if the employee is on lost time for a workers' compensation claim, offer assistance to the employee if needed to attend health care provider visits.

**013. Communications with the Workers' Compensation Division**

The Claims Coordinator is responsible for timely submission to the Workers' Compensation Division, Office to the Attorney General and/or to the Texas Workers' Compensation Commission, all required reports and other important documents in Lamar State College - Port Arthur's possession regarding a workers' compensation claim, including the "Certification of Physician or Practitioner=s form and "Return to Work Status" form. Timely submission of reports and forms is necessary in order to promptly initiate workers' compensation benefits, or cease payment of benefits when the employee returns to work. All reports and forms shall be submitted in a timely manner in accordance with the requirements of the Texas Workers' compensation Act.

**014. Temporary Assignment Positions**

If an employee is certified by the health care provider to return to work, but in less than full duty, Lamar State College - Port Arthur may provide a temporary assignment position to the employee. Directors and managers are responsible for identifying temporary assignment positions to facilitate return to work based on the business necessity of filling the employee's position, the employee's entitlement to FMLA leave, the availability of temporary assignments, and other appropriate factors. These temporary assignments shall be coordinated with the Director of Human Resources. The maximum length of time that a temporary assignment may last must be based on relevant factors including the business necessity of the employee's original position being filled.

Temporary assignment positions shall be identified, assigned and managed on a case by case basis based upon the business necessity of the agency.

The temporary assignment position shall be documented in a "bona fide offer of employment" letter to the employee.

**014. Bona fide Offer of Employment**

The bona fide offer of employment letter shall include the following information:

1. The type of position offered and the specific duties.

2. A statement that the agency is aware of and will abide by any physical limitations under which the treating doctor has authorized the employee to return to work.
3. The maximum physical requirements of the job.
4. The wage rate of the job.
5. The location of the temporary assignment.
6. The expected duration of the temporary assignment.
7. The consequences of not accepting a temporary assignment, in terms of duration and amount of temporary income benefits payable under the Texas Workers= Compensation Act, and if the leave has not been designated by the agency as FMLA leave, the appropriate administrative penalties/disciplinary measures by the agency as specified in the human resources procedures.
8. The person to contact if the employee has questions regarding the temporary assignment, job modifications, or questions regarding the FMLA or ADA.

The employee may accept or reject this bona fide offer of employment. The employee should be informed that rejection of the bona fide offer of employment may result in workers' compensation temporary income benefits (if applicable) being stopped by the Workers= Compensation Division as the state's insurance carrier. If the employee accepts the bona fide offer of employment, then the employee shall perform the duties of the temporary assignment position for the term of the assignment or until the employee is able to return to full duty, whichever is sooner. If the employee rejects the bona fide offer of employment, then the employee remains off work until the end of the FMLA leave entitlement period or until the employee is certified by the health care provider to return to full duty.

If the employee is unable to return to full duty by the end of the temporary assignment period and/or by the end of the employee's FMLA leave entitlement period, then the employee's continued employment with the agency shall be considered based upon the business necessity of having the employee's position filled and whether any reasonable accommodations is required under the ADA.

**015. Reviewers of this APP.**

Reviewers of this APP include the following:

Dr. Sam Monroe, President  
Linda McGee, Director of Human Resources

**016. Certification Statement**

This APP has been approved by the following individuals in their official capacities and represents Lamar State College - Port Arthur policy and procedure from the date of this document until superseded.

Dr. Sam Monroe, President  
Linda McGee, Director of Human Resources

**POLICY:** COLLEGE CLOSING  
**SCOPE:** FACULTY AND STAFF  
**POLICY NUMBER:** 4.10  
**REVISED:** MARCH 15, 2002; DECEMBER 2005

---

## **01. COLLEGE CLOSING PROCEDURES**

If severe or inclement weather conditions warrant suspending operations, listen to local radio/TV stations for information.

NOTE: KLVI (560AM) is the primary Emergency Alert System radio station for the Port Arthur area. NOAA Weather Radio (Port Arthur 162.44 MHZ), KBMT-TV (12), KJAC-TV (4), and KFDM-TV (6) are the primary Emergency Alert System television stations for the Port Arthur area.

For information about campus status during and following the storm, call the Faculty/Staff Information Hotline; 409-983-4921 or the Toll Free Number 800-477-5872.

Unless a specific announcement of closing is made through the above media outlets, faculty, staff, and students should assume that normal operations will be observed. However, conditions vary throughout the area and employees are reminded to use their best judgment in determining whether or not it is safe to travel.

(Lamar State College – Port Arthur *Disaster Response and Recovery Plan*, page 31.)

## **02. REVIEWERS OF THIS APP.**

Reviewers of this APP include the following:

Dr. Sam Monroe, President  
Linda McGee, Director of Human Resources  
Representative of the Disaster Recovery Committee

## **03. CERTIFICATION STATEMENT**

This APP has been approved by the following individuals in their official capacities and represents Lamar State College - Port Arthur policy and procedure from the date of this document until superseded

Dr. Sam Monroe, President  
Linda McGee, Director of Human Resources  
Terry Jackson, Director of Physical Plan/Disaster Recovery