
Definitions

Family

The term “immediate family” shall include:

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Aunt, uncle, niece, and nephew.
7. Any person who may be residing in the employee’s household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definition of “family” shall include only items 1, 2, and 3 on the above list and shall exclude a son- or daughter-in-law or parent-in-law.

Family Emergency

The term “family emergency” shall be limited to natural disasters and life-threatening situations involving the employee or a member of the employee’s immediate family.

Workday

A “workday” for purposes of accumulation, use, or recording shall mean the number of hours per day equivalent to the employee’s usual assignment, whether full time or part time.

**State Personal Leave
and Local Leave
Accrual**

Effective September 1, 1997, all full-time ESC employees and part-time employees who work at least 30 hours per week and are not considered temporary employees shall earn one day of leave per month of employment. Leave shall accrue as follows: one-half day of state personal leave and one-half day of local leave per month of employment until the state maximum of five days of state personal leave is earned. For subsequent months, leave shall accrue as local leave.

Basis for Leave
Accrual

If an employee is hired before the 15th of the month, one sick day shall be earned for the month. If an employee is hired after the 15th of the month, no sick day shall be earned for the month. Upon termination, if an employee terminates before the 15th of the month, no sick day shall be earned for the month; if an employee terminates after the 15th of the month, one sick day shall be earned for the month.

Transferability of Leave	All transferred leave shall be subject to the provisions governing the use of state personal leave. The ESC shall accept the transfer of unused state sick leave and/or state personal leave accrued by former school district employees or unused sick leave accrued by former state agency employees. An employee may transfer no more than five days of unused leave for each year of school district or state agency employment.
Availability of Leave	<p>Leave for the current year shall be available for use at the beginning of the fiscal year. Leave shall not be approved for more days than have accumulated in prior years plus any leave earned during the current fiscal year.</p> <p>When an employee who has used more leave than he or she has earned ceases to be employed by the ESC, the cost of the un-earned leave days shall be deducted from the employee's final paycheck. Employees shall be docked in accordance with the Fair Labor Standards Act (FLSA).</p>
Types of Personal Leave	Employees shall be required to differentiate between uses of state personal leave.
Discretionary	Discretionary use of leave shall be taken at the individual employee's discretion, subject to limitations set out below.
Nondiscretionary	Nondiscretionary use of leave shall be used for personal illness, illness or death of a member of the employee's immediate family, or family emergency.
Use of Discretionary Leave	A written request for discretionary personal leave shall be required to be submitted to the Executive Director or designee three workdays in advance of the anticipated absence, except in extenuating circumstances. In deciding to grant personal leave, the Executive Director or designee shall consider the effect of the employee's absence on the organization's business.
Limitations on Use of Discretionary Leave	Discretionary personal leave shall not be taken for more than two consecutive days.
Schedule Limitations	Discretionary leave shall not be allowed on the last two days of employment.
Local Leave	Local leave shall accumulate to a maximum of 90 workdays and shall be taken with no loss of pay. Local leave shall be used under the terms and conditions of state personal leave.
Use of Leave	For purposes of personal illness, illness or death in the immediate family, or family emergency, available leave shall be used in the order decided by the employee.

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	<p>For exempt employees, any leave taken for which leave balances are insufficient shall result in the deduction of the daily rate of pay from the employee's paycheck. A nonexempt employee who has an insufficient leave balance shall not be paid for time not worked.</p>
Bereavement Leave	<p>In addition to local leave and state personal leave earned, each employee of the ESC shall be granted up to two days of noncumulative leave per occurrence for death in the immediate family.</p>
Military Leave	<p>Leave for military obligations shall be in accordance with provisions in DEB(LEGAL).</p>
Medical Certification	<p>An employee absent more than five consecutive workdays because of personal illness shall submit medical certification of the illness. An employee absent more than five consecutive workdays because of illness in the immediate family shall present medical certification of the family member's illness.</p>
Health-Care Provider	<p>Medical certification shall be made by a health-care provider as defined by the FMLA. [See DEB(LEGAL)]</p>
Court Appearances	<p>Absences for court appearances related to an employee's personal business shall be deducted from the employee's accumulated leave. However, an employee shall be granted leave with pay and without loss of accumulated leave for jury duty or compliance with a subpoena. The employee shall be required to present documentation of the service and shall be allowed to retain any compensation provided for jury duty.</p>
Family and Medical Leave	<p>For purposes of an employee's entitlement to family and medical leave, the 12-month period shall begin on the first day of the fiscal year.</p>
Definition of Leave Year	
Concurrent Use of Leave	<p>The ESC shall require employees to use family and medical leave concurrently with available paid leave.</p>
Combined Leave for Spouses	<p>If both spouses are employed by the ESC, family and medical leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition may be limited to a combined total of 12 weeks as determined by the Executive Director.</p>
Intermittent Leave for Child Care	<p>Use of intermittent family and medical leave shall be permitted for the care of a newborn child or upon the adoption or placement of a child with the employee.</p>
Certification of Serious Health Condition	<p>Upon request for family and medical leave for the employee's serious health condition or that of a spouse, parent, or child, and at 30-day intervals thereafter, the employee shall provide medical certification of the illness or disability.</p>

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Medical Release	The employee's request for reinstatement following family and medical leave shall be accompanied by medical certification of the employee's ability to perform essential job functions.
Failure to Return	If, at the expiration of the family and medical leave, the employee is able to return to work but chooses not to do so, the ESC shall require reimbursement of the employee benefits contribution made by the ESC during the period in which such leave was taken as unpaid leave.
Workers' Compensation	An employee absent because of a job-related injury or illness shall be assigned to family and medical leave, if applicable.
Paid Leave Offset	The employee shall inform the appropriate administrator whether he or she chooses to use available paid leave. Any paid leave used shall be offset against workers' compensation wage benefits. [See CRE(LEGAL)]
Reimbursement at Retirement	<p>Effective September 1, 2003, the provisions that follow shall not be applicable to new hires. All employees employed by the ESC on a full-time basis prior to September 1, 2003, and who, at the time of their retirement have remained continuously employed on a full-time basis by the ESC, shall be grandfathered and shall be eligible for benefits as outlined below.</p> <p>Except for accumulated state personal leave that is not eligible for reimbursement, an employee who has worked at the ESC for ten or more consecutive years and retires under the Teacher Retirement System of Texas (TRS) shall be entitled to receive reimbursement for up to 60 days of accrued local leave payable at the employee's daily rate of pay in the final year of service. In the event of the death of an employee who has retirement benefits and has been employed by the ESC for ten or more consecutive years, the employee's estate shall receive reimbursement for up to 60 days of accrued local leave at the daily rate of pay during the employee's final year of service. Leave paid will be deducted from the total accumulated local leave at the time of reimbursement.</p>