

Executive Directive

PD-49, “Leaves Other Than Medical and Parental”



September 1, 2023 (rev. 16)
Supersedes November 1, 2021 (rev. 15)

Authority

1. Tex. Gov't Code §§ 418.004
2. Tex. Gov't Code § 437.202
3. Tex. Gov't Code § 437.254
4. Tex. Gov't Code § 493.001
5. Tex. Gov't Code § 493.006(b)
6. Tex. Gov't Code §§ 659.001–.308
7. Tex. Gov't Code §§ 661.001–.924
8. Tex. Gov't Code § 662.001
9. Tex. Gov't Code §§ 662.003–.022
10. Tex. Election Code § 276.004(b)
11. Tex. Fam. Code § 2.401
12. *Family Medical Leave Act*, 29 U.S.C. §§ 2601–2654
13. *Fair Labor Standards Act (FLSA)*, 29 U.S.C. §§ 201–219
14. BP-02.08, “Statement of Internal Controls”

Applicability

Texas Department of Criminal Justice (TDCJ)

Employment At Will Clause

This directive does not constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director's authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and does not create a legally enforceable interest for employees or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

Policy

The TDCJ grants leave in accordance with applicable federal and state laws and without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information. The TDCJ has zero tolerance for all forms of discrimination.

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

No employee shall be subjected to retaliation for opposing or reporting an alleged violation of a federal or state law relating to leave entitlements or benefits.

Definitions

The following terms are defined for the purpose of this directive and are not intended to be applicable to other policies or procedures.

"Child"

A biological, adopted, or foster son or daughter, stepchild, legal ward, or a child for whom an individual is standing or has stood "in loco parentis."

"Correctional Career Position" (CCP)

Includes the following TDCJ positions: correctional officer (CO) supervisor of COs; food service manager (FSM); and laundry manager (LM).

"Disaster" ¹

The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, cybersecurity event, other public calamity requiring emergency action, or energy emergency.

"Essential Employee"

An employee receiving hazardous duty pay and necessary to support emergency operations as determined by a warden or appropriate division director. On a limited case-by-case basis, some longevity pay employees may be determined essential by a warden or appropriate division director. Longevity pay employees shall be provided notice that they are essential prior to a foreseeable emergency or given adequate response time after notice for a spontaneous emergency event.

"In Loco Parentis"

"In the place of a parent" and is the status of having day-to-day responsibilities to care for or financially support a child. This status may apply to an employee's relationship with a child or a person's relationship to an employee when the employee was a child. A biological or legal relationship is not necessary. For example, a host parent of a foreign exchange student is standing "in loco parentis" for the foreign exchange student.

"Leave Without Pay (LWOP) Calendar Day"

A calendar day of leave that counts against an employee's maximum 180 calendar days of LWOP during a rolling 12-month period; this term includes a calendar day

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

of LWOP-Family Medical Leave (FML), LWOP-State Parental, LWOP-Medical, LWOP-Criminal History (CH), or LWOP-Other

"Marriage"

Includes "ceremonial marriage" and "informal marriage," which are the two types of marriage recognized by the state of Texas and defined as follows:

- a. "Ceremonial Marriage" is a marriage documented by: (1) a marriage license recorded with a county clerk; and (2) a marriage certificate issued by the county clerk.
- b. "Informal Marriage," previously known as common law, is a marriage that is not necessarily documented through a county clerk, but is valid when a couple agree to be married and after that agreement live together in the state of Texas as a married couple and represent to others that they are married.

"Non-Essential Employee"

An employee receiving longevity or hazardous duty pay and not considered necessary to support emergency operations as determined by a warden or appropriate division director.

"Officially Closed Roadway"

A roadway that has been closed by a governmental entity or official, such as the Texas Department of Transportation (TxDOT), county official, sheriff's office, or police department.

"Parent"

A biological, adoptive, step, or foster father or mother, or an individual who stands or has stood "in loco parentis" to an employee when the employee was a child.

"Reduction-in-Force (RIF) Separation"

~~is~~The involuntary separation from employment of an employee whose position has been eliminated by the TDCJ for reasons not related to job performance or disciplinary violations.

"Rolling 12-Month Period"

The 12-month period measured backward from an employee's first LWOP calendar day within a period of LWOP.

"Spouse"

A person to whom a person is legally married.

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

"Veteran"

An employee who has served in the U.S. Army, Navy, Air Force, Coast Guard, or Marine Corps, or the Texas National Guard.

"Work Cycle"

The consecutive seven-, eight-, or nine-day period of time during which the hours worked are computed to determine wage and time compensation.

"Workday"

A day when an employee is normally scheduled to work.

"Working Retiree"

An active TDCJ employee who concurrently holds a retirement status through the Employees Retirement System of Texas (ERS).

Discussion

Other personnel directives that include procedures for use of leave include PD-27, "Employment Status Pending Resolution of Criminal Charges or Protective Orders," PD-46, "Medical and Parental Leave," PD-50, "Sick Leave Pool," PD-53, "Employee Awards and Recognition," and PD-76, "Employment and Reemployment of Members of the Uniformed Services." An employee who fails to comply with the procedures within this directive, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts, may be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," or administrative separation in accordance with PD-24, "Administrative Separation."

Procedures

PART A: ACCRUED LEAVES

- I. Vacation, Holiday, Compensatory, and Overtime Leave
 - A. Leave Accruals and Availability
 1. Vacation Leave
 - a. Accrual Rates and Maximum Carryovers
 - (1) A full-time employee accrues vacation leave at a rate based on the months of state service in accordance

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

with the following Schedule of Vacation Accruals and Maximum Carryovers. The maximum carryover is the number of vacation hours that an employee may carry forward from one fiscal year to the next.

A part-time employee accrues vacation leave on a proportionate basis for the time worked, and the maximum carryover is also proportionate. For example, a part-time employee who works at least 20 hours per week earns and may carry over vacation leave at one-half the rate authorized for a full-time employee with the same number of state service months.

• SCHEDULE OF VACATION ACCRUALS AND MAXIMUM CARRYOVERS		
MONTHS OF STATE SERVICE ⁽¹⁾	VACATION ACCRUAL RATE	MAXIMUM HOURS TO CARRY FORWARD FROM ONE FISCAL YEAR TO NEXT FISCAL YEAR
1 - 23 months (0 - less than 2 years)	8 hours	180 hours
24 - 59 months (2 - less than 5 years)	9 hours	244 hours
60 - 119 months (5 - less than 10 years)	10 hours	268 hours
120 - 179 months (10 - less than 15 years)	11 hours	292 hours
180 - 239 months (15 - less than 20 years)	13 hours	340 hours
240 - 299 months (20 - less than 25 years)	15 hours	388 hours
300 - 359 months (25 - less than 30 years)	17 hours	436 hours
360 - 419 months (30 - less than 35 years)	19 hours	484 hours
420 + months (35 years or more)	21 hours	532 hours

⁽¹⁾ For purposes of computing vacation accrual rates for a working retiree who retired from state employment on or after June 1, 2005, months of state service include only the months of state service accrued after retirement.

- (2) An employee accrues vacation leave at the applicable rate beginning on the first day of state employment and ending on the employee's last physical day at work. An employee accrues the applicable rate for each month or fraction of a month of employment. Vacation hours are accrued on the first day of

employment and on the first calendar day of each succeeding month of state employment.

- (3) An employee who begins employment on the first workday of a month is considered to have begun working on the first calendar day of the month for the purpose of increases in vacation leave accrual rates. An employee who begins employment on a date other than the first calendar day or workday of a month shall begin to accrue vacation leave at the higher rate on the first calendar day of the month following the employee's anniversary date.
- (4) All hours in excess of the maximum allowable vacation leave carryover left at the end of a fiscal year shall be credited to an employee's sick leave balance. Under no circumstances shall a "second" or "under the table" set of books or records be maintained to allow an employee to take vacation leave at a later date.

b. Six-Month Service Requirement for Use of Vacation Leave

- (1) An employee shall not take vacation leave until the employee has six months of continuous uninterrupted employment with the state even though vacation leave accrues during the six-month period. If an employee is on LWOP for a complete calendar month, the LWOP period shall not count toward fulfilling the six-month requirement but shall not cause the period of continuous state employment to start over.
- (2) An employee shall only be required to satisfy the six months of continuous employment once. For example, if an individual was employed by the state from 2002 through 2007 and fulfilled the six-month requirement and, after separating from employment, was reemployed in 2009, the individual is immediately eligible to use vacation time as approved by the supervisor because the individual previously fulfilled the requirement of six months of continuous employment.

(3) An employee who has completed six months of continuous state employment with another agency or institution may apply for and be granted vacation leave immediately upon employment with the TDCJ.

c. Vacation Leave Accrued While on Paid Leave

If an employee is on paid leave on the first workday of a calendar month, any vacation leave accrual for that month will not be available for use until the employee returns to work.

d. Impact of Leave Without Pay

If an employee is on LWOP for a full calendar month, vacation leave for that month will not accrue.

e. Impact of Exhausting Accrued Leave Prior to Separation

A separating employee who remains on the payroll to exhaust overtime, holiday, or compensatory leave shall not accrue vacation leave when such leave carries over into a subsequent month.

An employee who separates from employment at the end of a fiscal year should be aware of the consequences of remaining on the payroll into the next fiscal year, in regard to maximum vacation carryover rates.

2. Holiday Leave

a. Schedule of Holidays

The national, state, and optional holidays that state employees may observe are set forth during each legislative session. The Texas State Agencies' Fiscal Year Holiday Schedule is available on the TDCJ website at www.tdcj.texas.gov under "Links of Interest" on the Human Resources Division webpage. Offices shall not be closed on another day when designated holidays fall on Saturday or Sunday. On the state holidays identified on the Texas State Agencies' Fiscal Year Holiday Schedule as requiring a skeleton crew, there shall be sufficient personnel on duty to carry on activities for each unit and department.

b. Entitlement to Holiday Pay or Leave

- (1) An employee is entitled to be paid or accrue leave for a holiday if:
 - (a) The employee is an active state employee on the workday immediately after a holiday occurring on the first workday of a month.
 - (b) The employee is an active state employee on the workdays immediately before and after a holiday occurring mid-month.
 - (c) The employee is an active state employee on the workday immediately before a holiday occurring on the last workday of the month.
- (2) An employee shall not accrue holiday leave for a holiday occurring on scheduled day(s) off unless:
 - (a) The employee works on the holiday.
 - (b) The employee works a schedule other than Monday through Friday and the accrual of holiday time ensures the employee is credited with the equivalent number of holidays each year as employees working Monday through Friday.
 - (c) A full-time employee accrues holiday leave in proportion to the number of regularly scheduled hours in a workday.

A part-time employee accrues missed holiday leave in proportion to the number of regularly scheduled hours in a work cycle. For example, a part-time employee regularly scheduled to work 20 hours in a work cycle shall accrue four hours of holiday leave for each holiday missed.

c. Lapsing of Holiday Leave

Holiday leave expires if it is not taken within one year from the end of the month in which the time was accrued. An

employee shall not be paid for unused holiday leave to avoid its expiration.

3. Compensatory Leave

An employee who works compensatory time shall be credited compensatory leave hour for hour worked. An employee shall not be paid for unused compensatory leave to avoid its expiration.

- a. Compensatory leave earned by an employee expires if not used within two years.

4. Overtime Leave

Accrual of overtime is governed by the *Fair Labor Standards Act* (FLSA) in accordance with PD-91, "Work Cycles and Compensable Hours of Work." Overtime leave shall be credited to TDCJ FLSA non-exempt employees at the rate of one and one-half times the number of overtime hours physically worked.

B. Use of Accrued Leave

1. General Provisions

- a. An employee is entitled to a vacation with full pay in each fiscal year, subject to available leave balances.
- b. An employee shall not be allowed to take leave not already accrued.
- c. The TDCJ shall notify all employees of the state's policy regarding the use of holiday leave and compensatory leave at least annually.

The TDCJ provides this notification on the monthly TDCJ Employee Time Report.

2. Employee Responsibilities

a. Management of Time Balances

An employee is responsible for managing the employee's time balances. An employee's failure to effectively manage holiday or compensatory leave balances may result in the lapsing of such leave. Employees requesting to use lapsing

holiday and compensatory time shall submit a PERS 24, TDCJ Leave Request within 90 days of the date on which it will lapse.

b. Sufficient Notice

When requesting time off, the employee shall provide the employee's supervisor with sufficient notice to allow for the supervisor to review staffing and operational requirements and make informed decisions based on these requirements.

c. Request to Observe Optional Holidays

An employee is entitled to observe the optional holidays of Rosh Hashanah, Yom Kippur, Good Friday, and Cesar Chavez Day in lieu of any state holiday(s) the TDCJ is required to maintain a skeleton crew. An employee who elects to observe one of these optional holidays shall complete a PERS 500, In Lieu of Holiday Request, which is available on the TDCJ website at www.tdcj.texas.gov under "Links of Interest" on the Human Resources Division webpage and submit the request to the employee's supervisor.

d. Request for Use of Three Days or Less

To request the use of three days or less, the employee shall submit the request in accordance with procedures established by the warden or department head.

e. Request for Use of More than Three Days

To request the use of more than three days of accrued leave, the employee shall submit a PERS 24 to the employee's supervisor. The employee may obtain a PERS 24 from the human resources representative.

f. Reason for Use

An employee is not required to specify the reason(s) for requesting use of accrued vacation, compensatory, holiday, or overtime leave, unless:

- (1) The employee is requesting vacation leave due to an event covered by FML in accordance with PD-46, "Medical and Parental Leave"; or
- (2) The employee is requesting the leave be granted in accordance with PD-57, "Employee Participation in Legal or Legislative Proceedings or Jury Services."

3. Supervisor Responsibilities

a. Approval or Denial Process

Supervisors shall approve or deny a leave request in a timely manner. Upon receipt of a leave request, an employee's supervisor shall review staffing requirements on the day(s) covered by the leave request to ensure all functions can be performed if the leave is granted. The supervisor may coordinate with the human resources representative to review the employee's leave balance prior to approving the leave request.

(1) Approvals

If staffing requirements are met and sufficient leave balances are available, the supervisor may approve the leave request. However, wardens or department heads may cancel previously approved leaves in emergency situations. Approval for a request to use lapsing holiday leave or lapsing compensatory leave shall be in writing.

(2) Denials

If staffing requirements are not met or sufficient leave balances are not available, the supervisor shall deny the leave request and state the reason(s) for the denial on the leave request.

If the leave request is for permission to use accrued holiday leave or compensatory leave not later than the 90th calendar day before the date on which the accrued leave expires, the employee's supervisor shall provide the employee with an alternate date prior to the date the accrued holiday leave or compensatory leave expires.

Supervisors shall accommodate, to the extent practicable, an employee's request to use accrued holiday or compensatory leave, even if the request is within 90 calendar days of the date such leave expires.

b. Maintaining Documentation

An employee's supervisor shall forward all original leave requests to the human resources representative and forward one copy to the employee. All supervisors shall maintain records of the approved and denied leaves to ensure staffing schedules are updated.

4. Human Resources Representative Responsibilities

Human resources representatives are responsible for reviewing the leave request and verifying the leave balances are sufficient to cover the requested leave period for each employee.

II. Leave Balances upon Separation from Employment

A. Transfer to Another State Agency or Institution

Procedures regarding the transfer of accrued sick leave from one state agency or institution to another are contained in PD-46.

1. Vacation Leave Accruals

A state employee who transfers directly from one state agency or institution to another without interruption of state employment is entitled to have the unused balance of accrued vacation leave transferred to the other state agency or institution.

2. Holiday and Compensatory Leave Accruals

a. The employee's holiday and compensatory accruals shall not be transferred unless the employee transfers as a result of one of the following:

(1) The legislature transfers legal authority or duties from one state agency to another state agency; or

2. Holiday and Compensatory Leave

An employee shall not receive a lump sum payment for accrued and unused holiday or compensatory leave.

3. Overtime Leave

An employee shall be paid for any overtime balance remaining upon separation from employment.

C. Exhausting Leave Accruals

1. Reduction-in-Force Employees

a. A RIF employee shall not be permitted to remain on TDCJ's payroll after the RIF separation effective date to exhaust the employee's accrued vacation leave.

b. A RIF employee shall exhaust accrued holiday and compensatory leave balances prior to the RIF separation date. If a RIF employee does not exhaust holiday and compensatory leave prior to the RIF separation date, the employee will lose the holiday and compensatory leave.

2. Non-Reduction-in-Force Employees

a. A non-RIF employee may be allowed to remain on payroll to exhaust accrued holiday or compensatory leave balances, unless the non-RIF employee is an FLSA exempt employee who is dismissed or who is allowed to resign or retire in lieu of dismissal.

b. At the warden's or department head's discretion and approval, a non-RIF employee may also be allowed to remain on payroll to exhaust accrued vacation leave balances, unless the non-RIF employee is an FLSA exempt employee who is dismissed or who is allowed to resign or retire in lieu of dismissal.

c. There is no guarantee that an FLSA exempt employee will be allowed to remain on payroll to exhaust all accrued holiday and compensatory leave before the employee's separation or retirement. An FLSA exempt employee may use up to 336 hours of accrued holiday and compensatory leave to remain on payroll through the last day of the

following month. Use of these hours requires notification to the appropriate division director. Employee requests to exhaust additional hours require division director approval and must be submitted on a PERS 428, Leave Accrual Options.

- d. An employee who remains on the payroll while exhausting accrued leave is entitled to the same compensation and benefits the employee was receiving on the last physical day of duty, including paid holidays, benefit replacement pay, and applicable longevity and hazardous duty pay. However, the employee shall not continue accruing additional vacation or sick leave.

D. Retirement Credit and Impact on Retirement

1. An employee may convert accrued vacation leave to retirement credit in accordance with PD-44, "Retirement Benefits."
2. An employee retiring from state employment should ensure that all applicable holiday leave and compensatory leave accruals are exhausted prior to the date of retirement. Failure to do so will result in the cancellation of the employee's retirement application unless the employee notifies the human resources representative in writing of a desire to forfeit all excess holiday and compensatory leave.

E. Restoration of Vacation Leave Accruals upon Reemployment

A separated state employee who is reemployed by any state agency within 30 calendar days in a position accruing vacation leave is entitled to reinstatement of the unused balance of any previously accrued vacation leave.

III. Payment to Estate upon Employee's Death

In the event of the death of an employee who had accrued a six-month period of continuous state employment, the state shall pay the employee's estate for the entirety of the employee's accrued vacation leave. The payments shall be calculated at the employee's salary rate at the time of death, which shall not include longevity pay, hazardous duty pay, or benefit replacement pay.

For procedures regarding payment of accrued sick leave to an employee's estate, see PD-46.

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

PART B: ADMINISTRATIVE LEAVE

I. General Provisions

- A. Administrative leave is paid leave granted to an employee for specific circumstances in accordance with this directive.
- B. Administrative leave hours granted shall be based on the hours in an employee's shift, for example, an employee who works an eight-hour shift shall be granted eight hours per day of administrative leave and an employee who works a 10-hour shift shall be granted 10 hours per day. Depending on the type of administrative leave, a part-time employee shall be granted administrative leave in proportion to the employee's number of regularly scheduled hours in a work cycle. However, other types of administrative leave are granted as workdays rather than hours. For example, an employee may be granted three workdays of administrative leave for death in the immediate family, regardless of the number of hours the employee is regularly scheduled to work.
- C. If an eligible employee needs or desires additional time off beyond the limits specified for the applicable administrative leave category, the employee may request to use accrued leave in addition to and in combination with administrative leave.
- D. If an employee's request for administrative leave is denied, the employee may request the desired time off be charged against accrued leave or LWOP in accordance with this directive.
- E. If an employee is on administrative leave extending into a subsequent month, any vacation or sick leave accrual for each subsequent month on paid leave shall not be available for use until the employee returns to work.

Procedures related to administrative leave for outstanding performance are contained in PD-53, "Employee Awards and Recognition" and for paid parental administrative leave are contained in PD-46.

II. Administrative Leave for Adverse Weather Conditions

A. Mandatory Evacuations

An employee designated as a non-essential employee shall be granted administrative leave for the duration of any official mandatory evacuation activities due to adverse weather conditions. The employee

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

shall be required to submit official written verification supporting such leave, including the dates involved, upon return to work.

B. Officially Closed Offices

The executive director or designee shall determine whether to officially close an office due to adverse weather conditions.

1. Employee Notification

When the executive director or designee officially closes an office due to adverse weather conditions prior to the start of a shift, supervisors or designees shall attempt to notify employees who are scheduled to report to work. If the supervisor's attempt to notify is unsuccessful or if the supervisor fails to notify an FLSA non-exempt employee, and the employee reports to work, the employee may remain at work only if the employee's supervisor or a supervisor in the employee's chain of command approves and appropriate supervision is available during the employee's work hours. If a supervisor in the employee's chain of command is not available to approve the employee to work, or if appropriate supervision is not available during the employee's work hours, the employee shall not be allowed to work.

2. Time Reporting

When the executive director or designee officially closes an office due to adverse weather conditions, time shall be reported as follows:

- a. Administrative leave shall be granted for scheduled work hours missed during the closing if the total number of hours physically worked and taken as other leave, such as sick leave, by the employee in the applicable work cycle are less than the maximum number of hours allowed to be reported as "Regular Time Worked" in accordance with PD-91. Administrative leave shall not be granted for the purpose of allowing an employee to accrue compensatory time or overtime.

An employee shall not be required to submit a PERS 24 for hours missed while the office was officially closed.

- b. If an employee worked regularly scheduled work hours while an office was officially closed, those hours shall be

reported as regular hours worked. The employee shall not receive compensatory time or overtime for the regularly scheduled hours worked while the office was officially closed.

- c. An employee who was not scheduled to work during the hours an office was officially closed shall not receive administrative leave for the hours the office was closed.

C. Officially Closed Roadways

An employee who is unable to travel to work may be granted administrative leave for regularly scheduled work hours missed when an office is not officially closed, if:

1. One of the following geographical areas has widespread officially closed major roadways due to adverse weather conditions:
 - a. The area that includes the employee's home address identified on the TDCJ Payroll/Personnel System (PPS); or
 - b. The geographical area that includes the employee's work location.
2. No practical alternate routes from the employee's home address to the employee's work location are available.

Unless an office is officially closed, an employee who leaves work early shall not be granted administrative leave for the remaining hours in the workday.

D. Requesting Administrative Leave for Officially Closed Roadways

An employee requesting administrative leave due to officially closed roadways shall submit a PERS 24, along with written documentation to the employee's supervisor within five workdays after returning to work. The written documentation shall include:

1. Official written verification documenting the dates of specific official road closures due to weather conditions, such as documentation from a local radio station website, the TxDOT website, or a written confirmation from a county commissioner; and

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

2. A written statement identifying the hours absent from work and briefly explaining the circumstances.

E. Approval or Denial Process

1. Within 15 calendar days of the employee submitting the request, to include the PERS 24 and supporting documentation, and if the division director concurs with the request, the division director will forward a decision memorandum (DM) and the request to the human resources director for review and approval. The human resources director shall then forward the DM and supporting documentation within 15 calendar days from the date of receipt to the deputy executive director and executive director for approval.
2. The employee shall be required to use accrued leave or LWOP pending final approval of the DM.
 - a. If the DM is approved by the executive director, a manual time adjustment shall be made to record the time off as administrative leave.
 - b. If the DM is denied by the executive director, the DM shall be returned to the originating division director. The employee shall be required to use accrued leave or LWOP for the regularly scheduled work hours missed.
 - c. The human resources representative shall ensure the employee is notified upon approval or denial of the DM.

III. Administrative Leave for Death in Immediate Family

An employee shall be granted three workdays of administrative leave when a death occurs in the employee's immediate family. Immediate family for this purpose includes an employee's spouse and an employee's or spouse's children, parents, brothers, sisters, grandparents, and grandchildren. The employee shall not be required to use the leave on consecutive workdays. Days identified for such use shall be approved by the warden or department head.

- A. If the employee elects to take three workdays of leave upon or soon after the death, the warden or department head or designee may verbally grant provisional leave for such purpose. Upon return to work, the employee shall submit a PERS 24 with support documentation,

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

such as an obituary or a funeral notice, to the human resources representative for approval by the warden or department head.

- B. If the employee elects to take leave at a later date, within one year, instead of upon or soon after the death, the employee shall provide support documentation and a PERS 24 at that time.

IV. Administrative Leave for Jury Duty

The procedures in this section relate to administrative leave for the performance of jury duty. PD-57 should be referred to whenever an employee requests leave to appear in judicial, legislative, or administrative proceedings as a witness or in any related function other than jury duty.

A. General Provisions

1. An employee shall be granted administrative leave for the time required to be screened as a potential juror and for the time required to perform jury duty.
2. An employee shall receive administrative leave only for scheduled work hours.
3. If the employee receives notice prior to the court date that the jury screening or jury duty has been cancelled, the employee shall report to work at the regularly scheduled time and shall not use administrative leave, including administrative leave approved prior to the court date.

B. Documentation

1. Upon receipt of a summons to report for jury screening, the employee shall provide a copy of the summons to the employee's supervisor and human resources representative. The employee shall provide the human resources representative with a completed PERS 24 upon return to work.
2. The human resources representative shall advise the employee to request the court to provide documentation to indicate:
 - a. The date and time the employee is dismissed from jury screening;

- b. If the employee is selected for jury duty and then dismissed on the same date as the jury screening, the date and time the employee was dismissed from jury duty; or
- c. If the employee is selected for jury duty and the duty extends beyond the date of jury screening, the date(s) and time(s) the employee is required to report for jury duty and the date and time the employee was dismissed from jury duty.

C. Amount of Administrative Leave

The amount of administrative leave to be granted shall be in accordance with the following guidelines, which ensures that administrative leave is in proportion to the amount of time required for the employee to remain at the court location.

1. Day-Shift Employees

For the purpose of jury screening or jury duty, an employee shall be considered to be a day-shift employee if the workday begins at or after 5:00 a.m. and ends at or before 7:00 p.m.

A day-shift employee shall be granted administrative leave for the hours the employee actually uses to report for jury screening or jury duty. Such hours include travel time from the employee's unit of assignment to the court location and the return trip that occurs during regularly scheduled work hours.

If the employee is dismissed from jury screening or jury duty after reporting to court and the dismissal occurs prior to the end of the employee's regularly scheduled workday, the employee shall:

- a. Report to duty as soon as travel time allows; or
- b. Receive approval from the employee's supervisor to use accrued leave, other than sick leave, for the remaining balance of the regularly scheduled workday.

2. Night-Shift Employees

For the purpose of jury duty, a night-shift employee is any shift employee who is not a day-shift employee in accordance with Section IV.C.1. A night-shift employee shall not work and shall be

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

granted administrative leave during either of the following eight-hour periods:

- a. The eight-hour period immediately before the court report time; or
- b. The eight-hour period immediately after the court dismissal time.

This helps ensure a night shift employee is alert when reporting for jury screening or jury duty and when returning to work.

V. Medical and Mental Health Care Leave for Veterans

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

A. Employee Responsibility

In order to receive administrative leave for medical and mental health care, an eligible employee shall complete the PERS 638, Veterans Health Administration Leave and PERS 24 and submit to the employee's supervisor, along with proof of the appointment.

B. Human Resources Representative Responsibility

The human resources representative shall confirm the employee's veteran status and forward the PERS 638, PERS 24, and proof of the appointment to the warden or department head for signature.

C. Approval Process

The warden or department head shall forward the signed PERS 638 to the human resources director for review and approval.

The human resources director shall return the signed PERS 638 to the employee's human resources representative, who shall provide a copy to the employee and file the original in the employee's unit or department medical file.

VI. Other Categories of Administrative Leave

- A. Wardens and department heads are the designated authorizing officials for administrative leave for the following categories; however, the executive director may grant additional days or administrative leave for purposes not listed herein when the best interest of the employee and TDCJ would be served.

1. Voting - Elections

An employee shall be granted sufficient administrative leave to vote in each national, state, or local election without any deduction in salary or leave time when the employee's work schedule would disallow voting during off time.

If early voting or extended polling hours on Election Day offer an employee sufficient time to vote, the employee is not eligible for administrative leave.

2. Volunteer Firefighters, Emergency Medical Services (EMS) Volunteers, or Search and Rescue Volunteers

- a. An employee who is a volunteer firefighter, EMS volunteer, or search and rescue volunteer shall be granted administrative leave for up to five workdays each fiscal year to attend firefighter, emergency medical services, or search and rescue training conducted by a state agency or institution of higher education. These five workdays do not need to be consecutive.

- b. An employee who is a volunteer firefighter, EMS volunteer, or search and rescue volunteer may be granted administrative leave to respond to emergency fire, medical, or search and rescue situations. Such leave shall be at the discretion of the warden or department head and shall be dependent upon the availability of adequate staffing.

An employee who responds to an emergency fire, medical, or search and rescue situation shall request the fire chief, EMS director, or search and rescue organization to provide documentation to indicate the date and time the employee responded to the emergency fire, medical, or search and rescue situation.

- c. A volunteer firefighter, EMS volunteer, or search and rescue volunteer shall submit dated documentation on an annual basis to the employee's human resources representative verifying the employee's certification as a volunteer. Such documentation shall be placed in the unit or department employee human resources file.

3. Employees Requiring a Service Animal

A state employee requiring a service animal, with supporting documentation, shall be granted up to 10 workdays with pay each fiscal year for the purpose of attending a training program to become acquainted with the service animal to be used by the employee. These workdays need not be consecutive.

4. Foster Parents

A state employee who is a foster parent to a child under the conservatorship of the Texas Department of Family and Protective Services, with supporting documentation, is entitled to administrative leave for the purpose of attending the following meetings regarding the child.

- a. Meetings held by the Department of Family and Protective Services; and
- b. Admission, Review, and Dismissal meetings held by a school district.

5. Employees Donating Blood

An employee shall be granted sufficient administrative leave to donate blood up to four times in a fiscal year. Approval shall be obtained from the employee's supervisor before taking the time off. Upon returning to work, the employee shall provide the employee's supervisor proof the employee donated blood during the time off.

6. Bone Marrow or Organ Donors

- a. An employee who is serving as a bone marrow donor, with supporting documentation, shall be granted administrative leave up to five workdays in a fiscal year for this purpose.

- b. An employee who is serving as an organ donor, with supporting documentation, shall be granted administrative leave up to 30 workdays in a fiscal year for this purpose.

7. Certain Amateur Radio Operators

The Division of Emergency Management in the governor's office maintains a list of state employees who hold an amateur radio station license issued by the Federal Communications Commission. A TDCJ employee on the list may be granted administrative leave not to exceed 10 workdays each fiscal year to participate in specialized disaster relief services, if the leave is taken with the authorization of the employee's warden or department head and the approval of the governor.

8. Certain Members of Urban Search and Rescue Teams ²

Employees who are members of a state or federally authorized urban search and rescue team, with supporting documentation, shall be entitled to administrative leave up to 15 workdays per fiscal year (September 1 – August 31) for the purpose of engaging in authorized training or duty ordered or authorized by proper authority.

In addition, an employee who is called to state active duty by the governor or another appropriate authority in response to a disaster is entitled to administrative leave for each day the person is called to state active duty during the disaster not to exceed seven workdays in a fiscal year.

Administrative leave for an employee who is also a member of the state military forces, National Guard, or a member of reserve components of the armed forces shall be counted against the 15 workdays allowed per fiscal year for authorized military training or active duty.

9. Certified peace officers in the Office of the Inspector General, with supporting documentation, may receive up to one year of administrative leave for an injury sustained in the line of duty, unless:

- a. The officer's own gross negligence contributed to the injury; or

- b. The injury was related to the performance of routine office duties.

10. Training for Reserve Law Enforcement Officers

A state employee who is a reserve law enforcement officer shall be granted up to five workdays every two years to complete continuing education program hours required to remain licensed as a peace officer. A reserve sheriff's deputy, reserve deputy constable, or a member of the police reserve force shall provide dated documentation on an annual basis verifying their active reserve status. Such documentation shall be placed in the unit or department employee human resources file.

B. Procedures for Use

1. An employee shall submit a request for administrative leave, regardless of the number of days being requested, to the employee's supervisor using a PERS 24. If the employee indicates on the PERS 24 that the category of administrative leave is "Other," the employee shall write the purpose of requesting the leave on the PERS 24; for example, the donation of blood, bone marrow donor, or organ donor.

Support documentation, such as medical documentation of blood, bone marrow, or organ donation, shall be attached to the PERS 24 at the time it is submitted. If documentation is unavailable in advance, it shall be attached to the PERS 24 upon return to work. The TDCJ shall deduct the time off from the employee's salary or accrued leave, whichever the employee chooses, if the employee fails to provide such proof. An employee shall submit a PERS 24 in sufficient time for the review and approval process.

2. Supervisors shall review staffing requirements for the period covered by the PERS 24 and attach their comments to the PERS 24 for review by the warden, department head, or designee.
3. The warden or department head shall review administrative leave requests on a case-by-case basis, approve or deny the request, and return the employee's copy of the PERS 24 in sufficient time for the employee to make plans accordingly. The original PERS 24 with required documentation shall be placed in the unit or department employee human resources file.

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

C. Administrative Leave for Court Appointed Special Advocates (CASA)

A state employee who is a court appointed special advocate may be granted administrative leave not to exceed five hours each month to participate in mandatory training or perform volunteer services.

1. The employee shall initially submit support documentation from the CASA executive director representing the county in which the employee is volunteering to the employee's supervisor.
2. The employee's warden or department head shall confirm and approve.
3. The employee shall request subsequent CASA administrative leave from the employee's warden or department head by submitting a PERS 24 with support documentation pertaining to the requested leave, such as a court order, activity report, time, and mileage log.

VII. Additional Reasons for Administrative Leave

A. The executive director or designee during a state of disaster, other emergency incidents, or to comply with federal law may authorize administrative leave for staff.

B. Volunteers of Texas Voluntary Organizations Active in Disaster

A state employee who is a volunteer of an organization that is a member of the Texas Voluntary Organizations Active in Disaster may be granted administrative leave not to exceed 10 workdays each fiscal year to participate in disaster relief services if:

1. The employee's warden or department head authorizes the leave;
2. The services in which the employee participates are provided for a state of disaster declared by the governor; and
3. The executive director approves the leave.

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

PART C: LEAVES WITHOUT PAY (LWOP)

I. General Provisions

A. Guarantee of Employment

The granting of LWOP constitutes a guarantee of employment for the length of the approved LWOP period, subject to fiscal restraints, such as a RIF, or disciplinary action.

B. Maximum Leave Without Pay Calendar Days

1. The maximum number of LWOP calendar days an employee may take for any combination of LWOP entitlements and approved leave is 180 days within a rolling 12-month period, unless the employee is eligible for state parental leave or FML when the 180-day limit is exhausted. In such an instance, the employee shall be allowed to continue taking LWOP-State Parental or LWOP-FML until the employee exhausts the applicable entitlement for such leave. The maximum period allowed for each category of LWOP is:
 - a. LWOP-FML: 12 workweeks or 26 workweeks (See PD-46).
 - b. LWOP-Medical: 180 calendar days (See PD-46).
 - c. LWOP-State Parental: 12 workweeks (See PD-46).
 - d. LWOP-Other: 30 calendar days within a rolling 12-month period (See Part C, Section IV of this directive).
 - e. LWOP-CH: 180 calendar days (See PD-27, "Employment Status Pending Resolution of Criminal Charges or Protective Orders").
2. If an employee reports for duty for any reportable portion of the shift, which is a minimum of eight minutes, that calendar day shall not count as an LWOP calendar day.
3. A full shift of LWOP shall count as one LWOP calendar day, regardless of the number of hours in the shift. All schedule cards and shift schedules shall be considered the same in calculation of an LWOP calendar day.
4. The number of LWOP days taken by an employee shall include regularly scheduled calendar days off occurring between the first

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

LWOP calendar day and the calendar day the employee is released to return to work or exhausts the 180-day maximum.

5. Disciplinary suspension and LWOP-Military do not count toward the 180-day maximum of LWOP-FML, LWOP-Medical, LWOP-State Parental, LWOP-CH, and LWOP-Other.
 6. The PPS LWOP History (LWOP2) Screen identifies:
 - a. The total combined LWOP-FML, LWOP-Medical, LWOP-State Parental, LWOP-CH, and LWOP-Other calendar days used by an employee in the last 12 months, which is the "LWOP Days Used (Last 12 Months)" field on the LWOP2 Screen; and
 - b. An employee's available number of LWOP-FML, LWOP-Medical, LWOP-State Parental, LWOP-CH, or LWOP-Other calendar days, which is the "LWOP Days Remaining (180 Days)" field on the LWOP2 Screen.
 7. Once an employee begins any period of LWOP that counts against the 180-day limit, the employee may only take the number of LWOP calendar days available at the beginning of the LWOP period. Due to the number of available LWOP calendar days being based on a rolling 12-month period, the employee shall be required to return to work before taking these additional days of LWOP.
 8. Having available LWOP calendar days does not guarantee approval of an employee's request to take LWOP. Approval to take LWOP shall be in accordance with the procedures in this directive or in accordance with PD-46 or PD-27.
- C. Effect of LWOP on State Service Calculations and Leave Accrual

The following provisions do not apply to an employee on LWOP-Military.

1. A full calendar month, inclusive of the first day through the last day of the same month, during which an employee is on LWOP shall not constitute a break in the continuity of state employment. However, a full calendar month of LWOP shall not be counted in the state service calculations for purposes of:
 - a. Longevity pay, hazardous duty pay, or vacation leave accrual rates; or

- b. Any continuous service requirements for use of vacation leave, career ladder salary adjustments, or merit salary increases.
 2. An employee who is on LWOP for a full calendar month shall not accrue vacation or sick leave for that month.
- D. Continuation of Insurance Coverage While on Leave Without Pay

The following provisions apply to all employees on LWOP, except employees on LWOP-FML.

1. The Support Department, Human Resources Division, enters the names of all employees who are on such LWOP into the ERS online system each month. The ERS then sends a notification to the personal address regarding any payment required to continue insurance coverage.
2. An employee who takes such LWOP for a full calendar month is required to pay the full cost of the coverage in order to continue the employee's current insurance coverage.
 - a. The employee shall have 30 calendar days from the employee's first such LWOP calendar day to make eligible changes to the employee's insurance coverage.
 - b. If the employee's spouse is a participant in a Texas Employees Group Benefits Program, for example an employee of the TDCJ, another state agency, or institution of higher education, the employee and the employee's covered dependent(s) may be eligible to be placed on the spouse's insurance policy. An employee who is interested in this option should contact the employee's human resources representative for assistance in the transfer of coverage.
 - c. If the employee fails to pay the full cost of the insurance coverage for each full calendar month of LWOP, the insurance coverage shall be cancelled.
3. Before or on the date the employee returns to work from such LWOP, the employee shall contact the employee's human resources representative to initiate reinstatement of any insurance coverage that was reduced or cancelled due to non-payment while taking such LWOP.

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

E. State-Issued Items or Equipment

All state issued items, such as ID card, keys to TDCJ premises, cellular phones, equipment, uniforms, or parking permits shall be turned in to the employee's human resources representative within five workdays of the first LWOP calendar day.

II. Use of LWOP-State Parental, LWOP-Family Medical Leave, and LWOP-Medical

The procedures regarding use of these categories of LWOP are contained in PD-46.

III. LWOP-Military

The procedures regarding use of LWOP-Military are contained in PD-76, "Employment and Reemployment of Members of the Uniformed Services."

IV. LWOP-Criminal History

The procedures regarding use of LWOP-CH are contained in PD-27.

V. LWOP-Other

A. General Provisions:

1. LWOP-Other is limited to 30 calendar days within a rolling 12-month period, which may be granted for education purposes, training seminars, personal reasons, employee returning from LWOP-Criminal Charges awaiting division director approval to return to work, recommendation of administrative separation, and employee that did not report to work as scheduled.
2. An employee shall have exhausted all accrued paid leave entitlements except sick leave before LWOP-Other is granted unless the placement in LWOP-Other is required by the TDCJ.

B. Employee Responsibilities

1. An employee shall complete a PERS 24 for the entire period of LWOP-Other. The employee shall provide the completed PERS 24 to the employee's supervisor along with a written statement detailing the specific reason for the request, why approval of the request would benefit the TDCJ and the intent to return to work

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

following expiration of LWOP-Other not to exceed the 30 calendar days in a rolling 12-month period.

2. Upon receipt of a PERS 24 for LWOP-Other, the employee's supervisor shall submit the PERS 24 and support documentation to the human resources representative.
3. If an employee uses LWOP-Other that has not been approved, the employee may be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

C. Human Resources Representative Responsibilities

Upon notification of an employee that did not report to work as scheduled or is awaiting approval from the division director to return to work after criminal charges were dismissed or dropped, the human resources representative shall:

1. Review the LWOP2 screen and determine the maximum number of calendar days of LWOP-Other that may be approved without exceeding the 180-day limit.
2. Indicate the number of days available for approval on the LWOP2 screen, attach it to, and provide the PERS 24 to the warden or department head for approval. A copy of the LWOP2 screen shall be filed with the PERS 24 in the employee's unit or department human resources file.
3. Enter a PSC in the PPS Payroll Status Change Update (PSCUPD) screen indicating LWOP-Other if the warden or department head approves the request for LWOP-Other.

D. Separation from Employment - Expiration of LWOP-Other

If the employee does not return to work immediately after the LWOP-Other period is exhausted or the employee has no LWOP-Other available and the employee is not placed in another category of LWOP, such as LWOP-Medical, the human resources representative shall:

1. Contact the Leaves Management area, Support Department, Human Resources Division for concurrence prior to separating the employee for expiration of LWOP; and

Executive Directive

PD-49, "Leaves Other Than Medical and Parental"

2. Enter a PSC indicating expiration of LWOP-Other upon receipt of concurrence from the Leaves Management area, Support Department, Human Resources Division.
3. Upon approval of the PSC, mail to the employee a copy of the PPS PSCUPD screen, a PERS 302, Expiration of Leave Without Pay Notification, advising the employee of reemployment procedures and possible health coverage continuation rights through provisions set by the *Consolidated Omnibus Budget Reconciliation Act I* (COBRA), and a separation packet.

VI. Forms / Documents

The related forms and documents listed below are available by following the hyperlink.

- A. [PERS 24, TDCJ Leave Request](#)
- B. [PERS 571, Lump Sum Deferral - Texa\\$aver 401\(k\) and 457 Plans](#)
- C. [PERS 428, Leave Accrual Options](#)
- D. [PERS 638, Veterans Health Administration Leave](#)
- E. [PERS 302, Expiration of Leave Without Pay Notification](#)

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