



## TEXAS TECH UNIVERSITY™

### Operating Policy and Procedure

#### **OP 70.43: Leave Without Pay**

**DATE:** January 12, 2021

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to establish university policy for leave without pay other than family medical leave for all university employees.

**REVIEW:** This OP will be reviewed in January of odd-numbered years by the Assistant Vice President for Human Resources and the TTUS Office of Equal Opportunity with substantive revisions forwarded to the Chief of Staff for the President and Associate Vice President for Administration.

#### **POLICY/PROCEDURE**

##### **1. Purpose**

An approved leave without pay implies intent from the employee to return to work and implies intent from the university to return the employee to work. For leave not designated as Family and Medical Leave Act (FMLA) leave, the employing department must reinstate the employee to some position, but not necessarily the same position, upon expiration of a leave without pay, subject to fiscal constraints. For leave taken pursuant to the Family and Medical Leave Act, the employing department is required to reinstate the employee to the same position or a substantially similar position upon expiration of the leave. For leaves granted as a reasonable accommodation for qualified individuals with a disability, reinstatement will be in compliance with state and federal laws.

The requirement that all accumulated paid leave entitlement be used before a leave without pay is waived if the leave is for disciplinary suspension, active military duty, workers' compensation leave, or a university-initiated leave. An employee may retain a sick leave balance if the absence does not clearly fall within the definition of sick leave.

Any full or partial calendar month of leave without pay does not constitute a break in employment. However, if an employee is on leave without pay for a full calendar month, that month will not count for purposes of state service credit, with the exception of an employee returning from military leave without pay. Additionally, a full calendar month of leave without pay is not included in the calculation of the number of continuous months of employment for purposes of merit increases and leave entitlements.

An employee who fails to return to work upon expiration of a leave without pay may be terminated from the university.

## **2. Family Member**

For purposes of medical leave without pay, the definition of family member as designated in [OP 70.44, Sick Leave and Sick Leave Pool](#), will apply.

## **3. Medical Leave Without Pay (other than Family and Medical Leave)**

Medical leave without pay is not granted automatically. If an employee or family member of the employee has a serious medical condition and the employee has exhausted all other available leaves, the department head may request the employee be placed on leave without pay for up to 90 calendar days at a time. The employee must provide medical documentation that shows the nature of the condition, the expected duration of the condition, and an anticipated return to work date. The department head should submit a written recommendation to the appropriate vice president or vice provost. If approved by the vice president or vice provost, it will be forwarded to the Assistant Vice President for Human Resources for review and approval. Nothing in this provision entitles an employee to leave in addition to FMLA or the Sick Leave Pool.

An employee with a disability may also request leave without pay as an accommodation for his/her disability. Requests for leave without pay as an accommodation for a disability should be directed to Human Resources Talent Management, Doak Conference Center, 806.742.3851.

## **4. Other Leave Without Pay**

After all accumulated paid leave entitlements have been used, a regular employee may be granted leave without pay for reasons other than medical or disability for a period not to exceed one year, with the approval of the employee's administrative officer and the Assistant Vice President for Human Resources. If leave without pay is granted for a shorter, specific period of time, it may be extended, at the discretion of the employee's administrative officer and the approval of the Assistant Vice President for Human Resources, for a combined period of time not to exceed one year. In granting such leaves, the interests of the employing department and the university will be given priority consideration.

## **5. Time Limitation on Leave Without Pay**

The President may approve exceptions to any limitations set forth herein for good reason, such as to work for another state governmental agency under an interagency agreement, educational purposes, or compliance with state and federal law.

## **6. Leave Without Pay for Periods of Less than One Day**

All employees, including exempt employees, may be placed on leave without pay if the employee is not at work for less than one day for personal reasons or because of illness or injury and accrued leave is not used by the employee because:

- a. Permission to use accrued leave was not sought or was denied; or
- b. Accrued leave has been exhausted.

## 7. Benefit Status during Leave without Pay

The employee is responsible for contacting the appropriate agency for payment arrangements and continuation of applicable benefits. The following will occur if an employee is in a leave without pay status for a full calendar month:

- a. Vacation leave, sick leave, and state service accruals are suspended.
- b. Group insurance premium-sharing contributions are suspended unless the leave is because of a lack of work between terms or the employee is on family and medical leave. Group insurance coverage may be continued, provided the applicable premium payments are made to Payroll Services or the Employees Retirement System of Texas (ERS).

If the employee is in a leave without pay status and will not be receiving a paycheck so that premiums may be withheld, the employee will be responsible for the timely payment of all premiums. Failure to pay any premiums will result in cancellation, and reinstatement to insurance plans is subject to the state employees Group Benefits Program rules.

- c. Flexible Spending Accounts (FSA)
  - (1) An employee who is participating in a health flexible spending account is required to pay his or her monthly pledge directly to ERS while on leave without pay. Claims for expenses incurred during the months in which an employee does not fulfill his or her monthly pledge requirement are not eligible for reimbursement.
  - (2) Contributions for an employee who is participating in the dependent flexible spending account will be suspended while the employee is in leave without pay status and claims for expenses incurred during the month are not eligible for reimbursement.
- d. Tax sheltered annuities become inactive.
- e. Membership in the Teacher Retirement System (TRS) or Optional Retirement Program (ORP) becomes inactive and contributions cannot be withdrawn.

## 8. Employee Notification Responsibility

An employee on leave shall immediately notify the supervisor of any change in circumstances that may affect the employee's leave status.

## 9. Authoritative References

[29 C.F.R., Section 541.710](#)  
[Texas Government Code, Section 661.909](#)

## 10. Right to Change Policy

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.