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## LEAVE OF ABSENCE WITHOUT PAY

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### A. Purpose

The purpose of this policy is to provide for the administration of employee requests for leave of absence without pay for all classified and administrative and professional employees of The University of Texas Rio Grande Valley (UTRGV).

### B. Persons Affected

This policy applies to all classified employees and administrative and professional employees appointed to work at least twenty (20) hours per week for a period of at least four and one-half (4 1/2) months. This does not apply to faculty, whose leaves of absence are addressed in HOP ADM 6-109 Faculty Development Leave, or to students employed in positions that require student status as a condition of employment.

### C. Definitions

1. Personal reasons - include compelling needs related to personal matters, extended illness, or the provision of care for members of an employee's immediate family as defined in HOP ADM 4-603, Sick Leave.
2. Professional development - includes undergraduate or graduate study, fellowships, employment with another governmental entity under an interagency or intergovernmental agreement, or other educational purposes that increase the effectiveness or professional productivity of the employee.
3. Public service - includes but is not limited to political activity subject to The University of Texas Board of Regents' *Rules and Regulations, Rule 30103*, Standards of Conduct and service to charitable organizations.

### D. Policy

With the operational needs and interest of UT Rio Grande Valley receiving primary consideration, it is the policy of UT Rio Grande Valley to grant eligible employees a period of unpaid leave during which employment is protected. Granting a leave of absence signifies that the employee may be restored to the same or comparable position upon return to employment, and makes the employing department responsible to ensure such a position remains available. However, these events are subject to financial constraints, applicable UTRGV or The University of Texas System rules and policies, and applicable state and federal laws. A leave of absence without pay may be granted for personal reasons, professional development, and public service or other activities that reflect credit on UTRGV and enhance an individual's ability to make subsequent contributions to UTRGV. UTRGV is under no obligation to grant a leave of absence under this policy.

## E. Procedure

### 1. *Duration:*

- a. A leave of absence may be granted for a period of up to twelve (12) months. If the period of the leave is less than twelve (12) months, an employee may submit a request to extend the leave for a combined period not to exceed twelve (12) months. The Regents' *Rules* restrict leaves of absence that extend beyond the end of a fiscal year. Therefore, the granting of that portion of a leave that extends beyond the current fiscal year (August 31) is contingent upon the employee's reappointment.

### 2. *Exhaustion of Paid Leave:*

- a. Except for disciplinary suspensions, approved military leave, and leave covered by workers' compensation benefits, all accumulated paid leave (including state compensatory time and FLSA overtime) must be exhausted before going on leave of absence without pay status. Sick leave must first be used only if the employee is taking leave for a reason for which the employee is eligible to take sick leave.

### 3. *Application and Approval Process*

- a. *Application Submission* - The employee submits a written request on the Leave of Absence form to the employee's supervisor that includes the following:

- i. The reason for the requested leave with documentation as appropriate;
- ii. Length of time requested, and
- iii. A statement of the employee's clear intention to return to work.

If the leave is for professional development or public service, the request shall specify how the leave will increase the effectiveness or professional productivity of the employee.

- b. *Application Review* - When evaluating leave requests, the supervisor shall determine if the request is in the best interest of UTRGV. The supervisor shall consider the following criteria:

- i. The ability of the department to function efficiently and effectively during the employee's absence.
- ii. The effect of the employee's absence on coworkers.
- iii. The provisions required to accomplish the employee's work.
- iv. Whether the employee's documented work performance justifies employment protection.
- v. The employee's clear intent to return to work.

- c. *Determination* - The supervisor shall review the leave request and submit a written recommendation to the department or unit head. The recommendation shall state whether the application should be granted or denied and the reasons for the decision. The department or unit head shall make the final decision to grant or deny the leave request and shall communicate the decision in writing to the employee with a copy to the supervisor and the Office of Human Resources.
- d. *Approval of Consecutive Leaves of Absence beyond Twelve Months* - Requests for consecutive years of leave of absence shall be for the reasons provided in this policy. Such requests shall be approved only in cases where unusual and extenuating circumstances exist. The final decision to grant or deny the leave request shall be communicated in writing to the employee with a copy to the appropriate administrators and the Office of Human Resources.
  - i. *Second Year Approval* - In addition to the department or unit head approval, the appropriate vice president must approve a second year request.
  - ii. *Third Year Approval* - In addition to the department or unit head, and the appropriate vice president, the President and executive vice chancellor for academic affairs of The University of Texas System must approve a third year request.
- e. *Effect of Leave on Insurance Benefits* - For a leave of absence that is not covered by Family and Medical Leave, the following applies.
  - i. The employee is allowed to keep all or part of the insurance they have by paying the full premium in accordance with UTRGV policies. Any insurance coverage not wanted may be put in abeyance and activated immediately upon return to work without the necessity of having to submit evidence of insurability documents.
  - ii. *Nonpayment of Premiums by Employee*. If the employee fails to pay the insurance premium by the due date, UTRGV shall cancel the employee's insurance coverage at the end of the last month for which a complete payment is made.
  - iii. *Restoration of Coverage upon Return to Work*. If UTRGV discontinues health coverage as a result of the employee's non-payment of premiums, the employee's group health benefits must be restored to at least the same level and terms as were provided when leave commenced. The returning employee will not be required to meet any qualification requirements, such as a waiting period or preexisting condition requirements, when the employee has failed to continue his or her health coverage for non-payment of premiums.
  - iv. For a leave of absence that is covered by Family and Medical Leave, see HOP ADM 4-608 Family and Medical Leave for insurance benefit information.
- f. *Return to Work* - The employee returning from leave of absence will be reinstated to the same or equivalent position and pay within the department or unit, subject to

financial constraints, applicable UTRGV or the UT System rules and policies, and applicable state and federal laws

- g. *Eligibility for Subsequent, Non-Consecutive Leave* - An employee must return to duty for one year (12 continuous months) after a leave of absence to be eligible to apply for another leave of absence, unless they have been granted an extension under this policy.

#### **F. Responsibilities**

1. *Employee Responsibilities* - An employee on leave shall immediately notify the supervisor of any change in circumstances that affects the employee's leave status.
2. *Department Responsibilities* - The department shall place an employee granted a leave of absence on leave without pay status for the term of the leave or until the end of the fiscal year, whichever is shorter.
3. *Delegation of Authority* - The President delegates authority to the Chief Human Resources Officer to review and approve leaves of absence for the initial twelve-month period. The President delegates authority to the appropriate Vice President to review and approve leaves of absence for a second consecutive twelve-month leave.

#### **G. Relevant Federal and/or State Statute(s), Board of Regents' Rule(s), UTS Policy(ies), and/or Coordinating Board Rule(s)**

*Texas Government Code* Sections 661.909 Leave without Pay; Leave of Absence

*Texas Government Code* Section 659.016(e) Overtime Compensation for Employees not Subject to Fair Labor Standards Act

*Texas Government Code* Section 659.085 Determining Amount of Monthly or Hourly Pay

The University of Texas System Board of Regents' *Rules and Regulations* Rule 30201, Leave Policies

The University of Texas System Board of Regents' *Rules and Regulations* Rule 30103, Standards of Conduct