**VACATION AND SICK LEAVE**

**Vacation Leave**

* Specify the categories of employees who are eligible to accrue and use paid vacation leave; i.e. [full-time](http://www.twc.state.tx.us/news/efte/part_time_full_time.html), temporary, or [part-time](http://www.twc.state.tx.us/news/efte/part_time_full_time.html) employees. As with sick leave, explain how your company defines "full-time" and "part-time".
* Describe how and at what rate vacation leave is earned and explain whether the company allows carryover of vacation leave from year to year, as well as whether the company pays employees for unused vacation leave when they leave the company.
* Specify whether the vacation time is earned on a monthly basis, by pay period, or after a certain period of service with the company, such as one year.
* State the company policy for payment of unused vacation in the event of layoffs or other work separations. Explain whether there is a distinction between those who voluntarily separate from the company and those who are discharged.

**Sick Leave**

* Specify the categories of employees who are eligible to accrue and use paid sick leave; i.e. [full-time](http://www.twc.state.tx.us/news/efte/part_time_full_time.html), temporary, or [part-time](http://www.twc.state.tx.us/news/efte/part_time_full_time.html) employees. Explain how your company defines "full-time" and "part-time".
* Describe how and at what rate sick leave is earned and explain whether the company allows carryover of sick leave from year to year, as well as whether the company pays employees for unused sick leave when they leave the company.
* Specify whether the sick leave time is earned on a monthly basis, by pay period, or after a certain period of service with the company, such as one year.
* Describe how employees qualify to use sick leave for periods of absence and whether the company may require medical documentation in order to use available paid sick leave.

No Texas or federal law requires private-sector employers to provide paid or unpaid leave of any kind, although some amount of unpaid leave *may* be necessary as a reasonable accommodation in the event of a disability, pregnancy, or other condition protected under a specific statute. In the area of family or medical leave, the only employers that are required to provide up to 12 weeks of unpaid job-protected leave under the federal [Family and Medical Leave Act](http://www.twc.state.tx.us/news/efte/family_and_medical_leave_act_fmla_.html) are those with 50 or more employees stationed within 75 miles of the employee who is to take such leave, and even then the employee has to meet the various eligibility conditions in order to be entitled to the leave. However, most employers do provide some kind of paid leave, in varying amounts that are up to a company to determine for itself. If such leave is promised in a written policy or agreement, the leave is an enforceable part of the wage agreement under the [Texas Payday Law](http://www.twc.state.tx.us/news/efte/fringe_benefits.html). The written policy or agreement will be enforced according to what it provides.

**Accrued Leave Payouts**

No Texas or federal law requires employers to make payouts of accrued but unused paid leave, although in rare instances, usually involving express contracts, some courts have required such payments to former employees. That is a matter left to employers to specify in their company policies. Thus, it is very important for employers to develop a clear, preferably written, policy regarding paid leave and follow it exactly. If the policy is silent on what happens to accrued, untaken leave, it is not enforceable under the Texas Payday Law. An example of a policy that clearly states a company's position would be as follows:

Generally, ABC Company does not pay accrued [type of] leave to employees who leave employment. Any unused paid [type of] leave is forfeited upon an employee's work separation. However, unused [type of] leave may be paid out under the following circumstances:

* 1. If an employee is involuntarily separated from employment for economic reasons as part of a company reorganization or a reduction in the workforce, the employee will receive the full balance of accrued, but unused [type of] leave.
  2. If an employee retires from employment pursuant to the Company's retirement policy, the employee will receive the full balance of accrued, but unused [type of] leave.
  3. If an employee voluntarily resigns from employment with at least two weeks' advance written notice, the employee will receive the full balance of accrued, but unused [type of] leave.
  4. If an employee voluntarily resigns from employment with less than two weeks' notice, but with at least one week's advance written notice, the employee will receive fifty percent (50%) of the balance of accrued, but unused [type of] leave.

Paid or unpaid leave time may not be counted toward a notice period under this policy. Any payment made under this provision will be subject to set-offs and deductions for any amounts due or owing pursuant to legal requirements and to the wage deduction authorization agreement signed by the employee.