

STATE OFFICE OF ADMINISTRATIVE HEARINGS

EMERGENCY LEAVE POLICY

The policy was approved,
adopted, and became effective on September 5, 2017.



Acknowledged and approved by:

A handwritten signature in blue ink, appearing to read "L. Ginn".

Lesli G. Ginn, Chief Administrative Law Judge

A handwritten signature in blue ink, appearing to read "Cynthia Reyna".

Cynthia Reyna, General Counsel

EMERGENCY LEAVE

PURPOSE

Pursuant to Tex. Gov't Code § 661.252, the State Office of Administrative Hearings (SOAH) is providing staff with clear guidelines to establish under what circumstances an employee may be entitled to or granted emergency leave provided by Tex. Gov't Code Chapter 661. SOAH leave provisions are incorporated herein by reference and the following supplement is provided.

EMERGENCY LEAVE

The Chief Administrative Law Judge, as the administrative head of SOAH, may grant emergency leave for a reason other than a reason described under Tex. Gov't Code § 661.902(a), which provides emergency leave because of a death in the employee's family.

The Chief Administrative Law Judge shall grant emergency leave if:

- 1) the employee requests the leave;
- 2) the administrative head determines the employee has shown good cause for taking emergency leave; and
- 3) the administrative head believes in good faith that the employee being granted the leave intends to return to the employee's agency position upon expiration of the leave granted.

Tex. Gov't Code § 661.902(b).

Guidelines for providing good cause are provided below in this policy section, along with the process for requesting emergency leave.

Not later than October 1 of each year, the Chief Administrative Law Judge or designee shall report to the comptroller the name and position of each SOAH employee granted more than 32 hours of emergency leave during the previous state fiscal year, the reason for the granting of such leave, and the total number of hours of emergency leave granted to the employee in the state fiscal year. *Tex. Gov't Code § 661.902(d).*

INCLEMENT WEATHER OR OBSERVANCE OF A HOLIDAY

The Chief Administrative Law Judge may grant emergency leave because SOAH is closed due to weather conditions or in observance of a holiday. *Tex. Gov't Code § 661.902(c).*

OFFICE CLOSURE FOR OTHER EMERGENCIES

The Chief Administrative Law Judge may grant emergency leave because SOAH is closed due to other unforeseen emergencies, such as power outages or other circumstances that the Chief Administrative Law Judge deems create the necessity for office closure for the safety or wellbeing of agency employees. *Tex. Gov't Code § 661.902(c).*

AGENCY INVESTIGATION

The Chief Administrative Law Judge may grant emergency leave to a SOAH employee who is the subject of an investigation being conducted by SOAH. *Tex. Gov't Code § 661.923(a)(1).* The SOAH employee who is subject to an agency investigation is ineligible to receive leave for that reason under any other provision of subchapter H, Chapter 661 of the Texas Government Code.

Not later than the last day of each quarter, SOAH shall report to the state auditor and the LBB each SOAH employee who has been granted 168 hours or more of leave granted under this provision during the fiscal quarter. The report must include a brief statement as to the reason each such employee remains on leave. *Tex. Gov't Code § 661.923(c).*

The administrative head of SOAH may also grant emergency leave to a SOAH employee who is the victim of, or a witness to, an act or event that is the subject of a SOAH investigation. *Tex. Gov't Code § 661.923(a)(2).*

MEDICAL AND MENTAL HEALTH LEAVE FOR CERTAIN VETERANS

A SOAH employee who is a veteran as defined by Section 434.023(a), Government Code, and is eligible to receive health benefits under a program administered by the Veterans Health Administration of the U.S. Department of Veterans Affairs may be granted emergency leave without loss of vacation time, sick leave, earned overtime credit, or state compensatory time to obtain medical or mental health care administered by the

Veterans Health Administration of the U.S. Department of Veterans Affairs, including physical rehabilitation.

Leave granted under this provision may not exceed fifteen (15) days each fiscal year, unless the administrative head of SOAH determines it is appropriate to grant additional days of emergency leave. *Tex. Gov't Code § 661.924.*

GUIDELINES FOR REQUESTING EMERGENCY LEAVE AND PROVIDING GOOD CAUSE

- Request shall be in writing and directed to the Director of Human Resources. Reasonable advance notice, if practicable, should be provided by the requesting employee.
- Request should confirm that the employee intends to return to the position upon expiration of leave granted.
- Requesting employee must have demonstrated responsible use of leave and time management prior to request.
- Requesting employee is not to be subject to a disciplinary action or performance plan at time of request.
- Extenuating circumstances may be set out by the requesting employee.
- Employees are not entitled to receive emergency leave under this policy except under specific provisions. Employees must submit a written request for emergency leave, and must show good cause to support the request and confirm their intent to return to their position at the expiration of leave.
- The Chief Administrative Law Judge determines what constitutes good cause.
- A recipient's qualification for emergency leave does not prevent the employer from exercising its right to terminate the employee under any federal or state law.
- The recipient of emergency leave is not authorized or permitted to work elsewhere while on emergency leave.