

STATE AUDITOR'S OFFICE
LEAVE INTERPRETATION 86-03¹

TO: Human Resources Directors
DATE: November 6, 1985
SUBJECT: Employees working a scheduled 10-hour day and the relation to paid annual, sick, and compensatory leave.

Question:

If an employee is scheduled to work 10 hours a day, 4 days a week is out due to annual or sick leave, how many hours of leave should be charged?

If an employee's normal work schedule is 10 hours a day and the employee is required to work on an official holiday, does the employee accrue 10 hours of compensatory time?

Answer:

An employee should charge the number of hours he or she is scheduled to work to annual or sick leave. If an employee works on a holiday, the employee should receive compensatory time off for the number of hours actually worked.

The purpose of paid leave is to allow an employee to have time off from his or her regularly scheduled work hours without a loss in pay [Texas Government Code, Sections 661.152 (a) and 661.202 (a)].

Although Texas Government Code, Section 658.005, provides for normal work hours of 8 a.m. to 5:00 p.m., Monday through Friday for a 40-hour workweek, there are many different work schedules in various agencies depending upon their particular operations. Attorney General Opinion M-1058 confirms the legality of an employee working a 40-hour workweek in four, 10-hour days.

If an employee on a 4-day, 10-hour day week takes a regularly scheduled day off of annual or sick leave, the employee would charge 10 hours to annual or sick leave. If the employee took off a full week, the employee would charge 10 hours of annual or sick leave for each of the 4 days normally worked.

In the case of a holiday, Texas Government Code, Section 662.009, states that a state employee who normally works 40 hours a week on a schedule other than Monday through Friday is entitled

to paid holiday time off during the fiscal year equal to 8 hours multiplied by the number of national and state holidays that occur during the period worked by the employee.

Each eligible employee of the state is entitled to the number of holidays each fiscal year times 8, the number of hours per day in the normal workweek. For example, if there are 14 state and federal holidays in a fiscal year, an employee is eligible for 14 days times 8 hours or 112 hours during that fiscal year for holidays. Each eligible employee should be given 112 hours of holiday time off for that fiscal year, no matter what an employee's work schedule happens to be. These hours are creditable at 8 hours per holiday for the actual months of employment, and any hours in excess of an employee's entitlement must be adjusted upon termination of employment.

Holiday time for a part-time state employee must be proportionally reduced to account for the fewer hours the employee normally works (Texas Government Code, Section 662.008).

Texas Government Code, Section 662.007, states that a state employee who is required to work on a national or state holiday is entitled to compensatory time off during the 12 months after the holiday if the state employee is entitled to a paid day off from working for a state agency on the holiday. As such, if an employee's normal work day is 10 hours and the employee is required to be on duty on the holiday, then the employee should get compensatory time for the number of hours actually worked.

¹ This is an updated version of this State Auditor's Office Leave Interpretation. It was updated in 2011 to primarily reflect statutory changes. The previous version can be found at http://www.hr.sao.state.tx.us/Statutes/LI86-03_old.html