

Section IV.D.1.(i). Human Resources Faculty Leave Banking Program

The Chancellor adopts these procedures in accordance with Section IV.D.1.(i). of the Lone Star College System District Policy Manual (“Policy Manual”) last revised by the Board of Trustees on **February 1, 2018** which provides that the Chancellor shall establish a faculty leave banking program to permit teaching faculty members to accrue entitlement to extended leaves of absence through the completion of extra service assignments (the “Program”).

These procedures (“Procedures”) supplement and clarify the terms of the Program as set forth in Section IV.D.1.(i) of the Policy Manual. All matters concerning the Program are governed by the terms of the Policy Manual and these Procedures. In the event of a conflict between the Policy Manual and these Procedures, the Policy Manual will control. These Procedures supersede and replace all other written documentation concerning the Program including but not limited to the Faculty Handbook, Faculty Workload Guidelines, etc. The terms of these Procedures can only be amended by formal action of the Chancellor pursuant to sections I.C.1.03 and I.D.1.10 of the Policy Manual. These Procedures cannot be amended by the oral or written statements of any other persons or entities.

The Board and the Chancellor may amend or end this Program at any time and for any reason as allowed by Board Policy.

These procedures were last updated on **February 1, 2018**. The notice and comment period was open online to the public from **September 5, 2017**, to **October 28, 2017**.

- 1. Key Definitions.** For purposes of the Program, the following defined terms will apply:
 - a. *Eligible Faculty Member* or *Member*** means a member of the College’s full-time teaching faculty with a current multi-year employment contract. Adjunct instructors, part-time teaching faculty members, administrative staff, and all other College personnel who are not employed by the College on a full-time basis as teaching faculty are **excluded** from participation in the Program.
 - b. *Extra Service Assignment*** means any teaching assignment in excess of an Eligible Faculty Member’s normal teaching load for a particular academic semester, including both fall and spring semesters, mini-mester or intersession courses, and summer session courses.
 - c. *Leave Bank Account*** means the notional account which is used to determine, in part, the amount of compensation payable to a Leave Eligible Member during a Leave Semester in accordance with Section 5 below. A Leave Eligible Member’s Leave Bank Account shall be for bookkeeping purposes only.
 - d. *Leave Bank Fund*** means the funding source for compensation and payouts made by the College to Eligible Faculty Members and Leave Eligible Members during

Leave Semesters, as provided by Section 5 below or otherwise, as provided by Section 6 below.

- e. **Leave Eligible Member** means an Eligible Faculty Member whose Leave Bank Account balance has reached the cap specified in Section 3.C below.
- f. **Leave Semester** means a full academic semester during which a Leave Eligible Member is on leave pursuant to the Program and eligible to receive compensation as provided in Section 5 below.
- g. **Supplemental Pay** means the difference between the faculty member's would-be Leave Semester salary and their Total Accrued Deferred Compensation.
- h. **Supplemental Pay Fund** means the funding source for supplemental compensation paid by the College to Leave Eligible Members during Leave Semesters, as provided by Section 5 below.

2. Eligibility and Participation.

- a. **Eligibility to Defer.** Eligible Faculty Members who successfully complete Extra Service Assignments may elect to defer payment of compensation for such assignments and accrue additional leave time through the Leave Bank established under the Program. All additional leave time allocated to the Leave Bank must be used by the Eligible Faculty Member in accordance with the procedures described in this document.
- b. **Procedures for Deferral Elections.** Eligible Faculty Members who wish to participate in the Program by deferring compensation due for an Extra Service Assignment must complete Form IV.D.1 and return it to the applicable Dean of Instruction **before** the first day of the Extra Service Assignment. Election forms that are not timely submitted to the Dean of Instruction will not be honored. Timely completion and submission of the election form will allow the Dean of Instruction to verify its completeness and ensure that the College's Payroll Department will have adequate time to implement the election.
- c. **Changes to Deferral Elections.** Eligible Faculty Members cannot change their election to defer Extra Service Assignment compensation once the Extra Service Assignment begins (i.e., the course's first day). Eligible Faculty Members must make a new deferral election for each Extra Service Assignment.

3. Leave Bank Accruals.

- a. **Leave Bank Account Balances.** Compensation deferred under the Program by each Eligible Faculty Member will be allocated in a bookkeeping account in his or her name. The balance of an Eligible Faculty Member's Leave Bank Account will be equal to (1) the cumulative amount of compensation he or she elects to defer less (2) any deductions relating to compensation paid during Leave Semesters or

for mandatory payouts, and subject to the limitation on account accruals described in Section 3.C below. No interest will be credited to Leave Bank Account balances, and no contributions by the College will be required.

- b. Vesting of Leave Bank Account Balances.** Amounts accrued by an Eligible Faculty Member in his or her Leave Bank Account will be fully vested and nonforfeitable at all times.
- c. Maximum Accrual Permitted.** An Eligible Faculty Member may accrue a maximum balance in his or her Leave Bank Account equivalent to a regular full-time faculty teaching assignment for one academic semester plus one extra service assignment. Absent special approval by the applicable Dean of Instruction, this will mean that an Eligible Faculty Member may maintain accrued credit for up to six (6) courses for most disciplines through the Program at any one time (this course number will vary depending on the faculty member's primary discipline). Once an Eligible Faculty Member reaches his or her maximum accrual, the Eligible Faculty Member will become a Leave Eligible Member and must either: (1) take a Leave Semester (discussed below), or (2) receive an automatic cash payout of his or her accrued Leave Bank Account balance in accordance with the procedures described below. Any sums that are inadvertently allocated to an Eligible Faculty Member's Leave Bank Account in excess of the limitation described above will be cashed out and paid to the Eligible Faculty Member as soon as administratively practicable after the excess allocation is discovered.

4. Application Procedures for a Leave Semester.

- a. Application for a Leave Semester.** An Leave Eligible Member who has accrued the maximum balance in his or her Leave Bank Account permitted under Section 3 above and who wishes to take a Leave Semester in lieu of receiving a cash payout of his or her account balance should complete and submit Form IV.D.2 to his or her Dean of Instruction at least two semesters before the requested Leave Semester. Timely requests for Leave Semesters will be reviewed by the Vice President of Instruction and, in consultation with the applicable College President, the Vice President of Instruction may approve or deny the request using Form IV. D.3. All Leave Semester approvals will be forwarded to the College's Payroll Department no later than thirty (30) days before the start of the approved Leave Semester.
- b. Deadline for Use of Leave Bank Account Balances.** All Leave Eligible Members must take a Leave Semester within ten (10) regular semesters of first becoming Leave Eligible. For example, if an Eligible Faculty Member becomes Leave Eligible in the Fall 2017 semester, the Leave Semester must be taken no later than the Fall 2022 semester. If the Leave Semester is not taken by the tenth (10th) semester of leave-eligibility, the Eligible Faculty Member will receive an automatic cash payout equaling their accrued Leave Bank Account balance. No Supplemental Pay will be provided in connection with any such cash payout.

5. Pay During Leave Semesters. During a Leave Semester, a Leave Eligible Member's compensation will consist of the following amounts: (1) the Eligible Faculty Member's Leave Bank Account balance, plus (2) the Eligible Faculty Member's Supplemental Pay. The Leave Eligible Member's compensation will be paid in periodic installments in accordance with the College's standard payroll practices and procedures, as described in the example below. A Leave Eligible Member's Leave Bank Account balance will be paid from the Leave Bank Fund. Supplemental Pay will be paid from the Supplemental Pay Fund.

EXAMPLE:

A Leave Eligible Member in the English Department whose current annual compensation is \$60,000 will receive the following Leave Semester compensation:

Pay Type	Calculation	Example (\$60,000 salary)	
Leave Bank Account Balance	<i>number of deferred courses</i> <i>× compensation per course</i>	6 courses × \$2,000 =	\$12,000
Supplemental Pay	$\frac{\text{annual salary}}{(24 \times 9)} - \text{Leave Bank Payments}$	\$22,500 - \$12,000 =	\$10,500
Total Leave Semester Compensation	<i>Leave Bank Payments + Supplemental Pay</i>	\$12,000 + \$10,500 =	\$22,500

Note this example only illustrates gross annual compensation and does not reflect withholding of the applicable income and payroll taxes.

6. Cash Payouts.

a. Elective Payouts. An Eligible Faculty Member may request a full or partial cash payout of his or her accrued Leave Bank Account at any time. An Eligible Faculty Member who wishes to request a cash payout should complete Form IV.D.4 and submit it to the College's Payroll Department for processing. No Supplemental Pay will be provided in connection with any such cash payout.

b. Termination Payouts. In the event of an Eligible Faculty Member's termination of service with the College for any reason (including, without limitation, due to his or her death), the Eligible Faculty Member's accrued Leave Bank Account balance will be paid to him or her (or to his or her surviving spouse or estate, as applicable) in a lump sum cash payout. No Supplemental Pay will be provided in connection with any such cash payout.

7. Tax Matters. Compensation deferred under the Program will be subject to income and applicable employment tax withholding and reporting for the calendar year during which it would otherwise be due and payable (i.e., during the calendar year when the Extra Service Assignment occurs). For example, if an Eligible Faculty Member wishes to defer compensation for an Extra Service Assignment taught in the Spring 2018 semester, the

deferred compensation will be reported on the Eligible Faculty Member's Form W-2 issued for 2018.

8. College/State Retirement Contributions. Supplemental Pay and any compensation deferred under the Program is **not** taken into account for purposes of determining any retirement contributions or benefit accruals, including under the College's retirement plans and the Texas Teacher Retirement System (TRS) and the Texas Optional Retirement Program. Eligible Faculty Members should also be aware that taking a Leave Semester during the regular **spring** semester could exclude that entire school year as a year of service for retirement purposes. This is a TRS determination made on a case-by-case analysis. The College does not make such determinations and encourages faculty members who have questions to contact TRS directly to ensure they understand how, if at all, years of service will be affected. TRS member services can be reached at 1 (800) 223-8778.

9. Administrative Provisions.

a. Administration of Program. The Program will be administered by the Chancellor or his or her delegate; references to the "Chancellor" in the Program shall be deemed to refer to his or her delegate, if any. As Administrator of the Program, the Chancellor shall have sole discretionary responsibility for its operation, interpretation, and administration and for determining eligibility for any benefits or payments to be made under its terms. Any action taken on any matter within the discretion of the Chancellor shall be final, conclusive, and binding on all parties. The Chancellor shall have full discretionary power and authority to interpret, construe and administer this Program and to promulgate rules and regulations for its administration. Subject to the requirements of sections I.C.1.03 and I.D.1.10 of the Policy Manual, the Board and the Chancellor shall have the right to amend the Program, at any time and from time to time, in whole or in part.

b. Dispute Resolution.

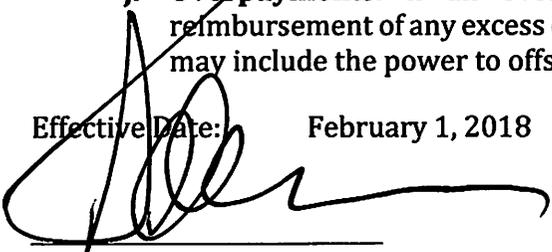
i. Claims. Should any Eligible Faculty Member or other individual believe he or she is entitled to a benefit from the Program (including a benefit which differs from the benefit offered under the Program), such individual may file a written claim for benefits with the Chancellor or his or her delegate. Such a claim must be submitted no later than the earlier of (a) one (1) year after the date the Member contends he or she should have received a payment under the Program or (b) the date the Member's employment with the College is terminated. Upon receipt of a claim, the Chancellor shall review the claim and, if the Chancellor determines that the claim should not be allowed, shall respond within thirty (30) days of receipt of the claim. Such response shall be in writing and shall include the specific reason or reasons for the denial, specific references to pertinent Program provisions on which the denial is based, a description of whatever additional material or information, if any, must be supplied by the claimant to perfect the claim, and an explanation of

the Program's review procedure. If notice of the denial of a claim is not furnished within thirty (30) days of receipt by the Chancellor, the claim shall be deemed denied.

- ii. **Review.** Within sixty (60) days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the claimant (or his or her representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the claimant responds and seeks a review of the decision to deny benefits, issues and comments must be submitted in writing to the Chancellor. Such issues and comments shall specify the reasons that the decision of the Chancellor is claimed to be erroneous. The Chancellor shall review the contentions regarding the denial of the claim and shall, within sixty (60) days from the Chancellor's receipt of the request for review, respond to said request. If the Chancellor, in his or her sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within one hundred twenty (120) days from the date the Program received the request for review. Any decision on review shall be in writing and shall state the specific reasons for the decision, and shall make specific references to the Program provisions on which the decision is based.
 - iii. Claimant cannot bring any legal action against the Program, the Administrator or the College for any other reason unless the claimant first completes all the steps in the dispute resolution process described in this section. After completing that process, if the claimant wants to bring a legal action against the Program, the Administrator or the College, the claimant must do so within one year of the date the claimant is notified of the final decision on review or lose rights to bring such an action against the Program, the Administrator, or the College.
- c. **Status of Program.** The Program is intended to operate as a "bona fide vacation leave plan" within the meaning of Code Section 457(e)(11) and Sections 1.457-11(c)(1) and 11(f) of the proposed Treasury regulations and will be administered in accordance with this intent. The Program does not provide for any "deferrals of compensation" within the meaning of Code Sections 409A or 457(f) and all deferrals and payments made under the Program are intended to be exempted from such Code sections. The Program is not subject to and is exempted from the Employee Retirement Income Security Act of 1974 ("ERISA") as a governmental plan under ERISA Section 4(b)(1).
 - d. **Notices.** Any notices or other communications required or contemplated under the provisions of this Program shall be in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid.
 - e. **Choice of Laws.** This Program shall be construed in accordance with and governed by the laws of the State of Texas and in courts situated in that state.

- f. Prohibition on Assignment.** Benefits payable under this Program shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary; any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder shall be void.
- g. No Employment Contract.** This Program shall not be construed as giving an Eligible Faculty Member any right to continue in the employ of the College or to alter or in any way affect such employment relationship. Nor shall this Program be construed as giving an Eligible Faculty Member any right to continue to take a leave of absence or any job protection while on any leave of absence, except as otherwise required by applicable law.
- h. No Funding Obligation.** Payments to Eligible Faculty Members and Leave Eligible Members under this Program will be made exclusively from the general funds of the College, and Eligible Faculty Members and Leave Eligible Members will be no more than unsecured general creditors of the College with no special or prior right to any assets of the College to secure payment of any obligations arising under the Program.
- i. Clerical Error.** If a clerical error or other mistake occurs, including by the Administrator, its delegates, members of the College's human resources department, payroll department, or other College employees, such clerical error(s) or mistake does not create a right to any benefit under the Program. Clerical errors include providing misinformation on eligibility or benefits or entitlements, relating to information transmittal and or communications, perfunctory or ministerial in nature, involving claims processing, recordkeeping or other function, or made by any of the parties listed above. Although every effort is and will be made to administer the Program in a fully accurate manner, any inadvertent error, misstatement, or omission will be disregarded and the actual Program provisions will control. When an error is found, it will be corrected or adjusted appropriately as soon as practicable. Interest shall not be payable with respect to any benefit corrected or adjusted. It is the Faculty Member's responsibility to confirm the accuracy of statements made by the Program or its designees.
- j. Overpayments.** If an overpayment occurs, the Administrator may seek reimbursement of any excess or incorrect payments. Reimbursement or collection may include the power to offset against any pending or accrued amounts.

Effective Date: February 1, 2018


Stephen C. Head, Chancellor



Form IV.D.2: Leave Semester Request

Use this Form to request a Leave Semester. This form must be submitted **at least two semesters prior** to the requested leave semester.¹ This form may be submitted alongside the faculty member's final overload course deferral request, making them Leave Semester-eligible.

Name: _____
Last First Middle Initial

Employee ID: _____

Semester Requested:

Term: _____ Year: _____

Signature

Date

For Office Use Only

DEAN OF INSTRUCTION:

Date Request Received: _____

Signature Date

VICE PRESIDENT-INSTRUCTION

Date Request Received: _____

Approved Denied

Signature Date

PAYROLL:

Date Request Received: _____ Date Processed: _____

Signature Date Printed Name

¹ This Form and the Faculty Member's request to defer their last extra course assignment to become Leave Eligible may be submitted simultaneously.



Form IV.D.3: Leave Semester Approval

Date

Dear _____,

I hereby Approve Deny your _____ request to take a Leave Semester in
Date Received

Term Year

Signature of Vice President of Instruction



Form IV.D.4: Payout Request

Use this Form to request a cash payout.

Name: _____
Last First Middle Initial

Employee ID: _____ Requested Payout Amount: \$ _____

I am requesting a cash payout in the above amount, to be paid out of my Leave Bank Account with my next regularly scheduled paycheck after processing is complete.

Signature

Date

For Office Use Only

PAYROLL:

Date Request Received: _____ Date Processed: _____

Signature

Date

Printed Name