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The Basics of Assault Leave

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question & answer

Assault leave is a common topic of discussion in the HR world, and we've outlined some of the basics with the Q&A below.

Q: What benefit does assault leave provide?

A: Assault leave provides paid leave and job protection to district employees injured while performing their job as a result of another person's purposeful or reckless action.

Q: What qualifies as assault leave?

A: Quick tips for identifying assault leave include the following:

- The assault results in physical injury, not psychological conditions
- The assault would be eligible for prosecution (or, if not eligible, it is only because the assailant's age or mental capacity renders them not criminally liable)
- Intent to cause an injury is not required, but the injury could be the result of the individual's reckless behavior

Q: What is the duration of assault leave?

A: The maximum period of assault leave is two years from the date of injury. Assault leave applies, so long as an employee requires recuperation because of physical injuries that involves at least one of the following based on a medical certification:

- Job duties can no longer be fulfilled
- Returning to work would worsen the injury
- Additional days off from work would facilitate the healing process.

Q: When does assault leave begin?

A: Upon request from employee, districts must grant assault leave immediately. If medical certification or an investigation later determines the leave doesn't qualify as assault leave, any time previously taken as assault leave will be charged against the employee's other eligible paid leave balances. Should all paid leave be exhausted, the district may designate the leave as unpaid.

Q: What if the employee is also receiving worker's compensation?

A: Districts are required to coordinate assault leave and workers' compensation benefits to ensure the amount of compensation received by employees on assault leave will equal, but not exceed, 100 percent of their weekly rate of pay (Texas Education Code §22.003(b)). This means that workers' compensation income benefits are the first source of paid benefits for the employee. The district must supplement the workers' compensation benefits in proportional amounts of leave. The combined total should be equivalent to the employee's pre-injury weekly wage.

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TAGGED: LEAVE WORKERS' COMPENSATION



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