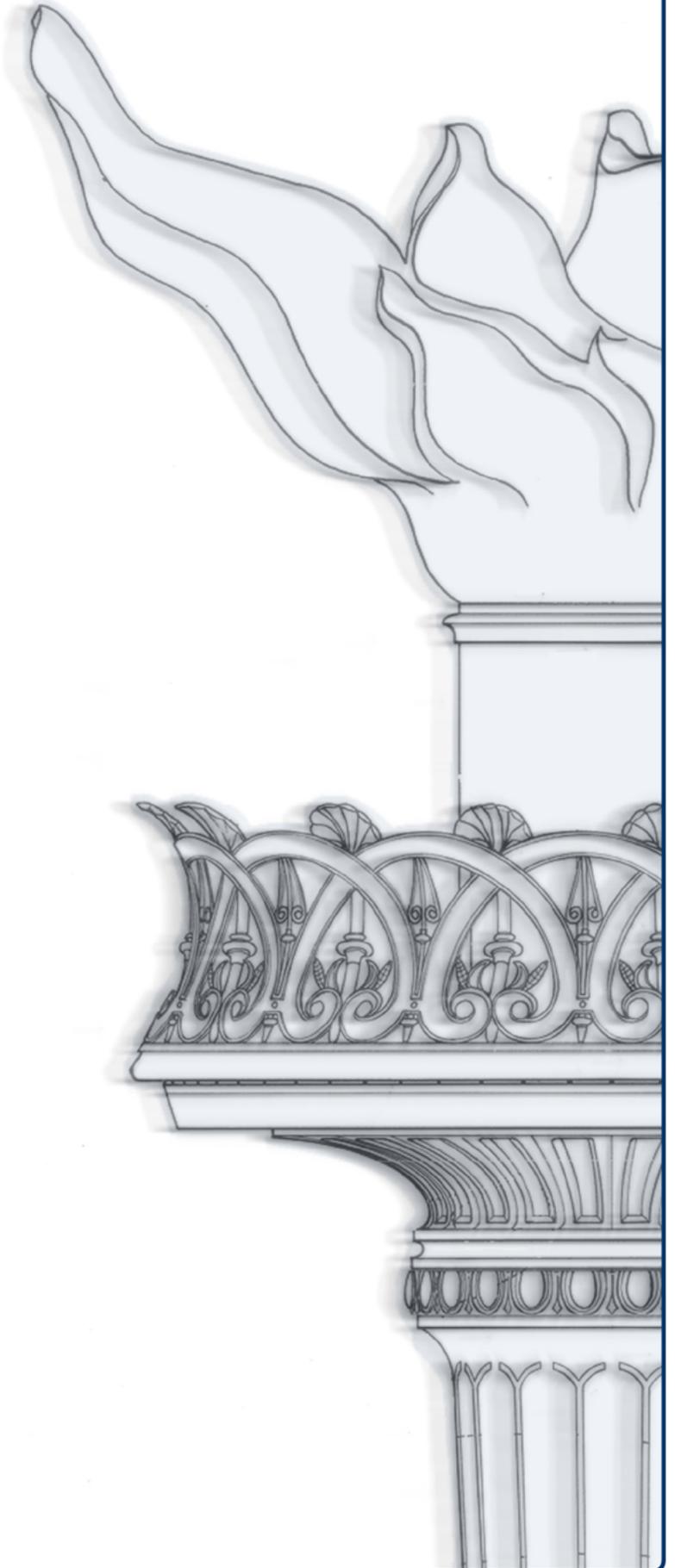


# tact

Texas Association of College Teachers  
Defending Academic Freedom  
Volume LXVIII Number 3

Quarterly eBulletin

January/February/March 2015



# The TACT Quarterly eBulletin

January/February/March 2015 - Volume LXVIII Number 3

## In this quarter's TACT newsletter...

- Page 3 President's Letter  
by Cindy Simpson
- Page 4 Executive Director's Report  
by Chuck Hempstead
- Page 5 The Family Medical Leave Act  
by Baili Rhodes
- Page 7 How Safe Are America's Colleges  
by Peter Hugill
- Page 8 TACT Legislative Issues 2014-2015
- Page 11 Membership

### TACT Board of Directors 2014-2015

**President**  
Cindy Simpson  
Houston Baptist University

**President-Elect**  
Mary Jo Garcia Biggs  
Texas State University

**VP of Financial Affairs**  
Matthew Capps  
Midwestern State University

**VP of Membership**  
Stacey Bumstead  
Lamar University

**VP of Legislative Affairs**  
Gary Coulton  
University of Texas -  
San Antonio

**Directors At Large**  
Peter Hugill  
Texas A&M University

Kay Busiek  
Houston Baptist University

Debra Price  
Sam Houston State University

W. Allen Martin  
University of Texas at Tyler

Donna Cox  
Sam Houston State University

Jon Gray  
University of Houston

**Executive Director**  
Chuck Hempstead  
(512) 419-9275



Texas Association of College Teachers  
5750 Balcones Dr., Suite 201 Austin, Texas 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423

Copyright © 2014 by the Texas Association of College Teachers. All rights reserved.  
No part of this publication may be produced in any form without permission; Chuck Hempstead, Editor.

## TACT's Yellow Brick Road

**by Cindy Simpson**  
**TACT President**



As we sometimes trudge through the details of keeping this association alive and having a positive impact on our elected officials about the issues of importance to our profession, there are two times each year when I am reassured of our value, and that is following our semi-annual legislative visits at the Capitol.

It would be understandable if we debriefed and some of our State Board Members, who have travelled hundreds of miles on their own nickel to spread the word, were disillusioned, but that never happens. We may be discouraged by the issue positions we run into, or the lack of knowledge about “our” pieces of legislation, or the level of buy-in by our electeds, but we are universally motivated that we are wearing the white hats and that nearly everyone wants similar outcomes, even if their yellow brick road to get there is different than ours, and may not be yellow.

One among our delegation last week observed, “It looks like you need to be under 30 to work here.” Chuck quipped, “And I knew that guy’s Dad when HE was under 30.” It reminded me that our work at the Capitol will never be done.

During our board meeting last weekend, we discussed that more than ever before, our TACT staff is providing our State Board with almost-in-real-time updates as “the sausage is being ground.” This is faster than TACT First Alerts and certainly faster than this publication and is appreciated by some of us as we discuss these issues with our campus colleagues and elected officials.

Some people pay big bucks for this info, so we have decided to make it available to TACT members who are so inclined that they contribute the minimum of \$60 to our James Puckett Government Relations Fund. The back of this newsletter lists those who are already on-board; the rest of us can sign up by calling the office at 512-873-7404 and help put us that much closer to our new website!

Chuck says don’t expect to hear from him in June unless there is a special session, but I said we will want to know who was driving that Mack truck!

*-Cindy*

### CONTENTS

**Cover Page**

**Index**

**The President’s Column**

**The Executive Director’s Report**

**The Family Medical Leave Act**

**How Safe Are America’s Campuses?**

**Membership**

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423

## CONTENTS

Cover Page

Index

The President's  
Column

The Executive  
Director's Report

The Family Medical  
Leave Act

How Safe Are  
America's Campuses?

Membership



## Executive Director's Report: How to Not Spend \$\$Billions by Chuck Hempstead TACT Executive Director

**U**nbelievable. Many of us remember examples of legislative unfunded mandates from years past, frequently targeted at municipalities, because legislators could pass bills but not the appropriations. Can't afford every great idea. Think Austin-bashing, when those darn conservative legislators whupped up on those darn liberal City Council Members with their radical local control ideas like clean water and save-the-trees ordinances.

Now, we don't need to peek back to the previous century to find plenty of examples of "Father Knows Best." Two years ago, during Article III Appropriations hearings, plenty of university presidents (not to mention TACT representatives) testified that Hazelwood Act tuition exemptions had grown to the point that the lost revenue had become a significant drain on institutional resources. The solution? Appropriate \$10 million. The cost to universities? \$300 million and climbing.

One member of the House Appropriations Committee demanded that the deadline for Hazelwood be extended to allow for a public relations campaign to educate the eligible. Hey, I'm in the PR business, and whomever handled that one rivalled the Don't Mess With Texas success. One Georgia court case later, and the expected cost to universities within a few years is in the billions of dollars. Here's the kicker: State Representative Drew Springer wants to expand eligibility to include active duty military – can't we fix one crisis before we exacerbate it?

Have you noticed that I've written this long without mentioning guns on campus (and its projected unfunded mandate of tens of millions of dollars)? I mentioned to a legislator Friday that I think their Fiscal Note process (estimating the cost of each bill if enacted) is failing them.

Wouldn't you think that with the Rainy Day Fund (a.k.a., Economic Stabilization Fund – I think we're now stable) approaching \$10 Billion, the Legislature could afford to fund all these good ideas and promises (like the \$3/4 Billion shortfall in the Teacher Retirement System health insurance, which has been under-appropriated for 19 of the past 20 years)? Coupla' problems with that, which may be a theme for a future article, but Darrell Royal reminds us to dance with the one who brung ya', which to legislators means don't spend money, even if the costs of those wonderful new programs fall to someone else.

- *Chuck*

## Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423

## The Family Medical Leave Act

by **Baili Rhodes**

**West, Webb, Allbritton & Gentry, P.C.**



The Family Medical Leave Act (“FMLA”) is a federal statute that provides certain employees of qualified employers with leave related to a personal or family medical issue. Additionally, the FMLA prohibits an employer from retaliating against an employee for taking FMLA leave. Navigating

the FMLA can be difficult; accordingly, we want to take this opportunity to break it down for TACT readers.

### What qualifies as FMLA leave?

Twelve workweeks of leave for the following:

- Leave for the birth of a child and to care for the newborn child within one year of birth;
- Leave for the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- Leave to care for the employee’s spouse, child, or parent who has a serious health condition;
- Leave related to a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- Leave related to any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty” (covered active duty is defined in the statute) or

Twenty-six workweeks of leave for the following reason:

- Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

### Can all employees get FMLA protection?

No, to qualify to take FMLA leave, you must work for a “qualified employer.” Under the FMLA, the following employers are considered “qualified employers”:

- Private-sector employers, with 50 or more employees in 20 or more work weeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

Additionally, in order to take FMLA leave, an employee must be eligible under the statute. To be eligible, an employee must have worked for his or her employer for at least twelve months. These twelve months do not have to be consecutive. The employee must have at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave, and the employee must work at a location where the employer has at least 50 employees within a 75 mile radius.

## CONTENTS

Cover Page

Index

The President’s Column

The Executive Director’s Report

The Family Medical Leave Act

How Safe Are America’s Campuses?

Membership

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731  
[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275  
[f] (512) 873-7423

## The Family Medical Leave Act (cont.)

### CONTENTS

Cover Page

Index

The President's  
Column

The Executive  
Director's Report

The Family Medical  
Leave Act

How Safe Are  
America's Campuses?

Membership

### Is FMLA leave paid?

No, while the FMLA allows you to take leave without recourse, it does not require your employer to pay you during that time.

### How does FMLA leave impact my paid sick leave?

It depends on your employer. Employers have the option to run FMLA leave and paid sick leave concurrently. If they choose to do this, they must notify the employee that the leave will be designated FMLA leave within 5 business days of being notified that the employee is taking FMLA qualified leave.

Employees also have the option to use paid sick leave or vacation time during a period of FMLA leave. The leave will still be protected FMLA leave.

### What are my employer's obligations under the leave?

An employee who takes FMLA leave is entitled to continued health benefits during his or her leave. Additionally, employees are entitled to return to their same or similar job upon return from FMLA leave.

### What do I do if I believe I have been retaliated for taking FMLA leave?

It is unlawful to discharge or otherwise retaliate against an employee who has exercised his or her rights under the FMLA. Generally, there is a two year statute of limitations for claims for violation of FMLA (claims of a willful violation may have a three year statute of limitations). Although persons who have experienced FMLA retaliation may have the right to damages, these damages are limited if the employee is a government employee.

You can make complaints of FMLA violations to the US Department of Labor Wage and Hour Division. However, there is no guarantee that they will take any action on your behalf. Moreover, filing with the Department of Labor does not toll your statute of limitations (meaning you must still file a lawsuit within the two year limitations period.) As you can see, the FMLA is a detailed and complex statute. As a result, if you believe you have been retaliated against for taking FMLA leave, you should contact a higher education employment attorney as soon as possible to discuss your options.

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423

## How Safe Are America's Colleges?

by **Peter J. Hugill, Ph.D.**

**Professor, Department of Geography**

**Fellow, Scowcroft Institute**

**George H. W. Bush School of Public Service**

### CONTENTS

**Cover Page**

**Index**

**The President's  
Column**

**The Executive  
Director's Report**

**The Family Medical  
Leave Act**

**How Safe Are  
America's Campuses?**

**Membership**

In the nine years between 2000 and 2008 there were 65 firearm deaths on America's college campuses. This 65 includes 31 in the one terrible incident at Virginia Tech. The average college population in full-time attendance at America's two and four year institutions during that period (fall data) was 10.75 million (US Census Bureau).

So, from 2000-2008 all campuses experienced an average of 7.22 firearm deaths per year, which calculates to one firearm death per 1,654,000 people, or 0.061 per 100,000, (the way the FBI Uniform Crime Statistics are calculated). Data from the Center for Disease Control show that the firearm homicide rate for the USA between 2000 and 2008 averaged 4.08 per 100,000.

If one excludes the Virginia Tech shootings the more normal pattern emerges. There is little obvious pattern to campus firearm deaths. The campus police have categorized some as home invasions, some as domestic disputes and some with no obvious cause. A slight majority are Ph.D. students killing their faculty graduate advisors. Why exclude VT? Because the normal annual rate for 2000-2008 is highly distorted by that one incident and all campus police departments have since adopted policies to respond to such extreme incidents.

If the VT incident is excluded, there were 3.78 firearm deaths per year on college campuses, which calculates to 1 per 2,844,000, or 0.035 per 100,000.

American college campuses had a firearm homicide rate 2000-2008 of 0.061 per 100,000, roughly 1/67th that of the USA in 2013. If the VT deaths are excluded, the rate drops to 0.035 per 100,000, or 1/117th the national rate.

### Conclusion:

American college campuses are extremely safe places as far as firearm related homicides are concerned.

Given that Texas wishes to increase its number of Tier One universities, where research and graduate studies are important, and the number of Nobel Laureates and National Academy members who work at them, it does not seem logical for the state to promote a policy that puts graduate advisors at greater risk.

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423

## CONTENTS

Cover Page

Index

The President's  
Column

The Executive  
Director's Report

The Family Medical  
Leave Act

How Safe Are  
America's Campuses?

Membership

## TACT Legislative Issues: 2014-2015

1. **Handguns on campuses.** TACT still opposes legislation allowing individuals to carry concealed handguns on college campuses.
2. **Assessment.** TACT supports faculty-driven assessment measurements to evaluate faculty regarding teaching and scholarly activity.
3. **Higher Education Funding.** TACT supports reinstating appropriations investments, primarily in the following areas:
  - A. Fully fund the anticipated cost to universities of the Hazelwood Act Legacy Program. Current appropriations cover less than half the cost of the waived tuition for veterans.
  - B. Increase current funding levels of the TEXAS Grant scholarship program to account for the previous cuts, increased tuition, a growing enrollment and more students requiring financial aid.
  - C. Increase faculty salaries to align with the average of the other ten most populous states to retain our best talent relative to national and international competition.

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423



# Quarterly eBulletin

The James M. Puckett, Ph. D.  
Government Relations Fund

**Temporarily dedicated to TACT's new website  
to improve legislative communication!**

For nearly 70 years, TACT has been on the front lines of higher education issues in Texas. The GRF assists TACT with a key component of our mission: **communicating TACT's legislative agenda** (viewable [here](#)) in order to improve Texas higher education.

Your voluntary contribution to the GRF allows TACT to present its members' agenda to key lawmakers and legislative committees. The GRF is never used for candidate contributions, only for activities that increase awareness of issues concerning faculty statewide. All expenditures are approved in advance by TACT's President, President-Elect and Legislative Committee Chair.

[Click Here](#) to Contribute

**Thank you to the 2014-2015 contributors**

- Charles (Bill) Bridges
- Stacey Bumstead
- Chuck Hempstead
- Jonathan Coopersmith
- Mary Lynn DeShazo
- Shirley Eoff
- Harvey D. Johnson
- Joe Kemble
- W. Allen Martin
- Andrea Williams
- Pamela J. Zelbst
- J. Russ Higham, III
- Debra Hopkins-Higham
- Murray Leaf
- Barbara Presnall
- Jason Smee
- John Rugh

## CONTENTS

Cover Page

Index

The President's  
Column

The Executive  
Director's Report

The Family Medical  
Leave Act

How Safe Are  
America's Campuses?

Membership

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731  
[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275  
[f] (512) 873-7423

## CONTENTS

**Cover Page**

**Index**

**The President's  
Column**

**The Executive  
Director's Report**

**The Family Medical  
Leave Act**

**How Safe Are  
America's Campuses?**

**Membership**

## TACT Membership and EPLI: Renew Today!

In the current climate of uncertainty in Texas' system of higher education, it's important to have strong advocates. Since 1948, the Texas Association of College Teachers has served university professors in the areas of academic freedom, statistical research, tenure implementation and protection, professional standards, and working conditions. We invite you to take a key career step by [becoming a member of TACT today](#) for \$158 (which includes professional liability insurance).

Your membership in TACT lets your voice be heard beyond your classroom and campus. We vigilantly monitor all agencies that affect faculty members to ensure that your interests are represented. Our First Alert emails and quarterly eBulletins provide you with current developments on educational public policy issues, and we are always soliciting articles from you, our members. We also maintain a regular presence at the Capitol, where we lobby policymakers on your top concerns.

All TACT memberships include Educators Professional Liability Insurance (EPLI), which provides up to \$2 million in coverage, plus legal fees for damages. EPLI is an important benefit for our members that has proven invaluable over the years.

Sign up or renew your TACT membership today!

Visit "[Join TACT](#)"  
or renew over the phone by calling (512) 419-9275.



Visit [www.tact.org](http://www.tact.org), and  
join TACT Today!

### Contact us!

5750 Balcones Dr.,  
Suite 201

Austin, TX 78731

[office@tact.org](mailto:office@tact.org)

[p] (512) 419-9275

[f] (512) 873-7423