

PROPOSED REVISIONS, Draft #3 - 6-18-2020

Definitions

Family

The term "immediate family" is defined as:

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Any person residing in the employee's household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definitions of spouse, parent, son or daughter, and next of kin are found in DECA(LEGAL).

Family Emergency

The term "family emergency" shall be limited to disasters and life-threatening situations involving the employee or a member of the employee's immediate family.

Leave Day

A "leave day" for purposes of earning, use, or recording of leave shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

Catastrophic Illness or Injury

A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the District. Such conditions typically require prolonged hospitalization or recovery or are expected to result in disability or death. Conditions relating to pregnancy or childbirth shall be considered catastrophic if they meet the requirements of this paragraph.

Availability

The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.

Earning Local Leave

An employee shall not earn any local leave when he or she is in unpaid status. An employee using full or proportionate paid leave shall be considered to be in paid status.

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Deductions

Leave Without Pay

The District shall not approve paid leave for more leave days than have been accumulated in prior years plus leave currently available. Any unapproved absences or absences beyond accumulated and available paid leave shall result in deductions from the employee's pay.

Leave Proration

*Employed for
Less Than Full
Year*

If an employee separates from employment with the District before his or her last duty day of the year, or begins employment after the first duty day, state personal leave and local leave shall be prorated based on the actual time employed.

If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for:

1. State personal leave the employee used beyond his or her pro rata entitlement for the school year; and
2. Local leave the employee used but had not earned as of the date of separation.

*Employed for Full
Year*

If an employee uses more local leave than he or she earned and remains employed with the District through his or her last duty day, the District shall deduct the cost of the excess leave days from the employee's pay in accordance with administrative regulations.

Recording

Leave shall be recorded as follows:

1. Leave shall be recorded in half-day increments for all employees.
2. If the employee is taking intermittent FMLA leave, leave shall be recorded in one-hour increments.

Order of Use

Earned compensatory time shall be used before any available paid state and local leave. [See DEAB]

Unless an employee requests a different order, available paid state and local leave shall be used in the following order, as applicable:

1. Local leave.
2. State sick leave accumulated before the 1995-96 school year.
3. State personal leave.

**Concurrent Use of
Leave**

When an absent employee is eligible for FMLA leave, the District shall designate the absence as FMLA leave.

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The District shall require the employee to use temporary disability leave and paid leave, including compensatory time, concurrently with FMLA leave.

An employee receiving workers' compensation income benefits may be eligible for paid or unpaid leave. An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

Medical Certification

An employee shall submit medical certification of the need for leave if:

1. The employee is absent more than five consecutive workdays because of personal illness or illness in the immediate family;
2. The District requires medical certification due to a questionable pattern of absences or when deemed necessary by the supervisor or Superintendent;
3. The employee requests FMLA leave for the employee's serious health condition or that of a spouse, parent, or child; or
4. The employee requests FMLA leave for military caregiver purposes.

In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]

Note: For District contribution to employee insurance during leave, see CRD(LOCAL).

State Personal Leave

The Board requires employees to differentiate the manner in which state personal leave is used.

Nondiscretionary Use

Nondiscretionary use of leave shall be for the same reasons and in the same manner as state sick leave accumulated before May 30, 1995. [See DEC(LEGAL)]

Nondiscretionary use includes leave related to the birth or placement of a child and taken within the first year after the child's birth, adoption, or foster placement.

Discretionary Use

Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.

Limitations

Request for Leave

The employee shall submit a written request for discretionary use of state personal leave to the immediate supervisor or designee in advance in accordance with administrative regulations. In deciding whether to approve or deny state personal leave, the supervisor or

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designee shall not seek or consider the reasons for which an employee requests to use leave. The supervisor or designee shall, however, consider the effect of the employee's absence on the educational program or District operations, as well as the availability of substitutes.

Local Leave

Beginning July 1, 2020, all full-time employees shall earn paid local leave days per school year in accordance with the following:

Duty schedule	Local leave days earned
Up to 187 days (10.0 months)	5.0
197 days (10.5 months)	5.5
207 days (11.0 months)	6.0
217 days (11.5 months)	6.5
227 days or more (12.0 months)	7.0

Accumulation of local leave shall be based on the number of days in the employee's annual duty schedule. When unused local leave is combined with accumulated state leave, the total shall not exceed one-half of the total number of days in the employee's annual duty schedule.

Local leave shall be used according to the terms and conditions of state sick leave accumulated before the 1995-96 school year. [See DEC(LEGAL)]

Sick Leave Pool

An employee who has exhausted all paid leave and who suffers from a catastrophic illness or injury or is absent due to the catastrophic illness or injury of a member of the employee's immediate family may request the establishment of a sick leave pool, to which District employees may donate only local leave

If the employee is unable to submit the request, a member of the employee's family or the employee's supervisor may submit the request to establish a sick leave pool.

The pool shall cease to exist when the employee no longer needs leave for the purpose requested, uses the maximum number of days allowed under a pool, or exhausts all leave days donated to the sick leave pool.

The Superintendent or designee shall develop regulations for the implementation of the sick leave pool that address the following:

1. Procedures to request the establishment of a sick leave pool;

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2. The maximum number of days an employee may donate to a sick leave pool;
3. The maximum number of days per school year an eligible employee may receive from a sick leave pool; and
4. The return of unused days to donors.

Appeal

All decisions regarding the establishment or implementation of the District's sick leave pool may be appealed in accordance with DGBA(LOCAL), beginning with the Superintendent or designee.

**Family and Medical
Leave**

For purposes of an employee's entitlement to FMLA leave, the 12-month period shall be measured backward from the date an employee uses FMLA leave.

Twelve-Month
Period

Combined Leave for
Spouses

If both spouses are employed by the District, the District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 12 weeks. The District shall limit military caregiver leave to a combined total of 26 weeks. [See DECA(LEGAL)]

Intermittent or
Reduced Schedule
Leave

The District shall not permit use of intermittent or reduced schedule FMLA leave for the care of a newborn child or for the adoption or placement of a child with the employee. [See DECA(LEGAL) for use of intermittent or reduced schedule leave due to a medical necessity.]

Certification of
Leave

If an employee requests leave, the employee shall provide certification, as required by FMLA regulations, of the need for leave. [See DECA(LEGAL)]

Fitness-for-Duty
Certification

If an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification. If the District will require certification of the employee's ability to perform essential job functions, the District shall provide a list of essential job functions to the employee with the FMLA designation notice.

End of Semester
Leave

If a teacher takes leave near the end of the semester, the District may require the teacher to continue leave until the end of the semester. [See DECA(LEGAL), Leave at the End of a Semester]

Failure to Return

If, at the expiration of FMLA leave, the employee is able to return to work but chooses not to do so, the District may require reimbursement of premiums paid by the District during the leave. [See DECA(LEGAL), Recovery of Benefit Cost]

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**Temporary Disability
Leave**

Any full-time employee whose position requires educator certification by the State Board for Educator Certification or by the District shall be eligible for temporary disability leave. The maximum length of temporary disability leave shall be 180 calendar days. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for return to active duty.]

An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent or designee as a request for temporary disability leave.

**Workers'
Compensation**

Note: Workers' compensation is not a form of leave. The workers' compensation law does not require the continuation of the District's contribution to health insurance. [See CRD(LOCAL) regarding payment of insurance contribution during employee absences.]

An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

An employee eligible for workers' compensation income benefits, and not on assault leave, may elect in writing to use paid leave.

Court Appearances

Absences due to compliance with a valid subpoena or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance.

**Accrued Leave
Benefits**

~~Accrued leave benefits shall be calculated using state and local leave accumulated as an employee of the District. Upon retirement with a minimum of five years, or resignation after completing 20 years, of employment with the District, an employee shall be eligible for accrued leave benefits under the following conditions:~~

- ~~1. Hourly position employees not working a scheduled 40-hour week are not eligible to be paid for accrued leave.~~
- ~~2. Any employee not mentioned above who retires after completing five consecutive years or resigns after completing 20 years of service with the District shall be paid for accrued leave. Accrued leave shall be computed at one-half the daily rate at the time of retirement or resignation times the number of accrued leave days, which shall not exceed one-half the number of working days in an annual contract. In order to receive payment for unused leave, retirement must occur at the end of the employee's contract or work year, or when retirement is necessitated by a medical disability as approved by~~

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~~the Teacher Retirement System (TRS). Exceptions must receive approval from the Superintendent.~~

- ~~3. No benefits shall be calculated on a salary schedule exceeding that of a regular teacher's salary schedule.~~

~~Upon the death of an employee, these benefits shall be payable to his or her heirs.~~

**Reimbursement for
Leave Upon
Separation**

The following leave provisions shall apply to state and local leave earned beginning on September 28, 1992, the original effective date of this program and applicable provisions, below.

Beginning July 1, 2020, an employee who separates from employment with the District shall be eligible for reimbursement for state and local leave, accumulated as an employee of the District under the following conditions:

1. The employee's separation from employment is voluntary, i.e., the employee is retiring or resigning and is not being discharged, terminated, or nonrenewed.
2. The employee provides advance written notice of intent to separate from employment. Contract employees must provide written notice at least 45 days before the last day of instruction. Non-contract employees must provide written notice at least two weeks before the last day of employment.
3. The employee retiring must have a minimum of five consecutive years at the District or the employee resigning must have at least 20 consecutive years of employment with the District.

Unused leave shall be computed at one-half the daily rate at the time of retirement or resignation times the number of accrued leave days, which shall not exceed one-half the number of working days in an annual contract. In order to receive payment for unused leave, retirement or resignation must occur at the end of the employee's contract or work year, or when retirement is necessitated by a medical disability as approved by the Teacher Retirement System (TRS). Exceptions must receive approval from the Superintendent.

The computation of unused leave benefit shall be based on the employee's current salary schedule. No benefits shall exceed a teacher salary schedule adopted by the Board for that year.

Upon the death of an employee, these benefits shall be payable to his or her heirs.

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Special Leave of
Absence

Any District employee with at least five years of service with the District may be granted a one-year special leave of absence. Each request shall be considered on a case-by-case basis.

An employee shall submit an application stating the nature of the leave and purposes for which leave is requested. If the request for leave is granted, it shall be subject to the following conditions:

1. The special leave of absence shall be granted for no more than one year.
2. Upon return the employee shall be reinstated any accrued leave that was available as of the beginning of the employee's leave of absence.
3. Reassignment, if available, shall be made to the same position held at the time the leave of absence was granted.

By March 1 of the year of the leave of absence, the employee on leave must state in written form his or her intentions to return to the District. Such statements must be sent by certified mail with a return receipt requested. The employee shall return to the position to which he or she was assigned at the time of the leave of absence, if a position is available. Otherwise, the employee shall be considered an excess employee with placement at another District location. Failure to comply with this policy ~~shall~~ may result in disciplinary action, including termination of employment. [See DF series]

**Board Resolution for
Emergency Closure
Leave**

The Board shall adopt a resolution or take other Board action establishing the purpose and parameters for emergency closure leave.