



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC: Discussion and possible action regarding First and Final Reading of Policy DEC (LOCAL) - Compensation and Benefits Leaves and Absences

SUBMITTED BY: Aliza Oliveros, Francisco "Frank" Castillo, Gilbert Aguilar, Jr.

OF: Board of Trustees

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: _____

DATE ASSIGNED FOR BOARD CONSIDERATION: August 16, 2023

RECOMMENDATION:

It is recommended that the United ISD Board of Trustees discuss and take possible action regarding First and Final Reading of Policy DEC (Local) – Compensation and Benefits Leaves and Absences.

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RATIONALE:

BUDGETARY INFORMATION:

POLICY REFERENCE & COMPLIANCE:

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**Leave
Administration**

The Superintendent shall develop administrative regulations, addressing employee leaves and absences to implement the provisions of this policy.

Definitions

The term "immediate family" is defined as:

Immediate Family

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.

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, using, or recording leave shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

School Year

A "school year" for purposes of earning, using, or recording leave shall mean the term of the employee's annual employment as set by the District for 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.

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

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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.
State Leave Proration	<p>If an employee separates from employment with the District before his or her last duty day of the school year or begins employment after the first duty day of the school year, state personal leave shall be prorated based on the actual time employed.</p> <p>If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for state personal leave the employee used beyond his or her pro rata entitlement for the school year.</p>
Medical Certification	<p>An employee shall submit medical certification of the need for leave if:</p> <ol style="list-style-type: none">1. The employee is absent more than four 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; or3. The employee requests FMLA leave for the employee's serious health condition; a serious health condition of the employee's spouse, parent, or child; or for military caregiver leave. <p>In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]</p>
State Personal Leave	The Board requires employees to differentiate the manner in which state personal leave is used.
Nondiscretionary Use	<p>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)]</p> <p>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.</p>
Discretionary Use	Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.
<i>Request for Leave</i>	In deciding whether to approve or deny a request for discretionary use of state personal leave, the supervisor shall not seek or consider the reasons for which an employee requests to use leave. The supervisor shall, however, consider the duration of the requested absence in conjunction with the effect of the employee's

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absence on the educational program and District operations, as well as the availability of substitutes.

Discretionary use of state personal leave shall not exceed two consecutive workdays.

Campus
Employees

A maximum of five percent of campus employees in each category shall be permitted to use discretionary leave at the same time.

Local Leave

Each employee shall earn paid local leave days per school year in accordance with administrative regulations and the following:

Months of Service Annually	Number of Days
10 months (183–193 days of service annually)	five days
11 months (207–220 days of service annually)	six days
12 months (at least 226 days of service annually)	seven days

For the 2022–23 school year only, each employee shall earn five additional paid local leave days in accordance with administrative regulations.

Local leave shall accumulate without limit.

Local leave shall be used according to the terms and conditions of state personal leave. [See State Personal Leave, above]

An employee may also use local leave for absences related to the birth or placement of a child when leave is taken within the first year after the child's birth, adoption, or foster placement.

Bereavement Leave

A full-time employee shall be granted three days of bereavement leave, per occurrence, upon the death of a member of the employee's immediate family. Such leave shall be taken with no loss of pay or other paid leave.

Sick Leave Bank

The District shall establish a sick leave bank that employees may join through contribution of local leave or state personal leave.

Leave contributed to the bank shall be solely for the use of participating employees. An employee who is a member of the bank may request leave from the bank if the employee experiences a catastrophic illness or injury and has exhausted all paid leave and any applicable compensatory time.

The Superintendent shall develop regulations for the operation of the sick leave bank that address the following:

1. Membership in the sick leave bank, including the number of days an employee must contribute to become a member;

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2. Procedures to request leave from the sick leave bank;
3. The maximum number of days per school year a member employee may receive from the sick leave bank;
4. The committee or administrator authorized to consider requests for leave from the sick leave bank and criteria for granting requests; and
5. Other procedures deemed necessary for the operation of the sick leave bank.

Appeal

An employee may appeal a decision regarding the sick leave bank in accordance with DGBA(LOCAL), beginning with the Superintendent or appropriate administrator.

Sick Leave Pool

An employee who has exhausted all paid leave, including sick leave bank days as applicable, as well as any applicable compensatory time 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 local leave or state personal leave for use by the eligible employee.

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 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;
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

An employee may appeal a decision regarding the establishment or implementation of the District's sick leave pool in accordance with DGBA(LOCAL), beginning with the Superintendent or appropriate administrator.

Military Leave

After all other paid leave is exhausted, an employee who is granted a leave of absence from work due to a voluntary or involuntary enlistment in the military to serve the country at war shall receive "differential pay" from the District for a period of 12 calendar months. For purposes of this policy, differential pay shall mean the normal

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daily wage earned by the employee for the position held prior to enlistment minus the employee's earned daily wage from the U.S. government. In order to receive differential pay, an employee must submit verification of his or her military earnings to the department of human resources. An employee who receives a higher daily wage from the government than from the District shall not be entitled to differential pay.

Peace Officers

**Mental Health
Leave**

A District peace officer who experiences a traumatic event in the scope of employment shall be granted a maximum of five days of mental health leave per traumatic event. Such leave shall be provided in accordance with administrative guidelines and shall not be deducted from the employee's pay or leave balance.

The Superintendent shall develop guidelines regarding mental health leave that address the following:

1. Circumstances or reasons under which a peace officer may use mental health leave;
2. Procedures for requesting mental health leave and maintaining the anonymity of the requester;
3. The administrator authorized to approve requests for mental health leave; and
4. Other procedures deemed necessary for administering this provision.

Quarantine Leave

A District peace officer shall be granted quarantine leave when ordered by the local health authority or the peace officer's supervisor to quarantine or isolate due to possible or known exposure to a communicable disease while on duty. Such leave shall be provided in accordance with administrative guidelines and shall not be deducted from the employee's pay or leave balance.

The Superintendent shall develop guidelines regarding quarantine leave that address the following:

1. Continuation of all employment benefits and compensation for the duration of the leave;
2. Reimbursement for reasonable costs related to the quarantine; and
3. Other procedures deemed necessary for administering this provision.

**Family and Medical
Leave**

FMLA leave shall run concurrently with applicable paid leave and compensatory time, as applicable.

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Note: See DECA(LEGAL) for provisions addressing FMLA.

Twelve-Month Period	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.
Combined Leave for Spouses	When 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.
Intermittent or Reduced Schedule Leave	The District shall 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.
Certification of Leave	When an employee requests leave, the employee shall provide certification, in accordance with FMLA regulations, of the need for leave.
Fitness-for-Duty Certification	In accordance with administrative regulations, when 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.
Leave at the End of Semester	When 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.
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.]
SBEC Certified Employees	An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent as a request for temporary disability leave.
Other Employees	Temporary disability leave may also be granted to other eligible full-time employees for a maximum of 180 calendar days, upon approval from the Superintendent. In order to qualify for this type of an unpaid leave of absence, an employee must have worked 1,250 hours during the previous 12-month period from the date of the request for temporary disability leave. Applications for temporary disability leave shall be submitted in accordance with administrative procedures. Reinstatement to regular employment shall be on a position-available basis only. The District shall place the employee

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in an assignment and shall make its best effort to place the employee within five business days.

Reinstatement or
Resignation

An employee reaching the end of the temporary disability leave period shall provide 30 calendar days' timely written notice of his or her intention to resume active duty or to request an extension of leave pursuant to the Americans with Disabilities Act (ADA).

Failure to timely comply with the notification provisions shall constitute good cause for termination of contract employees, in accordance with law and District policies. [See DF policy series]

Reassignment
Following Leave

Employees who are not certified by SBEC and who are returning from temporary disability leave after being absent 60 or fewer calendar days shall be returned to the same position. Unless otherwise prescribed by law, employees returning from temporary disability leave in excess of 60 calendar days shall be given priority for assignment to a comparable position as determined by the Superintendent based on the needs of the District.

Concurrent Use

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

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.

Paid Leave Offset

The District shall permit the option for paid leave offset in conjunction with workers' compensation income benefits. [See CRE]

Assault Leave

In addition to all other days of leave, a District employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries as a result of the assault. A District employee is physically assaulted if the person engaging in the conduct causing injury to the employee could:

1. Be prosecuted for assault; or
2. Not be prosecuted for assault only because the person's age or mental capacity makes the person a non-responsible person for purposes of criminal liability.

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**Working While on
Leave**

With the exception of noncontract and paid vacation leave, while on any type of leave status with the District, the employee shall be prohibited from performing work in any capacity except as approved by the associate superintendent of human resources or designee as part of an approved return-to-work or transitional duty assignment at the District.

Working during a leave of absence shall be considered a violation of the District's leave policy and may be grounds for immediate termination of an at-will employee or recommendation of termination for a contract employee.

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.

**Payment for
Accumulated Leave
Upon Retirement**

The following leave provisions shall apply to state and local leave accumulated beginning on the original effective date of this program.

An employee who retires from the District under the Teacher Retirement System of Texas (TRS), or the designated beneficiary of an otherwise eligible employee who passes away while employed by the District, shall be eligible for payment of state and local leave if the employee has at least ten ~~consecutive~~ cumulative years of service with the District.

The rate of pay shall be established based on the District's approved base pay plan; stipends and extra duty pay shall not be included. The payment shall be a one-time-only benefit for the eligible employee.

The payment rates established by the Board shall remain in effect until the Board adopts a new rate. Any changes to the rate shall apply beginning with the school year following the adoption of the rate change.

**Professional
Employee Rate**

A professional employee shall receive payment for each day of state and local leave, to a maximum of 40 days of state leave and 40 days of local leave. If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee. Leave shall be paid according to the following prorated schedule:

1. The first five days of state leave at 100 percent of the employee's daily base rate;
2. The next ten days of state leave at 75 percent of the employee's daily base rate;

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3. The next 25 days of state leave at 50 percent of the employee's daily rate; and
4. Up to 40 days of local leave at \$100 per day.

Paraprofessional
and Auxiliary
Employee Rate

A paraprofessional or auxiliary employee shall be reimbursed for each day of state and local leave, to a maximum of 80 days of leave. If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee. Leave shall be reimbursed according to the following prorated schedule:

1. The first ten days of leave at 100 percent of the employee's daily base rate;
2. The next 15 days of leave at 75 percent of the employee's daily base rate; and
3. The next 55 days of leave at 50 percent of the employee's daily base rate.

Absence Reporting

With the exception of an approved leave of absence, an employee shall notify his or her immediate supervisor prior to an absence, or as soon as practical in the event of an emergency, so that a substitute can be secured if necessary. Notification to the employee's immediate supervisor shall be in accordance with administrative, campus, and department regulations. An employee shall also notify his or her immediate supervisor if the employee is going to be late for work for any reason. An employee who is absent beyond five consecutive workdays, except for vacation, shall apply for a leave of absence. Failure to apply for a leave of absence shall constitute grounds for disciplinary action up to and including termination.

**Excessive
Absences/Tardies**

When an employee's absences/tardies become a concern or when an employee establishes a pattern of absences/tardies or exceeds the annual number of state and local leave days an employee can earn, with the exception of approved leave, such absences/tardies shall be considered excessive. If absences/tardies are deemed excessive, the employee may be subject to disciplinary action, up to and including termination of employment.

An employee's excessive absences/tardies shall be subject to verification and referral for eligible leaves of absence by the District. If the absences/tardies are not approved, the employee may be subject to disciplinary action, up to and including termination of employment.

Supervisors shall report absences/tardies for individuals in excess of 15 workdays in a school year to the Superintendent or designee, who shall take whatever action is deemed appropriate. Such action

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may result in disciplinary action including termination of employment.

**Unauthorized
Absence**

An employee may be terminated when he or she is:

1. Released by a doctor to return to work but fails to contact the District's department of human resources to pursue a work assignment;
2. Unable to report to work and fails to request or extend a leave of absence; or
3. Unable to report to work and has no earned paid leave available and, if eligible to apply for leave of absence, does not request a leave.

Job Abandonment

An employee who is absent from work for three consecutive working days without notice and who cannot be reached by his or her immediate supervisor shall be deemed to have voluntarily resigned from the District and shall be separated from service with the District for job abandonment in accordance with this policy. [See DC, and DF series]

Sanctions for Abuse

All employee leave shall be provided for the specific purpose stipulated in this policy. It is not intended to be used as a vacation or for mere convenience. Except for discretionary use of state personal or local leave, documentation may be required for any absence at the discretion of the Superintendent. Abuse of the employee leave program, misrepresentation of the need to use leave, or falsification of a document from a health-care provider is a violation of District policy and may result in disciplinary action up to and including loss of pay, suspension, demotion, or termination of employment, in accordance with appropriate District policies. [See DCD and DF series]

**Neutral Absence
Control**

If an employee does not return to work after exhausting all available paid and unpaid leave, the District shall provide the employee written notice that he or she no longer has leave available for use. The District shall automatically pursue termination of an employee who has exhausted all available leave, regardless of the reason for the absence [see DF series]. The employee's eligibility for reasonable accommodations, as required by the Americans with Disabilities Act [see DAA(LEGAL)], shall be considered before termination.