



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC: First and Final Reading of Policy DEC (LOCAL): Compensation and Benefits – Leaves and Absences

SUBMITTED BY: Gloria S. Rendon OF Associate Supt. for Administration

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: August 19, 2015

RECOMMENDATION:

It is recommended that the Board of Trustees approve First and Final Reading of Policy DEC (LOCAL): Compensation and Benefits - Leaves and Absences

RATIONALE:

BUDGETARY INFORMATION:

BOARD POLICY REFERENCE AND COMPLIANCE:

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TYPES OF LEAVE

The District shall operate a local leave program serving all employees of the District. The leave program shall consist of four types: state personal leave, local personal leave, temporary disability leave, and funeral leave.

Types of Leave	Paid/Unpaid	Number of Days
State Personal Leave [See DEC(LEGAL)]	Paid	5 leave days per year
Local Personal Leave: 10-month employees 11-month employees 12-month employees	Paid	5 leave days per year 6 leave days per year 7 leave days per year
Temporary Disability: All leave-eligible employees For full-time educators, temporary disability shall be in accordance with Education Code 21.409 and may be granted to other District employees with limitations established at TEMPORARY DISABILITY, below	Unpaid	180 calendar days
FUNERAL LEAVE (as defined on page 6)	Paid	3 leave days per event

ACCUMULATION AND
TRANSFERABILITY

Both state and local leave may accumulate without limit. Unused state leave is transferable among districts as part of the employee's service record; local leave is not transferable.

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.

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	<p>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).</p>
FAMILY EMERGENCY	<p>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.</p>
LEAVE DAY	<p>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.</p>
CATASTROPHIC ILLNESS OR INJURY	<p>A catastrophic illness is a severe condition or combination of conditions affecting the physical health of the employee or a member of the employee's immediate family that requires the services of a health-care provider as defined by the FMLA 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.</p>
AVAILABILITY	<p>The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.</p>
EARNING LOCAL LEAVE	<p>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.</p>
DEDUCTIONS LEAVE WITHOUT PAY	<p>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.</p>
LEAVE PRORATION EMPLOYED FOR LESS THAN FULL YEAR	<p>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.</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:</p> <ol style="list-style-type: none">1. State personal leave the employee used beyond his or her pro rata entitlement for the school year; and2. Local leave the employee used but had not earned as of the date of separation.

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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: <ol style="list-style-type: none">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.3. If the employee chooses to offset leave against workers' compensation benefits, leave shall be recorded in the amount used.
ORDER OF USE	Earned compensatory time shall be used before any available paid state and local leave. [See DEA] Unless an employee requests a different order in writing, available paid state and local leave shall be used in the following order, as applicable: <ol style="list-style-type: none">1. State sick leave accumulated before the 1995–96 school year.2. State personal leave.3. Local leave. Use of sick leave bank or catastrophic leave pool days shall be permitted only after all available state and local leave has been exhausted. Use of other types of leave shall be permitted in accordance with administrative regulations and as outlined in the employee handbook.
CONCURRENT USE OF LEAVE	When an absent employee is eligible for FMLA leave, the District shall designate the absence as FMLA leave. 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:

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1. The employee is absent more ~~than five~~ **or more** 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).

FREQUENT OR
PROLONGED
ABSENCE

~~All absences in excess of ten workdays during a semester shall be investigated by the immediate supervisor, who shall take appropriate action as required by District guidelines.~~

**EXCESSIVE
ABSENCES/TARDIES**

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

Such absences may be subject to verification and referral for eligible leaves of absence by the District. If the absences are not approved, the employee may be subject to disciplinary action up to and including termination of employment.

Supervisors shall report absences for individuals in excess of ~~20~~ **15** workdays in a school year to the Superintendent or designee, who shall take whatever action is deemed appropriate. Such action 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;

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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**

Employees who are absent from work for three consecutive working days without notice and who cannot be reached by the immediate supervisor may be deemed to have voluntarily resigned from the District and may be separated from the District due to job abandonment in accordance with District policy. [See DFBB, DCD and DF series]

STATE PERSONAL
LEAVE

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

NON-
DISCRETIONARY
USE

1. Non-discretionary 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)]

Non-discretionary 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

2. 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 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.

A maximum of five percent of campus employees in each category may be permitted to be absent at the same time for discretionary personal leave.

DURATION OF
LEAVE

Discretionary use of state personal leave shall not exceed two consecutive workdays. Requests for leave beyond the two consecutive workdays shall require prior approval of the Superintendent.

SCHEDULE
LIMITATIONS

Discretionary use of personal leave shall not be allowed during the first week of a new semester, the day before or the day after a

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school holiday, days scheduled for end-of-semester or end-of-year examinations, days scheduled for state-mandated assessments, days scheduled for District-scheduled assessments, or professional or staff development days.

LOCAL LEAVE

All employees shall earn paid local leave days per school year in accordance with the following:

183–193 contract/assignment workdays	— 10 months	5 leave days
207–220 contract/assignment workdays	— 11 months	6 leave days
226+ contract/assignment workdays	— 12 months	7 leave days

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]

All local sick leave earned and carried over at the end of the 1996–97 school year, as well as local leave earned during the 1997–98 school year, shall become local personal leave. Local personal leave shall be used under the terms and conditions applicable to state personal leave. Local leave shall not transfer between districts and shall be forfeited upon resignation or termination from the District.

FUNERAL LEAVE

During the employee's annual term of employment and approved duty calendar, the District shall provide three paid leave days of funeral leave, per occurrence, for the funeral of an employee's immediate family member, as defined in this policy. The District shall permit the employee to take the funeral leave within ten workdays prior to or after the burial. The employee shall be required to submit appropriate documentation as required by administrative regulations.

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 personal illness or injury and has exhausted all paid leave.

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

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

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

All decisions regarding the sick leave bank may be appealed in accordance with DGBA(LOCAL).

CATASTROPHIC LEAVE
POOL

An employee who has exhausted all paid leave, including sick leave bank days if he or she is a member of the sick leave bank, 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 catastrophic leave pool, to which District employees may donate local leave or state personal leave for use by the eligible employee.

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 catastrophic 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 catastrophic leave pool.

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

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

APPEAL

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

MILITARY LEAVE

After all other paid leave is exhausted, an employee of the District 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 this purpose, differential pay shall mean the normal 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.

FAMILY AND MEDICAL
LEAVE
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.

VERIFICATION OF
FAMILY
RELATIONSHIP

An employee requesting leave for the birth or placement of a child with the employee for adoption or state-approved foster care, or to care for a family member with a serious health condition, may be required to provide reasonable documentation of a family relationship. The department of human resources shall inform employees of any need for such verification.

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 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,

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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(LLEGAL), 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(LLEGAL), RECOVERY OF BENEFIT COST]

All full-time employees shall be eligible for temporary disability (unpaid) leave.

TEMPORARY
DISABILITY LEAVE
EDUCATORS

The maximum length of temporary disability leave for a full-time employee whose position requires educator certification by the State Board for Educator Certification (SBEC) or by the District shall be 180 calendar days.

OTHER
EMPLOYEES

Temporary disability (unpaid) leave may also be granted to other eligible full-time employees for a maximum of 180 calendar days, upon approval from the Superintendent or designee. In order to qualify for this type of 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 the established administrative procedures. Reinstatement to regular employment shall be on a position-available basis only.

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.

Failure to comply with the time 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 of 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 or designee based on the needs of the District.

WORKERS'
COMPENSATION

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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.]

	<p>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.</p>
ASSAULT LEAVE	<p>Assault leave, during which the employee's workers' compensation wage benefits shall be supplemented by the District up to the pre-assault weekly salary, with no deduction from the employee's accumulated paid leave benefits, shall run concurrently with family and medical leave.</p>
PAID LEAVE OFFSET	<p>An employee eligible for workers' compensation income benefits, and not on assault leave, may elect in writing to use available partial-day increments of paid leave to make up the difference between the employee's income benefits and the pre-injury wage. [See CRE]</p>
WORKING WHILE ON LEAVE	<p>With the exception of noncontract and/or paid vacation leave, while on any type of leave status with the District, the employee may not perform work in any capacity except as approved by the assistant superintendent of human resources or designee as part of an approved return-to-work or transitional duty assignment at the District.</p> <p>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 at-will employees or recommendation of termination for contract employees.</p>
COURT APPEARANCES	<p>Absences due to compliance with a valid subpoena for District-related business or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance.</p> <p>Absences for court appearances related to the employee's personal business shall be deducted from the employee's leave balance or taken as leave without pay.</p>
REIMBURSEMENT FOR LEAVE UPON RETIREMENT	<p>The following leave provisions shall apply to state/local leave earned beginning on the original effective date of this program.</p> <p>An employee who retires from the District under the Texas Teacher Retirement System (TRS), or the designated beneficiary of an otherwise eligible employee who passes away while employed by the</p>

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District, shall be eligible for reimbursement of state and local leave if the employee has at least ten consecutive years of service with the District.

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

The reimbursement 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 be reimbursed for each day of state/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 reimbursed according to the following prorated schedule:

1. Five days of state leave at 100 percent of the employee's daily base rate;
2. Ten days of state leave at 75 percent of the employee's daily base rate;
3. 25 days of state leave at 50 percent of the employee's daily rate; and
4. 40 days of local leave at \$100 per day.

PARA-
PROFESSIONAL
AND AUXILIARY
EMPLOYEE RATE

A paraprofessional or auxiliary employee shall be reimbursed for each day of state/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 pro-rated 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, all District employees, as soon as possible and/or prior to the absences, shall notify their immediate supervisor or designees,

if they will be late for work or absent for any reason. In the event of an emergency, notification should be made at the earliest practical time, especially if a substitute is required to cover an employee's responsibility. (in accordance with department/campus procedures) An employee working in a position that requires use of the District's automated online and/or telephonic absence reporting system must use the system to report all absences. Additionally, any employee who is absent three or more consecutive workdays must make personal phone contact with his or her immediate supervisor by the third day of absence.

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 leave, documentation may be required for any absence at the discretion of the Superintendent or designee. Abuse of the employee leave program 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]

EXPIRATION OF
AVAILABLE LEAVE

Upon the expiration of all leave for which an employee has applied and is eligible, if the employee has not already returned to work, the District shall notify the employee in writing that his or her leave has been exhausted.

The employee shall have ten calendar days to apply for any additional leave for which the employee may be eligible or to notify the District in writing that the employee is ready, willing, and able to return to work. A medical clearance showing that the employee is physically able to perform the essential functions of his or her position, with reasonable accommodations if necessary, shall be required to return to work. Additionally, some jobs shall require the employee to submit to a District-paid fitness-for-duty evaluation wherein the employee must demonstrate the ability to meet all the essential physical requirements of his or her job.

An at-will employee who does not receive approval of such additional leave and who does not report and document his or her availability and fitness to return to work within such ten-day period shall be deemed to have voluntarily resigned his or her employment with the District, effective immediately upon the expiration of the ten-day period designated in such notice, and shall be offered health benefits according to COBRA. [See CRD]

An at-will employee who fails to return to work after 180 calendar days of leave, regardless of the type of leave, shall be deemed to have voluntarily resigned his or her employment with the District

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and shall be offered health benefits according to COBRA. [See CRD]

A contract employee's failure to receive approval of such additional leave and his or her subsequent failure to report and document his or her availability and fitness to return to work, within such ten-day period, shall be considered good cause for termination. A contract employee's failure to return to work after 180 calendar days of leave, regardless of the type of leave, shall be considered good cause for termination. For termination procedures and rights of contract employees, see DF series and DCE.

The uniform enforcement of a reasonable absence-control policy is not retaliatory discharge.