

## PROPOSED REVISIONS

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### 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, 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.

#### 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

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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.

**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.
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 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.

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3. State personal leave.

Use of sick leave bank days shall be permitted only after all available state and local leave has been exhausted.

**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:

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)]

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

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**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

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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.

Duration of  
Leave

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

**Local Leave**

All employees shall earn five paid local leave days per school year in accordance with administrative regulations.

Local leave shall accumulate without limit.

Local leave shall be used according to the terms and conditions of state sick leave accumulated before the 1995–96 school year, except that an employee may contribute local leave to a sick leave bank. [See DEC(LEGAL)]

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.

**Sick Leave Bank**

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

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:

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;

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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), 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 July 1 through June 30.

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**

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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.]

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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.

**Annual  
Attendance Incentive  
Eligibility**

An annual attendance incentive for employees using two days or less of state and/or local leave during the duty year shall be paid to eligible employees in the following categories:

1. Employees in positions normally requiring ten months of service.
2. Employees in positions normally requiring 11 months of service, except as noted below.
3. Employees in paraprofessional positions normally requiring 12 months of service.
4. Support service employees paid on a biweekly basis.
5. Full-time employees who are paid on a monthly basis and who work a minimum of 37.5 hours per week.
6. Child nutrition employees who are paid on a biweekly basis and who work at least six hours per day.

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7. Eligible part-time employees.

Employees in the following categories shall not be eligible for the annual attendance incentive:

1. Central office and campus administrators.
2. Substitute or temporary employees.
3. Employees who begin work after the first day of the annual calendar for their positions.

Payment

Eligible, full-time employees who did not use any state leave days or any local leave days, including any portion of a day, shall be paid \$500.

Eligible, part-time employees who did not use any state leave days or any local leave days, including any portion of a day, shall be paid \$250.

Eligible full-time employees who used two leave days or less of state and/or local leave shall be paid \$200.

Eligible, part-time employees who used two leave days or less of state and/or local leave shall be paid \$100.

Absences for religious holy days shall not be counted when determining an employee's eligibility for the attendance incentive.

Payment shall be made following the completion of the days in the employee's scheduled work year.

Funding

Payment for this benefit shall be contingent upon the appropriation of funding for this purpose in the annual District budget. The District reserves the right to suspend or curtail this benefit on an annual basis.