



# UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

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

**SUBMITTED BY:** Gloria S. Rendon **OF:** Deputy Superintendent for Administration and Operations

**APPROVED FOR TRANSMITTAL TO SCHOOL BOARD:** \_\_\_\_\_

**DATE ASSIGNED FOR BOARD CONSIDERATION:** July 21, 2021

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

**DEC (LOCAL)**

**RATIONALE:**

**BUDGETARY INFORMATION:**

**POLICY REFERENCE & COMPLIANCE:**

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**Leave Administration** The Superintendent shall develop administrative regulations, guidelines, and handbooks 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.
  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.

**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 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 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.

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**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**

If an employee separates from employment with the District before ~~his or her the employee's~~ last duty day of the school ~~year,~~ ~~or 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.

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 the employee's~~ pro rata entitlement for the school year.

**Medical Certification**

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

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; or
3. 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.

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

**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

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placement of a child and taken within the first year after the child's birth, adoption, or foster placement.

Discretionary Use  
Discretionary Use

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

*Request for  
Leave*

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

10 months (186-193 days of service annually) five days

11 months (207-220 days of service annually) six days

**Leave**

12 months (at least 226 days of service annually) seven 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]

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.

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**Annual 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. An 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. 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. This leave is not available to part-time employees.

**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 medical condition that will require prolonged absence or extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available, including sick leave days as applicable, as well as 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;
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.

If an 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.

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**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 experiences a medical condition that will require the prolonged or extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available, including sick leave bank days as applicable, as well as any applicable compensatory time, 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 numbers 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 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 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

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a higher daily wage from the government than from the District shall not be entitled to differential pay.

**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.

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**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 the 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 for 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**

**SBEC Certified Employees**

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 as a request for temporary disability leave.



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|------------------------------|---|
| 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 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.<br><br>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 | Non-SBEC Certified Employees 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        | <hr/> <b>Note:</b> 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. <hr/>  |
| Paid Leave Offset            | 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.<br>The District shall permit the option for paid leave offset in conjunction with workers' compensation income benefits. [See CREJ]  |
| Assault Leave                |   |



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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.

The employee shall report the assault to the employee's immediate supervisor within 24 hours of the incident. The employee must complete the assault leave forms within 30 calendar days from the date of the incident. Assault leave shall become effective on the date the employee submits the completed forms to the human resources department.

**Employment  
Following Leave**

An employee's eligibility for employment following leave shall be determined based on the type of leave used by the employee.

An employee qualifying for leave under the FMLA shall be placed in a like or comparable position upon his or her release to return to work.

A professional employee who is under contract and who qualifies for temporary disability leave may return to a previously vacated position, subject to availability, upon resale to return to work. If a position is not available, the employee shall be assigned to an alternate position no later than the beginning of the next school year. For the duration of time a position is unavailable, the employee shall remain

**Working While  
on Leave**

in an unpaid status after exhausting all available 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 assistant 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 leave or balance.

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**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 Texas Teacher Retirement System (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 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 be excluded. 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;
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:

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

**Absence Reporting**

An employee shall notify the employee's immediate supervisor prior to an absence, or as soon as practical in the event of an emergency, so that a substitute can be secured. Notification to the employee's immediate supervisor shall be in accordance with administrative, campus, and department regulations. An employee shall 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 a 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 may result in disciplinary action including termination of employment.

**Unauthorized Absences**

An employee may be terminated when the employee 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; or

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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 leaves 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 the employee's 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 OF 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**

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 re- turn 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

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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 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 OF series and DCE.]

The employee's eligibility for reasonable accommodations, as required by the ADA, shall be considered before termination. [See DAA(LEGAL)] If an employee has exhausted all available paid leave, ~~he or she~~ the employee shall remain in an unpaid status during the ADA consideration period.

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