

No. _____



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC: Second Reading of Policy DEC (LOCAL): Compensation and Benefits: Leaves and Absences

SUBMITTED BY: Gloria S. Rendon OF Asst. to the Superintendent

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: July 22, 2009

RECOMMENDATION:

It is recommended that the Board of Trustees approve Second 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 three types: funeral leave, state and local sick leave and vacation leave.

Types of Leave	Paid/Unpaid	Number of Days Paid
State Personal Leave [See DEC(LEGAL)]	Paid	5 days per year
Local Personal Leave: 10-month employees, 11-month employees, 12-month employees	Paid	5 days per year 6 days per year 7 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 5)	Paid	3 days per event
Vacation Leave: For 12-month auxiliary employees only [See DED(LOCAL)]	Paid after a full year of service	10 days

COMPREHENSIVE LEAVE

The District's comprehensive leave program includes both paid leave and unpaid leave privileges. Eligibility for the various types of leave depends on the employee's position, the number of months of service per year, and the length of service. [See also DED(LOCAL) for provisions on vacation leave]

COMPENSATED LEAVE

In addition, employees may be absent without loss of pay and without the absence being charged against the employee's accrued accumulated leave for assault leave, bereavement leave, jury duty, and witness subpoenas as specified below.

Paid leave provisions shall apply to all salaried and eligible hourly employees. Eligible hourly employees are those in standing, daily assignments that meet the criteria for membership in the Teacher

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Retirement System (TRS) of Texas. [See TRS Eligibility Requirements]

Paid leave provisions shall not apply to individuals whose positions do not meet TRS eligibility criteria. Personnel on less than a 12-month contract who are employed for additional periods of duty on a noncontract status during the summer months are not eligible to use or to accrue personal leave during these periods.

ACCUMULATION AND
TRANSFERABILITY

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

LEAVE ACCRUAL AND
ADVANCEMENT

Only those days/hours that are part of the base employment year/regular workday shall be included in the calculation of state and local leave. Extra days for supplemental duties/overtime hours shall not entitle personnel to additional leave. State and local leave will be prorated for employees beginning after the regular employment term.

DEFINITIONS
FAMILY

The term "immediate family" shall include:

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, sibling-in-law.
5. Grandparent and grandchild.

For purposes of the Family and Medical Leave Act, the definition of "family" is defined in DEC(LEGAL).

WORKDAY

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

STATE PERSONAL
LEAVE — RATE OF
ACCRUAL

Each employee shall earn state personal leave at the rate of one-half workday for each 18 workdays of employment, up to the statutory maximum of five workdays annually.

TYPES OF STATE
PERSONAL LEAVE

The Board requires employees to differentiate between uses of personal leave:

DISCRETIONARY

1. To be taken at the individual employee's discretion, subject to limitations set out below.

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NON- DISCRETIONARY	2. To be used for the same reasons and in the same manner as state sick leave accumulated prior to May 30, 1995. [See DEC(LEGAL)]									
USE OF DISCRETIONARY LEAVE REQUEST FOR LEAVE	<p>A written request for discretionary personal leave shall be submitted to the immediate supervisor or designee in advance in accordance with administrative regulations. The reasons for which personal leave may be used shall not be limited by the District. In deciding to approve personal leave, however, the supervisor or designee shall consider the effect of the employee's absence on the educational program, as well as the availability of substitutes. [See DEC(LEGAL)] The principal/supervisor or designee shall notify the employee in advance whether the request is granted or denied.</p> <p>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.</p>									
DURATION OF LEAVE	Discretionary personal leave in excess of two consecutive days must have prior approval by the Superintendent or designee.									
SCHEDULE LIMITATIONS	Discretionary personal leave shall not be allowed during the first week of a new semester, the day before or the day after a 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 on professional or staff development days.									
LOCAL LEAVE	<p>Employees in positions normally requiring ten, 11, or 12 months of service shall earn an additional five, six, or seven equivalent work-days of local personal leave per school year, respectively, concurrently with state leave. For purposes of this policy, months of employment shall be as follows:</p> <table><tr><td data-bbox="553 1430 1003 1459">183–193 contract/assignment days</td><td data-bbox="1040 1430 1214 1459">— 10 months</td><td data-bbox="1252 1430 1338 1459">5 days</td></tr><tr><td data-bbox="553 1486 1003 1516">207–220 contract/assignment days</td><td data-bbox="1040 1486 1214 1516">— 11 months</td><td data-bbox="1252 1486 1338 1516">6 days</td></tr><tr><td data-bbox="553 1543 959 1572">226+ contract/assignment days</td><td data-bbox="1040 1543 1214 1572">— 12 months</td><td data-bbox="1252 1543 1338 1572">7 days</td></tr></table> <p>Local leave shall accumulate with no limit and shall be taken with no loss of pay.</p> <p>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 sick leave shall not transfer between</p>	183–193 contract/assignment days	— 10 months	5 days	207–220 contract/assignment days	— 11 months	6 days	226+ contract/assignment days	— 12 months	7 days
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	<p>districts and is forfeited upon resignation or termination from the District.</p>
CATASTROPHIC LEAVE POOL	<p>A catastrophic leave pool is the voluntary donation of local personal leave days by employees for the purpose of assisting a fellow employee who, after exhausting all paid leave including sick leave bank days, has a catastrophic illness or has an immediate family member who has a catastrophic illness.</p>
DEFINITIONS	<p>For purposes of the catastrophic leave pool, the following definitions shall apply:</p> <ol style="list-style-type: none">1. Catastrophic illness: an illness such as heart attack, stroke, cancer, or any life-threatening illness as certified by a health care provider.2. Year: the period from September through August.
RESTRICTIONS	<p>For purposes of the catastrophic leave pool, the following restrictions shall apply:</p> <ol style="list-style-type: none">1. Employees may donate no more than 30 local and state personal leave days per school year.<u>1. Employees shall not receive more than 30 local and/or state personal leave days per school year.</u>2. An eligible employee may draw from the pool until he or she has used up to 30 days.
CONFIDENTIALITY	<p>All contributions to sick leave pools shall be voluntary and confidential donations. Employees violating this provision shall be considered in violation of District policy and the standards of ethics outlined at DH(EXHIBIT) and shall be subject to disciplinary action in accordance with DH(LOCAL).</p>
CESSATION OF POOL	<p>The pool shall cease to exist when:</p> <ol style="list-style-type: none">1. The employee returns to work,2. The employee has used 30 days, or3. Voluntary donation reaches the ten-day maximum contribution and the sick leave pool is exhausted. <p>Unused sick leave pool days shall revert to donors and shall be divided proportionately among individuals according to the amount contributed.</p>
MILITARY LEAVE	<p>Employees of the District who are 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</p>

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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, employees must submit verification of their military earnings to the department of human resources. Employees who receive a higher daily wage from the government than from the District shall not be entitled to differential pay.

FUNERAL LEAVE

During a full-time employee's annual term of employment as designated by contract, approved leave for preparation and/or attendance of a funeral of an immediate family member (as defined above) shall be limited to five consecutive workdays for each occurrence, subject to the approval of the Superintendent or designee. The employee shall be required to present documentation to justify such leave. The first three workdays missed shall be without loss of pay and without deduction from the employee's leave balance. The remaining two days shall be deducted from the employee's leave balance. Additional days for all other funerals shall be deducted from the employee's leave balance. Full pay shall be deducted if no accrued leave is available. Funeral leave shall not be cumulative.

SICK LEAVE BANK

The District has elected to provide a sick leave bank for all personnel who elect to participate in the bank and who earn sick leave benefits from the District. The purpose of the bank shall be to provide additional sick leave days to members of the bank in the event of an unexpected extended critical illness, surgery, or a disability due to an injury. Days shall be requested from the bank only after the member has exhausted noncontract term days and accumulated state and local sick leave days. An employee may be awarded a maximum of 30 days from the sick leave bank during the fiscal year. (September through August).

USE AND RECORDING

For purposes of personal illness, illness in the immediate family, family emergency, or death in the immediate family, available leave shall be used in the following order:

1. Compensatory leave.
2. Local personal leave.
3. State personal leave.
4. State sick leave accumulated prior to the 1995-96 school year.
5. Noncontract/employment days. [See DED(LOCAL)]
6. Sick leave bank.

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7. Catastrophic leave.

Leave used shall be recorded in increments of half days. Employees shall be charged leave as used even if a substitute is not employed.

Any leave taken for which leave balances are insufficient shall result in a deduction from the employee's paycheck commensurate with the amount of leave taken; if, however, there are more than five days to be deducted, only five shall be deducted, with the remainder being deducted the following month, unless otherwise provided. [See DMD(LOCAL)]

Local sick leave may also be used for first-year care following the birth or adoption of an employee's son or daughter or the placement of a child with the employee for foster care.

AVAILABILITY

Paid leave for the current year shall be available for use at the beginning of the school year. Paid leave shall not be approved for more workdays than have been accumulated in prior years plus those to be earned during the current year. When an employee who has used more leave than he or she had accumulated ceases to be employed by the District, the cost of the unearned leave days shall be deducted from the employee's final paycheck. If insufficient funds exist in the last paycheck, the employee shall be required to refund the overpayment.

MEDICAL
CERTIFICATION

An employee absent more than five consecutive workdays because of personal illness or illness in the immediate family shall present medical certification to the human resources department upon returning to work.

Certification by a doctor who is duly registered and licensed under the Medical Practice Act of Texas, a licensed chiropractor, a Christian Scientist practitioner, or a licensed podiatrist (chiroprapist) shall be required for personal illness absences in excess of five consecutive duty days. Absences in excess of five days are subject to verification by the District's department of human resources.

TEMPORARY
DISABILITY LEAVE
EDUCATORS

All full-time employees shall be eligible for temporary disability (unpaid) leave. The maximum length of temporary disability leave shall be 180 calendar days.

OTHER
EMPLOYEES

A temporary disability (unpaid) leave may be granted also to other eligible employees for a maximum of 180 calendar days, upon approval by the Superintendent of designee. In order to qualify for such leave of absence, an employee must have worked 1,250 hours in the prior 12-month period from the date of the request of temporary disability leave. Application for this leave shall be submitted in accordance with the established administrative proce-

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	<p>dures. Reinstatement to regular employment shall be on a position-available basis only.</p>
REINSTATEMENT OR RESIGNATION	<p>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.</p> <p>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]</p>
REASSIGNMENT FOLLOWING LEAVE	<p>Employees who are not certified by SBEC and who are returning from unpaid personal illness of 60 or fewer calendar days shall be returned to the same position. Unless otherwise prescribed by law, employees returning from unpaid personal illness 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.</p>
JURY DUTY / COURT APPEARANCES	<p>Employees shall be required to present documentation of jury duty and shall be allowed to retain any compensation for this service.</p> <p>An employee shall be granted leave with pay and without loss of accumulated leave for jury duty. Absences for court appearances related to an employee's personal business that is not school-related shall be deducted from the employee's personal leave or shall be taken by the employee as leave without pay.</p>
FAMILY AND MEDICAL LEAVE	<p>For purposes of an employee's entitlement to family and medical leave, the 12-month period shall be measured backward from the date an employee uses family and medical leave.</p> <p>All employees are required to contact the department of human resources to request FMLA leave. If an employee's leave is foreseeable and he or she fails to submit the required medical certification within 15 days of receipt of request for such leave, the employee's family and medical leave may be delayed until the required certification is provided. If repeated requests for the certification are ignored, family and medical leave may be denied.</p> <p>If the need for leave is not foreseeable, an employee must provide the medical certification within 15 days of receipt of request for such leave or as soon as reasonably possible under the particular facts and circumstances. If an employee fails to submit the required medical certification within a reasonable time under the pertinent circumstances, the continuation of family and medical leave may be delayed. If certification is never provided, the leave shall not constitute family and medical leave and shall result in a review</p>

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	<p>of the period of absence for appropriate disciplinary action, which may include termination.</p> <p>If the condition preventing the employee from attending work qualifies for family and medical leave, the District shall classify any leave taken as FMLA leave.</p>
CONCURRENT USE OF LEAVE	<p>The District shall require employees to use family and medical leave concurrently with any paid leave and with temporary disability leave if applicable.</p>
COMBINED LEAVE FOR SPOUSES	<p>If both spouses are employed by the District, family and medical leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition may be limited to a combined total of 12 weeks as determined by the needs of the District.</p>
VERIFICATION OF FAMILY RELATIONSHIP	<p>Employees requesting leave for the birth or placement of a child with an 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 will inform employees of any need for such verification.</p>
FITNESS-FOR-DUTY CERTIFICATION	<p>Prior to returning to work from a medical leave of absence of more than five consecutive workdays, an employee shall be required to provide certification from his or her health care provider, as defined in this policy, that the employee is able to return to work. The cost, if any, of a fitness-for-duty certification shall be borne by the employee. Failure to provide the required return to work certification may result in a delay of job restoration until the certification is provided.</p>
COUNTING FMLA LEAVE	<p>If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken shall count as FMLA leave. [See DEC(LEGAL) for Family and Medical Leave provisions]</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>

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EMPLOYMENT FOLLOWING LEAVE	Professional, noncontract employees, classified employees, auxiliary employees, or permanent part-time employees qualifying for unpaid personal illness leave that is not covered by family and medical leave may return to a previously vacated position, subject to availability, upon release to return to work. If a position with the same job title is unavailable, the employee shall be separated and may apply for any vacancy for which he or she is responsibly qualified. Additionally, some jobs 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.
INTERMITTENT LEAVE FOR CHILD CARE	Use of intermittent family and medical leave shall be permitted for the care of a newborn child or upon the adoption or placement of a child with the employee.
CERTIFICATION OF ILLNESS	Upon request for family and medical leave for the employee's serious health condition or that of a spouse, parent, or child, the employee shall provide medical certification of the illness or disability. Employees may also be required to provide medical certification of the illness or disability or, where applicable, workers' compensation release forms at 30-day intervals.
MEDICAL RELEASE	The employee's request for reinstatement shall be accompanied by medical certification of the employee's ability to perform essential job functions or workers' compensation release forms, where applicable.
TEACHER REINSTATEMENT	A teacher desiring to return to work at or near the conclusion of a semester shall be reinstated in accordance with the END-OF-TERM LEAVE section in DEC(LEGAL).
FAILURE TO RETURN	If, at the expiration of the family and medical leave, the employee is able to return to work but chooses not to do so, the District shall require reimbursement of the employee benefits contribution made by the District during the period in which such leave was taken as unpaid leave.
WORKERS' COMPENSATION	An employee absent because of a job-related injury or illness shall be assigned to family and medical leave, if applicable. An employee's family and medical leave entitlement shall run concurrently with a workers' compensation absence if the injury is classified as a serious health condition.
ASSAULT LEAVE	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 ac-

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	<p>cumulated paid leave benefits, shall run concurrently with family and medical leave.</p>
PAID LEAVE OFFSET	<p>The employee shall inform the appropriate administrator whether he or she chooses to use available paid leave. Any paid leave used shall be offset against workers' compensation wage benefits. [See CRE]</p>
REIMBURSEMENT AT RETIREMENT	<p>Effective January 1, 1998, employees who have worked a minimum of five years for the District and have elected to take a retirement option with the Texas Teacher Retirement System (TRS) within 30 days of their last day of employment with the District shall be eligible to receive reimbursement for unused state and local personal leave. Reimbursement shall be for a maximum of 80 days at the rate of \$30 per day. Payment shall not be made until 45 days after the date of retirement as verified by TRS.</p>
TARDINESS	<p>Employees are expected to arrive at work at the time designated by their supervisors. Unexcused or excessive tardiness may result in disciplinary action, including termination of employment.</p>
UNAUTHORIZED ABSENCE	<p>An employee may be terminated when he or she is:</p> <ol style="list-style-type: none">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; or3. 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. <p>The uniform enforcement of a reasonable absence-control policy is not retaliatory discharge.</p>
FREQUENT OR PROLONGED ABSENCE	<p>All absences in excess of ten days during a semester shall be investigated by the immediate supervisor who shall take appropriate action as required by District guidelines.</p> <p>Supervisors shall report absences for individuals in excess of 20 days 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.</p>
DOCUMENTATION FOR ABSENCE	<p>Documentation may be required for any absence at the discretion of the Superintendent or designee.</p>
ABSENCE REPORTING	<p>An employee working in a position that requires use of the District's automated online and/or telephonic absence reporting system</p>

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must use the system to report all absences. Additionally, any employee who is absent three or more days must make personal phone contact with his or her immediate supervisor by the third day of absence.

SANCTIONS FOR
ABUSE

All employee leave is 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 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 expired.

The employee has ten calendar days within which to apply for any 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, is required to return to work. Additionally, some jobs 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, and shall be offered health benefits according to COBRA.

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

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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.

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