

—DRAFT 2—

DEFINITIONS

The term “immediate family” is defined as:

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.

WORKDAY

A “workday” for purposes of earning, use, or recording 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. Complications resulting from pregnancy shall be treated the same as any other condition.

AVAILABILITY

The District shall make state personal leave for the current year available for use at the beginning of the school year. Local leave shall be made available as earned.

The District shall not approve paid leave for more workdays than have been accumulated in prior years plus those to be earned during the current year. Any absences beyond available paid leave shall result in deductions from the employee’s pay.

EARNING LEAVE	<p>An employee shall not earn 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> <p>When an employee has used more leave than he or she has earned, the District shall deduct the cost of unearned leave days from the employee's final paycheck for the year or from the last paycheck after the employee ceases to be employed by the District.</p>
RECORDING	<p>0. Leave shall be recorded as follows:</p> <ol style="list-style-type: none"><li>1. Leave shall be recorded in half-day increments for all employees, even if a substitute is not employed.</li><li>2. If the employee is taking intermittent FMLA leave, leave shall be recorded in one-hour increments.</li><li>3. If the employee chooses to offset leave against workers' compensation benefits, leave shall be recorded in the amount used.</li></ol>
ORDER OF USE	<p>Earned compensatory time shall be used before any available paid state and local leave. [See DEA]</p> <p>0. Unless an employee requests a different order, available paid state and local leave shall be used in the following order, as applicable:</p> <ol style="list-style-type: none"><li>1. Local sick leave.</li><li>2. State sick leave accumulated before the 1995-96 school year.</li><li>3. Local personal leave.</li><li>4. State personal leave.</li></ol> <p>Use of extended sick leave or sick leave pool days shall be permitted only after all available state and local leave has been exhausted.</p>
CONCURRENT USE OF LEAVE	<p>When an absent employee is eligible for FMLA leave, the District shall designate the absence as FMLA leave.</p> <p>The District shall require the employee to use temporary disability leave and paid leave, including compensatory time, concurrently with FMLA leave.</p> <p>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.</p>

MEDICAL  
CERTIFICATION

0. 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

For purposes of this section, each employee shall earn state personal leave up to the statutory maximum of five workdays annually at the rate established in administrative regulations.

0. 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 also includes leave for well-baby care within the first year after birth, adoption, or placement of a child.

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.

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LOCAL)

DURATION OF LEAVE	Discretionary use of state personal leave shall not exceed five consecutive workdays.
LOCAL SICK LEAVE	<p>All employees in positions normally requiring ten, 11, and 12 months of service each year shall earn five, six, and seven workdays of paid local leave per school year, respectively, in accordance with administrative regulations.</p> <p>Local sick leave shall accumulate without limit.</p> <p>Local sick 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 donate local leave to a sick leave pool. [See DEC(LEGAL)]</p>
LOCAL PERSONAL LEAVE	<p>All employees shall earn one workday of paid local personal leave per school year, in accordance with administrative regulations.</p> <p>Local personal leave shall accumulate without limit.</p> <p>Local leave shall be used according to the terms and conditions of state personal leave. [See STATE PERSONAL LEAVE, above]</p>
EXTENDED SICK LEAVE	<p>After all available state and local leave days have been exhausted, an employee shall be granted in a school year a maximum of 20 workdays of extended sick leave to be used for the employee’s catastrophic illness or injury, including pregnancy-related illness or injury, or for absences related to the catastrophic illness or injury of a member of the employee’s immediate family.</p> <p>A written request for extended sick leave must be accompanied by medical certification of the illness or injury. The medical certification must indicate the anticipated date of return.</p> <p>The average daily rate of pay of a substitute for the employee’s position shall be deducted for each day of extended sick leave taken, whether or not a substitute is employed.</p>
SICK LEAVE POOL	<p>An employee who has exhausted all paid leave and who suffers from a catastrophic illness or injury or is absent due to the catastrophic illness or injury of a member of the employee’s immediate family may request the establishment of a sick leave pool, to which District employees may donate only local 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 sick leave pool.</p> <p>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.</p>

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

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

APPEAL

All decisions regarding the establishment or implementation of the District's sick leave pool 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, the 12-month period shall be measured backward from the date an employee uses FMLA leave.

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]

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LOCAL)

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 DE-CA(LLEGAL), RECOVERY OF BENEFIT COST]
TEMPORARY DISABILITY LEAVE	<p>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(LLEGAL) for reinstatement.]</p> <p>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.</p>
WORKERS' COMPENSATION	<hr/> <p><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. [See CRD(LOCAL) regarding payment of insurance contribution during employee absences.]</p> <hr/>
PAID LEAVE OFFSET	<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> <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>
COURT APPEARANCES	<p>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.</p> <p>Absences for court appearances related to an employee's personal business shall be deducted from the employee's leave or, at the option of the employee, shall be taken as leave without pay.</p>
REIMBURSEMENT OF LEAVE UPON SEPARATION	<p>The following leave provisions shall apply to leave earned beginning on the original effective date of this program.</p> <p>0.An employee who separates from employment with the District shall be eligible for reimbursement of leave under the following conditions:</p>

1. The employee's separation from employment is voluntary, i.e., the employee is retiring or resigning and is not being discharged or nonrenewed.
2. The employee provides advance written notice of intent to separate from employment. Contract employees must provide written notice at least 90 days before the last day of employment. Non-contract employees must provide written notice at least two weeks before the last day of employment.
3. The employee has at least ten years of service with the District.

An employee who is resigning shall only be reimbursed for each day of local leave, at a rate established by the Board.

An employee who is retiring from the District through the Teacher Retirement System of Texas shall be reimbursed for each day of state and local leave, at a rate established by the Board.

If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee.

The rate established by the Board shall be 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.