



Canutillo Independent School District

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MEMORANDUM

TO: Personnel/Policy/Instruction/Student Services Committee Members
FROM: Martha Carrasco, Executive Director HR *Martha Carrasco*
DATE: August 14, 2013
RE: **Policy Updates 96 & 97**

Attached for review, discussion and recommendation to the Board of Trustees are the Vantage Points which summarize the changes within the legal and local policies. For our discussion we will be addressing the local policies since no changes can be made to the legal policies.

Just as a reminder, we have previously discussed Update 96 but we need to revisit DEC (Local) before moving forward to approve this update.

The Canutillo Independent School District does not discriminate on the basis of race, color, national origin, gender, age or disability in its employment practices, or in providing education services, activities and programs, including technical education programs. For more information regarding the Canutillo Independent School District's policy of non-discrimination contact: Executive Director for Human Resources, (915) 877-7423, 7965 Artcraft Rd., El Paso, TX 79932.

El Distrito Escolar Independiente de Canutillo no discrimina en cuanto a raza, color, origen, género, edad o discapacidad en lo que se refiere a sus prácticas de empleo, o al proveer servicios, actividades y programas educativos y vocacionales. Para mayor información respecto a la política de no discriminación del Distrito Escolar Independiente de Canutillo, favor de contactar a: Director Ejecutivo de Recursos Humanos, (915) 877-7423, 7965 Artcraft Rd., El Paso, TX 79932.

PROPOSED REVISIONS

Update 96 revisions and Local District revisions

DEFINITIONS	The term "immediate family" is defined as:
FAMILY	<ol style="list-style-type: none">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 <i>in loco parentis</i>.3. Parent, stepparent, parent-in-law, or other individual who stands <i>in loco parentis</i> 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. <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	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.
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.
<u>AVAILABILITY</u>	<u>The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.</u>
<u>EARNING LOCAL LEAVE</u>	<u>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.</u>

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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.

~~AVAILABILITY~~

~~The District shall make paid leave for the current year available for use at the beginning of the school year.~~

~~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~~

~~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.~~

~~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.~~

RECORDING

Leave shall be recorded as follows:

1. For exempt positions for which a substitute is normally required, leave shall be recorded in half-day increments, even if a substitute is not employed.

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1. An exempt employee may be excused from duty by his or her immediate supervisor and in accordance with administrative regulations for as much as one hour for an emergency or temporary illness. Any absence over one hour must be reported to the employee's immediate supervisor or designee and recorded into the District's TEAMS system.

2. For nonexempt positions ~~for which a substitute is not normally required,~~ leave shall be recorded on an hourly basis.
3. If the employee is taking intermittent FMLA leave, leave shall be recorded in one-hour increments.
4. 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, 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.
3. State personal leave.

Use of catastrophic 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 three consecutive work-days because of personal illness or illness in the immediate family;

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2. The District requires medical certification due to a questionable pattern of absences or when deemed necessary by the supervisor or human resources;
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).

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)]

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 at least three days in advance 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. Requests shall be considered granted unless the immediate supervisor or designee notifies the employee to the contrary within 48 hours of the requested absence.

Discretionary use of personal leave shall not be allowed the day before or after Thanksgiving break; Christmas break; spring break; days scheduled for end-of-semester or end-of-year exams; days scheduled for state-mandated assessments on the employee's campus; professional or staff development days; or the first or last day of instruction. ~~under the following circumstances:~~

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~~a. The day before a school holiday (Thanksgiving Break, Christmas Break, Spring Break);~~

~~b. The day after a school holiday (Thanksgiving Break, Christmas Break, Spring Break);~~

~~c. Days scheduled for end of semester or end of year examinations; or~~

~~d. Days scheduled for TAKS and State of Texas Assessments of Academic Readiness (STAAR) testing.~~

These limitations shall apply to all District employees except those on a 224-day, 238-day, or 258-day work schedule.

~~A notice for discretionary use of personal leave shall be submitted to the principal or designee three days in advance of the anticipated absence unless notice is not practical or reasons not foreseen. Discretionary use of personal leave shall be considered granted unless the principal or designee notifies the employee to the contrary within 48 hours of the requested absence.~~

~~The effect of the employee's absence on the educational program or department operations, as well as the availability of substitutes, shall be considered by the principal or supervisor.~~

DURATION OF
LEAVE

Discretionary use of state personal leave shall not exceed five consecutive workdays per semester or ten workdays maximum in a school year.

STATE SICK
LEAVE

State sick leave accumulated before 1995 is available and may be transferred to other school districts in Texas. ~~State sick leave can be used in increments of three consecutive days, except when coordinated with family and medical leave taken on an intermittent or a reduced schedule basis or when coordinated with workers' compensation benefits.~~

State sick leave may be used for the following reasons only:

- Employee illness;
- Illness in the employee's immediate family;
- Family emergency (i.e., natural disasters or life-threatening situations);
- Death in the immediate family;
- Active military; or
- Other reason covered under the FMLA.

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LOCAL LEAVE

All professional and paraprofessional/auxiliary employees shall earn additional days of paid local leave per school year in accordance with the following:

180–197-day work calendars – five leave days.

198–215-day work calendars – six leave days.

216-day or more work calendars – seven 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]

~~An employee who is absent from work for three consecutive working days or more without notice/approval and who cannot be reached by the immediate supervisor shall be deemed to have voluntarily resigned from the District and may be released from the District due to job abandonment in accordance with District policy.~~

CATASTROPHIC SICK
LEAVE BANK

The District shall establish a catastrophic sick leave bank that full-time employees may join through contribution of two days of local leave each school year. Leave contributed to the bank shall be solely for the use of the participating employees. An employee who is a member of the bank may request leave from the bank if the employee or a member of the employee's immediate family experiences a catastrophic illness or injury and the employee has exhausted all paid leave.

ADMINISTRATION
OF CATASTROPHIC
SICK LEAVE BANK

The catastrophic sick leave bank shall be administered in accordance with DEC(REGULATION).

All requests for consideration of paid days from the bank shall be submitted to the executive director of human resources or designee for review and approval.

APPEAL

All decisions regarding the establishment or implementation of the District's catastrophic sick leave bank may be appealed in accordance with DGBA(LOCAL), beginning with the Superintendent or designee.

BEREAVEMENT
(FUNERAL) LEAVE

An employee may request to use accrued state leave, local sick leave, or flex time, if applicable, for absences due to the death of an immediate family member. If no accrued leave is available, the employee may request up to five unpaid workdays for the death of an immediate family member.

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FAMILY AND MEDICAL LEAVE	For purposes of an employee's entitlement to FMLA leave, the 12-month period shall be measured forward from the date an individual employee's first FMLA leave begins.
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 from a health-care provider who is currently providing treatment to the employee. 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]
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(LEGAL) for <u>return to active duty</u>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>

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WORKERS'
COMPENSATION

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.]

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.

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]

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.

REIMBURSEMENT FOR
LEAVE UPON
RETIREMENT

The following leave provisions shall apply to local leave earned beginning on the original effective date of this program.

An employee who retires from the District shall be eligible for reimbursement for local leave under the following conditions:

1. The employee's retirement is voluntary, i.e., the employee is not being discharged or nonrenewed.
2. The employee provides advance written notice of intent to retire. Contract employees must provide written notice at least 90 business 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.

The employee shall be reimbursed for each day of local leave, to a maximum of 30 days, at 50 percent of the employee's pay rate. 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.

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NEUTRAL ABSENCE
CONTROL POLICY

ABUSE OF LEAVE

Abuse of leave policies, misrepresentation of the need to use leave, or falsification of a document from a health-care provider shall constitute grounds for appropriate disciplinary action, up to and including termination, in accordance with District policies.

EXCESSIVE
ABSENCES

When an employee's absences become a concern or an employee establishes a pattern of absences, the ~~employee's principal~~ immediate supervisor shall discuss with the employee the reason for such absences. Such absences may be subject to verification. If the absences are deemed excessive or it is determined that a pattern has developed, the employee may be subject to disciplinary action up to and including termination of employment. [See MEDICAL CERTIFICATION, above]

A nonexempt employee who is absent from work for three or more consecutive work days without prior approval or providing appropriate notice to the employee's supervisor shall be deemed to have abandoned his or her job and may be separated from service with the District in accordance with District policy.

An exempt employee who is absent from work for three or more consecutive work days without prior approval or providing appropriate notice to the employee's supervisor shall be deemed to have abandoned his or her job and the District may pursue termination in accordance with the DF series of policies.

DOCUMENTATION
FOR ABSENCES

Documentation may be required for any absence at the discretion of the Superintendent or designee.

TARDINESS

Employees shall arrive to work by the time designated by their work schedules. Unexcused or excessive tardiness may result in disciplinary action, up to termination of employment. Unexcused or excessive tardiness shall constitute good cause for termination of employment.