

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

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.

Leave Day

A "leave day" for purposes of earning, using, 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. 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

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

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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. For employees in exempt positions, leave shall be recorded in half-day increments, even if a substitute is not employed.
2. For employees in nonexempt positions, leave shall be recorded in quarter-hour increments.
3. If the employee is taking intermittent FMLA leave, leave shall be recorded in quarter-hour increments, even if a substitute is not employed.
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 DEAB]

Unless an employee requests a different order, available paid state and local leave shall be used in the following order, as applicable:

1. State sick leave accumulated before the 1995–96 school year.
2. Local sick leave.
3. State personal leave.
4. Local personal leave for professional employees.

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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 and paid vacation 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)]

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)]

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

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

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Limitations

Request for
Leave

The employee shall submit a written request for discretionary use of state personal leave to the immediate supervisor or designee at least three days in advance of the anticipated absence. 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.

Schedule
Limitations

Discretionary use of state personal or local personal leave shall not be permitted for instructionally related personnel on the day before a school holiday, the day after a school holiday, days scheduled for state-mandated assessments, or professional development days.

Local Sick Leave

All full-time employees shall earn five paid local sick leave days per school year in accordance with administrative procedures as outlined in the employee handbook.

For purposes of this policy, full-time employees shall be those employees regularly scheduled to work 30 hours or more per week.

Local sick leave shall accumulate without limit.

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 contribute local sick leave to the catastrophic sick leave bank. [See DEC(LEGAL)]

An employee may also use local sick 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.

Local Personal Leave

All full-time professional employees shall earn two paid local personal leave days per school year in accordance with administrative procedures as outlined in the employee handbook.

Local personal leave shall be noncumulative.

Local personal leave shall be used according to the terms and conditions of state personal leave; however, \$60 shall be deducted from the employee's pay for each day of local personal leave taken, whether or not a substitute is employed. [See State Personal Leave, above]

Catastrophic Sick Leave Bank

The District shall establish a catastrophic sick leave bank that full-time employees may join through contribution of local sick 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

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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.

If the employee is unable to request leave from the catastrophic 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 catastrophic sick leave bank that address the following:

1. Membership in the catastrophic sick leave bank, including the number of days an employee must contribute to become a member;
2. Procedures to request leave from the catastrophic sick leave bank;
3. The maximum number of days per school year a member employee may receive from the catastrophic sick leave bank;
4. The committee or administrator authorized to consider requests for leave from the catastrophic sick leave bank and criteria for granting requests; and
5. Other procedures deemed necessary for the operation of the catastrophic sick leave bank.

Detailed information shall be provided in the District's catastrophic sick leave bank handbook.

Appeal

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

**Professional Growth
Leave**

A professional employee may be granted an unpaid leave of absence for professional growth in order to attend school for one full semester or longer. Requests shall be presented in writing to the Superintendent or designee and approved at the discretion of the Board. Requests shall be made with adequate notice prior to the effective date so that a replacement can be secured, but in no case fewer than 30 days prior to the effective date. Priority shall be granted to requests that would become effective at the beginning of annual contractual periods.

An employee granted an unpaid leave of absence for professional growth may be reinstated upon his or her return. The position shall be determined as vacancies occur and should be, as nearly as possible, commensurate with the training and experience of the employee. The same position cannot be reserved, but the employ-

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ee shall have first priority for positions previously held as openings occur.

An employee on an unpaid leave of absence for professional growth shall not be covered by the District's policies on leaves and absences. However, all benefits and leave days accumulated by the employee prior to the unpaid leave of absence for professional growth shall be carried over if the employee resumes employment with the District immediately after completing the professional growth leave.

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. 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

Any full-time employee whose position requires educator certification by the State Board for Educator Certification or by the District

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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. The notice must include a physician's statement confirming the employee's inability to work, the date the employee requests leave to begin, and the anticipated date the employee will return to work as certified by the physician.

**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.]

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.

Paid Leave Offset

An employee eligible for workers' compensation income benefits, and not on assault leave, shall inform the District of his or her choice regarding the use of available partial-day increments of paid leave to make up the difference between the employee's income benefits and the pre-injury wage. The employee shall complete the required form available in the District's benefits office. [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.

Absences for court appearances without a valid subpoena or jury duty summons shall be deducted from the employee's leave balance, or at the option of the employee may be taken as leave without pay.

**Attendance Incentive
– Payment Upon
Separation**

Full-time regularly employed personnel shall be allowed to accumulate credit for a maximum of 80 days of state and local leave as an attendance incentive. Payment shall be made to the eligible employee upon separation from service with the District, subject to the following:

1. The employee is eligible to retire with full benefits under the Teacher Retirement System of Texas (TRS) without any re-

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ductions for early retirement, or the employee has at least 25 continuous years of service with the District.

2. A maximum of six days out of the number of earned yearly state and local leave days shall be credited annually for computation of compensation under this policy.
3. An employee shall be allowed to accumulate a maximum of 80 days of credit for the attendance incentive.
4. An employee with an attendance incentive balance of more than 80 days as of May 31, 2011, shall retain his or her balance, be credited days, use days, and be compensated for days in accordance with the provisions of this policy.
5. With the exception of absences for religious holy days, each day of leave used during the employee's duty year shall be deducted from the maximum six days that may be credited annually for the attendance incentive compensation.
6. Compensation shall be determined by using one-half of the employee's total number of credited attendance incentive days and his or her daily rate of pay at the time of separation.

Disability
Retirement

Full-time regularly employed personnel who retire under TRS due to a certified disability shall be eligible to receive the attendance incentive as described above regardless of the number of years of continuous service in the District.

Survivor
Compensation

The attendance incentive shall be paid to a deceased employee's estate or beneficiary, provided the employee would have been eligible to receive it had the person separated from service with the District under usual circumstances.

**Neutral Absence
Control**

Except as provided by law, employees who have excessive absences equal to five workdays or more during one school year shall be subject to separation from employment due to unavailability for work. An absence that is not covered by any available leave and is not otherwise excused is considered an excessive absence. A workday, for purposes of this policy, is a day on which the employee is required to perform services for the District as determined by the employee's work schedule set by the District.

A contract employee's failure to immediately return to work upon medical certification of the employee's ability to perform essential job functions, with or without accommodations, shall be considered good cause for termination or grounds for nonrenewal.

This neutral absence control policy shall be subject to any obligation the District may have to provide a reasonable accommodation under the ADA or similar law.