

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

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.
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 definition 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 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.

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, defined for purposes of this provision as the employee's spouse, 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* 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.

Attendance Policy

For attendance purposes, an employee shall be considered at work if he or she is using state or local leave earned in accordance with this policy, is on family and medical leave, is on an approved leave of absence, or is on an approved nonpaid leave. Excessive absenteeism shall result in termination of employment. [See DF series]

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State Personal Leave — Rate of Accrual	Each employee shall earn state personal leave at the rate of one-half workday per month of employment, up to the statutory maximum of five workdays annually.
Types of State Personal Leave	Under the authority of Education Code 22.003 and to preserve the employee's leave entitlement while minimizing disruption to the instructional program, 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.
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)]
Request for and Use of Discretionary Leave	A written request for use of discretionary personal leave shall be submitted to the principal or designee seven days in advance of the anticipated absence. 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 or District operations, as well as the availability of substitutes. [See DEC(LEGAL)]
Duration of Leave	Discretionary personal leave may not be taken for more than three consecutive days. Discretionary use of personal leave may not be taken for more than five days total per school year.
Schedule Limitations	Discretionary leave shall not be allowed on the day before a school holiday, the day after a school holiday, days immediately preceding or following national or state holidays, days scheduled for end-of-semester or end-of-year exams, days scheduled for state-mandated assessments, nor on professional or staff development days unless approved in writing by the Superintendent. Personal leave days may be used for employee absence in observance of religious holy days [see DEC(LEGAL)].
Local Leave	All full-time employees in positions normally requiring ten, 11, or 12 months of service per year shall earn five, six, or seven workdays of local leave per school year, respectively, at a rate of one-half workday for each 18 workdays of employment. Local leave earned by full-time employees in positions normally requiring ten, 11, or 12 months of service per year shall accumulate without limit. An employee's accumulated local leave days shall be forfeited upon any termination of employment with the District and such leave

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shall not be reinstated upon any subsequent reemployment with the District.

Local leave shall be used under the terms and conditions applicable to state personal leave. [See DEC(LEGAL)]

Use and Recording

For purposes of personal illness, illness in the immediate family, or family emergency, available leave may be used in the order in which an employee chooses subject to the amount available in each leave type. If an employee does not specify or request a certain order, available leave shall be used in the following order:

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

Earned compensatory time shall be used before any available paid state and local leave [see DEA(LEGAL)].

Leave used shall be recorded in increments of whole and half workdays, except when an employee is taking intermittent leave under FMLA. If an employee is absent in excess of 50 percent of his or her workday, the absence may be charged as one full workday if approved by the supervisor. If an employee is absent up to 50 percent of his or her workday, the absence may be charged as one-half workday if approved by the supervisor. An employee 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.

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 has accumulated ceases to be employed by the District, the cost of the unearned leave days shall be deducted from the employee's final paycheck.

Medical Certification

An employee shall submit medical certification of the reason for absence if:

1. The employee is absent more than three consecutive workdays because of personal illness or illness in the immediate family;

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2. The District requires medical certification due to a reasonable concern of absence patterns 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 services.

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

Sick Leave Bank

The District shall establish a sick leave bank that employees may join through contribution of local 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 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 sick leave bank, a member of the employee's immediate family or the employee's supervisor may submit the request.

Appeal

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

Temporary Disability Leave

An employee's notification of need for an 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 employee shall provide medical documentation of the need for leave.

A contract employee on temporary disability leave shall notify the Superintendent or designee of the desire to return to active duty at least 30 days prior to the expected date of return. The notice must include a fitness-for-duty certification.

A contract employee returning from temporary disability leave during the last month of service of a contract period shall be requested to provide a minimum of ten workdays' notice prior to the end of the contract period.

**Contract Employees—
Certified Educators**

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.

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The Superintendent or designee shall have authority to place an employee on temporary disability leave, as appropriate, when in the judgment of the Superintendent or designee upon review of the medical documentation and/or in consultation with the physician who has performed a medical exam, the employee's condition interferes with the performance of regular duties. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for reinstatement]

An educator returning to active duty after a leave of absence for temporary disability shall be entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another location may voluntarily approve the appointment of an educator who wishes to return from leave of absence. However, if no other principal approves the assignment of the educator by the beginning of the next school year, the District shall place the educator at the school where the educator formerly taught or was assigned.

**Contract Employees
Noncertified—
Positions**

Other full-time contract employees shall be eligible for temporary disability leave as stated herein. The maximum length of temporary disability leave shall be 180 calendar days or until all paid leave and vacation days, if any, have been exhausted, whichever is greater.

The Superintendent or designee shall have authority to place an employee on temporary disability leave, as appropriate, when in the judgment of the Superintendent or designee upon review of the medical documentation and/or in consultation with the physician who has performed a medical exam, the employee's condition interferes with the performance of regular duties. [See DBB(LOCAL)]

The District shall make an effort to place a full-time employee returning to active duty after a leave of absence for temporary disability in an assignment at the school or work location where the full-time employee formerly worked, subject to the availability of the same or a similar position. In any event, the full-time employee shall be placed on active duty no later than the beginning of the next school year; however, the assignment may not be in the same or a similar position.

**Noncontract
Employees**

The District may grant a noncontract employee a leave of absence for temporary disability for a maximum of 60 workdays per 12-month period or until all paid leave is exhausted, whichever is greater. A 12-month period shall be measured backward from the date the employee was granted temporary disability.

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The Superintendent or designee shall have authority to place an employee on temporary disability leave, as appropriate, when in the judgment of the Superintendent or designee upon review of the medical documentation and/or in consultation with the physician who has performed a medical exam, the employee's condition interferes with the performance of regular duties. [See DBB(LOCAL)]

A noncontract employee returning to active duty after a leave of absence for temporary disability shall be assigned to his or her former position, subject to the availability of the position. In the event the former position is no longer available, the employee shall be assigned to the first available comparable or similar position. If a comparable or similar position does not become available within six weeks from the employee's request to return to active duty, the District shall have no further obligation to return the employee to duty and the employee's employment shall be terminated.

A noncontract employee unable or unwilling to return to work at the conclusion of temporary disability leave and exhaustion of all available leave shall be terminated.

Court Appearances

An employee shall be granted leave with pay and without loss of paid leave for absences due to compliance with a valid subpoena under the following circumstances:

1. The employee, who is not a party to the litigation, is ordered to appear in a legal proceeding pursuant to a lawfully issued subpoena, in accordance with law. [See DEC(LEGAL)]
2. The employee is a defendant in a lawsuit based on actions taken in the course and scope of his or her employment, and the employee is requested by the District's legal counsel to participate in activities and proceedings related to the defense of the lawsuit.
3. The employee is not a party to a lawsuit involving the District but is otherwise requested by the District's legal counsel to provide information, assistance, or testimony in connection with litigation involving the District.

An employee who is a party to non-District litigation or legal proceedings and is absent due to activities and/or proceedings related to the litigation or legal proceedings may use available state or local personal leave for the absence.

Jury Duty

An employee shall be granted leave with pay and without loss of paid leave for jury duty. The employee shall be required to present documentation of the service and shall be allowed to retain any compensation for this service.

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Bereavement

On the occasion of a death in an employee's immediate family, the District shall grant up to three consecutive days of bereavement leave (to be taken within seven calendar days after the date of death) to be taken with no loss of pay. One of the days must be the day of the funeral or adjacent to the day of the funeral.

There shall be no accumulation of unused bereavement leave.

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.

Concurrent Use of Leave

The District shall require employees to use family and medical leave concurrently with paid leave and with temporary disability leave, if applicable.

The District shall be authorized to designate which days, paid or unpaid, will qualify under family and medical leave regardless of the presence or absence of a family and medical leave request form from an employee. [See DECA(LEGAL)]

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 Reduced Schedule Leave

The District shall not permit the use of intermittent or reduced schedule FMLA leave for the care of a newborn child or 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 or is placed on leave, the employee shall provide certification, as required by FMLA regulations, of the need for leave. [See DECA(LEGAL)]

When the need for leave is foreseeable, the employee must return the completed medical certification to the human resources department within 15 calendar days of receiving the form. The health-care provider must describe the appropriate medical facts regarding the employee's health condition. Failure to return the forms on a timely basis or submission of incomplete forms may result in a delay or denial of leave and could result in the employee's absence being designated as unexcused and unprotected.

The employee shall provide subsequent medical certification at 30-day intervals thereafter under certain circumstances.

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Fitness-for- Duty Certification	<p>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 of the employee's ability to perform essential job functions.</p> <p>The medical certification shall contain a statement regarding the employee's ability to perform essential job functions. Failure to provide the certification may result in a delay or denial of restoration of employment. The costs associated with obtaining the certification shall be the employee's responsibility. The fitness-for-duty requirement shall not apply to employees returning from intermittent or reduced schedule leave.</p> <p>An employee shall give notice of the intent to return to duty before expiration of the FMLA leave. The employee ordinarily shall give notice two business days before his or her projected date of return. Such notice is necessary to minimize potential workplace disruption and to allow for the smooth transition of assignments from other employees to the returning employee.</p>
Teacher Reinstatement	<p>A teacher desiring to return to work at or near the conclusion of a semester shall be reinstated in accordance with the LEAVE AT THE END OF A SEMESTER section in DECA(LEGAL).</p>
Failure to Return	<p>If, at the expiration of FMLA leave, the employee is able to return to work but chooses not to do so, the District shall require reimbursement of the premiums paid by the District during the period in which such leave was taken. [See DECA(LEGAL)]</p>
Disaster Pay	<p>Nonexempt, noncontractual employees who are required to work during an emergency closure of the District shall be paid at the rate of one and one-half times their normal rate of pay for all hours worked up to 40 hours per week. Compensation for time worked over 40 hours in a week shall be calculated and paid according to the law. The Superintendent or designee shall approve payments and shall ensure accurate time records are kept of actual hours worked during the emergency closure.</p>
Workers' Compensation	<hr/> <p>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]</p> <hr/> <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>

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Paid Leave Offset An employee eligible for workers' compensation income benefits, and not on assault leave, may elect in writing to use accumulated paid leave instead of receiving weekly income benefits. An employee choosing to use paid leave shall not receive workers' compensation weekly income benefits until all paid leave is exhausted or to the extent that paid leave does not equal the pre-injury or pre-illness wage. If the employee does not elect to use paid leave, the employee shall receive workers' compensation wage benefits only, which may not equal his or her pre-injury or pre-illness wage. [See CRE]

Return to Work After receiving a full release with medical certification to return to work from either a work-related illness or injury or from family and medical leave, a noncontract employee's refusal to accept a position offered shall constitute resignation from employment with the District.

Reimbursement at Retirement for Unused Local Leave Effective November 19, 2002, and thereafter, an employee who retires in accordance with Teacher Retirement System (TRS) guidelines after 20 or more years of service in the District shall be paid for up to 90 workdays of unused local leave as follows:

1. A professional employee shall be paid at the rate of \$60 per day for each day of unused local leave.
2. A paraprofessional or auxiliary employee shall be paid at the rate of 50 percent of the daily wage at the time of retirement, not to exceed \$40 per day, for each day of unused local leave.

The District shall continue to provide this reimbursement in an effort to attract and retain a highly qualified staff.

Employees who elect to be reimbursed for unused local leave upon retirement must notify the business office in writing at least ten business days prior to their retirement date.