

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

DEC
(LOCAL)

STATE PERSONAL LEAVE	A state minimum personal leave program consisting of five days per year of personal leave, with no limit on accumulation and no restrictions on transfer among districts, shall be provided for school district employees. The District may provide additional personal leave beyond this minimum. The Board may adopt a policy governing an employee's use of personal leave granted under this subsection, except that the policy may not restrict the purposes for which the leave may be used. <i>Education Code 22.003(a)</i>
RATE OF ACCRUAL	Each person regularly employed shall earn state personal leave at the rate of one-half a workday for each 18 workdays of employment, up to the statutory maximum of five workdays annually.
STATE SICK LEAVE ACCUMULATION	District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Former Section 13.904(c), Education Code, continues to govern the use of that sick leave. Sick leave shall be used only for the following: <ol style="list-style-type: none">1. Illness of the employee;2. Illness of a member of the employee's immediate family;3. Family emergency;4. Death in the employee's immediate family. <p><i>Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66</i></p>
FORMER EDUCATION SERVICE CENTER (ESC) EMPLOYEES	A school district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. <i>Education Code 8.007</i>
DEFINITIONS IMMEDIATE FAMILY	For the purposes of state sick leave accrued before May 30, 1995, and local sick leave, the term "immediate family" shall include: <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, sibling-in-law.5. Grandparent and grandchild.6. Any person who may be residing in the employee's household at the time of illness or death.

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FAMILY EMERGENCY	The term “family emergency” shall be limited to natural 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 associated with the employee’s usual work assignment, whether full-time or part-time.
ADDITIONAL LOCAL LEAVE	<p>In combination with the state minimum personal leave benefits, the District shall grant local sick leave sufficient to provide the employee with one day of sick leave for each month of employment in any one given contract or work year:</p> <ol style="list-style-type: none"><li data-bbox="561 695 1425 726">1. Ten-month position—less than 202 workdays—five local days<li data-bbox="561 747 1425 779">2. Eleven-month position—202–224 workdays—six local days<li data-bbox="561 800 1425 873">3. Twelve-month position—more than 224 workdays—seven local days <p>Local sick leave is earned at the rate of one-half day for each 18 days of employment for the first 180 days of the employment year and one day for each 22 days of the employment year after the first 180 days up to the maximum days as listed above and may accumulate to a maximum of 60 days.</p> <p>The Superintendent or designee may consider individual needs and has the authority to grant the use of local sick leave for extenuating circumstances beyond the uses identified by the state sick leave provision (leave accrued prior to May 30, 1995).</p>
CHILD NURTURING LEAVE	<p>An employee who becomes a parent of a child up to one year of age through the legal adoption process or becomes a parent through the birth of a child may use up to 30 consecutive workdays of accumulated state personal leave creating an absence of no more than six calendar weeks beginning at the time of birth or adoption.</p> <p>The employee shall submit to the supervisor or principal a written request for absence due to child adoption or birth of a child that includes the anticipated dates of absence and return to work. The written request shall be accompanied by a confirmation letter from the adoption agency stating the anticipated or actual delivery date, or a note from the attending physician.</p> <p>At least five days prior to the expected date of return the employee shall give written notice to the Superintendent or designee of the desire to return.</p> <p>Absences under this leave provision shall be used concurrently with family and medical leave. Any days used in addition to the six</p>

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calendar weeks shall be governed by FMLA guidelines and any other applicable provisions of this policy.

If both spouses are employed by the District, use of accumulated paid leave under this leave provision for adoption purposes or the birth of a child may be limited to a combined total of 30 workdays as determined by the needs of the District.

SICK LEAVE BANK

The Board authorizes the establishment of a Sick Leave Bank with membership available to all employees on a voluntary basis. The purpose of the Sick Leave Bank is to provide sick leave to contributors to the bank in the event of extended illness, surgery, or inability to work due to an injury. This source of sick leave is available only to bank members and only after a member's accumulated state sick leave, state personal leave, and local sick leave have been exhausted.

The Superintendent or designee(s) shall develop the administrative regulations concerning membership, contribution and use of days, procedures for applying for sick leave days from the bank, the methods for selection of the governing committee of the bank, the term of office for the committee members, the duties and responsibilities of the governing committee, and all other procedures and operations of the bank as deemed necessary for the bank to function.

EXTENDED LOCAL
SICK LEAVE

The Superintendent or designee may grant up to ten days of extended local sick leave to a member of the District sick leave bank for any absence that is normally covered by local sick leave.

The employee must make written request for such extended local sick leave after the following conditions are met:

1. All available state sick leave and state personal leave have been exhausted;
2. All available local sick leave has been exhausted; and
3. All days that are available from the District sick leave bank have been exhausted.

In the event extended local sick leave is granted, the cost of a substitute shall be deducted for each day granted according to the Board adopted substitute employee salary schedule, but in no case shall the deduction be for more than one-half the employee's daily rate of pay.

The Superintendent reserves the right to study each case on its individual merit and, at his or her discretion, may recommend that the Board give special consideration to employees with extenuating circumstances.

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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 as indicated below.

Local sick leave, if any, shall be used before state sick leave accumulated prior to the 1995–96 school year and under the terms and conditions applicable to such state sick leave, except as otherwise provided by this policy. State sick leave accumulated prior to the 1995–96 school year shall be used before state personal leave. For each type of leave, the days earned first will be used first.

Employees shall be charged leave as used even if a substitute is not employed. Leave shall not be approved for more days than have been accumulated in prior years plus those credited during the current year.

Leave for the current year shall be available for use as credited. When an employee who has used more sick leave than he or she has earned ceases to be employed by the District, the cost of the unearned sick leave days shall be deducted from the employee's final paycheck.

Any other leaves granted or days of absence shall result in a deduction of the daily rate of pay for each day of absence, unless otherwise provided.

LOCAL SICK LEAVE
BUY BACK

At the one point in time when an employee initiates annuity payments from their Teacher Retirement System account, any employee may sell all unused local sick leave days that have been earned after October 4, 1999, back to the District. The employee must have a balance of at least 15 state leave days to be eligible for this benefit. The rate of compensation for these days will be determined annually by the Board.

MEDICAL
CERTIFICATION

An employee absent more than five consecutive workdays because of personal illness shall submit, upon return to work, a medical certification of illness and of his or her fitness to return to work. An employee absent more than three consecutive workdays because of illness in the immediate family shall present, upon return to work, medical certification of the family member's illness.

HEALTH CARE
PROVIDER

For leave other than that taken under the federal Family and Medical Leave Act, medical certification shall be made by a doctor who is registered and licensed under the Medical Practice Act of Texas, a licensed doctor of dentistry, a licensed chiropractor, or a licensed podiatrist. An employee may have his or her illness certified by a Christian Science practitioner listed with the First Church of Christ, Scientist in Boston.

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For leave taken under the Family and Medical Leave Act, medical certification shall be as described in federal regulations and on the form provided by the District.

BEREAVEMENT
(FUNERAL) LEAVE

Use of any combination of local sick leave, state sick leave, and/or state personal leave for death in the immediate family shall not exceed five workdays per occurrence, subject to the approval of the District.

TYPES OF STATE
PERSONAL LEAVE

Under 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:

NON-
DISCRETIONARY

1. To be used for the same reasons as for state sick leave accumulated prior to May 30, 1995: personal or family illness, family emergency, or death in the immediate family. The use of accrued nondiscretionary personal leave or of accumulated sick leave may not be withheld from an employee, but an absence in excess of the specific number of days established by local policy would need certification of a health care provider.

DISCRETIONARY

2. To be taken at the individual employee's discretion, for which it is possible to set a schedule in advance and subject to limitations set out below.

Employees shall not be allowed to take discretionary personal leave in the following circumstances except in extenuating circumstances as approved by the Superintendent or designee or as otherwise provided in this policy.

1. The day before a designated holiday for the employee.
2. The day after a designated holiday for the employee.
3. Days designated as staff development or training days for the employee.
4. First or last day of a semester.

In addition to the above, classroom teachers shall not be allowed to take discretionary personal leave in the following circumstances except in extenuating circumstances as approved by the Superintendent or designee or as otherwise provided in this policy.

1. Days scheduled for end-of-semester or end-of-year exams.
2. Days scheduled for TAAS tests or other standardized tests.

REQUEST FOR
USE

A notice of request for discretionary personal leave shall be submitted to the principal or designee five days in advance of the anticipated absence, when possible. Supervisors will approve requests

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for discretionary personal leave based on the needs of the District and/or the requirements of the position of the employee making the request.

Discretionary personal leave may not be taken for more than three consecutive days, except in extenuating circumstances as determined by the Superintendent or designee or as otherwise provided in this policy.

A maximum of five days discretionary personal leave may be taken in a school year except in extenuating circumstances as approved by the Superintendent or designee or as otherwise provided in this policy.

ASSAULT LEAVE

In addition to all other days of leave, a District employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. At the request of an employee the District must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, the District may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave policy benefits will equal 100 percent of the employee's weekly rate of pay.

Education Code 22.003(b); Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

FEDERAL FAMILY AND
MEDICAL LEAVE ACT
(FMLA)

An employee of the District who has been employed by the District for at least 12 months and for 1,250 hours during the previous 12-month period shall be entitled to a total of 12 workweeks of leave, without loss of any employment benefit accrued prior to the beginning of the leave, during the 12-month period between July 1 and June 30 of each year for one or more of the following reasons:

1. Because of the birth or adoption, including placement for foster care, of the employee's child and in order to care for the child, provided the leave is taken within 12 months of the birth, adoption, or placement of the child;
2. To care for the employee's spouse, child, or parent if the spouse, child, or parent has a serious health condition; or

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3. Because of the employee's serious health condition that makes the employee unable to perform functions of his or her position.

29 U.S.C. 2611(2), 2612(a)

NOTICE TO
EMPLOYEES

The District shall post and keep posted in conspicuous places on each campus where notices to employees are usually posted, a notice approved by the Secretary of Labor that sets out excerpts from or summaries of the Family and Medical Leave Act and information pertaining to the filing of a charge. *29 U.S.C. 2619*

If the District's workforce is comprised of a significant portion of workers who are not literate in English, the District shall be responsible for providing the information required by the notice in a language in which the employees are literate. *29 CFR 825.300(c)*

SERIOUS HEALTH
CONDITION

A "serious health condition" that entitles an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefor or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider for a period of incapacity (as described above) for:
 - a. More than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition;
 - b. Pregnancy, including severe morning sickness, or prenatal care;
 - c. Treatment for such incapacity due to a chronic serious health condition (one that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity);
 - d. A condition for which treatment may not be effective and for which the employee or family member is under the continuing supervision of a health care provider (i.e., Alzheimer's, a severe stroke, or the terminal stages of a disease); or

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- e. The purpose of receiving multiple treatments by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

29 CFR 825.114(a)

HEALTH CARE
PROVIDER

For FMLA leave purposes, a “health care provider” is defined as any of the following:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices;
2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state (meaning that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider) and performing within the scope of their practice as defined by state law;
3. Nurse practitioners, nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law;
4. Christian Science Practitioners who are listed with the First Church of Christ, Scientist in Boston, Massachusetts;
5. Any health care provider from whom an employer or the employer’s group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; or
6. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

29 CFR 825.118

MAINTENANCE OF
HEALTH BENEFITS

During any period that an eligible employee takes FMLA leave, the District shall maintain coverage under any “group health plan” for the duration of the leave at the level and under the conditions cov-

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erage would have been provided if the employee had continued in active duty with the District. *29 U.S.C. 2614(c)(1)*

FAILURE TO
RETURN FROM
LEAVE

The District may recover its share of health care premiums paid during a period of FMLA leave if an employee fails to return to work after his or her FMLA leave entitlement has been exhausted or expires, unless one of the following conditions exists:

1. The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under the FMLA; or
2. Other circumstances beyond the employee's control.

When an employee fails to return to work, except for the reasons stated above, health premiums paid by the District during a period of FMLA leave are a debt owed the District by the nonreturning employee, and may be recovered by the District through deduction of any sums due the employee or through legal action.

29 U.S.C. 2614(c)(2); 29 CFR 825.213(a)(f)

INTERMITTENT
LEAVE

An eligible employee other than an instructional employee may take leave intermittently or on a reduced leave schedule when medically necessary to care for a spouse, parent, or child or to receive planned medical treatment for himself or herself.

Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule reduces the usual number of working days per work week or hours per workday. The District may limit leave increments to the shortest period of time that its payroll system uses to account for absences or use of leave, provided it is one hour or less. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, unless the employee is an eligible instructional employee whose request meets the conditions below. *29 CFR 825.203 (a)(d)*

An eligible instructional employee who requests leave to care for a spouse, parent, or child or because of his or her own serious health condition that is foreseeable based on planned medical treatment and who would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, may be required to choose either to:

1. Take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
2. Transfer temporarily to an available alternative position offered by the District for which the teacher is qualified and that

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has equivalent pay and benefits and better accommodates recurring periods of leave than the teacher's regular employment position.

29 U.S.C. 2618(c)

"Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants, such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instruction, nor does it include personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

29 CFR 825.600(c)

CHILD CARE /
ADOPTION

Intermittent leave shall not be permitted for the birth of the employee's child or the adoption or placement of a child with the employee.

END-OF-TERM
LEAVE

When an instructional employee requests leave near the end of a semester, the District may impose the following restrictions on the timing of a return to duty:

1. If the leave begins more than five weeks before the end of the semester, the District may require the employee to continue taking leave to the end of the semester if the leave will last at least three weeks and the return to employment would occur during the three-week period before the end of the semester.
2. If the leave begins during the five weeks before the end of the semester and is for a purpose other than the employee's own serious health condition, the District may require the employee to continue taking leave until the end of the semester if the leave will last more than two weeks and return to employment would occur during the two-week period before the end of the semester.
3. If the leave begins during the three weeks prior to the end of the semester for a purpose other than the employee's own serious health condition and will last more than five working days, the District may require the employee to continue to take leave until the end of the semester.

If the District requires an employee to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA entitlement.

29 U.S.C. 2618(d); 29 CFR 825.600(c), 825.602, 825.603(b)

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BOTH SPOUSES
EMPLOYED IN
DISTRICT

A husband and wife who are eligible for FMLA leave and are both employed in the District may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

1. For the birth of a son or daughter or to care for the child after birth;
2. For the placement of a son or daughter for adoption or foster care, or to care for the child after placement; or
3. To care for a parent with a serious health condition.

When the husband and wife both use a portion of the total 12-week entitlement for one of the purposes noted above, each spouse shall be entitled to the difference between the amount he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those listed above.

29 U.S.C. 2612(f); 29 CFR 825.202

NOTICE BY
EMPLOYEES
FORESEEABLE
LEAVE

An employee shall provide at least 30 days' notice before FMLA leave is to begin if the need for leave is foreseeable based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days' notice is not practicable, such as because of not knowing approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

"As soon as practicable" means as soon as possible and practical taking into account all of the facts and circumstances in the individual case. Ordinarily, it would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

29 CFR 825.302

LEAVE THAT IS NOT
FORESEEABLE

When the need for leave, or its approximate timing, is not foreseeable, an employee shall provide notice to the District as soon as practicable under the facts and circumstances of the particular case. Ordinarily, notice shall be provided within no more than one or two working days of learning of the need for leave. Notice should be provided either in person or by telephone, telegraph, "fax" machine, or other electronic means. *29 CFR 825.303*

SPECIFICITY OF
NOTICE

Employees are not required to expressly invoke the FMLA's protection when notifying the District of their need for FMLA leave. *Manual v. Westlake Polymers Corp., 66 F.3d 758 (5th Cir. 1995)*

MEDICAL
CERTIFICATION

The District may require a certification issued by the health care provider of the spouse, child, parent, or employee that the em-

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ployee is needed to care for the spouse, child, or parent or, in case of leave for the employee's condition, that the employee is unable to perform the functions of his or her position. The certification shall include the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the provider's knowledge regarding the condition. The employee shall in a timely manner provide a copy of the certification to the District. *29 U.S.C. 2613*

RECERTIFICATION

For pregnancy, chronic, or permanent/long-term conditions under the continuing supervision of a health care provider, the District may request recertification no more often than every 30 days, unless more frequent recertification is warranted because:

1. The employee requests an extension of leave;
2. Circumstances described by the original certification have changed significantly (i.e., the duration or nature of the illness or complications); and
3. The District receives information that casts doubt upon the continuing validity of the certification.

The employee must provide the requested recertification to the District within the time frame requested by the District (which must allow at least 15 days to submit a recertification), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

Any recertification requested by the District shall be at the employee's expense, unless the District provides otherwise. No second or third opinion on recertification may be required.

29 U.S.C. 2613(e); 29 CFR 825.308

CONCURRENT USE OF
PAID LEAVE AND
FMLA LEAVE

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

Once the District has acquired knowledge that the leave is being taken for an FMLA-required reason, the District must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. *29 CFR 825.208(b)(1)*

WORKERS'
COMPENSATION
RECIPIENTS

The District may not deny use of accrued paid leave to an employee who is on FMLA leave and receiving workers' compensation benefits. *Atty. Gen. Op. JC-40 (1999)*

RETURN TO WORK

The District may uniformly require, as a prerequisite for reinstating employees whose FMLA leave was due to their own serious health

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condition, medical certification of their ability to resume work.
29 U.S.C. 2614(a)(4)

RETURN TO
POSITION

An employee who takes FMLA leave under these provisions is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. The determination of how an employee is restored to an equivalent position is based on the District's established policies and practices that clearly explain the employee's restoration rights on return from leave. *29 U.S.C. 2614(a)(1), 2618(e); 29 CFR 825.604*

DENIAL OF
RESTORATION

The District may deny restoration to "key employees," as described below, and may delay restoration to any employee who fails to provide a fitness-for-duty certificate to return to work, if such is required by the District.

A "key employee" is a salaried FMLA-eligible employee who is among the highest paid ten percent of all District employees within 75 miles of the employee's worksite. Key employees may be denied restoration to their original or equivalent positions under the following conditions:

1. At the time FMLA leave is requested (or FMLA leave begins, if earlier), the employee has received written notice that he or she is a "key employee," and has been informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the District determines that substantial and grievous economic injury will result to District operations if the employee is reinstated from FMLA leave.
2. The Board determines that denial of restoration is necessary to prevent substantial and grievous economic injury to the District.
3. On making the determination that injury would occur, the District notifies the employee in writing, either in person or by certified mail, of its intent to deny restoration to employment on completion of FMLA leave. The notice must explain the basis for the Board's finding of injury and must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of leave and the urgency of the need for the employee to return.
4. If the employee does not return to work in response to the District's notice, he or she continues to be entitled to maintenance of health benefits at the District's expense. The employee's FMLA rights continue unless and until the employee gives notice he or she no longer wishes to return to duty or

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the District actually denies restoration at the end of the leave period.

5. An employee who has received notice as set out at item 3 above is still entitled to request reinstatement at the end of the leave period. The District must then determine whether it will suffer substantial and grievous economic injury from reinstatement based on the facts at that time. If such a determination is made, the District shall notify the employee in writing (in person or by certified mail) of denial of restoration.

29 U.S.C. 2614(b); 29 CFR 825.216, 825.217, 825.219, 825.312(c)

WORKERS'
COMPENSATION

An employee receiving workers' compensation wage benefits shall be assigned to family and medical leave, if applicable. The employee shall inform the appropriate administrator whether he or she chooses to use available paid leave while receiving workers' compensation wage benefits. [See CRE(LEGAL)]

PAID LEAVE
OFFSET

An employee who chooses to use paid leave shall have his or her weekly workers' compensation wage benefit supplemented up to the pre-injury regular weekly wage. The District shall charge the employee's accrued leave proportionately until the available leave is exhausted. [See CRE(LEGAL)]

An employee absent from duty as the result of an injury or illness for which workers' compensation is paid does not earn state or local sick leave or paid vacation time during the absence after all paid leave from the District is exhausted.

SICK LEAVE
DIFFERENT FROM
TEMPORARY
DISABILITY LEAVE

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. *Atty. Gen. Op. H-352 (1974)*

PREGNANCY

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. *29 CFR 1604.10(b)*

TEMPORARY
DISABILITY LEAVE

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties for longer than a 12-week period. The educator's contract or employment cannot be terminated by the District during the period while the educator is on leave of absence for temporary disability.

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DEFINITIONS

“Temporary disability” shall be defined as any physical or mental condition of the educator that would prevent the educator from performing assigned duties in a satisfactory manner. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

The term “educator” as used in this policy refers to all full-time employees who work under conditions of a written contract and/or hold a certificate issued under Texas Education Code Subchapter B, Chapter 21.

AT EDUCATOR’S
REQUEST

An educator request for leave of absence for temporary disability shall be submitted to the Superintendent or designee, accompanied by a licensed physician’s affidavit confirming the educator’s inability to work and indicating the beginning and probable ending dates of the requested leave. An educator who is a member of the Christian Science Church may have a Christian Science practitioner attest to the educator’s disability. If, in the opinion of the Superintendent or designee, the educator’s request for leave and/or the physician’s affidavit are not satisfactory to the Superintendent or designee, the Superintendent or designee may consult and confer with the District’s medical consultant. The decision of the Superintendent or designee shall be final, subject to review by the Board.

AT DISTRICT’S
REQUEST

The Superintendent or designee may place an educator on a leave of absence for temporary disability when, in his or her judgment, after consultation with the District’s medical consultant and/or with a physician who has performed a thorough medical examination of the educator, the educator’s condition is interfering with the performance of regularly assigned duties.

If the educator does not concur with the decision of the Superintendent, the educator has the right to present to the Board other information relevant to the educator’s fitness to continue the performance of regularly assigned duties in accordance with and pursuant to the administrative procedures or guidelines developed by the administration for resolving the dispute:

1. The educator must set forth in writing his or her objections to the decision of the Superintendent or designee and the grounds therefor.
2. Upon receipt of the educator’s written statement, the Superintendent or the Board may refer the matter to a panel of three physicians to be composed of the District’s medical consultant, a physician designated by the educator, and a physician designated by the Superintendent, the Board, or the District’s medical consultant.

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3. The Board shall make the final decision as to whether or not the educator is placed on a temporary disability leave of absence for such period as the Board shall, in its judgment, determine.

USE OF OTHER
LEAVE

If the educator uses accumulated authorized leave prior to being placed on a temporary disability leave of absence, the educator's name shall remain on the roster of professional personnel until the accumulated authorized leave has been exhausted. Concurrent with placement on a temporary disability leave of absence, the educator's name shall be removed from the roster of professional personnel.

LENGTH OF
ABSENCE

The Superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. The maximum length for a leave of absence for temporary disability for full-time educators shall be 180 calendar days. *Education Code 21.409*

RETURN TO
ACTIVE DUTY
NOTICE

The educator shall notify the Superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties. *Education Code 21.409*

PLACEMENT

An educator returning to active duty after a leave of absence for temporary disability is 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 campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, the District must place the employee at the school at which the employee formerly taught or was assigned. *Atty. Gen. Op. DM-177 (1992)*

STATE MILITARY
LEAVE: SHORT-TERM

All employees of the District who are members of the state military forces or of the reserve components of the United States Armed Forces shall be granted a leave of absence from their duties without loss of time, efficiency rating, vacation time, or salary on all days during which they are engaged in authorized training or duty ordered or authorized by proper authority, not to exceed 15 days in a federal fiscal year.

Such employees who are ordered to duty by proper authority shall be restored, when relieved from duty, to the position held by them when ordered to duty.

Gov't Code 431.005

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STATE MILITARY
LEAVE: LONG-TERM

Any employee, other than a temporary employee, who leaves a position with the District to enter active state military service is entitled to be reemployed by the District in the same position held at the time of the induction, enlistment, or order, or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active state military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position. *Gov't Code 613.001(3), 613.002*

An employee who cannot perform the duties of the position because of a disability sustained during state military service is entitled to reemployment in the District in a position that the employee can perform and that has like seniority, status, and pay as the former position or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

To be reemployed, a veteran of the state military must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active state military service. Application must be made in writing to the Superintendent and have attached to it evidence of the veteran's discharge, separation, or release from state military service under honorable conditions. *Gov't Code 613.004*

A person reemployed after active state military service shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

"Military service" means service as a member of the Texas National Guard or the Texas State Guard. *Gov't Code 613.001(2)*

RELIGIOUS
OBSERVANCES

The District shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of District business. Such absence shall be without pay unless applicable paid leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 107 S.Ct. 367 (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir.1984)*

JURY DUTY

The District may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, the District shall pay the employee the employee's normal daily compensation. An em-

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	<p>employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. <i>Education Code 22.006</i></p>
COURT APPEARANCES	<p>Absences for court appearances that are not related to school business or jury duty shall be deducted from the employee's personal leave or shall be taken by the employee as leave without pay.</p>
LEAVES OF ABSENCE	<p>Leaves of absence without pay may be granted to full-time educators for reasons and times as specified in this policy. All requests for leaves of absence must be submitted to the Superintendent or designee.</p>
REASONS FOR LEAVE OF ABSENCE	<p>The Board recognizes the reasons of temporary disability, illness in immediate family, and education leave as possible reasons for granting a leave of absence.</p>
SUPERINTENDENT ACTION	<p>The Superintendent or designee shall consider all requests for leave of absence and shall make recommendations to the Board regarding granting leaves of absence.</p> <p>In no event shall a leave of absence be granted or extended beyond the then existing termination date of the educator's contract. No educator under a contract for one year or less shall be entitled to the benefits of this policy should it have the effect of extending the contract term.</p> <p>A leave of absence for more than 12 weeks shall be from the faculty of the District and not from a specific assignment. Reassignment to active status is contingent upon a vacancy in the educator's field of preparation and determination that the employee on leave of absence is the best certified and qualified applicant for the vacancy.</p>
RECORDS OF ABSENCE	<p>Appropriate records describing the nature and length of absence shall be maintained in the personnel file of the educator.</p>
ILLNESS IN FAMILY	<p>A leave of absence for extended illness within the professional educator's immediate family may be granted for a semester or for a school year. All leaves of absence for the reason of illness in family that extend beyond 12 weeks shall be from the faculty of the District and not from a specific assignment. Reassignment to active status is contingent upon a vacancy in the educator's field of preparation and determination that the employee on leave of absence is the best certified and qualified applicant for a vacancy.</p>
EDUCATION LEAVE	<p>Professional certified educators may be granted a semester or a year's leave of absence by the Board, without pay, to enroll in an educational program to work toward an advanced degree, addi-</p>

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tional teaching field, or certification endorsement. Such educators shall notify the Superintendent or designee of the desire to return to active duty at least 60 days prior to the expected date of return. All leaves of absence for education reasons shall be from the faculty of the District and not from a specific assignment. Reassignment to active status is contingent upon a vacancy in the educator's field of preparation and determination that the employee on leave of absence is the best certified and qualified applicant for a vacancy.

SEVERABILITY

It is the intent of the Board that the sections, paragraphs, sentences, clauses, and phrases of this policy are severable: if any phrase, clause, sentence, paragraph, or section of this policy shall be declared invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this policy.

EFFECTIVE

It is the intent of the Board that any provision of this policy that amends policy DEC(LOCAL), as adopted on November 12, 1999, shall be effective prospectively only, and shall take effect only after this policy is adopted upon its second reading.