

GCC ©
PROFESSIONAL / SUPPORT STAFF
LEAVES AND ABSENCES

(Absent Without Leave)

An employee shall be deemed "absent without leave" when absent from work because of:

- A reason that conforms to a policy currently in effect but the maximum days provided for in that policy will be exceeded; *or*
- A reason that does not conform to any policy currently in effect; *or*
- Failure to report to work without prior notification to the Superintendent.

In no case shall an employee be compensated for time lost due to being absent without leave.

An employee who is absent from work without prior approval is subject to disciplinary action, as is one who was unable to obtain prior approval due to unusual circumstances and such approval is denied upon the employee's return.

Adopted: date of Manual adoption

LEGAL
A.R.S.
[15-341](#)

REF.:

GCCA©

PROFESSIONAL/SUPPORT STAFF LEAVE

Personal Leave

Each staff member shall be credited with a personal leave allowance as determined by the number of months employed:

Twelve (12) month employment	seven (7) days
Eleven (11)-month employment	six (6) days
Ten (10) month employment	five (5) days

Any staff member working less than full time shall be entitled to that portion of personal leave allowance as their work bears to a full-time assignment. The unused portion of such allowance shall have unlimited accumulation and is reimbursable as set forth in the section of this policy entitled "Compensation for Unused Personal Leave".

Personal leave allowance days may be used for any of the following reasons:

- Family Medical Leave Act.
- Sickness or disability.
- Personal business leave.
- Bereavement.

When all allocated accrued leave days have been used, a staff member must apply for an unpaid leave of absence.

Upon request, the staff member shall inform the Superintendent of the following:

- A. Purpose for which absence leave is being taken.
- B. Expected date of return from absence leave.
- C. Where the staff member may be contacted during the leave.

Any employee who can be shown to have willfully violated or misused the District's absence leave policy or misrepresented any statement or condition will be subject to discipline, which may include reprimand, suspension, and/or dismissal.

Compensation for Unused Personal Leave

Upon resignation or retirement (approved by the Governing Board) or death, a certificated or administrative employee or the employee's estate shall be paid for each day of unused personal leave using the daily base rate for guest teachers. The reimbursement will be calculated using the following method:

- After five (5) and up to ten (10) years of continuous service with the District, the employee will be reimbursed at fifty percent (50%) of the daily base rate for guest teachers.

- After ten (10) years and up to fifteen (15) years of continuous service to the District, the employee will be reimbursed at seventy-five percent (75%) of the base rate for guest teachers.
- After fifteen (15) years of continuous service with the District, the employee will be reimbursed at one hundred percent (100%) of the base rate for guest teachers.

Upon resignation or retirement (approved by the Governing Board) or death, a classified employee or the employee's estate will be paid for each hour of unused personal leave using the hourly rate on the first step of the column where they were placed. The reimbursement will be calculated using the following method:

- After five (5) and up to ten (10) years of continuous service with the District, the employee will be reimbursed at fifty percent (50%) of the hourly rate on the first step of the column where they were placed not to exceed 50% of the hourly rate of a guest teacher.
- After (10) and up to fifteen (15) years of continuous service with the District, the employee will be reimbursed at seventy-five percent (75%) of the hourly rate on the first step of the column where they were placed not to exceed 75% of the hourly rate of a guest teacher.
- After fifteen (15) years of continuous service with the District, the employee will be reimbursed at one hundred percent (100%) of the hourly rate on the first step of the column where they were placed not to exceed the hourly rate of a guest teacher.

Earned Paid Sick Time

The purpose of this portion of the policy is to comply with the Fair Wages and Healthy Families Act.

Paid sick leave for District personnel is a designated amount of compensated leave that is to be granted to a staff member who, through personal or family illness, injury, or quarantine, is unable to perform the duties assigned.

Earned paid sick time may be used for:

- A. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
- B. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care;
- C. Reasons related to childcare, domestic violence, sexual violence, abuse or stalking, and legal services as described in A.R.S. §23-373.
- D. Personal business.
- E. Bereavement.

As defined in statute (A.R.S. §23-371), "family member" means:

- A. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*,

- or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
- B. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee's spouse or domestic partner was a minor child;
 - C. A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;
 - D. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
 - E. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Accrual:

- A. Employees of the District shall accrue one (1) hour of earned paid sick time for every thirty (30) hours worked, but employees shall not be entitled to accrue or use more than forty (40) hours of earned paid sick time per year. A “year” is defined as the twelve (12) month period beginning on July 1 of each fiscal year.
- B. An employee has two options for unused earned paid sick time at the end date of their most current contract:
 - 1. Elect to carry over to the following year a maximum of forty (40) hours of unused earned paid sick time. Carry over shall not affect accrual or use rights under the Act.
 - 2. Elect to transfer unused Earned Paid Sick Time to their personal leave bank.
- C. Earned paid sick time shall begin to accrue at the commencement of employment or on July 1, 2017, whichever is later.
- D. Employees who are exempt from overtime requirements under the Fair Labor Standards Act of 1938 (29 United States Code section 213(A)(1)) will be assumed to work forty (40) hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty (40) hours, in which case earned paid sick time accrues based upon that normal work week.
- E. If an employee is transferred, but remains employed by the District, the employee is entitled to all earned paid sick time accrued and is entitled to use all earned paid sick time as provided in this section.
- F. When there is a separation from employment and the employee is rehired within nine (9) months of separation by the District, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.
- G. The District will not pay an employee for accrued earned paid sick time including an unused balance at the end of the employee’s contract year or upon the employee's termination, resignation, retirement or other separation from employment.

Use of Personal Leave and

Earned Paid Sick Time

Earned paid sick time may be used in 0.01 hour increments.

Use of personal leave and earned paid sick time shall be provided upon the request of an employee. Such request shall be made by electronic means (AESOP). When possible, the request shall include the expected duration of the absence. The District reserves the right to deny the use of earned paid sick time if the employee fails to report the need for the use of the personal leave or paid sick leave as required by this policy.

When the use of personal leave or earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice via the online system used for reporting absences (AESOP) of the need for such time to the District in advance of the use of the personal leave or earned paid sick time and shall make a reasonable effort to schedule the use of personal leave and earned paid sick time in a manner that does not unduly disrupt the operations of the District.

The District will provide written procedures to the employee regarding how to provide notice of the need to use personal leave and earned paid sick time. An employee that has not been provided a copy of the written procedures for providing such notice shall not be denied personal leave and earned paid sick time based on non-compliance with such procedures.

The District will not require, as a condition of an employee's taking earned personal leave or paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using personal leave or earned paid sick time.

For personal leave or earned paid sick time of three (3) or more consecutive work days, the District may require reasonable documentation that the personal leave or earned paid sick time complies with policy. Documentation signed by a health care professional indicating that the personal leave or earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

Notice

The District shall give employees written notice of the following at the commencement of employment or by July 1, 2017, whichever is later: employees are entitled to earned paid sick time and the amount of earned paid sick time, the terms of its use guaranteed in statute, that retaliation against employees who request or use earned paid sick time is prohibited, that each employee has the right to file a complaint if earned paid sick time as required by statute is denied by the District or the employee is subjected to retaliation for requesting or taking earned paid sick time, and the contact information for the commission where questions about rights and responsibilities under can be answered.

The required notice required shall be in English, Spanish, and any language that is deemed appropriate by the Industrial Commission of Arizona.

The amount of earned paid sick time available to the employee, the amount of earned

paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be recorded in, or on an attachment to, the employee's regular paycheck.

Retaliation Prohibited

The District will not interfere with, restrain, or deny the exercise of, or attempt to exercise, any right protected in this policy or the Arizona Fair Wages and Healthy Families Act.

Retaliation or discriminate against an employee or former employee because the person has exercised protected rights is prohibited. Such rights include but are not limited to the right to request or use earned paid sick time pursuant to the statute; the right to file a complaint with the commission or courts or inform any person about the District's alleged violation; the right to participate in an investigation, hearing or proceeding or cooperate with or assist the commission in its investigations of alleged violations and the right to inform any person of his or her potential rights.

The District's earned paid sick leave policy will not count earned paid sick leave as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

Protections of this section will apply to any person who mistakenly but in good faith alleges violations of this policy or the applicable law.

Adopted: July 13, 2017

LEGAL REF.: A.R.S.	15-187
	15-502
	23-363
	23-364
	23-371
	23-372
	23-373
	23-374
	23-375

CROSS REF.: GCBA - Professional Staff Salary Schedules

EXHIBIT**EXHIBIT****PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY****YOUR RIGHTS UNDER THE FAMILY AND
MEDICAL LEAVE ACT OF 1993**

The Family and Medical Leave Act of 1993 (FMLA) requires covered employers to provide up to twelve (12) weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one (1) year, and for one thousand two hundred fifty (1,250) hours over the previous twelve (12) months, and if there are at least fifty (50) employees within seventy-five (75) miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

Reasons for Taking Leave

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

Advance Notice and Medical Certification

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide thirty (30) days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

EXHIBIT**EXHIBIT*****Job Benefits and Protection:***

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA.
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information

If you have access to the Internet visit the FMLA website: <http://www.dol.gov/esa/whd/fmla>. To locate your nearest Wage-Hour Office, telephone the Wage-Hour toll-free information and help line at 1-866-4USWAGE (1-866-487-9243); a customer service representative is available to assist you with referral information from 8am to 5pm in your time zone; or log onto the following at <http://www.wagehour.dol.gov>.

***A Spanish translation of this form may be downloaded
<http://www.dol.gov/whd/fmla/index.htm>***

EXHIBIT

EXHIBIT

**PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY**

MILITARY FAMILY LEAVE

On January 28, 2008, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the Family and Medical Leave Act of 1993 (FMLA) to provide eligible employees working for covered employers two (2) important new leave rights related to military service:

- (1) **New Qualifying Reason for Leave.** Eligible employees are entitled to up to twelve (12) weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining "any qualifying exigency." In the interim, employers are encouraged to provide this type of leave to qualifying employees.
- (2) **New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to twenty-six (26) weeks of leave in a single twelve (12)-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during "a single twelve (12)-month period" during which an eligible employee is entitled to a combined total of twenty-six (26) weeks of all types of FMLA leave.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated are available on the FMLA amendments Web site at http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.

*A Spanish translation of this form may be downloaded
at <http://www.dol.gov/whd/fmla/index.htm>*

EXHIBIT**EXHIBIT****PROFESSIONAL / SUPPORT STAFF
LEAVES OF ABSENCE WITHOUT PAY****FACT SHEET NO. 28:
THE FAMILY AND MEDICAL LEAVE ACT OF 1993**

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the Family and Medical Leave Act (FMLA) for all private, state and local government employees, and some federal employees. Most federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the U.S. Office of Personnel Management or the Congress.

The FMLA became effective on August 5, 1993 for most employers and entitles eligible employees to take up to twelve (12) weeks of unpaid, job-protected leave in a twelve (12)-month period for specified family and medical reasons. Amendments to the FMLA by the National Defense Authorization Act for FY 2008 (NDAA). Public Law 110-181, expanded the FMLA to allow eligible employees to take up to twelve (12) weeks of job-protected leave in the applicable twelve (12)-month period for any "qualifying exigency" arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The NDAA also amended the FMLA to allow eligible employees to take up to twenty-six (26) weeks of job-protected leave in a "single twelve (12)-month period" to care for a covered servicemember with a serious injury or illness.

Employer Coverage

FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), and private-sector employers who employed fifty (50) or more employees in twenty (20) or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

Employee Eligibility

To be eligible for FMLA benefits, an employee must:

- work for a covered employer;
- have worked for the employer for a total of twelve (12) months;

EXHIBIT**EXHIBIT**

- have worked at least one thousand two hundred fifty (1,250) hours over the previous twelve (12) months; and
- work at a location in the United States or in any territory or possession of the United States where at least fifty (50) employees are employed by the employer within seventy-five (75) miles.

While the twelve (12) months of employment need not be consecutive, employment periods prior to a break in service of seven (7) years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the employer's intention to rehire the employee after the break in service. See, special rules for returning reservists under USERRA.

Leave Entitlement

A covered employer must grant an eligible employee up to a total of twelve (12) workweeks of unpaid leave during any twelve (12)-month period for one (1) or more of the following reasons:

- For the birth and care of a newborn child of the employee;
- For placement with the employee of a son or daughter for adoption or foster care;
- To care for a spouse, son, daughter, or parent with a serious health condition;
- To take medical leave when the employee is unable to work because of a serious health condition; or
- For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

A covered employer also must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of twenty-six (26) workweeks of unpaid leave during a "single twelve (12)-month period" to care for the servicemember.

EXHIBIT**EXHIBIT**

Spouses employed by the same employer are limited in the amount of family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of twelve (12) weeks (or twenty-six [26] weeks if leave to care for a covered servicemember with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within twelve (12) months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently - taking leave in separate blocks of time for a single qualifying reason - or on a reduced leave schedule - reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation. If FMLA leave is for birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

Under certain conditions, employees or employers may choose to "substitute" (run concurrently) accrued paid leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider, which includes:
 - A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - ▲ treatment two (2) or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within seven (7) days and both within thirty (30) days of the first day of incapacity); or

EXHIBIT**EXHIBIT**

- ▲ one (1) treatment by a health care provider (i.e., an in-person visit within seven (7) days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); or
- Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; or
- Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; or
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; or
- Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

Maintenance of Health Benefits

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

Job Restoration

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

EXHIBIT**EXHIBIT**

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

Notice and Certification***Employee Notice***

Employees seeking to use FMLA leave are required to provide thirty (30)-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than thirty (30) days in advance, the employee must provide notice as soon as practicable - generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for an employer reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subject to a fine of up to one hundred ten dollars (\$110) for each separate offense. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

EXHIBIT**EXHIBIT**

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under FMLA. When the employer has enough information to determine that leave is being taken for a FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave.

Certification

Employers may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. An employer may require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official - but not the employee's direct supervisor - to authenticate or clarify a medical certification of a serious health condition. An employer may have a uniformly-applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, an employer may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

Unlawful Acts

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

Enforcement

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

Other Provisions

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent leave or when leave is required near the end of a school term.

EXHIBIT**EXHIBIT**

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 C.F.R. Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the "salary basis" requirements for FLSA's exemption extends only to an "eligible" employee's use of leave required by FMLA.

For additional information, visit the Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call the toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866- 4USWAGE (1-866-487-9243).

PROFESSIONAL / SUPPORT STAFF LEAVES OF ABSENCE WITHOUT PAY

The District recognizes that on occasion extenuating circumstances arise that may necessitate absence from duty that is not covered by other specific leave provisions of the District. To address such situations, a leave of absence, without pay, may be granted a member of the certificated or support staff for not longer than one (1) year.

Leave of absence may be requested for, but not limited to, the following purposes:

- For additional education that relates to the employee's primary assignment. A plan of contemplated course work must be presented.
- To provide for an unpaid leave in a situation where the employee will be absent from work because of 1) a reason that conforms to a policy currently in effect but the maximum number of days provided for in that policy will be exceeded, or 2) failure to report to work without prior notification to the Superintendent.
- For a leave of absence that benefits or is in the best interest of the District, as determined by the Board upon review of the application.
- For leave under the Family and Medical Leave Act.

A leave of absence requested pursuant to this policy may be:

- Approved by the Superintendent if the leave period does not exceed twelve (12) weeks; or
- Recommended by the Superintendent and approved by the Governing Board if the leave period exceeds twelve (12) weeks.

A request for leave of absence shall not be denied by the District if the employee is entitled to the leave under the Family and Medical Leave Act. All other applications for leave of absence may be granted or denied by the District, in its sole discretion.

Each request for such a leave of absence shall be in a written application stating the purpose, starting date, and duration of the leave of absence, the reasons for its necessity or desirability, and any other information the applicant deems relevant to the request.

The leave of absence shall be only for the purpose and duration approved and may not be extended without written approval by the District.

All rights of continuing status (certificated teachers only), retirement, salary increments, and other benefits shall be restored at the level earned when the leave was granted. All accrued sick, vacation, personal, and other paid leave shall be applied to the leave period unless otherwise agreed to by the District or prohibited by the Family and Medical Leave Act.

Family and Medical Leave Act (FMLA)

The District shall fully comply with the Family and Medical Leave Act and all interim and final regulations interpreting the FMLA issued by the U.S. Department of Labor. Accordingly, all portions of this policy that pertain to the FMLA shall be interpreted in a manner consistent with the FMLA and its regulations. Subject to the conditions set forth herein, any eligible employee of the District may take up to twelve (12) weeks of leave (FMLA leave) measured backward for each employee from the first time such employee uses leave under FMLA without pay, for any one (1) or more of the following reasons:

- Because of the birth of a child of the employee and in order to care for such child.
- Because of the placement of a child with the employee for adoption or foster care.
- In order to care for the spouse or a son, daughter, or parent of the employee, if such person has a serious health condition.
- Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.
- Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

An *eligible* employee is one who has been employed by the District at least twelve (12) months and who has completed at least one thousand two hundred fifty (1,250) hours of service immediately prior to the time the FMLA leave is to commence.

Serious health condition means an illness, injury, impairment, or physical condition that involves inpatient care in a hospital, hospice, or residential medical facility, or outpatient care with continuing medical treatment by a licensed physician. Any employee who has been employed by the District at least twelve (12) months and who has completed at least one thousand two hundred fifty (1,250) hours of service immediately prior to the time the leave is to commence shall be eligible for FMLA leave.

Special conditions applicable to FMLA. Entitlement to leave for the birth of a child or the placement of a child for adoption or foster care ends at the expiration of a twelve (12)-month period, beginning on the date of the event. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve (12)-month period to care for the servicemember. The leave described to care for a covered servicemember shall only be available during one (1) single twelve (12)-month period.

A husband and wife working for the District may be limited to a total of twelve (12) weeks of leave during each applicable twelve (12)-month period for leave for the birth of a child or the placement of a child for adoption or foster care and to care for an employee's parent with a serious health condition. The aggregate number of workweeks of leave to which both the husband and wife may be entitled under covered servicemember family leave combined with leave as described in the previous sentence shall be limited to twenty-six (26) workweeks during one (1) single twelve (12)-month period.

The District shall not require an employee to substitute accrued sick leave for FMLA leave used by reason of a birth, adoption, or foster placement. An employee shall substitute accrued vacation or personal leave for FMLA leave used by reason of a birth, adoption, or foster placement, to the extent available by policy, unless otherwise agreed to by the District. In any other circumstance, an employee's accrued sick, vacation, personal, or other applicable leave shall be substituted for FMLA leave, to the extent available by policy, unless otherwise agreed to by the District.

Notice. An employee must provide at least thirty (30) days notice before the FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption, or foster care, planned medical treatment for a serious health condition, or military service leave of the employee or family member. If thirty (30) days notice is not practicable, notice must be given as soon as practicable. The notice shall be in the form of a request for leave of absence as specified in this policy. The District may deny FMLA leave to any eligible employee until such time as the employee has provided the required notice.

Certification. All FMLA leave shall be supported by medical certificate provided by the employee's health provider in the form of the exhibit accompanying this policy. In any instance where the FMLA leave must be preceded by thirty (30) days notice, the medical certificate should accompany the request for leave of absence. In any other instance, the medical certificate should be provided within fifteen (15) days after the FMLA leave commences.

Certification of active military duty or call to active duty in support of a contingency operation for purpose of receiving family leave shall be required under the same conditions as FMLA certification for leave indicated above.

The employee may be requested (at the District's expense) to provide recertification of medical conditions in support of leave if the District feels that the circumstances so warrant and notice is given. Recertification shall not be required for intervals shorter than thirty (30) days.

Whenever a medical certification or recertification is required of an employee, notice describing such requirement and providing the form of such certification shall be provided to the employee. An employee shall not be denied FMLA leave or other rights under the FMLA unless a notice required by FMLA in such situation has first been provided to the employee.

In the case of continuation, recurrence, or onset of a serious health condition to the employee, covered family of the employee (including a servicemember being cared for by an employee) and the employee is unable to return to work, certification issued by the health care provider of the entity with the serious health condition shall be required to support the inability of the employee to return to work.

Intermittent or reduced time (IRT) leave. FMLA leave may be taken intermittently or on a reduced leave schedule under the following circumstances:

- If medically necessary to care for a family member or for the employee's own serious health condition;
- Because of any qualifying exigency the spouse, or a son, daughter, or parent, of the employee is on active duty, or notified of an impending call or order to active duty in support of a contingency operation; or
- If approved by the District.

The District may, for the term of the leave, transfer the employee to an alternative position with equivalent pay and benefits.

If the IRT leave is for an *instructional employee* (one whose principal function is to instruct students in a class, small group, or as individuals), the District can require the employee either to take leave for a period or periods of a particular duration not greater than the duration of the planned treatment or to transfer temporarily to an available alternative position with equivalent pay and benefits that provides better accommodation of recurring periods of leave, provided the leave is:

- Requested to care for a qualifying family member or as a result of the employee's serious health condition preventing job performance;
- Foreseeable, based upon planned medical treatment; and
- For more than twenty percent (20%) of the working days in the leave period.

The employee may be granted leave under these circumstances, subject to reasonable efforts to schedule treatment so as not to unduly disrupt the educational program.

Special end-of-semester circumstances for instructional employees.

Under each of the following conditions, leave for an instructional employee may be required to continue to the end of the academic semester:

- Leave begins more than five (5) weeks before the end of the semester, leave is for at least three (3) weeks, and return to employment would occur during the last three (3) weeks of the semester.
- Leave other than for the employee's serious health condition begins within the last five (5) weeks of the semester, leave is for greater than two (2) weeks duration, and return to employment would occur during the last two (2) weeks of the semester.
- Leave other than for the employee's serious health condition begins within the last three (3) weeks of the semester and leave exceeds five (5) working days.

Employee notification. With each request for FMLA leave, the employee shall be notified:

- About FMLA by provision of the FMLA fact sheet (Exhibit EE).
- As appropriate concerning the expectations, obligations, and consequences of taking FMLA leave per 29 C.F.R. 825.301 of FMLA.
- That FMLA leave may be withheld until a requested notice is provided or the time frame is met.

- That if leave is granted to an employee who is unable to perform the work required, restoration may be denied until the employee has complied with the request to provide medical certification of ability to return to work.

The District will post notices in conspicuous places on the District premises that provide a summary of FMLA and information on how to file a charge for an FMLA violation.

Health care continuation. An employee taking FMLA leave shall be entitled to have the health care plan in which the employee is participating continue under the same terms and conditions applicable to actively working employees. The District shall require the repayment of any health care premiums paid by the District for continuing coverage during the period of the FMLA leave if the employee fails to return to work after the FMLA leave expires and the failure to return is not due to circumstances beyond the employee's control.

Position restoration. Upon return from FMLA leave, an employee shall be restored to the same position held before the FMLA leave commenced or to an equivalent position with equivalent pay, benefits, and working conditions. The District requires an employee to provide a medical certificate from a health care provider that the employee is able to resume work before returning from FMLA leave for a serious personal health condition. The District may delay the return of an instructional employee from FMLA leave at the end of a semester, in accordance with Section 825.602 of FMLA rules. The District may deny restoration of position to any key employee (i.e., one who is among the highest-paid ten percent [10%] of all employees of the District), in accordance with Section 825.218 of FMLA rules.

Adopted: date of Manual adoption

LEGAL REF.: A.R.S. 15-510
Family and Medical Leave Act of 1993
29 C.F.R. Part 825

REGULATION**REGULATION**

**PROFESSIONAL / SUPPORT STAFF
VOLUNTARY TRANSFER OF
ACCRUED SICK LEAVE**

(Application)

The application must be in writing.

The application must be supported by a physician's letter confirming the conditions required for receipt of sick-leave bank assistance.

Data in the application shall include the nature of the illness, diagnosis, and prognosis for return to duty.

The application shall be received by the District office within ten (10) days following the applicant beginning unpaid leave status.



PROFESSIONAL / SUPPORT STAFF VOLUNTARY TRANSFER OF ACCRUED SICK LEAVE

The District recognizes the existence of circumstances under which non-job-related, seriously incapacitating, and extended illnesses and injury may exhaust accrued leave of certificated employees. To provide some measure of relief in such situations, a limited mechanism, based upon voluntary transfer of accrued leave, is established.

Conditions. Accrued sick and/or personal leave may be donated from one employee to another employee, provided the following conditions are satisfied:

- The recipient of the donated leave or a member of the immediate family (as defined in GCCA) of the recipient of the donated leave has a non-job-related, seriously incapacitating, and extended illness or injury.
- The recipient employee has exhausted all leave balances.
- The recipient's return to duty is projected to occur within a period no longer than three (3) months.
- The donor voluntarily contributing days and **recipient** must be a **full-time employee**.
- The recipient must be presently on unpaid leave status with the District.
- The recipient must not be eligible for disability benefits, (including but not limited to Social Security), provided at District expense.
- The qualified employee must make any donation voluntarily. In no way, except for the official posting at the site, may any donations be solicited. Evidence of solicitation may result in disapproval of donations.
- The donor employee must submit the appropriate District form to Human Resources no later than ten (10) workdays from the date the informational notice is issued. Donations received in Human Resources after this deadline will be disapproved.
- A qualified employee may donate no more than five (5) days of sick/personal leave in any contract year.
- An employee donating sick/personal leave must maintain a minimum balance of twenty (25) days of sick/personal leave after the donation.
- Days of leave, not the actual wage of the donor employee, will be donated.
- Once approved, donated leave will not be returned or reimbursed to the donor employee.