Washington County School District
121 West Tabernacle Street
Saint George, Utah 84770
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District Policy 1332

FMLA, ADA and District Sick Leave

Personnel Administration Washington County School District - Revised 5-8-07; Revised 5-14-09; Revised 3-4-14; Revised 1-10-17; Revised 2-12-19; Revised 5-16-19; Revised 4-2-24

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1. Purpose:

The purpose of this policy is to outline an integrated approach for the efficient and effective management of sick leave in accordance with federal and state leave mandates, employee interests, changing workplace dynamics, and administrative supervision.

2. Policy:

2.1. Leave requests will be considered and granted or denied in accordance with applicable leave laws, including the Family and Medical Leave Act (FMLA), Americans With Disabilities Act (ADA), State law and workers' compensation statutes. The Washington County School District complies with District policies and all applicable state and federal leave laws. Employees who are denied leave in accordance with federal and state laws but who nevertheless take leave will be disciplined according to District policy at the level of up to and including termination.

2.2. Unless other arrangements are made with the principal, manager, or designee, employees must report to work immediately upon expiration of granted leave or at the time identified by a doctor's release. If leave is granted and an employee on leave does not return from leave on the day indicated in his or her original application or in an approved extension, the employee will be disciplined according to District policy.

2.3. The Washington County School District complies with the FMLA. Employees who have worked for at least 12-months and for 1250 hours of service are generally eligible to take up to 12 weeks of unpaid leave in a 12-month period for certain family and medical reasons. The FMLA also entitles an employee to take up to 26 workweeks of FMLA leave in a single 12-month period for military caregiver leave. Paid leave is counted simultaneously in the limits for FMLA leave, when applicable, according to District policy annually when the absence is necessitated by any of the following

circumstances:

2.3.1. Birth of a child,

2.3.2. Placement of a child with the employee for adoption or foster care,

2.3.3. A serious health condition that makes the employee unable to perform the functions of the employee's job,

2.3.4. Care of a spouse, dependent child, or parent of the employee with a serious medical condition.

2.3.5. Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty in support of a contingency operation.

2.3.6. To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

2.4. Employees who wish to take leave for medical treatment as a reasonable accommodation of a disability must request leave as soon as possible, so Washington County School District and the employee can engage in an interactive process for determining eligibility and identifying a reasonable accommodation.

2.4.1. If the Washington County School District has a legitimate business need to verify that the employee has a disability covered by the ADA, the employee must provide adequate medical information or may be required to submit to an examination authorized by the ADA to verify the existence of a covered disability, the nature and extent of needed accommodation, or the assessment of direct threat or fitness for duty.

2.4.2. To qualify as a reasonable accommodation under the ADA, the medical leave must be likely to result in the employee returning to work within a reasonable time with or without an accommodation. ADA leave will not be granted or extended if it results in an undue hardship, direct threat, or other denials brought about by business necessity to the Washington County School District. If a reasonable accommodation other than leave is available, the Washington County School District may choose that accommodation instead of leave. An employee returning from ADA leave will be returned to his or her original position only if he or she is qualified to perform the job's essential functions with or without reasonable accommodation. Requests for "indefinite" leave - that is, where an employee cannot say whether or when he or she will be able to return to work at all, as opposed to where a definitive or approximate date or range of dates can be provided - constitutes a per se undue hardship under the ADA and does not need to be provided as a reasonable accommodation. In addition to the above limitation, the following guidelines will be used when determining if a request of leave under the ADA imposes an undue hardship.

• the amount and/or length of leave required;

• the frequency of the leave;

• whether there is any flexibility with respect to the days on which leave is taken;

• whether the need for intermittent leave on specific dates is predictable or unpredictable;

• the impact of the employee's absence on coworkers and on whether specific job duties are being performed in an appropriate and timely manner; and

• the impact on the District's operations and its ability to serve students, patrons, or other employees appropriately and in a timely manner.

2.4.3. If the employee has been on ADA disability leave, the employee will have to provide medical information documenting their ability to perform the job with or without reasonable accommodation. If the documentation does not meet this requirement or the District has reasonable question regarding the information provided, the District may order the employee to undergo a fitness-for-duty examination to demonstrate that he or she is able to perform the job's essential functions with or without reasonable accommodation.

2.4.4. The District may not refuse to provide reasonable accommodations for an employee related to pregnancy, childbirth, breastfeeding, or related conditions if the employee requests a reasonable accommodation, unless the employer demonstrates it would create an undue hardship on the operations of the employer. Employees are not allowed to have their child (children) at the workplace for purposes of accommodating pregnancy, childbirth, breastfeeding, or related conditions.

3. Procedure:

The following procedures and guidelines are designed to administer and implement the requirements of the above policy.

3.1. Paid Sick Leave:

3.1.1. District means Washington County School District.

3.1.2. Board means Washington County School District Board of Education.

3.1.3. Serious health condition has the meaning given that term in the Family Medical Leave Act (FMLA).

3.1.4. Health care provider has the meaning given that term in the FMLA.

3.1.5. Disability has the meaning given that term in the Americans with Disabilities Act (ADA).

3.1.6. Eligible employee means any employee who, based on his/her status, term, and condition of District employment, is eligible for participation service credit in the Utah Retirement System. (5-8-07) J1-J2 visa exchange visitor teachers are not eligible for retirement benefits under Utah's Retirement and Insurance Benefit Act, U.C.A. 49-12-203(c), however they are eligible for paid sick leave accruals if they are contracted to work .5 FTE or more and are otherwise qualified for sick leave under this policy.

3.1.7. An eligible District employee earns one day of sick leave for each month in work status. This rate of earned sick leave accrual will be proportionately reduced for eligible part-time employees or less than 12 months of employment. An employee will not be eligible for leave

accrual during periods of non-pay status or leave of absence.

3.1.8. Unless otherwise approved in this policy/procedure, eligible employees are only entitled to use, under the approval conditions and limitations herein specified, accrued Paid Sick Leave for the employee's personal illness, health condition, or disability. If an employee's accrued leave is insufficient to cover an approved absence the employee will be placed in un-paid leave status and the employee's salary will be deducted in the payroll month it was taken.

3.1.9. Employees can use any Paid Sick Leave balances for dependent care that is not directly related to an employee's personal illness, health condition, or disability as an FMLA qualifying event when approved by the Human Resource Director or designee. No more than 5 days of Paid Sick Leave may be used for the death and burial of family members or relatives without prior approval from the Human Resource Director or designee. For bereavement, the term family members or relatives has the meaning given to the term "Relative" in Utah Code Amended 52-3-1(1)(e); father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law. In addition to the relatives identified above the District includes grandchildren and grandparents.

3.1.10. Reserved. (5-14-19)

3.1.11. To be credited with one month's sick leave accrual, an employee must be in pay status on the last day of the month. Irrespective of the total amount of accumulated Sick Leave, paid Sick Leave eligibility will end on the date the employee becomes eligible for Long Term Disability benefits. (2-8-05)

3.1.12. An eligible part-time employee receives sick leave accrual in direct proportion to the number of work hours identified on the employee's contract. Additional hours worked, beyond the hours identified in the contract, will not result in the additional accrual of sick leave. If for any reason an employee's contract is changed and the change results in becoming ineligible for Paid Sick Leave benefits the period of ineligibility will be treated as a break in service as defined in paragraph 3.2.

3.1.13. The Human Resource Director or designee may authorize sick leave only when supported by evidence acceptable by District administration. Normally such certification must be from a qualified health care provider. Supervisors/principals are authorized to accept an employee's self-certification of an illness for no more than a total of four (4) calendar days per month or a total utilization of 10 calendar days per year. If there is a reason to believe that an employee is abusing sick leave, the Human Resource Director or designee may require an employee to produce a health care provider's certificate of illness regardless of the number of sick leave days used.

3.1.14. An employee shall request advance approval for sick leave for the purposes of receiving medical, dental, or optical examination or other authorized scheduled treatment. Employees unable to report for work due to an unexpected illness must notify their supervisor, principal, or designee prior to the start of the workday in which leave is requested. If the duration of leave is anticipated to be more than three consecutive, full calendar (29 CFR 825.115 (a) days the employee must notify the Human Resource Director or designee.

3.1.15. Wage replacement for time off under a Workers Compensation claim: Employees who are injured on the job may be eligible for wage replacement benefits for time lost from work, due to a work-related injury or illness. The District will not deduct an employee's sick leave or vacation leave accrual for a qualified and approved lost time absence. If the employee is qualified and eligible for FMLA leave, the absence will also be designated as FMLA leave and the employee will receive continuation of health insurance benefits in accordance with provisions and limitations of the FMLA. The District will not authorize concurrent paid leave for an absence covered under a Workers Compensation wage replacement claim. Payment for lost time will be made directly to the employee from Workers Compensation.

3.2. Reserved. (5-14-19)

3.3. Short-Term Disability (STD) Benefits:

3.3.1. Employees who meet all eligibility requirements for accrual of paid sick leave may voluntarily purchase, by payroll deduction, STD Benefits according to the provisions of agreement(s) entered into by the District. The District provides no assurance with reference to such policies or products. All benefits, eligibility requirements, limitations, entitlements, and any other terms or conditions of participation are by agreement with the insurance provider and the employee. Policy premiums are subject to change. The District may cancel, modify, or change the terms or conditions of an agreement with an STD provider at its sole discretion.

3.3.2. Under the terms of such policy agreements, regardless of the total Paid Sick Leave hours an employee may have accrued, employees who have opted for STD benefits must fully cooperate in the application for and use of STD benefits before the employee may use Paid Sick Leave. Once an employee meets the qualification requirements and elimination period for STD benefits s/he may elect to receive STD benefits according to the terms and conditions of the STD agreement or, if eligible, the employee may elect to use accrued Paid Sick Leave according to District policy. An employee is not eligible to receive STD benefits and Paid Sick Leave simultaneously. If an employee elects to use STD benefits and is eligible to continue employment in non-pay status, s/he will be placed in STD leave-without-pay status. While in STD leave-without-pay status the employee will not be paid by the District, will not accrue service credit toward state retirement, and will not accrue additional Paid Sick Leave.

3.3.3. If eligible, STD leave-without-pay status will be designated FMLA leave, and the District will maintain the employee's health coverage under the group health plan on the same terms as if the employee had continued to work.

3.3.4. There is no entitlement for or expectation of continued employment beyond the terms of an employee's contract, to include the provisions of a temporary or at-will contract, even if the employee meets eligibility requirements for or becomes eligible to receive STD benefits. The fact that an employee qualifies for STD benefits will not constitute approval for leave in excess of District Policy or FMLA limitations. Within the limits of this policy, the ADA, FMLA, and other applicable regulations, an employee who is unable to perform the essential functions of his/her position, with or without accommodation, will be considered disqualified and may be separated from his/her employment.

3.4. Reserved. (2-5-05)

3.5. Long-term Disability (LTD) Benefits:

3.5.1. Eligibility: Non-temporary classified and certified employees will be automatically enrolled in LTD benefits insurance program. Temporary employees, as defined by District policy or contract provisions, are not eligible to participate in this benefit.

3.5.2. Employees must submit a complete application for LTD benefits at least two months prior to the end of the minimum waiting period or Paid Sick Leave will end on the date the employee would have met the waiting period regardless of eligibility.

3.5.3. Acceptance of and approval for Long Term Disability (LTD) benefits constitutes a separation from employment with the Washington County School District. As such, all District entitlements, benefits, and benefit eligibility, to include District early retirement incentives, will end on the date an employee becomes eligible to receive an LTD payment. All subsequent LTD benefit features to include continuation of health insurance coverage and service credit toward retirement are exclusively bound to the limitations, terms, and conditions of coverage under the current LTD Group Insurance Certificate.

3.6. Leave Donation:

3.6.1. This procedure is established to allow a transfer of personal, vacation leave to another District certified or classified employee who has a compelling need and is entitled to leave under the FMLA.

3.6.2. The program creates the opportunity for a financial safety net to assist employees with legitimate needs. It allows concerned individuals the opportunity to participate in helping others with a recognized compassionate act of service. As participants unite to help one another stronger morale, friendship, and esprit de corps will emerge in the District.

3.6.3. Contributing to individual need hinges on a process that is scrutinized by concerned individuals. They alone must carefully and thoughtfully consider the situation before acting to donate. It is appropriately a self-initiated choice.

3.6.4. Eligibility: Before a request for leave donation may be considered, the following conditions must be met:

3.6.4.1. The absence must be considered a qualifying FMLA event and the employee must be eligible to take leave under the limits and provisions of the FMLA. The Superintendent may approve exceptions for employees who would otherwise be eligible for sick leave but have fewer than 12 months of qualifying service.

3.6.4.2. The employee must have used all available "paid leave" to include all personal, vacation, and available Paid Sick Leave.

3.6.4.3. No more than a total of 10 days of leave may be donated to an eligible employee per qualifying event.

3.6.5. Because medical and/or health information is considered private, the administrator must obtain a written release from the employee before identifying a need to other employees (District form 507). The employee providing the release must state in writing what information

they are willing to share with other employees.

3.6.6. Once a release has been obtained, the District Human Resource Director or designee may make an appeal to the immediate school or work location of the employee, using the information in the release. If after a reasonable period of two or three weeks, donated leave is insufficient to cover the qualified leave period, the District Human Resource Director or designee may make a general appeal to employees of the District. The general appeal will be communicated by sending an e-mail to employees, administrators and secretaries who have correctly registered on the District email distribution list.

3.6.7. No appeal will be compelling to the point of making employees feel "obligated" to donate leave. Employees, administrators, or others must not pass out a "signup list." Once a general appeal is issued, administrators, associations, or other concerned individuals may announce that eligible employees may contact the school office or District Human Resource Director to obtain and submit a donation form.

3.6.8. A donating employee must sign a District form 513 to identify the voluntary nature of the donation.

3.6.9. If an employee is willing to donate a personal leave day that requires payment of the substitute cost, they must identify if they, as the donating employee, are willing to have the cost deducted from their salary or that they intend to defer the responsibility for the substitute cost to the receiving employee.

3.6.10. If all donated leave is not used, unused leave will be returned to the employee from whom it was donated.

3.6.11. Leave must be donated in increments of full days only. Receiving employees will not be eligible to receive more than a total of 10 days of donated leave per FMLA qualifying event.

3.7. FMLA Leave:

3.7.1. Notifying the Washington County School District of the need for FMLA leave.

3.7.1.1. Employees, or an appropriate representative, shall submit a completed Application for FMLA leave (District Form 512) 30 days in advance when the need for leave is foreseeable, or as soon as possible in emergencies. Family Medical Leave Act Request Forms are available on the District Home Page or at the District Human Resource Department.

3.7.1.2. In an emergency, notice of the need for leave must be given as soon as possible, but no later than five business days after the leave begins.

3.7.1.3. The District will allow employees up to 15 calendar days to provide medical certification if FMLA leave was not foreseeable. WH-380 "Certification of Health Care Provider" forms are available from the District Human Resource Office or online at: https://www.dol.gov/whd/forms/wh-380-e.pdf.

3.7.1.4. Employees must provide complete and sufficient certification by submitting a completed Department of Labor, WH-380, "Certification of Health Care Provider" form. A

health care certification is incomplete or insufficient if one or more applicable entries have not been competed or if the information provided is vague, ambiguous, or non-responsive. Employees cannot use FMLA for vacations or to work another job outside of the District unless a doctor certifies the necessity for a serious health condition. Employees will be allowed no more than seven calendar days to cure any such deficiency. If the deficiencies are not timely cured, the employee will be denied coverage under FMLA and be subject to disciplinary action up to and including dismissal.

3.7.2. The Human Resource Director or his or her designee shall document leave requests which qualify as FMLA leave and will designate any qualifying leave taken by employees as FMLA leave. All leave which qualifies as FMLA leave shall be designated as such and shall be subject to all the provisions of the FMLA and District Policy. (2-8-05)

3.7.3. FMLA leave will run concurrently with short-term disability, long-term disability, Paid Sick Leave, unpaid leave, paid vacation, and/or personal leave used for an FMLA qualifying event. Washington County School District requires employees to exhaust paid vacation and sick leave before using any remaining unpaid FMLA leave. If an employee uses accrued compensatory time, that leave time may not be counted against the FMLA leave entitlement.

3.7.4. FMLA leave may be taken in periods of whole weeks, single days, and hours. Only the amount of leave actually taken is counted as FMLA leave entitlement. Where an employee takes FMLA leave for less than a full workweek, the amount of FMLA leave used is determined as a proportion of the employee's actual workweek. If an employer temporarily stops business activity and employees are not expected to report for work for one or more weeks, the days the employer's business activities have stopped do not count against the worker's FMLA leave. For instructional employees, as defined by the FMLA, the period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement.

3.7.5. Under FMLA leave, the employee has the right to return to work during the approved FMLA leave period if a health care provider provides a written Return to Work Statement to the District that the employee, in the opinion of the health care provider, is able to perform the essential functions of the job. Depending on the needs of the District, employees in an instructional capacity may be required to extend their leave if the requested time off interferes with the ending of an academic term.

3.7.6. If an employee fails to return to work after unpaid FMLA leave has ended, the health insurance premiums paid by the District on the employee's behalf during the FMLA event, with certain exceptions, is a debt of the employee due and payable immediately to the District. An employee is considered to have returned to work if he or she returns for at least 30 calendar days. An exception to the rule may be made if an employee's circumstances change unexpectedly beyond their control during the leave period, which make them unable to return to work at the end of the 12 weeks. Medical certification is required.

3.7.7. For the purposes of FMLA, the Washington County School District's "12-month period" is a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

3.7.8. If an employee and spouse are both eligible for FMLA leave and both work for the District, their aggregate leave entitlement will be 12 weeks if the leave is for the birth, adoption or placement of a child, or the illness of a parent or dependent child.

3.7.8.1. Eligible spouses who work for the same employer are also limited to a combined total of 26 workweeks of leave in a single 12-month period to care for a covered service member with a serious injury or illness (commonly referred to as "military caregiver leave") if each spouse is a parent, spouse, son or daughter, or next of kin of the service member. When spouses take military caregiver leave as well as other FMLA leave in the same leave year, each spouse is subject to the combined limitations for the reasons for leave listed above.

3.7.8.2. The limitation for the amount of leave that spouses working for the same employer does not apply to FMLA leave taken for some qualifying reasons. Eligible spouses who work for the same employer are each entitled to up to 12 workweeks of FMLA leave in a 12-month period, without regard to the amount of leave their spouses use, for FMLA-qualifying leave reasons, including the care of a spouse or son or daughter with a serious health condition, a serious health condition that makes the employee unable to perform the essential functions of his or her job, and any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on "covered active duty."

3.7.9. During approved FMLA leave or Paid Sick Leave, Washington County School District will continue to provide group health insurance on the same terms and conditions as provided other employees.

3.7.10. The District will post notices for Employee FMLA Rights and Responsibilities on the District self-service web access page. All employees must access payroll deduction information from this site.

Attachments:

Form 512 Application for Family or Medical Leave

Form 513 Leave Donation Release Form

Form 507 Release of Information for Leave Donation Appeal

Certification of Health Care Provider for Employee, U.S. Department of Labor WH-380-E

Certification of Health Care Provider for Family Member, U.S. Department of Labor WH-380-F

Employee Rights and Responsibilities Under the Family and Medical Leave Act