

Policy

PROFESSIONAL/CLASSIFIED STAFF LEAVES AND ABSENCES

Code GBRIB/GCRGB Issued 12/14/21

Provisions for employee absences have been established by the board for the welfare of employees and for the protection of students.

Standard sick leave

Employees eligible for standard “sick leave” benefits under this policy are those employed in the school district who work at least thirty (30) hours per week.

Employees eligible for Family and Medical Leave Act (“FMLA”) benefits are those individuals who have been employed by the school district for a total of twelve (12) months and have worked at least 1,250 hours during the previous twelve (12) months.

Accrual of sick leave

All full-time employees will accrue sick leave at the rate of

- 1-1/4 days for each month of active service or
- 12 days for 190 days of active service,
- 13 days for 210 days of active service,
- 14 days for 230 days of active service and
- 15 days for 12 months of active service.

Part-time certified employees who have a State Department of Education contract and who work one-half fulltime or more will accrue sick leave at a rate equal to the percentage of full-time they work times the rate of accrual listed above for full-time employees (Example: A 0.5 FTE employee would accrue 0.625 days of sick leave each month).

Accrued sick leave that is not used may be accumulated up to 90 days, provided that such employees do not violate their respective contracts.

Issuance of sick leave days

Employees eligible to earn sick leave will be issued at the beginning of the employment period sick leave days up to the amount that would be earned during an employment period, as long as the employee works on the first day of his/her contract. Otherwise, leave will not be granted until an employee returns to work and begins accruing leave.

However, if an employee leaves district employment before earning sick days he was issued, the amount necessary to pay for the unearned, used sick leave days will be deducted from his last paycheck.

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Verification and Use of Sick Leave

The primary reason for the use of sick leave will be the personal illness of the individual employee or illness in the immediate family, which includes spouse, children, and parents (for further information regarding leaves due to illness please refer to the section entitled FMLA).

Absences are calculated on a half-day basis. Any part of a half-day missed is considered as a half-day absent.

The use of sick leave is subject to verification. Specifically, an employee must submit a healthcare provider's statement verifying an illness when the employee has been on sick leave for more than 10 working days within a school year, after an absence of five consecutive days, or if the employee is requesting extended leave. The district also reserves the right to require an employee to submit a medical healthcare provider's statement verifying an illness when the administration believes verification is needed or when an employee's use of sick leave forms a pattern or abuse is suspected. A healthcare provider's statement that the illness of an immediate family member requires the presence of the employee must be submitted for absences greater than five consecutive days.

If the employee does not provide the required healthcare provider's statement within five working days upon written request, the district may take appropriate disciplinary actions, up to and including a recommendation of termination from employment, unless the district receives notice that the employee has experienced severe extenuating circumstances.

The district may require the opinion of a second healthcare provider designated and paid for by the district regarding verification of any illness or disability.

The district may require an employee to provide a healthcare provider's statement attesting to his/her ability to perform required duties before returning to work.

In order that the district may secure an adequate replacement and make other appropriate arrangements, employees must provide reasonable and appropriate advance notice of absences as specified within this policy, or as quickly as is practicable. Reasonable and appropriate advance notice of the employee's absence is essential for scheduling a substitute.

Termination of employment

The district may terminate the employment of any employee who fails to do any of the following:

- comply with the requirements of this policy and its accompanying administrative rule
- request extended leave in the circumstances detailed above
- report to work at the expiration of authorized leave
- obtain an extension of previously approved leave should it become necessary

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The district may also terminate an employee for misstatements of fact and/or misrepresentations of purpose for which leave is requested or on the basis of which leave is approved.

The district will not terminate from employment those employees under this policy who have accrued sick leave and who are using it in compliance with this policy. The district will not terminate an employee on the basis of the employee's continued sick leave of less than ninety-one (91) work days, provided none of the aforementioned grounds for termination are present.

Personal leave

The Board provides each employee a maximum of four personal leave days per contract year under the provisions below.

- Use of personal leave days will be subject to approval of the employee's supervisor.
- Based on granted sick leave days as of July 1 of a current contract year, each employee with
 - at least 12 granted sick leave days but less than 40 days may use one of the personal leave days provided by the board without a reduction in compensation;
 - at least 40 granted sick leave days but less than 60 days may use two of the personal leave days provided by the board without a reduction in compensation;
 - at least 60 granted sick leave days but less than 80 days may use three of the personal leave days provided by the board without a reduction in compensation; and
 - at least 80 granted sick leave days may use four of the personal leave days provided by the board without a reduction in compensation.
- When an employee takes a personal leave day for which he does not have enough sick leave to justify no reduction in compensation, the employee will have his daily compensation reduced by 1/2 for the personal leave day.
- None of the four days allowed per contract year for personal leave purposes may be carried to the next year.
- No employee may take more than four personal days per contract year without the approval of the superintendent.
- Any absence in willful violation of this policy will be regarded as grounds for the employee's immediate dismissal.

Leave Under the Family and Medical Leave Act (FMLA)

The Board will provide leave to eligible employees consistent with the Family and Medical Leave Act of 1993 (FMLA). Eligible employees are entitled to up to 12 work weeks of unpaid family and medical leave (based on a "rolling" 12 month period as referenced below) or up to 26 work weeks of unpaid leave during a single 12 month period to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty, as defined in

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this policy. The district will continue to pay the district's portion of the employee's health insurance premiums during the leave. The employee must continue to pay his/her portion of all insurance premiums to maintain coverage.

In complying with the FMLA, the district will adhere to the requirements of the Americans with Disabilities Act as well as other applicable federal and state laws.

To be eligible for FMLA leave, an individual must be employed by the school district for a total of 12 months and have worked at least 1,250 hours during the previous 12 months.

Eligible employees are entitled to up to a combined total of 12 work weeks of unpaid leave per "rolling" 12-month period measured backward from the date an employee uses any FMLA leave for any of the following:

- the birth of a child of the employee
- the placement of a child of the employee for adoption or foster care
- to care for the employee's spouse, parent, or child if such spouse, parent or child has a serious health condition
- the employee's own "serious health condition"
- a qualifying exigency arising out of a spouse, child or parent who is on active duty or has been notified of impending call to active duty in support of a contingency operation

The entitlement to leave for the birth or placement of a child for adoption or foster care expires 12 months after such date of birth or placement. Benefits accrued before FMLA leave is taken will not be altered, and upon return, the employee is entitled to restoration to an equivalent position with equivalent pay, benefits, and conditions of employment. However, the employee will not accrue seniority or employment benefits during the time he or she is on FMLA leave.

Benefits

The district will maintain the employee's health coverage under the district's group health insurance plan during the period of FMLA leave. The employee should make arrangements with the district to pay the employee's share of health insurance (e.g., family coverage) prior to the beginning of the FMLA leave.

Designation of leave as FMLA leave

The district must designate the leave as paid or unpaid FMLA leave as soon as it learns that an FMLA reason supports the leave. The district must also provide other written information concerning the employee's rights and obligations under FMLA.

Military caregiver leave

An eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness is entitled to up to a total of 26 work weeks of unpaid leave during a "single 12-month period" to care for the service member. A covered service

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member is a current member of the armed forces, including a member of the national guard or reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list, for a serious injury or illness. An eligible employee is limited to a combined total of 26 work weeks for any FMLA qualifying reason during the “single 12-month period.”

Limits on Spouses Employed by the District

Spouses employed by the district are limited in the amount of FMLA 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 12 weeks (or 26 weeks if leave to care for the covered service member with a serious injury or illness is used.) Leave for birth or care of placement for adoption or foster care must conclude within 12 months of the birth or placement.

Leave Taken Intermittently or on a Reduced Leave Schedule

“Intermittent leave” is leave taken in separate blocks of time due to a single illness or injury, rather than for one continuous period of time and may include leave periods from one hour or more to several weeks.

A “reduced schedule leave” is a leave schedule that reduces an employee’s usual number of working hours per workweek or hours per workday.

Leave for the birth or placement of a child will not be taken intermittently or on a reduced schedule without the written consent of the superintendent or his/her designee, who will consult with the employee’s immediate supervisor before granting such consent.

Leave to care for a seriously ill spouse, son, daughter, or parent, or for the employee’s own serious health condition, may be taken intermittently or on a reduced schedule only when medically necessary and as approved by the district.

If any employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the superintendent or his/her designee may require such employee to transfer temporarily to an available alternative position for which the employee is qualified that has equivalent pay and benefits and better accommodates recurring periods of leave or family and medical leave (for instructional employees, specific FMLA regulations apply when leave period occurs near the end of an academic semester), if such position is available. 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 district’s operations.

Substitution for Paid Leave

An employee using FMLA leave will be required to substitute and exhaust any accrued paid vacation leave, personal leave, or sick leave of the employee in the exercise of FMLA leave. If such accrued paid leave is not sufficient to cover the FMLA leave entitlement, the additional

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days of leave necessary to satisfy the FMLA entitlement will be without compensation.

Foreseeable Leave

When FMLA leave is foreseeable, the employee must provide at least 30 days notice of the date when leave is to begin - unless circumstances dictate otherwise. In addition, with respect to family or employee medical treatments which are foreseeable, the employee will make a reasonable effort to schedule treatment (including intermittent and reduced hour leave) so as not to disrupt unduly the operation of the district.

Restoration

When the employee returns from leave, the district will restore the employee to the same or an equivalent position with equivalent benefits, pay, terms, and conditions of employment in accordance with board policy. The employee's right to return to the same or an equivalent position is contingent upon the employee's continued ability to perform all the essential functions of the job. An equivalent position is one that is the same or substantially similar in duties, responsibilities, conditions, privileges, and status as the original position.

Under certain circumstances, the district may deny restoration to a key employee. The district will comply with the notice requirements of the FMLA in denying restoration. A key employee is one who is among the highest paid 10 percent of the employees and whose absence would cause the district to experience a substantial and grievous economic injury.

Instructional employees

Special leave rules apply to instructional employees. Instructional employees are those employees whose principal function is to teach and instruct students in a small group or an individual setting. This term includes teachers, 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 instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

Limitations apply to instructional employees who take intermittent or reduced leave. If the leave requested is to care for a family member or for the employee's own serious health condition and the leave is foreseeable based on planned medical treatment and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, then the district may require the employee to choose one of the following:

- The employee may take the leave for a period or periods of a particular duration, not greater than the duration of the planned treatment.
- The employee may transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave than does the employee's regular position.

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Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position.

Limitations also apply to instructional employees who take leave near the end of a semester. When an instructional employee begins leave more than five weeks before the end of a semester, the district may require the employee to continue taking leave until the end of the semester under these conditions:

- The leave will last at least three weeks.
- The employee would return to work during the three-week period before the end of the semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of the semester, the district may require the employee to continue taking leave until the end of the semester under these conditions:

- The leave will last more than two weeks.
- The employee would return to work during the two-week period before the end of the semester.

When an instructional employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a semester and the leave will last more than five working days, the district may require the employee to continue taking leave until the end of the semester.

Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively, rather than intermittently. Summer and other vacations may not be counted against an employee's FMLA leave entitlement. An instructional employee on FMLA leave at the end of the school year must receive normal benefits over the summer vacation.

Failure to Return from Leave/Recovery of Health Premiums

If an employee fails to return to work after the leave period has expired (other than family or personal illness or other circumstances beyond his or her control), the employer may recover the premium expenditures extended during the leave period.

Legal Absence

The district will grant employees leave without loss of pay, vacation time, or existing leave days when they are summoned for jury duty or subpoenaed. Whenever a prospective juror is dismissed before the end of the working day, he/she will return to his/her official duties. Compensation paid to the employee for serving on jury duty is to be kept by the employee.

When selected for jury duty, teachers, certified personnel at the building level or bus drivers are encouraged to request a postponement to a date that does not conflict with the school term.

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Bereavement Leave

An employee may take bereavement days, without loss of compensation, on the day of interment of the employee's

- child,
- spouse,
- parent,
- stepparent,
- parent-in-law,
- brother/sister,
- grandchild,
- grandparent,
- aunt/uncle,
- son-in-law/daughter-in-law or
- brother-in-law/sister-in-law.

Additionally, an employee may take, without loss of compensation, up to two calendar days immediately before interment and the two calendar days after interment in case of the death of the employee's

- parent,
- child or
- spouse.

An employee may take, without loss of compensation, the calendar day immediately before interment and the calendar day after interment in case of the death of the employee's

- stepparent,
- parent-in-law,
- sister/brother,
- grandparent,
- grandchild,
- son-in-law/daughter-in-law or
- brother-in-law/sister-in-law

Military Leave

Eligible employees who are family members of covered service members may also take leave as provided for in the FMLA and its accompanying regulations.

When possible, employees of the district serving in the military reserves/national guard should attempt to schedule their military leave so as not to conflict with their work schedules.

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Requests for military leave should be made in writing to the chief personnel officer as far in advance as possible, along with the appropriate verifying data. A copy of written orders to report for duty must be provided by the employee to his/her supervisor and forwarded to the office of personnel within three (3) days of his/her receipt of such orders.

Employees may take military leave without loss of pay, seniority, or efficiency rating for one or more periods not exceeding a total of 15 workdays in one year. Saturdays, Sundays, and State holidays may not be included in this 15 days unless the Saturday, Sunday, or holiday is a regularly scheduled work day for the employee.

This leave may be taken when the employee is engaged in training or other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. This leave applies to employees who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve.

In the event an employee is called upon to serve during an emergency, he/she will be entitled to such military leave of absence for a period not exceeding 30 additional days without loss of pay, consistent with state law. In compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), an employee returning from military service who otherwise is eligible to be re-employed must be reemployed in the job that he/she would have attained had he/she not been absent for military service.

An employee seeking leave for annual active duty training must forward a written request, including the appropriate verifying data, to the superintendent or his/her designee no later than thirty (30) days prior to the pre-arranged military activity.

Extended Military Leave

An extended military leave of absence for a member of the armed forces of the United States will be granted pursuant to federal and state law, so long as the requirements and regulations of the armed forces prevent the employee's return to civil employment.

Periods of absence due to military active duty which extend beyond the period of paid military leave provided by state or federal law are to be treated as unpaid leaves of absence. Nothing in this policy, however, should be construed to prevent an employee from electing to use other accrued leave, excluding sick leave, once their paid leave has been exhausted. All employees called to military active duty are subject to state and federal law governing leave, re-employment, and other rights of national guardsmen and reservists.

Organ Donor Leave

Employees may take a leave of absence to be an organ donor without loss of pay, time, or leave

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for one or more periods not exceeding a total of thirty (30) work days in a fiscal year. Saturdays, Sundays, and state holidays may not be included in these thirty (30) days unless the Saturday, Sunday, or holiday is a regularly scheduled workday for the employee.

An employee seeking leave to be an organ donor must forward a written request, including the appropriate documentation from the attending physician verifying that the employee is the donor, to the superintendent or his/her designee no later than thirty (30) days prior to the commencement of leave or as soon as practicable based on the specific circumstances.

Transfer of sick leave

A district employee transferring to another South Carolina public school district or state agency may transfer and retain all statutorily eligible leave he/she accumulated. An employee of a state agency or another public school district in South Carolina may also transfer to the district all statutorily eligible sick leave he/she accumulated.

Sick leave incentive provision

- Upon retirement, an employee with 60 or more days of accrued sick leave with Lancaster County School District will be compensated at a rate of \$20 per unused day for unused sick leave days as of the last day of legal employment with the district.
- Upon voluntary termination of employment, a certified/professional employee, in good standing, with 20 or more years employment in Lancaster County School District and with 60 or more days of accrued sick leave will be compensated for unused sick days at the rate of \$20 per unused day.
- In the event of death, the estate of a certified/professional employee with 60 days of accrued sick leave with Lancaster County School District will be compensated for unused sick leave days as of the last day of legal employment with the district at a rate of \$20 per unused day.

Adopted 06/19/07; Revised 12/14/21

Legal references:

- A. South Carolina Code, 1976, as amended
 1. Section 59-1-400 – Sick leave for public school district employees
 2. Section 59-1-400 – Sick leave for public school district employees
 3. Section 8-11-40 – Sick leave for state employees
 4. Section 8-7-20 – Requires granting of military leave, without pay, up to five years.
 5. Section 8-7-90 – Requires 15 days per year of leave with pay for members of National Guard and Reserve Units of the various Armed Forces; grants an additional 30 days of leave with pay in emergency situations.
 6. Section 8-11-65 – Organ donor leave.
 7. Section 14-1-190 – Compensation received for jury duty deemed to be expense money.
 8. Section 14-7-845 – Relating to optional postponement of jury service for students and staff members.
 9. Section 25-1-2250 – Staff members entitled to leave with pay when serving in National Guard.
 10. Section 59-1-400 – Sick leave accrual and use.

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- 11. Section 59-25-47 – Unused leave payments authorized.

- B. Federal Regulations:
 - 1. Federal Family & Medical Leave Act of 1993 (P.L. 103-3)

- C. United States Code of Laws, as amended:
 - 1. Americans with Disabilities Act of 1990, 42 U.S.C.A. Section 12101, *et seq.*
 - 2. Family and Medical Leave Act, 29 U.S.C.A. Section 2601, *et seq.*
 - 3. Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C.A. Section 4301, *et seq.*