

# Washington Central Unified Union School District

## WCUUSD Staff Leave Subcommittee Emergency Meeting Minutes 7.24.20

unapproved

Via Video Conference\*

**Present:** Superintendent Olkowski, Virginia Breer, Carla Messier, Stephen Looke, Chris McVeigh, Dorothy Naylor

**1. Call to Order :** Stephen Looke called the meeting to order at 6:03 p.m.

### **2. Develop Staff Leave Procedures:**

Stephen Looke noted that he, Dorothy and Chris had reviewed the template/ document that Pietro had shared. Stephen had highlighted all of the different types of leaves that exist, legally, and within the teacher's contract.

Superintendent Olkowski indicated that he had spoken to the teachers' union representation. Their response is that they have not been made aware of the different types of leave that are available to them. He indicated that this document is very thorough; however, he is not sure that we are able to answer all of the teachers' concerns with this document.

A looming question for him: how to evaluate requests for leave? There is a difference between "can't do" and "won't do." He noted that at the board meeting, a board member had expressed that he would like the procedure to reflect the values and culture of the board. He stated that some teachers have expressed to him that, for example, if they live in a different school district, their children will have a wide variety of schooling schedules; this creates a hardship. He had reached out to Secretary Dan French and to legal counsel. The response is that this is a local board decision. He shared some ideas: Would the board consider allowing the children of some of the teachers that are impacted to enroll/ attend our schools? Do we set up remote centers for providing child care or for supporting remote learning from their own districts, for children under those circumstances? He noted that these considerations go outside the legal requirements.

Chris McVeigh - would be interested to find out how many teachers this would apply to. And how many teachers might opt to take advantage of these solutions. He suggested first delineating the legal necessities, and then discuss what other options we might want to consider.

Superintendent Olkowski stated that he anticipates that the biggest challenge will be “intermittent leave” - this is why he was brainstorming these other options.

Carla explained that if we are offering options to teachers for their children when their own home districts don't offer in person schooling, then it negates their eligibility to use intermittent leave under these circumstances.

Dorothy Naylor asked, do we have any idea of a location, for this idea? Do we have any idea of how many staff members might take advantage? How many students, and what ages?

Superintendent Olkowski indicated that we do not know how many people hypothetically would utilize this option, in the same way that we don't know how many staff members might request intermittent leave. We also don't know for sure what other districts' schedules will be; the circumstances are still dynamic.

Stephen Looke reviewed: Chris McVeigh would like to review what, legally, we are required to offer. Administration has a concern around intermittent leave and would like to discuss some sort of alternative to what we are currently offering.

Stephen Looke stated that, a review of the legal requirements via the document that Pietro had shared: The contractual language is no different from personal paid leave requirements from a legal perspective.

Chris McVeigh: It might be helpful to develop a checkbox so that people can see whether they fit the criteria for one or more of the various leave options. Stephen Looke stated that Pietro's document is very clear, some of the procedures are case-by-case.

Chris McVeigh: using a checklist might make it more user friendly to staff who are considering their options. He also noted that some of the leave options are only good through December 2020.

Carla Messier indicated that we have already created checklist forms to staff and they have worked well - when staff have questions they bring them to her or to Virginia Breer. She could revamp the forms as appropriate.

Discussion about alternative ideas from administration:

Superintendent Olkowski reviewed the language around EFML, and that having a remote center or the option for students to attend one of our schools would address the circumstances for EFML. He stated that we don't know numbers yet, we are brainstorming - we could offer multiple locations? We could offer a lottery system if there are more requests than we can accommodate. Chris McVeigh asked whether this applies to staff whose children's schools are offering tele-learning, or whose schools are closed altogether? Superintendent Olkowski indicated that when the various hybrid models at each school don't coincide, then it creates a circumstance where child care is not available and this is considered under EFML.

Superintendent Olkowski asked, do we want to have an independent arbiter, who has legal expertise, who is contracted to facilitate leave requests?

Stephen Looke asked those present to stay with the idea of an option to allow employees of our district to bring children as needed, and we create a space for them to do their work remotely, or allow them to enroll in our schools. To consider one thing at a time. Dorothy Naylor asked about the topics of student count and about tuition, etc., if some of these scenarios come to fruition. Superintendent Olkowski stated that this detail is unclear and will have to be pursued and discussed further.

Stephen Looke asked those present: do we want to offer this? Chris McVeigh indicated that he feels that we do want to offer both of these options. However, the details are important. For example, if students from other districts are using space to do their remote learning, will students of various grades be together? Assuming there will be supervision - who will provide supervision?

Stephen Looke stated that he believes the work of this subcommittee is to consider and endorse options, and to leave the details to the administration and the full board to consider.

Chris McVeigh clarified that we will discuss whether we endorse these ideas, the administration will flesh out some of the details as possible, and then the full board will consider at the meeting next week. Stephen Looke suggested considering in the options, how many we can accommodate, and not try to consider from the other end - how many will request this option?

Next option/ consideration: Superintendent Olkowski reviewed that all of the other options will require staff to be absent from work. He noted that staff worry about running out of sick days. Carla Messier reviewed the current contract for teaching staff: 3 personal days, 15 sick days each year - longer term employees have time built up over years. (up to 90 school days). Some discussion followed regarding long term disability (which is 90 calendar days). He spoke about

the notion that, for example, if a child in a cohort contracts COVID19 and the class needs to quarantine, then the teacher will be responsible for remote learning for the cohort. In that case the teacher would not use leave. However, if a teacher gets sick and runs out of sick leave... Carla Messier indicated that typically at that time a teacher would request donated leave from other staff. We don't offer short term disability. Chris McVeigh asked about the option of Worker's Compensation. Carla Messier indicated that in the case that a staff contracts COVID19 at school then Worker's Compensation would apply. Chris McVeigh stated that he believes the legislature has created rules around presumption about compensability (from the perspective of worker's compensation.)

Superintendent Olkowski indicated that students will be spending 1/3 of their days in the schools and we will be implementing a great deal of precaution and prevention - how would it be determined that the burden is on the school? Chris McVeigh stated that this is why the idea of "presumption" is important in this case and again, he believes the legislature is addressing this.

Superintendent Olkowski shared that some districts offer a "sick bank" where staff can donate to a bank and teachers can borrow from it. It may be difficult to implement in the immediate time period. Stephen Looke stated that he opposes that idea; this would be a negotiated contractual agreement for future consideration if appropriate.

Chris McVeigh asked - the scenario - if a portion of school, or a school, had to close for an extended period, but unable to pivot immediately to remote learning, then will teachers need to use leave during the interim? Superintendent Olkowski stated that he does not think this is a likely scenario. Teachers will be well trained in remote teaching/ learning. Chris McVeigh indicated that teachers should not need to use sick time for something that is not related to them being sick, and something that is beyond their control. Carla Messier asked, are you indicating that pay would not be withheld under those circumstances? Chris McVeigh - yes, they would receive payment. Stephen Looke indicated that, under those circumstances, a staff may be assigned other duties during the interim.

If the whole school closes, and staff are not able to carry out remote learning then we would assign other duties but continue to pay.

Superintendent Olkowski asked, for employees who are not sick but are afraid to work, are they able to use sick time? Stephen Looke - no; that does not apply. He made a comparison to the flu - if there is a flu outbreak but you don't have it, you can't take sick leave pre-emptively. Chris McVeigh asked about circumstances where an individual had an adverse psychological response to the pandemic and for whatever reason was not able to carry out their job. Carla Messier stated that FMLA would apply to this circumstance, with a doctor's note as per usual.

Chris McVeigh stated that there is a document that had been drafted, and Scott Cameron had helped to draft it, about assigning other work to staff. He suggested that Superintendent Olkowski access this document to help with this discussion. Stephen Looke - in other words we are not required to pay staff who have nothing to do - we have the ability to reassign them to other duties.

Carla Messier indicated that, as of July 1, there is no mandate that requires payment to staff who have nothing to do. Stephen Looke stated that this is for the board to consider; it is unlikely to come to fruition but the board as a whole can consider.

Chris McVeigh spoke about contracts for paraeducators or behavior interventionists. Stephen Looke stated that we just worked out language around these circumstances. Carla Messier reminded him that they have not ratified that contract yet.

Superintendent Olkowski stated that he anticipates there being things that come up that fall between the cracks; this is very complicated. This is why he had suggested the idea of having an arbiter on contract for some of the circumstances that are not cut and dried. Chris McVeigh suggested that both the NEA and the administration should choose the person, and should consider, does this person get to be the final decision maker (as opposed to the superintendent)? Superintendent Olkowski clarified that he was thinking more of an "independent auditor" of leave requests that makes recommendations - not necessarily an "arbiter" who makes a final decision.

Chris McVeigh stated that we need to consider - how many leaves will we allow, and expect the "ship to continue to run," regarding the more discretionary leave requests. Some discussion followed around the difficulty of securing long term substitutes under these circumstances. Stephen Looke stated that some types of leave are contractually guaranteed. He does not think we should set limits. Chris McVeigh - referring to the more discretionary - e.g. people who don't feel comfortable coming to school and are requesting leave. He asked Superintendent Olkowski to consider what number can we accept and still be able to provide education to our students? Superintendent Olkowski indicated that this is the big question. If we offer one discretionary leave request then we are opening ourselves to lawsuits from others who are denied.

Stephen Looke asked, other than the extended leave, are there any other types of leave that are considered discretionary. Carla Messier reviewed unpaid leave; this is considered discretionary as well. Some discussion of sabbatical leave - this would not apply under these circumstances.

Discussion of unpaid leave: Stephen Looke - do we need to make a statement, for example, if someone is requesting unpaid leave for something other than medical, we will not consider it. Superintendent Olkowski indicated that this is where it is very difficult. Chris McVeigh

indicated that this is where we create a certain number of available slots; if there are more requests than that, we use a lottery system (much like we have used for early retirement). Superintendent Olkowski suggested that he will check with legal counsel.

Stephen Looke suggested that we don't talk about/ offer unpaid leave. We ask, for example, if you do not want to work, due to COVID19, then you need to notify by \_\_\_, to be considered for this option: \_\_\_. If more than <a certain number> request this option, then it will be decided by lottery.

Chris McVeigh stated that it is a delicate balance between taking care of the needs of our students, and honoring our staff: for example, if there is someone who for whatever reasons is not comfortable working under the circumstances.

The subcommittee will present these to the board on Thursday, after they have been vetted by the union:

1. Explore language/ options/ feasibility around remote location or allowing students to attend (students from outside our district; children of staff)
2. Option of if you don't want to work for whatever reason (not technically illness)
3. Independent auditor for leave requests

Superintendent Olkowski stated that the union is having a membership meeting on Tuesday. He will meet with them between now and Thursday - will speak with his administrators and with legal counsel about these three options. Carla reminded him to ask ESP to ratify the contract.

Stephen Looke - also will share Pietro's document on Thursday. Chris McVeigh suggested working the language from these three proposals into Pietro's document. Stephen Looke stated that he can only attend Thursday's meeting for a half hour.

Superintendent Olkowski thanked board members for meeting on a Friday night to address these difficult issues.

3. Adjourn: The meeting adjourned by consensus at 7:42.

Respectfully submitted,

Lisa Stoudt, Board Recording Secretary