

(12)

PERSONNEL

Leave for Long-Term Illness or Injury of an Employee or Family Member

Certain benefit-eligible employees who cannot work due to a personal illness or injury or because of a family member's serious health condition, will be granted an extended leave of absence not to exceed a full twelve (12) calendar months (see section B, paragraph 5 for exception).

Leave under this Regulation must be approved by the Department of Human Resources, Office of Employee Relations.

A. Definitions

1. ~~Benefit Eligible Employee: Virginia Retirement System (VRS) Plan 1 and 2 employees; or VRS Hybrid Plan employees who are either in their first year of employment or taking this leave to care for a family member with a serious health condition.~~
2. ~~Family of the Employee: includes spouse, parents (to include mother-in-law, father-in-law, step-parents, and foster parents), children (to include son-in-law, daughter-in-law, step-children, and foster children), siblings (to include brother, sister, step-brother, step-sister, sister-in-law, and brother-in-law), grandparents, and grandchildren of the employee and/or his/her spouse, or any relative living in the household of the employee.~~
3. ~~Family and Medical Leave Act (FMLA) Family Member: a spouse, parent, or child under 18 years of age or 18 years of age or older but incapable of self-care. A child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.~~
4. ~~Available Paid Leave Options: Annual leave, personal reasons leave, sick leave, sick leave bank eligibility, if applicable, and~~

approved donations of leave on file with the Office of Employee Relations, Department of Human Resources.

B. Designation of Long-term Illness or Injury of an Employee or Family Member

1. The first twelve (12) weeks of Long-term Illness or Injury Leave shall be credited to Family Medical Leave as described in the Family and Medical Leave Act (FMLA) of 1993 and in accordance with Regulation 4-55.1, if applicable.
2. After twelve (12) weeks on an authorized, consecutive leave of absence, an employee who is still unable to work will be placed into either a paid or unpaid long-term illness status depending on their available paid leave options. The initial twelve (12) weeks will count towards the twelve (12) months of long-term leave allowed.
3. The employee must use any accrued sick, annual, or personal reasons leave available while on this leave.
4. Once all available paid leave options have been exhausted, including any sick leave bank usage and leave donations received, an employee will be placed into an unpaid long-term illness status.
5. Exception to 12-month absence limit: If an employee has accrued sick, annual, or personal reasons leave that exceeds the twelve (12) calendar month limit for a leave of absence, he/she may use accrued leave until it is exhausted. However, Sick Leave Bank and donations of leave cannot be used to extend the employee's leave beyond the twelve (12) calendar month limit.
6. An employee may immediately be placed, effective the first day of his/her consecutive leave of absence, into an unpaid long-term illness status if: a) no available paid leave options exists; b) the employee's anticipated return to work is beyond twelve (12) weeks; and c) the leave of absence and/or the employee is not covered under the FMLA.

C. Medical Certification

1. ~~An employee must have a completed Request for Extended Leave on file with the Office of Employee Relations, Department of Human Resources as governed by Regulation 4-45.1 Sick Leave. Additional supporting medical documentation or resubmission of medical certification on forms provided by the Office of Employee Relations may be required. The certification must include an anticipated return to work date.~~
2. ~~The failure of an employee to provide the required and/or requested medical certification will terminate the employee's right to leave under this Regulation and nullify any leave already taken by the employee.~~

D. Benefits

1. ~~For any time the employee is on unpaid leave and non-Family Medical Leave (see paragraph D-3 below for exceptions), the employee will be responsible for making entire premium payments (both employee and employer portions) for health coverage. Employees should do so by direct payment to the Consolidated Benefits Office (CBO) in advance of each month. If continuation of coverage is not elected within thirty (30) calendar days from the date of notification, coverage will terminate effective the end of the month in which the unpaid leave began. If continuation of coverage is elected but subsequent premiums are not submitted, coverage will terminate at the end of the month for which the last premium was paid.~~
2. ~~Employees who are on leave under this Regulation will not accrue annual leave, sick leave, or personal reasons leave. In addition, employees in an unpaid long term illness status will no longer accrue serviceable retirement time.~~
3. ~~Exceptions to premium payments: employees on leave due to a compensable workers' compensation condition are eligible for the employer contribution toward health insurance premiums for a period of one (1) year (see Regulation 4-37.1);~~

Employees on approved Military Leave should contact the Office of Employee Relations regarding rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

E. Additional Guidelines

1. An employee who is on leave for long term illness or injury may not engage in employment for any other employer or be self-employed while on leave.
2. Once a VRS Hybrid Plan employee is eligible to utilize the VLDP, the employee will no longer be eligible to receive long-term illness or injury leave for his/her own personal illness or injury.
3. An employee having exhausted his/her twelve (12) months of Long term Illness or Injury leave will not be entitled to request another term of Long term Illness or Injury leave until such employee has worked for at least one calendar year and has worked at least 1,250 hours during such year.

F. Return to Work and/or Separation

1. An employee's long term leave of absence will end: 1) when an employee is released from physician's care and is certified as able to return to work (this may be prior to the full utilization of twelve (12) months); or 2) once the employee is no longer caring for a family member with a serious health condition; or 3) at the conclusion of twelve (12) months of absence (see section B, paragraph 5 for exception).
2. If an employee returns from a long term leave of absence prior to the full utilization of twelve (12) months and then goes out again within forty five (45) consecutive calendar days, the employee will resume the original long term illness or injury leave.
3. Prior to the conclusion of the long term leave of absence, the employee shall notify the Office of Employee Relations of

his/her intent to return to work as soon as possible. In cases in which the employee is on long-term leave for his/her own personal illness or injury, the Office of Employee Relations must receive a release to return to work from the employee's physician.

4. If the employee is able to return to work, the employee will be assigned to the first available position for which the employee is qualified and deemed appropriate for placement. This shall normally result in a position equivalent to the one from which the employee left, involving similar duties and responsibilities. However, the School Division determines the appropriateness of a placement, which, based on availability and other factors, may result in assignment to another job title. The School Division is not required to modify any position to fit an employee's qualifications except for modifications to meet the reasonable accommodations requirements of the Americans with Disabilities Act (ADAAA). In addition, the School Division will not be obligated to create a position, fill a vacant position that it intend to leave vacant or place an employee in a higher-level position.
5. If there are no placement opportunities available within sixty (60) calendar days from the date the employee is released to return to work, the School Division shall no longer be obligated to the employee, and the employee will be separated from employment. An employee who does not accept the first available position offered shall not be given further consideration and will be separated from employment.
6. An employee's failure to notify the Office of Employee Relations of his/her intent to return to work prior to the conclusion of the long-term leave shall result in the employee being separated from employment. An employee who is unable or who chooses not to return to work at the conclusion of twelve (12) months shall be separated from employment. In such cases, any remaining leave balances will be processed in accordance with applicable policies and regulations.

~~7. Separated employees may reapply through the regular application process for further consideration.~~

~~8. Instructional employees shall ordinarily return only at semester breaks.~~

Legal Reference

~~The Family Medical Leave Act, 29 U.S.C. § 2602 *et seq.*, as amended.~~

~~The Americans with Disabilities Amendments Act of 2008, 42 U.S.C. §12101 *et seq.*, as amended.~~

Related Links

~~School Board **Regulation 4-37.1**~~

~~School Board **Regulation 4-45.1**~~

~~School Board **Regulation 4-45.2**~~

~~School Board **Regulation 4-45.4**~~

~~School Board **Regulation 4-47.1**~~

~~School Board **Regulation 4-49.1**~~

~~School Board **Regulation 4-50.1**~~

~~School Board **Regulation 4-54.1**~~

~~School Board **Regulation 4-55.1**~~

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~~Mark as "Reserved" in Section 4 Policies Listing~~

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APPROVED AS TO
LEGAL SUFFICIENCY

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