

PROFESSIONAL STAFF LEAVES AND ABSENCES

Code **GCC** Issued 9/00

Purpose: To establish the basic structure for all types of professional staff leaves and absences.

NOTE: This policy -- and accompanying administrative rule -- may include sick leave (to include Family and Medical Leave Act requirements), personal/emergency/legal leave, maternity/paternity/parental leave, military leave, conferences/training workshops and sabbaticals. Vacations and holidays are the subject of a separate policy.

The continuous presence of employees promotes excellence in the instructional program by ensuring the following.

- the uninterrupted continuity of education
- greater teacher-student contact time
- appropriate role-model emulation
- consistent classroom discipline
- reduced cost

Therefore, the board expects employees to come to work every day. The board recognizes, however, that certain absences are unavoidable. At such times, employees should take leave in accordance with this policy and its accompanying administrative rule.

Absent employees must comply with procedures set out in the administrative rule that accompanies this policy.

Sick leave

Accrual of sick leave

All full-time employees of the district will accrue sick leave on the basis of one and one-fourth days of sick leave for each month of active service. This will provide 12 days for nine months (190 days), 13 days for 10 months (210 days), 14 days for 11 months (220 days) and 15 days for 12 months (240 days). An employee may accumulate up to 90 days of sick leave which is accrued but not used provided that such employee does not violate his/her respective contract.

For the purposes of this policy, a full-time employee will mean any person employed in a position for which certification is required by the South Carolina State Department of Education or a person who has been employed in the school district for five months and works at least 30 hours per week.

Part time employees who work a minimum of 15 hours per week can earn sick leave based on the following formula.

of days of contract multiplied by hours worked per day divided by 111

Use of sick leave for absences

An employee may use sick leave for absences caused by personal illness, illness in the immediate family, death in the immediate family or personal leave (see personal leave).

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Immediate family includes mother, father, sons, daughters, spouse and mother or father-in-law. For death in the immediate family, this list is expanded to include sons and daughters-in-law sisters, brothers, grandchildren, grandparents, nieces, nephews, aunts and uncles.

Use of accrued leave for illness or death in the immediate family

Accrued sick leave days, up to a maximum of 90 days, may be used for serious illness in the employee's immediate family or for the death of a member in the employee's immediate family that requires the employee to provide care. An employee who anticipates requiring extended leave to provide care for a family member should submit a written request on the appropriate district form to their supervisor as far in advance as possible. The request for extended leave for this purpose must include a statement from a licensed medical doctor giving the expected time the employee will be needed to provide care for a family member. The request must be approved by the superintendent or his/her designee. The term "immediate family" includes the following.

- spouse
- son, son-in-law, stepson
- daughter, daughter-in-law, stepdaughter
- mother, mother-in-law, stepmother
- father, father-in-law, stepfather
- brother, brother-in-law, stepbrother
- sister, sister-in-law, stepsister
- grandparents
- guardian and ward or other relative living in the household at the time of illness

When the employee makes a request in writing, the superintendent may grant an employee leave without pay for personal illness following the exhaustion of all accrued sick leave. Leave with and without pay will not exceed 91 workdays in any one school year and will not extend beyond the immediate school year.

The district will assign an employee who returns to work the same or similar duties that he/she performed prior to going on leave, if such assignment is in the best interest of the district. If the administration does not consider it to be in the best interest of the district to assign the employee to the position he/she had prior to going on leave or to a similar position, the district will offer the employee a position for which he/she is qualified. The district will place the employee on the payroll at his/her pre-leave salary status.

Termination

The district may terminate the employment of any employee who fails to comply with the requirements of this policy and accompanying administrative rule, who fails to report to work at the expiration of authorized leave or who fails to obtain an extension of leave.

An employee is subject to termination from employment with the district for misstatements of fact and/or misrepresentations of purpose for which leave of absence is desired or on the basis of which sick leave is obtained.

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 must not terminate from employment any such employee during a continuing sick leave of less than 91 workdays.

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Transfer of sick leave

An employee of a state agency transferring to any school district in the state or a school district employee transferring to a state agency may transfer to and retain 90 sick leave days he/she accumulated at his/her former place of employment.

Family and Medical Leave Act

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 workweeks of unpaid family and medical leave in any 12-month period. The district will continue to pay the district's share of the employee's health benefits during the leave. In addition, the district will restore the employee to the same or a similar position after the termination of the leave in accordance with board policy.

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.

For further information, please refer to administrative rule GCC-R.

Personal/Emergency/Legal leave

Personal leave

An employee may use three days for personal leave at any time. However, if this leave is used on an inservice day or the day before or after a school holiday, the employee must receive prior written approval from his/her supervisor. The prior approval must be attached to the substitute form or timesheet. The district will deduct personal leave from an employee's sick leave accumulation

An employee may use three sick leave days for personal leave. A maximum of six days may be accumulated to personal leave and taken within a fiscal year.

Part time employees can use one of their sick leave days for personal leave. A maximum of two days may be accumulated to personal leave and taken within a fiscal year.

Emergency leave

For emergencies and unusual situations not covered by the leave policies of the district, an employee may request the superintendent's authorization for use of sick leave days. The employee must submit the request in writing through the principal or supervisor to the superintendent.

Legal absence

The district will grant employees leave without loss of pay when they are summoned for jury duty or subpoenaed. If an employee must appear in court for any reason other than the above, the district will deduct substitute pay from his/her salary. Whenever a prospective juror is dismissed before the end of the working day, he/she will return to his/her official duties.

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

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Maternity/Paternity leave

A pregnant employee is eligible for extended illness leave. While on leave, she may receive pay for accumulated sick leave as provided herein. The district expects an employee who has been on maternity leave to return to work at the end of six weeks

Military leave

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 workday 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 leave of absence for a period not exceeding 30 additional days.

The board expects employees to request their training for a period when school is not in session.

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

Conferences/Training workshops

The board believes that it is desirable to provide professional leave for teachers in order to attract and retain faculty who will continue to grow professionally and enhance their service to the public schools of the district.

The district may grant temporary leave to an employee for the purpose of attending activities designed to improve employee competency or to improve the instructional or service programs of the district.

The superintendent may authorize professional leave for attending state, regional and national meetings, workshops and conferences (including observing in other schools) without pay deduction. The employee must apply for prior approval through his/her supervisor.

The superintendent will determine the number of absences allowable for professional leave. Absences will also be subject to budget limitations for employing substitutes and reimbursement for travel, meals and lodging.

Adopted 5/13/86; Revised 6/20/87, 6/13/89, 9/25/90, 10/9/90, 4/22/93, 12/12/95, 9/9/97, 9/26/00

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Legal references:

- A. United States Code:
 - 1. P.L.103-3a-nd29CFRPart825-TheFamilyandMedicalLeaveActof1993.

- B. S. C. Code, 1976, as amended:
 - 1. Section 8-7-20 - Requires granting of military leave, without pay, up to five years.
 - 2. 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. Also grants an additional 30 days of leave with pay in emergency situations.
 - 3. Section 14-1-190 - Compensation received for jury duty deemed to be expense money.
 - 4. Section 14-7-845 - Relating to optional postponement of jury service for students and employees.
 - 5. Section 25-1-2250 - Employees entitled to leave with pay when serving in National Guard.
 - 6. Section 59-1-400 - Sick leave for public school district employees.

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Procedures regarding absences

An absent employee must furnish a signed statement setting forth the specific reason(s) for his/her absence. The statement must be turned in to the employee's supervisor within two days after the employee returns to work.

An employee will notify his/her immediate supervisor as early as practicable when it is necessary for him/her to be absent. When an employee knows that he/she will be absent for a period longer than five days, he/she should complete and file a request for leave of absence.

An employee who anticipates taking an extended leave of absence should submit the request for leave to his/her supervisor at least 30 calendar days prior to the effective date of the leave. The leave request must include a statement from a licensed medical doctor giving the expected delivery date or stating the anticipated length of convalescence.

Any employee returning from an extended leave of absence must present a statement from the attending physician certifying the employee's ability to return to a normal work schedule.

When the employee makes a request in writing, the superintendent may grant an employee leave without pay for personal illness following the exhaustion of all accrued sick leave. Leave with and without pay will not exceed 91 workdays in any school year and is not to extend beyond the immediate school year.

Verification and use of sick leave

The use of sick leave may be subject to verification. Specifically, the district reserves the right to require that an employee submit a doctor's statement verifying an illness along with an absence report form when the employee has been on sick leave for more than three consecutive working days. The building principal or employee's immediate supervisor has the discretion to request such a statement.

If an employee's use of sick leave forms a pattern and abuse is suspected, the principal/supervisor may also require a doctor's statement.

In order for the district to provide for the continuity of the educational programs and plan for adequate substitutes, an employee who is absent for more than 10 continuous work days must provide a physician's statement of diagnosis and prognosis so that the district may determine the earliest possible date of return. The employee's immediate supervisor will notify him/her in writing that he/she must provide the physician's statement.

If the employee does not provide the physician's statement within five workdays following the written notification, the district may terminate his/her employment.

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Family and Medical Leave Act (FMLA)

The following administrative rules apply only to the Family and Medical Leave Act.

- Eligibility

An employee who has worked for the district for at least 12 months is eligible for 12 work weeks of FMLA leave during a 12-month period provided the employee worked at least 1,250 hours in the 12 months preceding the beginning of the leave.

For purposes of FMLA leave, a 12-month period is the district's fiscal year, July 1 through June 30.

The 12 months of employment need not be consecutive months.

- Types of leave

An eligible employee may take FMLA leave for the following.

- birth and first-year care of a child
- adoption or foster placement of a child
- serious illness of an employee's spouse, parent or child
- employee's own serious health condition that keeps the employee from performing the essential functions of his/her job

A serious health condition is one involving continuous treatment by a health care provider that results in a period of incapacity of more than three consecutive calendar days and involves extensive treatment. Such conditions as asthma and diabetes are included in this definition.

An employee may elect, or the district may require, an employee to use accrued paid vacation, personal or family leave for purposes of a family leave. An employee may elect or the district may require an employee to use accrued vacation, personal or medical/sick leave for purposes of a medical leave. An employee cannot compel the district to permit the employee to use accrued medical/sick leave in any situation under which the leave could not normally be used.

- Spouses employed by the school district

If a husband and wife eligible for leave are employed by this school district, their combined amount of leave for birth, adoption, foster care placement and parental illness may be limited to 12 weeks. An employee may not take FMLA leave to care for a parent-in-law.

- Intermittent and reduced leave

Intermittent leave is leave taken in separate blocks of time due to a single illness or injury.

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Reduced leave is a leave schedule that reduces an employee's usual number of hours per work week or hours per workday.

Intermittent or reduced leave is available only for the employee's own serious health condition or to care for a seriously ill spouse, child or parent. Such leave may not be used for the birth or adoption/placement of a child.

The employee who wishes to use intermittent or reduced leave must have the prior approval of the district. Although the district and employee may agree to an intermittent or reduced leave plan, the employee who uses family leave is not automatically entitled to use such leave on an intermittent basis or on a reduced leave schedule. The district may provide such leave for medical leave, but the district may transfer the employee to a position that is equivalent, but more suitable for intermittent periods of leave. The employee must furnish the district with the expected dates of the planned medical treatment and the duration of the treatment. The superintendent must authorize such leave in writing.

- 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.

Increases in premiums or deductibles that apply to active employees also apply to employees on FMLA leave. An employer may drop coverage for an employee whose premium payment is late only after providing written notice to the employee that the payment has not been received. This notice must be mailed to the employee at least 15 days before coverage is to end and will advise that coverage will be dropped 15 days after the date of the letter unless payment has been received.

The employee will not lose any other employment benefit accrued prior to the date on which leave began but is not entitled to accrue seniority or employment benefits during the leave period. Employment benefits could include group life insurance, sick leave, annual leave, educational benefits and pensions.

- Notice

When the FMLA leave is foreseeable, the employee must notify the district of his/her request for leave at least 30 days prior to the date when the leave is to begin. If the leave is not foreseeable, the employee must give notice as early as is practical. When the employee requests medical leave, the employee must make reasonable attempts to schedule treatment so as not to disrupt the district's operations.

The district may deny the leave if the employee does not meet the notice requirements.

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- Designation of leave as FMLA leave

The district must designate the leave as paid or unpaid FMLA leave within two business days of learning that a FMLA reason supports the leave. The district must also provide other written information concerning the employee's rights and obligations under FNEA. If the district does not make the designation on time or provide appropriate information, the absence will not count against the employee's FMLA entitlement.

- Certification

The district may require the employee to provide certification from a health care provider containing specific information required under the law if he/she requests a medical leave. If there is a question concerning the validity of such certification, a second and if necessary, a third opinion can be required, both at the expense of the district.

Upon the employee's return to work, the district will require that the employee present a fitness statement from the employee's health care provider certifying that the employee is able to return to work.

- 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% 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

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condition and the leave is foreseeable based on planned medical treatment and the employee would be on leave for more than 20% 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.

- take the leave for a period or periods of a particular duration, not greater than the duration of the planned treatment
- 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

Employees taking leave which constitutes 20% 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.

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- Failure to return

The district is entitled to recover health care premiums paid during the leave if the employee fails to return from leave. However, recovery cannot occur if the employee fails to return because of the continuation, recurrence or onset of a serious health condition or due to circumstances beyond the control of the employee.

Issued 5/13/86; Revised 6/20/87, 6/13/89, 9/25/90, 10/9/90, 4/22/93, 12/12/95, 9/9/97, 9/26/00

YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993

The Family and Medical Leave Act (FMLA) requires this district to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for the district for at least one year and for 1,250 hours over the previous 12 months, and there are at least 50 employees within 75 miles.

Reasons for taking leave

The district must grant unpaid leave 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, daughter or parent who has a serious health condition
- for a serious health condition that makes the employee unable to perform the essential functions of employee's job

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

Advance notice and medical certification

The district may require the employee to provide advance leave notice and medical certification. The district may deny the leave if the employee does not meet the notice requirements.

- The employee ordinarily must provide 30 days advance notice when the leave is foreseeable.
- The district 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.

Job benefits and protection

- For the duration of the FMLA leave, the district will maintain the employee's health coverage under the districts group health insurance 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.
- An employee's use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

Unlawful acts by employers

FMLA makes it unlawful for the district to do the following.

- 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 contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.