

EMPLOYEE USE OF PAID AND UNPAID LEAVE TIME

I. Definitions

A. "Birth or adoption of his/her child" for the purposes of this policy shall mean any stage of pregnancy in which the employee's doctor has ordered the employee not to work, childbirth and recovery therefrom, and termination of pregnancy and recovery therefrom, and the same shall be treated as any other illness rendering an employee unable to perform his/her job duties. Paid and unpaid leave may also be available to affected employees under other State and Federal laws.

B. "Care for members of his/her immediate family" shall mean care for the employee's spouse, child, parents, and/or other dependent of the employee.

C. "Death in the employee's immediate family" for the purposes of this policy shall mean the death of an employee's relative with whom the employee was living in the same household at the time of the relative's death, and/or the employee's father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, grandmother, grandfather, grandfather-in-law, grandmother-in-law, grandson, grand-daughter, stepmother, stepfather, stepchildren, niece, nephew, aunt, uncle, foster parents, foster children, half-brother, half-sister, brother-in-law, sister-in-law, daughter-in-law and son-in-law.

D. "Dock day" means a work day on which the employee is absent from work and for which the employee: a) has no remaining paid leave to cover said absence, or b) has requested that he/she not be paid and that his/her accrued paid leave not be debited for that missed day.

E. "Injury sustained in an accident" and "sickness" refers to an employee being unable to perform his or her job duties because of illness or injury resulting from sickness or an accident.

F. "Physician," for the purposes of this policy, means a professional licensed to practice medicine as a doctor or nurse practitioner.

II. Paid Leave

A. Paid leave with regard to cause (due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, the birth or adoption of his/her child, or other cause authorized or approved by the board).

The Board of Education shall comply with the requirements of W. Va. Code §18A-4-10, as amended, with regard to paid leave due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, the birth or adoption of his/her child, or other cause authorized or approved by the board. In addition to the same, the Board adopts the following regulations:

1. Physician's Written Verification of Employee Accident or Sickness

**MCDOWELL COUNTY SCHOOLS
POLICY 8-034**

Whenever any employee uses paid leave for cause due to accident or sickness for more than five consecutive working days or for ten or more working days total within any single school year, the employee shall, upon his/her return to work, submit a written verification from his/her attending physician setting forth ALL of the following: 1) the date on which the illness or injury began, 2) the date on which the employee was examined and/or treated by the physician in connection with the illness or injury, and 3) a statement that the employee is fit to return to work without restrictions or with specific restrictions suggested.

2. Physician's Written Verification of Life Threatening Illness of the Employee's Spouse, Parent(s) or Child.

Whenever any employee uses paid leave for cause due a life threatening illness of the employee's spouse, parents or child for five consecutive working days or for ten or more working days total within any single school year, the employee shall, upon his/her return to work, submit a written verification from the appropriate attending physician setting forth ALL of the following: 1) an affirmation of the life-threatening nature of the illness and 2) the date on which the life-threatening illness or injury began.

3. Employee Doctor/Health-Care Appointments

Paid leave may be used for an employee to attend doctor's appointments and treatments by licensed medical professionals.

4. Non-Life Threatening Illness or Accident

An employee may use a maximum of five (5) days of paid leave per school year to care for members of his/her immediate family who are suffering a non-life threatening illness from an accident or sickness.

5. Death in the Immediate Family

Up to five (5) consecutive days of paid leave shall be permitted for each occurrence of death in the employee's immediate family.

6. Willful Absence from Employment and/or Abuse of Paid Leave

Any employee who is willfully absent from his/her duties without some form of approved leave shall be subject to disciplinary action, up to and including termination of his/her employment contract. Employees who make excessive use of paid leave and/or who demonstrate a suspicious pattern of using paid leave shall be subject to investigation. An employee who is found to have improperly exercised paid or unpaid leave shall be subject to disciplinary action, up to and including termination of his/her employment.

7. Paid Leave Days on Partial Work Days

Accumulated paid leave days (with or without cause) may only be utilized in full or half-day increments.

8. Paid Leave Claim Forms and Reporting for Leave due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse,

parents or child, the birth or adoption of his/her child, or other cause authorized or approved by the board.

All employees shall complete and submit to the appropriate person or office a paid leave claim form no later than 12:00 p.m. on the first day they return to work after use of paid leave for cause.

B. Personal Leave Unspecified

The Board of Education shall comply with the requirements of W. Va. Code §18A-4-10, as amended, with regard to employees' use of paid leave without regard to cause.

Each employee is permitted to use no more than four days of leave annually without regard to the cause for the absence. Paid leave without cause may not be used on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as appropriate. The employee shall give notice of his/her intent to exercise a day of leave without cause to the principal or immediate supervisor, as appropriate, at least twenty-four hours in advance of the same, except that in the case of sudden and unexpected circumstances, notice shall be given as soon as reasonably practicable.

A principal or immediate supervisor may deny an employee's use of a day of paid leave without regard to cause if, at the time notice is given by the employee, either fifteen percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use a day of paid leave without cause on that same day, and the same has already been approved by the principal or immediate supervisor.

Employees must confirm the approval of their principal or immediate supervisor prior to entering a leave day without regard to cause into any computer-based leave system adopted by the Board.

III. Unpaid Leave

A. Unpaid leaves of absence for no more than one calendar year.

The Board of Education shall comply with the requirements of West Virginia and federal law with regard to unpaid leaves of absence for no more than one calendar year.

B. Dock days

Employees shall not be absent from their assigned duties beyond their accrued paid leave days except as specifically authorized by the Superintendent or his/her designated representative.

No employee shall be permitted to exercise a dock day unless he/she has first submitted a prior written request to exercise a dock day. Such prior written requests shall be addressed and submitted to the Superintendent or his/her designee no later than 12:00 noon on the day before the proposed use of the dock day. Requests for permission to exercise a dock day submitted on or after the day on which the employee has actually exercised a dock day shall not be approved absent extraordinary circumstances of an emergency nature which excuse the failure of the employee to obtain prior permission.

The Superintendent may approve up to a maximum of five dock days total per school year for educational trips, or any other reasonable cause which is not otherwise covered by this policy.

Violations of this dock days policy shall constitute insubordination and/or willful neglect of duty within the meaning of W. Va. Code §18A-2-8. Employees violating this policy are subject to disciplinary action up to and including unpaid suspensions and termination of employment.

C. Leave under the Family & Medical Leave Act

See McDowell County Schools Policy 8-018 for information regarding the exercise of unpaid leave by employees under the federal Family & Medical Leave Act.

IV. False or Misleading Information

Any employee who uses or seeks to use paid or unpaid leave time and submits false or misleading information in connection therewith shall be subject to disciplinary action up to and including the unpaid suspension and/or termination of his/her employment.

V. Paid Leave for Service Substitute Employees

Service substitutes may earn paid leave in accordance with WV Code §18A-4-15, as amended.

VI. Paid Leave Records and Request for Information about Paid Leave

Records of accumulated paid leave days will be kept by the payroll department documented on individual pay stubs. Requests for an accounting of one's own accumulated paid leave days must be made in writing to the payroll department. For the purposes of this section and policy, calling off work for an extra-curricular or extra-duty assignment for any reason shall constitute the use or seeking the use of unpaid leave time.

VII. Repayment of Leave Benefit

When an employee or former employee has exercised paid leave which he/she has not yet earned by his/her service to the Board, the Board authorizes the Administration to pursue all reasonable legal remedies to recoup the value of the employee's use of said unearned leave. For example, if an employee were to use an entire year's worth of paid leave in September and then quit working for the Board in November, the Administration would be authorized to pursue the recoupment of the value of that unearned leave time.

VIII. Family and Medical Leave Act Compliant

Nothing in this policy shall be interpreted to conflict with the federal Family and Medical Leave Act.

IX. All Parental Leave Act Leave Time Designated as FMLA leave.

All leave exercised by any employee under the Parental Leave Act is hereby designated as leave time under the Family and Medical Leave Act.

X. Worker's Compensation Leave

With regard to Worker's Compensation leave, the Board of Education shall comply with West Virginia State Board of Education Policy 5612, as amended.

XI Sabbatical or Intermittent Educational Leave

The McDowell County Board of Education may grant sabbatical leaves to professional educators and/or service personnel on a full-time or intermittent basis to/for conduct research for no more than two (2) semesters, completion of an advanced degree related to subject area, teacher exchange program, completion of baccalaureate degree for service personnel, or participation in other professional development activities that would contribute to the improvement of both the individual and his/her services to students in the school district. In no case will a leave of absence be granted to a staff member who does not hold a continuing contract. A sabbatical or intermittent educational leave may not be used for contract renewal or to hold a position for which the employee is no longer certified.

Eligibility.

a. Professional Educator. Any professional educator, as defined in WV Code §18a-1-1, who is employed fulltime and has a minimum of ten (10) years of public school service in West Virginia is eligible to apply for a sabbatical leave. Those applying for intermittent Educational leave must be employed fulltime and have a minimum of three (3) years of public school service in West Virginia.

b. Service Personnel. Service Personnel who have a minimum of 10 years of West Virginia public school service and have a cumulative grade point average of 3.2 on a possible 4.0 scale and have successfully completed at least 64 semester hours of course work at an approved institution of higher education are eligible to apply for sabbatical leave. Those applying for intermittent Educational leave must be employed fulltime and have minimum of three (3) years of public school service in West Virginia.

Selection Criteria. The following criteria shall be utilized in selecting applicants for sabbatical leave:

a. Completion of an application. (Applications shall be submitted to the superintendent or his/her designee at least six months prior to the anticipated beginning of the sabbatical leave. Applications shall be reviewed and recipients selected at least three months prior to the start of leave.) Applications may be found on the county website.

b. The need of individual applicant with respect to current job assignment.

c. The needs of the school system with respect to identified deficiencies.

d. Priority given to applicants who have not been previously granted sabbatical leave.

Not less than 95% of sabbatical leaves granted shall be for classroom teachers. While on sabbatical leave, employees shall be deemed to be employed full-time for the purposes of years of experience, accumulation of seniority, participation in the Teacher Retirement System and the Public Employees Insurance Program. Employees returning from leave shall be assigned to the same position from which they left unless another assignment is agreed to by

both parties. In no case may an assignment be made that would invalidate the employee's certification status or bring about a demotion in position or salary.

Employees receiving sabbatical or intermittent educational leave shall be required to return to employment by the McDowell County Board of Education for a period of at least one year for each year or repay any compensation and benefits received during that time and deducted the retirement credit and years of service credit accrued during the sabbatical or educational intermittent leave.

The Professional Staff Development Council (PSDC) or Service Staff Development Council (SSDC) shall constitute the leave committee for reviewing applications and making recommendations to the superintendent. The superintendent will submit the recommendations of the PSDC or SSDC to the McDowell County Board of Education for approval of the applicants to whom leave will be awarded. A report indicating evidence of professional experiences shall be filed with the superintendent within six weeks after the employee returns from sabbatical leave. The report may include a transcript of grades where course work was involved, degree earned, written reports, and other requirements that are agreed upon between the employee and the McDowell County Board of Education. Any employee granted a sabbatical leave of absence and wishing to continue coverage under the PEIA insurance shall be responsible for paying the monthly employee premium amount throughout the duration of the leave of absence.

XII. Claims for Absences When Employee Reports to Work for at Least Part of the Work Day

When any employee reports to work for any part of his/her daily work schedule, but later during the same day or shift, claims to be unable to complete the rest of his/her work day or shift, including, but not limited to, the completion of any extracurricular or accepted extra-duty assignments, that employee may claim a maximum of three unpaid excused absences from that duty. After exhausting three unpaid excused absences from said duty, the employee must, within 72 hours of the absences, provide his/her immediate supervisor with certification of an accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, the birth or adoption of his/her child, or other cause authorized or approved by the Board. Employees, who fail to comply with this section (XI), shall be given a written warning for a first offense and shall be subject to disciplinary action, up to and including suspension without pay and termination of contract, for any subsequent offenses.

Reference: W. Va. Code §§18A-2-2a; 18A-4-10; 21-5D-1 et seq.
§18-2-11

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