

Employee Leave

7.11
Board Adopted
(03-31-05)

State Personal Leave (Effective 05-30-95)

7.11-0

A state minimum personal leave program consisting of five (5) days per year personal leave, with no limit on accumulation and no restrictions on transfer among districts, shall be provided for school district employees.

Under authority of Education Code Section 22.003 the Board requires that employees differentiate between the following uses of personal leave:

Nondiscretionary Personal Leave is to be used for personal or family illness, family emergency, or death in the immediate family.

Discretionary Personal Leave is to be taken at the individual employee's discretion, with prior approval of the Principal/Department Head. Discretionary personal leave may not be taken for more than three consecutive days. Discretionary personal leave may not be allowed in the following circumstances unless deemed appropriate by the principal/department head:

1. The day before a school holiday.
2. The day after a school holiday.
3. Staff development days.

Discretionary days must be requested a minimum of one week prior to use except in case of emergency.

Accumulation

Personnel employed 100 percent of the day shall earn State personal leave at the rate of one-half day for each eighteen days of employment but not more than five days in any one school year. Personnel employed less than 100 percent of the day, but at least 50 percent of the day, shall earn State sick leave at the rate of one-half day for each 36 days of employment but not more than two and one-half days in any one school year.

State Sick Leave (Earned prior to 05-30-95)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904 (a) of the Education Code. Former Section 13.904 (c) of the Education Code continues to govern the use of that sick leave, but this sick leave may not be used for personal business nor for any other reasons other than those allowed by this statute.

Windham Local Sick Leave

After 9-1-95 employees will continue to earn seven days WSD local sick leave as provided and in accordance with Policy 7.11. WSD local sick leave may only be used for sick leave purposes. No WSD local sick leave may be used for personal leave purposes.

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Administrative Procedures

For purposes of personal illness, illness in the immediate family, family emergency, or death in the immediate family, available leave shall be used as follows: WSD local sick leave if any, shall be used before State sick leave accumulated prior to May 30, 1995. State sick leave accumulated prior to the 1995-96 school year shall be used before State personal leave.

Sick Leave

7.11-1

All Windham School District personnel who work full time are eligible to earn twelve (12) days of sick leave with pay annually. Five (5) of these days may be earned under the State minimum sick leave program, and seven of these days may be earned under the WSD local sick leave program. All days earned and used must be properly documented, recorded, and filed in accordance with policies of the Texas Education Agency and the Windham School District.

State Sick Leave

7.11-1.1

A State minimum sick leave program consisting of five (5) days sick leave per school year, with no limit on accumulation and no restrictions on transfer among Texas school districts, shall be provided to every Windham employee.

State sick leave may be used for:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.

(Education Code 13.904)

Windham School District Local Sick Leave

7.11-1.2

The Windham School District sick leave program consisting of seven days per year, with no limit on accumulation, shall be provided for all Windham employees.

The Windham School District sick leave may be used for:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family Emergency.

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4. Death in the employee's family.

Definitions

7.11-1.3

Immediate family includes the following:

1. Spouse.
2. Son, son-in-law, stepson.
3. Daughter, daughter-in-law, stepdaughter.
4. Parents, stepparents, and parents-in-law.
5. Siblings, stepsiblings, siblings-in-law.
6. Grandparents.
7. Grandchildren.
8. Any relative who may be residing in the covered employee's household at the time of illness or death.

Family emergency shall be limited to natural disasters and life-threatening situations involving the covered employee or a member of the employee's immediate family.

Pregnancy is defined as those disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, and shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment (29 C.F.R. 1604.10(b))

Consecutive days shall be considered as any three working days, one following the other, whether during the week, or before and after a weekend, or holiday.

Verification of Illness

7.11-1.4

If more than three consecutive workdays are taken because of personal illness of the employee, or illness of the employee's immediate family, certification of such must be secured from a doctor who is duly registered and licensed under the Medical Practice Act of Texas, a licensed doctor of dentistry, a licensed chiropractor, or a licensed podiatrist. Members of the Christian Science Church may have their illness attested to by a Christian Science practitioner.

If it is suspected that an employee is violating the Windham Policy on sick leave practices for any given absence, it shall become the prerogative of the appropriate administrators to ask for certification from a doctor duly registered and licensed under the Medical Practice Act of Texas, or other professional practitioners as described under the State Policy.

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Accumulation

7.11-1.5

State

Personnel employed 100 percent of the day shall earn State sick leave at the rate of one-half day for each eighteen days of employment but not more than five days in any one school year. Personnel employed less than 100 percent of the day, but at least 50 percent of the day, shall earn State sick leave at the rate of one-half day for each 36 days of employment but not more than two and one-half days in any one school year.

Windham School District

Personnel employed 100 percent of the day shall earn WSD sick leave at the rate of one-half day for each eighteen days of employment for the first 199 days of employment and one (1) day for each 10 days of the remaining contract period for a total of seven (7) days.

Personnel employed less than 100 percent of the day, but at least 50 percent of the day, shall earn WSD sick leave at the rate of one-half day for each 36 days of employment, not to exceed three and one-half days in any one school year.

Administrative Procedures

7.11-1.6

1. Employees shall be paid only for sick leave they have accumulated in prior years plus those that are earned through the month of the date of absence. If leave is taken over the amount earned, the employee's paycheck shall be docked or cancelled.
2. Sick leave earned or used is recorded in half days and whole days only.
3. Sick leave applicable to the local program shall be taken first.
4. The record of State minimum sick leave days accumulated in prior years, current days earned and days used while in the Windham School District, and the balance of unused sick leave must be made a part of each teacher's service record. (TEA Bulletin 753, Procedure 3.0900, Change 3, Title 19,121.9)
5. All unit personnel must notify the principal or designee prior to the start of classes if they will be absent that day. This will allow enough time for the unit to decide how to schedule the classes. Failure to report may result in the loss of one day's pay or more, depending on the circumstances.
6. Central Office personnel and unit principals shall notify their immediate supervisor if they will be absent that day.
7. The appropriate leave report shall be Absence From Duty Request (AFDR) database located in the WSD "Tyler" system within 24 hours of the absence.

8. When an employee is absent due to death in the family, he or she must identify the specific relationship to the deceased on the appropriate leave report. State leave for a death in the family is limited to immediate family only. WSD leave may be used for any family members. Approved leave for death in the family shall be limited to no more than five workdays for each occurrence.
9. Central Administration employees shall continue to sign the Absence From Duty Report (AFDR) and obtain the supervisor's signature. Unit and Regional Office employees shall enter the appropriate leave information into the AFDR database located in the WD "tyler" system on a daily basis.
10. Any absence from work not falling within the realm of sick leave will result in the forfeit of a day's pay.
11. In the event that the Superintendent of Schools declares emergency administrative leave for a unit/department, the unit/department shall enter the appropriate leave information into the AFDR database located in the WSD "Tyler" system for each Windham employee involved. The AFDR shall be marked "Other" and a note in the comments section should be made to read "The Superintendent has declared this day as emergency administrative leave." The absence shall be entered on the employee's leave screen, but shall not be deducted from accrued leave. Emergency administrative leave may not exceed three days per emergency situation.

Retirement Incentive

7.11-1.7

An employee who gives written notice of intent to retire effective August 31, 2003, shall receive a payment of \$100 per day for the employee's balance of state sick leave days, state personal leave days, and Windham local sick leave days. In order to participate in this \$100 per day retirement incentive, written notification of the employee's retirement intent must be received in the Windham Department of Human Resources between June 16, 2003, and 5:00 p.m., Friday, August 1, 2003.

After August 1, 2003, employees who give written notice of their intent to retire effective August 31, 2003, shall receive a payment of \$50 per day for the employee's balance of state sick leave days, state personal leave days, and Windham local sick leave days. In order to participate in the \$50 per day retirement incentive after August 1, 2003, the written notification of the employee's retirement intent must be received in the Windham Department of Human Resources between August 2, 2003, and 5:00 p.m., Friday, August 29, 2003.

Beginning September 1, 2003, Windham School District shall no longer pay retiring employees for the balances of state sick leave days, state personal leave days, or Windham local sick leave days.

Definitions

Retirement means the withdrawal from service with a retirement benefit granted under the Teacher Retirement System of Texas. The employee must retire from Windham School District as evidenced by submission of the Teacher Retirement System's Notice of Final Deposit Form to the Windham School District Personnel Office prior to the retirement date.

Personal Leave means those days earned after May 30, 1995, under the State minimum personal leave program.

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Sick Leave is defined as those days earned under the State minimum leave program prior to May 30, 1995, and any days earned under the Windham School district local sick leave program.

Court Appearances

7.11-2

Subpoena

7.11-2.1

An employee shall not be discharged, disciplined or otherwise penalized because the employee complies with a valid subpoena to appear in a civil, criminal, legislative or administrative proceeding. (Art. 5207c, V.A.T.S.)

Absences for court appearances related to an employee's personal business shall be deducted from the employee's discretionary personal leave, compensatory time, or shall be taken by the employee as leave without pay.

The employee shall advise their Principal/Department Head prior to the scheduled court appearance. The employee shall be given adequate time to appear in court as required.

Jury Duty

7.11-2.2

An employee shall be granted leave with pay and no loss of accumulated time for jury duty. Employee shall retain any compensation for jury service. The employee shall submit a properly completed appropriate leave report form and a jury excuse letter or a Certificate of Jury Service that indicates that the employee appeared for the jury selection process.

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Assault Leave

7.11-3

In addition to all state and local days of sick leave provided, an employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from all physical injuries sustained as a result of the assault, but not to extend more than two years beyond the date of the assault. At an employee's request, Windham shall assign the employee to assault leave; however, on investigation of the claim, Windham may change the assault leave status and charge the leave against the employee's accrued sick leave or against the employee's pay if insufficient accrued sick leave is available.

Days of leave taken under this provision shall be reported and reimbursed in accordance with recording provisions in the Sick Leave Policy, but shall not be deducted from accrued sick leave. As provided by Article 8309h, Section 5, V.A.T.S., assault leave benefits will be coordinated with workers' compensation wage benefits so that the combined payment to an employee who has been assaulted during performance of regular duties will equal 100 percent of the employee's weekly compensation prior to the assault.

Days of leave taken such as these shall be reported by submitting a properly completed appropriate leave report. Mark the block to indicate "other" and attach an explanation to the report. These days will not be deducted from accrued sick leave.

Military Leave

7.11-4

Short-Term

7.11-4.1

All employees of Windham School District who are members of the state military forces or of the reserve components of the United States Armed Forces shall be granted a leave of absence from their duties without loss of time, efficiency rating, vacation time, or salary on all days during which they are engaged in authorized training or duty ordered or authorized by proper authority, not to exceed 15 days in a federal fiscal year (October 1 - September 30).

Such employees who are ordered to duty by proper authority shall be restored, when relieved from duty, to the position held by them when ordered to duty. (Govt. Code 431-005)

Long-Term

7.11-4.2

Any employee, other than a temporary employee, who leaves his position for the purpose of entering into active duty with the regular or reserve Armed Forces of the United States or with the Texas National Guard or Texas State Guard, if discharged, separated, or released from such active duty under honorable conditions within five years from the date of enlistment or call to active service, shall be restored to employment in the same position held at the time of entering into active service or to a position of like seniority, status, and pay if the employee is still physically and mentally qualified to perform the duties of such position.

If such employee is not qualified to perform the duties of his previous position by reason of disability sustained during such military service, but is qualified to perform the duties of another position within Windham Schools, the veteran shall be restored to employment in the other position that he is qualified to hold and that will provide like seniority, status, and pay or the nearest approximation thereto.

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Any employee restored to employment shall be considered to have been on leave of absence during military service and shall be entitled to participate in retirement and all other benefits available to other employees in like positions. Such employee shall not be dismissed from his position, without cause, for one year following restoration of employment.

Veterans eligible for restoration to employment under the terms of this policy shall make written application for such restoration to the Superintendent of the Windham School District within 90 days after discharge or release from active federal or state military service and shall attach to such application evidence of discharge, separation, or release under honorable conditions. (Art. 6252-4a; Atty. Gen. Op. H-244, 1974)

Emergency Administrative Leave

7.11-5

In the event that an emergency situation occurs, directly or indirectly involving education personnel, the Superintendent of Schools may approve administrative leave for a period not to exceed three days. Each emergency situation shall be reviewed by the Superintendent of Schools before declaring such as emergency administrative leave.

Bereavement Leave

7.11-6

The Superintendent of Schools may authorize Bereavement Leave to an employee because of a death in the employee's immediate family. Immediate family, as defined for this purpose, includes an employee's spouse, child, stepchild, daughter-in-law, son-in-law, parent, stepparent, parent-in-law, sibling, stepsibling, sibling-in-law, grandparent, or grandchild.

If the funeral arrangements are conducted within the State of Texas, the Superintendent of Schools may authorize a maximum of three working days for Bereavement Leave. If the funeral arrangements are conducted out of the state and within the Continental United States, the Superintendent of Schools may authorize a maximum of four days for Bereavement Leave. If funeral arrangements are conducted outside of the Continental United States, the Superintendent of Schools may authorize a maximum of five working days for Bereavement Leave.

Request for Bereavement Leave shall be initiated by the employee at the earliest practicable time by using the Windham School District "Absence From Duty Report" form, marking the Cause of Absence, "Other," and attaching an explanation. The request shall be submitted to the immediate supervisor for approval. If approved, the request shall be forwarded to the Windham School District ("WSD") Department of Human Resources. If the immediate supervisor does not approve the request for leave, a written explanation must be attached to the request and forwarded to the WSD Department of Human Resources. The WSD Department of Human Resources shall review the Bereavement Leave request and forward all documents to the Superintendent of Schools for review. The Superintendent of Schools shall make the final determination for requests of Bereavement Leave. The WSD Department of Human Resources shall notify the employee and the appropriate supervisor, e.g. Regional Administrator, Principal, Division Director or Department Head, of the Superintendent's decision. The decision of the Superintendent of Schools is final and not subject to appeal or grievance.

Leave of Absence for Temporary Disability For Full-Time Employees

7.11-7

A full-time employee of the Windham School District shall be given a leave of absence for temporary disability at any time the employee's condition interferes with the performance of regular duties. The maximum leave of absence for temporary disability will be 180 calendar days.

The Windham School District Board of Trustees delegates to the Superintendent the authority to place an employee on a leave of absence for temporary disability, if, in the Superintendent's judgement after consultation with a physician who has performed a thorough medical examination of the employee, the employee's condition interferes with the performance of regular duties. The employee who disagrees with being placed on leave of absence for temporary disability status by the Superintendent shall have the right to object by presentation of a letter with supporting documents to the Board.

It is the employee's responsibility to make a written request for leave of absence for a temporary disability whenever the employee's condition interferes with the performance of their regular duties. The employee may also request Family Medical Leave 7.11-6 to run concurrently with the leave for a temporary disability. Request for leave of absence for temporary disability that is initiated by the employee shall be made to the Superintendent. The request shall include the date on which the leave of absence for temporary disability shall begin and the probable date of return as certified by the physician. The physician's statement must clearly identify the medical infirmities involved that are directly related to the employee's alleged inability to work. The physician's statement must clearly confirm a medical condition that is temporary and disabling of the employee's ability to perform regularly assigned duties. Employees on a leave without pay for a temporary disability must submit a recertification from the doctor diagnosing the disability each month. The unit/department shall be responsible for submitting the appropriate AFDR.

The employee is required to notify the Superintendent, when possible, thirty (30) days prior to the termination of the temporary disability. If the elimination of the temporary disability condition cannot be forecast, then the employee shall notify the Superintendent as soon as possible after the disabling condition has ended. Notice by the employee to the Superintendent shall be accompanied by a physician's statement that clearly indicates the employee's physical fitness to resume the full range of regular duties.

An employee who has returned to active duty after a leave of absence for a temporary disability is entitled to an assignment at the unit/department where the employee was formerly assigned, subject to availability of an appropriate position at such unit/department. If an appropriate position at the original unit/department is not available, the employee may be assigned to another unit/department, subject to the approval of the Superintendent or designee. If a position is not available at another unit/department before the end of the school year, the employee must be reinstated to a position at the original unit/department at the beginning of the next school year.
(Atty. Gen. Op. DM1-177, 1992)

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms.

Federal Family and Medical Leave Act (FMLA)

7.11-8

Definitions:

Spouse means a husband or wife as the case may be.

Child means a biological, adopted, or foster son or daughter, a stepchild, or legal ward, or a child of a person standing in loco parentis when the child is under 18 years of age or 18 years of age or older and incapable of self-care because of mental or physical disability.

Parent means the biological parent of an employee or an individual who stands in loco parentis to an employee.

Serious Health Condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital care: Inpatient care, (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity* or subsequent treatment in connection with or consequent to such inpatient care.
2. Absence plus treatment: A period of incapacity* of more than three consecutive days (including any subsequent treatment or period of incapacity* relation to the same condition) that also involves:
 - a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under the direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under order of, or on referral by, a health care provider; or
NOTE: Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.
 - b. Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider.
NOTE: A Regiment of Continuing Treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regiment of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.
3. Pregnancy: Any period of incapacity* due to pregnancy or for prenatal care.
4. Chronic conditions requiring treatments: A chronic condition that meets the following conditions:
 - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider.
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition).
 - c. May cause episodic rather than a continuing period of incapacity* (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/long-term conditions requiring supervision: A period of incapacity* that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
6. Multiple treatments (Nonchronic conditions): Any period of absence to receive multiple treatments (including any recovery period) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity* of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

Incapacity* for purposes of FMLA, is defined to mean inability to work, attend school, or perform other regular daily activities due to the serious health condition, its treatment, or the patient's recovery.

Health Care Provider is defined as any of the following:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices.
2. Podiatrists, dentists, clinical psychologists, optometrists, licensed acupuncturist, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the state and performing within the scope of their practice as defined by state law.
3. Nurse practitioners and nurse-midwives authorized to practice under state law and performing within the scope of their practice as defined by state law.
4. Christian Science practitioners who are listed with the First Church of Christ, Scientist in Boston, Massachusetts.
5. Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
6. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

An employee who has been employed by Windham School District or another State Agency for at least 12 months and has worked for 1,250 hours during the 12 month period immediately preceding the start of the leave shall be entitled to a total of 12 work weeks of paid/unpaid leave. The employee shall be entitled to FMLA leave without loss of any employment benefit. Employees are entitled to FMLA leave during any school year (September 1 - August 31) for one or more of the following reasons:

1. Because of birth or adoption, including placement for foster care, of the employee's child and in order to care for the child, provided the leave is taken within 12 months of the birth, adoption, or placement of the child.
2. To care for the employee's spouse, child, or parent of the employee if the spouse, child or parent of the employee has a serious health condition.
3. Because of the employee's serious health condition that makes the employee unable to perform

essential functions of his or her position.

Both Spouses Employed by Windham

A husband and wife who are eligible for FMLA leave and are both employed by the Windham School District may be permitted to take only a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

1. For the birth of a son or daughter or to care for the child after birth.
2. For the placement of a son or daughter for adoption or foster care, or to care for the child after placement.
3. To care for a parent (but not a "parent-in-law") with a serious health condition.

Where the husband and wife both use a portion of the total 12-week entitlement for one of the purposes noted above, each spouse shall be entitled to the difference between the amount he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those listed above.

Concurrent Use of Paid Leave

Windham may designate any paid leave to which the employee is entitled as substituting for all or some portion of the employee's FMLA leave entitlement. Once Windham has knowledge that the leave is being taken for an FMLA-required reason, Windham will notify the employee within two working days (absent extenuating circumstances) that the paid leave is designated and will count as FMLA leave.

At the outset of family and medical leave, the employee shall be required to use all paid leave including sick leave pool, if applicable, available under the particular circumstance in the order determined by policy. All subsequent absences shall be without pay. Example: If an employee has 10 days of sick leave and 3 days of compensatory leave available at the outset of FMLA leave for a serious personal health condition, his or her first 13 days of FMLA leave will be with pay; the remaining days of FMLA leave will be without pay.

As an exception to the requirement to utilize paid sick leave concurrently with FMLA, an employee receiving group insurance disability benefits payment or worker's compensation shall not be eligible to utilize paid sick leave while on FMLA.

Intermittent Leave

An employee, other than an instructional employee, may take leave intermittently or on a reduced leave schedule when medically necessary to care for a spouse, parent, or child or to receive planned medical treatment.

An instructional employee who requests leave to care for a spouse, parent, or child or because of his or her own serious health condition that is foreseeable based on planned medical treatment and who would be on leave for greater than 20 percent of the total number of working days in the requested time frame during which the leave would extend, may be required to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment.

"Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also 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 instruction, nor does it include personnel such as counselors, psychologists, or curriculum specialists.

Intermittent leave for birth and/or adoption purposes is not allowed.

Foreseeable Leave

An employee shall provide at least 30 days notice before FMLA leave is to begin if the need for leave is foreseeable based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee, spouse, child, or parent. If 30 days notice is not practicable, such as because of not knowing approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

"As soon as practicable" means as soon as possible and practical taking into account all of the facts and circumstances in the individual case. Ordinarily, it would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

When the need for leave, or its approximate timing, is not foreseeable, an employee shall provide notice to the Windham School District as soon as practicable under the facts and circumstances of the particular case. Ordinarily, notice shall be provided within no more than one or two working days of learning of the need for leave. Notice should be provided either in person or by telephone, Telex, "fax" machine, or other electronic means.

Maintenance of Health Benefits

During any period that an eligible employee takes FMLA leave, coverage under any "group health plan" will be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had continued in active duty with the Windham School District as long as employee continues payment of their portion of the premium. Failure of employees to pay their portion of the premium shall result in cancellation of all insurance coverage in effect at the time payment ceases. Sec. 104(c)(1), P.L. 103-3, Acts of 103rd Congress.

The Windham School District may recover its share of health care premiums during a period of FMLA leave if an employee fails to return to work immediately after his or her FMLA leave entitlement has been exhausted or expires, unless one of the following conditions exists:

1. The continuation, recurrence, or onset of a serious health condition that would entitle the employee to leave under FMLA; or
2. Other circumstances beyond the employee's control.

Employees on FMLA leave shall have all insurance coverage, in effect at the time leave was taken, reinstated when they return to work, if payment was continued while on FMLA leave.

When an employee fails to return to work, except for the reasons stated above, health premiums paid by Windham School District during a period of FMLA leave are a debt owed Windham School District by the nonreturning employee, and may be recovered by Windham School District through deduction of any sums due the employee or through legal action.

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Procedures for Use

An employee requesting Family Medical Leave must submit a written request to the Superintendent of Schools before exhaustion of sick leave or as soon as practicable.

Medical Certification

Windham School District requires medical certification issued by the health care provider of the spouse, child, parent, or employee that the employee is needed to care for the spouse, child, or parent or, in case of leave for the employee's condition, that the employee is unable to perform the functions of his or her position. The certification shall include the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the provider's knowledge regarding the condition. The employee shall provide a copy of the certification to Windham when requesting FMLA. Sec. 103(a), (b), P.L. 103-3, Acts of 103rd Congress

At 30 day intervals, an employee on family and medical leave for his or her own serious health condition or the serious health condition of a member of the immediate family shall provide medical certification of the illness or disability. WSD Central Administration Office employees shall provide an AFDR at least once a week. Unit and Regional Office employee's absences shall be reported daily by the AFDR.

Employees whose FMLA leave is due to their own serious health condition must present medical certification of their ability to resume the essential functions of regular duties.

The Windham School District personnel office shall ensure that all eligibility requirements are met prior to the approval of FMLA leave.

Return to Position

An employee who takes FMLA leave under these provisions is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

Notice

Windham School District shall post and keep posted in conspicuous places on each campus where notices to employees are usually posted, a notice approved by the Secretary of Labor that sets out excerpts from or summaries of the Family and Medical Leave Act and information pertaining to the filing of a charge. Sec. 109(a), P.L. 103-3, Acts of 103rd Congress.

Sick Leave Pool

7.11-9

Windham School District shall administer a sick leave pool consisting of Windham School District local sick leave time voluntarily contributed by Windham employees to benefit employees who suffer a catastrophic illness or injury. Employees who use pool leave shall not be required to pay back pool leave. Work related injuries or illnesses covered by Worker's Compensation Benefits Policy 7.24-5 are not covered by this policy.

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Definitions:

7.11-9.1

Catastrophic Injury/Illness:

Employee: A severe condition or combination of conditions affecting the health of the employee to the point that the employee is unable to perform the essential functions of his/her position for a prolonged period (30 calendar days or more), requires the services of a doctor who is licensed under the Medical Practice Act of Texas, and forces the employee to exhaust all accrued leave and compensatory time.

Employee Family Member: A severe condition or combination of conditions affecting the health of an immediate family member to the point that the immediate family member is unable to perform any of the activities of daily living, bathing, continence, dressing, eating, toileting, or transferring, for a prolonged period (30 calendar days or more), requires the services of a doctor who is licensed under the Medical Practice Act of Texas, and forces the employee to exhaust all accrued leave and compensatory time.

Prolonged period of time: Shall be a period of 30 calendar days or more.

Immediate Family: Shall be the same as those defined in WSD Employee Leave policy 7.11-1.3.

Pool Administrator: Shall be the designee of the Superintendent of Schools.

Emergency Medical Condition: An emergency medical condition shall consist of a sudden onset of a medical condition such as a heart attack, a stroke, or serious injury/injuries sustained in an accident.

Eligibility

7.11-9.2

Eligibility to withdraw from the sick leave pool will be determined by the following criteria:

1. Employee must be a full-time employee who has worked for Windham a minimum of 12 months immediately preceding the medical leave.
2. Only active employees who contribute a minimum of one (1) Windham day during the current school year, between September 1 and October 31 are eligible.
3. The employee must have exhausted all leave and compensatory time prior to using sick leave pool.
4. The employee or a member of the employee's immediate family suffers a catastrophic illness or injury that forces the employee to exhaust all accrued leave and compensatory time, and the employee is subject to loss of wages.

Limitations

7.11-9.3

Limitations shall include the following:

1. The maximum amount of total pool leave granted to an employee per school year shall be twenty (20) days. An employee who suffers multiple catastrophic illnesses or injuries during a particular school year can only obtain pool leave in the aggregate of twenty (20) days for that particular school year.
2. Employees who are released to return to work are expected to report to duty on their next regularly scheduled work day.
3. Any unused pool leave granted to an employee returns to the pool.

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4. The estate of a deceased employee shall not be entitled to payment for unused sick leave pool.
5. Requests for pool leave shall be considered by the Pool Administrator on a first-come, first-serve basis.
6. Multiple family member employees of Windham may access the sick leave pool concurrently for a common family member's catastrophic illness/injury as defined in this section under the Catastrophic Illness/Injury for Employee or Employee Family Member.
7. Sick leave pool may be used intermittently for twelve (12) consecutive months from the approval date for sick leave pool.

Contributions to Pool

7.11-9.4

Employees may contribute to the pool under procedures established by the Superintendent of Schools.

Guidelines for contributions to the pool are:

1. Contributions are strictly voluntary.
2. Only WSD local sick leave time may be contributed to the pool fund.
3. Contributions are to be made in whole day increments.
4. Employees who contribute to the pool may not stipulate that their contributions be used only by a specific person.
5. Only active employees who contribute a minimum of one (1) Windham day during the current school year, between September 1 and October 31, are eligible.

Application for Time

7.11-9.5

Employees may apply for time under procedures established by the Superintendent of Schools. The following are minimum requirements.

1. The employee must submit the application for withdrawal form to their immediate supervisor.
2. The supervising authority shall signify approval or disapproval of the form and submit the application and attachments to the Pool Administrator for final disposition.
3. The Medical Certification form, completed by the physician and citing the need for employee's absence from duty, shall be attached to the application for withdrawal. The form must include a description of the condition, approximate date the condition commenced, prognosis of recovery, and approximate date of return to employment.
4. The application for withdrawal from the sick pool shall be received by Windham Department of Human Resources ten (10) days prior to the exhaustion of the employee's leave and compensatory time. An application requesting withdrawal from the sick leave pool for an emergency medical condition shall be reviewed and processed on an individual basis.
5. The employee shall be notified by the Department of Human Resources of the approval or denial of the application for time.

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Appeal

7.11-9.6

Employees who disagree with the decision of the Pool Administrator may appeal the decision to the Superintendent of Schools. The decision of the Superintendent is final and is not grievable.

Sick Leave Pool Procedures

7.11-9.7

Procedures for contributing to the pool are:

1. Active employees or terminating employees who wish to contribute to the sick leave pool must submit an approved form to the Administrator for Human Resources. Upon receipt of the application, the Administrator of Human Resources shall verify that the days to be contributed are available and shall then transfer the contributed amount to the sick leave pool.
2. Terminating employees may contribute from one (1) local day up to all of their local sick leave balance.

Compensatory Time

7.11-10

Exempt Employees

7.11-10.1

Exempt employees are defined as those employees not subject to the provisions of the Fair Labor Standards Act. Teachers, supervisors, counselors, and administrators are classified as exempt.

Exempt employees may accrue compensatory time with the approval of their immediate supervisor for official activities scheduled on nonworking days, such as graduation ceremonies. No exempt employee shall accrue compensatory time for any reason other than official activities without prior approval from the Principal, Regional Administrator, or Department Head. An IOC requesting approval to work in excess of the contracted days must be submitted to the Principal, Regional Administrator, or Department Head. If approval is granted and the day is worked, the Department of Human Resources shall record compensatory time earned in the employee file.

The work cycle for all exempt employees shall be seven consecutive calendar days with no more than 40 scheduled work hours. The work cycle shall be set from Thursday at 12:01 a.m. through the following Wednesday at midnight.

Exempt employees who, in performing their normal duties on regular work days, work in excess of an eight hour day are not eligible for requesting hour-for-hour overtime. Teachers who are placed in a position of having to work in excess of the number of days required under their annual contract must have prior approval of the Superintendent or designee.

All personnel requesting compensatory time to attend conferences and/or work shops held on weekends, legal holidays, or vacation time must have prior approval of the Superintendent or designee.

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Non-Exempt Employees

7.11-10.2

Non-exempt employees are defined as those employees subject to the wage and overtime provisions of the Fair Labor Standards Act.

Non-exempt employees may only earn compensatory time if there is a need for them to work on a scheduled non-working day such as during spring break or the summer break. Non-exempt employees may not earn compensatory time for a work week of more than 40 hours. See policy 7.12, Overtime. An IOC requesting approval to work in excess of the contracted days must be submitted to the appropriate administrator. If approval is granted and the day worked, the Department of Human Resources shall record compensatory time earned in the employee file.